

1 REPORT OF THE CLEAN NEIGHBOURHOOD AND ENVIRONMENT SUB-COMMITTEE – 8 FEBRUARY 2008**1.1 THE ADOPTION OF NEW POWERS UNDER THE CLEAN NEIGHBOURHOOD AND ENVIRONMENT ACT 2005**

1.2 This item of business was referred by the Clean Neighbourhood and Environment Sub-Committee on 8 February 2008 to the Executive Board with recommendations relating to the issue of draft orders that provide sensible controls over dogs in public places. An extract of the key elements of the report of the Head of Environmental Services to the Sub-Committee is attached at Appendix 1.

1.3 The Sub-Committee emphasised that the focus should be on encouraging responsible dog ownership in the District and that any new regulations should be kept as simple as possible.

1.4 It was noted that:-

- Current legislation relating to the control of dogs would cease to have effect if/when the new powers were adopted.
- Stambridge Parish Council had replied to the consultation.
- The cost of pursuing any Fixed Penalty Notice violations would fall within the routine work of the Council.
- The District would only prosecute responsible adults in respect of dog control issues. Where there was a case of a child in charge of a dog, the responsible adult would be considered liable.

1.5 While the amount of signage necessary at the entrances to play spaces was quantifiable and already in place, the Sub-Committee was concerned that, although it would not be appropriate or necessary to sign all the open spaces in the District, this requirement could result in the Council incurring a high level of costs. The Sub-Committee asked that information be provided on the costs in relation to signage under the new orders and included in the Sub-Committee's report to the Executive Board (see paragraph 1.8).

1.6 It was noted that, although the role of Contract Monitoring Officers could be expanded to include the enforcement of the new orders relating to the control of dogs in public places, the Head of Environmental Services had some reservations that this could dilute their main role. There was funding for the employment of a dedicated enforcement officer on a one-year pilot basis from the Council's Smokefree England Grant.

- 1.7 In terms of the proposals contained in the report, the following was observed/ noted:-

Fouling of Land by Dogs

- There had been no adverse representations from parishes and consultees and the majority of respondees believed that dog fouling should be an offence.
- Although one option would be to increase the number of dog bins in the area, it was recognised that some residents may oppose the placing of dog bins outside their houses. It was agreed that the new orders should be simple and that, for maximum effect, enforcement should be concentrated and consistent.

Dog Exclusions

- Rochford District Council would be the enforcing authority for exclusion orders relating to all play spaces in the District, including those owned by Rochford Housing Association (RHA). The town and parish councils could employ their own enforcement officers.
- Rowan Way, Canewdon, which was not enclosed, should be deleted from the list of play areas.
- It would be appropriate for officers to ensure that a suitable post is available outside all play spaces, away from the entrance, so that dogs could be tied up.
- The need for additional dog bins outside play spaces could be recognised and it would be appropriate for officers to look into the possibility of supplying polybags in these areas.

Dogs on a Lead

- Hockley Parish Council had requested that Marylands Nature Reserve be added to the list of sites where dogs should be kept on a lead. Wording should be included on signs to be erected in the Nature Reserve to explain to the public why restrictions were necessary.
- More information should be provided on other Local Nature Reserves and wildlife areas in the District that would benefit from being included in the list of sites (see paragraph 1.9).
- Great Wakering Parish Council did not wish Great Wakering Common to be included in the list of sites where dogs might be kept on leads.

Dogs on a Lead by Direction

- The Council's enforcement officer would work closely with the Police.

- The Dangerous Dogs Act is available to deal with dogs out of control in any public place in a situation where someone is in fear for their safety.
- The option of a future review of the list of named pleasure grounds covered by byelaws requiring dogs to be kept under proper control should be retained.

Specifying a Maximum Number of Dogs that can be Walked

- This was the one issue for which the public consultation provided no clarity for one particular course of action and the Sub-Committee felt that no maximum number of dogs should be specified. The orders relating to dogs on a lead by direction would enable the enforcement officer to deal with a situation where a dog or dogs were found to be not under proper control.

