

REPORT TO: Executive Board Sub-Committee

DATE: 27th May 2010

REPORTING OFFICER: Strategic Director, Environment and Economy

SUBJECT: Clean Neighbourhoods and Environment Act 2005 –: introduction of Dog Control Orders

WARDS: Boroughwide

1.0 PURPOSE OF THE REPORT

1.1 The Clean Neighbourhoods and Environment Act 2005 brought in new powers for local authorities to be able to deal with problems associated with irresponsible dog ownership. Dog Control Orders (DCO's) replace the previous system of byelaws for the control of dogs as well as the Dogs (Fouling of Land) Act 1996, the powers of, which, are repealed upon adoption of Dog Control Orders.

1.2 To advise the Board of progress in the process of declaring Dog Control Orders within the Borough and the findings of the previously undertaken public consultation exercise.

1.3 To share with the Board, of comments from the Safer Halton Policy & Performance Board.

2.0 RECOMMENDATION: That the Board approves:

1. The making and implementation of dog control orders, for the following offences:

- **The removal of dog faeces on all land within Halton, which is open to the public.**
- **Exclusion of dogs from selected areas.**
- **The keeping of dogs on leads in selected areas.**
- **Keeping of dogs on leads by direction of an authorised officer in selected areas.**

The Orders proposed are listed in Appendix 1

2. The Operational Director E&RS in consultation with the Operational Director Legal Services, Organisation Development & Human Resources be authorised to complete the implementation.

3.0 SUPPORTING INFORMATION

3.1. The Clean Neighbourhoods and Environment Act 2005 (CNEA 2005) introduced new powers and fixed penalties for local authorities to counter and reduce environmental crime across the public realm. Local authorities are required to carry out statutory public consultation when proposing the making of a Dog Control Order as outlined in The Dog Control Orders (Procedures) Regulations 2006.

3.2 Consultation commenced on 22nd October 2009 and finished on 23rd November 2009. The consultation procedure involved consultation with any other primary or secondary authority within the area in which, the order is being made. Authorities consulted included the Parish Councils, Cheshire Local Access Forum, English Nature, Knowsley Borough Council (rights of way) and Registrar of registered common land. One response was received from English Nature stating they had no objection to the Orders.

3.3 A copy of the draft order was posted in local newspapers on the 22nd October 2009, inviting representations. No responses were received. A copy of the draft order was also displayed on the Halton Borough Council website throughout the consultation period. Copies of the proposed Orders were left at all the Halton Direct Links. Again, no responses were received.

3.4 It can be taken that the lack of objection at the consultation stage, indicates support for the proposed Dog Control Order as described above.

3.5 Anyone who commits an offence under any of the provisions of the Dog Control Orders may be liable to conviction in the Magistrates Court to a fine up to £1000. A fixed penalty notice may as an alternative be offered and paid. This would be £75. Anyone who fails to pay a fixed penalty may be liable for a fine up to £1,000.

3.6 The Regulations also state that, before it can make a Dog Control Order, an authority must at the end of the notice period, consider representations and give a 14 day notice period before the Order comes into force. Once the Order has been made, the Authority must publish another notice in a local newspaper giving 7 days' notice that it will be coming into force. This should state:

- a) That the Order has been made
- b) Where the Order may be inspected and copies obtained.
- c) A copy must be put on the authority's website.

3.7 The Safer Halton Policy and Performance Board was advised of the outcome of the consultation and the next steps in the procedure. The Board supported the move towards implementation of the Orders.

3.8 In reaching that position the PPB discussed a number of points and also asked numerous questions. These included :-

- that allotments could be better addressed via the tenancy agreement rather than via a Dog Control Order. It was pointed out that the allotment holders and allotment manager had suggested this be included in the order to give the most effective means of control.
- that one of the greatest risk for young people was from dog faeces on playing fields and that dogs should be excluded from these areas and that this be included in the schedule. Whilst this fact is accepted many playing fields are not sufficiently fenced to allow exclusion to be a practicality but all playing fields will be subject to the dog fouling order.
- that the report listed all children's playgrounds etc, and that not all playing fields in the Borough were designated play areas and some were not fenced off. It was suggested that consideration be given to excluding dogs from these areas. This current list was produced following consultation with Open Space Services and Parks and Countryside Services but will be reviewed in the light of practical experience in the following 12 months.
- that there were areas such as Palacefields Ball Park that were on one schedule (Dog on a lead) and not on another and it was highlighted that a ball park was a children's leisure facility and it was hoped that dogs would be excluded from such areas. It was requested that the legal department look at the risk particularly to young people from dog faeces and adjust some of the schedules accordingly. This issue will be part of the proposed review within the next 12 months.
- that a charge for dog licences should be re-introduced. This is a national issue outside the remit of this procedure or within the power of local authorities.

