

DRAFT

Planning and Environment Commission

Scoping Report on the Commission's review of enforcement of the Dog Fouling legislation in Derby

1. Introduction

When the Planning and Environment Commission met on 22 July 2004, it agreed on two work plan topic reviews for the coming year. These were:

1. A review of the way in which the dog fouling legislation is enforced in Derby, and
2. A review of the Council's Tree Management Policy.

This report sets out the possible scope of the review to examine the enforcement of the dog fouling legislation in Derby.

2. Background to the review

Research by the environmental group ENCAMS (formerly the Tidy Britain Group) showed that in 2000/2001 the population of dogs in the UK was between 6.5 and 7.4 million – about one dog for every ten people. ENCAMS estimate that these dogs produce around 1000 tonnes of faeces per day.

ENCAMS claim that dog fouling is a major problem in many different areas of the UK and according to the Department of the Environment, Food and Rural Affairs (defra), a Tidy Britain Group survey found that 80% of people questioned were 'greatly concerned' about dog fouling.

In 2002 ENCAMS carried out some research into dog fouling. The purpose of the research was to achieve a better understanding of the attitudes of dog owners that did not clean up after their dogs. This research revealed the following facts about 'irresponsible dog owners'.

- They justified their failure to clean up after their dog on the grounds that 'they didn't know what to do', 'everyone else is doing it, so why not me' and 'you can't be watching your dog all the time'
- The 'justifying trend' is shared by about 4.6 million adults, which is around 60% of the dog owning public.
- The 'justifiers' are more likely to be male than female. They come from all social classes and are found across all the age groups.
- They only admit when pressed that they allow their dogs to foul in a public place
- They all know they could be fined but the majority did not believe they would ever be caught. They made comments such as 'It could be £50,000 (the fine) but who is going to enforce it?' 'I doubt it (being

fined) would ever happen' and 'I don't know anyone who has been fined'.

In their guide to the public on 'Dog Fouling and the Law' ENCAMS say that the average faecal output of a dog is around) 0.15 kg/day. They also say that there are about 7 million dogs in the UK, about one for every 10 people, and that around 60% of dog owners fail to clean up after their dogs. Applying these figures to Derby gives the following results.

- Population of Derby – around 225,000
- Dog population, based on 1:10 – around 22,500
- Number of dogs whose owners do not clean up after them $22,500 \times 0.6 = 13,500$
- Total weight of dog faeces deposited in Derby each day – $13,500 \times 0.15 = 2025$ kg – more than 2 tonnes!

There is however no supporting evidence to show that this figure is representative of the scale of the problem in Derby, and officers of both the Environmental Health and Parks Divisions are of the opinion that there has been a big reduction in dog fouling in the last few years.

2.1 The Health implications of Dog Fouling

There are two particular problems associated with dog fouling, these are:

- the nuisance aspect
- the health issues

The nuisance aspect of dog fouling is obvious and very unpleasant but requires no specific explanation. The health issues are associated with the presence of the eggs of the parasitic worm *Toxicara T. canis* in the faeces of dogs. ENCAMS found that 54% of dog owners neither bought nor used worming tablets on their pets, and a single deposit of dog faeces can contain 1 million eggs.

Toxicara eggs are not infectious until they embryonate, which is usually at least two to three weeks after they have been deposited by the dog. This means that freshly deposited faeces are not infectious and can be cleaned up safely. The problems arise if the faeces are not removed as soil contamination can then occur. According to ENCAMS, random soils sampling has shown that the majority of parks in the UK are contaminated with *Toxicara* eggs in various stages of development.

Human infection of the disease is through ingestion of soil or sand which has been contaminated by faeces containing the eggs of the parasite. The toxocariasis larvae are transported via the retinal artery to the eye where they may potentially cause blindness through the growth of non-malignant tumours or the development of detached retinas. The infection can last for between 6 and 24 months and is most prevalent in children between the ages of 18 months and five years.

