

WORKING DRAFT 1

Planning and Environment Commission

‘A Messy Business’ – A Review of Derby City Council’s Enforcement of the Dog Fouling and Dog Control Legislation

1. Executive Summary and Recommendations

At its meeting on 22 July 2004 the Planning and Environment Commission agreed to conduct a review of the way in which the dog fouling legislation was enforced in Derby. At the suggestion of the Assistant Director – Environmental Health and Trading Standards, the review was subsequently expanded to include dog control issues.

The review was carried out in March/April 2005. The topic was chosen because the issue of dog fouling and the provision of poop scoop bins had 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. Commission members also knew that a significant number of complaints about dog fouling are made each year to the Environmental Health and Parks Divisions of the Council. Members were particularly concerned about the issue of dog fouling because it seemed that the Council was not using the available legislation as effectively as some other local authorities.

The objectives of the review were to:

- To identify the scale of any dog fouling problem in Derby and the level of public concern
- To find out how the dog fouling legislation is being enforced in Derby
- To compare the approach taken in Derby, and the outcomes of that approach, with that of other similar sized local authorities

The review was seen as having three distinct parts. These were for the Commission:

1. To establish the scale of any dog fouling problem in Derby. It was proposed to do this by asking the public to inform the Commission of any locations where they considered there was a problem with dog fouling and subsequently by site visits to make an assessment of those locations.
2. To interview the Commission of relevant stakeholders. It was anticipated that these would comprise officers of the Environmental Health and Parks Divisions and possibly some representatives of the public. It was thought that the latter could be selected from those people who responded to the Commission’s request for information about problem areas, or from people who were contacted via the Area Panels. The Commission also considered it would be appropriate to interview the relevant Cabinet member(s).

3. Gain an appreciation of the approach taken by other Councils, the Commission visited to two local authorities that were known to have achieved significant successes in enforcing the dog fouling legislation. The local authorities selected were Tameside Metropolitan Borough Council and Mansfield District Council.

In the course of its review Councillor Mike Carr, the Council Cabinet member for Personnel and Direct Services, told the Commission that because of Dog Control Service staffing levels it was not possible to spend sufficient time enforcing the regulations.

Andrew Hopkin, the Assistant Director – Environmental Health and Trading Standards Division told Commission members that as there were no accessible kennels close to the City the Council's two Dog Wardens had to spend a large proportion of their time transporting stray dogs to the kennels that the Council had to use. Ian Donnelly, Group Leader – Public Health with the Environmental Health and Trading Standards Division confirmed that since the introduction of the Dogs (Fouling of Land) Act 1996, the Council had not prosecuted any dog owners for allowing their dogs to foul, and had only served four fixed penalty notices.

The outcome of the Commission's visits to Tameside Metropolitan Borough Council and Mansfield District Council is reported elsewhere in this report. Although very different in their approach, both of these authorities appear to be dealing effectively with the issues of dog control and dog fouling.

Visits were carried out by members of the Commission to a number of locations that had been reported as being badly affected by dog fouling. These visits showed that there were a number of locations across the City where there were problems with dog fouling. One footpath in particular was very bad and there was evidence of dog fouling on each of the parks that were visited.

As a consequence of its review the Commission concluded that there is a significant problem with dog fouling in the City and that the actions currently being taken by the Environmental Services and Trading Standards Division are not effectively addressing that problem.

The Commission recognises that the primary reason for the lack of effective action by the Environmental Services and Trading Standards Division is a lack of resources. The Commission considers that the introduction, in April 2006, of the relevant sections of the Clean Neighbourhoods and Environment Act 2005 should provide the Environmental Services and Trading Standards Division with an opportunity to review and redress the way in which it deals with the twin issues of dog control and dog fouling, and it has made two recommendations in support of this proposal.

1.1 Draft Recommendations

Recommendation 1

The Planning and Environment Commission recommends that during the next three months the Environmental Health and Trading Standards Division should consider and consult on how it might use the Clean Neighbourhoods and Environment Act 2005 to deal with the problems of dog control and dog fouling. In particular it is recommended that the Environmental Health and Trading Standards Division should:

- Review the way in which might employ the new legislation to the deal with stray dogs and dog fouling
- Consult with the public and dog owner groups
- Identify the areas within the City which should be subject to dog control orders
- Agree the amount of fixed penalty that will be imposed for contraventions of the dog control orders
- Identify the staffing and resource levels that will be required to effectively implement the new legislation

Reasons 1

The Commission considers that the Clean Neighbourhoods and Environment Act 2005 will provide the Environmental Health and Trading Standards Division with an opportunity to introduce an effective dog control service for Derby

Recommendation 2

The Commission recommends that having implemented Recommendation 1 the Environmental Services and Trading Standards Division should prepare a report on the financial and personnel implications of implementing the Clean Neighbourhoods and Environment Act 2005. The report should be completed in time for consideration as proposal within the 2006/07 draft Revenue Budget.

Reasons 2

In order to ensure that the need for an effective dog control service is included for consideration as a service development issue in the 2006/07 draft Revenue Budget.

2. 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
2. A review of the Council's Tree Management Policy.

Both these topics were considered by Commission members to be of interest and importance to their constituents. The issue of dog fouling and the provision of poop scoop bins had 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. Commission members also knew that a significant number of complaints about dog fouling are made each year to the Environmental Health and Parks Divisions of the Council. Members were particularly concerned about the issue of dog fouling because it seemed that the Council was not using the available legislation as effectively as some other local authorities.

It was originally intended to carry out the dog fouling review in the autumn of 2004 but the Commission considered that the need to review the Council's Tree Management Policy was more urgent and the decision was made to postpone the dog fouling review until the early part of 2005. In the event, internal pressures within the Council's Environmental Health and Trading Standards Division meant it was not possible to start the review until March 2005. This had the effect of reducing the amount of time available for the review and it was consequently necessary to shorten the review programme.

