

To: **Each Member**
Waterford City & County Council
January 2023

Re: Draft Waterford City and County Council (Prevention and Control of Litter) Byelaws 2022

Dear Councillor,

In July 2022, the Council approved the publishing of a draft proposal to make new Bye-Laws, in accordance with Section 21 of the Litter Pollution Act 1997 and Section 199(1) of the Local Government Act 2001 and in accordance with Part 19 of the Local Government Act 2001, for the Prevention and Control of Litter in the administrative area of Waterford City & County Council.

The draft byelaws aim to introduce enhanced responsibilities on businesses that contribute to litter to provide litter receptacles and to clean up litter generated by their businesses in the vicinity of their businesses.

The draft Waterford City and County Council (Prevention and Control of Litter) Byelaws 2022 were subsequently advertised on July 29th 2022 for public consultation and the closing date for submissions was September 23rd 2022.

Details were also provided on social media to encourage the public to make submissions.

Thirteen submissions were received by the due date - a summary of these and recommended changes is outlined below.

These submissions were considered by the Environment, Climate Action & Biodiversity Strategic Policy Committee at a meeting on 22 November 2022 and on foot of these submissions the draft bye-laws were amended.

The recommendation, endorsed by the SPC, is that these amended bye-laws be adopted.

Fergus Galvin
Director of Services

Report on submissions received

Thirteen submissions were received by the due date. No further submissions have been received to date.

Agreed changes to the draft bye-laws are highlighted in **yellow**

Submission No 1. Received from Kevin Jephson, Ardkeen Stores - there was one point raised in this submission –

- **The imposition of a Trolley Loss Prevention Device was an undue imposition on retailers, are expensive, cumbersome and of limited effectiveness. He says customers tip them off to discarded trolleys and they can arrange to swiftly collect the trolleys. Trolleys are expensive for retailers and they don't want to lose them. He suggests a more collaborative approach with the council might be more effective.**

Submission No 2. Received from Brendan Cummins - there was one point raised in this submission –

- **The requirement in section 3.2 should be amended. The current “3.2 The Occupier of a Premises referred to in Bye-law 2.1 shall a)monitor the land in the vicinity of the premises during opening hours of the premises to ensure that the area in maintained free of litter maintained free of litter of a type or brand supplied by that premises”, should be amended so that the phrase underlined should be omitted. This would place the cleaning of all litter in the vicinity of the premises on the occupier. All citizens have a duty of care and those that are in the retail sector have a particular duty to promote, take action and maintain their premises and its surroundings as is defined free of all litter irrespective of its origin.**

Submission No 3. Received from Connor Donegan - there was one point raised in this submission –

- **Welcomes the onus on businesses “to do their part in providing bins and tackling the litter problem”, however he felt there were a number of areas, particularly in Dunmore East outside the remit of businesses, which would benefit from the provision of “Big-Belly” style compactor bins.**

Submission No 4. Received from Owen Madden - there were three points raised in this submission –

- **The requirements on occupiers / premises be applied to secondary and primary schools. He lives beside a school and there is an amount of litter strewn around from the children that then gets blown around the countryside**
- **Measure be included to require farmers to address plastics used in the growing of vegetables and tillage. He says this is blown around the country side.**
- **Measures to be included for construction sites to pick up wrapping, polystyrene and workers rubbish which is left to blow around the countryside.**

Submission No 5. Received from Liam Power, Garvey's Supermarket - there were two points raised in this submission –

- **Mr Power said while he understands the requirement for retailers to control litter around their premises, he feels that extending the requirement out to 100m is ridiculous**

- **Mr Power says the reduction in the number of bins around the town has led to an increase in the public using their bins which has led to an increase in the cost to businesses which are already struggling**

Submission No 6. Received from Eugene Tobin, Movies @ Dungarvan - there were four points raised in this submission –

- **It is not fair to expect staff at night to clean beyond the footprint of their premises, especially where lighting is poor or there are few people present**
- **Requiring the placing of cigarette butts outside his premises will encourage smoking and put his staff at risk of second hand smoke**
- **Requiring the monitoring of the public areas for litter every two hours is excessive, a requirement for every 4 hours would be better.**
- **The requirement to fill in a cleaning schedule will be ignored or will just be filled in without the required cleaning and will have no benefit.**

Submission No 7. Received from Jenny Beresford, Dungarvan and West Waterford Chamber - there were four points raised in this submission –

