Recommendation

Members are recommended to:

a) Note the answers to questions raised by Members at the 5 March 2009 Standards Committee.

b) Note that provisional approval of the draft Byelaws has been received from the Department for Communities and Local Government.

c) advise Full Council to:

(i) make, by affixing the common seal of the Council, seal and advertise the Byelaws and

(ii) apply to the Department of Communities and Local Government for confirmation of the Bylaws.

d) Note that on the date specified by the Secretary of State subsequent to the confirmation of the Byelaws, the existing Byelaws relating to Good Rule and Government which were made by the County Borough of Wolverhampton on 14 April 1971 and confirmed by the Secretary of State on 25 June 1971 and by Wolverhampton City Council which were made on 17 July 2001 and confirmed by the Secretary of State on 26 October 2001 the existing Byelaws) will be revoked.
1.0 **Purpose of Report**

1.1 This report is to:

- provide responses to questions raised by Members at the 5 March 2009 Standards Committee in relation to the proposed new Byelaws.

- advise that the draft Byelaws have been provisionally approved by the Department of Communities and Local Government.

- Obtain agreement from Standards Committee that Full Council be advised to recommend the making of the Byelaws and revocation of the existing Byelaws confirmed in June 1971.

2.0 **Background**

2.1 On the 5 March 2009 Standards Committee received a report recommending approval of proposed replacement Good Rule and Government Byelaws. A copy of the report is attached. At the meeting Members raised a number of questions about the application and enforcement of the Byelaws. The responses to the questions are set out below.

3.0 **Responses to Member questions**

**Question 1**

Would Byelaw 3 (Riding on road margins and verges) apply to cycle tracks painted on the highway?

**Answer 1**

These Byelaws only apply to verges or margins that are laid or sown with grass or planted with trees, shrubs or plants. Therefore cycle tracks on the highway are not covered by the Byelaw.

**Question 2**

Why does Byelaw 4 (vehicles on road margins and verges) not apply to heavy commercial vehicles?

**Answer 2**

Heavy commercial vehicles are excluded because they are already subject to regulation under sections 19 and 20 of the Road Traffic Act 1988.
Question 3

Who would be responsible if a person tripped and was injured due to a resident erecting a rockery on the grass verge?

Answer 3

The placing of objects on verges that form part of the highway is regulated by the Highways Act 1980 and would require permission of the Council. It is unlikely that the Council would give permission for the placing of a rockery on any verge but should it do so then the Council would be jointly responsible for the safety of the rockery and could be subject to legal action for damages should personal injury be sustained.

Question 4

A Member enquired as to whether the Byelaws would be enforced

Answer 4

A review of existing Byelaws was approved by Cabinet as part of a package of measures to develop and implement an integrated approach to environmental enforcement. Before the formation of the Integrated Environmental Enforcement Service in 2005, highways enforcement was undertaken by one officer in the Highways Department. Some of the highways enforcement functions relating to street scene issues were transferred to the Public Protection Service within Regulatory Services in 2005. The Environmental Crime team within Public Protection has 11 officers covering a wide range of enforcement issues including highways enforcement. The highways enforcement function has been developed since the transfer and successful action is being taken including prosecutions where appropriate. These new byelaws will provide new powers to deal with matters where there is currently no remedy and will be enforced primarily through the Environmental Crime Team.

Question 5

Do the byelaws include land in the ownership of Wolverhampton Homes?

Answer 5

Yes. Wolverhampton Homes is an arms length management company. Land managed by the company is still vested in Wolverhampton City Council.

4.0 Financial Implications

4.1 The costs of advertising the intention to seek confirmation of the Byelaws can be met from existing budgets.
4.2 The enforcement of the byelaws will be absorbed within the resources currently available to the Environmental Crime team. The impact will need to be monitored as part of the overall management of resources across Regulatory Services.

5.0 **Equalities Implications**

5.1 This report has no direct equalities implications. The development of enforcement procedures will require consideration of an equalities impact assessment.