3. Objectives of the Review

The Commission identified the following objectives for its review:

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. Terms of Reference

The Terms of Reference that were agreed by the Commission for the review are set out in the table below:

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

5. Methodology and Timetable for the Review

The review was seen as having three distinct parts.

Firstly it was considered necessary for the Commission to establish the scale of any dog fouling problem in Derby. It was proposed to do this by asking the public to inform the Commission of any locations where they considered there was a problem with dog fouling and subsequently by site visits to make an assessment of those locations.

The public were informed of the review by means of a press release and through a report to the Area Panels

The second part of the review involved interviews by the Commission of relevant stakeholders. It was anticipated that these would comprise officers of the Environmental Health and Parks Divisions and possibly some representatives of the public. It was thought that the latter could be selected from those people who responded to the Commission's request for information about problem areas, or from people who were contacted via the Area Panels. The Commission also considered it would be appropriate to interview the relevant Cabinet member(s).

Finally, to give members an appreciation of the approach taken by other Councils, the Commission visited to two local authorities that were known to have achieved significant successes in enforcing the dog fouling legislation.

The local authorities selected were Thameside Metropolitan Borough Council and Mansfield District Council.

Early in 2005, prior to the commencement of the review, Andrew Hopkin, the Assistant Director - Environmental Health and Trading Standards, suggested that in addition to considering the way in which his Division enforced the dog fouling legislation, the Commission should also consider the more general problems of dog control. This suggestion was adopted by the Commission.

The table below sets out the timetable for the review and lists the witnesses who were interviewed by the Commission.

Table 2

Witness/Action		Date
1	Meeting with Ian Donnelly, Mick Ratcliffe, Dawn Dagley and Ian Wheatley	3 March 2005
2	Meeting with David Turner – Patrollers Operations Manager – Thameside MBC	8 March 2005
3	Report to Area Panel 1	9 March 2005
4	Report to Area Panel 2	16 March 2005
5	Meeting with Clive Shipman, Mark Berrill and Bill Pearce – Mansfield District Council	18 March 2005
6	Report to Area Panel 3	23 March 2005
7	Report to Area Panel 4	30 March 2005
8	Report to Area Panel 5	6 April 2005
9	Meeting with Andrew Hopkin, Ian Donnelly and Cllr M Carr	21 April 2005
10	Tour of areas reported to the Commission	26 April 2005

6. Outcomes of the Commission's Review

6.1 Key Points arising from the Interviews with Witnesses to the Review

The key points made by the witnesses in the course of their interviews with the Commission have been extracted from the Evidence Pack and are listed in Table 2 below.

Table 3

Key Points arising from the Commission's meeting with Ian Donnelly (ID) Mick Ratcliffe (MR), Dawn Dagley (DD) and Ian Wheatley (IW) – 3 March 2005	
ID1	The Dog Warden Service is provided by the Council's Environmental Health and Trading Standards Division and has two full time Dog Wardens.
ID2	In 2003/04 the Council had 1680 dog related complaints. 214 of these were about dog fouling.
ID3	It is an offence under the Dogs (Fouling of Land) Act 1996 for a dog owner to fail to clean up after their dog. The Council can serve £50 fixed penalty notices on dog owners who do not clean up after their dog.
ID4	The Council has not prosecuted anyone for allowing their dog to foul, although they have served four fixed penalty notices since the legislation came into effect.

ID5	In order for the Council to take action the offence has to be witnessed by a Council Officer or a member of the public had to give a statement.
ID6	The Dog Wardens were aware of the areas where there were problems with dog fouling and they did monitor for offences where and when they could. However the majority of dog owners did seem to clean up after their dogs.
ID7	The Dog Wardens carried out proactive work to prevent dog fouling. They followed up on complaints and were now doing customer satisfaction surveys.
ID8	ID said he would like to see prosecutions and more fixed penalty notices being served. The Dog Wardens had not so far been successful in this and so did not have the publicity that comes from a successful prosecution.
ID9	ID said that there was a need for the Dog Wardens to concentrate on areas where there were multiple complaints about dog fouling.
ID10	The Dog Wardens are empowered to seize stray dogs. Dogs seized for the first time are if possible returned to their owners. Dogs seized for a second or subsequent time are taken to kennels and if they want them back, their owners have to redeem them. Unclaimed dogs are usually re-homed.
ID11	Dealing with stray dogs required two members of staff, which made it difficult to serve notices or take prosecutions for dog fouling.
ID12	ID estimated that about 75% of the Dog Wardens' time was spent on dealing with stray dogs.
ID13	Current Police powers to deal with stray dogs will be transferred to the Neighbourhood Wardens.
ID14	It was not possible to reverse the priority to deal with stray dogs as this was a statutory duty for the Council.
ID15	Under the new legislation the Council was able to keep the money taken in fines and as a result of the £50 fixed penalty tickets.
ID16	New dog waste bins were sited on the basis of staff experience and public views.
DD1	The Parks Department did not have the resources to keep records about problems in parks or do surveys. They did not however receive a lot of complaints and last year only got 27.
DD2	A previous campaign to identify the scale of dog fouling had worked well and had received media publicity.
DD3	There was a need for a visible presence to deter irresponsible dog owners.
Key Points arising from the Commission's meeting with David Turner (DT) of Tameside MBC – 8 March 2005	
DT1	Tameside is a unitary authority with a population of around 280,000.
DT2	The Tameside Patrollers were set up in 1999 to address issues that had been identified by local people through workshops and other consultation.
DT3	Public concerns had been dog fouling and litter problems and priority had been given to them as well as to fly posting and fly tipping. The Patrollers now dealt with Abandoned Vehicles and 'Youths causing