3.9 The Board were advised that all comments would be considered and the schedule would be reviewed in twelve months time. The review will also take into account any comments received from the public and will be brought back to the Board for further comment.

4.0 POLICY IMPLICATIONS

4.1 Enforcement will be undertaken in accordance with existing enforcement policies and good enforcement practice.

4.2 Fixed penalties for offences under dog control orders may be issued by authorised officers under section 59(1) and (2). Section 59(11) defines who are 'authorised officers' including employees of primary and secondary authorities who are authorised for this purpose. In accordance with the Constitution and the delegated powers afforded to the Operational Director E&RS officers with suitable and sufficient training and competency will be authorised to enforce the control orders

5.0 OTHER IMPLICATIONS

5.1 Enforcement can be accommodated from existing resources.

5.2 There is currently no additional budget allocation for these costs. Existing resources – financial and time- will need to be reallocated to meet these additional requirements. In order to minimise the impact on core services, signs and other costs will be kept to a minimum and enforcement action taken in accordance with the Divisions Enforcement Policy. There will be a financial cost of updating and replacing all existing signage. It is anticipated that any additional cost will be accommodated within existing budgets. Receipts from the fixed penalty notices issued may also offset any costs.

5.3 If additional dog exclusion areas are to be created in recreation areas there will be a new financial cost of fencing, gating and maintaining these. The cost can only be estimated when the overview is complete and the extent of these areas agreed. This matter was subject to discussion in the internal consultations.

5.4 Regulations provide that the receipts from the issue of Fixed Penalty Notices are to be used by the Authority for certain specified functions. However, authorities that are “excellent” or “good” under Comprehensive Performance Assessment (CPA) can use the receipts for any functions.

6.0 IMPLICATIONS FOR THE COUNCIL’S PRIORITIES

6.1 Children and Young People in Halton

None as a direct result of this report.

6.2 Employment, Learning and Skills in Halton

None as a direct result of this report

6.3 A Healthy Halton

The main purpose of the law requiring people to pick up dog faeces are because it is unhygienic and a health hazard.

6.4 A Safer Halton

The approval of the Dog Control Order will assist with the Council’s regulatory practices and better assist Council officers to carry out their duties more effectively in relation to irresponsible dog ownership and associated anti-social activity. There have also been complaints about the inability of some dog walkers to control their dogs. In some cases this has led to dogs attacking passers by or other dogs and to some people being frightened to use some sites when dogs are present.

6.5 Halton's Urban Renewal

Dog fouling is an environmental concern that is a result of irresponsible dog owners and has a negative impact on the image of the borough. In partnership with other Council departments, the enforcement of these powers when needed will contribute to the maintenance and improvement of town centres

7.0 RISK ANALYSIS

7.1 This is an opportunity to clarify and consolidate into a single unified enforcement power the various regulatory powers around responsible dog ownership. Any risk of widespread public disapproval has not materialised and with sensible and proportionate enforcement this should remain the case. There are potentially serious health issues associated with *Toxicara canis* including damage or loss of eyesight and other potentially serious health problems.

8.0 EQUALITY AND DIVERSITY ISSUES

8.1 Dog control is a key concern of many local residents, particularly with respect to dog fouling. Dog fouling has a particular impact on wheelchair users, participants in sports and small children, because they are more likely to come into direct contact with dog faeces.

Exemption for the disabled is inherent within the CNEA 2005. Failing to remove dog faeces Offence does not apply to a person who is registered as a blind person or to a person who has a disability, which affects their mobility, manual dexterity or physical co-ordination. Authorized officers will use discretion when dealing with enforcement in all groups.

9.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

Document	Place of Inspection	Contact Officer
DEFRA Guidance – Sections 55-67 CN&E Act 2005	Environmental Health Division Rutland House Halton Lea, Runcorn WA7 2GW (Further information can be found on the DEFRA website www.defra.gov.uk)	Mrs W.K. Salisbury Principal Officer- Environmental Protection.

