

Scrutiny Board (Safer and Stronger Communities)

Review of the Phase 2 proposed Dog Control Orders

Comments for inclusion into Executive Board Report

1.0 Introduction

1.1 It was agreed in June 2011 that the Safer and Stronger Communities Scrutiny Board should play an active part in analysing the proposed options arising from the Phase 2 Dog Control Orders project before approval is sought from the Executive Board in December 2011 to implement further Dog Control Orders. In view of the need to conclude this piece of work by November, it was agreed that this would be considered via working group meetings to which all Board Members would be invited to attend.

1.2 An initial working group meeting was held on 18th August 2011 to enable Scrutiny Members to gain a better understanding of the aims of the Phase 2 project and who has been targeted as part of the consultation process. A second working group meeting was held on 21st October 2011 to consider the initial findings from the Phase 2 consultation process, which concluded on 14th October 2011.

1.3 During these working group meetings, the following information was circulated by officers within Environment and Neighbourhoods and discussed with Scrutiny Board Members:

- Dog Control Orders - Project Timeline for Phase 2
- Copy of the Area Committee Report in March 2011 on the Phase 2 Dog Control Orders;
- Briefing note on the Dog Control Orders dated 9th August 2011;
- Copy of the Public Notice regarding the Dog Control Orders Consultation;
- Statistics of City Wide Dog Activities from April 2010 to March 2011;
- Statistics of City Wide Dog Activity from January 2011 to June 2011.
- A statistical analysis of the responses received from the Phase 2 consultation process.

The following related issues were also raised by Scrutiny Board Members:

- Reporting on dog activity;
- Enforcement of Dog Control Orders;
- Provision of Dog Waste Bins;
- Proposed Enforcement Policy for the Walking of More Than Four Dogs (Dog Specified Maximum Order).

1.4 This report presents the agreed view of the Safer and Stronger Communities Scrutiny Board. The Board has requested that these comments are

incorporated into the report to go before Executive Board on the proposed Phase 2 Dog Control Orders.

2.0 Observations, Conclusions and Recommendations

Phase 2 consultation process and response rates

- 2.1 The Scrutiny Board was happy with the Phase 2 consultation proposals and the level of media coverage given to promote the Council's online survey for respondents to the consultation. Prior to the consultation, individual schools were approached on an 'opt-in' basis in terms of their grounds being included as part of the proposed new Exclusion Order. The Scrutiny Board requested that those schools which had not responded prior to the commencement of the consultation be reminded to respond and for Parent Teacher Association (PTA) Chairs to be included in this reminder.
- 2.2 With a total of 386 respondents across the city, with 372 responses received to the consultation questions, the Scrutiny Board notes that this is low in comparison to the Phase 1 response rate. The Scrutiny Board was informed that the Phase 1 consultation had generated some concern initially and therefore many of the respondents were seeking clarification about Dog Control Orders in general. The Board was reassured that this was not a factor during the Phase 2 consultation process as the Council had taken steps to ensure that the lessons learned from the Phase 1 consultation had been adopted for Phase 2. The Scrutiny Board is particularly pleased to note that responses were received across the city and from residents with and without dogs (around 53% were dog owners).

Responses to the proposed new Dog Control Orders

- Dog Exclusion Orders
- 2.3 The Council proposed that the existing Dog Exclusion Order be amended with an extended list of other land designated for a specific purpose, such as remembrance and wildlife gardens, where a dog may cause damage and disturbance to the area even when under close control. The proposed extended list also included new children's play areas and school grounds where the schools have indicated the wish to have such an Order.
- 2.4 The consultation results show that the majority of respondents are in agreement with Dog Exclusion Orders on the extended list of specified areas. In view of this, the Scrutiny Board recommends that the Executive Board supports the proposal to revoke the existing Dog Control (Exclusion) Order and replaces it with a new Order with the proposed updated schedule of land.

Recommendation 1

That the Executive Board supports the proposal to revoke the existing Dog Control (Exclusion) Order and replaces it with a new Order with the proposed updated schedule of land.

- 2.5 As part of the Council's approach to review or amend schedules of land associated with Dog Control Orders, the Scrutiny Board recommends that the relevant Ward Members be approached to share their local knowledge of the designated areas to help identify any anomalies prior to finalising the schedule.

Recommendation 2

That as part of the Council's approach to review or amend schedules of land associated with Dog Control Orders, the Scrutiny Board recommends that the relevant Ward Members be approached to share their local knowledge of the designated areas to help identify any anomalies prior to finalising the schedule.