Costs of Signage

- 1.8 Following the Sub-Committee meeting officers established that existing signs in respect of dog fouling and dog exclusions fulfil the requirements relating to new orders. There is a stock of suitable signs and a budget available for replacements. Many of the dog exclusion areas are under the control of Town/Parish Councils but there are signs at all locations that satisfy this duty. Ongoing maintenance issues might need to be picked up. Whilst it is not considered practicable to provide signs throughout the District in respect of dog fouling and 'dogs on a lead by discretion', the opportunity will be taken to review these arrangements on an ongoing basis within existing budgets.

Other Local Nature Reserves and Wildlife Areas

- 1.9 In terms of the Sub-Committee request that information be provided on other local nature reserves and wildlife areas that would benefit from listing within a 'dogs on a lead' order, officers have consulted parish Councils and received comments as follows:-

<u>Reserve</u>	<u>Parish</u>	<u>Comment</u>
Doggetts	Rochford	Not supported, but will be re-assessed in the future.
Magnolia Park	Hawkwell	Not supported.
Kendall Park	Hullbridge	Fully supported.
Hockley Woods	N/A	Whilst there are issues regarding dogs in the car park it is not practicable to fence off defined areas.

- 1.10 Kendall Park, Hullbridge has, accordingly, been included in the draft order.
- 1.11 The Sub-Committee agreed that the Head of Environmental Services should prepare a press release, in consultation with the Sub-Committee Chairman which could be distributed to Members of the Sub-Committee for circulation at an appropriate time.
- 1.12 It is proposed that the Executive Board **RESOLVES:-**
- (1) That notice of the draft orders, attached at Appendix 2, namely:-
- The Fouling of Land by Dogs (Rochford) Order 2008;
The Dogs Exclusion (Rochford) Order 2008;
The Dogs on leads (Rochford) Order 2008;
The Dogs on a lead by Direction (Rochford) Order 2008;
- be published in the Yellow Advertiser and on the Council's website, to include:-
- identification of the land to which the orders will apply;
 - a summary of the orders;
 - if the order will refer to a map, where the map can be inspected;
 - the address to which, and the date by which, representations must be sent to the authority. The final date for representations will be at least 28 days after publication.
- (2) That the Dogs (specified maximum) Order not be actioned at this time.
- (3) That a further report be submitted upon the expiry of the formal consultation period following publication of the draft orders.
- (4) That the level of penalty for Fixed Penalty Notices be set at £75 with no reductions for early payment. (HES)

2 REFERENCE FROM THE WEST AREA COMMITTEE – 14 FEBRUARY 2008

2.1 EXTENSION TO THE CAR PARK AT RAWRETH RECREATION GROUND

- 2.2 During the meeting of the West Area Committee on 14 February 2008 particular reference was made of the difficulty of accessing the Rawreth recreation ground recycling bring banks at weekends due to the high volume of vehicles parking there. It was observed that the football club had offered to police a proposed extension to the car park, as it would only be required when matches were being played. Wear and tear on any extension would be minimal and it might be possible to use tiles laid on top of the grass in order to keep costs down.

- 2.3 The Executive Board is asked to consider making provision in the 2009/10 budget for an extension to the car park at the Rawreth recreation ground. (HFAPM)

3 REFERENCE FROM THE CENTRAL AREA COMMITTEE – 6 MARCH 2008

3.1 COMMUNITY SHELTER ON THE CLEMENTS HALL RECREATION FIELDS

- 3.2 At its meeting on 6 March 2008 the Central Area Committee noted that Hawkwell Parish Council had now undertaken full public consultation on proposals to site a community shelter on the Clements Hall Recreation Fields and had had a positive response. It was also noted that the shelter would not require planning consent and that the Parish Council would be funding the project and be responsible for maintenance and insurance of the shelter. The Executive Board has already agreed in principle to the siting of a shelter on the recreation fields.

