**Environment and Community Safety Directorate**

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| **Report of:** | **Phil Morton,**  **Principal Officer, Licensing and Environmental Crime** | |
| **Report to:** | **Lead Member for Environment** | |
| **Meeting:** | **Lead Member for Environment** | **Date**: **10th January 2012** |

TITLE:

**DOG CONTROL ORDERS**

RECOMMENDATION: That the Dog Control Orders as outlined below are adopted across the City.

EXECUTIVE SUMMARY:

**This report outlines proposals to introduce Dog Control Orders across the City of Salford, as prescribed in the Clean Neighborhoods and Environment Act 2005 and the Dog Control (Prescribed Offences and Penalties etc) regulations 2006.**

BACKGROUND DOCUMENTS:

KEY DECISION:  **YES**

DETAILS:

Local Authorities have had powers to enforce legislation relating to the control of dogs for a number of years. Over time the legislation has become outdated, disjointed and confusing for members of the public.  These new orders aim to simplify the legislation, and allow a greater flexibility in where the legislation can be applied and the range of offences that can be covered under the one order.

The procedure for making a Dog Control order is set out in regulation 3 of the Dog Control Orders Regulations 2006. The authority needs to balance the interests of those in charge of dogs against the interests of those affected by the activities of dogs, in particular consideration should be given to children to have access to dog free areas, and areas where dogs are kept under strict control, and the need for those in charge of dogs to have access to areas where they can exercise without undue restrictions.

Penalties for committing an offence contained in the Dog Control Orders are a maximum of Level 3 on the standard scale £1,000. Alternatively Fixed Penalty Notices can be issued for these offences and may be offered in place of prosecution.

Guidance has been issued by the government, stating that the level of fines that can be set for offences within a dog control order is £50 - £80, and where no fine is set by the local authority the fine is to be £75.  It is therefore proposed that the fine for each dog control order made should be set at £70.

An interim Order has been in force covering Dog Fouling, replacing the previous penalties contained within the Dog (Fouling of Land Act) 1996, which has subsequently been repealed.

It is proposed to make Orders covering the below listed prescribed offences, details of which are contained in the attached appendices.

**A) Failing to remove dog faeces - *(Appendix 1)***

**B) Not keeping a dog on a lead - *(Appendix 2)***

**C) Not putting, and keeping a dog on a lead when directed to do so by an authorised officer - *(Appendix 3)***

**D) Permitting a dog to enter land from which dogs are excluded - *(Appendix 4)***

**E) Taking more than a specified number of dogs onto land - *(Appendix 5)***

**Land Subject to Dog Control Orders**

Under section 57 of the Clean Neighbourhoods and Environment Act 2005 a Dog Control Order can be made in respect of any land which is open to the air and to which the public are entitled or permitted to have access (with or without payment).

As is the case for litter, land which is covered is treated as land “open to the air” if it is open on at least one side. It therefore applies to any covered place with a significant permanent opening on at least one side, such as a bus shelter or garage forecourt that remains open to the air at all times.

Certain types of land cannot be made subject to Dog Control Orders, and these include forestry commission land in respect of ALL Dog Control Orders, and roads in respect of excluding dogs from land specified in the order.

All other land that meets the definition in section 57 may be made subject to a Dog Control Order.

**Defences/Exemptions**

There are defences in all Dog Control Orders of;

a) Having reasonable excuse for failing to comply with an order; or

b) Acting with the consent of the owner of the land, or of any other person or authority which has control of the land.

Exemptions are in provided in particular cases for registered blind people and for deaf people and others with disabilities that make use of trained assistance dogs.

**Making a Dog Control Order**

The procedure for making a Dog Control Order is set out in regulation 3 of the Dog Control Orders (Procedures) Regulations 2006, and briefly requires the following to take place before an order can be confirmed;

1) The Authority must consultant any other primary or secondary authority within the area in which a Dog Control Order is being made (not necessary in Salford’s case being the only authority covering the City).

2) The Authority must publish a notice describing the proposed order in a local newspaper and invite representations on the proposals.

The notice must :

a) Identify the land to which the order will apply,

b) summarise the order,

c) if the order refers to a map say where the map can be inspected,

d) give the address to which representations must be made. This must also give at least 28 days for representations to be received.

3) Following the end of the consultation period, the authority must consider any representations made, and if the decision is made to go ahead with the order, at least 14 days must pass from the date of the order being made before the order can commence.

4) Signage must be erected where practicable informing the public of the fact that an order is in place on the land.

This process has now been completed, and all representations, objections and comments have been considered fully by the Council.

