

<b>Subject:</b>	Dog Fouling – Rossendale Borough Council Enforcement	<b>Status:</b>	For Publication
<b>Report to:</b>	Overview & Scrutiny	<b>Date:</b>	7 September 2015
<b>Report of:</b>	Catherine Price	<b>Portfolio Holder:</b>	The Leader of the Council/Portfolio Holder for Operational Services and Development Control
<b>Key Decision:</b>	<input type="checkbox"/> Forward Plan <input checked="" type="checkbox"/>	<b>General Exception</b>	<input type="checkbox"/> <b>Special Urgency</b> <input type="checkbox"/>
<b>Equality Impact Assessment:</b>	Required:	No	Attached: No
<b>Biodiversity Impact Assessment</b>	Required:	No	Attached: No
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1.	<b>RECOMMENDATION(S)</b>
1.1	That the Overview & Scrutiny Committee consider the report and determine whether a Task & Finish Group should be established to scrutinise this service area further

## 2. PURPOSE OF REPORT

- 2.1 To inform the Overview & Scrutiny members of the Council's current level of service and enforcement activities around dog fouling in Rossendale.

## 3. CORPORATE PRIORITIES

- 3.1 The matters discussed in this report impact directly on the following corporate priorities:
- **Responsive Value for Money Services:** This priority is about the Council working collaboratively, being a provider, procurer and a commissioner of services that are efficient and that meet the needs of local people.
  - **Clean Green Rossendale:** This priority focuses on clean streets and town centres and well managed open spaces, whilst recognising that the Council has to work with communities and as a partner to deliver this ambition.

## 4. RISK ASSESSMENT IMPLICATIONS

- 4.1 There are no specific risk issues for members to consider arising from this report.

## 5. BACKGROUND AND OPTIONS

- 5.1 In 2009 Rossendale Council adopted 4 Dog Control Orders (under Clean Neighbourhoods and Environment Act 2005):-

1. Fouling of Land by Dogs Order - This Order makes it an offence for anyone in charge of a dog to fail to pick up the dog's faeces after allowing the dog to foul on any land in the open air, unless they have a reasonable excuse or the consent of the landowner.
2. Dogs on Leads Order - This Order means that a person in charge of a dog is guilty of an offence if they do not have the dog on a lead in areas specified by the Order. They include Cemeteries, Allotments, Council Car Parks, Formal Gardens.
3. Dogs on Lead by direction Order - This means that an officer of the local authority can require a person in charge of a dog to put the dog on a lead if it is thought reasonably

necessary to prevent a nuisance or behaviour by the dog which is likely to cause annoyance or disturbance to any other person or the worrying or disturbance of any animal or bird. Any person who fails to do so will be guilty of an offence.

4. Dogs Exclusion zone - A person in charge of a dog will be guilty of an offence if they take or permit a dog to go on to and remain on land to which the order applies. This includes Children's Play Areas, Sports Facilities, Sports Pitches, Multi Use Games Areas, Bowling Greens, Tennis Courts, Skate Parks, Bike Tracks

