



Item No.

6

Ward/s

All

<b>Name of Group:</b>	<b>CABINET</b>
<b>Meeting Date:</b>	5 February 2007
<b>Directorate:</b>	People, Planning and Regeneration
<b>Corporate Manager:</b>	C Stevenson
<b>Cabinet Meeting Date</b>	5 February 2007
<b>Agenda Status:</b>	Public part of Agenda

<b>Report Title</b>	<b>CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005 - DOG CONTROL ORDERS</b>
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<b>Key Decision</b>	<b>YES</b>
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## 1. Recommendations

1. That Cabinet considers the report and agrees in principle to the making of the following Dog Control Orders:

- (a) A Fouling of Land by Dogs Order in respect of all land within the Borough which is open to the air and to which the public have right of access with or without payment.
- (b) A Dogs on Leads Order in respect of cemeteries, nature conservation areas, ecology areas and areas from which dogs are presently prohibited unless on a lead under the Parks byelaws.
- (c) A Dogs on Lead by Direction Order in respect of the same areas as 1 above
- (d) A Dogs Exclusion Order in respect of children's playgrounds, fenced off sporting areas, memorial sites and other areas of special sensitivity
- (e) The number of dogs that a person may take on land is limited to six.

2. That the Officers prepare draft orders in consultation with the Portfolio Holder- Local Environment prior to public consultation on the proposals, and that the matter then is formally referred to the Portfolio Holder for consideration before final orders are made.

3. That the fixed penalty notice for offences under a Dog Control Order be set at £80 reduced to £50 if paid within 10 days of issue

## 2. Summary

To advise Cabinet on the changes in legislation related to the control of dogs as a result of the Clean Neighbourhood and Environment Act 2005. The report proposes the adopting of Dog Control Orders.

## 3. Report Background

The Clean Neighbourhoods and Environment Act 2005 introduced several changes to legislation related to dog control for local authorities. These changes include:

- Repeal of the Dogs (Fouling of Land) Act 1996
  - Introduction of Dog Control Orders under Section 55 of the Clean Neighbourhood and Environment Act 2005
  - Repeal of Section 3 the Dogs Act 1906 (seizure of stray dogs by Police)
  - An amendment to section 150 of the Environmental Protection Act 1990
- Details of the changes and the effect they have on the local authority are listed below:

### **DOGS (FOULING OF LAND) ACT 1996**

The Dogs (Fouling of Land) Act 1996; which was used by local authorities to prosecute dog owners for failing to remove faeces from designated areas was repealed in April 2006 by the Clean Neighbourhoods and Environment Act 2005.

The 1996 Act was designed to allow local authorities to designate areas within their geographical boundaries as being 'no fouling areas'. Within these designated areas, it was an offence to fail to remove dog faeces

The regulation citing the details of the repeal of the 1996 act stipulate that where a local authority designated no fouling areas under the 1996 Act, they can continue to enforce these areas despite the repeal, until they choose to implement a Dog Control order made under section 55 of the Clean Neighbourhoods and Environment Act 2006.

Northampton Borough Council adopted the Act and continues to enforce the dog fouling powers until such time as the new control orders are in place. The list of land designated by the council under the Dogs (Fouling of Land) Act 1996 is attached at the end of the report.

### **DOG CONTROL ORDERS**

The Clean Neighbourhoods and Environment Act 2005 introduced Dog Control Orders (Section 55) to replace the Dogs (Fouling of Land) Act 1996. Section 55 also provides for other wider dog control issues to be prescribed as an offence in a Dog Control Order. These are:

- a) Fouling of land by dogs and the removal of dog faeces
- b) The putting and keeping of dogs on leads
- c) Putting and keeping of dogs on leads when directed to do so by an authorised officers
- d) The exclusion of dogs from land
- e) The number of dogs, which a person may take on to any land

Section 59 of the Clean Neighbourhoods and Environment Act allows for an authorised officer of the local authority to issue a penalty charge notice to any person he believes has committed an offence under a Dog Control order covering the area.

The regulations provide appropriate exemptions for guide dogs and disabled support dogs in relation to the offences of failing to remove faeces and entering on excluded land.

The procedure for making dog control orders is prescribed by regulations. Before making an order the council must consult by publishing a notice in a local newspaper identifying the land, summarising the order and stating the period within which representations and how they may be made.

The consultation period must be at least 28 days and the outcome of the consultation must be taken into consideration before an order is made.

Once an order is made various publicity requirements including further advertisement and signage must be complied with at least 7 days before the order takes effect. A dog control order may be varied after it has been made.

## **Dogs Act 1906 and Environmental Protection Act 1990**

The Clean Neighbourhoods and Environment Act 2005 repeals section 3 of the Dogs Act 1906 (seizure of stray dogs by the Police) Police are no longer responsible for the seizure of stray dogs. Equally section 150 of the Environmental Protection Act 1990 which relates to the delivery of stray dogs to the Police or Local Authority is amended to omit the Police from this responsibility, leaving the local authority solely responsible for stray dogs. This section will be enacted once funding arrangements for the local authorities has been resolved and will be the subject of a future report.

