

Dogs on Open Spaces

To discuss ways of taking a Dog Policy forward and make recommendation to Council.

Background

At a meeting of the Town Council held on 22 March 2016 it was resolved (Minute TC224) that the Open Spaces Committee discuss ways of taking a Dog Policy forward and make recommendation to Council.

The Problem

Dogs on children's playgrounds represent a major health and injury hazard from faeces and bites.

Removing dog faeces is an unpleasant task for Open Spaces Wardens and Sports' teams.

Fox and other animals' faeces may also contribute to the problem.

Overview

Parish councils have powers to make dog control orders as defined in the Clean Neighbourhoods and Environment Act 2005 as a secondary authority.

Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations 2006 and the Dog Control Orders (Procedures) Regulations 2006, which implement sections 55 and 56 of the Clean Neighbourhoods and Environment Act 2005 replace the previous system of byelaws for the control of dogs, and also the Dogs (Fouling of Land) Act 1996, which has been repealed.

General Principles

The Dog Control Orders Regulations provide for five offences which may be prescribed in a dog control order:

1. failing to remove dog faeces;
2. not keeping a dog on a lead;
3. not putting, and keeping, a dog on a lead when directed to do so by an authorised officer;
4. permitting a dog to enter land from which dogs are excluded;
5. taking more than a specified number of numbers of dogs onto land.

The penalty for committing an offence contained in a Dog Control Order is a maximum fine of level 3 on the standard scale (currently £1,000). Alternatively, the opportunity to pay a fixed penalty may be offered in place of prosecution.

Secondary authorities may make Dog Control Orders, provided that they are satisfied that an order is justified, and have followed the necessary procedures; there is no requirement for an order to be confirmed by the Secretary of State.

Land subject to dog control orders

Under section 57 of the Clean Neighbourhoods and Environment 2005 a Dog Control Order can be made in respect of any land which is open to the air and to

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which the public are entitled or permitted to have access. The Secretary of State has power to designate types of land which, although they fall within the definition above, are not to be subject to all or some Dog Control Orders, e.g. roads.

Defences/Exemptions

There are defences in all Dog Control Orders of:

- a) having a reasonable excuse for failing to comply with an order; or
- b) acting with the consent of the owner or occupier of the land.

Under a), a reasonable excuse would include those responsible for dogs such as police dogs which are on land to investigate crime.

Dog Control Orders provide exemptions in particular cases e.g. for registered blind people, and for deaf people and for other people with disabilities who make use of trained assistance dogs.

Primary and Secondary Authorities

Primary authorities in England are:

- a) a district council
- b) a county council for an area where there is no district council;
- c) a London borough council

In England parish councils constitute secondary authorities.

A secondary authority may not make a Dog Control Order in relation to an offence on a specified area of land if a primary authority has already made an order in respect of the same offence on the same land.

SSDC have made an Order under the Act (Appendix 1) effective from 1 July 2011, whereby a dog must be put and kept on a lead when an authorised officer of the council has directed and includes land owned by or controlled by any Town or Parish Councils within the administrative area of South Somerset District council.

In order to avoid potential conflicts, the Dog Control Orders (Procedures) Regulations 2006 require primary and secondary authorities to consult each other before coming forward with proposals for Dog Control Orders.

Powers to make byelaws affecting dogs can continue to be used but only in relation to offences that cannot be prescribed in a Dog Control Order.

Making a Dog Control Order

The procedure for making a Dog Control Order is set out in the Regulations and it is important that this procedure is adhered to, since a failure to do so will invalidate the order.

It is also important for any authority considering a Dog Control Order to be able to demonstrate that this is a necessary and proportionate response to problems caused by the activities of dogs and those in charge of them.

The authority needs to balance the interests of those in charge of dogs against the interests of those affected by the activities of dogs, bearing in mind the need for

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people, in particular children, to have access to dog-free area and area where dogs are kept under strict control, and the need for those in charge of dogs to have access to areas where they can exercise their dogs without undue restrictions. Failure to give consideration could make any dog Control Order vulnerable to challenge.

Authorities should also consider how easy a Dog Control Order would be to enforce. This is particularly the case for orders that exclude dogs completely from areas of land. These will be easier to enforce if the land is enclosed.

Is a Dog Control Order necessary?

There are a number of measures which can be taken to reduce the problems of dogs on playgrounds:

- fence children's play areas and install self-closing gates or dog-grids;
- provide a catch for leads on the outside of the fence;
- provide a fenced exercise area for dogs;
- provide poop-scoops and containers;
- empty them regularly;
- request owners to remove faeces;
- provide clear signs;
- develop publicity and education programmes.

Other Information

Crewkerne Town Council – "Barn Street is special as it has a covenant on it, specifying no dogs and we do not allow dogs in the cemetery or in the fenced off children's play areas. Dogs are allowed on Henhayes recreation ground, Happy Valley and encouraged over at the Bincombe Nature Reserve. Naturally there are a vast number of dog bins! We do suffer with a problem with dog fouling in certain areas, but these aren't necessarily related to any of the open spaces."

Chard Town Council do not permit dogs in children's play areas but all are fenced.

References

defra Dog Control Orders

Dog Control Order Regulations www.ospi.gov.uk

RoSPA Information Sheet Number 9

South Somerset District Council - The Dogs on Leads by Direction (Specified land within the administrative area of South Somerset) Order (2011)

Dogs on leads information

A new Order will come into place on 1 July relating to dogs on leads.

Please read the below, which gives you notice that:

If an authorised council officer in a specified area within the district tells you to put your dog a lead, then you must do so.

- This doesn't mean all dogs have to be on leads all the time. It means if you are directed by a council officer to put a dog on a lead, you must.
- The order is being introduced simply to formalise the process if a dog is causing concern. It does not mean dog owners will be asked to put their dogs on leads any more frequently than before, or for any new reasons. Before, there simply was no formal process in place.
- As before, officers will only ask for a dog to be put on a lead when deemed absolutely necessary. The formal order is set out below.

The Clean Neighbourhoods and Environment Act 2005

The Dogs on Leads by Direction (Specified land within the administrative area of South Somerset) Order [2011]

South Somerset District Council has made an Order under the above Act, whereby a dog must be put and kept on a lead when an authorised officer of this council has directed. The Order applies to land (as specified below) throughout the administrative area of South Somerset District Council, subject to the statutory applications and exemptions.

From the 01 July 2011 a person in charge of a dog, who without reasonable excuse, fails to comply with this Order, commits an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

This Order will apply to the following land:

1. Land owned by or controlled by South Somerset District Council.
2. Land owned by or controlled by any Town or Parish Councils within the administrative area of South Somerset District Council.
3. Highway Land (as defined in the Highways Act 1980) in Somerset County Council's ownership, to include any road carriageway, footpath, bridleway, cycle track, footbridge, pedestrian subway or underpass and any adjoining verges.
4. Land owned or controlled by Recreational Ground Charities within the South Somerset District Council administrative area.

This Order will not apply to:

5. Land in private ownership.
6. Land held by a Charitable Trust but not falling within paragraph 4 above, (that owned or controlled by Recreational Ground Charities) within the South Somerset District Council administrative area.
7. Access Land (as defined in the Countryside and Rights of Way Act 2000) within the South Somerset District Council administrative area.
8. Land that is placed at the disposal of the Forestry Commissioners under section 39(1) of the Forestry Act 1967.

The Order may be inspected at and copies obtained from: The Council Offices,
Brympton Way, Yeovil, Somerset BA20 2HT

Phil Jones, Environmental Enforcement Supervisor, 01935 462462