6.0 **Environmental Implications**

6.1 There are no direct environmental implications arising from this report. However, several of the Byelaws relate to issues that would potentially have a beneficial affect on local environmental quality.
Recommendation

Members are recommended to:

a) Agree to the making of an application to the Department for Communities and Local Government for provisional approval of the draft Byelaws for Good Rule and Government (the Byelaws) a copy of which is attached at Appendix 1

b) advise Full Council to:

(i) upon receipt of provisional approval to make, by affixing the common seal of the Council, seal and advertise the Byelaws and

(ii) apply to the Department of Communities and Local Government for confirmation of the bylaws

c) Note that on the date specified by the Secretary of State subsequent to the confirmation of the Byelaws, the existing Byelaws relating to Good Rule and Government which were made by the County Borough of Wolverhampton 14April 1971 and confirmed by the Secretary of State on 25 June 1971 (the existing Byelaws a copy of which is attached at Appendix 2) will be revoked.
GOOD RULE AND GOVERNMENT BYELAWS

1.0 Purpose of Report

1.1 This report is to:

- Inform Standards Committee of the proposal for the making and implementation of new Good Rule and Government Byelaws.
- Seek approval to submit the draft Byelaws to the Department of Communities and Local Government.
- Obtain agreement from Standards Committee that Full Council be advised to recommend the making of the Byelaws and revocation of the existing Byelaws confirmed in June 1971.

2.0 Detail

2.1 The current Good Rule and Government Byelaws were made in 1971. They contain 31 clauses providing offences across a wide range of issues, however many are out dated or covered by general legislation and there have been few if any prosecutions under the Byelaws. In addition when the current Byelaws were made the maximum penalty was set at £20. This level of penalty is now considered inadequate. It is intended to revoke the existing Byelaws and replace them with new ones based on the Governments model set. The proposed Byelaws carry a maximum penalty of £500.

2.2 The proposed draft Byelaws are based on a model set produced by the Department of Communities and Local Government. Using the model set enables the use of an expedited procedure for their provisional approval.

2.3 There are 12 clauses in the proposed Byelaws introducing 8 new offences and 4 offences retained from the current Byelaws. Byelaw 10 (touting) is of importance since the Council receives complaints about the number of persons accosting people for business or undertaking market research in the City centre. This has prompted the review of Byelaws in order to introduce higher penalties.

2.4 Enforcement of the new Byelaws would be undertaken by the Public Protection Service, Regulatory Services. Responsibility for the enforcement function relating to Byelaws rests with Licensing Committee.

3.0 The Process

3.1 Section 236 of the Local Government Act 1972 and guidance from the Department of Communities and Local Government detail the procedure for the making of Byelaws.
3.2 Before Council makes and seals the Byelaws provisional approval must be sought from the Secretary of State. If approval is given by Standards Committee and the Secretary of State, the Byelaws will be referred to Full Council for making under the Common Seal of the Council. A recommendation will also state that the existing Byelaws should be revoked on the date that the new Byelaws are confirmed by the Secretary of State.

3.3 At least one month prior to application to the Secretary of State for confirmation, notice of the Council’s intention to apply for confirmation will be given in one or more local newspapers circulating within the area to which the Byelaws are to apply.

3.4 At least one month before application for confirmation is made, a copy of the Byelaws made by Full Council will be deposited at the offices of the Council for inspection.

4.0 **Financial Implications**

4.1 The costs of advertising the intention to seek confirmation of the Byelaws can be met from existing budgets.

5.0 **Equalities Implications**

5.1 This report has no equalities implications.

6.0 **Environmental Implications**

6.1 There are no direct environmental implications arising from this report. However, several of the Byelaws relate to issues that would potentially have a beneficial affect on local environmental quality.
Appendix 1

