



DOG CONTROL ORDERS

Report of the Corporate Director of Regeneration and Culture

1. Purpose of Report

- 1.1 To advise members on the representations made during public consultation on the proposed dog control orders and to seek approval from Cabinet to commence the legal process to introduce them in the city.

2. Summary

- 2.1 At a meeting of cabinet on 10 December 2007 a broad framework for the implementation of selected dog control orders was approved subject to a period of consultation as required under the Dog Control Orders (Procedures) Regulations 2006.
- 2.2 The report outlines the nature and type of representations made during consultation in order to help members decide which dog control orders are appropriate for the city.

3. Recommendation

- 3.1 Members are recommended to:
 1. Consider the representations made during consultation as outlined in paragraph 5.1 of the report.
 2. Decide on appropriate dog control orders for the city as set out in this report and summarised in paragraph 6.2 of the report.
 3. Request the Service Director - Legal Services. remove cycle tracks from the schedule to the Dog Exclusion Leicester City Council Order 2008 as outlined in paragraph 4.5 of the report.
 4. Agree to an implementation date of 1 September 2008.
 5. Request that the Corporate Director of Regeneration & Culture makes the necessary arrangements for the implementation and subsequent enforcement of these orders, including the authorisation of relevant council officers.
 6. Request that the Corporate Director of Regeneration & Culture be delegated to consider any future representations and be authorised to make amendments to the existing dog control orders as outlined in paragraph 4.12 of the report.

4. Report

- 4.1 The Clean Neighbourhoods and Environment Act 2005 gives local authorities power to establish dog control orders and replaces the previous system of bylaws for the control of dogs and also the Dog (Fouling of Land) Act 1996. At its meeting on 10 December 2007, cabinet proposed the following offences be subject to public consultation prior to making a final decision on which dog control orders are appropriate for the city:
- **Failing to remove dog faeces.** 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 and to strengthen the fixed penalty process.
 - **Not putting and keeping a dog on a lead when directed.** This power would be useful for authorised officers, in order to ensure owners control their animals in a responsible manner in our parks, open spaces and streets. For example, directing a person exercising their dog to put it on a lead if it was running up to members of the public, particularly children or wild life and frightening them. This could also help prevent incidents where dogs become dangerous and end up attacking the public.
 - **Permitting a dog to enter land from which dogs are excluded.** It is a requirement of European Standards EN 1176 and EN 1177 that play areas are kept dog free. This order would formally protect children in our play areas by excluding dogs. Similarly in cemeteries the exclusion of dogs on the grounds of safety and hygiene and for religious reasons.
- 4.2 These proposed orders are considered a proportionate response to the problems caused by the activities of dogs and those in charge of them. A genuine attempt has been made 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 their dogs with out undue restriction.
- 4.3 The consultation period lasted from the 14th April to the 12th May 2008. The representations made are shown at paragraph 5.1. If cabinet decides to proceed with the orders, an implementation date will need to be set. However, if after considering representations significant alterations to the proposal are made, the authority will have to start the consultation again, publishing a new notice describing the amended proposal.
- 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, streets and woodland (except Forestry Commission land). Failure to comply with a provision of an order is an offence with a fine of up to £1000.
- 4.5 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. To this end, cycle tracks are open areas of land with in a park and are considered impractical to fence and exclude dogs. It is therefore proposed to remove cycle tracks from the schedule to the Dog Exclusion Leicester City Council Order 2008.

