

## RIBBLE VALLEY BOROUGH COUNCIL REPORT TO COMMUNITY SERVICES COMMITTEE

Agenda Item No. 7

meeting date: 27 MAY 2014  
 title: DOG CONTROL ORDERS  
 submitted by: DIRECTOR OF COMMUNITY SERVICES  
 principal author: MAIR HILL, SOLICITOR

### 1 PURPOSE

1.1 To ask Committee to consider: the responses received to the consultation upon the Dog Control Orders proposed under the Clean Neighbourhoods and Environment Act 2005; whether in light of these the Orders should be made; and the value of fixed penalty to be applied to these offences.

1.2 Relevance to the Council's ambitions and priorities

- Community Objectives - }
  - Corporate Priorities - }
  - Other Considerations - }
- to make people's lives safer and healthier and to protect and enhance the existing environmental quality of the area.

### 2 BACKGROUND

2.1 A detailed report was brought to this Committee on this matter on 14 January 2014 which Committee authorised the Head of Environmental Health Services to consult upon the proposed Dog Control Orders as approved by Committee and appended to this report as Appendix 1.

2.2 Pursuant to this authorisation the Council:

- 2.2.1 Placed the requisite notice in the Clitheroe Advertiser and Times on 23 January 2014;
- 2.2.2 Consulted all Parish Councils;
- 2.2.3 Consulted the Access Authority and Local Access Forum;
- 2.2.4 Consulted Natural England (as the successor to the Countryside Authority);
- 2.2.5 Placed an explanation and copies of the proposed Orders on its website; and
- 2.2.6 Issued a press release about the consultation and the proposed Orders.

2.3 The responses received to that consultation are summarised in Appendix 2 to this report.

### 3 ISSUES

3.1 The majority of the responses are supportive of the proposed Orders. However, an issue has been raised about public rights of way across areas included in the proposed Dog Exclusion Order.

- 3.2 The position in relation to 'public rights of way' is understood to be dealt with through the provisions of Section 57 of the Clean Neighbourhoods and Environment Act ("Act") and the Control on Dog (Non-application to Designated Land) Order 2009/2829 ("Non-Application Order"). Section 57 of the Act allows for land to be designated by the Secretary of State as being land to which the Act does not apply.
- 3.3 The Non-Application Order does this in two respects. The Act does not apply to Forestry Commission Land in respect to all types of orders made and does not apply to roads in respect to Dog Exclusion Orders. A road is defined within the Non Application Order as "any length of highway or of any other road to which the public have access (with or without payment), and includes bridges over which a road passes. The DEFRA guidance indicates that this definition is wide enough to cover public rights of way and footpaths. On this basis it is understood that the proposed Dog Exclusion Order would not apply to any public right of way which crosses the areas covered by it. It is proposed that this be made clear to the public through the use of clear signage and fencing where possible.
- 3.4 Committee is asked to consider the responses received to the consultation and whether in light of these it wishes to make the proposed orders enclosed at Appendix 2.
- 3.5 If Committee considers that the proposed Orders should be made, the procedure to be followed after making a Dog Control Order is set out in the **Dog Control Orders (Procedures) Regulations 2006/798** (the "Order").

" .....

After making the Orders the Council 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."*

**Regulation 6 of the Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations 2006/1059** states that "The date of coming into force of a Dog Control Order (including an order amending a dog control order) shall be at least 14 days after the date on which the Order is made.

- 3.6 In the event that the proposed Orders are made then Section 59 of the Act allows the Council to issue fixed penalty notices. Section 60 of the Act provides that

- (1) *The amount of a fixed penalty payable to a primary or secondary authority in pursuance of a notice under section 59 in respect of an offence under a dog control order-*
  - (a) *is the amount specified by the authority which made the order;*
  - (b) *if no amount is so specified, is £75.*
- (2) *A primary or secondary authority may under section (1)(a) specify different amounts in relation to different offences.*
- (3) *A primary or secondary authority may make provision for treating a fixed penalty payable to that authority in pursuance of a notice under section 59 as having been paid if a lesser amount is paid before the end of a period specified by the authority.*
- (4) *The appropriate person may by regulations make provision in connection with the powers conferred on primary and secondary authorities under subsections (1)(a) and (3).*

3.7 Pursuant to Section 60(4) of the Act the Secretary of State made the **Environmental Offences (Fixed Penalties) (Miscellaneous Provisions) Regulations 2007/175** ("**Fixed Penalty Regulations**"). Regulation 2 of the Fixed Penalty regulations provides that an authority may set its fixed penalty as not less than £50 and not more than £80. Regulation 3 provides that where an authority makes provision for a lesser amount to be paid if it is paid within a specified time then such lesser amount shall be not less than £50.

