

IMPLEMENTATION OF THE DOGS (FOULING OF LAND) ACT 1996

1 SUMMARY

- 1.1 At the meeting of Council held on 24 October 2000 a notice of motion in respect of the possibility of this Council adopting the Dogs (Fouling of Land Act) 1996 was referred to this Committee for consideration (minute 345/00 (1) refers). This report provides Members with relevant details of the Act and what actions would be required, in order to assess the Act's value.

2 INTRODUCTION

- 2.1 The Dogs (Fouling of Land) Act 1996 was brought in to deal with the problem of dog excrement on land, by encouraging dog owners to clear up after their pets. The Act gives Local Authorities the right to enforce a fixed penalty scheme for dog fouling offences, where sufficient evidence is obtained. The fixed penalty would be £25.00 and would have to be sent to the Secretary of State. Any fine imposed by the court would also be sent to the Secretary of State although the Council could seek the costs of bringing the action.
- 2.2 In the recent public questionnaire carried out as part of the Asset Management Best Value Review, 93 out of over 750 responses made comments about the amount of dog excrement in public areas around the District.

3 IMPLICATIONS OF THE ACT

- 3.1 Following further examination of the specific details of the Act, a number of issues are highlighted that the Authority would need to consider prior to adopting the Act.
- 3.2 In order to prove that an offence has occurred and that a prosecution can be made, sufficient evidence would have to be gathered which would involve witnessing the offence occurring and relies on a considerable resource being given to effectively patrol all relevant land. There was previously a view given by the Council's Legal Services that they felt even with the adoption of the new legislation, obtaining sufficient evidence for prosecution would still be difficult.

- 3.3 The possibility of utilising existing external staff and incorporating this type of work into existing duties has been considered. At present the Car Park Patrol Officers would not have sufficient time to add this role to their duties. Equally the Contract Monitoring Inspectors are fully utilised with the monitoring of the Refuse, Street Cleansing and Grounds Maintenance Contracts.
- 3.4 The present workloads of existing staff indicate that additional resource to provide effective enforcement of the Act would be needed. In addition staff would be required to operate 7 days a week and over a range of times throughout the day, but concentrating on those times when more dog walking takes place.
- 3.5 The adoption of the Act would replace any existing byelaws and so it would be important to ensure there is sufficient enforcement resource, in order to prevent a “net” reduction of the Authority’s powers in this area.
- 3.6 The Act also details which types of land are included and therefore a full breakdown of the District’s land would be required to ascertain what extent of land would be covered by the Act’s regulations. Types of land that are not covered in this Act include the following:
- Land used for agriculture or for woodlands.
 - Land which is predominantly marshland, moor or heath.
 - Common land to which the public are entitled or permitted to have access.
 - Land alongside a highway where the speed limit exceeds 40 m.p.h.
- 3.7 If required, then this information can be gathered and analysed. It is envisaged that this process would take approximately 2 – 3 months and therefore reported to the June/July meeting of this Committee.
- 3.8 In conjunction with this breakdown, an identification of the worst areas for dog excrement in the District and checks as to whether or not those areas of land would be covered by the Act would be beneficial in assessing the value of adopting this legislation.
- 3.9 In those areas of land that are not covered by the Act, it would be important to ascertain whether or not the powers of the byelaw could remain.
- 3.10 Appropriate signage detailing the punishments for offences under this Act would need to be purchased and displayed throughout the District.

4 CRIME AND DISORDER IMPLICATIONS

- 4.1 If the Act were to be adopted then effective enforcement would highlight the number of offences that were occurring.

5 ENVIRONMENTAL IMPLICATIONS

- 5.1 The reduction in dog excrement around the District would improve the area's environmental conditions and reduce the risk of contracting illnesses as a direct result of contamination.

6 RESOURCE IMPLICATIONS

- 6.1 Effective enforcement of the Dogs (Fouling of Land) Act 1996 would require the Council to invest in additional staff resources to undertake this role. Significant consideration should be given to the health and safety implications of situations that could prove very confrontational on a one to one basis, away from Council offices. There would also be costs incurred in providing the requisite signage.
- 6.2 There would be cost implications associated with advertising the relevant notices informing the public of the adoption of the Act, in the region of £300 - £400.
- 6.3 Officer resource would be required to carry out the further investigations as set out in Section 3 of the report.

7 LEGAL IMPLICATIONS

- 7.1 The current Dog Fouling Byelaw would expire on the adoption of the Dogs (Fouling of Land) Act 1996 or on the tenth anniversary of the introduction of the Act. It would therefore not be worthwhile trying to plug any gaps with the byelaw.
- 7.2 Enforcement of the provisions of the Act would be entirely dependent on the strength of the evidence provided. Without sufficient evidence prosecution might prove difficult and sometimes unsuccessful.

8 RECOMMENDATION

8.1 It is proposed that the Committee RESOLVES

Whether or not to proceed with further investigation into adopting the provisions of the Dogs (Fouling of Land) Act 1996. (CD(FES))

Roger Crofts

Corporate Director (Finance & External Services)

Background Papers:

Dogs (Fouling of Land) Act 1996.

For further information please contact Jeremy Bourne on:-

Tel:- 01702 318163

E-Mail:- jeremy.bourne@rochford.gov.uk.