

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL
EXECUTIVE MANAGEMENT TEAM'S REPORT TO THE
PUBLIC PROTECTION COMMITTEE

4th February 2013

1. **REPORT TITLE** Dog Control Orders
- Submitted by:** David Beardmore, Environmental Health Team Manager –
Dog & Pest Control
- Portfolio:** Environment & Recycling
- Ward(s) affected:** All

Purpose of the Report

To confirm Members wishes in respect of Dog Control Orders (DCOs) following public consultation

Recommendations

- a) That four dog control orders should now be made commencing 1st April 2013, which will:
 - Require the person in charge of a dog to clear up dog faeces
 - Require dogs to be on a lead (in specified places)
 - Require dogs to be put on a lead if directed by an authorised officer
 - Exclude dogs from specific areas.
- b) That, where appropriate, enforcement is through the use of Fixed Penalty notices, of the default value (currently £75) discounted to £50 if paid within 10 days, with cases referred for prosecution if unpaid.

Reasons

Updated procedures ensure that right controls are assigned to appropriate places, providing clear rules which we can encourage residents to follow. Introducing Dog Control Orders demonstrates the authority's commitment to maintaining clean, green and safe public places.

The option to use fixed penalty notices streamlines current enforcement mechanisms, and should ensure that enforcement utilises less staff resource. The authority has the option to target enforcement and to undertake enforcement projects jointly with PCSOs and community members.

1. **Background**

- 1.2 Following a previous decision of Public Protection (6th August 2012), a formal public consultation was run from 26th November 2012 to 31st January 2013. (10 weeks)
- 1.3 Details of the proposals were contained in the November 2012 edition of The Reporter, covered as a news article by the Sentinel and published as a Public Notice on 3rd January 2013. In addition BBC Radio Stoke broadcast an interview outlining the proposals.
- 1.4 Throughout the consultation period comprehensive support materials have been available on the council's website, along with an on-line survey / feedback form.

1.5 To complement this we have displayed approximately 80 posters in local vet surgeries, libraries, and public notice boards, handed out more than 900 flyers and spoken with approximately 300 dog walkers.

1.6 To achieve report drafting deadlines it is not possible to detail the final consultation results. Updated figures will be made available to Members verbally at the meeting, however at the 14th January 2013 results were:

1. Do you live in or regularly visit Newcastle?
93.6% Yes 6.4% No
2. Are you a dog owner?
50.6% Yes 49.4% No
3. Do you think there is a problem with dog fouling in Newcastle-under-Lyme?
72.3% Yes 18.5% No 9.2% Don't know
4. Do you support **Dog Fouling controls** in all public places across the borough?
96.6% Yes 2.9% No 0.6% Don't know
5. Do you support **Dogs on Leads controls** in the places we've listed?
79.7% Yes 14.0% No 6.4% Don't know
6. Do you support **Dogs on Leads by Direction** controls in all public places across the Borough?
76.3% Yes 16.8% No 6.9% Don't know
7. Do you support **Dog Exclusions** in the places we've listed?
72.4% Yes 17.2% No 10.3% Don't know

Responses at 14th January 2013, day 50 of consultation, 175 responses

2 **Issues**

2.1 Having concluded the consultation Members are now obliged to consider any representations made, and decide whether or not to proceed with making the orders. Consultation comments are attached as Appendix One, with updates published at www.newcastle-staffs.gov.uk/dogcontrols

2.2 If Members now wish to amend the proposed orders, Officers need to know the requested changes so that revised orders can be drafted, and formal public consultation started again.

2.3 We propose a 'soft launch' to enforcement of new Orders, giving us time to ensure staff are appropriately trained and supported to use new powers. Our initial focus will be upon education. A detailed enforcement strategy and the operational policy will be brought to Members later in the year once we have identified general compliance with controls, and can establish problem areas and available staff resources to pursue enforcement

3 **Options Considered**

3.1 The authority could introduce DCOs, by Committee instructing the Head of Central Services to arrange the signing of the orders.

3.2 Alternatively, as the authority is not obliged to make changes to its current controls, Members may decide to take no action at this time.

4 **Proposal**

4.1 **Adopt Control Orders**

It is recommended that four dog control orders should now be made which will:

- Require the person in charge of a dog to clear up dog faeces
- Require dogs to be on a lead (in specified places)
- Require dogs to be put on a lead if directed by an authorised officer
- Exclude dogs from specific areas.

Details of the orders proposed is attached in Appendix Two: Draft Orders

There is currently no specific delegated power in respect of the making of Dog Control Orders, accordingly it is recommended that Public Protection Committee specifically instructs the Head of Central Services.