THE FOULING OF LAND BY DOGS
(THE BOROUGH OF HALTON) ORDER 2009

Date of Making Order:
Date of Order Coming into Force:

Halton Borough Council
Corporate & Policy
Municipal Building
Kingsway
Widnes
Cheshire
WA8 7QF

The Clean Neighbourhoods and Environment Act 2005

**The Dog Control Orders (Prescribed Offences and Penalties, etc.)
Regulations 2006 (S.I.2006/1059)**

The Fouling of Land by Dogs
(The Borough Council of Halton) Order 2009

The Borough Council of Halton hereby makes the following Order:

1. This Order comes into force on
2. This Order applies to the land specified in the Schedule.

Offence

3. – (1) If a dog defecates at any time on land to which this Order applies and a person who is in charge of the dog at that time fails to remove the faeces from the land forthwith, that person shall be guilty of an offence unless—

- (a) he has a reasonable excuse for failing to do so; or
- (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

(2) Nothing in this article applies to a person who—

- (a) is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948; or
- (b) has a disability which affects his mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a prescribed charity and upon which he relies for assistance.

(3) For the purposes of this article —

- (a) a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog;
- (b) placing the faeces in a receptacle on the land which is provided for the purpose, or for the disposal of waste, shall be a sufficient removal from the land;
- (c) being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having a device for or other suitable means of removing the faeces shall not be a reasonable excuse for failing to remove the faeces;
- (d) each of the following is a "prescribed charity"—
 - (i) Dogs for the Disabled (registered charity number 700454);
 - (ii) Support Dogs (registered charity number 1088281);
 - (iii) Canine Partners for Independence (registered charity number 803680).

Penalty

4. A person who is guilty of an offence under article 3 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Dated this day of 20.....

EXECUTED as a DEED by hereunto
affixing the **COMMON SEAL** of
THE BOROUGH COUNCIL OF HALTON
in the presence of:-

Authorised Signatory

SCHEDULE

1. Any land within the administrative area of The Borough Council of Halton, which is open to the air, including covered land which is open to the air on at

least one side, and to which the public are entitled or permitted to have access with or without payment. (shown delineated in black on the Fouling of Land by Dogs Order plan).

2. Excepted from the description in paragraph 1 above is land that is placed at the disposal of the Forestry Commissioners under section 39(1) of the Forestry Act 1967.

THE DOGS EXCLUSION (THE BOROUGH OF HALTON)
ORDER 2009

Date of Making Order:
Date of Order Coming into Force:

Halton Borough Council
Corporate & Policy
Municipal Building
Kingsway
Widnes
Cheshire
WA8 7QF

The Clean Neighbourhoods and Environment Act 2005

**The Dog Control Orders (Prescribed Offences and Penalties, etc.)
Regulations 2006 (S.I.2006/1059)**

The Dogs Exclusion (The Borough Council of Halton) Order 2009

The Borough Council of Halton hereby makes the following Order:

1. This Order comes into force on
2. This Order applies to the land specified in the Schedule.

Offence

3. — (1) A person in charge of a dog shall be guilty of an offence if, at any time, he takes the dog onto, or permits the dog to enter or to remain on, any land to which this Order applies unless —

- (a) he has a reasonable excuse for doing so; or
- (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his doing so.

(2) Nothing in this article applies to a person who—

- (a) is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948; or
- (b) is deaf, in respect of a dog trained by Hearing Dogs for Deaf People (registered charity number 293358) and upon which he relies for assistance; or
- (c) has a disability which affects his mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a prescribed charity and upon which he relies for assistance.

(3) For the purposes of this article—

(a) a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog; and

(b) each of the following is a "prescribed charity"—

- (i) Dogs for the Disabled (registered charity number 700454);
- (ii) Support Dogs (registered charity number 1088281);
- (iii) Canine Partners for Independence (registered charity number 803680).

Penalty

4. A person who is guilty of an offence under article 3 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Dated this day of 20....

EXECUTED as a DEED by hereunto
affixing the **COMMON SEAL** of
THE BOROUGH COUNCIL OF HALTON
in the presence of:-

Authorised Signatory

SCHEDULE

1. Cemeteries

Runcorn Cemetery, Greenway Road Runcorn
Halton Cemetery, East Lane, Halton Lea, Runcorn.

Widnes Cemetery Birchfield Road Widnes

2. Formal Gardens

Chinese Friendship Garden Town Hall Runcorn, Heath Road Runcorn.

