

## **Report to COUNCIL**

### **Revision of Byelaws made under Section 19 of the Public Libraries & Museums Act, 1964**

**Portfolio Holder:**

Cllr Sean Fielding, Cabinet Member for Economy and Enterprise

**Officer Contact:** Rebekah Sutcliffe, Strategic Director of Communities & Reform

**Report Author:** Sheena Macfarlane: Head of Heritage, Libraries & Arts  
Ext.4664

**6<sup>th</sup> November 2019**

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#### **Reason for Decision**

To seek approval for the revision of byelaws made under Section 19 of the Public Libraries & Museum Act, 1964

#### **Executive Summary**

None

#### **Recommendations**

That the byelaws made under Section 19 of the Public Libraries & Museum Act, 1964 and amended and updated as detailed in appendix 1b be approved.

## Revision of byelaws made under Section 19 of the Public Libraries & Museums Act, 1964

### 1 Background

- 1.1 Byelaws made under Section 19 of the Public Libraries & Museums Act, 1964 relate to the public use of facilities. A copy of the byelaws needs to be displayed at each site and are referred to when the public present challenging or inappropriate behaviour in library or museum facilities.
- 1.2 The service is currently reviewing and, where necessary, updating policies, procedures and governance arrangements. The current library byelaws have not been formally updated since 1985. You may recall that the model byelaws which we obtained approval for from Council in 2011 were delayed as we were awaiting the approval of the new model byelaws by DCMS. Subsequently a revised set of model byelaws were submitted for approval in 2016, however the Society of Chief Librarians revised the existing model library byelaws for England to reflect changes in how people use libraries whilst maintaining suitable protections. The Secretary of State for Digital, Culture, Media and Sport approved this new set of model library byelaws in 2017.

Local authorities are expected to follow the model byelaws and if they wish to deviate from the model they are required to explain why the deviations are required. We are therefore expected to make replacement byelaws based on the new model byelaws rather than the older version. Oldham Libraries proposed library byelaws reflect the new model library byelaws.

### 2 Current Position

- 2.1 The current byelaws have not been formally updated since 1985. Byelaws were drafted in 2011 and 2016, but not approved by DCMS. These revised byelaws are in line with the revised model byelaws approved by DCMS.

Differences between Old and New Model Byelaws. Paragraph numbers relate to the new model byelaws, except where otherwise stated.

*Paragraph 2 – new model includes the wording “necessary for” in place of performed in connection with”.*

*Paragraph 3 – new model expands upon the existing detail contained in the old model.*

*Paragraph 5a – revised and shortened wording in revised model.*

*Paragraph 5b – revised wording in new model.*

*Paragraph 5c – slightly revised wording in new model.*

*Paragraph 8 – additional text at the end of the paragraph, “or act with intent or recklessness that such property should be destroyed or damaged”.*

*Paragraph 9 – revised wording in new model.*

*Paragraph 10 (**old version**) – this has been deleted from the new model byelaws.*

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*Paragraph 10 (relates to para 11 of old version) – addition of additional word “advised” in second line of paragraph.*

*Paragraph 12 (relates to para 14 of old version) – small amendment at the end of the paragraph “on library premises”.*

*Paragraph 13 (relates to para 15 of old version) – additional text in new model, “or seek donations on library premises”.*

*Paragraph 18 (**old version**) – this has been deleted from the new model byelaws.*

*Paragraph 15 – (relates to para 17 of old version) – revised and shortened wording in new version.*

*Paragraph 16 – (relates to para 19 of old version) – revised text in the first three lines of this paragraph.*

*Paragraph 21 (**old version**) – this has been deleted from the new model byelaws.*

*Paragraph 19 – (relates to para 23a of old version) – addition text in the third line of the paragraph, “or pay the appropriate replacement cost and charges”.*

*Paragraph 20 – this is a new additional paragraph in the new model byelaws.*

*Paragraph 21 - this is a new additional paragraph in the new model byelaws.*

*Paragraph 22 – (relates to para 24 of old version) – text has been shortened in new model byelaws.*

*Paragraph 23b (**old version**) – deleted from new model byelaws.*

### **3 Options/Alternatives**

3.1 Not to update the byelaws

3.2 To update the byelaws as detailed in appendix 1b

### **4 Preferred Option**

4.1 To update the byelaws as detailed in appendix 1b

### **5 Consultation**

5.1 Legal Services and Corporate Property Services have been consulted.

### **6 Financial Implications**

6.1 There are no financial implication associated with this report. (Nicola Harrop)

### **7 Legal Services Comments**

7.1 Under section 19 of the Public Libraries and Museums Act 1964 a local authority may make byelaws regulating the use of facilities provided by the authority under the Act and the conduct of persons in premises where those facilities are provided and the Secretary of State shall be the person by whom byelaws so made are to be