- 4.6 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.
- 4.7 The proposed orders for dog exclusion and fouling do not apply to any person who is registered as a blind person under section 29 of the National Assistance Act 1948, nor to someone who has a disability which affects mobility, manual dexterity, physical co-ordination or their ability to lift, carry or otherwise move everyday objects for which they rely for assistance on a dog trained by a prescribed charity.
- 4.8 The council will have to decide which of its staff to authorise under its scheme of delegation. The enforcement of dog control orders in city parks will include staff from Parks Services and for the rest of the city, the new City Warden Service. It is proposed to later extend these fixed penalty powers to other council staff as appropriate, such as Cleansing Area Service Managers, environmental health staff, the Dog Warden in addition to Civil Enforcement Officers and Police Community Support Officers. However, the key to extending these powers to other officers is training, which can follow-on having established training protocols for the new City Wardens and Parks Officers.
- 4.9 It is a legal requirement that, where practicable, signs must be placed summarising the order on land to which a new order applies, thereby informing the public that the land is subject to an order. At entrances to our parks, it is estimated we shall need up to 800 (detailed) signs displaying the orders and another 200 at play area sites. Where the dog control order relates to a large area of land, for example in respect of fouling by dogs, it may not be feasible to post copies of the order on the land, but signs warning the public that it is an offence not to clear up dog faeces should be placed at regular intervals. In the city we have an estimated 8,000 signs fitted to street lamp posts highlighting the old dog fouling bylaw which will need to be amended to reflect the new legislation and up to a 1,000 new signs may need to be installed in areas developed since the original bylaw signage was provided. Similarly an estimated 1500 signs will be needed in our parks.
- 4.10 The orders cannot come in to force until at least 14 days from the date on which it was made. An awareness and publicity campaign is planned in the lead up to the implementation date. 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.
 - Publish a copy on the council's website.
- 4.11 Once a dog control order has been made, suitable new signage needs to be erected in areas before the provisions can be enforced and fixed penalty notices issued against offenders. The implementation date for dog control orders will need to reflect the statutory publication requirements and the likely completion of signage work; a date of 1 September is therefore proposed.
- 4.12 Once the dog control orders are made they shall need to be amended should other sites be introduced in the future like new play areas where dog control is necessary. The process would be the same as was the making of the main

order with a period of advertisement and consultation. However, it is proposed that the Corporate Director of Regeneration & Culture is delegated to consider such representations and be authorised to make amendments to the existing dog control orders as appropriate.

5. Summary of Representations

5.1 A total of 15 written representations were made during the consultation period. The majority related to proposed dog control orders at specific parks, for example Knighton Park, Western Park and Abbey Park Pets Corner. The remaining 3 representations raised general issues. Overall, there was general agreement with the council's proposals. However, some confusion arose, largely caused by unofficial posters placed on notice boards within Knighton Park, with the false impression being given that the council was introducing a dog control order to restrict dogs to leads at all times. Nevertheless, a number of constructive comments and suggestions were also made. A summary of these is shown at Appendix 1. A copy of all representations and holding responses will be made available to members prior to the cabinet meeting.

6. Response to Representations

6.1 There were no objections to the substance of the orders as proposed. Some representations were clearly made on the basis of misinformation and once these people had been informed of the true nature of the orders, these concerns were addressed. The majority of representations are in principle in favour with some or all of the councils proposed dog control orders and have generally been of a constructive raising nature. The table below provides a summary response to the collective issues raised by the representations:

Representation	Response
Limited publication of the proposals to stakeholder groups.	Legally the council has to publish its proposals in the local newspaper and ask for comments. This was done in addition to publishing on the council's website and issuing a press release.
The need for more litter and dog bins on Knighton park.	Once the dog control orders are in place the adequacy of litter/dog bin provision will be monitored in the light of usage and budget availability.
Dog exclusion areas should be securely fenced.	All ball courts and the majority of the remaining play areas are securely fenced. However, some of our smaller sites are not. They will be clearly defined by signage at the site and in the exclusion order. It is not practicable to fence cycle tracks and for this reason they have been removed from the draft dog exclusion order.
Objection to dog exclusion in Pets Corner.	The exclusion of dogs is partly because Pets Corner contains a play area (and European Standard EN1176 for play areas requires the exclusion of dogs on the grounds of safety and hygiene), but also for the protection and welfare of the small animals contained within Pets Corner and the volume of children using this relatively small enclosed space.

Excluding elderly persons if they find it difficult to pick up after their dog.	The operational procedures will ensure the orders are enforced proportionately and with common sense.
Anti- social behaviour in parks.	This does not specifically relate to the issue of Dog Control Orders.
Appropriate signage needed.	See paragraph 4.9
Dogs on a lead in all parks.	There are no restrictions preventing dog walkers in control of their dogs exercising them off the lead.
Authorised officer training.	An extensive training programme is planned for all staff to be authorised and will cover enforcement procedures and also dog behaviour advice.
Awareness and publicity campaign.	An awareness campaign promoting responsible dog ownership, how to dispose of dog faeces and the new orders will take place in our parks and streets around launch date.
More Dog Wardens (enforcement) in parks.	The approach to enforcement is highlighted at paragraph 4.8 and will involve a range of authorised officers.

6.2 It is therefore recommended that Members approve the making dog control orders in the city for each of the following:

- Removal of dog faeces by persons in control.
- Putting and keeping a dog on a lead when directed.
- Excluding dogs from entering play areas and Cemeteries.

7 Financial & Legal Implications

7.1 Financial Implications

The new legislation requires signs to be erected for information and enforcement purposes. Any costs incurred to purchase and fit new signs to street furniture in our streets and parks will be contained within existing budgets. 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 non-payers.

