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Report of the Director of Environment and Neighbourhoods

Scrutiny Board: Environment and Neighbourhoods

Date: 13th July 2009

Subject: Dog Control Orders

Electoral Wards Affected:

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

1.0 PURPOSE OF THE REPORT

- 1.1 The Statement of Scrutiny Board (Environment and Neighbourhoods) Enforcement of Dog Fouling dated February 2009 identified a number of recommendations for service improvement.
- 1.2 Recommendation three of the Statement stipulated that the Director of Environment & Neighbourhoods carries out a review of the options available to the Council to extend Dog Control Orders in Leeds. These options are now detailed below.

2.0 SUMMARY

- 2.1 Section 55(1) of the Clean Neighbourhoods & Environment Act 2005, states that:-
- “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.”
- 2.2 Primary and secondary authorities are defined in Section 58 of the Clean Neighbourhoods and Environment Act 2005. Primary authorities are a district Council, a County Council where there is no District Council, or a London Borough Council. Parish Council's constitute secondary authorities.
- 2.3 Secondary authorities may not make Dog Control Orders in relation to an offence on a specified area of land if a primary has already made an order in respect of the same offence on the same land. In order to avoid potential conflicts, the Dog Control procedures require primary and secondary authorities to consult each other before coming forward with proposals for Dog Control Orders.

- 2.4 At present, Leeds has one Control Order in place and this relates to dog fouling.
- 2.5 All offences under Dog Control Orders are punishable, upon conviction through Prosecution in the Magistrate's courts, by a maximum fine of £1000. However, an individual has an opportunity to discharge their liability for the offence by way of payment of a fixed penalty notice issued by an authorised officer.
- 2.6 There are a number of additional control orders that can be created under Section 55 of the Act and these are detailed here below.
- 2.7 **Walking Multiple Dogs**
- 2.7.1 This type of order will limit the number of dogs a person can walk at any one time. The effect of the Order is to create an offence for a person who walks more than the maximum number of dogs specified by the Order.
- 2.7.2. The benefits of such an order would ensure individuals had full control of their animals during exercise and the ability to monitor all their dogs whereabouts for picking up any faeces.
- 2.7.3. Such an order is likely to attract opinion from Dog Walking Businesses, who walk multiple dogs as part of their business activity. The National Association of Petsitters publish a Code of Practice for their members, which recommends a maximum number of 4. The DEFRA guidance recommends a number of 6. A key factor to consider will be whether children frequently use the area.
- 2.7.4 A maximum number would need to be determined and then consulted upon if this were seen as a way forward.
- 2.8 **Dog Exclusion Order**
- 2.8.1 This order will prohibit a dog from entering land from which dogs are excluded. Identifying suitable land across the City for this purpose is likely to be an immense task. It is envisaged that initial suitable areas could be ascertained through complaints to the Dog Warden Service and through feedback from internal partners. Obvious areas may include children's playgrounds, school grounds and sports pitches but could extend to cemeteries and parks.
- 2.8.2 A dog control order can be made in respect of any land which is open to the air and to which the public are entitled to have access (with or without payment). It is envisaged that Orders will generally be considered for all Leeds land in public ownership (or maintained by the Council) but options for orders on private land may be considered where the land owner, or occupier, approaches the Council for support. An example of this would be Springfield Mill Park, Morley, which is run by a "Friends of" Group and has already approached the Council to highlight dog fouling problems.
- 2.8.3 Authorities need to consider how easy a Dog Control Order would be to enforce and this is particularly relevant for an exclusion order. This order would be easier to enforce if the land is enclosed. However, such orders should not be ruled out for unenclosed land.

2.9 **Dogs on Leads Order**

- 2.9.1 This type of order will require all dogs to be walked on a lead. Such an Order can apply to the whole of Leeds or to specific areas, for example, play areas, sports pitches, or any length of highway or of any other road to which the public has access (as defined in Section 143 of the Road Traffic Regulation Act 1984).
- 2.9.2 The effect of the Order is to create an offence for a person who is in charge of a dog not to keep that dog on a lead on any land affected by the Order.
- 2.9.3 This type of order could be particularly useful for the Dog Warden Service when dealing with stray dogs. It is not actually an offence to allow a dog to stray although local authorities have a statutory obligation to deal with stray dogs. Action can only be taken if a dog is not wearing legal identification or fouls whilst roaming. A dog warden would presently seize a stray dog and impound to kennels. However, such an order would permit an officer to give consideration to prosecuting owners who allow their dogs to stray. This could, ultimately, lead to a reduction in the numbers of strays dogs in Leeds.

3.0 **Dogs on Leads (By Direction) Order**

- 3.1 This type of Order will require owners, or people in charge of a dog at the time, to put their dog on a lead if asked to do so by an authorised officer (e.g. Dog Warden). The effect of the Order is to create an offence for a person in charge of a dog not to comply with a direction given to him by an authorised officer. A direction to put and keep a dog on a lead can only be given if it is reasonably necessary to prevent a disturbance to any other person on any land to which the order applies, or the worrying or disturbance of any animal or bird.

4.0 **IMPLEMENTATION**

- 4.1 Before considering implementing any of the above, the government guidance stipulates that extensive consultation must be undertaken, in particular with dog interest groups, who are likely to have views on the orders. The authority needs to balance the interests of those affected by the activities of dogs and the need for those in charge of dogs to have access to areas where they can exercise their dogs without undue restrictions.
- 4.2 Dog Control Order Procedures provide that where practicable, signs must be placed summarising the order on land to which a new order applies, for example, if an order was made excluding dogs from a park, copies of the order should be placed at the entrances to the park when it was first made and permanent signs should be erected informing the public that dogs are not permitted in the park. Where an order applied to a large area of land, e.g. in respect of dog fouling, it is not feasible to post copied of the order on the land but warning signs should be placed at regularly intervals.
- 4.3 It is anticipated that there will be a significant cost for implementation of any control orders, in addition to the signage costs detailed in 2.8 above. Prior to implementing any orders, an education and awareness campaign is recommended, which will also have resource implications.

4.4 It is proposed that the Service will now discuss the Dog Control Review with the Executive Member for Environmental Services, following which the Service will consider options to adopt Dog Control Orders and the consultation process. The outcome of the consultation, along with data from the Dog Warden Service, will determine which Orders are necessary and proportionate. The project timescale will be driven by the detailed consultation process.

5.0 **RECOMMENDATION**

5.1 The Board is asked to note the contents of this report.

Background papers

None.