- 5.2 Breach of the Dog Control Orders is dealt with in the first instance by way of a fixed penalty notice. This gives an offender an opportunity to avoid prosecution by paying the penalty of £75 (reduced to £50 if paid within 14 days of issue). Payment of the penalty is not an admission of liability nor does it count as a conviction for a criminal offence, and the Council is required to have the same level of evidence to issue a fixed penalty notice as is required for a prosecution. Non-payment of a fixed penalty means the Council will need to prosecute an offender for the original offence (not the non-payment of the penalty) in order to take action. The Council can publicise the number of fixed penalties issued but cannot name (or shame) those to whom fixed penalties have been issued because they have not been convicted of an offence.
- 5.3 In 2010, the Council entered into a contract arrangement with Animal Wardens Ltd to deliver dog warden services. This covered the collection of stray dogs, supporting the police to deal with dangerous dogs, and Dog Control Order enforcement. The service was a responsive service delivered between 7am and 1am, 7 days a week. On receipt of a complaint regarding Dog Control Order breaches, mainly dog fouling, Animal Wardens would send out a Dog Warden to carry out a patrol of the problem area.
- 5.4 Responsive, one-off patrols on this basis meant that little intelligence was gathered regarding potential offenders and hot spot areas and there was a lack of tangible enforcement. From 2010 to 2011, ten fixed penalty notices were issued by Animal Wardens, but between 2012 and 2014 Animal Wardens issued two fixed penalty notices, meaning on average only 3 fixed penalty notices were issued per year during the life of the contractual relationship.
- 5.5 The contract with Animal Wardens Ltd was for a fixed term and there were concerns about the quality of service being provided. The service was reviewed in 2012 and put out to tender for both the collection of stray dogs and Dog Control Order enforcement, but with a focus on effective enforcement. Only one tender submission was received, from Animal Wardens Ltd, which did not meet the tender requirements.
- 5.6 Between 2012 and 2014, other options for delivery of the range of dog warden services were explored, both with partner local authorities and private companies. In 2014, a report was presented to Senior Management Team with options for delivery of the service in the future, focused around separate delivery of stray dog collection services and dog control order enforcement. Senior Management Team agreed that the Council should enter into a contract with Burnley Borough Council on a 12 month trial basis to deliver proactive Dog Control Order enforcement patrols for one full day every two weeks, at a cost of £4,875 per year.
- 5.7 The Contract with Burnley BC commenced in October 2014. Dog Control Order service requests are logged and then collated into those requiring a patrol and times of day and issued to Burnley Council. Burnley Council's enforcement officers carry out patrols on a rota basis and report back on their day's patrols and action taken, providing any intelligence gathered during the day requiring follow up work, e.g. further patrols, warning letters, signage.

- 5.8 Since starting the patrols on 16<sup>th</sup> October 2014, the following is a summary of the work carried out (at the time of writing the report):
- 20 days of patrols (148 hours)
  - 218 sites patrolled (including repeat sites)
  - Average of 10 patrols carried out per day
  - 3 fixed penalty notices issued – 2 for dogs off the lead in a cemetery and 1 for dog in an exclusion area (sports pitch).
  - All fixed penalties paid within 14 days (discounted fine), £150 received.
  - 1 caution issued for dog off lead
  - 2 warnings given for suspected dog fouling – not witnessed
- 5.9 Prior to 2011, the Council's 6 NEAT Team / Area Officers provided support to Dog Control Order enforcement with promotional campaigns such as 'Caught Doing Right' and education in schools. In 2011, the number of officers delivering environmental enforcement including support around enforcement of Dog Control Orders reduced to 3. In late 2013, that reduced to 1 officer covering the whole borough when 2 officers left and were not replaced. In order to manage the role of the remaining enforcement officer, dog control order enforcement passed to the Locality Manager, who oversees both the proactive patrols and delivers supporting education and enforcement.
- 5.10 Since then the Locality Manager has carried out the following work:
- 11 fixed penalty notices issued (with evidence from customers / council staff)
  - 4 fixed penalties paid, £250 received (remainder where more than one ticket issued in respect of one offence – one payment accepted).
  - 3 prosecution cases prepared against 5 offenders and prosecutions pending
  - 68 warning letters issued to individual suspected offenders
  - 20 streets of properties issued with warning letters
  - 25 'bag it and bin it' permanent warning signs installed in 25 hotspot areas (to add to existing installations)
  - Temporary warning signage installed in 25 hotspot areas
  - 3 Press releases issued to raise awareness of patrols, fixed penalties issued and a pilot project (below)
  - Responsible Dog Ownership education sessions delivered to primary schools as part of Rossendale Safety Town in March 2015.
- 5.11 In addition to this the Council has engaged in a pilot project with Whitworth Town Council to install 25 photo luminescent (glow in the dark) signs in hot spot locations, along with spray painted 'clean it up' stencils on the pavement.
- The project has been promoted in the Whitworth Town Council Newsletter and in local media and has received positive feedback. It has resulted in a reduction of dog control order complaints in the Whitworth area by over 80%.
- 5.12 Police Officers and PCSOs also have the power to issue fixed penalty notices and in the last 12 months 1 fixed penalty notice for dog fouling has been issued by PC Kam Nazir in the Shawforth area.
- 5.13 Over recent months issues have arisen over professional dog walking companies and their use of public open space in Rossendale.

In January 2015 a fixed penalty notice was issued to an employee of a Professional Dog Walking Company for allowing dogs in a dog exclusion area at Maden Recreation ground.