- 3.3 The Executive Board is asked to give final approval to the introduction of a community shelter located adjacent to the skate park on the Clements Hall Recreation Fields. (HCS)

4 REPORTS FROM THE REVIEW COMMITTEE – 11 MARCH 2008

4.1 REVIEW OF PLANNING APPEAL PROCEDURES

- 4.2 At its meeting on 11 March 2008 the Review Committee approved the final report and recommendations of the Review of Planning Appeal Procedures for consideration by the Executive Board.

- 4.3 A copy of the final report, as approved by the Review Committee, is attached at Appendix 3.

- 4.4 It is proposed that the Executive Board considers the final report, which includes the following recommendations:-

- (1) That, in the case of Appeals, Members should only be used as third party witnesses.
- (2) That a Planning Officer should be used as an expert witness for the majority of Planning Appeals when the Head of Planning and Transportation does not feel that the use of an outside consultant would be of benefit. (HPT)

4.5 REVIEW OF IMPLICATIONS OF GLOBAL WARMING AGENDA ON ROCHFORD DISTRICT COUNCIL AND THE ROLE THE DISTRICT COUNCIL AND ITS COMMUNITIES MIGHT PLAY

4.6 At its meeting on 11 March 2008 the Review Committee approved the final report and recommendations of the Review of the implications of the global warming agenda on Rochford District Council and the role the District Council and its communities might play for consideration by the Executive Board.

4.7 A copy of the final report, as approved by the Review Committee, is attached at Appendix 4.

4.8 It is proposed that the Executive Board considers the final report, which includes the following recommendations:-

- (1) That the Council develops a Sustainable Energy (Climate Change) Strategy by September 2008, in order that resource implications can be considered by the Council as part of the 2009/10 budget process.
- (2) That detailed action plans are developed to ensure that the Sustainable Energy strategy is delivered. If practicable, this should also be developed by September 2008, in order that resource implications can be considered by the Council as part of the 2009/10 budget process.
- (3) That the Council becomes a signatory to the Nottingham Declaration on Climate Change, at the earliest opportunity (see Appendix B).
- (4) That the following specific targets are established in the Corporate Plan:-

‘Over the next five years, we will

Work on reducing the Council's own carbon dioxide emissions by 30% (based upon 2005 baseline).

Achieve a recycling target of 50% within the 5-year period.

Through the Council's Local Development Framework, ensure that the future development of the District up to 2021 is planned and carried out in a sustainable fashion.

By 2017

Implement an Adapting to Climate Change Action Plan for action, monitoring and review.

Work on reducing the Council's own carbon dioxide emissions by 60%

Secure a recycling rate of 60% per year’

- (5) That the Council engages with LAA partners to reduce the carbon footprint of domestic properties, business and public sector activities.
- (6) That further action be taken to encourage recycling in respect of the business sector.
- (7) That officers explore the implementation of the action plan produced by the Carbon Trust. (HES)

THE ADOPTION OF NEW POWERS UNDER THE CLEAN NEIGHBOURHOOD AND ENVIRONMENT ACT 2005

1 SUMMARY

- 1.1 This report advises Members about the availability of new powers that provide sensible controls over dogs in public places and makes recommendations in respect of new Dog Control Orders.

2 BACKGROUND

- 2.1 On 9 January 2008 the Executive Board considered a report, which recommended the adoption of new powers under the Clean Neighbourhood and Environment Act (CNEA). It resolved that a Sub-Committee be tasked with considering the detail of the proposals and the issuing of press releases to aid public understanding. This Sub-Committee is required to report back to the Executive Board with its recommendations.

3 DETAILS OF THE NEW LEGISLATION

- 3.1 The CNEA introduces a simpler system for local authorities to introduce Dog Control Orders for the following offences:-

- Failing to remove faeces;
- Permitting a dog to enter land from which dogs are excluded;
- Not keeping a dog on a lead;
- Not placing a dog on a lead when directed to do so by an authorised officer;
- Taking more than a specified number of dogs onto land.

- 3.2 The Act also introduced the following new provisions:-

- The introduction of Fixed Penalty Notices (FPN) for offences related to dog bans, dogs on a lead and associated issues.
- The opportunity for Councils to determine the level of penalty locally for FPNs. These can be set between £50-£80, with a default amount of £75.
- The opportunity for Councils to introduce an early payment discount in the event the FPN is paid early.
- The power for authorised officers to require the name and address of any person who has breached a Dog Control Order for the purpose of issuing a FPN.

