

**TONBRIDGE & MALLING BOROUGH COUNCIL**

**PARISH PARTNERSHIP PANEL**

**8 March 2007**

**Report of the Director of Health and Housing**

**Part 1- Public**

**Matters for Information**

**1 CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005 – DOG CONTROL ORDERS**

**Summary**

**The new powers available to the Borough and parish councils relating to dog control are described and a way forward for considering the need for additional controls on dogs is outlined.**

**1.1 Background**

1.1.1 The Clean Neighbourhoods and Environment Act 2005 contains new powers for the Borough Council and parish councils to make Dog Control Orders for regulating aspects of dog ownership. This report describes the matters that can be covered by the new Orders and describes a way forward that has regard to the roles of the Borough and parish councils.

1.1.2 Dog Control Orders are intended to take the place of byelaws and designations under the Dogs (Fouling of Land) Act 1996, although existing byelaws and designations remain in force. Unlike byelaws, Dog Control Orders do not need to be confirmed by the Secretary of State and enforcement can be by fixed penalty notice, rather than prosecution.

**1.2 Dog Control Orders**

1.2.1 Dog Control Orders can deal with the following:

- requiring the removal of dog faeces;
- requiring that dogs be kept on leads;
- requiring the person in charge of a dog to put and keep a dog on a lead when directed to do so by an authorised officer;
- excluding dogs from land;
- specifying the maximum number of dogs that a person can take onto land.

- 1.2.2 The penalty for failure to observe the requirements of a Dog Control Order is a maximum fine on conviction of level 3 (currently £1,000). Alternatively, the opportunity to pay a fixed penalty can be offered in place of prosecution. The fixed penalty is £80 – discounted to £50 if paid within ten days.
- 1.2.3 Dog Control Orders can be made by principal (borough, county and unitary) authorities and secondary (parish) councils. 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). There is a requirement for consultation between primary and secondary authorities before either makes a Dog Control Order. An authority proposing to make a Dog Control Order has to give public notice of its intention and consider any representations made. Having made a Dog Control Order, public notice must be given of when it will come into force – not less than seven days after publication. Signs must be placed, so far as is reasonably practicable, on land to which a Dog Control Order applies.
- 1.2.4 Enforcement can be undertaken by authorised employees and contractors of primary and secondary authorities and Police Community Support Officers.

### **1.3 The Current Position in Tonbridge and Malling**

- 1.3.1 The Borough of Tonbridge and Malling (Dogs Fouling of Land) Designation Order 1997 requires the person in charge of a dog to clear up if the dog fouls on land to which the Order applies – e.g. pavements, public open spaces, car parks, churchyards, cemeteries etc. Some of the Borough Council owned/maintained open spaces, sports grounds are subject to byelaws which control other aspects of dog control, e.g. dogs on leads, dog bans. Similarly, some parish councils have dog byelaws in respect of their open spaces, playing fields etc.

### **1.4 The Way Forward**

- 1.4.1 The Borough Council is of the view that the current control on dog fouling – the designation order made under the Dogs (Fouling of Land) Act – has served the borough well and there is no need to replace it with a Dog Control Order. The current designation order will remain in force and will continue to be enforced by the Dog Warden, Litter Enforcement Officer and PCSOs.
- 1.4.2 In relation to the other types of Dog Control Orders, it is felt that the “owner” of the relevant land is best placed to decide whether there is a local need to exercise control over dogs. In relation to Borough Council owned/managed leisure facilities, the Director of Planning, Transportation and Leisure will consider the need for Dog Control Orders and report, as necessary, to the relevant Board. If any parishes wish to consider making a Dog Control Order in relation to land it owns or manages (and it is understood that one is already actively pursuing this) they are invited to consult with Barry Olding of Environmental Health and Housing Services, who will give appropriate advice and assistance.

1.4.3 A copy of a guide for parish councils, produced by DEFRA, accompanies the parish councils' copies of this report.

Background papers:

contact: Barry Olding

Nil

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Director of Health and Housing