



Report of the Director of Environment and Neighbourhoods

Executive Board

Date: 3rd November 2010

Subject: Dog Control Orders

Electoral Wards Affected:

ALL

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Eligible for Call In

Not Eligible for Call In

(Details contained in the report)

EXECUTIVE SUMMARY

The purpose of this report is to consider the outcome of consultation on the dog control order implementation process and seek approval to implement specified Dog Control Order Powers under the Clean Neighbourhoods and Environment Act 2005 as Phase 1 of the project (with effect from 1 January 2011) and to set the level of fixed penalty notices issued under those orders.

This proposal was initiated following a recommendation contained within a Scrutiny Board review of dog fouling and the dog warden service in the city in 2008/9. This report outlines the possible adoption of the powers in a two phase process, both phases of which have gone to public consultation. This paper outlines the results of the consultation and seeks a decision on the implementation of a number of Orders under Phase 1.

The proposed Phase 1 Orders for approval would control the number of dogs being taken for a walk at any one time; the exclusion of dogs from prescribed places, namely children's playgrounds; and the ability for an authorised officer to instruct an owner to place a dog on a lead if it is causing a nuisance.

1.0 Purpose Of This Report

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2.0 Background Information

- 2.1 During 2008/2009, Environment and Neighbourhoods Scrutiny Board conducted a review on the enforcement of dog fouling. The board issued a statement in February 2009 setting out its conclusions and recommendations. One of the recommendations stipulated exploring the use of additional Dog Control Orders in the city.

- 2.2 Dog Control Orders are available under Section 55(1) of the Clean Neighbourhoods & Environment Act 2005, which states:-

“A primary or secondary authority may in accordance with this Chapter make an order providing for an offence or offences relating to the control of dogs in respect of any land in its area to which this Chapter applies.”

Leeds City Council is a primary authority for this purpose.

At present, Leeds has one Dog Control Order in place which relates to dog fouling. Currently, where a person is found committing an offence of not removing dog fouling forthwith, they will be issued with a fixed penalty notice as an opportunity to discharge liability for the offence. If they fail to pay the fixed penalty, the Council will proceed to prosecute for the offence. Such an offence carries a maximum fine of up to £1000. The fixed penalty charge for dog fouling is £75, which is discounted to £50 for early payment.

During 2009/10, the Service received 684 complaints about dog fouling in the City. 96 fixed penalty notices were issued for dog fouling.

Dog Control Orders apply to any land which is open to the air and to which the public are entitled or permitted to have access (with or without payment).

- 2.3 There are a number of additional Control Orders that can be created under Section 55 of the Act. These are:-

2.3.1 **Dog on Lead** (requiring a dog is kept on a lead at all times, in specified places).

2.3.2 **Dog on Lead by Direction** (creating an offence of not putting a dog on a lead when directed by an authorised officer).

2.3.3 **Dog Exclusion** (creating an offence of permitting a dog to enter land from which it is excluded).

2.3.4 **Dog Specified Maximum** (creating an offence of taking more than a specified number of dogs on to land).

- 2.4 A multi-agency Project Board was set up to consider the options for adopting Dog Control Orders and to develop an action plan for progressing the Orders. The Board is made up of representatives from Health and Environmental Action Service (dog wardens), Legal Services, Environmental Services (Streetscene), Parks and Countryside, Education Leeds and Strategic Landlord (on behalf of the ALMO's).

