

 EXECUTIVE COMMITTEE 30 th July, 2014		Agenda Item No. <h1>5</h1>
Title: Response to Overview & Scrutiny Task & Finish Group's review of the Dog Control service in the district.		
For further information about this report please contact	Pete Cutts Safer Communities Manager pete.cutts@warwickdc.gov.uk 456021 Robert Hoof Head of Neighbourhood Services robert.hoof@warwickdc.gov.uk 456302 Mike Snow Head of Finance mike.snow@warwickdc.gov.uk 456800	
Wards of the District directly affected	All	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	No	
Date and meeting when issue was last considered and relevant minute number	n/a	
Background	The Impact of Dog Control Orders. A task and Finish Group Report for the Overview and Scrutiny Committee October 2013 Minutes of Executive October 2013	
Contrary to the policy framework:		No
Contrary to the budgetary framework:		No
Key Decision?		No
Included within the Forward Plan? (If yes include reference number)		No
Equality & Sustainability Impact Assessment Undertaken		No
None		
Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	30/7/14	Andrew Jones
Head of Service	2/7/14	Richard Hall/Rob Hoof/Mike Snow
CMT		
Section 151 Officer	2/7/14	Mike Snow
Monitoring Officer		
Finance	2/7/14	Mike Snow
Portfolio Holder(s)	2/7/14	Cllr Michael Coker/ Cllr David Shilton/Cllr Stephen Cross
Consultation & Community Engagement		
Final Decision?		Yes
Suggested next steps (if not final decision please set out below)		

1. SUMMARY

- 1.1 This report is produced in response to a Task and Finish Group Report for the Overview and Scrutiny Committee. The summary of their recommendations is attached at Appendix 1. Executive on 23rd October 2013 agreed recommendations 6, 7, 11, 12, 13, 14, and 18. The responses to the 20 recommendations fall into two categories and are provided in Appendices 2 and 3.

2. RECOMMENDATIONS

- 2.1 That the recommendations, as set out in Appendices 2 & 3 are approved.

3. REASONS FOR THE RECOMMENDATIONS

- 3.1 These are detailed individually in Appendix 2, 3 and 4.

4. POLICY FRAMEWORK

- 4.1 The Clean Neighbourhoods and Environment Act 2005 provides a power to local authorities to make dog control orders. These orders replace the previous system of byelaws for the control of dogs, and also the Dogs (Fouling of Land) Act 1996 which has been repealed.
- 4.2 Fit for the Future – The Council's purpose is to improve the quality of life for everyone who lives in, works in or visits Warwick District. With our partners, we aspire to build sustainable, safer, stronger and healthier communities. Ensuring that effective steps are taken to promote responsible dog ownership will contribute to these aims.

5. BUDGETARY FRAMEWORK

- 5.1 Costs, where known, are set out against individual recommendations. Where recommendations for approval are made they are covered within existing budgets.
- 5.2 The Council is still facing a substantial future financial shortfall, as discussed within the Budget Review report to this meeting of the Executive. Any proposal to increase the Council's revenue expenditure on an on-going basis will increase the level of savings to be found. If savings are not found, this could impact upon existing service provision.

6. ALTERNATIVE OPTIONS CONSIDERED

- 6.1 These are detailed individually in the Appendices.

7. BACKGROUND

- 7.1 The Dog Control Orders (Prescribed Offences and Penalties, etc) Regulations 2006 provide for five offences which may be prescribed in a dog control order:
- Failing to remove dog faeces
 - Not keeping a dog on a lead