	Annoyance' and did a lot of community liaison work and community consultation.
DT4	Stray dogs are dealt with by a Dog Warden who is employed on a sub contract basis by another Council Department.
DT5	The Council had publicised their campaign in the local papers and had made people fully aware of the approach they were taking. Consequently they had no excuse if they got caught.
DT6	In the first few years the Patrollers had averaged 100 prosecutions/year, mainly for dog fouling offences. During the last year they had received 399 complaints about dog fouling and had taken 50 prosecutions. Prior to unitary status Tameside had taken only five prosecutions for dog fouling in five years. At that time enforcement of the dog fouling legislation was an environmental health function.
DT7	The budget for the first year had been £170k. Now it was over £1M. In the past 3 years the service had received £0.25M from central government grants.
DT8	Staffing levels were initially one Supervisor and six Town Wardens. Current staffing levels were 10 Supervisors and 40 Patrollers.
DT9	Tameside had now moved over to £50 fixed penalty notices whereas the Courts had been imposing fines of £200-£300. Taking cases to Court had involved the Patrollers in a lot of file preparation, now they only had to go if a dog owner pleaded not guilty via the fixed penalty system.
DT10	All the Patrollers were PACE trained and had delegated powers to serve notices.
DT11	The Patrollers were highly visible and wore uniforms. It would have been possible for them to serve more notices if they were not in uniform.
DT13	DT said that the public did not usually respond aggressively when tackled about a dog fouling problem. The Patrollers did work in pairs in some areas but this was not normally necessary during the day.
DT14	The core work hours were 0800-2200 Monday to Friday but staff worked outside these hours as required. They only worked on Sundays when necessary and not on a regular basis.
DT15	There was about 70% public satisfaction with the service provided by the Patrollers. They were achieving results above target and had about a 75% success rate.
DT16	DT said that to be successful the service needed the right staff who were properly trained and appropriately paid. He said that the Patrollers were on salary scales S4-S5 and the Supervisors were on SO1.
Key Points arising from the Commission's meeting with Clive Shipman (CS), Mark Berrill (MB) and Bill Pearce (BP) of Mansfield District Council - 18 March 2005.	
CS1	Mansfield's Dog Control Service had been set up in 1990 in response to the Environmental Protection Act requirement for a responsible officer to deal with dog control issues.
CS2	The Dog Control Service was contracted out, not in-house, and had

	been provided by the same company , Davinhulme, for the last 20 years. Davinhulme dealt with all dog fouling issues, including education, and with stray dogs. The service had achieved national recognition by winning the first place in the Good Dog Campaign Awards 2000 and were runners-up in 2002.
CS3	Previously the Environmental Health Department had been responsible for dog fouling issues everywhere except on Parks. Parks enforcement had not been good, mainly because their employees had not been properly trained.
CS4	Some money to support the Dog Control Service had come from Neighbourhood Renewal Areas. This had enabled the service to undertake additional enforcement in Parks and at hot spots identified by the community.
CS5	Mansfield had an arrangement with a local vet who would hold collected stray dogs in their kennels for up to 24 hours. The dogs were then collected by a rescue centre which kept them for seven days.
CS6	The kennels were cheaper than the RSPCA. Mansfield has a non-destruction policy. They collect around 400 stray dogs each year and last year only had to put down five with the rest being re-homed. When the Council used the RSPCA about 50% of the collected dogs were put down and the Council was charged £20/dog for this in addition to the kennelling fees.
CS7	The release fee was £55/dog with no exceptions and would be increased to £60 from April.
CS8	The Council had not (in March 2005) adopted the fixed penalty system and prosecuted all offenders. It was intended to adopt the fixed penalty system from April 2005. This was partially a consequence of the low level of fines imposed by the Courts and the additional supporting information demanded by the Council's legal team.
CS9	To be effective the service had to have trained staff and work according to PACE.
CS10	Mansfield has always operated an out-of-hours service. The facilities at the kenells are available 24 hrs/day for 365 days/year.
CS11	No Environmental Health Officers were authorised to act under the Dogs(Fouling of Land) Act 1996 and all enforcement was done by the Dog Wardens. They currently did 80 hours of enforcement/week but this would increase to 100 hours when they took on the parks.
CS12	Mansfield were of the opinion that all Council's would need to provide a 24 hour service when the current Police responsibilities regarding dogs are transferred to the local authorities.
CS13	The current cost of the Dog Warden service is £49,000/year (approximately £0.50/per head of population). This will rise to around £80,000/year when the service takes on responsibility for parks.
MB1	Davinhulme have three full time and one part time officers and cover both the Mansfield and Ashfield areas. Two of the officers are trained in serving fixed penalty notices and arrangements are being made to train the others.
MB2	The Council did a lot of advertising on buses and local radio and gave out 0.5 million free poop scoop bags each year. There was a network

	of outlets where the public could obtain poop-scoop bags. These included shops, vets, a hairdresser and a public house.
MB3	The Dog Wardens respond to all complaints about dog fouling within five days and carry out observations if this is appropriate. They would prosecute or serve a fixed penalty notice if they saw a dog's owner walk away without removing their dog's excrement.
MB4	Davin hulme provide a 24 hour response service which is co-ordinated through the Council's Central Control service.
Key points arising from the Commission's meeting with Councillor Mike Carr (MC), Andrew Hopkin (AH) and Ian Donnelly (ID) – 21 April 2005.	
MC1	MC agreed that because of the staffing levels in the Dog Control Service it was not possible for staff to spend sufficient time enforcing the dog fouling legislation.
AH1	AH confirmed that because there were no accessible kennels close to the City, the two Dog Wardens had to spend a large proportion of their time transporting stray dogs to the kennels that the Council had to use. He said that the possibility of using the Police kennels at St Mary's Wharf when the Police ceased to be responsible for stray dogs, was being considered.
	AH said that he and ID were frustrated by the lack of prosecutions.
	The public did not seem prepared to give statements to officers about dog fouling that they had witnessed.
	When compared to Derby Mansfield had more resources to deal with dog fouling and dog control.
	One of the problem areas was the City's parks and arrangements were being made to authorise parks Department staff to deal with dog fouling.