- **100m is a considerable distance from a business premises, litter can occur for multitude of reasons even with zero contact with the nearby premises.**
- **While businesses broadly support the checks, they fear the ability of businesses to implement this with current staff shortages**
- **The requirement to record the cleaning and monitoring schedule would be cause additional time and processes. Asks if the council could have a digital platform that could allow businesses to record their data through that, or if kept paper that it could be kept behind the counter not on public display**
- **Requiring the placing of cigarette butts outside his premises will encourage smoking and endangered staff. Suggests banning smoking outside all listed premises and to issue fines to people who litter with cigarette butts**

Submission No 8. Received from Gali Borisov - there were seven points raised in this submission –

- **Objects to the requirement to provide bins in the public domain. His concern is if an insurer will cover these bins in the businesses public liability policy in the event of public claims related to accidents related to the bins.**
- **The requirements for bins lack details regarding the material, size, colour or where exactly they were to be placed**
- **Emptying bins that the business has no control over what goes into them will entail a risk for the businesses staff if there was hazardous, glass or syringes in them.**
- **Suggests that businesses should be permitted to situate the bin in the private ground / shop floor to ensure domestic waste is not placed in them.**
- **Opposed to the requirement to clean footpath outside premises, as concerned if the wrong detergents etc are used make cause a hazard**
- **Unfair that only some categories of business included not all businesses, as they all pay rates, also no requirements for residences or public**
- **Responsibility for litter should remain with the local authority**

Submission No 9. Received from Dungarvan Tidy Towns Group - there were 10 points raised in this submission –

- **Requirement to provide a cigarette receptacle should include a requirement to empty them frequently. Also favour wall mounted receptacles as buckets can be a trip hazard particularly for the vision impaired.**
- **Authorised persons should be empowered to investigate the discarding of cigarette butts out the windows of apartments and houses**
- **The distance of 100m may seem extensive, and overwhelming, suggests that lower limit might appear more manageable and more likely to be complied with.**
- **Smoking should be banned in outdoor dining areas as a condition of their Section 254 licences**
- **Food service businesses where customers clear their own tables should provide segregated bins to facilitate recycling**
- **Food service businesses should be required to minimise waste and those with outdoor dining provide waste receptacles**
- **It should be an offence to fill a wheelie bin to overflowing**
- **The monitoring log should be done via an online portal provided by the Council**
- **Welcomes measures around trolleys, but suggest that facilities near bus stops be provided to allow trolleys to be deposited there.**
- **Supermarkets should be required to display a phone number on their trolleys to allow the reporting of abandoned trolleys**

Submission No 10. Received from Ita Harty, Dungarvan Shellfish - there was one point raised in this submission –

- **Oyster Farmers in Dungarvan have divided up the areas and each clean their area, but if they have to publish the details of their cleaning, the council should have to publish details of sewage, grease and oil discharges, and the amount of bleach the used at various bleaching points around the city and county.**

Submission No 11. Received from Claire Morrissey- there was one point raised in this submission –

- **Boreentra and Abbeyside Harbour area from the Bridge to Landsend should be included in the schedule of areas prohibiting wild or feral animals or birds.**

Submission No 12. Received from Mary Balfe- there was one point raised in this submission –

- **A bin should be provided at the bus stop at Ballinakill, near the top of the road leading down to Waterford Castle**

Submission No 13. Received from Pat Moran- there was one point raised in this submission –

- **The Council, Irish water and EPA should publish details of the amount of Sodium Hypochlorite discharged to waters around Waterford by both the council and EPA licenced facilities.**

Summary of issues raised and responses.

As a number of issues are raised which are common across more than one submission,, it is easier to address them here.

1. Requirement for a Trolley Loss Device, (submissions 1, 9)

Response

The proposal to require a trolley loss device was to prevent discarded trolleys generating litter. The proposal that a contact number for each premises for the public to notify them that a discarded trolley has been found might be sufficient to ameliorate this problem. The Council will investigate the feasibility for creating an app to report discarded trolleys which may facilitate this reporting. If this measure proves insufficient, this matter can be revisited.

Section 6.1 is recommended being replaced by.

6. Shopping Trolleys

6.1. The occupier of a premises using shopping carts or trolleys shall install on each trolley a sign or label providing a contact number that abandoned trolleys can be reported by the public to the occupier.

2. Businesses should be required to pick all litter in the vicinity. (submission 2)

Response

The byelaws impose the responsibility on businesses to clean up litter of a type or brand supplied by them. This is in keeping with the polluter pays principle. Placing a requirement on business to clean up litter in the vicinity not generated by their business would appear to be unfair. This however does not remove the requirement on the occupier of any land adjoining a public road within a built up or special speed limit area (60km/h or less) to maintain free from litter any footway or verge forming part of the public road adjoining their property.

