

# Bath & North East Somerset Council

DECISION MAKER:	<b>Cllr David Dixon, Cabinet Member for Neighbourhoods</b>		
DECISION DATE:	<b>On or after 30<sup>th</sup> July 2011</b>	EXECUTIVE FORWARD PLAN REFERENCE:	
		<b>E</b>	<b>2285</b>
TITLE:	<b>The adoption of Dog Control Orders in Bath and North East Somerset</b>		
WARD:	All		
<b>AN OPEN PUBLIC ITEM</b>			
<b>List of attachments to this report:</b>			
<b>Appendix 1: Procedure for adopting Dog Control Orders in Bath and North East Somerset</b>			

## 1 THE ISSUE

The existing enforcement framework for controlling dogs is restricted to offences relating to dog fouling under Section 3 of the Dogs (Fouling of Land) Act 1996. The Clean Neighbourhoods and Environment Act 2005 allows for a local authority to introduce dog control orders to deal with:

- 1 Failing to remove dog faeces
- 2 Not keeping a dog on a lead
- 3 Not putting and keeping a dog on a lead when directed to do so by an authorised officer
- 4 Permitting a dog to enter land from which dogs are excluded
- 5 Taking more than a specified number of dogs onto land

## 2 RECOMMENDATION

The Cabinet member is asked to agree:

- To authorise the start of the consultation process required by the Dog Control Orders (Procedures) Regulations 2006, so that the proposed dog control orders specified in the report may be considered by the authority.
- To authorise the publication of notices for the proposed dog control orders identifying the land and summarising the proposed orders.
- That a charge of £75 is set for fixed penalty notices served under the new orders which are in line with existing fixed penalty notice charges for littering offences.
- To note that following the public consultation, any representations made will be considered by the Cabinet Member and any decisions will be ratified in a further single member decision.

### **3 FINANCIAL IMPLICATIONS**

- 3.1 It is not anticipated that there will be any significant cost associated with the process of introducing the dog control orders.
- 3.2 The dog control orders enable offences to be discharged through the payment of a fixed penalty notice. Any income generated from the issuing of fixed penalty notices would be directed back into cleansing and enforcement.

### **4 CORPORATE PRIORITIES**

- 4.1 The introduction of dog control orders will support the Council priorities of:
- *Building communities where people feel safe and secure*
  - *Improving transport and the public realm*

### **5 THE REPORT**

- 5.1 The Council receives in excess of 500 complaints each year concerning dogs. These complaints cover a range of issues from dog barking, uncollected dog faeces and uncontrolled dogs frightening people and young children.
- 5.2 Although there are many responsible dog owners across Bath and North East Somerset who keep their dogs under control and clear up after their dog in a public place, unfortunately a small number of inconsiderate dog owners do not and cause problems in the community.
- 5.3 The dangers to health from dog faeces are well documented. Research has identified that Toxocariasis is a disease found in animal faeces caused by the eggs of the roundworm *Toxocara*. These can be passed from dogs to humans through contact with animal faeces or contaminated soil. Children are particularly at risk, and infection can lead to illness and even loss of sight. It is a preventable health risk and the main reason why dog owners should clean up after their pets. There is no risk of catching Toxocariasis whilst clearing up straight after a dog as *Toxocara* eggs do not become infectious for 2 – 3 weeks after faeces has been deposited.
- 5.4 Dog owners have the right to enjoy their pets and to exercise them, however, residents, and in particular children, also have a right to be able to enjoy a clean, safe environment.
- 5.5 The existing legislative framework is contained within Section 3 of the Dogs (Fouling of Land) Act 1996 and relates only to dog fouling offences. The Council is aware of many other offences involving the inadequate control of dogs but is unable to deal with these in the absence of dog control orders being in place.
- 5.6 The Clean Neighbourhoods and Environment Act 2005 is designed to simplify the arrangements for controlling dogs and enables authorised officers to issue fixed penalty notices for each breach of each order.