- 3.3 Widespread consultation on the potential introduction of new measures to balance the needs of dog owners and those affected by dogs has been undertaken. This has included a questionnaire within the Council's newspaper *Rochford District Matters (RDM)* and an on-line survey on our website. Additionally, presentations have been made to all Area Committees and letters have been sent to all Parish Councils, who are secondary enforcing authorities under the legislation. Following contact with the Kennel Club, separate letters were also sent to local Dog Clubs.
- 3.4 Over 2000 questionnaires were returned from our *RDM* and website surveys. The vast majority, 1732, were from the *RDM* survey and 308 from the website survey. 30% of the *RDM* respondents were dog owners, compared to 72% of those completing the website survey.
- 3.5 A formal consultation on Dog Control Orders was sent to all Parishes in the District on 14 December 2007. The consultation was seeking their views on five proposed orders identified in this report.
- 3.6 The Council has received written responses from five Parishes (Ashingdon, Rawreth, Great Wakering, Hullbridge and Hockley). Verbal comments have been received from Rochford and Hawkwell. All of these Parishes have agreed to the five Dog Control Orders being introduced.
- 3.7 Officers have also received twelve written representations and in the order of twenty telephone calls from the public as a result of the consultation and press coverage. Details of these comments are shown in the appropriate sections below that examine the individual proposals.

4 PROPOSALS

- 4.1 In general terms, the proposals are to introduce local orders in respect of:-
- Dog fouling that are broadly similar to the existing arrangements that were introduced in 2002 under the Dogs (Fouling of Land) Act;
 - To formalise a ban upon dogs in enclosed children's play areas;
 - To require dogs to be kept on a lead when they are on any road, or on any footways or pavements;
 - To introduce a new requirement to enable Council officers to require specific dogs to be placed on a lead in other public areas that are open to the air, when this is considered necessary; and
 - To introduce a maximum of the number of dogs that one person can have under their control at any one time.

All of these proposals are in line with the responses received as part of the public consultation process.

Fouling of Land by Dogs

- 4.2 The proposed Fouling of Land by Dogs Order would require the person in charge of a dog to remove the dog faeces from any specified land within the District forthwith. It is proposed that this Order will apply to all land, which is open to the air (which includes land that is covered but 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.
- 4.3 Whilst this Order refers to a statutory exemption for “land that is placed at the disposal of the Forestry Commissioners” there is no land within the District that is covered by this definition at the present time, consequently this Order would apply to all land in the open air to which the public have access.
- 4.4 This contrasts with the current arrangements under the Dogs (Fouling of Land) Act 1996 which does not apply to:-
- land used for agriculture or woodlands;
 - land that is predominantly marshland, or heath;
 - common land to which the public are entitled or permitted to have access; and
 - land comprising or running along a highway with a speed limit above 40 mph.
- 4.5 Under the proposed new Order there will be a statutory defence for individuals where:-
- they have a reasonable excuse;
 - the owner or occupier of the land has given consent; or
 - the individual is registered blind or has certain other disabilities.

Public Consultation

- 4.6 Over 95% of all respondents agreed that measures should be in place to control dog fouling and a similar proportion of *RDM* respondents considered that this was an issue locally. In contrast, in the website survey the majority of respondents did not consider that dog fouling was an issue.
- 4.7 63% of *RDM* respondents (28% website) considered that there is a problem as a result of dog fouling in the District. This contrasts to 53% of those returning our most recent ‘How clean are our streets’ survey.
- 4.8 An overwhelming majority, 95% (*RDM*) and 97% (website) agreed that it should be an offence not to clean up after a dog had fouled in a public place.

Parish Consultation

- 4.9 None of the seven Parishes that reported back to the Council (Ashingdon, Hawkwell, Hockley, Hullbridge, Great Wakering, Rawreth, and Rochford) had any objection to this proposal.
- 4.10 Ashingdon Parish Council highlighted some concerns related to dog fouling and suggested that modern signage should be used to publicise the offences. The Parish also suggested that more dog bins should be installed.