3.8 Committee is therefore asked to consider what level of fixed penalty should be applied (Section 60(1)(a) of the Act), whether provision should be made for a lesser amount to be paid (Section 60(3) of the Act), and what period an lesser payment should be made within (Section 60(3) of the Act).

#### 4 RISK ASSESSMENT


4.1 The approval of this report may have the following implications

- Resources – The cost of implementing a Dog Control order will include:
  - publishing a notice in the local press
  - making the information available on the website
  - sending a copy of the orders to every other Authority that has powers to make an order in the Borough (eg Parish Councils), and to the Access Authority, Local Access Forum and Natural England
  - extensive new Signage (for which funding has been carried forward)
  - officer time
- Technical, Environmental and Legal – 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 Orders demonstrate that the Council is responding to the concerns of local residents regarding dogs.

- Equality & Diversity – The legislation makes provision for guide dogs, assistance dogs and hearing dogs for the deaf and includes exemptions to these in the various orders where appropriate.

**5 RECOMMENDED THAT COMMITTEE**

- 5.1 Authorise the Council to make the five Dog Control Orders as consulted upon and as set out in Appendix 1 to this report to come into force on 1 August 2014.
- 5.2 Set the amount of a fixed penalty notice as £80, with a lesser amount of £50 if such fixed penalty notice is paid within 14 days.



MAIR HILL  
SOLICITOR



JOHN HEAP  
DIRECTOR OF COMMUNITY SERVICES

**BACKGROUND PAPERS**

Report of Head of Community Services dated 21 May 2013  
Report of Head of Community Services dated 19 July 2011  
Report of Director of Community Services dated 14 January 2014

For further information please ask for Mair Hill, extension 3216.

Community Services/27 May 2014/MJH

## APPENDIX 1

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 2014**

The 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; 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 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 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 Ribble Valley

Borough Council was hereunto affixed

This 2014

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 by Direction (Ribble Valley) Order 2014**

The Ribble Valley Borough Council (in this Order called the "Authority") hereby makes the following Order:

1. This Order comes into force on [date];
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 by the Authority in writing 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, 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 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**

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

Dated:

**The Common Seal of the Ribble Valley**

**Borough Council was hereunto affixed**

**This** 2014

**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 2014**

The 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 or 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.

**Dated:**

**The Common Seal of the Ribble Valley**

**Borough Council was hereunto affixed**

**This** **2014**

**in the presence of**

**Mayor**

**Chief Executive**

## **SCHEDULE**

This Order applies to:

- Clitheroe Cemetery, Waddington Road, Clitheroe (as marked on the attached plan),



DRAWING			
CEMETERY LAYOUT			
PROJECT			
CEMETERY			
WADDINGTON ROAD			
CLUTHIEROE			
SCALE	Proj. No.	DESIGNED BY	RECHECKED BY
NTS	CEM002		
DATE	DRAWN BY	T.L.	
03/01/14			

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 2014**

The 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 or 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) 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;
- (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 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) 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.

Dated:

**The Common Seal of the Ribble Valley**

**Borough Council was hereunto affixed**

**This** 2014

**in the presence of**

**Mayor**

**Chief Executive**

## **SCHEDULE**

This Order applies to any land within the administrative area of Ribble Valley which comprises of any enclosed children's play area, skate park, tennis court, basketball court, bowling green, putting green, sports pitch(es) and/or any other recreational facility.

The Clean Neighbourhoods and Environment Act 2005  
The Dog Control Order (Prescribed Offences and Penalties, etc) Regulations  
2006 (2006/1059)

**The Dogs (Specified Maximum) (Ribble Valley) Order 2014**

The 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.
3. On land to which this Order applies, the maximum number of dogs which a person may take onto that land is four.

