

Report of	Meeting	Date
Director of Streetscene Neighbourhood and Environment (Introduced by the Executive Member for Streetscene Neighbourhood and Environment)	Executive Cabinet	29 March 2007

CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005 THE DOG CONTROL ORDERS (PROCEDURES) REGULATIONS 2006 THE FOULING OF LAND BY DOGS ORDER (CHORLEY COUNCIL AREA) 2007

PURPOSE OF REPORT

1. To seek Member approval for the making of a Fouling of Land By Dogs Order, to replace the current Order which was made under The Dogs (Fouling of Land) Act 1996 and to set the payment level for fixed penalty notices issued under the new Order. In addition the necessary delegations and authorisations are sought to enable enforcement of the new proposed Order.

CORPORATE PRIORITIES

2. Place – the continuation of the control of dog fouling will contribute to an improved local environment

RISK ISSUES

3. The issue raised and recommendations made in this report involve risk considerations in the following categories:

Strategy		Information	
Reputation		Regulatory/Legal	✓
Financial		Operational	✓
People		Other	

4. The risks associated with not making this Order are that the existing Dog Control Order provisions will lapse in time preventing any enforcement of dog fouling legislation. This will remove an effective operational deterrent which currently contributes to the Councils environmental aspirations and credentials.

BACKGROUND

5. Members considered a report on 24 August 2006 detailing the adoption of powers created by the Clean Neighbourhoods and Environment Act 2005 relating to environmental crime issues such as littering, graffiti, vehicle sales and repair on roads and fly posting amongst others. The Government have now prescribed regulations to deal with dog fouling in order to replace The Dogs (Fouling of Land) Act 1996 which is repealed by the introduction of the Clean Neighbourhoods and Environment Act 2005. The new Order effectively replaces the existing Borough of Chorley Dogs (Fouling of Land) Order 1998, but must be introduced in accordance with the Dog Control Orders (Procedures) Regulations 2006.

CONSULTATION

6. It is a requirement of the above mentioned procedural regulations that prior to the making of the Order, a period of consultation has to take place following the advertising of the proposed Order in a local newspaper.
7. The proposed Order was advertised in the Chorley Guardian on 1 February 2007 inviting comments to be returned to the Director of Streetscene Neighbourhood and Environment within 28 days. At the close of the consultation period a total of 20 responses had been received. These are listed as Appendix A to the report and in general, support the making of the Order.

DELEGATIONS AND AUTHORISATIONS

8. The Clean Neighbourhood and Environment Act 2005 makes provision under section 59(2) for the power to serve fixed penalty notices for Dog Control Order offences and under section 61 the power for authorised officers to require persons suspected of committing an offence under a Dog Control Order to supply their name and address.

PENALTIES

9. The effect of the new Order will be to introduce flexibility for the Council to set the level of a fixed penalty notice payment for the offence of failing to clean up after your dog. It is proposed to set the level of payment to £75.00 with a discounted level of £50.00 if paid within 10 days of issue of the fixed penalty notice. The existing provision of taking summary action through a magistrates court remains and the fine upon conviction is set at level 3 (currently £1000.00).

EXTENT OF THE ORDER

10. It is proposed that the new Order will have the same effect and extent of the existing Order insofar as the designated areas to which the Order applies. In effect the new Order specifies the same descriptions of land where it will be an offence to fail to clean up after your dog. A copy of the proposed Order is at Appendix B.

COMMENTS OF THE DIRECTOR OF HUMAN RESOURCES

11. There are no direct Human Resources implications from the report.

COMMENTS OF THE DIRECTOR OF FINANCE

12. The Council has previously agreed the scale of charges and the expected income flows are already built into the Council's budget.

RECOMMENDATIONS

13. It is recommended that approval be given to the making of an Order titled The Fouling of Land By Dogs (Chorley Council Area) Order 2007.
Subject to Council approval it is proposed that the Order comes into effect on 1 May 2007.
14. It is recommended that the necessary delegated powers and authorisations be given to the Director of Streetscene Neighbourhood and Environment to allow the proper authorisation of officers to undertake enforcement work against persons suspected of committing offences under the terms of the Order and relevant sections of the Clean Neighbourhoods and Environment Act 2005 and that the Constitution be amended accordingly.
15. It is recommended that the default fixed penalty notice charge be set at £75.00 with an early payment charge of £50.00 within 10 days of receipt of the fixed penalty notice.

REASONS FOR RECOMMENDATIONS (If the recommendations are accepted)

16. To enable the continuation of dog waste control measures and ensure that officers are appropriately authorised.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

17. No alternatives were considered as this would not meet the Councils corporate priorities.

JOHN LECHMERE
DIRECTOR OF STREETSCENE NEIGHBOURHOOD AND ENVIRONMENT

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Simon Clark	5732	12 March 2007	ADMINREP/REPORT

Appendix A – Responses to Consultation
Appendix B – Draft Order

APPENDIX A

Clean Neighbourhood and Environment Act 2005

Dog Control Order

Parish Council

1 Anderton

Response: The Parish Council support the general proposals and are interested in any joint initiatives to reduce fouling from their land. Emphasis for ample provision of bins throughout the Borough to deter “doggy bags” being left hanging in trees and hedges.