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confirmed. The byelaws may include provisions for enabling officers of the local authority to exclude or remove from premises maintained by the authority under the Act any person who contravenes the byelaws. By virtue of section 31(2)(a) of the Criminal Law Act 1977 and section 46 of the Criminal Justice Act 1982, the maximum fine payable for breach of the byelaws is level 2 (£500).

7.2 Under the Council's constitution, the making or amendment of byelaws is a matter reserved to the Council. (A Evans)

## 8 **Human Resources Comments**

8.1 It is not envisaged that revision of byelaws will have an impact upon the workforce. (Martyn Bramwell.

## 9 **Risk Assessments**

9.1 The proposal to update these policies, procedures and governance seems sensible to minimise future risk to the Council as they have not been updated since 1985 (Mark Stenson)

## 10 **IT Implications**

10.1 None

## 11 **Property Implications**

11.1 None

## 12 **Procurement Implications**

12.1 None

## 13 **Environmental and Health & Safety Implications**

13.1 The byelaws support the safe and legal provision of services.

## 14 **Equality, community cohesion and crime implications**

14.1 The proposed amendments to the byelaws will support the provision of a safe, inclusive and welcome services for all stakeholders.

## 15 **Equality Impact Assessment Completed?**

15.1 The proposed amendments to the byelaws will not adversely affect any one group or community.

## 16 **Key Decision**

16.1 No

## 17 **Forward Plan Reference**

17.1 N/A

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18     **Background Papers**

18.1   None

19     **Appendices**

19.1   Appendix 1a current byelaws Section 19 of the Public Libraries & Museum Act, 1964

Appendix 1b proposed byelaws Section 19 of the Public Libraries & Museums Act, 1964

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You may print out this document and give it to any borrower who requests a copy of the bye-laws.

**OLDHAM BOROUGH COUNCIL**

Byelaws made under Section 19 of the Public Libraries and Museums Act, 1964 in respect of Libraries Museums and Art Galleries within the Oldham Metropolitan District.

1. In these Bye-laws, unless the context otherwise requires:-
    - (a) "the Act" means the Public Libraries and Museums Act 1964;
    - (b) "the Authority" means the Oldham Borough Council;
    - (c) "library, museum or art gallery" means any library; museum or art gallery for the time being maintained by the authority for the purposes of its functions under the Act and includes a vehicle when being used for those purposes;
    - (d) "the Director" means the person appointed as Director of Libraries, Museums and Art Galleries by the Authority or, in his absence, any other person authorised by the Authority to act on his behalf;
    - (e) "departmental officer" means the Director or any other person employed by the Authority for the purposes of its functions under the Act;
    - (f) "book" includes any and every book, journal, pamphlet, music score, manuscript, picture, print, photograph, engraving, etching, deed, map, chart, plan, gramophone record, film, object d'art and museum specimen and any other article of a like nature forming part of the contents of the Library, Museum or Art Gallery or lent to any person by or on behalf' of the Authority.
  2. An act necessary for the proper execution of his duty by a departmental officer shall not be deemed to be a contravention of these Bye-laws.
  3. A person shall not give a false name or address for the purpose of entering any part of the library, museum or art gallery or for the purpose of using any facilities provided in connection therewith.
  4. A person who is offensively unclean in person or in dress, or who is suffering from an offensive disease shall not enter or use the library, museum or art gallery.
  5. Except with the consent of a departmental officer, a person shall not
    - (a) cause or allow any dog (other than a guide-dog accompanying a blind person) or other animal belonging to him or under his control to enter or remain in the library, museum or art gallery, or
    - (b) bring into any part of the library, museum or art gallery a wheeled vehicle or conveyance (other than an invalid chair).
  6. A person shall not, after proper warning by a departmental officer, remain in the library, museum or art gallery after the time fixed for its closing.
  7. A person shall not, unless duly authorised, take any book from the library, museum or art gallery.
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8. A person shall not carelessly or negligently soil, tear, cut, deface, damage, injure, or destroy any book or the furniture, fittings or other contents of the library, museum or art gallery.

9. Except with the consent of a departmental officer, a person shall not make a tracing or photographs of any portion of a book.