### **4. Options and Evaluation of Options**

Set out below are a range of options and recommendations for consideration.

#### Fouling of land by dogs and the removal of dog faeces

It is proposed that a dog control order be made under the new Act to apply to all land which is open to the air and to which the public have right of access, either with or without payment. This would include all areas of public highways, all public open spaces and parks; all council owned housing amenity land and all other areas to which the public have access.

#### The putting and keeping of dogs on leads

It is recommended that the following areas be listed as areas where dogs should be put and kept on a lead.

- Cemeteries
- Nature conservation areas
- Ecology Areas

Consideration could also be given to designated specific areas in (flagship) parks as areas where dogs should be kept on leads (under the present parks byelaws dogs are not allowed in ornamental gardens except on lead where signs are in place). This would mean a reduction in the number of dog exercise areas that are required as dogs would be permitted to be off lead in other areas of the park.

#### The putting and keeping of dogs on leads, when directed to do so by an authorised officer

Similarly to the fouling offence above, it is recommended that this offence be extended to cover all land which is open to the air and to which the public have right of access, either with or without payment. Authorised officers would then be able to use their judgement as to the control of the dog by the owner and where required ask that the dog be placed and kept on a lead.

Authorised officers would only be able to give this direction where it is reasonably necessary to prevent a nuisance or behaviour by the dog likely to cause annoyance or disturbance to any other person, or the worrying or disturbance of any animal or bird.

#### The exclusion of dogs from land

It is recommended that the following area be considered for listing as areas from which dogs are excluded.

- Children's playground areas
- Fenced off sporting areas such as tennis courts and Astro turf pitches
- Memorial sites

It may be that there are other especially sensitive areas that should be added to this list.

#### The number of dogs, which a person may take on to any land

Advice in the guidance provided by the Department for Environment, Food and Rural Affairs (DEFRA) is that the maximum number of dogs that can safely be controlled by any one person is six.

The Borough Council will follow DEFRA guidance and recommend that the maximum number of dogs that can safely be controlled by any one person is six.

#### Penalties for Offences under a Dog Control Order

The amount of the fine can be set by the Local Authority. The maximum level of fine for a Dog Control Order Fixed Penalty is £80.00 with a minimum level of £50.

If no amount is set by the council a default value of £75 applies.

An option is also available for council to discount the fixed penalty fine for early payment. DEFRA guidance is that early payment is within 10 days of the issue of the penalty notice.

The Environmental Offences (Fixed Penalty) (Miscellaneous Provisions) Regulations 2006 specify that the fine should not be discounted to below £50.

It is recommended that the fixed penalty notice be fixed at £80.

The maximum penalty on conviction for failure to comply with a dog control order where a fixed penalty notice is not served or complied with is £1000.

#### Continue to Rely on Previous Legislation

It would be possible for the Council not to make any orders under the new Act and to continue to rely, at least in respect of dog fouling, on the Dogs (Fouling of Land) Act 1996. However this is not recommended since it is unsatisfactory in the long term to carry on enforcing legislation kept alive only under transitional provisions.

## 5. Resource Implications (including Financial Implications)

**Staffing.** There are no implications as the council currently employs two AWOs, part of their work relates to the patrolling of areas and the issue of fixed penalty notices in appropriate cases.  
Neighbourhood Wardens are also authorised to issue fixed penalty notices.

**Training costs.** Suitable and sufficient in house training on the new dog control orders would be necessary.

**New Fixed Penalty Notices.** New notices would have to be printed to reflect changes to the legislation being enforced and the range of offences.

**Financial.** The cost of advertisement in the local newspaper, consultation and all necessary signage. A public notice advertisement in the local press would depend on size but would be in the order of £800. The cost of signage and additional publicity could be in the region of £2000.  
The current level of fine using the Dogs (Fouling of Land) Act 1996 is £50.  
Costs for implementation of this legislation can be borne within existing budgets.

## 6. Risk and Opportunity Issues

**Risks.** Introduction of a wide range of dog control orders may be perceived as being anti dog ownership.  
Poor public perception of the council invoking the use of fines for financial gain.  
Lack of clarity between the local authority and parish councils. A parish council may not make a Dog Control Order in relation to an offence on a specified area of land if the local authority has already made an order in respect of the same offence on the same land. It does not prevent a parish council from making a Dog Control Order in respect of a different offence on land that is already subject to a local authority order in relation to another offence. Difference in orders in force around the council land area needs to be easily understood by all.