- Not putting, and keeping, a dog on a lead when directed to do so by an authorised officer
 - Permitting a dog to enter land from which dogs are excluded
 - Taking more than a specified number of dogs onto land.
- 7.2 Orders can be made in respect of any land which is open to the air and to which the public are entitled or permitted to have access (with or without payment). The penalty for committing an offence contained in a dog control order is a maximum fine of level 3 on the standard scale (currently £1000) or the issue of a fixed penalty notice.
- 7.3 The Dog Control Orders (Procedures) Regulations 2006 prescribe the procedure which must be followed in making an order. This includes consulting with the County Council and relevant Parish Councils, and publishing a notice describing the proposed order in a local newspaper giving at least 28 days for representations. At the end of the consultation period, the Council must consider any representations received and if it decides to proceed with the order, allow a further 14 days before it comes into force. A further notice must be published in the local newspaper confirming the date on which it comes into force. There is also a legal requirement to place signs, where practicable, on land to which the order applies. This process must also be followed if any significant changes are made to the orders.
- 7.4 The Council introduced four dog control orders in November 2011, namely –
 The Fouling of Land by Dogs (Warwick District Council) Order 2011
 The Dogs on Leads (Warwick District Council) Order 2011
 The Dogs on Leads by Direction (Warwick District Council) Order 2011
 The Dogs Exclusion (Warwick District Council) Order 2011
- 7.5 Enforcement of the orders has been primarily by Council's Dog Warden but police community support officers can take evidence of an offence. The Council may also authorise other Council staff as well as officers of other local authorities (county or parish) to act on its behalf.
- 7.6 Overview and Scrutiny Committee's work programme for 2012 included establishing a task & finish group to review the impact of the four dog control orders after the first year of their implementation and make recommendations for greater effectiveness. This was partly in response to representations from Members and the general public to extend the orders, notably to
- closed churchyards
 - other church graveyards
 - all children's play areas
 - Pageant Garden, Warwick
 - green area around Buckden Close, Woodloes Park, Warwick
 - park area in the corner of Highcroft Crescent, Leamington Spa
- 7.7 The O & S final report was considered by the Executive in October 2013 together with initial comments from the Environmental Services portfolio holder who was of the opinion that it had been a very valuable piece of work. The Executive agreed to accept the proposal from the Portfolio Holder on the way forward and resolved that
- (1) recommendations 6, 7, 11, 12, 13, 14, and 18 of the O&S report be approved, and

- (2) the other recommendations (1-5, 8-10, 15-17, 19 and 20) be subject to a further report from the three relevant portfolio holders (Finance, Neighbourhood Services, and Health & Community Protection) about the practicalities and financial arrangements for them.

7.8 This report therefore addresses the second resolution above and those T&F Group recommendations which asked for more information. It should also be noted that recommendation 7 has a number of parts for consideration and further information is provided within the appendices, with varying recommendations.

Appendix 1

Task & Finish Groups Recommendations

The Group recommends that:

Recommendation 1

The existing four dog control orders implemented in November 2011 remain in force, subject to a few amendments made in the recommendations of this report.

Recommendation 2

The Council considers amending The Dogs on Leads (Warwick District Council) Order 2011 and adding enforcement of dogs on leads on highways / pavements.

Recommendation 3

The wording on the Fouling of Land by Dogs Order 2011 is reviewed as the inclusion of farmland, especially where livestock graze, and similar within this order is unreasonable and unenforceable

Recommendation 4

It is urgent that far more refuse bins should be located around the District and some of the existing ones need to be moved to a more appropriate place, subject to the bin audit. The refuse bin emptying rota should be reviewed, especially for areas of high use.

Recommendation 5

The type of “open basket bin” used at cemeteries is inappropriate for dog waste and bins that are more appropriate should be provided.

Recommendation 6

The Council should undertake on-going publicity to inform the public that refuse bins can be used for dog waste.

Recommendation 7

Warwick District Council should continue to review where dog control orders are implemented, for example, at Pageant Gardens. A Request for the Dogs On Leads order to be implemented has been made by a resident who uses Canalside at Woodloes. Requests for a Dogs Exclusion Zone Order have been made by residents who use Acre Close and Highcroft Crescent – Milverton.

Recommendation 8

Money should be set aside to provide fencing around children's play areas. The Play Working Party could undertake a review of where fencing is appropriate.

Recommendation 9

Enforcement signs should be in the form of a request, rather than an instruction.

Recommendation 10

The Dog Warden's job title should be changed to better reflect the role. For example, the job title “Dog Welfare Officer” encompasses the advisory and educational part of the role, as well as the enforcement aspect.