- 2.5 The Project Board originally timetabled the project for delivery in 2011/12 given the potential scope and impact of some of the orders and the need for extensive public consultation. Following a request by Scrutiny Board for a quicker outcome, it was agreed that Dog Control Orders could be implemented via a two stage process in order to facilitate early delivery of some aspects of the project. Phase 1 of the project includes the following proposals:-
- 2.5.1 **Dog Specified Maximum** – The Council is proposing to limit the number of dogs walked by an individual to 6. Dog walking in numbers of this kind is normally done by commercial dog walking companies. This proposal is to ensure that dog walkers have full control of the dogs they walk and ensure they can pick up any faeces. This order would apply to all of the city. The National Association of Registered Petsitters (NARP) guidelines recommend a limit of four dogs. The DEFRA national guidance advises six dogs.
- 2.5.2 **Dog on Leads By Direction Order** - This order will allow authorised Council staff to more effectively deal with complaints about dogs which are not being kept under proper control. Such an order will be underpinned by staff guidance stipulating the circumstances when a direction would be given, for example if a dog was causing a nuisance or annoyance. This order would apply to all of the city.
- 2.5.3 **Dog Exclusion Orders**- This order would allow the Council to legally exclude dogs from prescribed areas. In phase one, these areas are designated identifiable children's play areas in parks. Such an Order would reduce dog fouling and nuisance in these areas and they would have significant impact if approved. The city-wide schedule listing all of these areas is attached as Appendix 1.
- 2.6 All of these orders are enforceable in the following way- the order creates an offence which is prosecuted through the magistrates courts, with a maximum fine of £1000. There is an opportunity to discharge the offence through payment of a fixed penalty notice (FPN) to the Council (also see 3.7). In the majority of circumstances, the fixed penalty will always be offered as a first option. Whilst there is no appeal against an FPN, the Services does receive and respond to written enquiries as if they were appeals. The enforcement of these orders will be carried out by staff that are authorised appropriately by the council and if possible, staff employed by secondary authorities.
- 2.7 Scrutiny Board have accepted a timescale for phase one implementation as winter 2010/11. Implementation is dependant upon the decision to adopt the Orders proposed in this report.
- 2.8 Phase two activities will then be proposed for decision and possible implementation in summer 2011. Issues which will be consulted upon in phase 2 can be seen in paragraph 6.1. The project has been split into two phases as more time is required to identify the land due to the large number of areas that could potentially be affected by such proposals, including issues such as land not having obvious boundaries. Proposals are not being considered for such orders to be applied to entire plots of land such as entire parks or open grassed land.
- 2.9 An Equality Impact Assessment of the project is subject to completion in October 2010. A copy is attached as Appendix 2.

3 Main Issues

- 3.1 Prior to introducing any Dog Control Orders, the Council must undertake a minimum 6 week consultation process and advertise its intentions in the local media. The Council published its intention in the Yorkshire Post on 21st May 2010. To facilitate the consultation process, a website was developed (www.leeds.gov.uk/dogs) which contained information on the proposals and an online survey for responses to the consultation. Hard copies of the survey were also distributed upon request. The website was promoted through the media and a poster/leaflet campaign. Articles have been published in the local media on 5th July, 7th July, 16th August and 18th August 2010. Television interviews with “Look North” and “Calendar” have been undertaken. The consultation ran for 14 weeks to allow for as many responses as possible to be received.
- 3.2 A report has also been submitted to all the Area Committees for discussion. All the committees supported the proposals with the exception of Outer North East, who expressed reservations about the consultation process. The Parish and Town Councils have also been contacted during the consultation period.
- 3.3 The total number of responses to the consultation was 1779. 7 formal responses have been received from Bramham, Shadwell, Gildersome, Micklefield, Clifford, Thorner and Scarcroft Parish Councils. A formal response has also been written by the Dogs Trust and consultation also took place with Leeds Local Access Forum.
- 3.4 The following questions were asked in the consultation questionnaire and the response, in percentages, are listed alongside:-

Consultation Question	% Responses In Agreement	
What area of Leeds do you live in? (Breakdown available by ward)	5% do not live in Leeds	
Are you a Dog owner?	72%	
Do you agree with the order to limit the number of dogs a person can walk at a time?	74%	
If so, what do you think is the maximum number of dogs one person could safely walk to keep control and be able to clean up after them?	Number	%
	One	3%
	Two	20%
	Three	20%
	Four	25%
	Five	4%
	Six	15%
	Seven	1%
	Eight	5%
More	8%	
Do you agree with the Order that allows the banning of dogs from specified areas?	64%	
Dogs on Leads Order - Would you agree with this Order across the whole of Leeds?	28%	
Dogs on Leads Order - Would you agree with this Order in certain areas, such as playgrounds or ornamental gardens?	80%	
Dogs on Leads by Direction Order – Would you agree with this order to make it an offence not to put your dog on a lead when directed to by an	74%	

- 3.5 To summarise the consultation results, it is pleasing that 95% of the consultation respondents are residents of Leeds with a good spread of responses both from people who own and do not own dogs. The majority of respondents agree with the proposal to limit the number of dogs one person can walk. Therefore, it is proposed to introduce an Order limiting the number of dogs that can be walked by an individual to 6, in line with national guidance. Officers consider that this will address the main problems caused by multiple dog walking in Leeds as most issues encountered relate to individuals walking more than 6 dogs. Few problems have been recorded for individuals walking between 4 and 6 dogs.
- 3.6 Again, the majority of respondents are in agreement with Dog Exclusion Orders on specified areas. In phase 1, the specified areas are children's play areas. 80% of respondents are in agreement with a Dogs on Leads (at all times) Order in certain areas but not for such an Order to apply on a city wide basis. As the majority are in agreement with such an Order on specified areas, this gives a mandate to progress to phase two of the project.
- 3.7 If the Orders were to be adopted by the Council, failure to comply with the Order becomes a criminal offence. Where a person is found committing an offence, the Council may prosecute them. Such an offence carries a maximum fine of up to £1000 and the Council would apply for costs to be paid. The person would be offered the opportunity to avoid prosecution if they accepted a fixed penalty notice. It is proposed to set the fixed penalty level to £75 in line with current rates for existing Dog Control Order for dog fouling. An early payment discount to £50 would also be offered.
- 3.8 No statistics are available for the dog population of Leeds, as the information is not recorded. National figures estimate that 31% of households are dog owners.