- Dog Control (Dogs on Leads at All Times) Order

- 2.6 The Council proposed to make a new Order stating that on certain specified land, dogs should be on a lead at all times. It is proposed that this Order be applied to all carriageways and adjacent footpaths and grass verges within the Leeds City Council district and is to ensure that any dog is kept under control at all times and does not run unexpectedly into a road causing traffic accidents or injury to the dog itself. It is proposed that this Order also be applied to cemeteries and crematoria.

- 2.7 The Scrutiny Board particularly welcomes this proposal and is pleased to note that the majority of respondents support this proposal too (75% in relation to carriageways and adjacent footpaths and grass verges and 90% in relation to cemeteries and crematoria).

Recommendation 3

That the Executive Board supports the proposal to make a Dog Control (Dogs on Leads at All Times) Order requiring that dogs should be on a lead at all times on the specified land, which is to include all carriageways, adjacent footpaths and grass verges within the Leeds City Council district and in cemeteries and crematoria.

- Dog Control (Dogs on Leads by Direction) Order

- 2.8 The Scrutiny Board also supports the proposal to amend the existing Dogs on Leads by Direction Order to ensure that it applies wherever the new Dogs on Leads at All Times Order does not.

Recommendation 4

That the Executive Board supports the proposal to revoke the existing Dog Control (Dogs on Leads by Direction) Order and make a new Order in the same terms which applies throughout the Leeds district on any land to which the Dog Control (Dogs on Leads at All Times) Order does not apply.

Effective enforcement of Dog Control Orders

- 2.9 Any breach of an Order is an offence that is punishable upon conviction by a maximum fine of up to £1000. However, the offence is often discharged through a fixed penalty of £75. In acknowledging that the Council retains the discretion to automatically pursue legal proceedings, particularly in relation to repeat offenders, the Scrutiny Board believes that more robust enforcement of repeat offenders is needed in order to act as a greater deterrent. The Scrutiny Board also recognises the need to ensure that non-payment of fixed penalty notices are actively pursued and for further legal action to be taken where required.
- 2.10 The Scrutiny Board also recognises a general need for greater resources to be focused around the enforcement of Dog Control Orders in order for them to be effective. In particular, utilising officers in other service areas to act as professional witnesses to any breaches of the Orders rather than specifically needing to be the enforcers of Fixed Penalty Notices (FPN). This potentially could include the role of PCSOs, Parks and Countryside and ALMO staff.

Recommendation 5

That non-payment of Fixed Penalty Notices in relation to Dog Control Orders are actively pursued and further legal action taken where required, particularly in relation to repeat offenders.

Recommendation 6

That further work is undertaken by the Council to significantly expand the level of staff resource available to enforce Fixed Penalty Notices and also act as professional witnesses to any breaches of the Dog Control Orders

- 2.11 The Scrutiny Board also believes that there needs to be a stronger message communicated to the public that these Orders will be rigorously enforced to act as a deterrent.
- 2.12 It is vital that the Council effectively communicates with the public regarding any new Orders, which includes the use of appropriate signage. However, the Board agrees that particular sensitivity would need to be given to areas such as cemeteries and crematoria and also remembrance gardens with regard to signage.

Recommendation 7

That any new Dog Control Orders are effectively communicated to the public, which includes the use of appropriate signage, and for the Council to reinforce the message that Dog Control Orders will be rigorously enforced.

- 2.13 Whilst acknowledging the level of support for the proposed Dog Control Orders as they stand, the Scrutiny Board recognises that a degree of common sense should be applied to enforcing such Orders, with particular reference to the Dogs on Leads Order. The primary aim of adopting Dog Control Orders is to enable the Council to ensure that dog ownership within the city is conducted responsibly without causing nuisance, distress or health hazards.

In doing so, the public interest test should be applied, i.e. where it is not in the public interest to take enforcement action, because the issue is low risk or the resources required are not commensurate with the level of risk presented by the problem, the Council will not pursue offences.