**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 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) For the purposes of this article a person who habitually has a dog in this 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**

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

Date:

**The Common Seal of the Ribble Valley**

**Borough Council was hereunto affixed**

**This** 2014

**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).

## Appendix 2

<b>Response from Access Authority/Local Access Forum</b>	
No comments upon the proposals	
<b>Response from Natural England</b>	
Natural England appreciates the need to control dogs in sensitive areas such as children's play areas and to control dog fouling. The key point of this response is to highlight that where some form of intervention is required on CROW access land, government policy is that the 'least restrictive option' that will address the need should be employed.	
<b>Response from Secondary Authorities</b>	
Newton in Bowland	Support the proposed changes. Request as much signage as possible.
Clitheroe Town Council	No objection to the orders. The position of public rights of way in dog exclusion zones should be clarified.
Read	Fully support exclusion of dogs from Children's play areas and other recreational facility. Do not support the specified maximum number of dogs. Many responsible dog owners within the village who often walk several dogs (sometimes this is with their dog walking business) and we feel this particular measure is too harsh.
Wiswell	Very much in favour of the proposals. Don't want the Barrow playing field to be a dog exclusion area but a dogs on leads area.
Simonstone	The only concern related to the "Dogs Exclusion Order".  "As it's affect would penalize all responsible dog owners and inhibit dog sports and training. The Order would also be a deterrent to family enjoyment which is a beneficial gain from of owning a pet dog anywhere in Ribble Valley as well as reducing the beneficial educational effect that owning an animal has on children, so widening the gap between those who are employed in Agriculture and the urban dweller."
Chatburn	In favour of adopting all five orders. Experiencing serious problems of dog fouling on Sawley Road, Downham Road and Kayley Lane.
Waddington	Want the playing fields to be included in Dog Exclusion Order
<b>Responses from all others</b>	
We would like to confirm our total agreement to the proposed changes	
1. My initial comment is on the consultation process regarding order 4, the Dog Exclusion Order. I was hoping that the consultation would actually list the locations where this would apply, since the wording is quite general ie 'any other recreational facility' and it does not indicate what, precisely, 'enclosed' entails. When discussing this order with various people, not necessarily dog owners, the response has been, "What does enclosed mean?". It is clear enough if it is a children's play area, with railings round it, or a fenced tennis court, but less clear in other situations, where there are no gates and the boundaries to an area are not precisely defined. Presumably, it does not apply to the grass area in Henthorn Park, or the area beyond the enclosed play space at Salthill, but I would have liked much clearer information on this point, and I think it is difficult for people to respond to the consultation without this additional information.	



The public notice regarding these orders refers to 'maps' being available but it appears the only map is the one showing the designated area affected by order 2, the Dogs on Leads Order, which is Clitheroe Cemetery.

2. There are two areas I'm aware of which have a PROW within the affected area. FP22, which until recently skirted the cemetery, is now within the area enclosed by the red line on the map, as this includes the extension to the cemetery. It is still fenced off, apart from where it crosses a new section of cemetery road. It would have been helpful if it was clear that dogs will still be allowed off lead on this right of way.

The second area is Roefield, where the Ribble Way skirts the edge of the field. I understand from James Russell that it is proposed to have signs indicating that dogs walking on the PROW will have to be leashed.

3. My other comments are mainly related to Roefield, although they may apply to other locations within Ribble Valley which I'm not familiar with.

Roefield is accessible at some half-dozen places, only one of which is gated (excluding the barrier across the road between the swimming pool and the indoor tennis courts). Quite a lot of the land is not used by football pitches, e.g. by the river and in the corner behind the swimming pool, but presumably the whole area is designated as 'sport pitches' and a dog exclusion order will apply.

I believe that many of the people who do not clean up after their dogs, and allow them access to Roefield when it's dark, or very early in the morning, will continue to do so, and the problem of dog fouling on the football pitches will remain. Given the number of access points, it will be extremely difficult to stop this happening.

It may prove more effective to provide a fenced off area for dogs within Roefield, away from the football pitches, similar to the dog park in Henthorn. This may, at least, encourage the less responsible dog owners, who do not clean up after their dogs, to use this area to exercise their dogs, away from the sports pitches and the grass area in front of the Low Moor housing next to the river.

I am all in favour of bringing in tighter controls for dog owners especially to do with dog fouling.

I have recently moved into the area and i have to admit i have nver seen so much dog excrement upon the streets in all my life.

The area i came from was blighted with anti social behaviour and vandalism but the streets where relatively clean of dog faeces.

Since arriving here i have had to hire a carpet cleaner on 2 occasions to clean my front room carpet because myself or one of my children has stepped in excrement and walked it in.

