



# Guidance

## Byelaws

### Recommended practice

<b>Overview</b>	<p>We are often asked about The National Trust byelaws by our property managers and wardens who are dealing with anti social behaviour issues or encampments on Trust property.</p> <p>This note is designed to explain what the Byelaws are and to what extent they can be used as a management tool in dealing with behavioural issues on Trust land.</p> <p>This document provides recommended practice only.</p>
<b>Target Audience</b>	<p>This Guidance applies to General Managers, Property Managers, Wardens, Rural Surveyors and Lawyers</p>

### What are byelaws?

Byelaws are special legal rules made under our Acts which are designed as a tool to regulate the behaviour of our visitors (e.g. they forbid people behaving in an antisocial way, damaging National Trust property or carrying on certain undesirable activities on our property). They are enforceable by legal action in the courts and a person who is guilty of breaking them can be fined by the court

Byelaws are often displayed on our land including open land and at our historic properties.

National Trust has been given this special power by Parliament in our Acts but in this respect we are not unique - a large number of other organisations also have powers to make byelaws including local authorities, water companies, railway companies and harbour undertakings.

There are National Trust byelaws for England and Wales and for Northern Ireland. A copy of the byelaws can be obtained from the [Legal Department's intranet pages](#) or by contacting the Legal Department.

### The byelaws and National Trust access policy

The byelaws were designed in an era when we were a paternalistic organisation and the public were far more deferential to anyone who was perceived to be in a position of authority. These days, we are a very different organisation and seek to engage the public by persuasion and consultation rather than by coercion. Furthermore, we are looking at ever more imaginative ways of public enjoyment of our properties which may even involve technical breaches of the byelaws. In some ways, the byelaws run counter to our modern access policy.

Our visitors may feel that the byelaws have an unwelcoming feel to them (a long list of “don’ts”) and forbid some types of activity which we are now trying to facilitate (e.g. camping or horse riding) in opening up access to a broader range of the public. In some cases our policy has changed on certain activities (we now allow photography which the byelaws forbid).

About 5 years ago, National Trust decided to stop issuing wardens and other staff with byelaw “enforcement cards” - this was a card which a member of staff could show to an offender when confronting them about their behaviour. For the reasons outlined, National Trust staff and volunteers would not usually challenge visitors over minor breaches of the byelaws.

Staff and volunteers should not put themselves at risk of suffering verbal or physical abuse when confronting visitors who are breaching the byelaws and are behaving aggressively.

### **Legal consequences of breaking byelaws**

A person who breaks a byelaw is committing a criminal offence. The person can be prosecuted in the magistrate’s court and if found guilty can be fined £20.

Preparing a case under the byelaws is a specialist and involved job. Evidence needs to be gathered to bring a case in court which involves interviewing of witnesses and the taking of formal statements. This job is best carried out by the police; most of our staff have not been trained to do this.

If having investigated, the matter the police think that a case should be brought, they will refer the matter to the Crown Prosecution Service who will review the evidence and will bring a prosecution in the magistrates court if they think that there is enough evidence and that it is in the public interest to bring a case.

The police are likely to see most breaches of byelaws as “petty crime” and not a priority call on their resources.

Persistent offenders who commit serious breaches of the byelaws can be dealt with by a procedure under civil law known as an injunction. This procedure is available where the offender has breached the byelaws on several occasions and refuses to desist. An injunction is more effective as a deterrent because the offender can be sent to prison or fined very heavily for breaking an injunction. The Trust has been successful in using this procedure recently to deter fossil diggers causing damage to National Trust property on the Jurassic Coast.

Finally, there is a raft of other legal procedures available to deal with serious infringements, for example:

- various Acts of Parliament protect wildlife
- the general criminal law makes it illegal to damage buildings and goods
- in the last 20 years or so the police have been given a wide range of powers to deal with anti social behaviour

- there are special procedures available to deal with illegal encampments on National Trust land (Guidance Note 26 Travellers on National Trust Land) which is [downloadable from the intranet](#).

Generally, these laws and procedures provide a more effective deterrent than the £20 fine for under prosecution under the byelaws.

### **Recommended practice**

The byelaws still provide a tool for dealing with undesirable behaviour where persuasion does not work and they provide staff with a concise and useful guide as to what type of behaviour may be illegal.

Please contact the Legal Department if you are faced with situations where efforts to persuade offenders have failed and there are serious ongoing consequences for the property for example visitor experience diminished by anti social behaviour, threats to staff or other visitors, damage to buildings or other property injury to wildlife etc. We can advise you on what legal remedies are available to deal with the situation and how much it might cost and how long it might take to reach a satisfactory solution.

### **Risks of not following recommended practice**

- Inappropriate use of the byelaws may present an image of National Trust which is at odds with current access policy.
- Evidence may not be properly gathered and law enforcement agencies may not be contacted early enough.
- Lack of knowledge may mean that effective remedies are not pursued
- Staff and volunteers putting themselves at risk of suffering verbal or physical abuse.

For further information about this topic please contact Tim Nicholson in the Legal Department on 01793 817841 or by email on [Tim.Nicholson@nationaltrust.org.uk](mailto:Tim.Nicholson@nationaltrust.org.uk)