

Briefing note – Dog Control Orders

Under the Clean Neighbourhood and Environment Act 2005, all Parish/Town and District Councils in Hampshire can now make Dog Control Orders for “any land which is open to the air and to which the public are entitled or permitted to have access (with or without payment)”, requiring dog walkers to do any or all of the following:

- a) remove faeces
- b) keep dogs on leads
- c) keep dogs on leads if asked by an officer of the council
- d) not take dogs into certain areas
- e) keep within a maximum number of dogs per person (number specified by the authority)

The County Council cannot make these orders and is not required to be consulted (or even informed) unless the land is access land. Similarly, the Local Access Forum is only required to be consulted if the land is access land.

All orders apply to rights of way and permissive paths, except dog exclusion orders, which do not apply. This means that our usual advice that dogs must legally be kept under close control on ROW but not on leads will not longer be true universally. Forestry Commission land is exempt.

Fines are payable (currently up to £1000 but with a default of £75 if the order does not specify a fine) for offences against any of the orders. Fines may be imposed by an officer of the Parish or District, other people to whom the Parish/District have given written authorisation, and the police.

Making an order is cheap, fast and easy to do. The exact wording for each order is provided by regulations, so the authority just has to insert their name and the areas to which the order will apply. The authority must publish a notice in a local newspaper with a minimum 28 day period in which responses may be made, and must consult the other order-making authority (ie. the District if the Parish is making the order and vice-versa) plus, if CROW access land is involved, HCC and HCAF. The authority then decides whether to make the order; if so, a second notice is placed in a local newspaper and if practicable signs are put up on site and on the authority’s web-site.

Guidance from Defra emphasises that Councils should adopt a balanced approach when making dog control orders, carefully considering the needs of both dog owners and others. Defra consider that failure to do so would leave the orders vulnerable to challenge in the courts. In practice, they say that dog owners should have access to land where they can exercise their dogs and that other people should be able to enjoy reasonable access to land without interference from dogs.

The landowner or occupier may give permission for the order to be ignored (eg. HCC allowing dogs off leads on our sites). In addition, if a private act gives management responsibilities for a particular piece of land that body may require their land to be excluded from the order.

In Hampshire, we believe that Test Valley Borough Council have made an order requiring removal of faeces on all land within the district, and Basingstoke and Deane BC are about to make orders on behalf of Kingsclere Parish Council covering all of the possible restrictions in a to e above for various specific areas including the churchyard, playing fields, school, allotments and open spaces. This has provoked a lot of bad feeling locally, and petitions both for and against the orders. Some feel that in a rural area they should not be subject to such restrictions; others that the orders are necessary to tackle bad behaviour.

Issues

- The orders can impose a variety of restrictions in a piece-meal way across the county – how can we keep an overview of such orders? Should we amend our advice to the public regarding dogs on rights of way?
- How can we have an input to the process? Should we be asking PCs and DCs to consult us? Could we provide guidance to them on when we think an order is justifiable?
- Should we be asking the Secretary of State to exempt Rights of Way from more of (or all of) the types of order? (SoS has the power to do so)

Para 55-68 of the Act: http://www.opsi.gov.uk/ACTS/acts2005/ukpga_20050016_en_8#pt6

Regulations: <http://www.opsi.gov.uk/SI/si2006/20061059.htm> <http://www.opsi.gov.uk/si/si2006/20060798.htm>

Defra Guidance: <http://www.defra.gov.uk/environment/localenv/legislation/cnea/dogcontrol-orders.pdf>

(Cath Hart, Aug '07)