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## **NEW MEASURES TO CONTROL DOG FOULING**

**Report by Service Director Neighbourhood Services**

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### **SCOTTISH BORDERS COUNCIL**

**25 February 2016**

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#### **1 PURPOSE AND SUMMARY**

- 1.1 This report outlines a new, refreshed approach to tackling dog-fouling and sets it in the context of a wider strategic approach to responsible dog ownership.**
- 1.2 In 2014 the Scottish Household Survey people rated animal nuisance, such as noise and dog fouling, as the most common problem in their neighbourhood and this is an increasing trend. Within the Scottish Borders there has also been an increase in the number of reports of dog fouling.
- 1.3 The Council has a number of statutory duties relating to dogs, and in looking at the problem of dog fouling, it is essential that this is considered in the wider context of responsible dog ownership. A strategy and action plan have been developed taking this into account.
- 1.4 Due to ongoing concerns expressed to the Council, Officers have been investigating options to enhance its environmental enforcement activities. This report outlines a proposal to appoint a private company to carry out focused enforcement activity for a pilot period of twelve months.

#### **2 RECOMMENDATIONS**

- 2.1 I recommend that the Council approves:-**
  - (a) the Responsible Dog Ownership Strategy & Action Plan.**
  - (b) trialling a new approach to enforcement through the rollout of a twelve month pilot scheme.**
  - (c) the appointment of an external contractor for the duration of the pilot.**

### 3 BACKGROUND

- 3.1 Scottish Borders Council is committed to maintaining and improving a high quality environment which is recognised as one of the key priorities in the Council's Corporate Plan.
- 3.2 Dog fouling is unpleasant, unpopular and a health hazard. It is an issue which can cause significant health and social impacts.
- 3.3 Failing to clean up after a dog has fouled, in a public place, is an offence under The Dog Fouling (Scotland) Act 2003.
- 3.4 Police and designated Council Officers can issue Fixed Penalty Notices where an offence has occurred. The charge is currently £40, which can increase to £60 if not paid within 28 days. Offenders can be reported to the Procurator Fiscal and may be fined up to £500 if convicted.
- 3.5 Due to continued budgetary challenges the Warden Service, which focussed on the enforcement of the Act, was withdrawn in March 2013.
- 3.6 The Council also has a duty in terms of the Control of Dogs (Scotland) Act 2010 and the Dangerous Dogs Act 1991 which is done by the Dog Control Officer.
- 3.7 The core duties sit within the broader role of improving responsible dog ownership; coordinating stray dog's regulation, partnership working on education and advice, and contributing to the national framework and consultations.

### 4 CURRENT POSITION

- 4.1 In the 2014 Scottish Household Survey people rated animal nuisance, such as noise and dog fouling, as the most common problem in their neighbourhood and this is an increasing trend.
- 4.2 The public can report dog fouling to the Council and from this information; it demonstrates that the problem is increasing. As shown below at Table 1, there has been an increase in reports of 16% from 2013/14 to 2014/15.

Year	No. of Incidents Reported	Berwickshire	Cheviot	Eildon	Teviot & Liddesdale	Tweeddale
2013/14	385	43	56	104	131	39
2014/15	446	69	38	170	106	63

**Table 1**

- 4.3 Neighbourhood Operations teams have the responsibility for dealing with dog fouling. Since the removal of the Warden Service, resources have very much focussed on the cleaning up of dog fouling and to a certain degree education and prevention.
- 4.4 It is recognised through the increase in reported instances as well as feedback from the public, communities and Elected Members, that a more effective approach is required.

## **5 RESEARCH**

- 5.1 In developing the new proposed approach, Officers have investigated and considered best practice from other Local Authorities not just in Scotland but across the UK. Discussions have centred on what strategies are effective in reducing dog fouling and some key themes came from this.
- A focus on prevention and changing behaviour is key.
  - Introduction of Enforcement Officers targeting known trouble spots
  - Targeted, community focussed campaigns have delivered good results.
  - Engaging the community and encouraging volunteers to get involved.
  - Developing strong partnerships with key interest organisations.
  - Involving local businesses in campaigns.
  - Working with schools.