3. All land within the Council's administrative area comprising any fenced (and/or hedged and/or walled) Children's Play Areas, Multi – Sport Areas listed below;

Widnes Playgrounds

Caldwell Road, Caldwell Road, Widnes, WA8 7EA

Crow Wood Park, Bancroft Road, Widnes, Cheshire, WA8 3LL

Hale Park Play Area, Hale Park, Town Lane, Hale Village, Liverpool L24

Halebank Recreation Ground, Blackburne Avenue, Widnes

Hough Green Park , Royal Avenue, Widnes, Cheshire WA8 8HL

King Georges Park, Dundalk Road, Widnes

Plumbley Gardens, off Liverpool Road, Widnes

Stewards Avenue, Widnes

St. Marie's Community Park, Ann Street, West Widnes

Upton Playground, Bechers, Upton, Widnes

Upton Rocks Park (Junior), Queensbury Way, Upton Rocks, Widnes

Upton Rocks Park (Toddler), Queensbury Way, Upton Rocks, Widnes

Victoria Park (Toddler), North End of Victoria Park, Near Lockett Road, Widnes.

Victoria Park (Junior), North End of Victoria Park, Near Lockett Road, Widnes.

West Bank Promenade St Mary's Road West Bank Widnes

Widnes Multi-Use Games Areas

Crow Wood Park Bancroft Road Widnes Cheshire WA8 3LL

Derwent Road - Royal Avenue Widnes

Grizedale Ball Play Grizedale Widnes

Halebank Recreation Ground, Clapgate Crescent, Widnes

Hale Park Town Lane Hale Village Liverpool L24

Hough Green Park (Tennis) Royal Avenue Widnes Cheshire WA8 8HL

Kingsway Wavertree Avenue and Squires Avenue Widnes
King Georges Park Games Area Dundalk Road Widnes
St. Marie's Community Park Ann Street West Widnes
Upton Rocks Park Queensbury Way Upton Rocks Widnes
Victoria Park Wheel Play Birchfield Avenue Widnes Cheshire WA8 6PX
Victoria Park Basketball Birchfield Avenue Widnes Cheshire WA8 6PX
Victoria Park Tennis Birchfield Avenue Widnes Cheshire WA8 6PX
Victoria Park Interactive Water Feature North End of Victoria Park Near Lockett
Road Widnes.

Runcorn Playgrounds

Castle Rise Playground, off Halton Road, Runcorn
Castner Avenue, Weston Point, Runcorn
Cavendish Street, Cavendish Street, Runcorn
Coronation Road, Preston Brook, Runcorn
Hale View – Beaconsfield, Hale View, Runcorn
Leinster Gardens, Runcorn, WA7 1EG
Murdishaw Play Centre (1 - Old), Barnfield Avenue, Runcorn
Murdishaw Play Centre (2 - New), Barnfield Avenue, Runcorn
Newmoore Lane, Sandymoor, Runcorn
Norton Cross, Broadfields, Runcorn
Park Road, Runcorn
Phoenix Park Play Area, Castlefields Avenue East, Castlefields, Runcorn.
Pitts Heath Lane, Sandymoor, Runcorn
Rock Park Play Area, Union Street, Runcorn, WA7 5SX
Six Acre Lane, Moore
Town Hall Grounds, Heath Road, Widnes
Trinity Park, Parker Street, Runcorn
Walsingham Drive, Sandymoor, Runcorn
Weaver Road, Weston Village, Runcorn
Woodlands Play Centre, Castlefields Runcorn

Runcorn Multi-Use Games Areas

Castle Rise Youth Activity Park off Halton Road Runcorn

Egerton Street Ball Play Egerton Street Runcorn

Phoenix Park, Youth Activity Park (T), Castlefields Avenue East, Castlefields
Runcorn.

Rock Park Ball Play Rock Park Union Street Runcorn Cheshire WA7 5SX

Russell Road Wheel Play Russell Road Runcorn WA7 4BG

THE DOGS ON LEADS (THE BOROUGH OF HALTON)
ORDER 2009

Date of Making Order:
Date of Order Coming into Force:

Halton Borough Council
Corporate & Policy
Municipal Building
Kingsway
Widnes
Cheshire
WA8 7QF

The Clean Neighbourhoods and Environment Act 2005

**The Dog Control Orders (Prescribed Offences and Penalties, etc.)
Regulations 2006 (S.I.2006/1059)**

The Dogs on Leads (The Borough Council of Halton) Order 2009

The Borough Council of Halton hereby makes the following Order:

1. This Order comes into force on
2. This Order applies to the land specified in the Schedule.

Offence

3. – (1) A person in charge of a dog shall be guilty of an offence if, at any time on any land to which this Order applies, he does not keep the dog on a lead of not more than 6 feet in length, unless —

- (a) he has a reasonable excuse for failing to do so; or
- (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

(2) For the purposes of this article a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog.

