

DOG CONTROL ORDERS
(Report by Head of Environmental & Community Health Services)

1. INTRODUCTION

- 1.1 The Clean Neighbourhoods and Environment Act 2005 (CNEA) introduced the concept of Dog Control Orders to replace the present system of byelaws and the enforcement provisions of the Dogs (Fouling of Land) Act 1996 which is repealed.
- 1.2 In addition to replacing the existing dog control provisions the CNEA has extended the powers available and established two levels of enforcement authority; primary authorities such as the District Council and secondary authorities such as Town and Parish Councils.

2. SUPPORTING/BACKGROUND INFORMATION

- 2.1 The use of dog control orders is governed by two sets of regulations, the Dog Control Order (Procedures) Regulations 2006 and the Dog Control (Prescribed Offences and Penalties, etc) Regulations 2006. The former sets out the procedures to be followed when making, amending or revoking dog control orders and the schedules to the latter describe the form of the orders and the five offences that can be the subject of a Dog Control Order:
- ◆ Failure to remove dog faeces;
 - ◆ Not keeping a dog on a lead;
 - ◆ Not putting, and keeping, a dog on a lead when directed to do so by an authorised officer;
 - ◆ Permitting a dog to enter land from which dogs are excluded; and
 - ◆ Taking more than a specified number of dogs onto land.
- 2.2 Primary and secondary authorities must consult each other before making dog control orders and proposed orders must be advertised in a local newspaper. If a dog control order is likely to affect open access land, the relevant authority must also be consulted.
- 2.3 All responses/representations following consultation/advertisement must be considered before dog control orders are made and the orders cannot become effective until at least 14 days after they are made. A further advert must be placed in a local newspaper at least seven days before the orders come into force and the orders must be placed on the Council website.
- 2.4 Preliminary discussions with Town and Parish Councils have established that all secondary authorities in Huntingdonshire wish the District Council to make the orders and they, as the secondary authorities, will be consulted on the draft proposals. In any event, any dog control order made by the District Council has supremacy over an order made by a secondary authority for the same land.

- 2.5 Guidance from DEFRA emphasises that Councils should adopt a balanced approach when making dog control orders, carefully considering the needs of both dog owners and others. DEFRA consider that failure to do so would leave the orders vulnerable to challenge in the courts. In practice, they say that dog owners should have access to land where they can exercise their dogs and that other people should be able to enjoy reasonable access to land without interference from dogs.
- 2.6 It is proposed that the Council makes four dog control orders designed to repeat all existing dog controls and extend the areas covered to new developments that have been established since the previous controls were put in place. The four dog control orders that are considered necessary and proportionate to the needs of the area are:
- ◆ Failure to remove dog faeces;
 - ◆ Not keeping a dog on a lead;
 - ◆ Not putting, and keeping, a dog on a lead when directed to do so by an authorised officer; and
 - ◆ Permitting a dog to enter land from which dogs are excluded.

Copies of the four draft orders and associated maps are located in the Members' Room.

- 2.7 Advantages of the new system of dog controls are that, unlike byelaws, it is not necessary to have the orders confirmed by the Secretary of State and orders can be amended, subject to further consultation procedures.

3. IMPLICATIONS

- 3.1 All existing Byelaws and designations made under the Dogs (Fouling of Land) Act 1996 remain in force until the new orders are made. When the new dog control orders are made any existing dog control byelaws (for the same offence on the same land) and designations made under the Dogs (Fouling of Land) Act 1996 lapse and are replaced by the new orders.
- 3.2 It is a legal requirement that, where practicable, warning signs summarising the order must be placed on land to which a new order applies and where an order applies to a large area of land, for example, in relation to dog fouling, warning signs must be provided at regular intervals. This will require the replacement of existing warning signs throughout the District and the Environmental Health budgets can cope with this necessity in respect of District Council signs. Secondary authorities will be responsible for replacing their existing signs.
- 3.3 The new orders can be enforced by prosecution or by fixed penalty notices. The penalty for an offence established in dog control orders is a maximum fine of level 3 on the standard scale (currently £1,000). Alternatively, the opportunity to pay a fixed penalty may be offered in place of prosecution. The level of the fixed penalty notice can be set locally but there is a default level of £75 and many local authorities are adopting that level, with the incentive of a reduction to £50 if the fixed penalty is paid within 10 days of issue.

- 3.4 There are defences/exemptions in all dog control orders of:
- (a) Having a reasonable excuse for failing to comply with an order; or
 - (b) Acting with the consent of the owner or occupier of the land, or of any other person or authority which has control of the land.

There is no specific exemption for working dogs but clearly they will normally be working on land with consent. Specific exemptions are made in particular cases for assistance dogs such as those used as guide dogs for the blind.

Being unaware of a dog's defecation, or not having a device or other suitable means of removing the faeces is specifically excluded from the definition of reasonable excuse under the regulations.

- 3.5 Fixed penalties for offences under dog control orders can be issued by authorised officers, including:
- ◆ Employees of primary and secondary authorities who are authorised for this purpose but employees of secondary authorities must first satisfy certain conditions linked to training before they can be so authorised.
 - ◆ Any person authorised (including employees of that person) in writing by a primary or secondary authority in pursuance of arrangements made by that person and the relevant authority.
 - ◆ Police Community Support Officers and other persons accredited by the Chief Police Officers under the Police Reform Act 2002.

4. CONCLUSION

- 4.1 The four proposed dog control orders are necessary and proportionate to the needs of the area and will provide effective dog control measures, if adopted.

5. RECOMMENDATIONS

It is RECOMMENDED that Members:

- 5.1 Note the content of this report and approve the form and content of the four dog control orders and the associated maps attached to the orders.
- 5.2 Delegate authority to the Director of Operational Services to appoint authorised officers to enforce the dog control provisions of the Clean Neighbourhoods and Environment Act 2005, including the issue of fixed penalty notices.
- 5.3 Authorise the Head of Environmental & Community Health Services to advertise the draft orders and to confer with all statutory consultees on the content of the draft orders.
- 5.4 Authorise the Head of Environmental & Community Health Services, in consultation with the Executive Councillor for Housing and Public Health, to make the dog control orders subject to consideration of consultation responses and representations.

- 5.5 Authorise the Head of Environmental & Community Health Services, in consultation with the Executive Councillor for Housing and Public Health, to amend or revoke dog control orders, subject to the necessary advertisement and consultation requirements of the CNEA.
- 5.6 Authorise the enforcement of dog control orders by either prosecution or by the issuing of fixed penalty notices.
- 5.7 Authorise the Head of Environmental & Community Health Services, in consultation with the Executive Councillor for Housing and Public Health, to initiate legal proceedings for offences under dog control orders.
- 5.8 Authorise the adoption of a fixed penalty notice of £75 for offences under adopted dog control orders with an incentive of a reduction to £50 if the fixed penalty is paid within 10 days of issue.

BACKGROUND INFORMATION

Clean Neighbourhoods and Environment Act 2005

The Dog Control Order (Procedures) Regulations 2006

The Dog Control (Prescribed Offences and Penalties, etc) Regulations 2006

Dog Control Orders and associated maps in the Members' Room

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