A total of 17 formal enquiries were received, and a number of informal contacts were recorded. All these have been answered and respondents contacted. Details of respondents and responses are outlined as follows;

1. Respondent 1 – pavements in Irlam and Cadishead affected by dog fouling, welcomes proposals to fine offenders but queried how it would be enforced given austerity measures. Responded that council has statutory duty to provide dog warden service and that they would assist with enforcement along with PCSOs and CEOs.
2. Respondent 2 – concerned about whether his dog would be allowed off the lead in parks. Responded by reiterating provisions of exclusion and dogs on leads orders.
3. Respondent 3 – asked for details of how to access details and plans online. Responded by directing to on-line version of Life In and inspection of map at council offices.
4. Respondent 4 – concerned about whether could still exercise dog on Rabbit Hill and Clifton Country Park. Responded by confirming the details of the relevant orders and confirmed that Clifton Country Park was only affected in that it may be traversed by highways, footpaths or roads where dogs had to be kept on a lead.
5. Respondent 5 - concerned about whether could still exercise dog on Rabbit Hill and Clifton Country Park. Responded by confirming the details of the relevant orders and confirmed that Clifton Country Park was only affected in that it may be traversed by highways, footpaths or roads where dogs had to be kept on a lead.
6. Respondent 6 – requested copy plan via email through marketing team – response tried to be sent but email addressed not recognised.
7. Respondent 7 – hadn’t seen orders but had had received a number of queries from concerned residents. Responded by clarifying provisions of orders.
8. Respondent 8 – requested copy plan via email. Responded by sending plan and clarifying provisions of orders.
9. Respondent 9 – asked if dogs had to be on a lead at all times in Clifton Country Park and Victoria Park in Swinton. Responded by clarifying proposals and confirming position regarding Country Park.
10. Respondent 10 – concerned about whether field at side of St. Augustine’s Church and playing fields at Bolton Road were going to be affected and whether signage would be erected to aid members of the public. Responded directly to respondent answering concerns re enforcement, signage and scope of orders.
11. Respondent 11 – lengthy representations – Responded re concerns over dogs on leads and restrictions in parks. Respondent fully satisfied with reply.
12. Respondent 12 – concerned about Princess Park and footpaths therein. Responded re dogs on leads in parks.
13. Respondent 13 – formal objection to exclusion zone particularly with regards to the inclusion of cemeteries. Consideration of objection, and the restrictions of dogs in cemeteries to be removed (as detailed below).
14. Respondent 14 – requested plan online and details of enforcement– responded by sending plan via email and confirmed that 400 FPN had been issued in last 4 years.
15. Respondent 15 – Following a request, attendance at the Irlam and Cadishead Community Committee meeting was undertaken and issues raised were addressed at the meeting.
16. Respondent 16 – concerned about use of Campbell Grove Playing fields if sporting areas not marked out – confirmed by letter that exclusion zone applies only when sporting areas are marked out, i.e. during relevant season.
17. Respondent 17 – concerned about playing fields near Moor Land, Kersal – have telephoned and left message to call me so I can clarify proposals.

Following the period of consultation, and considering objections received, it is proposed that an amendment is made, whereby dogs will no longer be excluded from cemeteries per se, but will remain excluded from memorial parks and gardens within such areas. This is in response to a number of objections from members of the public who take their dogs with them, whilst visiting and tending graves in cemeteries.

The wording of schedule 4 will be amended accordingly, and the word ‘Cemeteries’ removed from the order.

**Proposed Orders**

The below are the proposed orders which went out for consultation.

**Appendix 1**

**The Clean Neighbourhoods and Environment Act 2005**

**The Dog Control (Prescribed offences and Penalties etc) Regulations 2006**

**The Fouling of Land by Dogs (Salford City Council) Order 2010**

Salford City Council herby makes the following Order :

1. This Order comes into force on (date to be inserted)

2. This order applies to the land specified in Schedule 1

**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 the 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 whom 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 a 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 (to be inserted)

By resolution of Salford City Council dated (to be inserted)

Signed

**Schedule 1**

All land open to the air to which the public are entitled or permitted to have access (with or without payment) in the City of Salford including, but not limited to parks, public open spaces and highways in the area outlined and hatched in red on Map 1 to this order.

**Appendix 2**

**The Clean Neighbourhoods and Environment Act 2005**

**The Dog Control (Prescribed offences and Penalties etc) Regulations 2006**

**Dogs on Leads (Salford City Council) Order (2010)**

Salford City Council herby makes the following Order :

1. This Order comes into force on (date to be inserted)

2. This order applies to the land specified in Schedule 2

**Offence**

3. (1) a person in charge of a dog shall be guilty of an offence if, at anytime on any land to which this Order applies he does not 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 of specifically) to his failing to do so.

(2) For the purpose of this article a person who habitually has a dog in his possession shall be taken to be in charge of a 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.

Date (to be inserted)

By resolution of Salford City Council dated (to be inserted)

Signed

**Schedule 2**

All Roads, Highways and Footpaths in the City of Salford in the area outlined and hatched in red on Map 1 to this order.

