

Report to: Communities Scrutiny Committee

Date of Meeting: 6th March 2014

Lead Member: Lead Member for Public Realm

Report Authors: Head of Planning & Public Protection and
Public Protection Manager

Title: A proposal to consult on the introduction of Dog Control Orders.

1. What is the report about?

1.1 The report is about the potential for the Council to introduce additional legal controls over dogs and their owners across the County. It is intended to inform Members of additional legal powers that are available to the Council to enforce against irresponsible dog owners. The specific legal power that this report relates to is Dog Control Orders.

2. What is the reason for making this report?

2.1 A decision is required to allow Officers to progress with a public consultation on introducing Dog Control Orders across the County.

3. What are the Recommendations?

3.1 Consider the content of the report and agree with the Dog Control Order options put forward in the report;

3.2 Allow the Officers to progress with a public consultation on the introduction of Dog Control Orders across the County; and

3.3 Provide a view on what would be the appropriate financial penalty for a Fixed Penalty Notice (FPN) in association with the proposed Dog Control Orders

4. Report details.

4.1 Dog fouling throughout the County is presently controlled by the Dogs Fouling of Land Act 1996. This Act makes it unlawful to fail to pick up faeces after your dog has fouled. However there are exemptions on certain kinds of public land including land used for agriculture or woodlands, rural common land, land that is predominantly marshland, moor or heath and highway land with a speed limit of 40mph or more. No enforcement can currently take place in these areas.

4.2 The Clean Neighbourhoods and Environment Act 2005 provides local authorities with discretionary powers to create local Dog Control Orders that reflect local problems in relation to dog fouling and other dog control matters.

Such Dog Control Orders therefore provide the Council with the option of adopting additional controls and removing the existing legislative exemptions.

- 4.3 Dog fouling is a persistent source of complaints and the Council received 374 complaints about dog fouling between February and October 2013. We have received a number of complaints from Members and the public in relation to dog fouling taking place on sports pitches, playing fields, public footpaths etc and up to now, our powers have been limited to taking action against the dog owner for allowing their dog to foul in such areas. There is a clear public health and amenity improvement argument for introducing more legal controls in the form of Dog Control Orders to tackle the problem of dog control in a different and more robust way.
- 4.4 It is proposed that 3 Dog Control Orders be introduced subject to consultation to seek the views of the public/City/Town/Community Councils and other relevant stakeholders. These are as follows:
- The Draft Fouling of Land by Dogs (Denbighshire County Council) Order 2014. This will make it unlawful to foul on any land within the administrative area of the Council unless the person has permission from the landowner.
 - The Draft Dogs on Lead by Direction (Denbighshire County Council) Order 2014. This will make it unlawful to be in charge of a dog which is not on a lead on any highway or any other land which is clearly signed at every entrance highlighting that dogs must be kept on a lead. The 'other land' areas are refined at Appendix 1.
 - The Draft Dogs Exclusion (Denbighshire County Council) Order 2014. This will make it unlawful for dogs to enter a designated area that is clearly signed at each entrance that dogs are specifically excluded. The consultation will set out exactly which areas we suggest could be included as exclusion area, and they are listed at Appendix 2.
- 4.5 A breach of these Orders will result in a criminal offence that can either be prosecuted in the Magistrates Court or the dog owner will be allowed the opportunity to pay a FPN of between £75 and £150. Members are invited to provide an opinion on the level of financial penalty. The current level of financial penalty for allowing your dog to foul is £75.
- 4.6 Our tough enforcement approach to non payment of FPN will continue and we will prosecute any person that chooses not to pay their FPN.
- 5. How does the decision contribute to the Corporate Priorities?**
- 5.1 The enforcement of dog fouling directly contributes to the Corporate Priority of clean and tidy streets. It is also an integral part of the corporate Anti-Fouling Strategy.

6. What will it cost and how will it affect other services?

- 6.1 There are no significant costs proposed or envisaged as a result of consulting on the Draft Orders. The cost of establishing the Orders and consultation can be met within existing budgets. There will be costs for producing new enforcement warning signs to be located around the County, and for additional enforcement responsibilities. These are matters for more detailed consideration at the adoption stage, post consultation.

7. What are the main conclusions of the Equality Impact Assessment (EqIA) undertaken on the decision? The completed EqIA template should be attached as an appendix to the report.

- 7.1 A full equality impact assessment will be undertaken depending on the views of Committee in terms of the detail on what should be included in the consultation. No such assessment is required at this stage.

8. What consultations have been carried out with Scrutiny and others?

- 8.1 Informal consultation has already taken place with the Lead Member (Public Realm) and the Police, who support the proposed consultation. The need for additional legal controls in the form of Dog Control Orders has previously been agreed by Members as part of the Council's Corporate Anti-Fouling Strategy. Informal consultation has also taken place with other Local Authorities who have gone through the process of consultation to introduce such Orders and lessons have been learnt through this process to reduce any risk to the Council.

- 8.2 If approval is granted to progress, then a 28 day period of consultation will take place with City, Town and Community Councils, County Councillors, members of the public and other identified stakeholders. This will include providing the consultation at libraries, one stop shops, website and direct communication with groups such as dog owners/walkers groups etc. An advert will also be placed in the local press.

- 8.3 All responses will be considered following the consultation. These will initially be discussed with the Lead Member. Further reports will be presented to Scrutiny and Full Council following the consultation on implementing the Orders.

9. Chief Finance Officer Statement

- 9.1 There are no financial implications at this stage. However further cost information would be required should the Council decide to introduce these Orders.

10. What risks are there and is there anything we can do to reduce them?

- 10.1 Visitors and residents who are dog owners may feel concerned by the proposed Orders. We will need to ensure that the consultation and associated

publicity highlights the benefits of introducing such Orders to the community as a whole, i.e. we are trying to take a balanced approach, should fouling be picked up throughout the County? Should dogs be excluded from certain key areas? Should dogs be kept on a lead in certain areas?

- 10.2 If the Orders are implemented, the enforcement approach will need to be sensitive, proportionate and gradual including the use of verbal warnings, appropriate signage and publicity will also need to be introduced.

11. Power to make the Decision

- 11.1 The power for a Local Authority to make an Order is under Section 55 of the Clean Neighbourhoods and Environment Act 2005.
- 11.2 Article 6.3.3 of the Council's Constitution sets out Scrutiny's power with respect to policy development and review.

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Appendix 1

'Other land' where dogs should be on a lead:

The promenade along the coast and coastal path

Land adjacent to marked sports pitches and un-enclosed children's play areas

Appendix 2

Possible areas where dogs should be excluded:

Enclosed children's play areas

Cemeteries

Bowling Greens

Other defined play areas

Marked sports pitches

Beach areas (seasonal exclusion between 31st of May and 30th of September)

Leisure Centres

Schools and Educational Premises/Sites