



WARDS AFFECTED: ALL

Leicester  
City Council

**CABINET  
OVERVIEW & SCRUTINY MANAGEMENT BOARD**

**10 DECEMBER 2007  
11 DECEMBER 2007**

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## **DOG CONTROL ORDERS**

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### **Report of the Corporate Director of Regeneration and Culture**

#### **1 Purpose of Report**

- 1.1 To advise members on the new provisions of the Clean Neighbourhoods and Environment Act 2005 relating to dog control orders, and to seek approval from Cabinet to start the legal process to introduce them in the city.

#### **2 Summary**

- 2.1 The Clean Neighbourhoods and Environment Act 2005 introduces a wide range of new powers, which were reported to Cabinet in October last year. However, it was agreed a further report would be brought back to Cabinet on dog control orders to deal with dog related problems in the city.
- 2.2 The report explores which controls are appropriate for the city, highlights the mechanism for their introduction and seeks Cabinet approval to start the consultation process.

#### **3 Recommendations**

- 3.1 Members are recommended to:
1. Endorse the broad framework for implementation of the Act as set out in this report;
  2. Consider the controls and offences outlined in paragraph 5.7 of the report and endorse them if appropriate for the City;
  3. Request the Corporate Director of Regeneration and Culture to commence consultation as outlined in paragraph 4.9 of the report; and
  4. Request the Corporate Director of Regeneration and Culture to provide a further report for members once the consultation has been completed.

#### **4 Report**

- 4.1 The Clean Neighbourhoods and Environment Act 2005 introduced a wide range of new powers, which were reported to Cabinet in October last year. Most of the new powers provide additional enforcement options for officers investigating environmental problems. The provision of the power to create dog control orders gives the authority a range of improved options to deal with dog related problems in their area.

- 4.2 The Dog Control Orders (Prescribed Offences and Penalties, etc) Regulations 2006 provide for five offences that may be prescribed in a dog control order:
- Failing to remove dog faeces,
  - Not keeping a dog on a lead,
  - Not putting and keeping a dog on a lead when directed,
  - Permitting a dog to enter land from which dogs are excluded,
  - Taking more than a specified number of dogs onto land.
- 4.3 Each order can specify one or more of the offences to apply to specific areas of land. Failure to comply with a provision of an order is an offence with a fine of up to £1000. The Act encourages councils to make use of the fixed penalty provisions which discharges the offenders' liability for prosecution if the fixed penalty sum is paid on time. Indeed, Cabinet at it's meeting on the 30 October 2006 determined £80.00 should be the level of fixed penalty fine for such offences.
- 4.4 The land to which orders can be applied is any land that is open to the air and to which the public are entitled or permitted to have access (with or without payment). This covers a very wide range of sites such as parks, cemeteries, open spaces, highways (except for those excluding dogs), shopping precincts and woodland (except Forestry Commission land).
- 4.5 It is a legal requirement that signs must be placed summarising the order on land where practicable, for example excluding dogs from a play area, copies of the order should be placed at the entrance. Also, for fouling by dogs, a sign warning the public that it is an offence not to clear up dog faeces should be placed at regular intervals. Once a dog control order has been made, suitable signage needs to be erected in an area before the provisions can be enforced and fixed penalty notices issued against offenders. Existing signs will be used wherever possible.
- 4.6 The procedure for making a dog control order is contained within regulation 3 of the Dog Control Orders (Procedures) Regulations 2006. It is important that this procedure is adhered to, since failure to do so will invalidate the order.
- 4.7 It is also important to show in making the order it is a necessary and proportionate response to the problem caused by the activities of dogs and those in charge of them. Local authorities need to balance the interests of both groups, those affected by the activities of dogs, bearing in mind the need for people, particularly children, to have access to dog free areas and areas where dogs are kept under strict control, against those in charge of dogs to have access to areas where they can exercise there dogs with out undue restriction.
- 4.8 Local authorities also need to consider how easy a dog control order would be to enforce, since failure to enforce could undermine the effect of an order.
- 4.9 Under the Dog Control Orders (Procedures) Regulations 2006 the authority has to publish a notice describing the proposed order in a local newspaper and invite representations on the proposal. The notice must identify the land and give details where a copy of maps etc can be inspected. The consultation period must be for a period of at least 28 days.

