DECISION

RIBBLE VALLEY BOROUGH COUNCIL REPORT TO COMMUNITY SERVICES COMMITTEE

Agenda Item No.

 meeting date:
 21 MAY 2013

 title:
 DOG CONTROL ORDERS

 submitted by:
 JOHN HEAP, DIRECTOR OF COMMUNITY SERVICES

 principal author:
 CHRIS HUGHES, HEAD OF CULTURAL & LEISURE SERVICES

 JAMES RUSSELL, HEAD OF ENVIRONMENTAL HEALTH

 MAIR HILL, SOLICITOR

1 PURPOSE

- 1.1 To ask Committee to consider the introduction of four Dog Control Orders under the Clean Neighbourhoods and Environment Act 2005.
- 1.2 Relevance to the Council's ambitions and priorities:
 - **Council Ambitions** to make people's lives safer and healthier, and to protect and enhance the existing environmental quality of the area.

2 BACKGROUND

- 2.1 In July 2011, members received a report outlining concerns of dog fouling on Council playing pitches.
- 2.2 During the meeting, members raised other issues they had come across on both Council-owned and Parish-owned land.
- 2.3 It was agreed that officers should pursue the introduction of a Dog Control Order to include a dog ban on Council Playing Fields, and that Parishes should be consulted to determine any changes they would like to see.
- 2.4 A report was submitted to Parish Council Liaison Committee in November 2012, asking Parishes to review their own areas and suggest any amendments.

3 CURRENT SITUATION

The current Ribble Valley Borough Council Dogs (Fouling of Land) Designation Order 1998:

- 3.1 only covers dog fouling in identified areas. This equates to over one hundred designated areas within the Ribble Valley, which can lead to confusion/complications for enforcement.
- 3.2 In 2005, The Dog (Fouling of Land) Act 1991 was replaced by The Clean Neighbourhoods and Environment Act 2005, and extended the scope of aspects within it to include:
 - (a) fouling of land by dogs, and the removal of dog faeces;
 - (b) the keeping of dogs on leads;
 - (c) the exclusion of dogs from land;
 - (d) the number of dogs which a person may take onto any land.

In terms of land that the Order may apply to it, this is specified as 'any land that is open to the air and to which the public is entitled or permitted to have access'. It

also allows certain covered structures, such as bus shelters, to be included (please see section 1 of appendix 1).

- 3.3 With this in mind, it is proposed that the new Order should cover the following:
 - (a) All public open space, as defined in 3.2 of appendix 1, rather than the current arrangement of specifically designated areas.
 - (b) The exclusion of dogs on all Council-owned playing pitches, all children's play areas that are enclosed, and any additional areas identified as part of the consultation.
 - (c) A requirement to keep dogs on leads, at the request of a designated officer, in The Castle Grounds and Clitheroe Cemetery – any additional areas identified as part of the consultation.
- 3.4 This will support the Council, and its designated officers, by:
 - removing any doubt as to which land is included in the Order;
 - will support the safe use of football pitches and reduce the number of complaints from football clubs using the Council's football pitches
 - will support the dog wardens, and other designated staff, in asking members
 of the public to control their dogs in areas where they have had previous
 concerns.

4 **ISSUES**

- 4.1 When we originally consulted with the Parish Councils, it was under the assumption that we would be adding areas of land to the existing register. This will now include all land as defined in the appendix, plus any specific designated areas relating to dog bans or dogs on leads.
- 4.2 It should be noted that, whilst the new legislation will help with enforcement, there are no additional staff resources to increase this, although Parish Councils will be able to identify designated people to enforce within their own communities.
- 4.3 Before making a new Dog Control Order, we have to consult on the proposal, as laid out in section 4 of Appendix 1.
- 4.4 There will also be a need to review and enhance signage, particularly on those designated areas where there are additional requirements.

5 **RISK ASSESSMENT**

Approval of this report may have the following implications:

- Resources The cost of implementing a Dog Control Order will include:
 - o publishing a notice in the local press
 - consulting with every other Authority that has powers to make an order in the Borough (eg Parish Councils)
 - o new Signage
 - o officer time
- **Technical, Legal, Environmental** The establishment of a new Dog Control Order is a formal legal process.

- **Political** The recommendations in this report are an extension of principles already agreed by this committee.
- **Reputation** the new Order demonstrates that the Council is responding to the concerns of local residents regarding dog fouling.
- Equality & Diversity A community impact assessment has been completed and enclosed in appendix 2.

