

CABINET

Consultation on Dog Control Orders 6 December 2011

Report of Head of Health & Housing

PURPOSE OF REPORT	
To seek approval to go out to consultation on Dog Control Orders	
Key Decision	<input checked="" type="checkbox"/> Non-Key Decision
	Referral from Cabinet Member
Date Included in Forward Plan	1 October 2011
Project Appraisal Undertaken	N/A
This report is public.	

RECOMMENDATIONS OF COUNCILLOR LEYTHAM

- (1) That the commencement of the public consultation process be approved.

1.0 Introduction

- 1.1 The Clean Neighbourhoods and Environment Act 2005 (the 'Act') enables local authorities to make various types of Dog Control Order (DCOs) to replace and extend existing outdated and complex byelaws and legislation. Whilst it is not mandatory to adopt DCOs, there is at present a 'postcode lottery' in place where more recent housing developments, playgrounds etc have not been designated under all of the necessary existing dog control provisions, and it is only possible to rectify this situation by introducing DCOs.
- 1.2 It is proposed to introduce four DCOs to help counter problems caused by irresponsible dog owners, such as dog fouling on our streets, and dogs not under control causing road traffic accidents, nuisance and aggression.
- 1.3 These DCOs will allow authorised officers to issue Fixed Penalty Notices (FPNs) for all offences. At present the council can issue FPNs only for fouling offences. For other dog offences the council has to commence criminal proceedings in the circumstances that a simple caution is not appropriate. Court proceedings can be protracted and it is thought that the FPN regime will speed up enforcement and lead to a reduction in dog offences.

- 1.4 Enforcement of any new DCOs would be met from within existing staff resources. Potentially receipts from FPNs could be redirected back into dog control and further enhance enforcement, depending on Cabinet's finalised priorities and the need to make budgetary savings, noting that the amounts involved are likely to be comparatively small
- 1.5 DCOs can be worded to automatically apply to new developments, and hence do not become outdated.
- 1.6 Replacing the existing complex system of Byelaws and Acts of Parliament (and in some areas, no legislation) with DCOs, will allow the opportunity for standardising signage and save the council costs.
- 1.7 This report is seeking approval to commence the public consultation on DCOs. Once the statutory consultation process has been carried out, a further report will be presented to Members with the results of the consultation. Members will then be asked to decide whether or not DCOs should be made.

2.0 Proposal Details

It is proposed that the council adopts DCOs to deal with the offences given sub-headings below. The statutory consultation process would therefore consult on whether or not our communities are in favour of each proposed DCO set out in this report:

Removal of dog faeces DCO

- 2.1 This DCO would make it an offence if a person fails to remove their dog's faeces on any land which is open to the air on at least one side and to which the public are entitled or permitted to have access. It is proposed to apply a blanket designation across the entire district, replacing the existing provisions of the council's Byelaw enabling the council to prosecute for dog fouling offences under the Dogs (Fouling on Land) Act 1996 only in certain specified places.
- 2.2 If a DCO is not made specifically dealing with the removal of dog faeces, then any DCO made for an offence other than fouling would immediately repeal the council's Byelaw dealing with dog fouling (known as the Lancaster City Council (Fouling on Land by Dogs) Designation Order 1998) . For example, if a 'Dogs on Leads' DCO is made for public highways, these would not have the benefit of fouling being enforceable unless a Fouling DCO is also made.

Dogs on leads DCO

- 2.3 This DCO would make it an offence not to keep a dog on a lead. It is proposed to apply this to:
 - All public highways, footways and adjoining verges, including Morecambe promenade, pedestrianised areas and off-road cycle

routes.

- Car parks and public vehicle parking areas maintained by the council:
- Cemeteries and churchyards.
- Certain council parks and gardens.

There are currently no 'Dogs on Leads' provisions in the district's residential areas built since the early 1990s. This has led to inconsistency and some confusion across the district which will continue if this DCO is not made.

- 2.4 Consideration has been given to including cemeteries and churchyards being designated under a 'No Dogs' DCO rather than the 'Dogs on leads' DCO, but public consultation has already been carried out regarding this, and the majority of respondents preferred 'Dogs on Leads' control to apply in such places rather than an outright ban on dogs. The 'Dogs on Leads' DCO could be extended to other areas such as playing fields, however these are often the only facilities available for exercising dogs locally, and family recreational activity often includes the family dog.

Dog control and officer direction DCO

- 2.5 This DCO would make it an offence not to put and keep a dog on a lead when directed to do so by an authorised officer. It is proposed to use this for football fields, playing fields and athletic facilities, etc. when sports events are taking place and when dogs out of control are known to cause problems. It is proposed to apply a blanket designation enabling this power to be used as and when necessary.