4.0 Implications For Council Policy And Governance

- 4.1 The adoption of these Orders would provide better tools for Council staff to ensure that dog ownership within the city is conducted responsibly without causing nuisance, distress or health hazards. They will equip Council staff with greater tools to tackle dog fouling in problem areas and promote responsible dog ownership within the City. The dog wardens would act as the main co-ordination hub for enforcement, but they are not by any means the only resource able to undertake this work. Indeed, to focus solely or even mainly on the dog wardens being the force behind enforcement would be to take an unnecessarily limited approach. The need for other Council staff working outdoors across the city to fully support this work will be a vital contribution to keeping parks and open land free from nuisance issues involving dogs. This should include the issuing of fixed penalty notices and the provision of statements for follow-up action by dog wardens. There is an agreement that Parkswatch staff will contribute to enforcing this legislation, although there is the need to address job descriptions, pay and grading issues and training before they can be authorised to issue fixed penalty notices. This will add approx. another 10 staff to the existing dog warden team of 5 and other Environmental Action Service staff, which will amount to a total of approx 90 staff.
- 4.2 Members of the public can report concerns via Contact Leeds, or electronically to the service via email. This information can be collated and the intelligence used to

allocate resources. It is anticipated that most responsible dog owners will comply with the new Orders.

4.3 Offences will be dealt with in accordance with the Council's Enforcement Policy. A competency and training package will be developed for the Council staff undertaking enforcement of the Orders. Such staff will initially include Dog Wardens and other staff from Health and Environmental Action Service including Technical Officers and Environmental Health Officers.

5.0 Legal And Resource Implications

5.1 The adoption of this new legislation for the City is an executive function on a city wide basis.

5.2 For the Orders to be enforceable, the public need to be well informed of their obligations under the Orders. There are several ways of doing this, with signage being the most direct. There are resource and financial implications identified around signage for the Orders. Each sign has an approximate cost of £11. The precise level of signage required is yet to be determined and a balance needs to be found between too much signage and too little. A budget for signs has not yet been identified but such costs can be offset by any fixed penalty income received. No enforcement action would take place until the appropriate signage is in place.

5.3 If the Orders proposed are approved there will be an additional resource implication in that the Orders must be advertised in the local paper. The approximate cost of this will be £900 which will be met from existing budget.

6.0 Conclusions

6.1 The proposals for the Orders will provide a strategic approach to responsible dog ownership and will form part of the Council's overall Dog Strategy. The strategy is being drawn up in response to another of Scrutiny Board's recommendations. Dog Control Orders can help tackle the problems created by irresponsible dog ownership, such as dog fouling and stray dogs. The Dog Strategy will incorporate the following:-

Order	Issue which it will help address	Phase 1 or 2
Dog on Leads Order	Reduction in Stray and Roaming Dogs	2
	Tackling dangerous dogs	
Dog Exclusion Orders	Reduction in dog fouling – improving public health and reducing nuisance	1 & 2
	Nuisance dogs in sensitive areas	
Dogs on leads by direction	Tackling nuisance dogs	1
	Nuisance dogs in sensitive areas	
Number of dogs walked	Reduce nuisance through fouling	1
	Reduce nuisance from "pack" animals	

Other aspects of the strategy will refer to:

- Reduction in Council costs & improved efficiency in using existing resources – any fixed penalty notice income will support the service.

- Promoting responsible dog ownership – reduction in strays and improved animal health.
- Encourage Microchipping – allowing dogs to be re-united with owners as soon as possible.
- Education and Enforcement.
- Partnership Working.

7 Recommendations

- 7.1 Members are asked to consider and approve the proposals for Dog Control Orders contained within this report and approve the project's progression to Phase 2.
- 7.2 In particular, Members are asked to make Dog Control Orders in the prescribed form as follows:-
- 7.2.1 Limit the number of dogs which can be walked by a person to 6;
- 7.2.2 Exclude dogs from the prescribed areas listed within this report;
- 7.2.3 Introduce the 'dogs on leads by direction' Order.

8 Background Papers

19th February 2009: Statement of Scrutiny Board (Environment and Neighbourhoods): Enforcement of Dog Fouling

DEFRA Guidance