6 **RECOMMENDED THAT COMMITTEE**

Notes the contents of the report and agrees to the making of a Dog Control Order, as laid out in section 3 of this report, and detailed in Appendix 1

JOHN C HEAP DIRECTOR OF COMMUNITY SERVICES

CHRIS HUGHES HEAD OF CULTURAL & LEISURE SERVICES

JAMES RUSSELL HEAD OF ENVIRONMENTAL HEALTH

MAIR HILL SOLICITOR

For further information, please ask for Chris Hughes 01200 414479

Community Services 21.5.13 / Dog Control Orders / Chris Hughes / IW

APPENDIX 1

This Appendix sets out the procedural steps, which need to be taken for the Council to implement a Dog Control Order, and also highlights the additional powers, which this would give the Council to deal with areas that are blighted, by problem dogs and/or dog fouling.

1. Legislation

- 1.1 Section 55 (1) of the Clean Neighbourhoods and Environment Act 2005 (the "2005 Act") provides that a Primary or Secondary Authority may "*in accordance with this Chapter make an order providing for an offence or offences relating to the control of dogs in respect of any land in its area to which this Chapter applies*".
- 1.2 **Section 55(3)** of the 2005 Act provides that an offence relates to the control of dogs if it relates to one of the following matters:
 - (a) fouling of land by dogs and the removal of dog faeces;
 - (b) the keeping of dogs on leads;
 - (c) the exclusion of dogs from land;
 - (d) the number of dogs which a person may take on to any land.
- 1.3 Section 57 of the 2005 Act specifies the land to which the order may apply. It is specified as "....any land which is open to the air and to which the public are entitled or permitted to have access (with or without payment). It also states that for the purposes of the 2005 Act any land, which is "covered is to be treated as land which is 'open to the air' if it is open to the air on at least one side". This would therefore include structures such as bus shelters.
- **1.4** The **Control on Dogs (Non application to Designated Land) Order 2009/2829** provides however that the Act will not apply to Land that is placed at the disposal of the Forestry Commission under Section 39(1) of the Forestry Act 1967 in respect of all types of dog control order, and to Land which forms part of a road in respect of dog exclusion orders.

2. Content of Dog Control Orders

2.1 As stated above the Council may have Dog Control Orders dealing with any or all of the offences listed in 1.2. The proposed orders are in Schedule 2 of this Appendix. The

Schedules to some of the orders have not however yet been completed as the areas to be covered have not yet been finally determined. The wording used is that prescribed in the legislation and the specific areas to be listed in the schedules are those that have been identified by the Council's Dog Wardens or by Parish Council's following consultation. 1. A. A.

- 2.2 These orders will give the Council significantly increased powers beyond those designated under Ribble Valley Borough Council Dogs (Fouling of Land) Designation Order 1998. This Order designated:
- 2.2.1 carriageways with a speed limit of 40 miles an hour or less and adjoining footpaths and verges; and
- 2.2.2 all land edged red on the maps attached to it.
- 2.3 There are therefore currently areas of the borough where the Council has no power to prosecute for dog fouling, i.e any roads with a speed limit of more than 40mph, and any other areas not shown of the maps. The maps are 15 years old and therefore do not include housing developments or playing fields which have been created since then. The proposed orders will remedy this.
- 2.4 In addition, there are areas of the borough where there have been persistent problems with dog fouling or problem dogs in particular on football pitches or in the castle grounds and where it has been considered appropriate to either exclude dogs entirely, require dogs to be on leads or give the dog wardens the power to require a dog to be put on a lead.

3. Penalties

- 3.1 The Penalty for breaching a dog control order is set out in regulation 3 of the Dog Control Orders (Prescribed Offences and Penalties, etc) Regulations 2006/1059 (the "Penalties Order") as on summary conviction, a fine not exceeding level 3 on the standard scale (currently £1,000).
- 3.2 **Section 59** of the 2005 Act allows for the giving of Fixed Penalty Notices and **Section 60** provides that the amount of the fixed penalty payable will be:

- (a) the amount specified by the authority which made the order;
- (b) if no amount is specified, is £75.
- 3.3 However, Section 60(5)(b) provides for regulations to be made which require the amount of fixed penalty to fall within a specified range. This range is stipulated in Regulation 2(d) of the Environmental Offence (Fixed Penalties) (Miscellaneous Provisions) Regulations 2007/175 (the "Fixed Penalty Regulations") as not less than £50 and not more than £80. The maximum level that the Council could set for its fixed penalty is therefore £80. Section 60(3) of the Act also allows the Council to make provision for a less amount to be paid. This is also regulated by the Fixed Penalty Regulations, which provide at Regulation 3(1)(d) that such lesser amount shall not be less that £50. This is equal to the maximum penalty in the Council's current fixed penalty notices.

4. Procedure

4.1 The procedure for putting Dog Control orders in place is set out in the <u>Dog Control</u> <u>Orders (Procedures) Regulations 2006/798 (the "Order")</u>.

