

**REPORT TO THE REGULATORY COMMITTEE  
MEETING OF 6<sup>th</sup> December 2011**

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**Status:** Recommendation  
**Title:** Clean Neighbourhood & Environment Act 2005: Dog Control Orders  
**Originator:** Sarah Greenway – Senior Licensing Officer  
**Where from:** Scrutiny Panel for Places  
**Where to next:** Council

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1 Purpose of report:

1.1 The Committee is asked to consider and agree the approach on the implementation of Dog Control Orders as set out in this report and make a subsequent recommendation to Council

**R 2.0 Recommendation**

**2.1 That the Committee considers the representatives received following the informal public consultation on the implementation of Dog Control Orders and:**

**2.2 The Committee considers adopting the necessary powers under the Clean Neighbourhood and Environment Act 2005 and the implementation of Dog Control Orders for the following –**

**2.2.1 Fouling of land by dogs and the removal of dog faeces;**

**2.2.2 The keeping of dogs on leads;**

**2.2.3 Not putting and keeping a dog on the lead when directed to do so by an authorised officer;**

**2.2.4 The exclusion of dogs from designated areas of land.**

**2.2.5 If the Committee approves the implementation of Dog Control Orders as detailed in 2.2.1 – 2.2.4 that it refers those recommendations to Council for adoption.**

3. Key Facts

- 3.1 The Dogs (Fouling of Land) Act 1996 has been effective within the area of Harborough District since 1<sup>st</sup> April 2005 covering all Council owned land (parks and recreation grounds, cemeteries, closed churchyards, open spaces), all Council owned car parks, landscaped areas within housing estates and carriageways with a speed limit of 40mph or less and the land running along side them.
- 3.2 In the event a dog fouls and a person who is in charge of the dog fails to remove the faeces forthwith, that person is deemed to have committed an offence. The Council may issue an offender a £50 Fixed Penalty Notice or in the case of a person refusing to accept or failing to pay a fixed penalty, the offender may be summoned to appear before a Magistrates Court where the maximum penalty is Level 3, £1,000.
- 3.3 A person who normally has a dog in their possession will be deemed to be the person in control of it at the time of the incident. The Act specifically states that being unaware of the fouling or not having a device or other suitable means for removing the faeces shall not be reasonable excuse for failing to remove it.
- 3.4 The Clean Neighbourhoods and Environment Act 2005 came into force on 7<sup>th</sup> April 2005 and contains a number of additional powers relating to environmental issues including dog control. The introduction of this legislation repealed the Dogs (Fouling of Land) act 1996 and whilst existing byelaws made under the 1996 Act remain in force and can be enforced as normal, no new land can be designated under this legislation.
- 3.5 The dog control powers in the Clean Neighbourhoods and Environment Act 2005 enable Councils to control the following:
- Fouling of land by dogs and the removal of dog faeces;
  - The keeping of dogs on leads;
  - Not putting and keeping a dog on the lead when directed to do so by an authorised officer;
  - The exclusion of dogs from land;
  - The number of dogs, which a person may take on to any land

Dog fouling offences are not applicable to certain working dogs, guide dogs and designated assistance dogs. The key benefits to the above allows the Council to make the environment cleaner, safer and greener and tackling environmental related offences plays a significant role in this. It also allows members of the public and children access to dog free and dog controlled areas intended for recreational purposes, to reduce the potential health implications associated with dog faeces and to promote responsible dog ownership.

- 3.6 Whilst it is not mandatory to adopt the new powers, as previously highlighted in the report it is no longer possible to make byelaws under The Dogs (Fouling of Land) Act 1996 for new areas of land and also the Dog Control Orders allow greater control over a variety of problems caused by dogs within the district

It is understood that approximately 80% of local authorities in Great Britain have adopted these new powers.

- 3.7 A road is defined as “any length of highway or any road to which the public has access and includes bridges over which a road passes.” This definition includes public rights of way, including footpaths, and ways to which the public have access by permission of the landowner rather than by right, such as on private estates.
- 3.8 The Act allows authorised officers of the local authority or Parish Council or any person authorised in writing by the authority (such as a Police Community Support Officer with the Police Authority’s consent) to issue a fixed penalty notice offering members of the public an opportunity to discharge any liability for offences under the Dog Control Order. Where practicable, signs must be placed summarising the order on the land to which a new order applies, thereby informing the public that land is subject to an order.
- 3.9 The Act allows a local authority to set its own fee for a fixed penalty notice. The current default amount is £75. The penalty to be provided in relation to an offence under a Dog Control Order is, on summary conviction, a fine not exceeding level 3 on the standard scale (currently £1,000)
- 3.10 This matter was considered by Scrutiny Panel for Places in March 2011 and the Panel was supportive towards the implementation of Dog Control Orders for:-

- Fouling of land by dogs and the removal of dog faeces;
- The keeping of dogs on leads;

The Panel also recommended that consideration should be given to:-

- Not putting and keeping a dog on the lead when directed to do so by an authorised officer.