4.2 **Set Commencement Date**

It is recommended that orders come into force on 1st April 2013

4.3 **Set Fixed Penalty**

It is recommended that Members accept the default tariff (£75) for breaches of orders, with the option for this to be reduced to £50 if paid within 10 days. Unpaid cases will be referred for prosecution.

This is in-line with tariffs set for other Clean Neighbourhood and Environment Act offences by Public Protection Committee in September 2007

5 **Reasons for Preferred Solution**

5.1 Public support. (Public Consultation Results)

5.1 Efficient, best use of resources (Public Protection Report: 6th August 2012)

6 **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

6.1 Introducing DCOs demonstrates the authority's commitment to maintaining clean, green and safe public places.

6.2 The option to use fixed penalty notices streamlines current enforcement mechanisms, and should ensure that enforcement utilises less staff resource. The authority has the option to target enforcement and to undertake enforcement projects jointly with PCSOs and community members.

7 **Legal and Statutory Implications**

7.1 The Dog Control (Procedures) Regulations 2006 details the process the authority must follow to publish and consult on its proposals, and prescribes a mechanism for adopting an order.

7.2 The Dog Control Orders (Prescribed Offences and Penalties etc) Regulations 2006, specifies the form of the order.

7.1 Orders need to be duly signed, and a commencement date agreed. This date must be at least 14 days from the date the order was made.

7.2 The authority is obliged to publish a Public Notice stating: a) that an order has been made and b) where the Order may be inspected and copies of it obtained. Relevant documents will also need to be published on the council's website.

7.3 The Environmental Offences (Fixed Penalty)(Miscellaneous Provisions) Regulations 2006 enables the authority to select a fine level for fixed penalty notices of between £50 and £80, the default being £75

8 Equality Impact Assessment

8.1 No issues have been identified

9 Financial and Resource Implications

9.1 The authority will incur costs publicising adopted controls, and increased interest in dog related issues is likely to generate additional service requests.

9.2 The authority will be obliged to clearly display signage ensuring that residents fully understand the controls in place at each specific area. The most onerous aspect of this will be to add / replace some signs at children's play grounds. There is no legal requirement for such signage to be in place immediately, and it would therefore be sensible to review and prioritise any required changes. Officers may advise and educate, but would not issue penalties until signs were in place.

9.3 There are no plans to place further "No Fouling" signs across the borough. There are currently approximately 3,500 such signs displayed reminding residents that fouling controls apply in all public places. These will not be replaced once they degrade.

9.4 A limited income can be expected from Fixed Penalty Notices. The objective of streamlining enforcement is to achieve greater compliance and efficiencies in enforcement, rather than to issue significant numbers of penalties. Court Costs, which are typically recoverable, will be incurred where prosecutions are pursued in the event of non-payment.

10 Major Risks

10.1 That despite consultation feedback to the contrary, there is a risk that controls may not be supported.

10.2 There is a reputation risk to the council if the controls are not effectively enforced.

11 Sustainability and Climate Change Implications

11.1 Any reduction in fouling would produce a consequential saving in cleansing functions, with associated savings of travel etc.

12 Key Decision Information

Elements of the proposed dog control orders affects all wards. Controls determine how dog owners can use a variety of public places.

13 Earlier Cabinet/Committee Resolutions

13.1 Public Protection Committee agreed to commence a public consultation on proposed controls on 6th August 2012.

13.2 Public Protection Committee agreed tariffs for other offences under the Clean Neighbourhood & Environment Act 2006 on 10th September 2007.

<http://sviam/CeConvert2PDF.aspx?MID=1314&F=publicprotection%20minutes-10-09-2007%20Word%20%2836K%29.doc&A=0&R=0>

<http://sviam/CeListDocuments.aspx?Committeeld=123&MeetingId=1314&DF=10%2f09%2f2007&Ver=2>

14 List of Appendices

Appendix One: Consultation Responses

Appendix Two: Draft Orders

15 Background Papers

More information about Dog Control Orders can be found on the defra website at:

<http://www.defra.gov.uk/environment/quality/local/dog-fouling/>

A guide to Dog Control Orders is published at:

<http://archive.defra.gov.uk/environment/quality/local/legislation/cnea/documents/dogcontrol-orders.pdf>

Guidance for Parish Councils is available at:

<http://archive.defra.gov.uk/environment/quality/local/legislation/cnea/documents/parishcouncilguide.pdf>

Responses to Public Consultation: Dog Control Orders

26th November – 14th January 2013

(Please note retries received since 14th January 2013 are published at

www.newcastle-staffs.gov.uk/dogcontrols)