Comments of Director of SNED: Dog waste bins will be provided on Council owned Land and on land which is privately owned, subject to a 50% contribution to the emptying costs by the Land owner, and providing the area needs the facility.

2 Astley Village

The Parish Council support generally the proposals and are interested in any joint initiatives to reduce dog fouling on their land.

Comments of Director of SNED: Dog waste bins will be provided on Council owned Land and on land which is privately owned, subject to a 50% contribution to the emptying costs by the Land owner, and providing the area needs the facility.

3 Brindle

The Parish Council support generally the proposals and are interested in any joint initiatives to reduce dog fouling on their land.

Comments of Director of SNED: Dog waste bins will be provided on Council owned Land and on land which is privately owned, subject to a 50% contribution to the emptying costs by the Land owner, and providing the area needs the facility.

4 Croston Parish Council

The Parish Council support generally the proposals and are interested in any joint initiatives to reduce dog fouling on their land.

Comments of Director of SNED: Dog waste bins will be provided on Council owned Land and on land which is privately owned, subject to a 50% contribution to the emptying costs by the Land owner, and providing the area needs the facility.

5 Houghton Parish Council

The Parish Council support generally the proposals and are interested in any joint initiatives to reduce dog fouling on their land.

Comments of Director of SNED: Dog waste bins will be provided on Council owned Land and on land which is privately owned, subject to a 50% contribution to the emptying costs by the Land owner, and providing the area needs the facility.

6 Eccleston Parish Council

The Parish Council support generally the proposals and are interested in any joint initiatives to reduce dog fouling on their land.

Comments of Director of SNED: Dog waste bins will be provided on Council owned Land and on land which is privately owned, subject to a 50% contribution to the emptying costs by the Land owner, and providing the area needs the facility.

7 Eccleston Parish Councillor Rosina Monks

Cllr Monks supports the proposals generally but has identified Private land i.e front gardens, adjacent to a public pavement . Advice requested on how to dispose of mess on football fields.

Comments of the Director of SNED: contact will be made to provide the advice requested.

8 Euxton Parish Council

The Parish Council support generally the proposals and are interested in any joint initiatives to reduce dog fouling on their land.

Comments of the Director of SNED: support accepted

9 Heapey Parish Council

The Parish Council support generally the proposals and are interested in any joint initiatives to reduce dog fouling on their land.

Comments of Director of SNED: Dog waste bins will be provided on Council owned Land and on land which is privately owned, subject to a 50% contribution to the emptying costs by the Land owner, and providing the area needs the facility.

10 Houghton Parish Council

The Parish Council support generally the proposals and are interested in any joint initiatives to reduce dog fouling on their land.

Comments of Director of SNED: Dog waste bins will be provided on Council owned Land and on land which is privately owned, subject to a 50% contribution to the emptying costs by the Land owner, and providing the area needs the facility.

11 Mawdesley Parish Council

The Parish Council support generally the proposals and are interested in any joint initiatives to reduce dog fouling on their land.

They would welcome a greater number of bins to reduce dog bags being left in hedges etc.

Comments of Director of SNED: Dog waste bins will be provided on Council owned Land and on land which is privately owned, subject to a 50% contribution to the emptying costs by the Land owner, and providing the area needs the facility.

12 Ulnes Walton Parish Council

The Parish Council support generally the proposals and are interested in any joint initiatives to reduce dog fouling on their land.

Comments of Director of SNED: Dog waste bins will be provided on Council owned Land and on land which is privately owned, subject to a 50% contribution to the emptying costs by the Land owner, and providing the area needs the facility.

13 British Waterways

British Waterways support generally the proposals and are interested in any joint initiatives to reduce dog fouling on their land.

Comments of ...

14 Contour Homes – Preston

Contour Homes support generally the proposals and are interested in any joint initiatives to reduce dog fouling on their land.

Comments of Director of SNED: Dog waste bins will be provided on Council owned Land and on land which is privately owned, subject to a 50% contribution to the emptying costs by the Land owner, and providing the area needs the facility.

15 Cuerden Valley Park Trust - Bamber Bridge

Cuerden Valley Park Trust support generally the proposals and are interested in any joint initiatives to reduce dog fouling on their land. They would like the rangers to be authorised to issue Fixed Penalty Notices.

Comments of Director of SNED: Dog waste bins will be provided on Council owned Land and on land which is privately owned, subject to a 50% contribution to the emptying costs by the Land owner, and providing the area needs the facility. We will look into the legal and operational implications of authorising employed by the Trust.

16 Lancashire CC, Engineering Services, Cuerden

Lay -by not mentioned, but feels that the description are so comprehensive to cover this.

Lancashire CC support generally the proposals and are interested in any joint initiatives to reduce dog fouling on their land.