- 3.11 The initial informal process on proposed Dog Control Orders ended on 30<sup>th</sup> September 2011. Feedback received from Parish Councils and other interested agencies has been considered. 53 representations were received as a result of the consultation process of which 29 were dog owners. The responses are set out in Appendix A.
- 3.12 With the exception of setting a limit on the number of dogs walked and the requirement to put dogs on leads on grass verges, it can be concluded that a large majority of the public and their Parish Council representatives, support the introduction of Dog Control Orders to control dog fouling, dogs on leads and the exclusion of dogs from certain land. The results of the informal consultation exercise have influenced the recommendation to commence the implementation of some of the Dog Control Orders available to local authorities.
- 3.13 It should be noted whilst the legislation does allow Parish Councils to adopt powers to create and enforce the Dog Control Orders in their area, no Parish Councils have opted to adopt this power to date. Lutterworth Town Council has expressed an

interest at this stage in assisting Harborough District Council in the enforcement of Dog Control Orders for their area.

- 3.14 The making of an Order on dog fouling will allow the Council to enforce on dog fouling in all public places and make it an offence for someone in control of a dog who fails to “pick up”.

#### **4 Legal Issues**

- 4.1 The Dog Control Orders (Procedures) Regulations 2006 set out how Dog Control Orders shall be introduced by local authorities and Parish Councils. Before making a Dog Control Order the authority shall:
- (a) Consult every other authority with powers under Section 55 of the Clean Neighbourhoods and Environment Act 2005, in the case of Harborough, the Parish Councils;
  - b) Consult upon its proposals to make an order by publishing a notice of the proposal in a local newspaper circulating in the area in which the Order would apply is situated;
  - (c) Where all or part of the land in respect of which the proposed order would apply is access land then we are required to consult with the Access Authority for that land, the local access forum for that land and the Countryside Agency, now Natural England.
- 4.2 The Notice shall identify the land that is Access Land; summarise the Order; state where any maps identifying the land can be viewed; state the period in which representations shall be made which should not be less than 28 days, state the address/e-mail where representations shall be made.
- 4.3 At least seven days before any Dog Control Order comes into force Harborough shall:
- (a) Where practicable place signs summarising the Order in conspicuous positions on or near land where the Order applies;
  - (b) Publish in a local newspaper in the area where the Order applies a notice that the order has been made and stating the place where it may be inspected or copies obtained;
  - (c) Make available the information on the Council's website.
  - (d) Send copies of the information to the Parish Council

#### **5 Resource Issues**

- 5.1 The new contract for the Dog Warden service allows for regular patrols to enforce across the District and signage for the Dog Control Orders. There is also budget provision to cover the necessary advertising for Public Notices.

#### **6.0 Equality Impact Assessment Implications/Outcomes**

- 6.1 An initial equality impact assessment was carried out in March 2011 and confirmed that there was no requirement to carry out a full assessment as there was no discrimination against any groups identified.

7.0 Impact on the Organisation

7.1 Not Applicable

8.0 Community Safety Implications

8.1 The introduction of Dog Control orders will help to tackle an issue which is a concern for local residents and to help to improve the cleanliness and safety in the District.

9.0 Carbon Management Implications

9.1 None arising from this report.

10.0 Risk Management Implications

10.1 By not adopting the Dog Control Orders under the Clean Neighbourhoods and Environment Act 2005, the existing byelaws the Council has to control dog fouling cannot be amended which will reduce the effectiveness of the legislation.

11.0 Consultation

12.1 Informal consultation was carried out between 1<sup>st</sup> July 2011 until 30<sup>th</sup> September 2011.

13.0 Options Considered

13.1 Option 1 to do nothing would not allow the Dog Control Orders to take place which would have an impact on the enforcement of dog fouling across the district.

13.2 Option 2 is to allow the implementation of Dog Control Orders which would increase the powers available to the Council to control dog related problems in the district.

14 Background Papers

14.1 Files held in the Health and Enforcement Services department in relation to Dog Control Orders.

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**Previous report(s) :**

**Sensitive Issue Procedure – Local Member notified : No**