

EAST AYRSHIRE COUNCIL

DOON VALLEY LOCAL COMMITTEE - 22 MAY 2001

MISUSE OF PARKS AND OPEN SPACES

Report by the Director of Community Services

1. PURPOSE OF REPORT

- 1.1 To advise members of the current legal position with regard to the misuse of Parks and Open Spaces and to highlight the appropriate action that can be taken to combat this problem.

2. BACKGROUND

- 2.1 An increasing number of complaints are being received regarding the alleged misuse of Parks and Open Spaces. These complaints range from the unauthorised use of motor cycles to playing ball games and golf practice.
- 2.2 These areas are provided by the Council for informal use by any member of the public. Their use is largely unregulated, other than by booking systems for sports pitches. Existing No-Ball games signs have no legal standing and cannot be enforced by either the police or council officials. Furthermore, these signs are expensive to erect and are frequently vandalised, continued expenditure on these signs offers questionable value for money.
- 2.3 The Council has no staff to supervise or monitor the use of Parks and Open Spaces particularly during evenings and weekends when problems generally tend to occur. This places a heavy reliance on the police to attend any reported incidents of misuse of Parks and Open Spaces. Their involvement in complaints of this sort must be prioritised alongside the many other issues police officers are required to deal with.
- 2.4 As Parks and Open Spaces are provided for sport and leisure activity there is always the chance that one group's leisure becomes another group's nuisance. This is especially true for people who live close to Parks and Open Spaces.

3. CONSIDERATIONS

- 3.1 Common law and statutory powers open to the Police to deal with the misuse of these areas are the principal control measure.
- 3.2 The Police are able to utilise several laws to prevent and control misuse of Parks and Open Spaces, these are:-
- 3.2. 1 ***Breach of the Peace***
This is a crime at common law and is constituted by one or more persons conducting themselves in a riotous or disorderly manner to the alarm, annoyance or disturbance of others.

Informal gatherings of teenagers may be covered in this category, if their behaviour is causing a problem for neighbours etc. Playing football, by itself, is unlikely to be interpreted as a breach of the peace by the courts.

3.2.2 **Vandalism**

Acts of vandalism contravene Section 52 of the Criminal Law (Consolidation) (Scotland) Act 1995 and cover any person who without reasonable excuse wilfully or, recklessly destroys or, damages any property belonging to another. For an action to be classed as vandalism there must be either a deliberate intention to damage the property or, an act so reckless as to show utter disregard for the consequences

Graffiti, damage to pavilions, play areas or boundary fences could be classed as vandalism. Such occurrences should be reported to the Police.

3.2.3 **Culpable and Reckless Conduct**

This is a crime at Common Law and is culpable or reckless conduct which may or does cause injury to other persons.

This charge could be used for example, in situations where golf balls were deliberately struck towards houses or gardens possibly causing injury to residents. Such occurrences should be reported to the police.

3.2.4 **Riding/driving a motor vehicle other than on the road.**

This offence is covered by Section 34 of the Road Traffic Act 1998, if without lawful authority a person drives a motor vehicle;

- (i) onto or upon any common land, moorland of any description not being land forming part of a road; or
- (ii) on any road being a footpath or bridleway;

they are guilty of an offence.

As the Council does not give authority for use of grassed areas or paths by motor vehicles, other than in exceptional circumstances usually connected with special events, any use of motor vehicles, particularly motor cycles in parks and open spaces, is an offence under the Road Traffic Act and should be reported to the Police.

3.3 **Sufficiency of Evidence**

In a criminal case the prosecution must prove beyond reasonable doubt that the accused is guilty of the offence. Furthermore, to succeed with any conviction, there must also be corroboration of the evidence in relation to the offence, the best form of corroboration is two eye witnesses who are willing to supply statements to the police and also appear in court as witnesses. Without witnesses no charges can be brought, although it may be noted that one eyewitness may suffice, if there is other significant evidence pointing to the offence, i.e. circumstantial evidence.

3.4 **Response to Incidents**

In the event of any misuse of Parks or Open Spaces, the public are best advised to contact their local police office who will be able to deal with the incident within their normal procedures. The police will determine whether charges can be brought and

what, if any, level of action can be taken, the availability of witnesses will be a key issue in every case.

Damage and other incidents involving Council property should be reported to the Council. The Council will respond to such reports by inspecting the damage, initiating repairs if resources allow, and liaising with the Police and the Council's insurers if appropriate.

4. FINANCIAL IMPLICATIONS

4.1 Nil

5. LEGAL AUTHORITY/IMPLICATIONS

5.1 See 3 above

6. POLICY IMPLICATIONS

6.1 Nil

7. CONCLUSIONS

7.1 Misuse of Parks and Open Spaces is a problem in some areas, the Councils ability to respond to incidents is limited however, Strathclyde Police have significant powers to deal with incidents when they occur.

8. RECOMMENDATIONS

8.1 It is recommended that the Committee notes the contents of this report.

William Stafford
Director of Community Services

WS/JS

4 May 2001

LIST OF BACKGROUND PAPERS

Nil

Implementation Officer -John Griffiths (john.griffiths@east-ayrshire.gov.uk)

AGENDA