

DECISION-MAKER:	EXECUTIVE DIRECTOR OF NEIGHBOURHOODS
SUBJECT:	DOG CONTROL ORDERS
DATE OF DECISION:	23 MAY 2011
REPORT OF:	TREE, ALLOTMENTS AND PARK IMPROVEMENT MANAGER
STATEMENT OF CONFIDENTIALITY	
N/A	

BRIEF SUMMARY

Southampton's green spaces are recognised as one of its key assets, They are enjoyed by millions of visitors each year and support a wide variety of uses. Dog walkers and their dogs are recognised as an important user group who are often our eyes and ears when other users are not around. However, conflicts do occur and the Council does receive complaints about fouling and the conduct of some dog owners. Therefore the proposals considered in this report are felt to be proportionate to the issues and to ensuring dogs in open spaces are able to exercise freely whilst minimising any potential annoyance to other open space users.

The Executive Director of Neighbourhoods was given the delegation to receive and consider representations and, following consultation with the Cabinet Member for Housing and Local Services (now Cabinet Member for Local Service and Community Safety) to make the decision as to whether to enact a city

This report therefore sets out the consultation undertaken by the Council to comply with the Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations 2006 and the Dog Control Orders (Procedures) Regulations 2006, which implement sections 55 and 56 of the Clean Neighbourhoods and Environment Act 2005 and makes recommendations for a decision on each of the Orders.

There are 4 Orders which require a decision and a recommendation for each of these is below. They are:

The Dogs Exclusion (The City of Southampton) Order 2011

The Dogs on Leads (The City of Southampton) Order 2011

The Fouling of Land by Dogs (The City of Southampton) Order 2011

The Dogs on Leads by Direction (The City of Southampton) Order 2011

These documents are appended in Appendices 1- 4 and described in more detail below.

RECOMMENDATIONS:

- (i) That the Dogs Exclusion (The City of Southampton) Order 2011 is made with no modifications in June 2011
- (ii) That the Dogs on Leads (The City of Southampton) Order 2011 is made without modifications in June 2011
- (iii) That The Fouling of Land by Dogs (The City of Southampton) Order 2011 is made in June 2011
- (iv) That the Dogs on Leads by Direction (The City of Southampton) Order 2011 is made without modifications in June 2011

REASONS FOR REPORT RECOMMENDATIONS

1. The objections to this order have been considered, but are not felt to outweigh the reasons for making the order. Specifically the objection to the exclusion of dogs from the lakes/ponds on the Common have been considered, but our duty under the Site of Special Scientific Interest is felt to outweigh the reasons for allowing dogs into the lakes/ponds. It is also considered that in making this order it will strengthen the powers the Council already has under the current byelaws which will become obsolete.
2. There have been no objections to this order, although we have been asked to consider whether it is necessary when we are introducing the Dogs on Leads by Direction Order. Given the sensitive nature of the land uses this order covers, i.e. Allotments and Cemeteries it is thought necessary to ensure a greater level of control is maintained.
3. There have been no objections to this Order, which is seen as a positive way forward to enforce the removal of dog faeces.
4. There have been no objections to this Order, which has been commended as positive way to allow responsible dog owners to exercise their dogs.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

- 5 To not implement The Dogs Exclusion (The City of Southampton) Order 2011 and rely on existing Byelaws. This was rejected as existing Byelaws only cover Pleasure grounds and not education or housing land, where play areas may be situated.
- 6 To modify The Dogs Exclusion (The City of Southampton) Order 2011 to remove the lakes/ponds on Southampton Common from the Order. This was rejected as our duty under the Site of Special Scientific Interest is felt to outweigh the reasons for allowing dogs into the lakes/ponds.
- 7 To not implement The Dogs on Leads (The City of Southampton) Order 2011 and rely on all dog owners keeping their dogs under close control on Allotment and Cemetery sites. This option was rejected as we do have issues with dogs roaming onto and fouling on allotments and graves, which is considered unacceptable, however, an outright exclusion would be considered disproportionate to the problem and therefore dogs on leads is felt to be the best option.
- 8 To not implement The Fouling of Land by Dogs (The City of Southampton) Order 2011 and to act under the Dogs (Fouling of Land) Act 1996. This was rejected as the new legislation removes the exemptions of the 1996 act on registered common land enabling us to enforce that dog faeces is removed on the Common and in Central Parks. It also supersedes any byelaws and enables the Council to use fixed penalty notices if necessary.

DETAIL (Including consultation carried out)