## **6 PROPOSED STRATEGIC APPROACH**

- 6.1 In investigating effective approaches to tackling dog-fouling, it is clear that addressing dog ownership, and particularly irresponsible dog ownership, is key to success. In light of this, and taking the Council's overall duties relating to dogs into account, a Responsible Dog Ownership Strategy & Action Plan has been developed and is outlined at Appendix 1. It has the following key aims and objectives:
1. To educate dog owners in the principles of responsible dog ownership.
  2. To raise awareness of the legal responsibilities associated with dog ownership.
  3. To reduce the number of dog fouling instances through education, partnership working and enforcement.
  4. To improve the use of information and intelligence and share this with key partners.
  5. To clarify and raise awareness of the roles and responsibilities of Scottish Borders Council and those of key partners including Police Scotland.
  6. To improve and simplify the way in which members of the public can report instances of dog fouling.
  7. To work more closely with communities on developing local solutions.
  8. To ensure that robust enforcement action is taken, where appropriate.

- 6.2 In order to meet the objectives, high level actions has been developed which sit alongside each of the six delivery objectives. The actions draw upon a number of resources available to the Council as a whole, as well as those of key partners and other appropriate organisations and groups. These will be reviewed on an annual basis.

## **7 ENFORCEMENT POWERS**

- 7.1 The Dog Fouling (Scotland) Act 2003 provides local authorities with enforcement powers to tackle dog-fouling. These powers allow two quite separate routes for the penalising of such offences. Those routes are in fact entirely separate with only very limited opportunities for cross-over.
- 7.2 Section 5 of the Act provides that an authorised officer of the local authority, or a police constable may issue a Fixed Penalty Notice, this is payable to the local authority and is intended as an alternative to prosecution.
- 7.3 As from 1 April 2016, the fixed penalty for dog fouling will rise to £80 bringing it in line with the penalty for littering offences. If unpaid within 28 days the penalty will increase to £100.
- 7.4 Instead of a fixed penalty notice, the Local Authority can choose to notify the matter to the Procurator Fiscal for prosecution through the criminal courts. It is then a matter for the discretion of the Procurator Fiscal as to whether criminal proceedings should be raised. Prosecution can only be brought within six months of the offence having been committed.
- 7.5 The Scottish Government is also considering how to make further improvements to the enforcement arrangements including a more robust system to tackle the issue of collecting unpaid penalties. Officers and the Executive Member for Environmental Services have already met with the Minister of Safer Communities & Legal Affairs and will continue to be involved in the Stakeholder Forum focussed on improvements.

## **8 PROPOSAL FOR NEW ENFORCEMENT ARRANGEMENTS**

- 8.1 Due to ongoing concerns expressed to the Council, and the planned increase in the amount of the fixed penalty, Officers have been investigating options to enhance its environmental enforcement activities. In doing so a key consideration has been the financial climate and the need to reduce revenue budgets.
- 8.2 From the research carried out it is clear that there is an emerging private sector that can provide enforcement services to local authorities based on the income generated from fixed penalties covering the costs involved. As well as considering a more robust internal approach to enforcement extensive discussions have taken place with two private contractors. Based on the experience and feedback from other local authorities there are clearly benefits in considering the approach developed by the private

contractors.

- 8.3 Officers are therefore recommending that a private contractor is appointed for a twelve month pilot as outlined in table 2 below. From signing a contract they estimate a 6-8 week period lead in time to full deployment. This is to allow recruitment and training.

**Proposed service**

Service provided by a nationally established company with the deployment of 2 FTE Enforcement Officers reporting to an established management resource. Staff will be recruited locally and will be identified as Council staff. They will work on a day to day basis from Council offices and closely with Neighbourhood Operations and Safer Communities staff. They will target main problem areas for dog fouling and littering. Fixed penalties will be issued and collected using their existing technology solution. They will also prepare files for prosecution.

All income collected from penalties will be retained by the company.

