

FOR PUBLICATION

AGENDA ITEM

Review of Dog Control Orders

MEETING:	Overview and Performance Scrutiny Forum
DATE:	19 th March 2015
REPORT BY	Environmental Health Manager
WARD	ALL
COMMUNITY ASSEMBLY:	ALL

FOR PUBLICATION

BACKGROUNDS PAPERS FOR PUBLIC REPORTS

None

1.0 Purpose of Report

1.1 To review the adoption of dog control orders across the borough.

2.0 Background

2.1 In June 2012 the Council received a petition with over 800 signatures seeking dogs on leads in the borough parks and footpaths. The petition was considered at an Overview and Performance Scrutiny meeting on 9 October, 2012.

2.2 It was recognised that restricting the ability to exercise a dog off lead, particularly at larger parks was contrary to the Animal Welfare Act and the spirit of providing public open spaces for all to enjoy. But it was also accepted that some dogs are not kept under control and cause worry to other people, including other dog walkers.

- 2.3 There is a range of civil and criminal legal remedies to control dogs in public areas. These remedies are available to the public for specific dogs that are dangerous (complaint to court for dog control order under Dogs Act 1871) as well as the Police (dangerous dogs and “banned breeds”). The Council can also enforce parts of the Dangerous Dogs Act so in practice then Police will deal with incidents where a person is harmed and in other cases they will normally be passed to Environmental Health.
- 2.4 Housing Services also control dogs within and around their properties through enforcing the tenancy agreement. As the actions of a dog can cause alarm or distress, the owner can also be dealt with under antisocial behaviour legislation. The dog-wardens, Housing Rangers and Safer Neighbourhood Teams jointly visit “nuisance” dog owners who will volunteer to enter into an antisocial behaviour agreement that requires them to stop the behaviour and/or require positive steps such as muzzle the dog in public or attend training.
- 2.4 As well as the specific powers targeted at individual dogs, under the Clean Neighbourhoods and Environment Act 2005, the Council adopted several dog control orders. These covered the following:
- Requiring the removal of faeces
 - Requiring dogs on leads (in cemeteries and part of Eastwood Park)
 - Prohibiting dogs from the play area and bowling green at Eastwood Park
 - Requiring dogs to be put on lead when directed by a Council officer
- 2.5 The Eastwood Park dog control orders came into force in August 2013 following the re-opening of the park after the heritage improvement works. It was agreed that, following the petition, this would also serve as a pilot for testing the public response and the appropriateness and the enforceability of dog control orders across the borough.

3.0 Evaluation of Eastwood Park

- 3.1 The adoption of the order was well publicised prior to adoption and for the first two months warnings were given. Thereafter, if breaches were witnessed an Enforcement Officer would issue a fixed penalty notice. Since then four people have received the £50 penalty for allowing their dog into an excluded area and two with the £80 penalty for fouling. The majority of the park continues to allow dogs off lead and no penalties relating to leads have been issued.
- 3.2 Table 1 below shows the number of complaints to Environmental Health since 1st August 2013.

Table 1 Complaints to Environmental Health since 1st August 2013

Complaint Type	Volume	Comments
Dog fouling	534	Equivalent to one per calendar day
Dogs off lead	80	Equivalent to one per week
Dangerous dogs	46	Equivalent to one per fortnight

- 3.3 Dog control enforcement is delivered in the same way that all environmental health regulation is, namely “intelligence” led. That means we will direct our limited resources to issues and areas of need. This will be based on past experience and current complaint levels. In effect, after the initial patrolling of Eastwood Park for several months, in the absence of any specific intelligence, it received the same level of monitoring as the rest of the borough. In effect, drive-by visits as the three enforcement officers would also be responding to complaints and checking the other parks throughout the borough.
- 3.4 At the start of 2015, we surveyed visitors to Eastwood Park. We only had twelve responses and the results are shown in Table 2. It should be recognised that it has a bias towards experiences in Hasland.

Table 2 Respondents views on dog-related problems

Nature of problem	Volume
Dogs running off the lead	5
Dog fouling	12
Dogs not under control	8
Dangerous dogs	2

- 3.5 There is a distinction between a dog off a lead and a dog not under control. Despite these results only three of the twelve respondents went to say that making dogs off a lead an offence was a good idea. Whilst all felt dog fouling was a problem, the comments indicated that the problem is on footpaths near schools and shops rather than the park itself. This is not surprising given the timing of the survey.
- 3.6 In February a project group presented their report on dog fouling to the Enterprise and Wellbeing Scrutiny Committee, and members are invited to refer to that report for further information about the work being done to reduce dog fouling.

4.0 Next Steps

- 4.1 In October 2012 when the petition for dogs on leads was heard, the Council had the power to adopt dog control orders. Since then, the Antisocial Behaviour, Crime and Policing Act 2014 has come into force. Dog control orders, along with similar provisions relating to litter, alcohol etc were abolished. A new provision called the Public Space Protection Order (“PSPO”) was introduced in October 2014.
- 4.2 Under the new Act, there is a three-year transitional period for existing dog control orders. That means that if we wish to retain our current controls we must implement a PSPO. Whilst this is a disadvantage, the new laws are more flexible and allow for orders to govern a range of antisocial issues rather than deal with them under separate legal regimes, such as the designated public place order we have for alcohol consumption in the town centre, Queens Park etc.
- 4.3 In light of the new legislation, officers consider it a priority to address the transitional issues first or we will lose borough-wide controls over fouling and alcohol. The PSPO is aimed to simplify the adoption process and reduce the number of orders any one area may have, to aid enforcement and public understanding, as well as reduce costs. Our parks also have byelaws for which offenders can be prosecuted e.g. a dog must be on a lead in Queens Park.
- 4.4 The Council recently adopted its Parks and Open Spaces Strategy which sets out our action plan for the next ten years to maintain and enhance our green space provision. At the time of drafting, the PSPO was still in its infancy but it was recognised in the strategy that some sort of controls at some parks would be considered.
- 4.5 There must be evidence to adopt a PSPO and the rights and freedoms of residents must be weighed against the desire to reduce antisocial behaviour. As our surveys have shown in the past, the views on dog control are mixed. Perceptions are not enough and therefore we will need to evaluate what evidence we have before consulting on any proposed orders.
- 4.6 Officers are currently implementing the other provisions within the new Act. Notably, Chesterfield has been instrumental in the drafting of guidance on the control of dogs working with Derbyshire County Council Antisocial Behaviour Forum and Chesterfield Community Safety Partnership. As such, we have adapted the process for the new Community Protection Notice to the control of dogs which will enable us to continue to take early intervention with owners

that are reported to us for causing problems through a lack of control over their dog(s).

5.0 Recommendations

- 5.1 It is recommended that members note the report.
- 5.2 It is further recommended that Scrutiny consider including Public Space Protection Orders in their future work programme.

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For further information on this report, please contact Russell Sinclair on ext 5397.