10. A person who -

(a) after the end of the period for which it was lent has the charge or possession of a book borrowed from the library, museum or art gallery or from any body or person acting on behalf of the Authority, and

(b) after having been requested in writing by the Authority to deliver it up to that Authority, has failed to do so within a period of fourteen days after the date of the request, and

(c) has not paid to the Authority in respect thereof an agreed sum by way of compensation shall not, except with the consent of the Director, borrow any further book from the library, museum or art gallery.

11. A person from whom any sum is due to the Authority by reason of a charge made under Section 8(2) of the Act in respect of failure to return a book before the end of the period for which it was lent shall not, except with the consent of the Director, borrow any book from the library, museum or art gallery after having been notified in writing by the Authority of the amount due.

12. (i) A person having the charge or possession of any book which the Authority is entitled to have returned to it shall deliver it up to the Director within fourteen days of the service upon him by the Authority of a notice requiring him so to do.

(ii) For the purposes of this Bye-law, a notice may be served upon any person by delivering it to him, or by leaving it at his usual or last known place of residence, or by sending it by registered post or recorded delivery service addressed to him at that place.

13. A person shall not behave in a disorderly manner in the library, museum or art gallery or use violent, abusive or obscene language therein.

14. A person shall not spit in the library, museum or art gallery.

15. A person shall not, after a warning by a departmental officer persist in sleeping in the library, museum or art gallery.

16. A person shall not engage in audible conversation in any part of the library, museum or art gallery set apart as a reference department or for reading after his having been requested not to do so by a departmental officer.

17. A person shall not wilfully obstruct any departmental officer in the execution of his duty or wilfully disturb, obstruct, interrupt or annoy any other person in the proper use of the library, museum or art gallery.

18. A person shall not display, distribute, affix or post any bill, placard or notice in, to or upon any part of the library, museum or art gallery.

19. A person shall not, without the consent of the Director, offer anything for sale in the library, museum or art gallery.

20. A person shall not lie on the furniture or fittings of the library, museum or art gallery or on the floor thereof.

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21. A person shall not smoke or strike a light in any part of the library, museum or art gallery set apart for the use of the public, except in any part thereof which is for the time being used as a restaurant or in which, when it is being used for an educational, cultural or other event under Section 20 of the Act, the Authority allows smoking.

22. A person shall not, except with the consent of a departmental officer, partake of refreshment in the library, museum or art gallery, except in any part thereof which is for the time being used as a restaurant or in which, when it is being used for an educational, cultural or other event under section 20 of the Act, the Authority allows the partaking of refreshments.

23. Except with the consent of the Director, a person shall not cause or allow any apparatus for the reception of sound broadcasting or for the reproduction of sound to be operated in any part of the library, museum or art gallery set apart for the use the public.

23. Every person who shall offend against any of the foregoing Bye-laws (other than Bye-laws 10 and 11) shall be liable on summary conviction to a fine not exceeding the sum of £20.

24. Every person who, within the view of a departmental officer, contravenes any of the foregoing Bye-laws may be excluded or removed from the library, museum or art gallery by such officer if:-

- (a) his name and address are not known to and cannot readily be ascertained by the officer: or
- (b) from the nature of the contravention or from any other fact of which the officer may have knowledge or be credibly informed there is reasonable ground for belief that his continuance in the library, museum or art gallery may result in another contravention of the Bye-laws or that his exclusion or removal from the library, museum or art gallery is otherwise . necessary for the proper use and regulation thereof.

Revocation of Bye-laws -On the coming into operation of these Bye-laws, the Bye-laws -

(a) made by Chadderton Urban' District Council under Section 19 of the Public Libraries and Museums Act 1964 on the 25th day of March 1966 and confirmed under the Official Seal of the Secretary of State for Education and Science on the 7th day of June 1966.

(b) made by Royton Urban District Council under Section 3 of the Public Libraries Act, 1901 on the 1st day of April 1958 and confirmed under the Official Seal of the Minister of Education on the 29th day of May 1958.

(c) made by Crompton Urban District Council under Section 19 of the Public Libraries and Museums Act 1964 on the 19<sup>th</sup> day of December 1966 and confirmed under the Official Seal of the Secretary of State for Education and Science on the 6th day of March 1967.

(d) made by Oldham Corporation under Section 19 of .the Public Libraries and Museums Act, 1964 on the 23<sup>rd</sup> day of August, 1966 and confirmed under the Official Seal of the Secretary o~ State for Education and Science on the 16th day of September 1966.