Proposed Enforcement Policy for the Walking of More Than Four Dogs (Dog Specified Maximum Order)

- 2.14 Whilst the consultation process did not propose changes to the Order that limits the number of dogs that can be walked by an individual to four, the Scrutiny Board learned that the Council received feedback from professional dog walkers about a lack of clarity in relation to this Order and concern that the Order could put legitimate businesses in jeopardy, especially in current times of economic hardship, if enforced to the letter.
- 2.15 In line with the public interest test approach to enforcement, the Scrutiny Board supports the proposal to formalise this into an Enforcement Policy in relation to the Dog Specified Maximum Order. This test should be undertaken on a case by case basis. The understanding is that where the enforcing officer is happy that the person walking the dogs is undertaking it as a professional service and can prove that they were a legitimate and professional dog walker, it would not be deemed in the public interest to pursue action if the person was walking up to the DEFRA recommended maximum of six dogs. If agreed, the original Order would remain in place and enforcement action would still be taken where the public interest test is not met and the Council does not deem the dog-walker to be appropriately qualified to walk more than four dogs or if the dogs breach any of the other existing Orders regardless of the number being walked or the professional status of the dog-walker.

Recommendation 8

That the Executive Board supports the development of an Enforcement Policy in relation to the Dog Specified Maximum Order.

Other observations made by the Scrutiny Board

- 2.16 The Scrutiny Board also made the following observations which may be of interest to Executive Board:

Future potential use of the Dog Control (Dogs on Leads at All Times) Order

- 2.17 Separate to the proposals set out in Phase 2 of the Dog Control Orders project, the Scrutiny Board also explored the future potential use of the Dog Control (Dogs on Leads at All Times) Order in relation to parks and playing pitches that are used by schools that have no on-site green space and are, as such, secondary facilities. A particular example cited was Calverley Park (Victoria Park) used by Calverley Park Side School. This was considered on the basis that better control on such land would help reduce dog nuisance and fouling potential and support stronger enforcement.

- 2.18 This approach was therefore put forward to the Project Board during August 2011 for further consideration. After seeking legal advice, the Project Board concluded that whilst the use of this Order may assist with enforcement action, the stated purpose of this Order is one of public safety. The Order would also need to be enforced at all times and not just when schools are using the specified areas. In view of this, it was considered that the Order would be seen as disproportionate to enforce on safety grounds where there is no safety issue, e.g. the park was empty but for the person and their dog.
- 2.19 The Project Board's view reported back to the Scrutiny Board was that the problem is explicitly linked to the issue of effectively enforcing the existing Dog Control Order in relation to dog fouling. Where there is a significant problem within a particular park or field then more (or different) resources should be targeted into these areas.
- 2.20 The Scrutiny Board has already expressed its views in terms of needing more rigorous enforcement of Dog Control Orders in general. Where there are longstanding problems relating to breaches of the Dog Fouling Order, the Scrutiny Board believes that consideration should be given to how the Council can make best use of the full range of powers available to promote responsible dog ownership in those areas, particularly in terms of safeguarding the public health of children.
- 2.21 The Scrutiny Board acknowledges that any further changes made to existing Dog Control Orders would need to be subjected to full public consultation. As part of the ongoing review of Dog Control Orders, the Scrutiny Board believes that further work should be undertaken by the Project Board in relation to parks and playing pitches that are used by schools that have no on-site green space. This is to accurately assess the extent of the problems encountered in such areas in relation to dog fouling in particular and explore the best use of the full range of powers available to the Council in promoting responsible dog ownership in such areas that would be deemed proportionate to enforce and thereby be subjected to public consultation. The Scrutiny Board would like to see this piece of work undertaken as a matter of urgency and reported back to Scrutiny.

Recommendation 9

That the Project Board undertakes further work in relation to parks and playing pitches that are used by schools that have no on-site green space. This is to accurately assess the extent of the problems encountered in such areas in relation to dog fouling in particular and explore the best use of the full range of powers available to the Council in promoting responsible dog ownership in such areas. Such work should be undertaken as a matter of urgency, with an update report brought back to the Scrutiny Board by March 2012.

Statistical data on city wide dog activity

- 2.22 The Scrutiny Board considered statistical information on city wide dog activity during the period April 2010 to March 2011. Particular reference was made to

the numbers of dogs destroyed during this period and the reasons for this. It was highlighted that the vast majority of stray dogs taken into kennels are either reclaimed or re-homed (95%). Only when a stray dog is not reclaimed or re-homed within a certain period of time is this measure taken. In view of this, future dog activity reports should clearly show the numbers of dogs that have been successfully re-homed.

Greater provision and collection of dog waste bins

- 2.23 The Scrutiny Board agreed that greater provision and regular collection of dog waste bins is also needed to support responsible dog ownership, especially in parks and established dog exercise areas of open land.