Wolverhampton City Council

BYELAWS FOR GOOD RULE AND GOVERNMENT

ARRANGEMENT OF BYELAWS

1. General interpretation
2. Application
3. Riding on road margins and verges
4. Vehicles on road margins and verges
5. Skateboarding etc to prohibit skateboarding in designated areas
6. Skateboarding etc to prohibit dangerous or nuisance skateboarding on footpaths and roads
7. Fairground attractions causing obstruction to traffic
8. Dangerous games near highways
9. Playing games on highways to the annoyance of local residents
10. Touting
11. Urinating, etc
12. Interference with road warning equipment
13. Interference with life saving equipment
14. Climbing upon and hanging from bridges
15. Penalty
16. Revocation

SCHEDULE 1

SCHEDULE 2

Byelaws made under section 235 of the Local Government Act 1972 by Wolverhampton City Council for the good rule and government of the Borough of Wolverhampton and for the prevention and suppression of nuisances.

General interpretation

1. In these Byelaws:
“carriageway” means a way constituting or comprised in a highway, being a way (other than a cycle track) over which the public have a right of way for the passage of vehicles;

“the Council” means Wolverhampton City Council;

“designated areas” means those areas designated in Schedule 1 to these Byelaws;

“footway” means a way comprised in a highway which also comprises a carriageway, being a way over which the public have a right of way on foot only;

“highway” means the whole or a part of a highway other than a ferry or waterway;

“road margin or verge” means land which is—

(a) adjacent to the carriageway of a highway or between two carriageways of a highway, other than the carriageway of a trunk road vested in the Secretary of State, and

(b) laid or sown with grass or planted with trees, shrubs or plants, and mown or otherwise maintained in an ornamental condition by the Council;

“self-propelled vehicle” means a vehicle other than a cycle, wheelchair or pram which is propelled by the weight or force of one or more persons skating, sliding or riding on the vehicle or by one or more other persons pulling or pushing the vehicle;

“trunk road” means a highway, or a proposed highway, which is a trunk road by virtue of section 10(1) or section 19 of the Highways Act 1980 or by virtue of an order or direction under section 10 of that Act.

Application

2. (1) These Byelaws shall apply throughout the City of Wolverhampton except as set out in Byelaws 2(2) to 2(4).

(2) Byelaws 3 and 4 apply to any road margin or verge which is indicated to be a road margin or verge to which these Byelaws apply by means of a notice conspicuously displayed on or near the said road margin or verge.

(3) Byelaw 5 applies to the areas of Wolverhampton designated in Schedule 1.

(4) Byelaw 14 applies to the bridges listed in Schedule 2.

Riding on road margins and verges

3. No person shall without lawful authority ride or lead any horse, or cause any horse to be ridden or led upon any road margin or verge to which this byelaw applies.
Vehicles on road margins and verges

4. (1) No person shall without lawful authority drive, park or leave a vehicle or cause such a vehicle to be driven or placed upon any road margin or verge to which this byelaw applies.

(2) This byelaw does not apply to a heavy commercial vehicle as defined by section 20 of the Road Traffic Act 1988.

Skateboarding etc

5. No person shall skate, slid or ride on rollers, skateboards or other self-propelled vehicles in the designated areas except where authorised to do so by the owner of the land.

6. Outside the designated areas, no person shall skate, slide or ride on rollers, skateboards or other self-propelled vehicles on any footway or carriageway in such a manner as to cause danger or give reasonable grounds for annoyance to other persons using the footway or carriageway.

Fairground attractions causing obstruction to traffic

7. (1) No person shall operate a fairground attraction—

(a) in any public place; or

(b) on any land adjoining a street or public place,

so as to cause obstruction or danger to the traffic in that street or public place.

(2) “Fairground attraction” means a shooting gallery, swing-board, roundabout, or other structure which is installed, erected or operated for the entertainment of the public.

Dangerous games near highways

8. No person shall play football or any other game on land adjacent to a highway in a manner likely:

(a) to cause obstruction to traffic; or

(b) to cause danger or give reasonable grounds for annoyance to any person on the highway.

Playing games on highways to the annoyance of local residents

9. No person shall play football or any other game on a highway or on land adjacent to a highway in such a manner as to give reasonable grounds for annoyance to any person living nearby.
Touting

10. No person shall in any street or public place—

(a) advertise or solicit custom for any service; or

(b) seek to gather information for use in the supply of goods or services,

in such a manner as to cause obstruction or give reasonable grounds for annoyance to any person in that street or public place.