ENCAMS advises that human toxocariasis is a potentially serious infection which as well as causing eye disorders and ultimately blindness, can also result in flu-like symptoms, dizziness, nausea, asthma and epileptic fits. ENCAMS refer to a report by a Dr S Gillespie (November 1993) in which he noted that about 100 toxocariasis cases were diagnosed each year with around 50 having serious eye damage. Nearly all of these were children who had contracted the disease as toddlers.

2.2 The Legislation for the control of Dog Fouling

Under the Dogs (Fouling of Land) Act 1996, a local authority can designate land upon which it is an offence for a dog owner not to clean up after their dog. This land must be land which is 'open to the air' and to which the public are entitled or permitted to have access. The Act does not however apply to:

- Land adjacent to a highway unless the carriageway is subject to a speed limit of 40 mph or less
- Land used for agriculture or woodlands
- Land which is predominantly marshland, moor or heath
- Common land to which the public are entitled to have access.

If the person responsible for a dog permits the animal to defecate on designated land and then fails to remove the faeces from the land forthwith, they are guilty of an offence unless they:

- a) Have a reasonable excuse for failing to remove the faeces, or
- b) The person having control over the land has consented to them not removing the faeces

Authorised Council officers can serve fixed penalty notices on anyone they believe has committed such an offence. Anyone who refuses to pay a fixed penalty notice may be prosecuted by the local authority in whose area the offence has occurred.

This offence does not apply to people who are registered as blind.

2.3 Enforcement of the Dog Fouling Legislation in Derby

All the land in Derby, with the exception of those categories to which the Act does not apply is designated under the Dogs (Fouling of Land) Act 1996.

The City Council has for some time provided dog waste bins which are mainly located in parks and on open spaces. A large number of 'no dog fouling' signs have been affixed throughout the City, and the Council periodically publicises the requirement that owners must clean up after their dogs.

The officers of the Council's Pest and Dog Control Service and the Park Ranger Service are authorised to serve fixed penalty notices under the Dogs (Fouling of Land) Act 1996.

In 2003/04 the Environmental Health and Trading Standards Division's Dog Control Service received 242 dog fouling complaints or requests for 'no

fouling' signs. However they issued no fixed penalty notices and took no prosecutions for dog fouling offences.

In a preliminary interview with the Co-ordination Officer, the Environmental Health Group Leader Public Health, whose Group includes the dog wardens, cited limited resources as one reason why the Council had not issued any fixed penalty notices or taken any prosecutions for dog fouling. He explained that the Council only had two dog wardens and said that the majority of their time was spent in dealing with stray dogs. The dog wardens do carry out a limited amount of day time monitoring in areas where they know there are problems with dog fouling and they give out advisory leaflets, but they had not so far had occasion to issue any fixed penalty tickets.

The Group Leader Public Health confirmed that he would like to put more effort into the enforcement of the dog fouling legislation but said that to do that at present would involve diverting resources from other areas of activity, such as pest control, which were perceived as having a higher priority.

The Parks Liaison Officer also said that there were problems finding the resources needed to carry out monitoring and she agreed that there were some parks and open spaces where dog fouling seemed to be a problem. However, she also said that there had been a big reduction in dog fouling during the past five years. She felt that this improvement was due to the proactive, educational, approach taken by the Parks Division and by peer pressure from responsible dog owners.

3. Objectives of the Review

On the basis of the background information the objectives of the review appear very straightforward. They are:

1. To identify the scale of any dog fouling problem in Derby and the level of public concern
2. To find out how the dog fouling legislation is being enforced in Derby
3. To compare the approach taken in Derby, and the outcomes of that approach, with that of other similar sized local authorities
4. If appropriate, to make recommendations:
 - a) for addressing any dog fouling problem that has been identified and
 - b) for improving the enforcement of the dog fouling legislation in Derby

4. Stakeholders in the Review

The main stakeholders/stakeholder groups in this review are:

- The public in general – who are the people who make complaints to the Council
- Dog owners – who may or may not have concerns about the implications for them of the Dogs (Fouling of Land) Act 1996
- Officers of the Council Departments responsible for enforcing the legislation and for ensuring that streets and public open spaces are free from accumulations of dog faeces
- The relevant Cabinet member(s)

5. Proposed Methodology

The issue of dog fouling and the provision of poop scoop bins has been raised at Area Panel meetings where the public have also voiced the opinion that there should be more enforcement of the dog fouling legislation. It is also known that a significant number of complaints about dog fouling are made each year to the Environmental Health and Parks Divisions of the Council.