Between 11th September 2014 and 24<sup>th</sup> August 2015, the Council have been contacted by 5 complainants regarding a different Professional Dog Walking Company using Pike Law Quarry, off Hill Rise, Haslingden. The complaints have concerned:

- The number of dogs being walked together
- The number of staff having control over the dogs being walked
- Dogs being walked off the lead in large numbers
- The ability to clean up after a large number of dogs off the lead

Three of the complainants also say they find it intimidating when large number of dogs are being walked off the lead in that area and one has reported being approached both whilst out running and when walking with his young son. The same complainant has reported that when he approached the dog walker from the company on site to raise his concerns about dogs off the lead coming into contact with his son, he was met with the response “they’re not my dogs and I don’t know how they are with children”. The complainant understandably could not understand why the dogs were allowed off the lead if that is the case.

The Council has also received complaints about excessive dog fouling in the Pike Law Quarry area.

One of the main Professional Dog Walking companies which uses the Quarry has received an advisory letter about the complaints received by the Council and a formal warning that a Community Protection Notice (under Anti-Social Behaviour, Crime & Policing Act 2014) could be issued against them which would require them to take steps to prevent their activities having a detrimental effect on those living in the locality. The company has said they are taking legal advice on this.

Further options to deal with Professional Dog Walking companies include:

- Public Space Protection Orders (PSPO). A PSPO could be issued on certain public open spaces owned by the Council (not currently covered by the remit of the Dog Control Orders) limiting the number of dogs a person can be in charge of on the land and / or requiring dogs to be on a lead. This will then apply to all users of an open space.
- Issue of Community Protection Notices on offending companies requiring them to keep their dogs on leads, limit the number of dogs their staff are in control of at any one time, and always clean up after their dogs.
- Establishing a Professional Dog Walkers Code which companies have to /are encouraged to sign up to, which includes a limit on the number of dogs walked at any time and to walk dogs on leads unless with the specific written consent of the owners and in any event to be kept under control at all times.

5.14 With effect from 20th October 2014 (Anti-Social Behaviour, Crime & Policing Act 2014), Councils can no longer make new Dog Control Orders and any existing ones will only remain in force for 3 years after which they be converted to Public Spaces Protection Orders. These new powers are available for Councils if there are activities taking place in a public place which are having (or are likely to have) a detrimental effect on quality of life for those in the locality. If a PSPO is made it must be published on the Council's website and notices erected that the Council considers sufficient. If there is a breach the maximum Fixed Penalty Notice is

£100 and if prosecuted the maximum fine is £1,000.

- 5.15 Following the disestablishment of the Communities Team, two Locality Managers and a Locality Officer were moved temporarily to the Health Housing and Regeneration Team to focus on regeneration projects, alongside environmental enforcement (including dog warden services), market management, CCTV system supervision and neighbourhood forum co-ordination work. As of September 2015, environmental enforcement (including dog warden services), market management, and CCTV supervision will be moving to the Operations team. The Locality Officer will also be moving to the Operations team, supported in the delivery of the services by a team of 6 Supervisors.

## **COMMENTS FROM STATUTORY OFFICERS:**

### **6. SECTION 151 OFFICER**

- 6.1 The current annual budget to cover the collection of stray dogs, supporting the police to deal with dangerous dogs, and Dog Control Order enforcement is £24,200 whilst the total cost in 2014/15 was £16,267. Therefore, though members are respectfully reminded of the Council's medium term financial challenges, there does appear to be some room to consider changes to the way these services are provided.

### **7. MONITORING OFFICER**

- 7.1 Any legal implications are covered within the report.

### **8. POLICY IMPLICATIONS AND CONSULTATION CARRIED OUT**

- 8.1 The Councils Environmental Enforcement policy was approved in 2014 prior to the establishment of the partnership arrangement with Burnley BC and doesn't take into account of the recent changes or those due to take place in coming months.

### **9. CONCLUSION**

- 9.1 The current arrangements for Dog Control Order enforcement are changing and therefore it is important that members of Overview & Scrutiny have the opportunity to consider the service provided to date and the changes due to take place to determine whether further scrutiny and changes to service delivery are required.

Background Papers
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No background papers (*delete where applicable*)