6.2 Outcomes of the Dog Fouling Tour - 26 April 2005.

On 26 April 2005 Councillors J Ahern and P Berry, the Chair and Vice Chair of the Commission, together with Councillor R Baxter and the Co-ordination Officer toured a number of the locations that had been reported to the Commission as being badly affected by dog fouling. The locations that were visited and the outcome of those visits is listed in the table below.

Table 3

	Location and reason for visit	Observation
1.	West Avenue, Derby This location was reported by Cllr P Hickson as having a problem with dog fouling.	Observations of the pavements were made in the course of a slow drive past but no fouling was seen.
2.	Darley Park/Derwent Park near the South Drive entrance – reported by Cllr Repton	One filled bag thrown under the hedge. Several deposits seen on the grass. Dog bin in use.
3.	Former Sturgess School playing fields off Kedleston Road – reported by Cllr Repton	Found two filled bags that had been deposited near the path across the playing fields
4.	Footpath between Enfield Road	Obvious that the footpath is used by

	and Cricklewood Road, Mackworth – reported by Cllr Baxter	dog walkers. Several deposits on verges to either side. Complainant lives in adjacent house which has good view of the footpath. Several signs in the area.
5.	Drewry Lane Jitty – reported by Cllr Jackman	This was the worst of the sites visited on the tour. Numerous deposits on the roadway, on the pavements and along the jitty itself. No poop scoop bins.
6.	Mickleover/Etwall cycle path – letter from complainant	Saw no evidence of dog fouling
7.	Footpath near Sunnydale schools – reported by Cllr Troup	Slight evidence of dog fouling, but nothing really significant
8.	Balfour Road – reported by Cllr Williamson	Small amount of fouling on the footpath
9.	Dale Road Park – Spondon – reported by Cllr P Berry	Several deposits seen on the grass. Dog bin in use.

6.3 Dog Fouling – the scale of the problem

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. If these figures are correct, applying them 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.

6.4 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.

6.5 The Dog Control Legislation

6.5.1 The Council's Statutory Responsibilities regarding stray dogs

The City Council has a statutory responsibility to deal with stray dogs. Section 149 of the Environmental Protection Act 1990 requires every local authority to appoint an officer, who may delegate his function to another person, for dealing with stray dogs found in the area of the authority.

Where the appointed officer has reason to believe that any dog found in a public place, or any other land or premises, is a stray dog, he/she is required if practicable, to seize and detain it. If the owner of the dog can be identified they must be notified that the dog has been seized and that it will be disposed of if not claimed in seven days. A person claiming to be the owner of the dog is not entitled to have it returned to him unless he/she pays all the expenses incurred in its detention and any other amount that the local authority has prescribed.

Any stray dog that is not redeemed in seven days can be disposed of by either selling or giving it to a person who will care for it, or to an establishment for the reception of stray dogs, or by destroying it in a manner which causes as little pain as possible.

The appointed officer is required to keep a register of all the dogs that have been seized and to ensure that any detained dog is properly fed and maintained.

Under Section 150 of the Act any person who finds a stray dog can take it to the police station which is nearest to the place where the dog was found. This section of the Act will be repealed by the Clean Neighbourhoods and Environment Act 2005.

6.5.2 The Legislation for the control of Dog Fouling

When the review was started in April 2005, the legislation for the control of dog fouling was the Dogs (Fouling of Land) Act 1996. Under this legislation a local authority could designate land upon which it was an offence for a dog owner not to clean up after their dog. The land in question must have been land which was 'open to the air' and to which the public were entitled or permitted to have access. The Act did not 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

Under the legislation, authorised Council officers could serve fixed penalty notices on anyone they believed had committed such an offence. Anyone who refused to pay a fixed penalty notice could be prosecuted by the local authority in whose area the offence had occurred.

The Dogs (Fouling of Land) Act 1996 will be repealed by the Clean Neighbourhoods and Environment Act 2005. This Act received Royal Assent on 7 April 2005, but the sections relating to dog control are not likely to come into effect until April 2006. It is understood that the 1996 Act will remain in force until then.

The Clean Neighbourhoods and Environment Act 2005 takes a more holistic approach to dog control and provides local authorities with powers to make orders in respect of any land in its area. The legislation sets out four categories of offence that can be provided for. These are:

- The fouling of land by dogs and the removal of dog faeces
- The keeping of dogs on leads
- The exclusion of dogs from land
- The number of dogs which a person may take on any land

Under this new legislation the local authority may make dog control orders that apply to 'all public land which is open to the air'.

The legislation allows local authorities to specify the amount of fixed penalty in relation to their own dog control orders and to allow for the payment of a lesser amount if the fine is paid within a specified time period. If they become aware of the contravention of a dog control order, authorised officers of the local authority, or an authorised person working on their behalf, can issue the person responsible for the dog(s) with a fixed penalty notice. The legislation also provides the local authority officer with the power to require the name and address of a person to whom he proposes to issue a fixed penalty notice and it makes it an offence for that person to either fail to give the information or to give false or inaccurate information.

6.5.3 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 was 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.