- 9 Following Cabinet Member Decision at Cabinet on 28/09/09 to proceed with the Green Space Guide, it was delegated to The Executive Director of Neighbourhoods to receive and consider representations and, following consultation with the Cabinet Member for Housing and Local Services (now Cabinet Member for Local Service and Community Safety) to make the decision as to whether to enact a city-wide Dog Control Orders for Southampton
- 10 The Green Space Guide is a code of practice for people using green spaces which gives advice and guidance on how they will be expected to act when visiting one of Southampton's green spaces. In order to produce this guide all the current policy, byelaws and legislation is being reviewed and where appropriate updated. Consultation on this will be undertaken throughout 2011 with a final document ready by November 2011. Byelaws will then be updated as appropriate throughout 2012.
- 11 As Dog Control Orders have their own statute procedure to enact them, it has been necessary to take them as a separate issue. The process is set out in the Dog Control Orders (Procedures) Regulations 2006. The Council is required to consult upon the proposal by publishing its intention in a local newspaper and to consult every other Authority having the power to make dog control orders. After making the order, the Council is required to place signs on the land, publish it on the website and send the information to every relevant Authority not less than 7 days before the Order is in force. If approved, the orders will come into force at least 14 days after the date on which the Order was made.
- 12 In addition to the procedures set out in the regulations, consultation has also been undertaken over the summer months of 2010 with a group of dog owners. They are broadly supportive of the common sense approach to the dog control orders, but do have reservations over some detailed areas, such as the lakes/ponds on the Common. The key message from the group was to ensure that everyone is respecting their parks and green spaces, which will be addressed through the wider Green Space Guide consultation.
- 13 The group also explored how to promote responsible dog ownership and how this could be put across to green space users. Some of these ideas will be used throughout the coming year and into the future to help promote responsible dog ownership.
- 14 Relevant Council Officers were also consulted on the proposals before publishing the formal notification.
- 15 The notice of intention to make the Southampton Dog Control Orders was placed in the Southern Evening Echo on 7th February and the statutory 28 days has been given for consultation responses. Towards the end of this period we were made aware of the Local Access Forum, which it is a statutory requirement to consult with. The consultation period has therefore been extended to allow them time to look at the proposals. The Local Access Forum have confirmed that they support all four orders.

16 There have been 18 other responses of which 9 endorse the Council's proposal either wholly or partially to enact Dog Control Orders. Of these 9; 4 would like to see stronger control instigated and 1 has concerns over dogs on leads only but endorses/commends the other orders and 4 generally endorse the proposals. There are 5 objections to the proposals, 4 of which are specifically for the Common, 1 of which is a petition with 326 signatures. The other objection is specifically around banning dogs from the skateboard park at Warren Avenue. There are also 3 responses that are more general comments on the potential negative impacts of Dog Control Orders if not implemented correctly. The other response is a more general comment/clarification of area names at Portswood Rec. For a more detailed review of the comments received and the Council's actions please see Appendix 5.

17 The objections to the proposals on the Common are relating to the enforceability of the existing byelaws in relation to the exclusion of dogs from the three lakes/ponds. The current byelaws are not considered to afford enough protection to ensure the Council can carry out its duties under the Site of Special Scientific Interest and various other Acts relating to wildlife. In addition the byelaw itself is confusing in that it both excludes and allows dogs into lakes on Southampton common. (See Appendix 6)

Should the Council go ahead with the recommendations above then the maximum penalty for committing an offence is set at Level 3 (currently £1000), although fixed penalties can be offered in place of prosecution. The Council does already have fixed penalties for certain offences and these are currently set at £50 if paid within 14 days and £75 if paid after that period of time. It is likely that this would be the same for dog control offences.

RESOURCE IMPLICATIONS

Capital/Revenue

18 There is provision of £30,000 in the Local Services and Community Safety capital programme to develop signage for the Green Space Guide which will include enhancing existing dog exclusion and dogs on leads signs.

19 There are no additional revenue costs arising from the proposals in this report.

Property/Other

20 There are no property implications.

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

21 The statutory power to undertake this proposal is the Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations 2006 and the Dog Control Orders (Procedures) Regulations 2006, which implement sections 55 and 56 of the Clean Neighbourhoods and Environment Act 2005

Other Legal Implications:

- 22 There is likely to be an implication for enforcing the above Orders. The Act and Regulations enable delegation of Authorised Officers, which could mean that Officers other than those in the Enforcement teams could take on some responsibility for enforcing the Orders. A full review will be undertaken of how the Council (and its partners) is able to enforce the Orders, if the decision is taken to make them.
- 23 In making the dog control orders, regard must be had to the HRA 98 , in particular, articles 8 (right to respect for a private a family life) and article 11 (freedom of assembly and association). Any interference with these rights must be proportionate and necessary in the interests of public safety, protection of health and morals and/or the protection of the rights and freedoms of others.
- 24 Crime and Disorder Act.
Section 17 of the Crime and Disorder Act 1998 requires the authority to consider the likely effect of the exercise of this function on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. The implementation of this order will actually assist to reduce crime and disorder. The new powers will show that the authority is tackling a problem which in itself can cause disorder e.g. disputes about control of dogs and dog fouling.
- 25 There should be no implications for Disability Discrimination Act 1995 as all helper/guide dogs are exempt from the Orders.

POLICY FRAMEWORK IMPLICATIONS

- 26 The proposal is consistent with and not contrary to the Council’s policy framework, in particular Southampton’s Green Space Strategy

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KEY DECISION? Yes

WARDS/COMMUNITIES AFFECTED:	Citywide
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SUPPORTING DOCUMENTATION

Non-confidential appendices are in the Members' Rooms and can be accessed on-line

Appendices

1.	The Fouling of Land by Dogs (The City of Southampton) Order 2011
2	The Dogs Exclusion (The City of Southampton) Order 2011
3	The Dogs on Leads by Direction (The City of Southampton) Order 2011
4	The Dogs on Leads (The City of Southampton) Order 2011
5.	Consultation Responses and Council Reply
6.	Byelaws vs Dog Control on Southampton Common

Documents In Members' Rooms

1.	None
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Integrated Impact Assessment

Do the implications/subject of the report require an Integrated Impact Assessment (IIA) to be carried out.	No
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Other Background Documents

Integrated Impact Assessment and Other Background documents available for inspection at:

Title of Background Paper(s)

Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)

1.	None	
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