Recommendation 11

The Council should consider whether it wishes to introduce dog behaviour contracts in line with the “Eastleigh model”, as operated by Eastleigh Borough Council. Please see Appendix 4.

Recommendation 12

The Council should hold talks with the Golf Club management at Newbold Comyn to facilitate a better relationship between golfers and dog walkers, for example, the possibility to adopt the “Fairway Code” which has been suggested to members of the Task and Finish Group.

Recommendation 13

The Council should liaise with local Police to clarify the role of PCSOs and how they work with the Council's own dog warden as dog control forms part of their duties.

Recommendation 14

The Council should liaise with local Neighbourhood Watch groups to involve them in gathering information about persistent fouling in residential areas.

Recommendation 15

The Council should consider extending the successful Action 21 initiative, currently operating in Jephson Gardens, to the other destination parks (St Nicholas, Abbey Fields and Victoria Park).

Recommendation 16

The wording of The Dogs on Leads by Direction order should be reviewed so that it is only used when there is evidence that a dog is likely to cause a serious annoyance. In particular, the wording of paragraph 4.2 (b) is too vague.

Recommendation 17

To review the concession regarding dogs in cemeteries in light of experience and if we continue to allow dogs in cemeteries, they should be on short leads at all times in cemeteries. It is recommended that closed churchyards be added to the list of cemeteries where it applies.

Recommendation 18

The Council should review whether it is appropriate that other council officers should have a role in dog control given that special training and aptitude is undoubtedly required for this.

Recommendation 19

In respect of Warwick Racecourse and St Mary's Lands, more resources are required to tackle the specific problems there.

Recommendation 20

In order to make all these and other recommendations achievable, a new post for a second dog welfare officer should be created to the staffing complement. The District is too wide and area for one officer and the additional member of staff is required if the Council wishes to achieve the level of control it wanted when the dog control orders were introduced.

APPENDIX 2

Overview and Scrutiny Task & Finish Group's recommendations –

Recommended for Executive approval -

(NB – Numbering refers to T&F Group's recommendations. The wording of the recommendation is in italics)

- 1** *The existing four dog control orders implemented in November 2011 remain in force, subject to some amendments made in the recommendations of this report.*

Response - Agreed.

- 6** *The Council should undertake on-going publicity to inform the public that ordinary refuse bins can be used for dog waste.*

Response -

Stickers are already in place on all our waste bins. Additional publicity will be secured through key partners and will include promotion at dog-owner education events throughout the summer.

- 7** *Warwick District Council should continue to review where dog control orders are implemented, for example, at Pageant Gardens. A Request for the Dogs On Leads order to be implemented has been made by a resident who uses Canalside at Woodloes. Requests for a Dogs Exclusion Zone Order have been made by residents who use Acre Close and Highcroft Crescent – Milverton.*

Response -

Previous Executive decisions allow for the application of Dog Control Orders to play areas, without further public consultation, where they are or can be clearly demarcated.

It is therefore recommended that Acre Close, Highcroft Crescent, Abbey Fields and The Dell will be designated as Dog Exclusion zones, as requested.

(See Appendix 3 – section 7 with respect to Pageant Gardens and Canalside)

- 12** *The Council should hold talks with the Golf Club management at Newbold Comyn to facilitate a better relationship between golfers and dog walkers, for example, the possibility to adopt the "Fairway Code" which has been suggested to members of the Task and Finish Group.*

Response -

Talks are ongoing with Mac Golf re their offer to provide staff to educate dog owners re keeping dogs on leads on the footpaths. We will also consider the merits of introducing the Fairway Code. 8 posts have already been installed to enable the fixing of signs.

- 13** *The Council should liaise with local Police to clarify the role of PCSOs and how they work with the Council's own dog warden as dog control forms part of their duties.*

Response –

This has been done and a guidance note produced. See Appendix 5

- 15** *The Council should consider extending the successful Action 21 initiative, currently operating in Jephson Gardens, to the other destination parks (St Nicholas, Abbey Fields and Victoria Park).*

Response –

A Ranger Service similar to that provided in Jephson Gardens could be expanded to cover parks and open spaces across the district. Due to the Council's decision to retain its off-street parking service, there is the opportunity to create a generic Ranger role. This would enable the Council to provide a range of operational services, a sign posting and assurance role, car parking management and a broader enforcement role. This work could be tied in with the changes to anti-social behaviour legislation which comes into force in the Autumn of 2014, with the potential to remove all bye-laws and replace as conditions under the new Public Spaces Protection Orders.