Urinating etc

11. No person shall urinate or defecate in any street or public place.

Interference with road warning equipment

12. No person shall without lawful authority move or tamper with any lamp, reflector or other equipment used for giving warning of, or lighting, any obstruction, excavation or other danger in any road.

Interference with life saving equipment

13. Except in case of emergency, no person shall remove, displace or otherwise interfere with any life saving equipment placed by the Council or any other competent authority in any street or public place.

Climbing upon and hanging from bridges

14. (1) No person shall without reasonable excuse—

(a) climb upon or hang from any bridge to which this byelaw applies; or

(b) aid, abet, counsel or procure such an act by another.

(2) “Bridge” includes any abutment, embankment, retaining wall or other work supporting or protecting the bridge.

Penalty

15. Any person offending against these Byelaws shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Revocation

16. The Byelaws relating to Good Rule and Government which were made by the County Borough of Wolverhampton on 14 April 1971 and were confirmed by the Secretary of State of the Home Office on 25 June 1971 are revoked.
SCHEDULE 1

The designated areas referred to in byelaw 5 are:

The walkways, steps and paved area known as the piazza and car park immediately adjacent to and abutting the Civic Centre, St Peter’s Square, Wolverhampton, WV1 1RG

SCHEDULE 2

The bridges referred to in byelaw 14 are as follows:

All bridges within the City of Wolverhampton
County Borough of Wolverhampton

BYELAWS
for the
GOOD RULE AND GOVERNMENT
of the County Borough

made under Section 249
of the Local Government Act, 1933

1971

Printed by William Woolley Ltd. The Orchard, Bilston.
BYELAWS


1. No person shall sound or play upon any musical or noisy instrument or sing or wantonly and continuously shout in any street or public place within 100 yards of any dwellinghouse or office, after being requested to desist by any inmate or occupant thereof, either personally or through a servant, or through a constable, on account of the interruption of the ordinary occupations or pursuits of any such inmate or occupant or for other reasonable and sufficient cause: Provided that this Byelaw shall not apply to properly conducted religious services, except where the request to desist is made on the grounds of the serious illness of any inmate of the house.

2. No person shall sound or play upon any musical or noisy instrument or sing or wantonly and continuously shout in any street or public place within 100 yards of any place of public worship or public entertainment or other place of public assembly in which persons are for the time being assembled, to the annoyance or disturbance of any person or persons so assembled, after being requested to desist by any constable, or by any person so annoyed or disturbed, or by any person acting on his behalf.

3. No person shall sound or play upon any musical or noisy instrument or sing or wantonly and continuously shout in any street or public place within 100 yards of any hospital, infirmary, convalescent home, or other place used for the reception or treatment of the sick, after being requested to desist by any constable, or by any inmate or officer of such hospital or other
4. No person shall wantonly and continuously sing or shout in any street or public place between the hours of 10 p.m. and 6 a.m. to the annoyance of residents or street passengers.

5. (1) Any person who by operating or causing or suffering to be operated any wireless set, gramophone, amplifier or similar instrument—
   (a) in or on any street or public place or in or in connection with any shop, business premises or other place which adjoins any street or public place and to which the public are admitted, makes or causes or suffers to be made any noise which is so loud and so continuous or repeated as to give reasonable cause for annoyance to other persons, or
   (b) in any other premises makes or causes or suffers to be made any noise which is so loud and so continuous or repeated as to cause an annoyance to occupiers or inmates of any premises in the neighbourhood,

shall be guilty of an offence:

Provided that:—

(i) no proceedings shall be taken under this byelaw against any person in respect of anything done in any premises referred to in paragraph (b) thereof unless the nuisance does not cease before the expiration of a fortnight from the date of the service on that person of a notice alleging a nuisance, signed by not less than three householders residing within hearing of the instrument in question,

(ii) this byelaw shall not apply to any wireless set, gramophone, amplifier or similar instrument used by a police constable in the execution of his duty.