Regulation 3 of the Order provides that:

"Before making a dog control order under section 55 of the Act, an authority shall-

- (a) consult upon its proposal to make the order by publishing a notice of that proposal in a local newspaper circulating in the area in which the land in respect of which the order would apply is situated;
- (b) consult every other Authority having power under section 55 of the Act to make a dog control order in respect of all or part of the land in respect of which the proposed order would apply; and
- (c) where all or part of the land in respect of which the proposed order would apply is access land, consult-
 - (i) the access authority for that access land, and
 - (ii) the local access form for that access land,

and in respect of any of that access land that is not situated in a National Park, the Countryside Agency.

(2) The notice referred to in paragraph (1)(a) shall-

- (a) identify the land in respect of which the order is to apply, and, if any of the land is access land, state that this is the case;
- (b) summarise the order;
- (c) where the order refers to a map, state where the map be inspected at an address within the Authority's area, and that any inspection shall be free of charge at all reasonable hours during the period mentioned in sub-paragraph (d);
- (d) state the period within which representations may be made in writing or by e-mail, such period being not less than 28 days after the publication of the notice; and
- (e) state the address and e-mail address to which representations may be sent.

(3) After making a dog control order, an Authority shall, not less than seven days before the day on which the order is to come into force-

- (a) where practicable, place signs summarising the order in conspicuous positions on or near the land in respect of which it applies;
- (b) publish, in a local newspaper circulating in the area in which the land in respect of which the order applies is situated, a notice that the order has been made and stating the place at which it may be inspected and copies of it obtained;
- (c) make the information referred to in sub-paragraph (b) available on its website (if any);
- (d) send the information referred to in sub-paragraph (b) to every other Authority having power under section 55 of the Act to make a dog control order in respect of all or part of the land in respect of which the order applies;
- (e) where the order applies in respect of any access land, send the information referred to in sub-paragraph (b) to-
 - (i) the access authority, and
 - (ii) the local access forum,

for that access land, and to the Countryside Agency."

5. <u>Cost</u>

- 5.1 The costs associated with implementing a Dog Control Order will include:
- 5.1.1 Publishing a notice of the proposed order in a local newspaper circulating in the area both before and after the order is made.
- 5.1.2 Consulting every other Authority which has power to make an order in the borough e.g Parish Councils.
- 5.1.3 Officer time.

5.1.4 New signage – Regulation 3(4)(a) of the Order provides 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 park, 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 park. However, where an area is much larger for example an order in respect of dog fouling, 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.

SCHEDULE

The Clean Neighbourhoods and Environment Act 2005

The Dog Control Order (Prescribed Offences and Penalties, etc) Regulations 2006 (2006/1059)

The Fouling of Land By Dogs (Ribble Valley) Order 2013

Ribble Valley Borough Council hereby makes the following Order:

- 1. This Order comes into force on [date];
- 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;
- (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) Noting 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 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 number1088281)
 - (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.

The Common Seal of the Ribble Valley Borough Council was hereunto affixed This 2013 in the presence of

Mayor

Chief Executive

SCHEDULE

This Order applies to any land within the administrative area of Ribble Valley, which is open to the air and to which the public are entitled or permitted to have access (with or without payment).

The Clean Neighbourhoods and Environment Act 2005

The Dog Control Order (Prescribed Offences and Penalties, etc) Regulations 2006 (2006/1059)

The Dogs on Leads (Ribble Valley) Order 2013

Ribble Valley Borough Council hereby makes the following Order:

- 1. This Order comes into force on [date];
- 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 1 metre 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 of 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.

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Chief Executive

SCHEDULE

To be completed

The Clean Neighbourhoods and Environment Act 2005

The Dog Control Order (Prescribed Offences and Penalties, etc) Regulations 2006 (2006/1059)

The Dogs on Leads by direction (Ribble Valley) Order 2013

Ribble Valley Borough Council hereby makes the following Order:

- 1. This Order comes into force on [date];
- This Order applies to the land specified in the Schedule. 2.
- In this Order "an authorised officer of the authority" means an employee of the Authority 3. who is authorised 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 to him by an authorised officer of the Authority to put and keep the dog on a lead of no more than 1 metre 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.
- For the purposes of this article -(2)
 - (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 this 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 or the worrying or disturbance of any animal or bird.

Penalty

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

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Mayor

Chief Executive

SCHEDULE - to be completed

The Clean Neighbourhoods and Environment Act 2005

The Dog Control Order (Prescribed Offences and Penalties, etc) Regulations 2006 (2006/1059)

The Dogs Exclusion (Ribble Valley) Order 2013

Ribble Valley Borough Council hereby makes the following Order:

- 1. This Order comes into force on [date];
- 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 his dog onto, or permits the dog to enter of 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) Noting in this article applies to a person who-
 - (c) is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948; or
 - (d) 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-
 - (e) 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;
 - (f) 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;
 - (g) being unaware of the defecation (whether by reason of not being in the vicinity or otherwise) or not having a device or other suitable means of removing the faeces shall not be a reasonable excuse for failing to remove the faeces.
 - (h) each of the following is a "prescribed charity" -
 - (i) Dogs for the disabled (registered charity number 700454)
 - (ii) Support Dogs (registered charity number1088281)
 - (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.