(e) made by Failsworth Urban District Council under Section 19 of the Public Libraries and Museums Act, 1964 on the 7th day of December, 1966 and confirmed under the Official Seal of the Secretary of State for Education on the 31st day of January, 1967.

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Shall be revoked, and on the coming into operation of these Byelaws the Byelaws made by the Lancashire County Council under Section 3 of the Public Libraries Act 1901 on the 2nd day of February, 1956 and confirmed under the Official Seal of the Minister of Education on the 17th day of April, 1956 relating to all the libraries for the time being under their control are hereby revoked insofar as they relate to libraries within the area of the District Council of Oldham.

THE COMMON SEAL of THE OLDHAM  
BOROUGH COUNCIL was hereunto  
affixed this sixteenth day of  
May 1974 in the presence of:-  
(L.S.)

Lawrenson Hughes  
Borough Solicitor

Confirmed under the Official Seal of  
the Secretary of State for Education  
and Science on 19th July 1974.  
(L.S.)

S. A. WILLIAMS  
Authorised under Section 3 of the Education Act 1944.

#### BYE-LAWS: PUBLIC LIBRARIES, MUSEUMS AND ART GALLERIES

Bye-law made under section 19 of the Public Libraries and Museums Act 1964 by  
Oldham Borough Council.

Bye-law no. 7 of the set of bye-laws relating to libraries, museums and art galleries  
within the Oldham Metropolitan District made by Oldham Borough Council on the 16<sup>th</sup>  
day of May 1974 and confirmed on behalf of the Secretary of State for Education and  
Science on the 19<sup>th</sup> day of July 1974 is here revoked.

New bye-law no. 7 (set out below) is hereby included in its place in the set of bye-laws  
relating to libraries, museums and art galleries within its District made by the said  
Council:-

‘No person shall, unless duly authorised, take any book from the library,  
museum or art gallery. A person shall be guilty of a breach of this bye-law who  
attempts to take a book past a check-out point without it being issued in  
accordance with the libraries procedures or without being given permission by  
a library officer to do so.’

THE COMMON SEAL of  
THE OLDHAM BOROUGH COUNCIL  
was hereunto affixed this  
13<sup>th</sup> day of August 1985  
in the presence of:-

Richard Fletcher  
Solicitor, Common Law  
Number in Seal Book 232A/85

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The foregoing byelaw amendment is hereby confirmed, on behalf of the Chancellor of the Duchy of Lancaster, by the Head of the Office of Arts and Libraries, and shall come into operation on 1 November 1985.

