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| NAME OF COMMITTEE | Community Services |
| DATE | 25th June 2013 |
| REPORT TITLE | Proposal to implement Dog Control Orders in West Devon |
| Report of | Street Scene Manager |
| WARDS AFFECTED | All |

Summary of report:

This report looks to explore the potential implementation a small number of appropriate Dog Control Orders to cover enforcement throughout West Devon, under the Clean Neighbourhood and Environment Act 2005. This is an exploratory exercise at this stage and does not seek formal endorsement to adopt the new processes. A further report will be brought back to the committee once this initial work has been done.

Financial implications:

There would be a cost of approximately £1,500 in order to place legal notices in the local press at the appropriate times during the process. Staff time would be an additional cost mainly relating to time taken to undertake consultation and legal work.

RECOMMENDATIONS:

It is recommended that the necessary preliminary work is progressed in order to explore the introduction of appropriate Dog Control Orders across the Borough.

The Council will need to specifically agree to change from using the Dog Fouling of Land Act to the processes set out in the Clean Neighbourhoods & Environment Act 2005.

Officer contact:

Cathy Aubertin

Cathy.Aubertin@swdevon.gov.uk

1. BACKGROUND

- 1.1 West Devon Borough Council employs one part-time Dog Warden who undertakes enforcement under the Dog Fouling of Land Act 1996. His efforts are concentrated entirely in the areas where Town/ Parish Councils make a financial contribution towards his time, and these are:

Bere Ferrers; Chagford; Lifton; Mary Tavy; North Tawton;
Northlew; South Tawton; Tavistock

2. THE CLEAN NEIGHBOURHOOD AND ENVIRONMENT ACT 2005, DOG CONTROL ORDERS

- 2.1 The Clean Neighbourhood and Environment Act 2005 includes five dog control offences that it is possible to control by Dog Control Orders, and they are:
- Fouling of land by dogs and removal of dog faeces
 - The keeping of dogs on leads
 - Not putting a dog on a lead when directed by an authorised officer
 - The exclusion of dogs from land
 - The number of dogs which a person may take onto any land.
- 2.2 Section 55 of the Act enables Local Authorities or Town and Parish Councils to make orders that apply to offences aimed at the control of dogs to specified land in their area.
- 2.3 Section 57 of the Act provides that Orders may apply to all public land which is open to the air and to which the public are permitted or entitled to have access. There are exemptions to this definition which have been made by the Secretary of State.
- 2.4 Section 59 of the Act allows authorised officers of Local Authority, Town and Parish Councils, and any other authorised person, the right to issue a Fixed Penalty Notice (FPN). In effect, this would allow Town and Parish Councils to authorise their own officers to issue FPNs and, in addition, the Borough Council would be able to authorise officers other than the Dog Warden to issue notices, such as Monitoring Officers and Civil Enforcement Officers.
- 2.5 Section 60 of the Act enables a Local Authority, Town and Parish Councils to specify the amount of fixed penalty in relation to their own Dog Control Orders.
- 2.6 Chagford made early use of the change in legislation and have had a Dog Control Order in place for some time with success.

3. THE WAY FORWARD

- 3.1 It is suggested that officers should report back to Committee with recommendations on the detail of how and where the new Dog Control Orders would be implemented. The basic criteria would start with:
- The offence of failing to remove dog faeces to apply to all public land which is open to the air and to which the public are permitted or entitled to have access.
 - The offence of not keeping a dog on a lead should apply to the main towns, eg Tavistock, Okehampton, North Tawton, Chagford.
 - The offence of permitting a dog to enter land from which dogs are excluded should apply to fenced play parks/ areas and any other land where it could be demonstrated that allowing dogs onto the land would be detrimental to the health and welfare of users.

3.2 In order to formulate the Dog Control Orders it is recommended that an informal public consultation event is held, in order to gauge the views of Town and Parishes, before draft Orders are produced.

3.3 Once draft Orders are produced, a formal consultation process will follow.

3.4 Members may be interested to learn that, during the formal consultation process in respect of Dog Control Orders in South Hams, Dartmoor Commoners and Dartmoor National Park noted that the implementation of the Orders would be more effective if both South Hams and West Devon had Dog Control Orders in place, as moorland is a substantial part of both areas.

4. LEGAL IMPLICATIONS

4.1 The introduction of dog control orders would allow for a consistent approach to dog control throughout the Borough and would replace existing byelaws.

5. FINANCIAL IMPLICATIONS

5.1 A cost of approximately £1,500 is required to place legal notices in the local press at the appropriate times during the process. It is intended to fund this from within the Dog Fouling Budget. This year the budget has been established separately so costs can be better monitored, with any variances reported to the Resources Committee quarterly. Staff time would be an additional cost mainly relating to time taken to undertake consultation and legal work.

6. RISK MANAGEMENT

6.1 The Risk Management implications are shown at the end of this report in the Strategic Risks Template.

7. OTHER CONSIDERATIONS

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| Corporate priorities engaged: | Community well being; access to services; towards excellence; customer first |
| Statutory powers: | Clean Neighbourhood and Environment Act 2005 |
| Considerations of equality and human rights: | Not applicable |
| Biodiversity considerations: | Not applicable |
| Sustainability considerations: | Not applicable |
| Crime and disorder implications: | Not applicable |
| Background papers: | None |
| Appendices attached: | None |

STRATEGIC RISKS TEMPLATE

| No | Risk Title | Risk/Opportunity Description | Inherent risk status | | | | Mitigating & Management actions | Ownership |
|----|---------------------|---|----------------------------|----------------------------|------------------------------------|---|---|-------------|
| | | | Impact of negative outcome | Chance of negative outcome | Risk score and direction of travel | | | |
| 1. | Residents' reaction | Possible negative reaction to the proposal from residents | 3 | 2 | 6 | ↓ | Full informal and formal public consultation to be undertaken to allay concerns | C. Aubertin |

Direction of travel symbols ↓ ↑ ⇄