The dog control orders that can be made are:

- 1 Failing to remove dog faeces
- 2 Not keeping a dog on a lead
- 3 Not putting and keeping a dog on a lead when directed to do so by an authorised officer
- 4 Permitting a dog to enter land from which dogs are excluded
- 5 Taking more than a specified number of dogs onto land

It is the Council's intention to consult on the introduction of all of these orders in Bath and North East Somerset.

## **6 RISK MANAGEMENT**

The report author and Cabinet member have fully reviewed the risk assessment related to the issue and recommendations, in compliance with the Council's decision making risk management guidance.

## **7 EQUALITIES**

7.1 The adoption of the dog control orders will have a positive impact on the following protective characteristics as identified by the Equalities Act 2010:

### Disability:

The orders for dog fouling and exclusion of dogs from specified land provide exemptions for registered blind persons, deaf persons and disabled persons where their disability affects mobility, manual dexterity, physical co-ordination, ability to lift, carry or otherwise move everyday objects. The exemptions relate to trained assistance dogs from Dogs for the Disabled, Support Dogs, Canine Partners for Independence and Hearing Dogs for Deaf People.

### Age:

Adults will be responsible for persons under the age of 18 who are in control of the dog at the time of the offence.

7.2 In addition, there will be a positive impact on disabled persons and children in that they will be less likely to be affected by dogs not on a lead and by coming into contact with dog faeces.

7.3 The adoption of dog control orders will not have any affect on any of the remaining protective characteristics of gender, gender reassignment, race, sexual orientation, religion or belief, marriage and civil partnership or pregnancy and maternity.

## **8 HUMAN RIGHTS**

- 8.1 The Human Rights Act 1998 incorporated into domestic law the European convention on Human Rights (Convention). The Convention includes provisions in the form of Articles, the aim of which is to protect the rights of the individual.
- 8.2 The Human Rights Act prohibits public authorities from acting in ways which are incompatible with the Convention. In pursuing dog control orders the authority considers it has struck a balance between individual rights and the wider public interest and concluded that the making of the orders is compatible with Convention rights and it is necessary and proportionate to make the orders.

## **9 RATIONALE**

- 9.1 There is no current legislation enabling an authority to introduce dog exclusion zones, enforce the keeping of dogs on leads, empowering officers to direct a person to put a dog on a lead or to specify a maximum number of dogs a person may take on land at any one time without the authority losing its current dog fouling offence.
- 9.2 In the event that the proposed orders are not made the absence of legislation means that the current dog fouling fixed penalty charge will remain frozen at £50 and the authority is prevented from increasing this. However, should the proposed orders be made and come in to force they will increase the amount of fixed penalty to £75, are capable of amendment and will introduce a series of measures to promote responsible dog ownership underpinned by effective and proportionate enforcement measures which may include prosecution in the event a fixed penalty notice goes unpaid.

## **10 OTHER OPTIONS CONSIDERED**

By not seeking to make dog control orders the opportunity to take enforcement action for offences will remain limited to dog the failure to remove dog faeces and the public may perceive this as the Council not taking robust action against their wider concerns regarding the control of dogs in public places and not ensuring a safe, clean environment.

## **11 CONSULTATION**

*Ward Councillor; Parish Council; Town Council Staff; Other B&NES Services; Service Users; Local Residents; Stakeholders/Partners; Section 151 Finance Officer; Monitoring Officer,*

Consultation will be through circulation of this report and also through PACT meetings and individual meetings with residents and other stakeholders

## **12 ISSUES TO CONSIDER IN REACHING THE DECISION**

The following issues were considered in reaching this decision:

*Customer Focus; Young People; Human Rights; Corporate; Health & Safety; Impact on Staff; Other Legal Consideration*

### **13 ADVICE SOUGHT**

The Council's Monitoring Officer (Divisional Director – Legal and Democratic Services) and Section 151 Officer (Divisional Director - Finance) have had the opportunity to input to this report and have cleared it for publication.

<b>Contact person</b>	<i>Cathryn Humphries, 01225 477645</i>
<b>Background papers</b>	<i>None</i>
<b>Please contact the report author if you need to access this report in an alternative format</b>	