7. Discussion and Conclusions

From the information provided to the Commission by Cllr Mike Carr, Andrew Hopkin and Ian Donnelly, it is evident that at present the City Council is not effectively enforcing the dog fouling legislation. The reasons for this appear to be that:

- a) the Council only has two Dog Wardens, and
- b) that those Dog Wardens are spending 75% of their time dealing with stray dogs

One reason why the Dog Wardens are spending so much time on stray dogs is because the Council has been unable to identify local kennels. Under current arrangements any stray dogs collected by the Dog Wardens are being transported by them to kennels in Swadlincote. As this involves a round trip of about 30 miles a significant proportion of the Dog Wardens' time will be spent in travelling.

The effect of the Council's current arrangements was seen by the Commission members who took part in the 'Dog Fouling Tour' on 26 April 2005. The members found that whilst with one notable exception, streets and pavements were generally free of dog fouling, there was evidence of significant levels of dog fouling on the parks and open spaces visited in the course of the tour. This view is supported by comments that have been made to the Commission in the course of the review.

The visits that the Commission made to Tameside Metropolitan Borough Council and to Mansfield District Council showed how two very different local authorities had dealt effectively with the problem of dog fouling. It seemed to Commission members that the success of Tameside and Mansfield was largely a consequence of their direct and positive approach to dealing with the

problem. It was also apparent that both these local authorities had supported their actions with high profile publicity was aimed at making the public aware:

- a) that it was an offence to allow their dog to foul in a public place, and
- b) that the Council would take action against them if they were caught.

This message will be reinforced by reports in local newspapers about the prosecution of dog owners who have been apprehended by Council Officers.

It is of note that:

- Neither Tameside or Mansfield reported any significant problems with aggressive behaviour by members of the public who were apprehended after allowing their dogs to foul
- Both Tameside and Mansfield recognised the need to have officers available outside normal working hours and to patrol problem areas
- Both Tameside and Mansfield had resolved the problems of dealing with stray dogs. Tameside had a Dog Warden who was employed by the Council on a sub-contract basis, and Mansfield had made arrangements to hold collected strays at the premises of a local vet
- The enforcement of the dog fouling legislation in Tameside and Mansfield was not the responsibility of the Environmental Health Department. In Tameside it was dealt with by the Patrollers and in Mansfield by an independent company who were contracted to the Council
- In Tameside and Mansfield responsibility for enforcing the dog fouling legislation in parks had not been devolved to Parks Department employees. In Mansfield, the comment was made to the Commission that Parks Department employees did not see themselves as enforcement officers and were hence unlikely to be effective.

Information provided to the Commission by Ian Donnelly, the Group Leader – Public Health confirmed that the City Council was taking the following actions to discourage dog fouling:

- Bins - Parks
- Bags – Environmental Services & Parks
- Letters to owners complained about
- Poop Scoop Days
- Education – leaflets
- Speak to dog walkers
- Can prosecute if complainant gives statement but people unwilling to do so
- Visible Patrols – very effective - enforcement
- Stencilling
- Education

The reasons why the Council has not taken any prosecutions and has only served four fixed penalty notices were given as:

- Generally have to fit any monitoring between calls to deal with stray dogs. Time is more at a premium now as we use kennels in Swadlincote and Eastwood because there are no suitable kennels nearer the city, meaning more travelling now.
- It's Department policy to carry out monitoring in pairs because of H&S and evidential issues which cuts down on the occasions we can do it.
- Need to be in the right place at the right time to witness offence: Many owners walk dogs before and after work, outside the normal working hours. Difficult, especially in winter as very difficult to witness offences. Summer is a problem because the Dog Wardens are often drafted in to meet demand for the Pest Control Service.
- Don't have resources to allow people to wait around all day waiting for someone to let their dog foul.
- Patrols are good deterrents.

Having considered the information provided to them in the course of the review, members are very concerned about the way in which the Environmental Health and Trading Standards Division is attempting to enforce the dog fouling legislation. The Commission considers that the City Council's approach to the enforcement of the legislation is ineffective and unproductive and that this is the inevitable consequence of the low priority, low cost, low profile approach that the Environmental Health and Trading Standards Division has adopted. Members consider that Derby's approach to the enforcement of the dog fouling legislation contrasts very poorly with the approach taken by Tameside and Mansfield Councils and that it reflects very badly upon the Council.

Members appreciate that it could be considered unreasonable to expect Derby City Council to adopt the approach followed by Tameside, even though there seem to be considerable benefits so far as the community is concerned. However members did not see why Derby should not be able to deliver a service at least equivalent to that of Mansfield, which is after all only a relatively small District Council. If the only reason for failing to provide an effective service is that of cost, the Commission questions why this was not raised as a Service Planning issue in the 2005/06 Draft Revenue Budget.

The Commission considers that the Council should as, a matter of urgency, take action to effectively enforce both the dog fouling and dog control legislation and an option for doing this is set out in the following section of this report.

7.1 Options for Action

The relevant sections of the Clean Neighbourhoods and Environment Act 2005 which are likely to come into effect in April 2006 will give the City Council the opportunity to introduce 'dog control' orders in respect of any land

within its area. The legislation sets out four categories of offence that can be provided for. These are:

- The fouling of land by dogs and the removal of dog faeces
- The keeping of dogs on leads
- The exclusion of dogs from land
- The number of dogs which a person may take on any land

The Commission suggests that during the next three months the Environmental Health and Trading Standards Division should consider and consult on how it will use the new legislation to deal with the problems of dog control and dog fouling. In particular it is suggested that the Environmental Health and Trading Standards Division should:

- Review the way in which might employ the new legislation to the deal with stray dogs and dog fouling
- Consult with the public and dog owner groups
- Identify the areas within the City which should be subject to dog control orders
- Agree the amount of fixed penalty that will be imposed for contraventions of the dog control orders
- Identify the staffing and resource levels that will be required to effectively implement the new legislation

The Commission considers that the objective of this exercise should be to develop proposals for an effective Dog Control Service that will properly address the issues identified by this review.