R W Wilding  
Head of Office of Arts and Libraries  
29 October 1985

**OLDHAM COUNCIL PUBLIC LIBRARY BYELAWS**

**MADE UNDER SECTION 19 OF THE PUBLIC LIBRARIES AND MUSEUMS ACT 1964**

1. In these byelaws, unless the context otherwise requires:
    - a. "the Act" means the Public Libraries and Museums Act 1964;
    - b. "charge" means any charge imposed in accordance with the Regulations;
    - c. "child" means a person under the age of 8 years;
    - d. "emergency situation" includes situations where a library or part of a library is required to be evacuated for security reasons or because of threat from fire or other hazard and practices and false alarms in relation thereto;
    - e. "last known address" means the last address held on the library authority's records;
    - f. "the library authority" means the Oldham Borough Council;
    - g. "library" means:
      - i) any premises which are occupied by a library authority and are premises where library facilities are made available by the authority, in the course of their provision of a public library service, to members of the public;
      - ii) any vehicle which is used by the library authority for the purpose of providing a public library service to members of the public and is a vehicle in which facilities are made available; and includes any part of such premises or vehicle;
    - h. "the library officer" means any officer employed by the library authority in connection with its functions under the Act;
    - i. "library property" includes property owned by or provided for the use of the library authority whether or not it is made available by the library authority for use by the public and property obtained by the library authority for the loan to or use of the public;
    - j. "the Regulations" means The Library Charges (England and Wales) Regulations 1991 S.I.1991/2712;
    - k. words importing the masculine gender include the feminine, words in the singular include the plural and words in the plural include the singular;
    - l. expressions used, unless the contrary intention appears, have the meaning which they bear in the Act and Regulations.
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2. An act necessary for the proper execution of his duty by a library officer shall not be a contravention of these byelaws.
  3. A person shall not supply an age, name, address or other means of identification which is false or misleading for the purpose of entering the library or for the purpose of using any library facility.
  4. No person who in the reasonable opinion of a library officer is offensively unclean in person or clothing or both shall remain in the library after having been asked by a library officer to leave the library.
  5. Except with the consent of a library officer, no person shall:
    - a. cause or allow any dog (other than an assistance dog) or other animal belonging to him or under his control to enter or remain in the library;
    - b. bring into any part of the library a wheeled vehicle or conveyance [other than those necessary for the assistance of people with limited mobility];
    - c. enter or remain in any part of the library which a reasonable person would or should know is prohibited to the public; or
    - d. access or remain in the library outside of the times fixed for its opening.
  6. No person shall remain in the library after an emergency situation has been made known to him.
  7. No person shall, unless specifically permitted by a library officer, take or attempt to take any library property from the library or past a check out or security point.
  8. No person shall, without lawful excuse, destroy or damage any library property intending to destroy or damage such property or being reckless as to whether such property should be destroyed or damaged or act with intent or recklessness that such property should be destroyed or damaged
  9. No person shall behave in a violent, disorderly or indecent manner in the library, use violent, abusive offensive, insulting or obscene language therein, or intentionally or recklessly cause or do anything likely to cause injury to any other person.
  10. No person shall remain in a library without making proper use of the library's facilities after having been requested, by a library officer, to make such proper use of the facilities.
  11. No person shall intentionally or recklessly obstruct any library officer in the execution of his duty or intentionally or recklessly disturb, obstruct, interrupt, abuse or annoy any other person properly using the library.
  12. No person shall, without the consent of a library officer, intentionally display, distribute, or leave any bill, placard, notice or other document on library premises.
  13. No person shall, without the consent of a library officer, offer anything for sale or seek donations on library premises or canvass or seek signatures for petitions.
  14. No person having charge of a child shall without the consent of a library officer leave him unsupervised in the library.
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15. No person shall bring into or light any flame on library premises.
  16. No person in any part of the library shall supply, take or be under the influence of alcohol or any toxic substance for the purpose of causing intoxication; or supply, take or be under the influence of any controlled drug as defined by Schedule 2 of the *Misuse of Drugs Act 1971* other than drugs dispensed for and pursuant to prescription issued for him by a doctor under and in accordance with the aforesaid Act.
  17. No person shall, except with the consent of a library officer, partake of refreshment in the library.
  18. No person who
    - a) borrows library property which is returned late or if returned would be returned late, or
    - b) fails to pay any chargeshall, unless with the specific consent of a library officer, borrow any other library property.
  19. Any person who has borrowed library property which if returned would be returned late and who has been served with a notice by the library authority demanding return of the library property shall return the library property or pay the appropriate replacement cost and charges within 14 days from the date the notice was served.
  20. Any library user whose personal details change must notify a library officer as soon as reasonably possible or take responsibility for updating their own customer account.
  21. A person shall use online resources in a way consistent with any Conditions of Use Policy or similar rules of the library, as advertised or notified by the authority. Breach of any such policy shall, without prejudice to any other legal sanction or remedy available to the library authority, lead to the barring of the use of such online resources.
  22. Any person who contravenes any of these byelaws shall, without prejudice to any other legal sanction or remedy be liable to prosecution by the library authority for contravention of the byelaws, and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale in respect of each offence
  23. A library officer may exclude any person who contravenes any of the foregoing byelaws from any library maintained by the library authority under the Act.
  25. On the coming into operation of these byelaws, the byelaws relating to libraries which were made by the Oldham Borough Council on the 13<sup>th</sup> day of August 1985 and were confirmed on behalf of the Chancellor of the Duchy of Lancaster, by the Head of the Office of Arts and Libraries on the 29<sup>th</sup> day of October 1985 shall be revoked.

THE COMMON SEAL of  
THE OLDHAM BOROUGH COUNCIL

was hereunto affixed in the presence of :

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The foregoing Byelaws are confirmed on behalf of the Secretary of State for Digital, Culture, Media and Sport by the Deputy Director, Culture Directorate, Department for Digital, Culture, Media and Sport and shall come into force on .....

Signature

Print Name

Date

Deputy Director, Culture Directorate  
Department for Culture, Media and Sport

The date of coming into force is one month after date of signature.

This note is not part of the Byelaws.

Users of the library and library facilities are reminded that the provisions of the general law apply at all times. In particular as regards the activities referred to in byelaws 8 and 16 the library authority draws attention to the existence of the Criminal Damage Act 1971 and the Misuse of Drugs Act 1971.

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