Martin Judson Head of Finance 29/05/08 (Ext.297390)

7.2 Legal Implications

Part 6 of the Clean Neighbourhoods and Environment Act 2005 gives the Council the power to make Dog Control Orders. The Council has followed the procedures for advertising the Dog Control Order proposals. A number of representations have been received and you are asked in this report to consider these. Having considered the representations you must then decide whether or not to proceed with the Orders and may make amendments and consider when to make and implement the Orders. The implementation must be at least 14 days from the date on which the Orders are made. Once the Orders are made we must publish a notice in the newspaper and where practicable publish on the Council website, which will be undertaken. If after considering representations on the proposals you decided to significantly amend the proposals the Council must start the procedure again publishing a new notice describing the amended proposal.

Jamie Guazzaroni, Solicitor 28/05/08 (Ext.296350)

8. Other Implications

OTHER IMPLICATIONS	YES/NO	Paragraph references within the report
Equal Opportunities	NO	
Policy	YES	Paragraph 6.2
Sustainable and Environmental	NO	
Crime and Disorder	NO	
Human Rights Act	NO	
Older People and on Low Income	NO	

9. Background Papers – Local Government Act 1972

- 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

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

General

The Kennel Club have responded to our consultation. They are the governing body for dogs in the United Kingdom. They seek to promote improvement for all dogs and responsible dog ownership. Its KC Dog group have made some constructive points highlighted below:

Fouling of Land by Dogs Order

KC Dog is of the view that dog owners should pick up after their dogs and that more often than not responsible dog owners do so. If Leicester City Council does introduce an Order to make it an offence for a person in charge of a dog to fail to remove dog faeces, KC Dog would recommend it take the following points into consideration:

- Plans to increase the number of poo bins alongside introducing dog control orders.
- Plans to produce advice for dog walkers on how to dispose of faeces in areas where there are no waste bins (and/or waste bags) present.
- Exempting elderly people from dog control orders if they find it difficult to pick up after their dog or providing long handled poop scoops to help.

Dogs on Lead by Direction Order

KC Dog favours this control order as opposed to dogs on leads in a specified area because it means that responsible dog owners should be able to exercise their dogs off lead without restriction providing their dogs are under control. They also stress that the authorised officer enforcing the order must be properly trained in dog behaviour in order to determine whether restraint is necessary.

Dog Exclusion Order

KC Dog would not have any major objections to dogs being excluded from fenced children's play areas, cemeteries and marked sports fields. However, KC Dog would ask that due to the limited open space available, that open sports fields which are not constantly in use, for example, football pitches, be omitted from this order. We would also ask that any areas that will exclude dogs have the appropriate signage to indicate this.

The other 2 general representations wanted to highlight the need for dogs to be exercised off the lead and that the presence of dog walkers in parks improves safety. Between them they also raised:

Agreement:

- In favour of dog fouling provisions

Comments

- How the orders will affect elderly or children
- Limited publication of proposals

Suggestions:

- Request for appropriate signage
- Request for adequate bins in parks
- Provision of bags for dog faeces

Knighton Park

The 10 representations materialised following an unofficial poster placed on notice boards within parks giving the false impression that the council were introducing control orders to restrict dogs to leads at all times. The summary of issues raised by the park users is as follows:-

Agreement:

- 3 in full agreement with the proposed scheme
- 6 in agreement with exclusion orders for play areas

Comments:

- 3 raised short notice period to object (on unofficial poster)
- 2 raised limited publication of proposals
- 1 raised incorrect web site address (on unofficial poster)
- 3 raised disagreement with dogs on leads at all times
- 1 raised concern that other users do not clear up after dogs
- 4 raised anti social behaviour (graffiti, drinking, vandalism, litter)

Suggestions:

- 1 raised provision of poop scoops and / or bags
- 1 requested appropriate signage
- 1 raised the need for information on disposal of dog faeces
- 1 recommended secure fencing around play areas
- 1 raised need for more dog bins on parks
- 3 raised need for more litter bins on parks
- 2 raised need for more Dog Wardens (enforcement)

Pets Corner Abbey Park

One representation was received expressing concern that if dogs on a lead are not allowed in to pet's corner it will prevent them and their daughter visiting unless the dog is left at home which would ruin a family trip to the park.

Western Park

1 representation applauding the council for taking steps to ensure people clean up behind their dogs but concerned the restriction for a dog on a lead applies to the whole of Western Park and seeking clarification.