It is recommended that a further report be brought back to Executive for a decision when specific proposals have been prepared, towards the end of the year before the 2014/15 Budget is considered by members.

- 18** *The Council should review whether it is appropriate that other council officers should have a role in dog control given that special training and aptitude is undoubtedly required for this.*

Response –

We support this and 10 members of staff are already delegated to enforce dog control duties. See also recommendation 15.

Task & Finish Group Recommendations –

Not recommended for approval by Executive

(NB – Numbering refers to T&F Group’s recommendations. The wording of the recommendation is in italics)

- 2** *The Council considers amending The Dogs on Leads (Warwick District Council) Order 2011 and adding enforcement of dogs on leads on highways/pavements.*

Response –

There is insufficient evidence to bring this forward at the current time and there has been no expressed demand from our residents to introduce this. However, this will be kept under review.

- 3** *The wording on the Fouling of Land by Dogs Order 2011 is reviewed as the inclusion of farmland, especially where livestock graze, and similar within this order is unreasonable and unenforceable.*

Response –

This is not supported and would go against our general ethos. Further there is the exemption should the landowner give permission. There are also concerns about dog waste being left on grazing land. This may lead to parasites which can cause diseases in livestock which can result in death of sheep, and abortion in cattle.

- 4** *It is urgent that far more refuse bins should be located around the District and some of the existing ones need to be moved to a more appropriate place, subject to the bin audit. The refuse bin emptying rota should be reviewed, especially for areas of high use.*

Response –

An audit of the frequency of emptying bins was carried out as part of the tendering process for the current contract. We believe we have the frequencies about right and there are very few complaints. We always keep the frequencies under review and are happy to continue to do so, on a case by case basis. An increase in the frequency of collection could increase our costs.

There is a limited budget of £14,000 used almost exclusively to cover the supply and installation of replacing existing litter bins with an average cost of £350. Installation of more bins would incur additional costs. Additional contract costs could be incurred if emptying several bins or where the siting of a bin requires specific operational arrangements.

It is not recommended that additional bins be provided at the current time but the positioning and frequency of emptying bins will be kept under review.

- 5** *The type of "open basket bin" used at cemeteries is inappropriate for dog waste and bins that are more appropriate should be provided.*

Response –

The wire baskets are popular as they are good for the disposal of flowers, which require a large receptacle. The proposal to put an additional bin next to the wire baskets would be excessive due to the number of wire baskets in each cemetery.

As above in 4, the siting and emptying of additional bins would incur extra cost which is not supported at the current time. The situation will be kept under review.

7 *A request for a 'Dogs on Leads' Order at Pageant Gardens and Canalside at Woodloes.*

Response –

These would require public consultation and time will be required to schedule this work into the service plan.

It is therefore recommended that the Pageant Gardens proposal is not brought forward at the current time but is planned within the next year's work programme. In the meantime officers will discuss with Warwick Town Council how dog control can be best managed at Pageant Gardens.

With regard to Canalside it would be against agreed principles, i.e. it is not a clearly demarcated play area. Therefore this area is not recommended for implementation of a Dog Control Order.

8 *Money should be set aside to provide fencing around children's play areas. The Play Working Party could undertake a review of where fencing is appropriate.*

Response –

The fencing around play areas designed for younger children is provided in certain areas for protection. Recommendations for fencing are made with respect to the Green Space Strategy and within the budget allocated for this. The cost of fencing every play area in the district has not been determined because of the resource needed to survey and assess each individual site. However, it is estimated to amount to several hundred thousand pounds.

It is therefore recommended that the Play Area Working Party remain the body which reviews the fencing on play areas, within the policy and budgetary framework of the Green Space Strategy.