3. Requirement for businesses to clean land in vicinity to 100m (submission 5, 6, 7, 9)

Response

The Litter Pollution Act 1997 define land in the vicinity as being land within a reasonable distance not exceeding 100m. The requirement to remove litter caused by the operation of the outlet is imposed on mobile outlets automatically and the byelaws sought to extend this to other outlets which contribute to litter.

The definition of Land in the vicinity can be reduced to 50m to reduce the burden on businesses. In the event of a particular premises causing a more significant issue requiring this to be extended to 100m, this can be achieved under the existing powers of the Litter Pollution Act 1997 (as amended). To address safety concerns regarding staff collecting litter, this can be limited to land within the 60km/h speed limit or less.

Section 1 is recommended that the following definition replace that for 'Land in the Vicinity'

“Land in the vicinity” means, in respect of premises of an occupier, land within a reasonable distance, not exceeding 50 metres of the premises, where this land is located within an area where a built up area speed limit, or special speed limit has been established in the functional area of the Council

4. Provision of additional or Compactor style bins (Submissions 3, 5, 12)

Response

The Council regularly review the number and location of litter bins in Waterford. The Council will examine the areas mentioned in these submissions to decide if they warrant further bins.

5. Requirement to provide bins should be placed on Primary and Secondary Schools (submission 4)

Response

The object of the byelaws is to put the onus on businesses which generate litter to provide facilities and to clean up the litter they generate. This is in the spirit of Extended Producer Responsibility schemes which are common for items like packaging, and is consistent with the Polluter Pays Principal. Schools, although they can be considered litter generators, due to the clustering of children around them, do not in themselves generate litter. As such it was not considered appropriate to include the requirement for them to provide bins. This however does not remove the requirement on the occupier of any land, including a school adjoining a public road within a built up or special speed limit area (60km/h or less) to maintain free from litter any footway or verge forming part of the public road adjoining their property.

Third level educational facilities are required, by dint of these bylaws to provide cigarette receptacles. It is not appropriate to require this for primary or secondary schools where the students are below the age for smoking.

6. Requirement for farmers to clean farm plastic in vicinity of farm (submission 4)

Response

The issue of safety for persons cleaning the litter was raised in other submissions, in response to this, the requirement for cleaning the litter on land in the vicinity was restricted to areas with a 60km/h speed limit or less. Most farms are located within rural areas where the general speed limit of 80km/h apply. Requiring the cleaning in the vicinity of a farm in those circumstances would be inconsistent with the requirements for other areas.

7. Requirement for Construction sites to clean land in the vicinity (submission 4)

Response

It is recommended that the following is added after section 3.3

3.4 The owner or developer of any construction site shall monitor the land in the vicinity of the construction site at least once each day during the period of 08:00 to 18:00 Monday

to Saturday to ensure that the area is maintained free of litter of a type likely to arise on a construction site and shall remove or ensure that all such litter is removed forthwith.

It is recommended that section 4.1 is replaced with the following;

4.1 The occupier, owner or developer, as appropriate shall keep a Schedule, which shall record the actions taken by them to comply with Bye-Laws 2 and 3, as appropriate, in the form set out in Schedule 1 of these Bye-Laws. This schedule shall be retained by them for a period of one month from the date unless within that period they are required to surrender this document to an authorised person in accordance with Bye-Law 10.

8. Requirement for cigarette receptacles outside premises (submission 6, 7)

Response

The premises identified in section 2.2 are types of premises that may contribute to cigarette litter outside the premises. From the experience of the Environment Section, these classes of business contribute to cigarette litter. Not every premises of this type will necessarily have a problem with cigarette litter, but it is necessary to specify classes of business to enforce this provision. It is not accepted that the provision of cigarette receptacles encourages cigarette smoking.

9. Monitoring the land in the vicinity every 2 hours, is excessive (submission 6, 7)

Response

This measure was modelled on the requirement in Dublin City's litter byelaws. In Dublin the requirement is for hourly monitoring, however this was felt to be excessive. Monitoring on a two hourly basis and at closing time was thought to be more appropriate locally.

10. Requirement to provide bins in public areas (submission 8)

Response

The requirement to provide bins is to provide facilities for the customers of the premises to discard the litter generated from their purchases. A lot of premises already provide these facilities. It is not accepted that the provision of these bins would pose an accident risk to the public or that they could not be insured. Premises already place tables and chairs, signage and in some cases products for display in the public domain without an issue. It is accepted that it might be more suitable that the bin be kept within the premises, provided that it provides the service to the customers.