- 4.10 At the end of the consultation period the authority must consider the representations made. If it decides to proceed with the order, it must decide when the order will come into force. This must be at least 14 days from the date on which it was made. However, if after considering representations significant alterations to the proposal are made, the authority would have to start the consultation again, publishing a new notice describing the amended proposal.
- 4.11 Once the order has been made the authority must, at least 7 days before it comes in to force, publish a notice in the local newspaper stating:
- That the order has been made and
  - Where the order may be inspected and copies obtained.
  - Where practicable, publish a copy on the Council's website.
- 4.12 Dog control orders are considered more appropriate and the penalties higher than the use of existing legislation and byelaws. Once dog control orders are made for the City, the Council's existing byelaws relating to dog activity in its parks and the Dogs (Fouling of Land) Act 1996 relating to dog fouling will both be repealed.
- 4.13 The City has one dedicated dog warden who along with Street Scene Enforcement officers, Parks Officers and others who work in neighbourhoods will be authorised to enforce this legislation as part of their normal duties.

## **5. The Key Issues for Consideration**

- 5.1 The Council has to decide what arrangements for controlling dogs and dealing with dog fouling are appropriate for Leicester. The range of controls includes:
- 5.2 Removal of dog faeces by persons in control  
In terms of the public health risk associated with dog faeces, it would be reasonable to require owners exercising dogs to remove it on occurrence from our parks; open spaces and streets etc. and to strengthen the fixed penalty process.
- 5.3 Putting and keeping a dog on a lead when directed  
This power would be useful to allow authorised officers like Dog Wardens and Parks Officers, to ensure owners control their animals in a responsible manner in our parks and open spaces. For example, directing a person exercising their dog to put it on a lead where it is running up to members of the public, particularly children or wild life and frightening them. This could help prevent incidents where dogs appear dangerous and may present a risk to the public.
- 5.4 Keeping a dog on a lead  
If an order were made as highlighted above for putting and keeping a dog on a lead when directed, it would be difficult to justify grounds at present for areas where dog walkers had to keep a dog on a lead.
- 5.5 Excluding dogs from entering specified land  
It is a requirement of European Standards EN 1176 and EN 1177 that play areas are kept dog free. It would seem appropriate to protect children in our play areas from dogs and use this legislation to formally exclude dogs from them.
- 5.6 Restricting the number of dogs allowed onto land  
Professional dog walkers or others exercising many dogs at once has not been a problem in the city to date and there are therefore no justifiable grounds for its inclusion at present.

- 5.7 It is therefore recommended that the controls detailed below are appropriate for the city:
- Removal of dog faeces by persons in control;
  - Putting and keeping a dog on a lead when directed; and
  - Excluding dogs from entering play areas across the city.

## 6. Financial & Legal Implications

### **Financial Implications**

- 6.1 The income generated through the use of fixed penalty fines would go towards administration and to cover the legal fees and costs in securing conviction of nonpayers.

*Martin Judson, Head of Finance, Regeneration & Culture (Ext. 297390)*

### 6.2 **Legal Implications**

Once an appropriate Cabinet resolution has been made, dog control orders may be drafted to prescribe the recommended types of controls. After consultation, advertisement, and signage being installed, fixed penalty notices can be served by authorised officers of the council as appropriate.

*Pamela Snowden, Solicitor, Legal Services (Ext. 296363)*

## 7. Other Implications

OTHER IMPLICATIONS	YES/NO	PARAGRAPH REFERENCES WITHIN THE REPORT
Equal Opportunities	NO	
Policy	YES	This report relates to the council's policy on dog control
Sustainable and Environmental	NO	
Crime and Disorder	NO	
Human Rights Act	NO	
Older People on Low Income	NO	

## 8. Background Papers – Local Government Act 1972

“Clean Neighbourhoods and Environment Act 2005” report to Cabinet 30/10/06  
 Clean Neighbourhoods and Environment Act 2005  
 Dog Control Orders (Procedures) Regulations 2006  
 Dog Control Orders (Prescribed Offences and Penalties, etc) Regulations 2006  
 Dog Control Orders Defra guidance 2006

## 9. Report Author

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### DECISION STATUS

<b>Key Decision</b>	No
<b>Reason</b>	N/A
<b>Appeared in Forward Plan</b>	N/A
<b>Executive or Council Decision</b>	Executive (Cabinet)

