

**Dog Control Orders**

**EXECUTIVE MEMBER:** Councillor Allan Holliday, Portfolio Holder for Environment and Sustainability.

**LEAD OFFICER:** Keith Parker , Head of Neighbourhood Services

**REPORT AUTHOR:** Alana Mackinnon, Enforcement Manager.

**WHAT BENEFITS WILL THESE PROPOSALS BRING TO COPELAND RESIDENTS?**

The proposals will enable the Council to deal with irresponsible dog owners, encouraging more responsible dog ownership that will consequently lead to reduced levels of dog fouling occurring in the Borough.

Following on from the consultation process, members are asked to review comments and make the decision as to the implementing of the Dog Control Orders or amending Dog Control Draft Orders.

**RECOMMENDATIONS:**

The report outlines the provisions of the Clean Neighbourhoods and Environment Act 2005 in respect of the introduction of dog control orders regarding failing 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. The report seeks Executive approval following on from the consultation process.

Executive recommends Council to approve the following matters:

- (a) the outcome of the consultation exercise referred to in paragraph 2 of the report be noted;
- (b) that, under section 55 of the Clean Neighbourhoods and Environment Act 2005, the draft orders attached as Appendix 1 to this report and titled (i) The Fouling of Land by Dogs (Copeland Borough Council) Order 2011; (ii) The Dogs on Lead by Direction (Copeland Borough Council) Order 2011; (iii) The Dogs Exclusion (Copeland Borough Council) Order 2011; and (iv) The Dogs on Leads (Copeland Borough Council) Order 2011 be made and to come into force on the 3rd October 2011 with the inclusion of Egremont Castle and all designated cemeteries;

- (c) the amount of a fixed penalty, payable for an offence under an order where a fixed penalty notice is issued, be fixed at £80;
- (d) for the purposes of issuing fixed penalty notices that (i) the Enforcement Manager; (ii) Enforcement Officers; (iii) Beach Cleaning Operatives; and (iv) Police Community Support Officers be authorised for the purposes of section 59 of the Clean Neighbourhoods and Environment Act 2005 as authorised persons;”
- (e) Executive review the Orders 12 months after implementation

## 1. INTRODUCTION

1.1 New dog controls within the Clean Neighbourhoods and Environment Act 2005 (CNEA) were designed by the Government to replace the Dogs (Fouling of Land) Act 1996, legislation which has provided a long-established system of dog control. It is no longer possible to make new bylaws or designations under this legislation.

Dealing with dog fouling and nuisance behaviour is a high priority with the public and is given emphasis by the Council.

1.2 Currently Copeland Borough Council enforces dog fouling offences under the Dogs (Fouling of Land) Act 1996. The Act states that any person who permits a dog that is in their charge to foul any area to which the public has access, is committing an offence.

Copeland Borough Council has issued 422 fixed penalty charge notices for dog fouling since it started issuing under current legislation back in 2001; this averages 46 fixed penalty charge notices issued per year across the following locations:-

Arlecdon	2
Cleator	13
Cleator Moor	38
Distington	4
Egremont	35
Ennerdale	1
Frizington	21
Gosforth	5
Haverigg	10
Lowca	1
Millom	33

Moor Row	3
Moresby	18
Pica	4
Seascale	8
St Bees	28
Whitehaven	198
Total	422

Penalties for this offence are by fixed penalty notice of £50 or, on summary conviction of the offender, a fine not exceeding level 3 (currently £1,000) on the standard scale. In 32 cases of the 422 above the dog owner elected to have their case heard in court, of these 31 were found in favour of the Council and one was lost on a technicality.

1.3 There are two sets of Regulations made under the Clean Neighbourhoods and Environment Act for the control of dogs. These are:-

- (i) The Dog Control Orders (Prescribed Offences and Penalties etc) Regulations 2006; and
- (ii) The Dog Control Orders (Procedures) Regulations 2006.