It is recommended that in section 2.1 the following is added after "... in the in the public domain at their premises"

"... or within the premises within 1m of the exit or exits from the premises"

11. Lack of details on bin requirements (submission 8)

Response

The details of the type or style of bin was deliberately left up to the premises affected, as they may wish to utilise particular style of bins which will be consistent with their own branding etc.

12. Risk for staff emptying bins (submission 8)

Response

The bins are located within the vicinity of the premises and are therefore under better surveillance by the occupier than public bins in Waterford, and as such are less likely to have hazardous materials placed in it. However, the occupier will have to ensure sensible health and safety precautions are undertaken when bins are emptied.

13. Requirement to wash footpath (submission 8)

Response

The requirement for premises selling hot food for consumption off the premises, or in outdoor dining areas is a reasonable requirement where there are problems with grease staining on footpaths. The occupier would have to follow sensible health and safety precautions, but it is not accepted that an occupier would not be able to do that.

14. Only some categories of business included (submission 8)

Response

The byelaws impose the responsibility of businesses which generate litter to clean up litter of a type or brand supplied by them. This is in keeping with the polluter pays principle. Placing a requirement on a business to clean up litter in the vicinity not generated by their business would appear to be unfair. This however does not remove the requirement on the occupier of any land adjoining a public road within a built up or special speed limit area (60km/h or less) to maintain free from litter any footway or verge forming part of the public road adjoining their property.

15. Responsibility should remain with the local Authority (submission 8)

Response

The byelaws impose the responsibility of businesses which generate litter to clean up litter. This is in keeping with the polluter pays principle. Expecting that the council clean up all litter puts this burden on all rate payers, not just those contributing to the litter issue.

16. Requirement to empty cigarette bins (Submission 9)

Response

Section 2.3 of the byelaws requires that the occupier shall ensure that adequate provision is made for the emptying and maintenance of these bins

17. Authorised persons should be empowered to investigate cigarette butts outside residences (submission 9)

Response

Authorised persons are empowered to investigate cigarette butts outside residences, however, to issue a litter fine to a perpetrator, it is necessary to identify the person responsible.

Section 6 of the Litter Pollution Act does require that the occupier of any land adjoining a public road within a built up or special speed limit area (60km/h or less) to maintain free from litter any footway or verge forming part of the public road adjoining their property, however where the premises is in the form of apartments, this requirement is unenforceable.

18. Banning smoking in outdoor dining areas / outside businesses (submission 9)

Response

The banning of smoking in outdoor areas is beyond the scope of these byelaws.

19. Food service businesses should be required to provide segregated bins (submission 9)

Response

The Waste Management (Food Waste) Regulations 2009 place a requirement on producers who supply food to ensure food waste arising on the producer's premises is source segregated and kept separate from non-biodegradable materials. The Waste Management Regional Lead Authorities are examining how this can be best achieved with front of house waste.

20. It should be an offence to fill wheelie bins to overflowing

Response

The current . Waterford City and County Council (Segregation, Storage and Presentation of Household and Commercial Waste) Bye-laws, 2018 prohibit the presentation of overflowing wheelie bins

21. Food service businesses should be required to minimise waste and those with outdoor dining provide waste receptacles (submission 9)

Response

The Waste Management (Food Waste) Regulations 2009 place a requirement on producers who supply food to ensure food waste arising on the producer's premises is source segregated and kept separate from non-biodegradable materials. The Waste Management Regional Lead Authorities are examining how this can be best achieved with front of house waste.

Section 2(b) requires those premises with outdoor dining to provide waste receptacles.

22. Trolley facilities provided near bus stops (submission 9)

Response

The requirement on the occupiers of premises that use trolleys to place a number to report discarded trolleys will help in the recovery of trolleys left near bus stops. It would be impractical to provide separate facilities for trolleys for different shops at bus stops.

23. Details of discharges of sewage, and bleach to waters should be published (submission 10, 13)

Response

The regulation of discharges to waters is beyond the scope of these byelaws and is a matter for Irish Water.

24. Include additional streets in restrictions on feeding wild and feral animals / birds (submission 12)

Response

The restriction on feeding of wild and feral animals was envisaged to apply to areas with outdoor dining, to prevent hygiene issues with birds and other animals affecting these areas. The areas requested in the submission do not fall under this categorisation, so it is not proposed to include them.