Representations

- 4.11 Respondents highlighted that responsible owners do clean up after their dogs.

Dog Exclusions

- 4.12 The proposed Dog Exclusion Order would prohibit a person in charge of a dog from allowing the dog to enter all enclosed children's play areas.
- 4.13 There are currently no formal exclusions in place for dogs. A voluntary ban is in place in respect of children's play areas. A voluntary ban is also in place on the sports fields of some public open spaces, where the perimeter of pitch is delineated in order to discourage dog owners from exercising their dogs.
- 4.14 It is not considered appropriate to formalise the exclusion of dogs from sports fields, as this is considered to be unenforceable.
- 4.15 Under the proposed new Order there will be a statutory defence for individuals where:-
- they have a reasonable excuse;
 - the owner or occupier of the land has given consent;
 - the individual is registered blind or has certain other disabilities.

Public Consultation

- 4.16 There was strong support 91% (*RDM*) and 73% (website), for dogs being banned in children's play areas. Whilst there was some support, 52% (*RDM*) for a dog ban in shopping precincts, (20% website), there was no support for a ban in either large parks 13% (*RDM*), 0% (website) or in parks and other amenity green areas 21% (*RDM*); 1% (website).

Parish Consultation

- 4.17 None of the seven Parishes that reported back to the Council (Ashingdon, Hawkwell, Hockley, Hullbridge, Great Wakering, Rawreth, and Rochford) had any objection to this proposal.

- 4.18 Rochford Parish Council concurred with the proposal to include the playspaces owned by Rochford Housing Association.

Representations

- 4.19 There were concerns with regard to the press speculation that dogs could be banned from woodland areas and parks. No such proposals have been made. All respondents agreed that dogs must be kept out of children's play areas.

Dogs On A Lead

- 4.20 The proposed Dogs on a Lead Order would require a person in charge of a dog to keep it on a lead whilst the dog was on any road, including pavements and footways. A footway means a way comprised in a highway, which also comprises a carriageway, being a way over which the public have a right of way by foot only.
- 4.21 It is not proposed to include a requirement for dogs to be on a lead on any public footpaths or bridleways, as we have focused on areas where there is a risk of injury to a dog or a potential risk to the users of other road vehicles. This requirement would therefore apply to all paved areas adjacent to roads but would not apply to rural paths, public open spaces or woodlands.
- 4.22 This proposal represents good practice advocated by national bodies and reflects existing powers under the Road Traffic Act. Separate legislation requires dogs to be on a lead when on access land between 1 March and 31 July and whenever they are in the vicinity of livestock.
- 4.23 Under the proposed new Order there will be a statutory defence for individuals where:-
- they have a reasonable excuse; or
 - the owner or occupier of the land has given his consent.

Public Consultation

- 4.24 There is overwhelming support 98% (*RDM*) (96% website) for the requirement for dogs to be on a lead in shopping precincts.
- 4.25 Similarly there is overwhelming support for dogs to be on a lead whilst on a footpath adjacent to a road, 94% *RDM* (84% website).
- 4.26 The public were consulted on whether these requirements should apply on roads where the speed limit was above or below 40 MPH, but there was only a negligible difference in the results.

- 4.27 There was for some support for dogs to be on a lead in other areas. Large parks 43% (*RDM*); 6% (website); parks and amenity areas 49% (*RDM*); 6% (website).

Parish Consultation

- 4.28 None of the seven Parishes that reported back to the Council (Ashingdon, Hawkwell, Hockley, Hullbridge, Great Wakering, Rawreth, and Rochford) had any objection to this proposal.
- 4.29 Great Wakering Parish Council suggested that Great Wakering Common, Common Road should be added to the list of sites where dogs must be kept on leads.
- 4.30 Hullbridge Parish Council suggested that Pooles Lane recreation ground should be added to the list of sites where dogs should be kept on a lead.
- 4.31 Hockley Parish Council suggested that the Marylands Nature Reserve that Rochford District Council lease to the Parish should be added to the list of sites where dogs should be kept on a lead.