The Commission suggests that having completed this exercise the Environmental Services and Trading Standards Division should prepare a budget submission in time for inclusion in the 2006/07 Draft Revenue Budget.

The Planning and Environment Commission would appreciate being kept informed of the preparations made by the Environmental Services and Trading Standards Division to implement the new legislation.

Part 2

8. Evidence Considered by the Commission

8.1 Outcome of the Commission's meeting with Ian Donnelly, Mick Ratcliffe, Dawn Dagley and Ian Wheatley – 3 March 2005.

The Chair opened the meeting and welcomed Nancy Wawman (NW) and Harry Mycroft (HM) who were representing the Friends of Chaddesden Park.

The witnesses, Ian Donnelly (ID), Group Leader Public Health, and Michael Ratcliffe (MR), Senior Environmental Services Technician, both of the Environmental Health and Trading Standards Division Environmental Health

and Trading Standards Division, Dawn Dagley (DD), the Parks Liaison Officer, and Ian Wheatley (IW), Grounds Maintenance Manager, both of Commercial Services, introduced themselves to the Commission.

A Commission member asked the witnesses how the dog warden service worked. In response ID said that it was part of the Council's Environmental Health function. There were two full time dog wardens who could seize stray dogs and take them to kennels. If it was possible to identify the dog they would, on the first occasion, return it to its owner. Dogs that were picked up for a second or subsequent time were taken to the kennels. The owners were charged to redeem their dogs. If the dogs were not reclaimed they were taken to a dog rescue centre and offered for rehoming. ID said it was unusual for dogs not to be rehomed.

ID told the Commission that the legislation which applied to dog fouling was the Dogs (Fouling of Land) Act 1996. The Act made it an offence for a dog owner to fail to clean up after their dog. The Council was able to serve £50 fixed penalty notices and the fine if the case was taken to Court could be up to £1000. A Commission member asked ID when the Council last took anyone to Court for dog fouling. In response ID said that the Council had not prosecuted anyone, although they had served four fixed penalty notices since the legislation came into force.

A Commission member asked what evidence was needed to take a prosecution and ID said that the offence needed to be witnessed by a Council officer or a member of the public had to give a statement. He said that the important thing was for someone to be there when the offence was committed. In response to a further question from the Commission member, ID said that the dog wardens were aware of the areas where there were problems with dog fouling and that they did monitor for offences. However he said the majority of the public seemed to pick up the droppings. The Chair confirmed that he had asked Councillors to inform the Commission of locations within their wards where they knew there was a problem with dog fouling.

ID told the Commission that at present the Police had similar powers to the local authorities to deal with stray dogs, but he said that this would change when the Clean Neighbourhoods Bill came into effect. The current Police powers would then be transferred to the Neighbourhood Wardens.

IW confirmed to the Commission that the poop scoop bins on the parks had been replaced by mixed waste bins. This was because waste from poop scoop bins was classed as clinical waste and was expensive to dispose of. Waste from mixed waste bins was cheaper to dispose of, and people had been using the ordinary litter bins anyway, to the decision had been taken to replace the poop scoop bins with mixed waste bins. In reply to a question from a Commission member he said that the Council was replacing 111 bins a year and the programme to replace them would be completed in 2011.

A Commission member asked who was going to catch the offending dog owners if the Council only had two dog wardens. In reply ID said that the dog wardens did monitoring where and when they could. To put the issue into context he said that in 2003/04 the Council received 1680 dog related complaints, 870 of these were about stray dogs, the dog wardens collected 446 dogs, and there were 214 complaints about dog fouling. Nottingham and Leicester had received 294 and 315 complaints respectively in the same year.

He said that the dog wardens were involved in proactive work to prevent dog fouling and that they:

- Provided promotional and educational material
- Spoke to dog owners
- Followed up on complaints and visited complainants
- Carried out anti fouling patrols
- Sold a lot of poop scoop bags

A Commission member asked if complainants were given a satisfactory response. ID confirmed that the dog wardens did follow up complainants. He said that they were now doing customer satisfaction surveys, but he said that dealing with strays took two members of staff, which made it difficult to serve notices and/or take prosecutions.

DD confirmed that Parks did not have the resources to keep records about problems in parks or to do surveys, however she said that they did not get a lot of complaints and that last year they had only received 27.

Asked about the location of new bins, ID said that they were sited on the basis of staff experience and public views. A Commission member suggested that bins were not the solution to the problem and asked what might be done to stop it. ID said that he would like to see prosecutions and more fixed penalty notices being served. He said that the dog wardens had not been successful in this and so did not have the publicity that comes from a successful prosecution.

DD told the Commission that a previous campaign to identify the scale of dog fouling on parks had worked well and had received media publicity.

A Commission member asked how much time the dog wardens spent on strays and how much on dog fouling. ID said that he did not have figures for this, but as they had to use the kennels at Eastwood and Swadlincote, he estimated that about 75% of the dog wardens available time was spent on strays.

A Commission member asked how the job could be done better. ID suggested that the easy answer would be to provide more resources. He said that they needed to concentrate on areas where there were multiple complaints. DD suggested that there was a need for a visible presence to deter irresponsible dog owners and said that raising the profile seemed to work. ID told the Commission that under the new legislation the Council was

able to keep the money taken in fines and from fixed penalty tickets. He said that the penalty for fixed penalty tickets was £50.

A Commission member suggested that one option might be to reverse the priority to deal with stray dogs. ID said that this would not be possible as strays were a statutory priority.

