

CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005
ENFORCEMENT OF DOG CONTROL ORDERS

Submitted by **Head of Environmental Health Services**

Portfolio **Environment and Recycling**

Ward(s) affected **All**

Purpose of the Report

To seek the Committee's approval to take enforcement action in respect of a breach of a Dog Control Order, where the person refused to provide their name and address (Case D900057)

Recommendations

- a) That a Fixed Penalty Notice should not be retrospectively offered**
- b) That a criminal prosecution be brought against the identified defendant in the Magistrates' Court**
- c) That the offence of failing to provide name and address details to an authorised officer should also be prosecuted as part of the court proceedings**

1. Background

The authority has previously adopted a number of Dog Control Orders, detailing where dogs must be on leads, areas where dogs are excluded, and requiring dog owners to remove fouling if their dog fouls a public place.

If authorised officers witness offences, or the authority receives admissible evidence from a reliable third party, a Fixed Penalty Notice (FPN) is issued to the offender.

Where a person is offered a Fixed Penalty Notice they are obliged to provide their details to the officer.

The recipient has option to pay the penalty, or contest the matter in the Magistrates' Court. The Court may impose a fine of up to £1,000 for the breach of a Dog Control Order and a further fine of up to £1,000 if the offender did not provide their details when requested to do so

The majority of those offered a fixed penalty cooperate fully with the officer, however there are instances where the person can be obstructive, abusive, or make threats to officers.

2. Issues

In respect of case D900057, which relates to dog fouling on a public open space in January 2016, the dog walker refused to provide their details to the authorised officer and became abusive. They were subsequently identified using a vehicle registration check and have attended an interview under caution.

Their conduct meant it was not possible to issue a FPN at the time of the incident.

Officers are now satisfied that they have correctly identified the offender and in accordance with DEFRA guidance considers it inappropriate to retrospectively offer a FPN. Instead it recommends that the matter be passed to the courts. The Committee is therefore asked to approve the recommendation set out above.

3. Policy Considerations

This recommendation is in line with “*Local environmental enforcement – guidance on the use of fixed penalty notices*” DEFRA 2007 and consistent with the Borough Council’s Enforcement Policy 2014-2017

4. Outcomes Linked to Sustainable Community Strategy and Corporate Priorities

Robust enforcement of Dog Control Orders is supported by residents and helps ensure that our public places remain clean and safe and encourages their use.

5. Legal and Statutory Implications

The Clean Neighbourhoods and Environment Act 2005 enabled the creation of Dog Control Orders, creates offences for their breach and for failing to provide information to authorised officers.

6. Equality Impact Assessment

There are no differential equality impacts identified within this report.

7. Financial and Resource Implications

The Council would seek to recover costs during any court proceedings.

8. Major Risks

Not pursuing enforcement may undermine confidence in the service and increase non-compliance with Dog Control Orders.

9. Background Information

<https://www.newcastle-staffs.gov.uk/all-services/environment/dog-wardens/dog-control-order-penalties>