

CABINET

6 NOVEMBER 2013

**PROPOSED AMENDMENTS TO THE COUNCIL'S DELEGATION SCHEME –
DOG CONTROL ORDERS**

Report of Deputy Chief Executive and the Head of Law and Governance

1. Purpose of the Report

- 1.1 To seek approval to amend the Council's Delegation Scheme to provide for the following:

To authorise the Deputy Chief Executive to exercise all necessary operational enforcement powers expeditiously under the Clean Neighbourhoods and Environment Act 2005 in respect of Dog Control Areas.

And to set the amount of the fixed penalty for breach of a Dog Control Order.

2. Description of Decision

- 2.1 That Cabinet approve the course of action set out in this report and recommend to Council:-

(1) that the Council's Delegation Scheme in Part 3 of the Constitution be amended as follows:-

Paragraph 2.96(i) (Deputy Chief Executive) be deleted and substituted as follows:-

"2.96(i) Clean Neighbourhoods and Environment Act 2005 (Sections 3-9 Vehicles, sections 18 – 19 Litter, sections 55-68 Controls on Dogs (including, for the avoidance of doubt, the power to make dog control orders under section 55, subject to taking into account the views of the relevant Area Committee in cases where representations are received in response to consultation) and sections 69 -81 and 82 -86 Noise)."

and

(2) that the amount of a fixed penalty payable in respect of an offence under a dog control order be set at £75 (discounted to £50 if paid within 10 days).

3. Introduction and Current Position

- 3.1 Dog fouling is a consistent issue raised both by residents during consultation and elected members through Place Boards. At present powers are limited to officers issuing fixed penalty notices under The Dogs (Fouling of Land) Act

1996. Officers have been working with all Place Boards to develop a more effective approach to tackling dog fouling by examining the powers available to the Council under the Clean Neighbourhoods and Environment Act 2005 ("the Act").

- 3.2 This Act gives broader powers to Local Authorities to deal with dog control through what are termed Dog Control Orders. It includes 5 offences where measures could be implemented in defined areas as deemed appropriate by Council.

The offences are:-

- 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 the specified number of dogs onto land.

- 3.3 These powers enable greater control to be placed on dog handlers where required and where a Dog Control Order is made in respect of any land that was previously designated land for the purposes of the Dogs (Fouling of Land) Act 1996, the provisions of the 1996 Act will cease to apply in respect of the area that is subject to the Dog Control Order.

- 3.4 DEFRA guidance advises local authorities that the making of a Dog Control Order should be "a necessary and proportionate response to problems caused by the activities of dogs and those in charge of them." Authorities need to balance the interests of those in charge of dogs against the interests of those affected by the activities of dogs and due consideration must be given to those factors. The procedure for making a Dog Control Order is set out in The Dog Control Orders (Procedures) Regulations 2006. Before making an order, an Authority must consult and publish notice of its proposal in the local press. Any representations received as a result of the consultation must be considered and if an Order is subsequently made, it must be publicised by signs on the land to which it relates (where practicable) and by notice in the local press and on the Authority's website. Breach of the provisions of a Dog Control Order is a summary offence that carries a maximum penalty of a fine of up to £1,000. Under section 60 of the Act, the fixed penalty payable in respect of an offence under a Dog Control Order may be specified by the Authority, at a value between £50 and £80 (with a default level of £75 being applied if the Authority does not specify a sum). Following the initial implementation of the Act in 2007, the Council resolved that the level of fixed penalty for an offence under any Dog Control Order that may be made should be £75, discounted to £50 if paid within 10 days, in order to bring the matter in line with penalties for littering offences.

- 3.5 All Place Boards support the introduction of Dog Control Orders and have identified locations where their implementation would improve the environmental quality of their areas. Recommendations identified by Place Boards will be referred to Area Committees for consideration. The existing Delegation Scheme requires updating so that the Deputy Chief Executive has the required powers to subsequently approve the orders. It is proposed that the Deputy Chief Executive will undertake the necessary consultation process in respect of any Dog Control Order proposed by an Area Committee. In cases where no representations were received in response to consultation, the Deputy Chief Executive would be authorised to approve the making of the Order without further report to the Area Committee. In cases where representations were received, these would be reported back to the relevant Area Committee for further consideration. The Deputy Chief Executive would then be authorised to approve the making of the Order in appropriate cases after taking into account the recommendations/views of the Area Committee and to take all necessary action to publicise the making of the Order, in line with the requirements of the Procedures Regulations.

4. Reasons for Decision

- 4.1 To ensure that the Deputy Chief Executive is authorised to exercise all necessary operational enforcement powers expeditiously under the Clean Neighbourhoods and Environment Act 2005 in respect of Dog Control Areas. The development and implementation of Dog Control Orders will be coordinated through Place Boards and Area Committees.

5. Alternative Options

- 5.1 The only alternative option is to require the making of Dog Control Orders to remain a Cabinet decision. This would prolong the process for introducing Dog Control Orders and make the process less responsive to local Area needs.

6. Impact Assessment

- 6.1 Any proposal to implement a Dog Control Order would be developed by Place Boards and Area Committees and be subject to formal public consultation. The formal making of a Dog Control Order would be subject to an individual decision by the Deputy Chief Executive after taking into account the recommendations of the relevant Area Committee.

7. Background Papers

- 7.1 There are no background papers associated with this report.