The walk from my home on Mitchell street to my childrens school in Edisford is like walking a minefield especially the pedestrian bridge over the railine near Richmond Terrace.

The cobble alley at the rear of my home is also a disgrace , i only venture out there thursday to take the bins out and i usually end up stepping in faeces there.

Having owned a dog most of my life i would not class myself as anti dog , far from it i love dogs.

Theres no excuses for this sort of behaviour , if you choose to own a dog then step up to the mark and clean up after it.

Castle View article 8th February 2014 has bewildered me.

Is the proposal confined to dog "fouling" or is "out of control" included?

There is significant uncleared fouling in Clitheroe.

Aside from the fouling issues. I am not a pet owner. My own view of dog behaviour is that many of those on leads have not had any or adequate training. The ones not leads usually behave much better to humans and other animals.

I feel much more comfortable when encountering "off lead" dogs on a confined width footpath than ones on leads. The latter can be "too interested" the former (usually trained to) "ignore".

In some instances casual contact with a pet can trigger debilitating allergic reactions; a situation of which most dog handlers seem to be totally unaware.

Please could you expand on the Castle View presentation?

I agree with most of the proposals about banning dogs from childrens areas ,skate parks etc..

but what i dont think is fair is not allowing dogs on recreational areas or sport pitches.If this was the case that would mean no dogs would be allowed on the castle field or henthorn park and roefield area near lowmoor.It is unfair to tar every dog owner as most pick up their dog waste

I am angry at the selfish people who dont pick up after their dogs as it gives other dog owners a bad name.We want to be able to walk our dogs across fields which dont contain any cows or sheep,

Going in a field with cows can be dangerous as we have been chased before ,and sheep with lambs can be aggressive also,So stopping us from going in the other places i have mentioned would be unfair.Another recreational area would also be edisford where the swings are,is that going to be classed as a no go area for dogs also.More dog wardens walking round would be helpful,ihavent seen one in four years since i got my dog.

Iam disgusted at dog owners myself who dont pick up after their dogs but dont spoil decent dog owners pleasure just for a few selfish people who dont abide by the rules.

The section Dogs on Lead Order is woefully inadequate. Clitheroe cemetery is not the only place where dogs should be restrained on a lead. I believe this section of the order should apply to ALL council owned public parks, playing fields and publicly accessible open spaces.

I fully support all of the new dog control orders as outlined on your web site. I am a dog owner, my dog has been attacked. This dog was on a lead at the time but it was one of those stupid extending leads and therefore the dog was nowhere near the owner (my dog was on a lead of normal length which is why I was able to intervene quickly and pick her up therefore avoiding her being mauled).

I strongly would like to see the inclusion of the wording 'no extendable leads' (I know you have already included the wording that leads should be of normal length and no more than one metre). In my experience people will still use this type of lead and therefore will not have control of their dogs as they will extend these leads to the maximum. I have also witnessed dogs fouling when on these leads and the owners are totally oblivious.

I, like many dog owners, carry extra bags with me and clean up dog mess which has just been left by other dog owners, this occurs in all areas - beauty spots, parks, streets etc and astonishingly in the grounds of our beautiful Sawley Abbey (for which we have the kind

permission to walk our dogs but they must be on a lead, and again, I see dogs in there all the time not on a lead).

I try to help educate people by explaining about responsible dog ownership by volunteering for the RSPCA.

I consider the issue of dog owners not cleaning up after their pets to be a significant problem in Clitheroe. Woone Lane in particular is permanently dirty with dog faeces and blights what is a lovely neighbourhood. To combat this more dog waste disposal bins need to be provided.

As such, I support the five orders the Council is proposing. My only concern would be regarding enforcement of the orders. The Council needs to make sufficient provision to ensure dog owners who break these controls are caught and fined accordingly.

I would like to register my support for the implementation of the proposed dog control orders.

Please review your proposed awards against the 2 mentioned below regarding dog fouling offenders, which will cut unnecessary payments concerning legal procedural costs, e.g. Magistrate courts.

1. £100 on the spot fine (this sends a message of how serious and dangerous dog fouling is).
2. Automatic £1,000 plus all cost incurred for persistent offenders for 2 or more offences, (court proceedings are both lengthy and costly requiring irrefutable evidence).

I believe the residents of the Ribble Valley should not be held indirectly financially accountable for any legal proceedings because of dog fouling offences.