Excluded land DCO

- 2.6 This DCO would make it an offence to permit a dog to enter land from which dogs are excluded. It is proposed to apply this DCO to children's playgrounds, enclosed sports pitches, the splash pool in Happy Mount Park, and enclosed school fields marked as dog-free. Note: There is already a DCO banning dogs from certain beaches during the main tourist season. This helped the council to obtain Blue Flag beach awards.
- 2.7 There is a fifth DCO available for limiting the number of dogs walked by a single person at any one time. The council is not aware of complaints or concerns regarding this matter and it is therefore not considered necessary to adopt such a DCO.

3.0 Details of Consultation

- 3.1 The Act requires a formal consultation process, including publishing notices in the local press, making information and maps available at council buildings, and publicising the DCOs on the council's website. There is then a period of 28 days for representations to be made, all of which the authority will consider before proceeding with making the DCOs.

4.0 Options and Options Analysis (including risk assessment)

	Option 1: Commence consultation as outlined in the report.	Option 2: Commence consultation on a different basis.	Option 3: Not commencing consultation
Advantages	Proceeding as recommended will lead to rapid implementation of the proposed DCOs	Reviewing the scope and content of proposed DCOs would enable more detailed member involvement at this stage <i>(NB: there will be scope for Members to influence final decisions at a later date).</i>	There would be no consultation costs incurred
Disadvantages	Cost of consultation. No other disadvantages have been identified	Based on their operational experience and engagement with communities, officers have carefully considered the DCOs on which it is recommended the Council consults. Changing the options to be consulted may go against lessons learned from operational experience and previous public consultation.	DCOs cannot be created without public consultation, in which case dog control services would have to continue with the current enforcement methods – this might delay enforcement, narrow the geographical areas in which it is possible, and be less cost effective than enforcement under new DCOs.
Risks	There are no risks from carrying out the consultation process. It is a necessary part of the process before finally approving DCOs.	Increasing the scope of consultation would complicate matters and might increase the cost of consultation.	Dog Control Services would not be able to enforce dog control in all areas in the district and enforcement would be less efficient or cost effective. The current enforcement system is inconsistent and confusing for the public.

5.0 Officer Preferred Option (and comments)

To commence consultation on the Dog Control Orders described in the Proposal Details.

6.0 Conclusion

It is necessary to initiate the public consultation process to enable the introduction of Dog Control Orders. At present dog control is enforced under a range of Byelaws and Acts of Parliament, which leads to inconsistency and confusion. This is difficult for both dog owners and enforcement officers to understand. The four proposed DCOs would rectify the situation.

RELATIONSHIP TO POLICY FRAMEWORK

Dog Control Orders are an important component of maintaining the statutory minimum level of dog-related enforcement in future. Implementing DCOs is a key activity in the Health & Housing Business Plan 2011-12.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None.

LEGAL IMPLICATIONS

The adoption of Dog Control Orders will allow officers to discharge offences with a Fixed Penalty Notice rather than prolonged legal proceedings. If a person fails to discharge his or her criminal liability by way of paying the fine detailed in the FPN then the Council can bring prosecution proceedings for the offence.

Legal Services will approve the final draft of the DCOs after the consultation process.

FINANCIAL IMPLICATIONS

The cost of a public consultation is expected to be in the region of £600 and these costs including officer time can be managed from within existing budgets. The introduction of the Dog Control Orders may potentially increase revenue income through issuing fixed penalty notices, but estimates for any such income will be provided in future reports once a firm decision to adopt Dog Control Orders has been taken.

OTHER RESOURCE IMPLICATIONS

Human Resources:

If FPNs issued under a DCO are executed by Enforcement Officers already engaged in such duties, the introduction of the DCOs would suggest that additional staff training on the new arrangements would ensure officers are fully aware of their revised enforcement duties. The Job Evaluation for Enforcement Officers/Dog Wardens already covers the activities described in the report. However, if officer who are not normally engaged in this type of work are required to take up new/additional duties, then appropriate consultation would be required. Jobs would be evaluated to see if any new/additional enforcement work might impact on a posts existing job evaluation outcome.

Information Services:

None

Property:

None

Open Spaces:

The implications have been included within the report.

SECTION 151 OFFICER'S COMMENTS

The S151 Officer has been consulted and her comments are reflected in the report

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments.

BACKGROUND PAPERS

Clean Neighbourhoods and Environment Act
2005

Defra Guidance on Dog Control Orders

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