**Opportunity.** Supports the cleaner, safer and greener agenda. Encourages responsible dog ownership.

## 7. Consultees (Internal and External)

Internal	<b>Street Care and Environment (Parks)</b>  <b>Consultative Group 16 Jan 2007-</b> Issues were raised concerning dogs on allotments and dogs to be kept on leads. Response - The current allotment agreement requires dogs to be kept on a lead at all times whilst on an allotment and for it to be tethered on the plot holders plot. The agreement is currently being reviewed by the Street Care and Environment manager. The proposed new agreement is seeking to prohibit
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	<p>dogs from allotments on the grounds of dog fouling and nuisance to other users. This will be subject to a separate report .</p> <p>The other comment raised at the consultative group was that all dogs shall be kept on a lead at all times when out. No response was available from the RSPCA but theirs and other websites state that all dogs require regular walks and that they should be kept on a lead near traffic and farm animals. The RSPCA site says all dogs need to have time to run around and stretch their legs. The proposal to keep them on a lead at all times would not be in the best interests for the health of dogs as it would prevent this. Therefore the recommendation remains that dogs should be kept on leads in specified areas only.</p>
<p><b>External</b></p>	<p><b>Northamptonshire County Council, Parish Councils</b></p> <p>Responses from the following parish councils received.</p> <p><u>Hardingstone PC</u>. Clarification sought on some points sought and given.</p> <p><u>Upton PC</u>. Letter received in respect of emptying of dog bins, copy of letter passed to Parks section, Westbridge. Also requested that order relating to dogs being kept on lead apply to Upton Lane and Black Walk.</p> <p><u>Wootton &amp; East Hunsbury PC</u>. Do not wish to have any of the proposed new dog control orders applied to any land within their parish. Wootton and East Hunsbury PC wish to make their own dog control orders.</p> <p>If this or any other parish council were to be excluded from these orders it would be possible that there could be a wide range of orders and level of fines across the Borough. This would be confusing to the public and make policing/ enforcement and advice and guidance very difficult. It is recommended that all parish councils be included within these orders.</p> <p><u>Collingtree PC</u>. Request the exclusion of dogs from Collingtree playing fields with £80 fine.</p>

## 8. Compliance Issues

### A: How Proposals Deliver Priority Outcomes

<b>Recovery Plan</b>
None
<b>Corporate Plan</b>
Make Northampton a cleaner, safer and greener place to live.

### B: Other Implications

<b>Other Strategies</b>

<b>Finance Comments</b>
Incorporated in report.

<b>Legal Comments</b>
Incorporated in Report

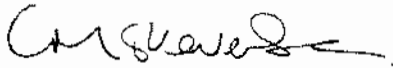
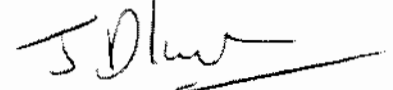
<b>Crime and Disorder Issues</b>
None

<b>Equality Impact Assessments</b>
None

## 9. Background Papers

Title	Description	Source
Clean Neighbourhoods and Environment Act 2005	Legislation	HMSO
DEFRA Guidance CNEA Implementation	Guidance	DEFRA



Name	Signature	Date	Ext.
Author	J Alfano Team Leader Environmental Protection	05/01/07	7770
Corporate Manager		25/01/07	7360
Director	C Thomas	25/01/07	7868
Monitoring Officer or Deputy (Key decision only)		29/1/07	7325
Section 151 Officer or Deputy (Key decision only)	B. Lewis	26/01/07	7167

## SCHEDULE 1

Land to be designated under Dogs (Fouling of Land) Act 1996.

- All council owned land (parks, cemeteries, open spaces)
- All carriageways with speed limits less than 40mph
- Footpaths and grass verges alongside designated roads
- Landscape areas within housing estates

### At the request of Billing Parish Council

- Old Billing Road, parallel to Manorfield Road, Little Billing
- Path through Bellinge Ponds, Parish Council Adventure Playground and continuation across Fishponds Road to A45 surrounding open space
- Bellinge open space
- The Leys open space
- Playing field and pocket park between Penfold Lane, Great Billing and Great Billing Way
- KB11 through Ecton Brook and surrounding open space
- Linear Park, Ecton Brook
- Ecton Brook playing field

### At the request of Great Houghton Parish Council

- Great Houghton playing field
- Cracknut Lane, Great Houghton
- Childrens play area, Great Houghton

### At the request of Hardingstone Parish Council

- Hardingstone playing field
- Open space surrounding Scouts and Guides Huts, Hardingstone

### At the request of Wootton Parish Council

- The Green, Wootton
- Playing Fields, Wootton
- Wootton Spinney

### At the request of Peterborough Diocesan Advisory Committee for the care of Churches,

- All Anglican Church grounds

### At the request of Northamptonshire County Council

- Barnes Meadow Local Nature Reserve and Countryside Stewardship Agreement Area
- Riverside Conservation Park – Weston Mill Lane