They will also fulfil an education/awareness role by being Environmental Champions and doing work with schools.

**Benefits**

- Dedicated and focused resource on enforcement activity.
- Experienced and have a good track record in this area.
- Modern IT solution to penalty regime.
- Will deal with the administration of collecting penalties.
- Flexible resource.
- All training provided.

**Table 2**

- 8.4 It is important to note that providing an enforcement service for dog-fouling alone would not be financially viable for any private contractor. Because of this littering offences including fly tipping will also be tackled in the twelve month pilot. This will be carried out in accordance with the Environmental Protection Act 1990 and will be a significant change to how littering has previously been dealt with within the Scottish Borders that Members should be aware of. Officers will now progress work on developing a similar strategy and action plan to tackle littering.
- 8.5 Officers are strongly recommending running a pilot for a twelve month period. This will allow time to test the new approach, evaluate the success of it, and understand what impact the increase in penalties and potential prosecutions has on the offence and recovery rates, before recommending a longer term solution.
- 8.6 To support the robust approach to tackling dog fouling and littering offences, the Council will refer cases to the Procurator Fiscal for prosecution. A meeting has taken place with the Procurator Fiscal where it was agreed that he would support the Council in tackling these issues. As criminal proceedings must commence within six months of the date of the

offence, court time will be scheduled in agreement with the Procurator Fiscal.

## **9 FINANCE**

### **9.1 Financial**

- (a) The costs of engaging a private contractor to carry out the enforcement activity for the twelve month pilot will be met from the income from fixed penalties and existing budgets.
- (b) The Council will look to maximise its access to external funding to support the delivery of the strategy and action plan.
- (c) The costs of the fixed metal signage will be met from the minor capital works budget.

### **9.2 Risk and Mitigations**

- (a) The proposal of engaging a private contractor to provide an enforcement service is a new approach for the Council. There is a reputational risk that they will be seen to be taking a more aggressive approach to issuing fixed penalties. This will be mitigated by working with the contractor on a partnership basis and from running a pilot.
- (b) There are proven health risks associated with dog fouling. This risk can be mitigated by improved control.
- (c) In making it easier to report instances of dog fouling there is a risk that the numbers of reports increases. Information will be analysed carefully to identify any trends.

### **9.3 Equalities**

The Responsible Dog Ownership Strategy and Action Plan will not unfairly discriminate any of the Protected Characteristics. The Dog Fouling (Scotland) Act 2003 excludes and exempts on the basis of Disability and Age.

### **9.4 Acting Sustainably**

- (a) This report highlights that there are social impacts which require to be monitored and reviewed.
- (b) Improved control of dog fouling and encouraging responsible dog ownership will benefit the public, improving the cleanliness of towns, villages and open spaces across the Borders.

### **9.5 Carbon Management**

There are no effects on carbon emissions.

9.6 **Rural Proofing**

The Responsible Dog Ownership Strategy and Action Plan will not unfairly discriminate against rural communities.

9.7 **Changes to Scheme of Administration or Scheme of Delegation**

There are no changes to be made.

**10 CONSULTATION**

10.1 The Chief Financial Officer, the Monitoring Officer, the Chief Legal Officer, the Chief Officer Audit and Risk, the Chief Officer HR, and the Clerk to the Council are being consulted and any comments will be incorporated into this report.

10.2 The Chief Executive, the Safer Communities Manager, the Neighbourhood Area Managers, the Regulatory Manager and Corporate Communication are also being consulted.

**Approved by**

**Jenni Craig**

**Service Director Neighbourhood Services Signature .....**

**Author(s)**

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**Background Papers:**

**Previous Minute Reference:**

**Note** – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Jacqueline Whitelaw can also give information on other language translations as well as providing additional copies.

Contact us at Jacqueline Whitelaw, Place, Scottish Borders Council, Council Headquarters, Newtown St Boswells, Melrose, TD6 0SA, Tel 01835 825431, Fax 01835 825071, email [PLACEtransrequests@scotborders.gov.co.uk](mailto:PLACEtransrequests@scotborders.gov.co.uk)