Representations

- 4.32 Residents supported the proposal that dogs should be on a lead near roads. There were concerns that dogs should be permitted off their leads in parks, open spaces and woodlands.

Dogs On A Lead By Direction

- 4.33 The proposed Dogs on a Lead by Direction Order would require the person in charge of a dog to place the dog on a lead if requested to do so by a Council officer. It is intended that this power would only be used when a specific dog is not under proper control and is causing an unreasonable disturbance to other users of a public open space, for example. This power is considered to complement existing arrangements, specifically the informal dog ban in place at sports fields and a requirement under existing byelaws to keep dogs under proper control in public open spaces.
- 4.34 It is proposed that this order should apply to all land, which is open to the air (which includes land that is covered, but open on at least one side) and to which the public are entitled or permitted to have access, with or without payment.
- 4.35 The existing Byelaws referred to in paragraph 4.5.1 above, require dogs to be kept under proper control at certain named pleasure grounds including Hockley Woods.
- 4.36 It should be appreciated that as the requirements of the byelaws do not include a specific power to require that dogs are placed on a lead, they will

continue to apply. There is a statutory defence under the proposed order where the individual has a reasonable excuse or where the owner or occupier has consented.

Public Consultation

- 4.37 There were no specific questions asked with regard to this new power. However, only 7% (*RDM*) and 7% (website) considered that we had a problem with stray dogs and only 15% (*RDM*); 8% (website) considered that we had a problem with dangerous dogs.

Parish Consultation

- 4.38 None of the seven Parishes that reported back to the Council (Ashingdon, Hawkwell, Hockley, Hullbridge, Great Wakering, Rawreth, and Rochford) had any objection to this proposal.

Representations

- 4.39 No comments were received regarding this proposal.

Specifying A Maximum Number Of Dogs That Can Be Walked

- 4.40 The proposed Dogs (Specified Maximum) Order would introduce an offence for a person in charge of a dog, having more than the specified number of dogs under their control at any one time.
- 4.41 It is proposed that this new order should apply to all land, which is open to the air (which includes land that is covered, but open on at least one side) or where the public are entitled or permitted to have access with or without payment.
- 4.42 There are no provisions in place in respect of this issue at present. Under the proposed new order there will be a statutory defence where the individual has a reasonable excuse or where the owner or occupier has consented.
- 4.43 Officers have ascertained that the National Petsitters body have 21 individuals registered within a 20 mile radius of Rochford town centre. Their code of practice specifies that "Dog Walkers should not walk more than four dogs at any one time". The concern here is one of both being able to keep the dogs under proper control and of the person concerned being able to deal with any dog fouling issues that may arise.

Public Consultation

- 4.44 There was broad consensus for prescribing a limit on the number of dogs that a person can walk at any one time, 77% (*RDM*); 49% (website).

- 4.45 The majority view was that there should be a limit of two dogs (*RDM*) and three dogs in the website survey. Of these respondents 95% (*RDM*) and 88% (website), considered that this Order should specify four or fewer dogs.

Parish Consultation

- 4.46 None of the seven Parishes that reported back to the Council (Ashingdon, Hawkwell, Hockley, Hullbridge, Great Wakering, Rawreth, and Rochford) had any objection to this proposal.
- 4.47 Ashingdon Parish suggested that a dog walker must not have more than two dogs under their control at any one time.

Written Representations

- 4.48 This issue resulted in by far the most concern from individuals, although it must be emphasised that the majority of those who opposed the proposal had a vested interest, as they operated dog walking or dog minding businesses. Respondents suggested a maximum number of dogs that varied between one and having no restriction whatsoever. The point was made that individuals running such businesses were experienced dog handlers and were capable of controlling more dogs than someone who had a dog as a pet.