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This	2013
in the presence of	

Mayor

Chief Executive

SCHEDULE - to be completed



1) Is the policy or decision under review: (please tick)

New/proposed

Modified/adapted

Existing	
LAISting	-

BBLE VAL

2) Scope of the Customer Impact Assessment

Amending current dog control order to reflect changing legislation and service needs

3) Aims and Objectives – summarise the main aims/objectives of the policy, decision, strategy, project, procedure, or action plan

Change from the current Dogs(Fouling of Land)Act 1996 to the Clean Neighbourhoods and Environment Act 2005 in order to extend the scope of the Council's powers relating to dog fouling.



4) Who is the main target or user of this strategy, policy, project, procedure or decision? counc			
Customers/citizens of the borough			
A targeted/specific group of customers/citizens of the borough	Z		
Councillors			
Employees or potential employees			
Other public bodies/government agencies			
Community/voluntary sector groups	1		
Other stakeholders (trade unions, contractors, suppliers, partners, developers, legal agencies or third parties)			

5) Impact – Could a particular group of people be affected differently in either a negative or positive way?						
	Positive Impact – it could benefit	Negative Impact – it could disadvantage/ affect differently ¹	Neutral Impact - neither	Please indicate whether this impact is high (H), medium (M) or low (L).		
Older people (60+)	Ø					
Working age people (17- 60)						
Younger people (17-25)	Ľ					
Children (0-17)						
People with a disability (physical, learning or mental health)						
Vulnerable adults						
Gender - Female						
Gender - Male						
Transgendered people						
Pregnant women or women on maternity						
Race (Ethnicity or Nationality) – BME or majority population (please specify)						

¹ If a negative impact is identified please complete a Full Community Impact Assessment.



Religious/ Faith groups ²		
Lesbians, gay men and bisexual people		

6) Please provide details below on specific equality groups who are seen as intended beneficiaries from this policy/strategy/project/action

You need to think about how any adverse or negative impacts of the policy/proposal can be mitigated, whilst also considering the impact.

This is important as those proposals that have a high negative impact might be or are unlawfully discriminating against groups of people with protected characteristics. You will have to take **immediate** action to mitigate this.

7) If there has been a neutral impact identified, could this be changed to become positive? Yes (details to be included in the action plan) \square No \square $\mathfrak{N}[\mathcal{A}]$

8) If a negative impact has been identified could this be changed to become neutral or positive? Yes (details to be included in the action plan)

9) Impact Assessment Action Plan (to be included in the Service Planning Process)

Issue	Action	Lead officer	Timescale	Resource implications	Comments	Review process ³
Legislative	Formal Consultation	Mair Hill	May-July	Officer time and cost of		

² Faith groups cover a wide range of groupings, the most common of which are Muslims, Buddhists, Jews, Christians, Sikhs, and Hindus. Consider faith categories individually and collectively when considering positive and negative impacts.
³ Please provide details of how you will ensure successful implementation including improving outcomes



Issue	Action	Lead officer	Timescale	Resource implications	Comments	Review process ³
process	as laid out in the act			adverts in local press		
Implementation	Source and erect new signage, brief staff and partners on changes	Chris Hughes/James Russell	August	Cost of new signs		



BOROUGH COUNCIL

10) What evidence/information have you considered	ed?
Information to be considered	What information has been considered when making the decision/recommendation regarding the customers affected by this? Is this information available broken down by equality groups?
National Data – surveys, reports, statistics	
<i>Local Data</i> – <i>demographics</i> (census and ONS data), service mapping studies and relevant research	
<i>Management Information</i> – data collected for operational, financial or other purposes	Feedback from Dog Wardens on issues they face with customer complaints and enforcement
<i>Monitoring data</i> – information already collected/available eg performance indicators	
Consultation data – user group feedback, citizens panel feedback, staff surveys, specific consultations or events	Dog fouling remains one of the top issues raised by the public in Council satisfaction/perception surveys.
Customer complaint/feedback – results of investigations, inquiries, normal complaints/compliments	The council receives numerous complaints regarding dog fouling
Other	Formal consultation with identified organisations will form part of the legislative process to adopt the new act

11) Is further consultation, data collection or research still required	d?
Yes (details to be included)	
A = 1 A	
Lead Officer Signature	Date: 3813.

Date:

MANAGEMENT ACTION REQUIRED (to be completed by the Head of HR)

Head of Human Resources

Referred back to assessor for amendment	Date -
Considered by Diversity and Equality Steering Group/CMT	Date -
Referred to committee -	Date -
Published/made publicly available	Date -