

DOG CONTROL ORDERS AND NEW ASB POWERS

Members will be aware of the distressing news of a dog attack on a swan in Yarrow Valley Country Park earlier this week.

Incidents of this nature are investigated by ourselves or the police under a number of pieces of legislation (Dangerous Dogs Act 1991, Dogs Act 1971 and Animal Welfare Act 2006) and the police are currently leading on an investigation in this case.

The incident together with a number of previous incidents on our public open space has raised questions about when and where dogs should be kept on a lead.

The Councils current powers in relation to dogs on leads can be found in two Control Orders which were made by the Council in 2012:

The DOGS ON LEADS (CHORLEY COUNCIL) ORDER 2012 and the DOGS ON LEADS BY DIRECTION (CHORLEY COUNCIL) ORDER 2012.

The primary principle of dog control is clearly that dog owners are responsible for ensuring that their dogs are under control at all times, and this can be done by owners having well trained dogs that 'walk to heel' and obey command without hesitation.

If the owner (or person in control of dog at the time) is not confident that they can control the dog in this way then the default position should be that they keep the dog on a lead when in public. This is not a legal requirement but is good evidence of responsible dog ownership.

However there are places and occasions when a dog must be on a lead irrespective of its level of training and obedience, not only as an added control measure for the owner but also as reassurance to others in the area that the dog is under control – in particular this is the case on pavements, roads, around residential areas and public space where other activities may be taking place

Hence the Dogs on Leads (Chorley Council) Order 2012 has a schedule of places where it is an offence to have a dog off a lead. These places are:

1. Any road or carriageway 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. Footpaths, walkways and paths linked or associated with play areas owned by Chorley Council.
4. Land provided or used for public enjoyment, recreation and sporting or educational purposes during an organised activity on that land.

5. Land, which is used as a market or fair or for the sale of goods.
6. Land used for the consumption of food or drink in connection with any trade, business or undertaking supplying food or drink.
7. 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.
8. 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.
9. Land, which is used as memorial, burial ground, cemetery, garden or remembrance and adjoining footpaths and verges.

It should be noted that (2) relates to 'made up' (flagged, tarmac) pavements and footpaths and that unmade public footpaths are not included e.g. of the type of path in a country park or in the countryside in general.

Failure to have a dog on a lead in these places in the first instance could result in a fixed penalty notice (£75) being issued to the owner (or person in control of dog at the time)

The Dogs on Leads By Direction (Chorley Council) Order 2012 gives authorised officers (Neighbourhood Officers and PCSO's) the power to direct the dog owner (or person in control of dog at the time) to put the dog on a lead where the officer believes the dog is causing a nuisance or out of control. This Order specifies certain places where officers can use this power:

1. Open to the air (which includes land that is covered but open to the air on at least one side): and
2. to which the public are entitled or permitted to have access with or without payment.

The purpose of this power is generally for use at events on public open space such as Picnic in the Park. Failure to abide by a direction from an officer is an offence which is dealt with by fixed penalty notice (£75)

In addition the Council has a dog control Order which excludes dogs from certain places, the DOGS EXCLUSION (CHORLEY COUNCIL) ORDER 2012.

This Order prohibits dogs from certain Council owned areas as follows:

1. Play area
2. Multi use games area and ball court
3. Bowling green (except the Order shall not apply to the perimeter footpath around the said bowling green)
4. Skate park, BMX track or youth shelter

5. Sports pitch at such times as when an organised sporting activity is taking place
6. Fountain, water feature, pond or ornamental lake
7. Cemetery or crematorium grounds (except that the Order shall not apply to highways or footpaths within the said cemetery or crematorium grounds).

In terms of (6) it should be noted that the intention of the Order is not to prevent dogs accessing large bodies of water. Failure to abide by this Order is also dealt with by fixed penalty notice (£75)

Finally the recent introduction of new anti-social behaviour powers under the Anti-Social Behaviour Crime and Policing Act 2014 was reported to Executive Cabinet last year and includes a replacement power for the above Control Orders. This is the Public Space Protection Order (PSPO) and the Council will need to have PSPO's in place before the above Orders expire in mid-2017.

PSPO's are intended to restrict activities/behaviour on public land that could give rise to or are causing anti-social behaviour. For information there are a number of tests that have to be passed for a PSPO to be made:

Current Home Office guidance suggests that the activity/behaviour being restricted has to:

- be having, or be likely to have, a detrimental effect on the quality of life of those in the locality;
- be persistent or continuing nature; and
- be unreasonable.

Therefore in translating the above tests into a PSPO that restricts behaviour/activity such as having a dog off a lead in a public space will no doubt generate some interesting debate.