The Level Of Penalty

- 4.49 Currently offences under byelaws can only be pursued as a prosecution in the Magistrates Court. Both the Dogs (Fouling of Land) Act and the Clean Neighbourhood and Environment Act allow for both prosecution of offenders and for the use of Fixed Penalty Notices.
- 4.50 Under the CNEA local authorities are given discretion in setting the level of penalty for FPNs between £50 and £80, if no level is set the default value is £75. We are also able to set different penalties for different offences and to allow for a reduced penalty if this is paid promptly.
- 4.51 Hawkwell Parish Council suggested a discount for early payment of a FPN. Ashingdon Parish Council suggested that there should be no reduction.

5 PROCEDURE FOR MAKING THE ORDERS

- 5.1 The Dog Control Orders (Procedures) Regulations 2006 require that before a Council can make a Dog Control Order, the authority must publish a notice describing the proposed order in a local newspaper circulating in the same area as the land to which the order(s) would apply and invite representations on the proposal.
- 5.2 The notice must:-
- identify the land to which the order(s) will apply;

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- summarise the order(s);
 - if the order(s) refer to a map, say where the map can be inspected. This must be at an address in the Authority's area, be free of charge, and available at all reasonable hours during the consultation period;
 - give the address to which, and the date by which, representations must be sent to the authority. The final date for representation must be at least 28 days after the publication of the notice.
- 5.3 At the end of the consultation period the authority must consider any representations that have been made. If it then decides to proceed with the order(s), it must decide when the order(s) will come into force. This must be at least 14 days from the date on which it was made.
- 5.4 Once an order(s) has been made, the authority must, at least seven days before it comes into force, publish a notice in a local newspaper circulating in the same area as the land to which the order(s) applies stating:-
- that the order(s) has been made; and
 - where the order(s) may be inspected and copies of it obtained.
- Where practicable, a copy of the notice must also be published on the authority's website.
- 5.5 If, after considering representations on a proposal to make an order an authority decides to amend its proposal, it must start the procedure again, publishing a new notice describing the amended proposal.
- 5.6 There is a legal requirement that, where practicable, signs must be placed summarising the order on land to which a new order applies, thereby informing the public that land is subject to an order. For example, if an order were made excluding dogs from a sporting facility, copies of the order should be placed at the entrances to the park when it was first made, and permanent signs should be erected informing the public that dogs are not permitted in the designated area.
- 5.7 Where a dog control order applies to a large area of land, for example, an order in respect of fouling by dogs, it may not be feasible to post copies of the order on the land, but signs warning the public that it is an offence not to clear up dog faeces should be placed at regular intervals.
- 5.8 Once Members have determined which, if any of the proposed orders are to be introduced, appropriate press release/s and statutory public notices will be prepared. It is proposed that this Sub-Committee recommends that a further report be submitted to outline the details of any representations received following publication of the statutory notices.

6 IMPLICATIONS**Risk Implications**

- 6.1 Failure to deal with irresponsible dog owners could result in criticism for not making best use of available powers, poor BVPI 199 (cleanliness standards) performance and a need for further revenue investment to deliver reactive cleaning. New indicator set NI 195: Improved street and environmental cleanliness (levels of graffiti, litter, detritus and fly posting).

Financial Implications

- 6.2 There are limited financial implications arising from this report. The cost of the statutory notices that must be placed in local newspapers and of new signage can be contained within existing budgets. The employment of an enforcement officer on a one-year pilot basis has been funded from our Smokefree England Grant of £37,539. There were no specific conditions imposed as to how this grant could be spent.
- 6.3 Local Authorities categorised as Excellent or Good in terms of CPA, or with relevant service inspection results between 2 and 4 stars, can retain the income from fixed penalty notices.

Legal Implications

- 6.4 Local Authorities are empowered under the Clean Neighbourhoods And Environment Act 2005 to make Dog Control Orders in accordance with the statutory process detailed in section 5 of the report. There is no longer any necessity to seek approval from the Secretary of State as was required in respect of byelaws.
- 6.5 Should these orders be made the existing provisions contained within local byelaws and the Orders made under the Dogs (Fouling of Land) Act 1996 will cease to have effect. Should no action be taken, no further amendment to existing Orders or byelaws can be made and the level of penalty will not be increased.