1.4 The CNEA and Regulations specify the offences and the procedures for the introduction of dog control orders.

1.5 The offences for which dog control orders are proposed are:-

- (a) failing to remove dog faeces;
- (b) not keeping a dog on a lead;
- (c) not putting and keeping a dog on a lead when directed to do so by an authorising officer; and
- (d) excluding dogs from land.

## **2. PROPOSED ORDERS**

2.1 The four dog control orders proposed are

- (a) The Fouling of Land by Dogs;
- (b) The Dog on Leads by Direction;
- (c) The Dogs on Leads; and
- (d) Excluding Dogs from Land.

By law the orders cannot cover land that is placed at the disposal of the Forestry Commissioners under section 39(1) of the Forestry Act 1967.

- 2.2 *The Fouling of Land by Dogs Order* requires people in control of a dog to immediately remove faeces deposited by their dog. It is intended that this Order applies to all areas of land in the Borough which are open to the air and to which the public are entitled or permitted to have access (with or without payment). The Order would not apply to a registered blind person nor someone who has a dog trained by a prescribed charity to support a person suffering from a mobility or manual dexterity disability.

*Consultation Response to The Fouling of Land by Dogs Order.* No responses have been received from the general public or councillor against this order.

- 2.3 *The Dogs on Leads by Direction Order* requires people in control of a dog to put and keep the dog on a lead when told to do so by an authorised officer of the Council. It is intended that this Order applies to all areas of land in the Borough which are open to the air and to which the public are entitled or permitted to have access (with or without payment) other than those areas which are to be covered by the Dogs on Leads Order or Excluding Dogs from Land Order. The power to direct a dog to be on a lead can only be exercised if such restraint is reasonably necessary to prevent a nuisance or behaviour by the dog to any other person or to prevent the worrying or disturbance of any animal or bird.

*Consultation response to The Dogs on Leads by Direction Order.* No responses have been received from the general public or councillors against this order

- 2.4 *The Dogs on Leads Order* requires dogs to be kept on a lead. An offence is committed unless the offender has reasonable excuse for failing to do so or the owner or occupier of the land or person having control of the land has consented to the dog not being on a lead. Again the Order could apply to all areas of land in the Borough which are open to the air and which the public are permitted to have access (with or without payment). It is proposed in this case that the Order is restricted to the following areas:

- (a) Highways, footways, footpaths and adjacent grass verges maintained at the public expense;
- (b) All cemeteries/crematoriums' in the Borough;
- (c) Council owned sports grounds/pitches;
- (d) Beaches at St Bees, Haverigg, Silecroft and Seascale to include all grassed areas and associated car parks but excluding that part of the beach consisting of sand and shingle; and
- (e) Trinity Gardens, Scotch Street, Whitehaven.

*Consultation response to The Dogs on Leads Order.* Responses received from the General public have been mixed on this order with comments received both in support and against the proposal. Initial comments received against the order were negative as people incorrectly thought that dogs would no longer be able to run free on beaches without a lead. This misunderstanding was clarified by explaining that the proposed order suggests that beaches at St Bees, Haverigg, Silcroft and Seascale include all grassed areas and associated car parks but excludes that part of the beach consisting of sand and shingle.

Some of the responses suggest that this order cannot be patrolled or enforced while others had concerns that if a dog was on a lead it wouldn't be exercised properly.

- 2.5 *The Dogs Exclusion Order* will prohibit dogs from entering certain areas or if on the land from remaining on it. Defences are that there is reasonable excuse for the dog being on the land or the owner or occupier or person having control of the land has consented to the dog being there. The Order will not apply to dogs owned by a registered blind person, a dog trained by Hearing Dogs for Deaf People or dogs trained by a prescribed charity for people suffering from a mobility disability.

It is proposed that dogs are excluded from any area of land which comprises of a children's play area and which is owned or managed by the Council or a Town or Parish Council. Initial consultations with Town and Parish Councils support this proposal.