(2) In this byelaw the expression “public place” includes any park, pleasure ground or other like place to which the public are admitted.

6. No person shall, for the purpose of hawking, selling, distributing, or advertising any article, shout or use any bell, gong, or other noisy instrument in any street or public place so as to cause annoyance to the inhabitants of the neighbourhood.

7. No person shall in any street or public place for the purpose of selling or advertising any article or obtaining custom tout or importune to the annoyance or obstruction of passengers.

8. No person shall in any street or public place, or on any land adjoining or near to any street or public place, keep or manage, or cause to be kept or managed, a shooting-gallery, swing-boat, roundabout, or any other construction of a like character, so as to cause obstruction or danger to the traffic in such street or public place.

9. No person shall in any street or public place, or in any place within view or hearing of any street or public place, use any indecent language or gesture, or commit or solicit, incite or provoke any other person to commit any indecent act to the annoyance of residents or passengers.

10. Any person other than a teacher, child, manager, or other duly authorised person, being in or on the buildings, playground or other premises of any county school or voluntary school, who after being requested to depart therefrom by the head teacher or the teacher acting as the head teacher of such school, refuses to depart therefrom and makes use of any violent, abusive, profane, indecent or obscene language or otherwise behaves in a disorderly manner, shall be guilty of an offence, and shall be liable on conviction to the penalty hereinafter provided.

11. No person shall within 200 yards of any street or public place, unless effectually screened from view, bathe from the bank or strand of any water, or from any boat thereon, without wearing a dress or covering sufficient to prevent indecent exposure of the person.

12. No person shall exhibit any indecent show in any street or public place, or in any place to which persons are admitted with or without the payment of money.

13. No person shall in any street or public place or in any place within view of any street or public place to the annoyance of residents or passengers commit any nuisance contrary to public decency or propriety.
14. No person shall wilfully and persistently loiter at or near the entrance of any church, chapel, or other place of public worship to the annoyance or obstruction of any persons going to, attending at, or returning from divine service in such church, chapel, or other place of public worship.

15. (1) No person being in charge of a dog shall allow the dog to foul the footway of any street or public place by depositing its excrement thereon.

Provided that a person shall not be liable to be convicted of an offence against this byelaw if he satisfies the Court that the fouling of the footway by the dog was not due to culpable neglect or default on his part.

(2) For the purposes of this byelaw the owner of the dog shall be deemed to be in charge thereof, unless the Court is satisfied that at the time when the dog fouled the footway it had been placed in or taken into the charge of some other person.

16. No person shall in any street or public place, to the inconvenience or danger of passengers, carry or convey along any footpath any bag of soot, lime or other offensive substance, or any pointed or edged tools or implements not properly protected.

17. No person shall carry or convey along or through any street or public place the undressed carcase of any animal, or any offensive offal unless the same be properly covered.

18. No person shall on any land adjoining a street play tipCat or any offensive or dangerous game in such a manner as to cause obstruction to the traffic or danger to any person in such street.

19. No person shall spit on the floor, side, or wall of any public carriage or of any public hall, public waiting-room or place of public entertainment, whether admission thereto be obtained upon payment or not.

20. No person shall spit on the paved footway of any street or public place. In this Byelaw the expression “paved” includes concrete, asphalt or other made-up surfaces.

21. No person shall drive or lead, or cause to be driven or led, in any street or public place, any bull exceeding the age of 12 months, unless it be properly secured and kept under proper control; or, being the occupier of any field or enclosure through which there is a public path, permit any such bull to be in such field or enclosure unless it be properly and securely tethered in such a way that it cannot interfere with persons using the public path.

22. No person shall keep within any house, building or premises any noisy animal which shall be or cause a nuisance to residents in the neighbourhood. Provided that no proceedings shall be taken against any person for an offence against this Byelaw unless the nuisance be continued after the expiration of a fortnight from the date of the service on such person of a notice alleging a nuisance, signed by not less than three householders residing within hearing of the animal.