Policy Implications

- 6.6 There are currently a variety of statutory and voluntary provisions in place requiring the removal of canine faeces, dogs to be kept on a lead, keeping dogs under proper control and dog bans. The recommendations contained within this report are consistent with these existing requirements, but consolidate the controls within the latest legislative framework.

THE CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005

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

THE FOULING OF LAND BY DOGS (ROCHFORD) ORDER 2008

The Rochford District Council (in this Order called “the Council”) makes the following Order:-

This Order comes into force on the day of 2008.

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 coordination 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.

(Date)

The COMMON SEAL of the)
ROCHFORD DISTRICT COUNCIL was)
Hereunto affixed this)
Day of 2008 in the presence of:)

Head of Legal Services

Schedule

1. Subject to the exception in paragraph 2 below, all land which is in the administrative area of the Council and which is:-
 - (i) open to the air (which includes land that is covered but open to the air on at least one side) and
 - (ii) to which the public are entitled or permitted to have access with or without payment.
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 CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005

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

THE DOGS EXCLUSION (ROCHFORD) ORDER 2008

The Rochford District Council hereby makes the following Order:

- 1 This Order comes into force on the day of 2008.
- 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 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 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 purpose 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.

(Date)

The COMMON SEAL of the)
ROCHFORD DISTRICT COUNCIL was)
Hereunto affixed this)
Day of 2008 in the presence of:)

Head of Legal Services

Schedule

All land within the Council's administrative area comprising any enclosed children's play space. Without prejudice to the foregoing, this shall include the enclosed children's play spaces which are situated within following public open spaces:-

King George's PF, Ashingdon Road, Rochford

Playstalls, Off Little Wakering Road, Wakering

Canewdon Recreation Ground, Althorne Way, Canewdon

Great Wakering Recreation Ground, High Street, Wakering

Seaview Drive, Wakering

Morrins Close, Wakering

Glebe Close, Wakering

Conway Avenue, Wakering

Clements Hall Recreation Ground, Park Gardens, Hawkwell

Hawkwell Common, Hawkwell

Magnolia Nature Park, Rectory Road, Hawkwell

Hockley Woods, Main Road, Hockley

Laburnum Grove, Hockley
Betts Wood, Westminster Drive, Hockley
Plumberow Mount Avenue, Hockley
Hullbridge PF, Pooles Lane, Hullbridge
Rawreth PF, Rawreth Lane, Rayleigh
Fairview PF, Victoria Road, Rayleigh
Grove Recreation Ground, Grove Road, Rayleigh
Sweyne Park, Rayleigh
St John Fisher PF, Little Wheatley Chase, Rayleigh
Causton Way, Rayleigh
Boston Avenue, Rayleigh
Hartford Close, Rayleigh
Fyfield Path, Rayleigh
Elsenham Court, Rayleigh
King George's PF, Bull Lane, Rayleigh
Bedford Close, Rayleigh
Warwick Drive/Sutton Court Drive, Rochford
Rochford Recreation Ground, Stambridge Road, Rochford

- a) each and every length of road (which term includes pavements or footways) in the Rochford District except public footpaths and bridleways; and
 - b) the following public open spaces:-
 - i. Pooles Lane recreation ground, Hullbridge,
 - ii. Marylands Nature reserve, Hockley,
 - iii. Kendall Park, Hullbridge.
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 CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005

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

THE DOGS ON A LEAD BY DIRECTION (ROCHFORD) ORDER 2008

The Rochford District Council hereby makes the following Order:

- 1 This Order comes into force on the day of 2008.
- 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, 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 or any animal or bird.

Penalty

- 5** 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.

(Date)

The COMMON SEAL of the)
ROCHFORD DISTRICT COUNCIL was)
Hereunto affixed this)
Day of 2008 in the presence of:)

Head of Legal Services

Schedule

1. Subject to the exemption in paragraph 2 below, all land which is in the administrative area of the Council and which is:-
 - (i) open to the air (which includes land that is covered but open to the air on at least one side) and
 - (ii) to which the public are entitled or permitted to have access with or without payment.
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.