**Appendix 3**

**The Clean Neighbourhoods and Environment Act 2005**

**The Dog Control (Prescribed offences and Penalties etc) Regulations 2006**

**Dogs on Leads by Direction (Salford City Council) Order (2010)**

Salford City Council herby makes the following Order :

1. This Order comes into force on (date to be inserted)

2. This order applies to the land specified in Schedule 3

**Offence**

3. In this Order an “authorised officer of the Authority” means any employee of the Authority or other person, 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 anytime on any land to which this Order applies, he does not comply with a direction given 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 of specifically) to his failing to do so.

(2) 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 a 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 3 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Date (to be inserted)

By resolution of Salford City Council dated (to be inserted)

Signed

**Schedule 3**

All land open to the air to which the public are entitled or permitted to have access (with or without payment) in the City of Salford including, but not limited to parks, public open spaces and highways in the area outlined and hatched in red on Map 1 to this order.

**Appendix 4**

**The Clean Neighbourhoods and Environment Act 2005**

**The Dog Control (Prescribed offences and Penalties etc) Regulations 2006**

**The Dog Exclusion (City of Salford) Order 2010**

Salford City Council herby makes the following Order :

1. This Order comes into force on (date to be inserted)

2. This order applies to the land specified in Schedule 4

**Offence**

3. (1) A person in charge of a dog shall be guilty of an offence if, at anytime , 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 of 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 whom he relies for assistance, or

c) Is deaf in respect of a dog trained by Hearing Dogs for Deaf People (registered charity number 293358) and upon which he relies on 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 a 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 (to be inserted)

By resolution of Salford City Council dated (to be inserted)

Signed

**Schedule 4**

This Order shall apply to the following areas of land, which are open to the air and to which the public are entitled or permitted to have access (with or without payment) within the City of Salford.

**1 All Children’s play areas**

This shall include; any area formally laid out for the provision of play for children and young people. Such an area may be enclosed or open plan but provides fixed, permanent equipment used for playing. Such sites may also include Skate Parks, Goal Ends and Multi use Games Areas (MuGA’s). Where a play area is enclosed, the area of exclusion will include all areas of equipment, together with any hard surface or grassed area included within the perimeter fencing or barriers. Where the play area is open plan the area of exclusion shall include all areas of equipment and their safety surfacing, together with any associated hard surfaces. On open plan sites, the exclusion will extend 4m from any outer edge of hard standing area forming part of the play area.

**2. All marked sporting areas within parks and open spaces**

This shall include –

(1) Football, Rugby and Hockey Pitches

The area of exclusion will extend across the entire marked-out playing surface extending outwards to provide a safety zone of 1.5 metres beyond any marked touch and/or goal line.

(2) Cricket Pitches

The area of exclusion will include the entire cricket table and the associated wickets (including any artificial wicket) together with the entire outfield area as defined by the marked outfield boundary, extending outwards to provide a safety zone of 3 metres beyond the marked area.

(3) Bowling Greens

The area of exclusion will include the entire entire playing surface together with all associate gutters and perimeter paths.

**3. Memorial Parks and Gardens within the City of Salford.**

**4. All School premises school playing fields and school areas within the City of Salford.**

**Appendix 5**

**The Clean Neighbourhoods and Environment Act 2005**

**The Dog Control (Prescribed offences and Penalties etc) Regulations 2006**

**The Dogs (Specified Maximum) City of Salford) Order 2010**

Salford City Council herby makes the following Order :

1. This Order comes into force on (date to be inserted)

2. This order applies to the land specified in Schedule 5

**Offence**

3. On land to which this Order applies, the maximum number of dogs which a person may take onto that land is 6 (or whatever number decided)

**Offence**

4 (1) A person in charge of more than one dog shall be guilty of an offence if, at any time he takes onto any land in respect of which this Order applies more than the maximum number of dogs specified in article 3 of this Order, 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) A person who habitually has a dog in his possession shall be taken to be in charge of a 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.

Date (to be inserted)

By resolution of Salford City Council dated (to be inserted)

Signed

**Schedule 5**

All land open to the air to which the public are entitled or permitted to have access (with or without payment) in the City of Salford including, but not limited to parks, public open spaces and highways in the area outlined and hatched in red on Map 1 to this order.

KEY COUNCIL POLICIES:

EQUALITY IMPACT ASSESSMENT AND IMPLICATIONS: Full public consultation took place with consideration to all user groups

ASSESSMENT OF RISK: low

SOURCE OF FUNDING: existing budget

LEGAL IMPLICATIONS: Due legal processes complied with. Failure to implement orders will impact on ability to enforce relevant legislative powers

FINANCIAL IMPLICATIONS : none

OTHER DIRECTORATES CONSULTED: Yes via consultation process and neighboured management teams.

CONTACT OFFICER: **PHILIP MORTON** TEL. NO. **925 1304**

WARD(S) TO WHICH REPORT RELATE(S): All wards