23. No person shall in any place of entertainment to which the public are admitted with or without payment of money, while the public are on the premises, use any threatening, abusive, indecent or insulting language, gesture or conduct with intent to put any person in fear or so as to occasion a breach of the peace or whereby a breach of the peace is likely to be occasioned.

24. No person shall cause or permit any device for scaring birds by means of periodic explosions to be in operation during the hours of darkness.

Provided that a person shall not be convicted of an offence against this byelaw if he proves to the satisfaction of the Court that the operation of the device during the hours of darkness was caused by a mechanical failure which was not due to his negligence.

In this byelaw the expression “hours of darkness” means the time between one hour after sunset and one hour before sunrise.

25. (a) When to the knowledge of a person in charge of a vehicle any mud, clay, lime or similar material has fallen on a highway from the vehicle, such person shall, if such fallen material is likely to cause obstruction or danger to persons using the highway...
or injury to the surface of the highway, remove or cause to be removed all such fallen material from the highway as completely and as soon as is reasonably practicable.

(b) The person in charge of a vehicle shall not bring the vehicle or permit it to be brought upon a highway unless there has been removed from the wheels thereof as completely as is reasonably practicable all mud, clay, lime and similar material which is likely, if not so removed, to cause obstruction or danger to persons using the highway or injury to the surface of the highway.

(c) In this byelaw:

"person in charge of a vehicle" means the person who whether as owner or otherwise has the charge or control of a vehicle or being present is entitled to give orders to the person having charge or control;

"vehicle" includes any trailer and any agricultural implement or machine;

"wheels" include axles, runners and tracks.

26. No person shall without lawful authority drive or place a vehicle or cause a vehicle to be driven or placed upon any road margin to which this byelaw applies.

This byelaw applies to any road margin which is:

(i) in or beside a public road other than a trunk road vested in the Secretary of State;

(ii) laid or sown with grass or planted with trees, shrubs or plants and maintained constantly in good order for ornamental purposes; and

(iii) indicated to be a margin to which this byelaw applies by means of notices conspicuously displayed on or near the said margin by the Wolverhampton County Borough Council.

27. No person shall without proper authority, or unless authorised by law so to do, deface by writing or other marks any structure abutting on any street or public place.

In this byelaw the expression "proper authority" means with the permission of the occupier or person having the charge of the structure.

28. No person shall on any public carriageway or footway skate on rollers, wheels or other mechanical contrivances to the danger of other persons lawfully using the said public carriageway or footway.

29. No person shall (without lawful authority) uproot any ferns, primroses, or other plants growing in any road, lane, roadside waste, roadside bank or hedge, common or other place to which the public have access.

30. No persons shall with intent to cause annoyance or inconvenience to any person in any place of public entertainment to which the public are admitted with or without the payment of money, while the public are on the premises, throw or let off any firework, stink bomb or similar article, or squirt, spray or otherwise throw or scatter any offensive liquid, powder or substance in any such place as aforesaid.

31. (1) It shall be an offence to offer a contraceptive for sale by means of an automatic machine so placed that it can be used by persons who are in a street;

(2) In this byelaw the expression "street" includes a way or place over which the public have a right of passage, and also the forecourt or entrance to a building, provided that such a forecourt or entrance is exposed to the view of persons passing along the street, and that the public have unrestricted access to such forecourt or entrance.

32. Any person offending against any of the foregoing Byelaws shall be liable on summary conviction to a fine not exceeding twenty pounds.
THE COMMON SEAL of the Mayor, Aldermen and Burgesses of the County Borough of Wolverhampton was hereunto affixed the fourteenth day of April 1971 in the presence of

G. A. GUY
Mayor

KENNETH WILLIAMS
Deputy Town Clerk

The Secretary of State this day confirmed the foregoing byelaws and fixed the day on which they are to come into operation as the first day of July 1971

K. P. WITNEY
An Assistant Under Secretary of State

Home Office,
Whitehall,
25th June, 1971.