

**Briefing Paper on Byelaws
for Muswell Hill, Alexandra, Fortis Green and Highgate
Area Committee**

1. The terms of reference for the Area Committees are set out in Part Three, Section C of the Constitution which contains the terms of reference for Full Council and Non-Executive Bodies. Section 5 deals with Area Committees' terms of reference and includes a provision relating to byelaws. Area Committees may make recommendations to Full Council on the introduction of byelaws to have effect in the wards covered by the Area Committee. Wherever possible, proposed byelaws should be consistent with the model byelaws on that matter issued by central government.
2. Paragraph 4.1.6 of the Protocol for Area Committees states that Area Committees shall be able to introduce local byelaws, in keeping with model byelaws. These will be subject to approval by Full Council.
3. The model byelaws are as follows:
 - Pleasure grounds, public walks and open spaces;
 - Amusement premises;
 - Pleasure fairs;
 - Promenades;
 - The seashore;
 - For markets;
 - Good rule and Government.
4. The model byelaw on Good rule and Government is the broadest and includes byelaws on climbing upon and hanging from bridges, fairground attractions causing obstruction to traffic, dangerous games near and on highways, interference with life saving equipment and road warning lamps, riding on road margins, skateboarding, touting, and urinating in public.
5. The maximum penalty for breaching a byelaw is a fine in the local magistrates' court. Such breaches must be proven to the criminal standard of "beyond reasonable doubt". The maximum penalty is usually fixed by the statute enabling that particular byelaw. Where unspecified, it is £500. Magistrates have the power to impose a fine less than the maximum and, alternatively, to "discharge" a defendant. Magistrates have a discretion to award investigation and prosecution costs.
6. All byelaws currently require approval by the Secretary of State for Communities and Local Government ("CLG"). Byelaws must be reasonable, certain in their terms, and consistent with the general law. Byelaws will not be valid if they deal with matters already covered by statute. The CLG website contains comprehensive guidance on the process and contains a list of subjects covered by

general legislation and therefore not considered suitable for byelaws. These include:

7.
 - Advertisements, including notices, posters and bills
 - Birds, birds' nests, bird eggs
 - Camping - removal of campers
 - Damage
 - Dangerous driving in parks and open spaces
 - Deposits on the highway
 - Dumping and flytipping
 - Firearms
 - Graffiti
 - Gypsies and Travellers
 - Language - violent, threatening or abusive
 - Litter
 - Motorised Scooters
 - Public meetings and gatherings
 - Public order
 - Sale of vehicles on road
 - Semi-permanent skin colouring
 - Traffic

8. The most effective time for Area Committees to be involved may be during the initial consultation prior to applying for provisional approval to the Communities and Local Government Byelaws Section. This way, Area Committees may provide a local insight and make relevant suggestions for matters that may need to be addressed.

9. Guidance notes on the procedure for making byelaws including a list of the model byelaws are published on a "guidance page" on the CLG website attached as **Appendix 1**.

10. The Local Government (Public Involvement in Health) Act 2007 provides for a new streamlined process for creating certain byelaws without the need to gain the approval of the Secretary of State. However, the necessary regulations enabling this have yet to come into force. On 15 November 2011 the Byelaws Section of CLG informed LBH that an announcement would be made "within weeks" on the anticipated regulations giving effect to the new process.