9 *Enforcement signs should be in the form of a request, rather than an instruction.*

Response –

An enforcement sign is not a request and it doesn't make sense to change that, nor would it assist with enforcement, when this is required.

10 *The Dog Warden's job title should be changed to better reflect the role. For example, the job title "Dog Welfare Officer" encompasses the advisory and educational part of the role, as well as the enforcement aspect.*

Response –

Whilst the reasoning behind the name change is understood the role has an enforcement element. This is important to demonstrate that we will support responsible dog owners, through enforcement as well as the dog welfare aspect. It is therefore not considered that the name change would be appropriate.

11 *The Council should consider whether it wishes to introduce dog behaviour contracts in line with the "Eastleigh model", as operated by Eastleigh Borough Council.*

Response –

We have liaised with Eastleigh Borough Council, and based on their evidence, we see no benefit in introducing this in Warwick District. See Appendix 4

- 14** *The Council should liaise with local Neighbourhood Watch groups to involve them in gathering information about persistent fouling in residential areas.*

Response –

Whilst this is supported by officers and members, Mid Warwickshire Neighbourhood Watch have been approached but they believe there is no appetite from members in participating. There are therefore no proposals to progress this further at this time.

- 16** *The wording of The Dogs on Leads by Direction order should be reviewed so that it is only used when there is evidence that a dog is likely to cause a serious annoyance. In particular, the wording of paragraph 4.2 (b) is too vague.*

Response –

We believe the wording is in line with the purpose of the order and sufficient to secure prosecution if necessary.

- 17** *To review the concession regarding dogs in cemeteries in light of experience and if we continue to allow dogs in cemeteries, they should be on short leads at all times in cemeteries. It is recommended that closed churchyards should be added to the list of cemeteries where it applies.*

Response –

We have consulted with Legal and their advice is as follows:

The existing Dogs on Leads Control Order would need to be amended to specify short leads (no more than 2m seems to be usual) in cemeteries. To amend a dog control order you need to go through the same procedure as you do when you make one. There is a provision to make minor amendments without having to do this but I do not think adding a short lead requirement would qualify as a minor amendment.

You would therefore need to

1. Consult with any other primary or secondary authorities in the area
2. Publish a notice in the newspaper and have a period in which representations can be made
3. Consider the representations before deciding whether or not to amend the order.

As in 7 above the work to manage a public consultation on the application of new Dog Controls Orders requires scheduling into the work programme. It is not intended to bring this forward at the current time, but to plan for it within next years' service plan.

- 19** *In respect of Warwick Racecourse and St Mary's Lands, more resources are required to tackle the specific problems there.*

Response –

We have committed resources in trying to educate users of this area and we will continue to do so, but we believe that the participation of racecourse staff in educating the public is also a key factor in improving the situation. We will continue to work with Warwick Racecourse to achieve the best outcome.

- 20** *Whilst recognising the current revenue position and economic climate, in order to make all these and other recommendations achievable, a new post for a second dog welfare officer should be created to the staffing complement at an*

estimated maximum cost of £25,400 which would cover salary and running costs such as vehicle costs, clothing, equipment, and public liability insurance. The District is too wide an area for one officer and the additional member of staff is required if the Council wishes to achieve the level of control it wanted when the dog control orders were introduced

Response –

Having considered the recommendation we believe that a broader look at the service provision is needed. Officers are therefore currently reviewing the Ranger service in parks to see how changes to this can provide a comprehensive approach which could address this and other services, on a more cost effective basis. See Appendix 2 section 15.

Task & Finish Group Recommendation 11

Feedback on Eastleigh Borough Council's approach.

In addition to noise nuisance from dogs and those out of control in public places, Eastleigh use the contracts to deal with dog bite incidents – these are usually dealt with by police.