*Consultation response to The Dogs Exclusion Order.* No responses have been received from the general public or councillors against this order. However plans required some amendments to reflect correct areas of exclusion and some responses requested additional land to be included, such as a section of grass land in a residential area in Millom. Consideration was asked to be given to including St Nicholas' Gardens in Whitehaven in The Dogs Exclusion Order.

- 2.6 The penalty for an offence is on summary conviction a fine not exceeding level 3, currently £1,000. As an alternative to being prosecuted in a Magistrates' Court for such an offence an authorised officer may give the offender a notice offering him the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty. The amount of the fixed penalty can be set by the Council but must be in the range of £50 - £80. In this case it is recommended that the fixed penalty is fixed at £80.
- 2.7 For the purposes of issuing fixed penalty notices referred to in paragraph 2.6 and taking action under paragraphs 2.2 to 2.5 the Council can authorize an

employee, any person who in pursuance of arrangements with the Council has the function of giving such notices and is so authorised and an employee of another authority so authorised. In this case it is recommended that the following officers are authorised:

Enforcement Manager  
Enforcement Officers  
Beach Cleaning Operatives  
Police Community Support Officers

2.8 With the report going to Full Council on 18 August the implementation timetable becomes:-

- Dog Control Orders are confirmed 18th August 2011
- Signage ordered week commencing 22nd August 2011
- Dog Control Orders Advertised 1st September 2011
- Signage positioned week commencing 26th September 2011
- Dog Control Orders come into force 3rd October 2011

### **3. OPTIONS TO BE CONSIDERED**

3.1 Council is asked to support proposals to implement the four orders outlined above. It is further proposed that a review be conducted into the operation and effectiveness of the Orders 12 months after implementation to enable Members to consider changes and additions to the Orders based on the experience and stakeholder feedback to that point. It should be noted any subsequent amendments will be required to go through the full legal requirements including consultation, publication and signage.

### **4. CONCLUSIONS**

4.1 Whilst the consultation resulted in 16 public responses and 6 from members, none have been entirely negative and there has been general support for the proposed orders. Consequently members are asked to support the introduction of these orders to enable enforcement measures to be taken to deal with irresponsible dog owners and help provide clean, green and safe neighbourhoods.

### **5. STATUTORY OFFICER COMMENTS**

5.1 The Monitoring Officer's comments are: The report fully addresses the legal implications and procedures of making the orders. Post approval the orders will

be advertised and published and signs erected on or near the land affected summarising the order in accordance with the statutory requirements.

5.2 The Section 151 Officer's Comments are:

I have no further Sec 151 comments

5.3 EIA if applicable: These proposals are cognisant of the circumstances surrounding 'working dogs' and make particular arrangements in relation to the dog fouling order as identified in 2.2 above. The Orders if approved will provide the Council with an additional tool to control dogs and dog fouling in public places thereby contributing to the general public interest in enjoying a safe and clean environment.

5.4 Other consultee comments, if any: None

**6. HOW WILL THE PROPOSALS BE PROJECT MANAGED AND HOW ARE THE RISKS GOING TO BE MANAGED?**

6.1 The proposal will be project managed by the Enforcement Manager supported by Neighbourhoods Services Management.

**7. WHAT MEASURABLE OUTCOMES OR OUTPUTS WILL ARISE FROM THIS REPORT?**

7.1 The number of fixed penalties issued is reported through the Councils performance monitoring system. Dog fouling is classified as litter and therefore the proposal will lead to an improvement in street cleanliness as measured by NI195.

7.2 Supports the Improving Quality of Life as set out in the Corporate Improvement Plan (2) To significantly improve the way services are provided to allow residents to live, work, learn and relax in a clean, safe and attractive environment.

**List of Appendices**

Appendix 1 – Consultation Responses

Appendix 2 – Draft Dog Control Orders and Schedules

**List of Background Documents:** Dog Exclusion Plans numbered 1 – 45 & Dogs on Leads Plans numbered 1 – 31. Copies available in the Members Room.