Penalty

4. A person who is guilty of an offence under article 3 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Dated this day of 20....

EXECUTED as a DEED by hereunto
affixing the **COMMON SEAL** of
THE BOROUGH COUNCIL OF HALTON
in the presence of:-

Authorised Signatory

SCHEDULE

This order applies to all land which is within the administrative area of Halton Borough Council and which are the parks listed below;

Parks

Crow Wood Park Bancroft Road Widnes Cheshire WA8 3LL.

Hough Green Park Royal Avenue Widnes Cheshire WA8 8HL.

Palacefields Ball Play, Palacefields Avenue, Runcorn.

Victoria Park Victoria Park Birchfield Avenue Widnes Cheshire WA8 6PX
except in the fenced dog exercise area.

Gardens

Birchfield Gardens, Birchfield Road, Widnes.

West Bank Promenade St Mary's Road West Bank Widnes

Runcorn Allotments

Clifton Road, Beechwood, Avenue, Runcorn WA7 4SB

Dukesfield, Leinster Road, Runcorn WA7 1ER

Haddocks Wood Off Warrington Road, Runcorn WA7 1RE

Heath Road, Runcorn WA7 5TA

Oak Drive, Runcorn WA7 5HE

Weston Road, Runcorn WA7 4JU

Widnes Allotments

Avondale, alongside 4 Birtley Court, Widnes WA8 7WA

Rear of 5 Cunningham Road, Widnes WA8 8EE

Deansway, Between 128-130 Hale Road, Widnes WA8 8SY

Derby Road, Rear of 12 Factory Lane, Widnes WA8 9FW

Dykin Road, at the side of garage at 36 Hilary Close, Widnes WA8 3HT

Hale Bank, at the side of 31 Halebank Road, Widnes WA8 8NA

Hale Road, to rear of 253 – 269 Hale Road, Widnes WA8 8QB

Halton View, at the side of 1 Halton View Road, Widnes WA8 OTS

Lancaster Road, at the side of 2 Lancaster Road, Widnes WA8 9TY
Side of 14 Laurel Bank, Widnes WA8 6QB

THE DOGS ON LEADS BY DIRECTION
(THE BOROUGH OF HALTON) ORDER 2009

Date of Making Order:
Date of Order Coming into Force:

Halton Borough Council
Corporate & Policy
Municipal Building
Kingsway
Widnes
Cheshire
WA8 7QF

The Clean Neighbourhoods and Environment Act 2005

**The Dog Control Orders (Prescribed Offences and Penalties, etc.)
Regulations 2006 (S.I.2006/1059)**

**The Dogs on Leads by Direction
(The Borough Council of Halton) Order 2009**

The Borough Council of Halton (in this Order called "the Authority") hereby makes the following Order:

1. This Order comes into force on
- .
2. This Order applies to the land specified in the Schedule.
3. In this Order "an authorised officer of the Authority" means an employee of the Authority who is authorised in writing by the Authority for the purpose of giving directions under this Order.

Offence 4. – (1) A person in charge of a dog shall be guilty of an offence if, at any time, on any land to which this Order applies, he does not comply with a direction given him by an authorised officer of the Authority to put and keep the dog on a lead of not more than 6 feet in length, unless —

- (a) he has a reasonable excuse for failing to do so; or
- (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

(2) For the purposes of this article—

- (a) a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog;
- (b) an authorised officer of the Authority may only give a direction under this Order to put and keep a dog on a lead if such restraint is reasonably necessary to prevent a nuisance or behaviour by the dog likely to cause annoyance or disturbance to any other person on any land to which this Order applies or the worrying or disturbance of any animal or bird.

Penalty 5. A person who is guilty of an offence under article 4 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Dated this day of 20.....

EXECUTED as a DEED by hereunto
affixing the **COMMON SEAL** of
THE BOROUGH COUNCIL OF HALTON
in the presence of:-

Authorised Signatory

SCHEDULE

Any land within the administrative area of Halton Borough Council, which is open to the air, including covered land which is open to the air on at least one side, and to which the public are entitled or permitted to have access with or without payment (shown delineated in black on the Dogs on Lead by Direction Order plan).