When asked how many prosecutions they had dealt with before the scheme began, their answer was "We as a local authority have not done any prosecutions for dog on dog or dog bite incidents because we use the contract instead and have not had to go any further than this"

Eastleigh don't mention that they deal with dog fouling with their contracts which is one of the main problems in this district in relation to dogs– no one would sign up to a "no fouling" contract – so they are not appropriate for this problem (Eastleigh's problem seems to be with dog behaviour, attacks, noise and out of control dogs– WDC seems to have fewer problems with these areas(in the last 12 months 173 reports of fouling were received by WDC, just over 100 for noise relating to dogs and just over 100 relating to dog behavioural issues) .

Eastleigh say that by having the contracts it saves officer time and money by not having to prosecute, but as it seems they never have prosecuted, therefore, they may be spending more officer time by administering the contracts.

Contracts are voluntary and have to be agreed to by the dog owner – they are not enforceable.

Matters dealt with by the contracts would only be necessary for repeat offenders or where the aggrieved does not want formal action to be taken – current action taken by WDC is usually effective in most cases.

The process requires input from Police and Housing – not sure if they would have the regular resources available to work with us - we have had ad-hoc support when requested from police in certain difficult cases and details are logged onto Flare.

There is law in place to deal with ID – collar & tags and micro-chipping legislation will be in place from April 2016- By pointing this out to a dog owner and charging a fee for a stray usually makes the owner ensure their dog does not stray again and obtains ID for it.

Eastleigh do not hold any formal dog training or dog events following issue of a contract – WDC will be having 3 in August to educate the public on responsible dog ownership and offer free chipping – I think time and resources are better spent in this area as it would reach to a wider audience.

PCSO role in relation to Dog Control Orders

PCSO POWERS DESIGNATION

I, ANDY PARKER, Chief Constable of Warwickshire Police hereby designate all those members of staff whose job title is that of Police Community Support Officer as community support officers, as defined in Section 38 of the Police Reform Act 2002.

All community support officers have, throughout the area of the Warwickshire Police Force the following designated powers provided for in Schedule 4 Part 1 to the Police Reform Act 2002:-

The Power to:

- Require name and address from someone the PCSO believes has committed a relevant offence. (Para 1A)
- Require name and address for persons acting or believed to be acting in an anti-social manner. (Para 3)
- Require name and address for certain road traffic offences. (Para 3A)
- Require a person to stop drinking in a designated public area and to surrender containers of intoxicating liquor. (Para 5)
- Require persons aged under 18 to surrender alcohol. (Para 6)
- Seize tobacco from a person aged under 16. (Para 7)
- Seize non-concealed drugs and require name and address for possession. (Para 7B)
- Enter property to save life or limb or prevent serious damage. (Para 8)
- Seize vehicles used to cause alarm and distress. (Para 9)
- Remove abandoned vehicles. (Para 10)
- Stop Pedal Cycles. (Para 11A)
- Control traffic for the purposes other than escorting loads of exceptional dimensions. (Para 11B)
- Carry out Road Checks. (Para 13)
- Place Traffic signs. (Para 13A)
- Enforce cordoned areas Under Sec. 36 of the Terrorism Act 2000. (Para 14)
- Stop and search vehicles & items carried by persons in authorised areas in the company of a constable. (Para 15)
- Photograph persons away from a police station. (Para 15ZA)
- Power to detain (verbal only). (Para 2(3))
- Deal with begging. (Para 2(6))
- Enforce certain licensing offences. (Para 2(6A))
- Disperse groups and remove children (under 16) to their place of residence. (Para 4A)
- Remove truants to designated premises. (Para 4C)
- Search for alcohol and tobacco. (Para 7A)
- Seize drugs and require name and address for possession of drugs and to detain a person on failure to comply. (Para 7C)
- Limited power to enter licensed premises to investigate relevant offences. (Para 8A)
- Deal with Unnecessary Obstruction. (The Functions of Traffic Wardens Order 1970)

Power to issue Fixed Penalty Notices for:

- Cycling on a footpath
- Littering
- Dog control orders
- Sale of alcohol to a person under 18
- Purchase of alcohol for a person under 18
- Delivery of alcohol to a person under 18 or allowing such delivery
- Allowing consumption of alcohol by a person under 18
- Sells or attempts to sell alcohol to a person who is drunk
- Drunk in the highway
- Drinking in a designated public area