Comments of Director of SNED: Dog waste bins will be provided on Council owned Land and on land which is privately owned, subject to a 50% contribution to the emptying costs by the Land owner, and providing the area needs the facility. Noted that lay bys not specifically mention but will be included as part of highway and land referenced in the Schedule

17 Places for People Mr David Rigby

Places for people support generally the proposals and are interested in any joint initiatives to reduce dog fouling on their land. Press material requested.

Comments of Director of SNED: Dog waste bins will be provided on Council owned Land and on land which is privately owned, subject to a 50% contribution to the emptying costs by the Land owner, and providing the area needs the facility.

18 Morrisons, Brooke Street Chorley

Morrisons support generally the proposals and are interested in any joint initiatives to reduce dog fouling on their land.

Comments of Director of SNED: Dog waste bins will be provided on Council owned Land and on land which is privately owned, subject to a 50% contribution to the emptying costs by the Land owner, and providing the area needs the facility.

19 Leisure Services Manager Chorley Council

Morrisons support generally the proposals and are interested in any joint initiatives to reduce dog fouling on their land.

Comments of Director of SNED: Dog waste bins will be provided on Council owned Land and on land which is privately owned, subject to a 50% contribution to the emptying costs by the Land owner, and providing the area needs the facility.

20 Mr A Staveley – Resident

General support for principle of dog waste control but concerned that provision of dog waste bins in rural areas, particularly Rvington area maybe counter productive.

Comments of Director of SNED: Support noted and will carry out an assessment of the likely effect of dog waste bins prior to installation.

APPENDIX B

The Clean Neighbourhoods and Environment Act 2005

The Dog Control Orders (Prescribed Offences and Penalties, etc.)
Regulations 2006 (S.I.2006 No. 1059)

The Fouling of Land by Dogs (Chorley Council Area) Order 2007

The Chorley Borough Council hereby makes the following Order:

1. This Order comes into force on 1 May 2007
2. This Order applies to the land specified in the Schedule.

Offence

3. (1) If a dog defecates at any time on land to which this Order applies and a person who is in charge of the dog at that time fails to remove the faeces from the land forthwith, that person shall be guilty of an offence unless -

- (a) he has a reasonable excuse for failing to do so; or
- (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

- (2) Nothing in this article applies to a person who -

- (a) is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948; or
- (b) has a disability which affects his mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a prescribed charity and upon which he relies for assistance.

- (3) For the purposes of this article -

- (a) a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog;
- (b) placing the faeces in a receptacle on the land which is provided for the purpose, or for the disposal of waste, shall be a sufficient removal from the land;
- (c) being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having a device for or other suitable means of removing the faeces shall not be a reasonable excuse for failing to remove the faeces;
- (d) each of the following is a "prescribed charity" -
 - (i) Dogs for the Disabled (registered charity number 700454);

(ii) Support Dogs (registered charity number 1088281);

(iii) Canine Partners for Independence (registered charity number 803680).

Penalty

4. A person who is guilty of an offence under article 3 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

[Date] *to be inserted*

[Attestation clause] *to be inserted*

SCHEDULE

Description of Land affected by the Order

1. Carriageways with a speed limit of 40 mph or less and adjoining footpaths and verges.
2. Adopted, publicly maintained footways, footway links and adjoining verges.
3. Privately maintained footpaths, footways, footway links, access ways, passages, back streets, roads, or carriageways and adjoining verges.
4. Land, which is a private footpath or bridleway and adjoining verges.
5. Land which is used as a car park, parking bay, vehicle turning, waiting or stopping space, cycle or motorcycle parking space and adjoining footpaths, footways and verges.
6. Parks and open space maintained by Chorley Council
7. Land provided or used for public enjoyment, recreation and sporting or educational purposes.
8. Land, which is used as a market or fair or for the sale of goods.
9. Land which is a nature reserve, site of biological heritage or County Park.
10. Lever Park, Rivington.
11. The Cuerden Valley Park, Clayton-le-Woods.
12. Yarrow Valley Park, Coppull/Chorley.
13. Land, which is wooded public open space.
14. Land adjacent to any inland waterway or enclosed body of water, which is a footpath, footway, towpath, boat mooring or launching site or adjoining verges.
15. Land, which is a site for the deposit by the public of materials to be recycled or a household waste disposal site and its adjoining footways, access-ways and car parking/waiting area.
16. Land used for the consumption of food or drink in connection with any trade, business or undertaking supplying food or drink.

17. Land which is any forecourt, terrace, yard or walkway providing access to or adjoining any building to which the public resort or have access to.
18. Land, which is any platform, forecourt, waiting area, walkway or shelter at any bus, or rail station, hackney carriage rank or designated hackney carriage waiting place.
19. Land, which is used as memorial, burial ground, cemetery, garden or remembrance and adjoining footpaths and verges.
20. All land which is open to the air and to which the public are entitled or permitted to have access (with or without payment) within the Borough of Chorley including but not limited to parks, public open spaces and highways in the area.