As the first step in its review the Commission will need to establish the scale of any dog fouling problem in Derby. It is proposed to do this by asking the public to inform the Commission of any areas where they consider there to be a problem with dog fouling and subsequently by site visits to make an assessment of those areas. The public will be informed of the review by means of a press release and through a report to the Area Panels

Having quantified the scale of any dog fouling problem, the Commission can then proceed with interviews of the relevant stakeholders. It is anticipated that these will comprise officers of the Environmental Health and Parks Divisions and possibly some representatives of the public. The latter can be selected from those people who respond to the Commission's request for information about problem areas, or from people contacted via the Area Panels. The Commission may also consider it appropriate to interview the relevant Cabinet members.

It will be useful to compare the situation in Derby with that in similar local authorities. It should be possible to arrange some site visits that will enable Commission members to compare the action that Derby takes with that taken elsewhere.

It is hoped that the press release and the report to the Area Panels can also be used to inform the public of the Commission's work plan topic review of the Council's Tree Policy and to request comments and views on that review as well.

6. Terms of Reference of the Proposed Review

The terms of reference of the proposed review are as shown in Table 1

Table 1

| Terms of Reference | | |
|--------------------|---|---|
| Issue | | Action |
| 1 | Understanding of the scale of any dog fouling problem in Derby and the level of public concern | Feedback from the public on their perception of the problem of dog fouling and from dog owners on the way in which they see the legislation impacting upon them |
| 2 | A review of the way in which the legislation for the control of dog fouling is being enforced in Derby | Meetings at which Council officers can inform Commission members of the way in which the legislation is being applied and about the problems they are facing |
| 3 | Assessment of the way that other similar local authorities tackle dog fouling problems and the success of the methods they employ | Fact finding visits to selected local authorities |
| 4 | Development of appropriate recommendations for improving enforcement in Derby of the legislation for the control of dog fouling | Meetings with Council officers at which recommendations can be developed |

7. Timetable and Member input into the review

Table 2 sets out the timetable for the review.

Although the interviews for this review will not be held until the early part of 2005, the review will be publicised in September 2004 at the same time as the Commission's review of the Tree Management Policy. Subsequent site visits for both reviews to be carried out at the same time.

The review will involve the Commission in several additional meetings and some visits. These are:

- Mid August to early September – visits to sites identified by the public as being affected by dog fouling
- Mid/late January 2005 – interviews by the Commission of Environmental Health Division and Parks Division Officers and any appropriate witnesses from the public. This will probably involve at least two meetings. Depending on witness availability the interviews may have to be held during the day or in the evening

- Late January/early February 2005 – visits to any local authorities selected by the Commission. These will be day time visits
- Late February 2005 – one meeting to consider the evidence and decide the Commission's recommendations

Table 2

| Date | Activity |
|----------------------------------|---|
| Mid August 2004 | Publicise the review – ask the public to provide examples of situations where they consider there is a problem with dog fouling |
| August to September 2004 | Visit any locations indicated by the public. Identify any members of the public who could provide verbal evidence to the Commission |
| 2 September 2004 | Commission to confirm scope of the review at scheduled business meeting |
| September/October 2004 | Report to all the Area Panel meetings requesting information from the public |
| Mid/late January 2005 | Commission interviews with Environmental Health Division and Parks Division Officers and any appropriate witnesses from the public |
| Late January/early February 2005 | Visits to any selected local authorities and any additional interviews that are found to be required |
| Mid February 2005 | Circulation of the collated evidence |
| Late February 2005 | Commission meeting to review evidence and agree recommendations |
| Early March 2005 | Report written, circulated for comments and revised as appropriate |
| 10 March 2005 | Deadline for draft reports for Council Cabinet on 5 April 2005 |

DRR 11 August 2004.