8.2 Outcome of the Commission's meeting with David Turner – Patrollers Operations Manager – Tameside MBC – 8 March 2005.

On 8 March 2005 three Commission members together with Ian Donnelly (ID), the Environmental Health and Trading Standards Public Health Manager, and the Commission's Co-ordination Officer, visited the Offices of the Tameside Patrollers to discuss the approach taken by Tameside MBC to the enforcement of the dog fouling legislation.

The Commission members and officers met with David Turner (DT), the Patrollers Operations Manager. DT told them that the Tameside Patrollers had been started in December 1999 and had initially consisted of one Supervisor and six Town Wardens. The Council were making an application for Beacon status and had decided to introduce the Warden Service in order to address issues that local people had identified through workshops and other consultation. These had shown that the public wanted a uniformed presence on the streets because the policing methods at that time meant that police officers were no longer visible. There was also a demand for action to deal with issues such as litter, graffiti and dog fouling.

DT said that he had joined the Tameside Patrollers about six months after they had been established. He told the Commission members and officers that the public had been concerned about dog fouling and litter problems and said that priority had been given to dealing with these issues as well as to fly-posting and fly tipping. DT said that the Council had run a big publicity campaign in the local papers. This made people fully aware of the approach that the Council was taking to deal with offences relating to litter, dog fouling, fly tipping and fly posting. Consequently people had no excuse if they subsequently got caught.

DT told the Commission members and officers that in the first few years the Patrollers had averaged 100 prosecutions/year, mainly for dog fouling offences, although a few were for litter and fly tipping. He said that all the Patrollers were Police and Criminal Evidence Act (PACE) trained and that the Patroller Service had delegated powers to serve notices and make prosecutions.

DT said that the budget for the first year had been £170K and that now it was over £1M. He said that staffing levels had been increased and now stood at 10 Supervisors and 40 Patrollers. This year the service had for the first time taken on 15 Cadets. In the past three years DT said that the service had received £0.25M from central government grants. He said that in addition to their central office they now had eight outpost stations, some in shared

accommodation, which partially supported Police Neighbourhood Units. The service was part of the Council's Community Safety Unit. The overall manager was joint head of Community Safety and a Police Chief Inspector had been appointed to a liaison role.

The members and officers were told by DT that the service provided by the Patrollers had expanded since its inception. They now dealt with abandoned vehicles and did a lot of Community Liaison work and community consultation. DT told the members and officers that during the past year the Tameside Patrollers had taken 50 prosecutions for dog fouling. He said that the reduction in the number of dog fouling actions had been achieved by a combination of awareness and education on the part of the public. However he pointed out that the Patrollers were highly visible and he said that it would have been possible to serve more notices if the staff were not in uniform.

A Commission member asked whether the number of complaints was reducing. DT said that last year they received 399 complaints about dog fouling and took 50 prosecutions. He said they had now moved over to £50 Fixed Penalty notices (FPN) whereas the Courts had been imposing fines of £200-£300. If they received a complaint they carried out an investigation which involved making enquiries in the neighbourhood. This made it plain to people in the area that the Patrollers were investigating and served as a warning that might prevent further problems. DT said that the previous publicity had made people aware of the legislation and of what they had to do if they were a dog owner. Prior to unitary status, DT said that Tameside had taken only five prosecutions in five years. At that time the enforcement of the dog fouling legislation was an Environmental Health function. DT said that Tameside had a population of around 280,000.

Commenting on the change to Fixed Penalty Notices DT said that taking cases to Court had involved the Patrollers in a lot of file preparation. Now they only had to go to court if the dog owner pleaded not guilty via the Fixed penalty system. Only a written FPN now had to be completed.

A Commission member asked if the public responded aggressively to the Patrollers when they were tackled about dog fouling. DT said that this was not usually a problem. He said that in some areas they did work in pairs but this was not normally necessary during the hours of daylight.

In answer to a question from a Commission member DT said that they had found it necessary to work outside office hours, particularly on issues such as fly posting. However, he said they did not work on Sunday on a regular basis and only did when it was necessary. The core hours were 0800-2200 Monday-Saturday, but they worked outside these hours as required.

Asked about the shift patterns worked by the Patrollers, DT said there were 19 wards and one Patroller was allocated to each ward. He said that they dealt with dog fouling in parks but had no other responsibilities for parks. He confirmed that most dog fouling complaints were about parks and recreational land.

DT confirmed that stray dogs are dealt with by a Dog Warden who is employed on a sub contract basis by another Council department.

Referring to the Cadets, DT said that they were enrolled on a Modern Apprenticeship HNC course in Uniformed Services and spent 2 days/week at college and the rest of the week at work. Employment as a Cadet was seen as a career launch for other uniformed services.

A Commission member asked about intelligence sharing arrangements with the Police. DT confirmed that they have these in place and that intelligence is exchanged on a daily basis.

Asked about public opinion DT said that the Council works on a District Assembly format with meetings every 7 weeks or so. He said that there was over 70% public satisfaction with the service provided by the Patrollers. He also said that they were achieving results above target and had about a 75% success rate. DT said that they were able to spend more time with people than the Police currently can. They did not deal with emergencies.

Asked about abandoned vehicles DT said that there had been a big improvement in the Council's service in this area. This was because they were able to get there quickly. They were the best local authority in Greater Manchester for burnt out shells and had achieved a 30% reduction. DT said that they could get a vehicle removed immediately if they thought it was appropriate, otherwise it took 24 hours. Only one visit was made unless the notice was for seven day removal, when an additional visit was made.

DT said that the issue causing most complaints was 'Youths causing Annoyance'. They received around 2000 complaints in this category in the last year. DT said that they worked jointly with the Police on this issue.

DT told the members and officers that the Patrollers had 10 vehicles, one of which was unmarked. He said they also had Ranger Teams who visited each ward every two weeks and carried out high visibility patrolling. They worked to compliment the Council's Street Force.

DT confirmed that there were no real changes proposed to the way in which the Patrollers worked. He said that from previous experience they knew what needed to be done but it was necessary to prove a concept before the work could be done.

Asked about staffing for the service DT said that to be successful the service needed the right staff who were properly trained and appropriately paid. He said that Patrollers were paid on salary scales S4-S5 and the Supervisors were on SO1.

There being no more questions the Chair thanked David Turner for agreeing to the Commission's visit and for a most helpful and informative interview

8.3 Outcome of the Commission's meeting with Clive Shipman, Mark Berrill and Bill Pearce at Mansfield District Council - 18 March 2005

Clive Shipman (CS) opened the meeting by giving some background about the dog control service in Mansfield. He said that they had started in 1990 to meet the Environmental Protection Act 1990 requirement of a responsible officer to deal with dog control issues, but that even prior to that Mansfield DC had operated a 'finder' service to deal with stray dogs.

CS said that since 1990 they had operated a Dog Control Service. This was contracted out, not in-house, and had been provided by the same company, Davinhulme, for the past 20 years. Davinhulme deal with all dog fouling issues, including education and with stray dogs. The service has achieved National recognition winning first place in the Good Dog Campaign Awards in 2000 and runners up in 2002

CS told the Commission members that Mansfield's previous dog fouling bylaws were replaced by the Dogs (Fouling of Land) Act 1996. He said that previously the Environmental Health Department had been responsible for dog fouling issues everywhere except in the Parks. Parks enforcement had not been good, mainly because their employees had not been properly trained.

Since 2003 some of the money to support the Dog Control Service has come from the Neighbourhood Renewal Areas and had enabled Community management teams to pay for improved services in their areas this has been operated under project FIDO (further improving responsible dog ownership) This money enabled the Service to undertake additional enforcement in Parks and hot spots identified by the Community themselves, and is in addition to the normal service provided by the Dog Control team. This scheme provides enhanced education and enforcement programmes and is run in conjunction with the Local Neighbourhood Renewal management teams. Partly as a result of this scheme and dissatisfaction with Parks enforcement generally, Leisure Services agreed to pay £25 k annually to Environmental Health to carry out enforcement in all of the Parks not just those in NRF areas. CS said that they had found that a uniformed presence on the parks had a big impact on the incidence of dog fouling. Additionally some 4 prosecutions were pending for offences in Parks since the service took over enforcement 6 weeks ago. The work in the Parks is contracted out to Davinhulme.

A Commission member asked how many parks Mansfield had. In reply CS said that they had around 20 main parks and a lot of smaller open spaces. He said that the intention was to set up monthly meetings with the Parks Service to ask them which areas they wanted to be patrolled and at what times. Hours to be worked in winter and summer are to vary with more in summer and fewer in the winter months.

So far as kennelling was concerned, CS said that Mansfield had an arrangement with a local vet who would hold collected dogs in their kennels

for up to 24 hours. The dogs were then collected by a rescue centre that kept them for seven days. The kennels were cheaper than the RSPCA. CS said that the Council has a non destruction policy. They collect around 400 stray dogs each year and last year they only had five put down with the rest being re-homed. CS said that when they used the RSPCA, about 50% of the collected dogs were put down and the Council was charged £20/dog in addition to all kenneling fees for this.

CS told the Commission that the release fee was £55/dog with no exceptions and would be £60 from April.

With regard to fouling CS told the Commission that the Council had not adopted the fixed penalty system and prosecuted all offenders. They would however be adopting the fixed penalty scheme from April. This was partially a consequence of the low level of fines imposed by the Courts and the additional supporting information demanded by the Council's legal team.

CS said that if offenders did not pay the fixed penalty the Council would have to prosecute them, but pointed out that this was no different than under the previous arrangements. He said that to be effective the service had to have trained staff and to work according to the Police and Criminal Evidence Act (PACE).

The Commission were told by CS that Mansfield has always operated an out-of-hours service. They will collect strays and deal with problem dogs and respond to road traffic accidents. The facilities at the kennels are available 24 hours/day for 365 days/year.

Mark Berrill (MB) then provided some information about the way in which Davinholme works. He said that they had three full time and one part time officer who were all qualified. Two of them had been trained in serving fixed penalty notices and arrangements were being made to train up the others. They also had a Project FIDO Education Enforcement Officer.

MB said that Davinholme covered both Mansfield and Ashfield Council areas. He said that they had worked closely with the Neighbourhood Renewal Areas to provide services such as subsidised microchipping and low cost neutering and spaying as well as dealing with dog fouling and stray dogs. Project FIDO (Further Improving Dog Ownership) was an educational initiative that supported the enforcement action taken by the Council. MB said that the Council did a lot of advertising, on buses and local radio as well as sponsorship and giving out 0.5 million free dog bags each year. There was a network of outlets where the public could obtain poop-scoop bags. As well as Council offices these included shops, vets, a hairdresser and a public house.

A Commission member asked MB about dog waste bins. In reply MB said that there is an occasional problem with people throwing used bags away and that they did get complaints about the number of bins that were provided. He said that, like Derby, Mansfield Council had now moved on to mixed waste bins that could be used both for dog waste and for normal litter. This had

saved the Council a significant amount of money in waste disposal costs. M confirmed that all the poop scoop bags issued by the Council were biodegradable.

Bill Pearce (BP) told the Commission members that the Council's Area Assemblies had asked for more bins to be provided and he said that the Parks service had been pressured to install more bins.

In response to a question CS confirmed that no EHOs were authorised to act under the Dogs (Fouling of Land) Act and that all enforcement was done by the Dog Wardens. He said that they now do around 80 hours/week enforcement, but this will go up to 100 hours when they start working for the Parks service.

CS pointed out that it was not possible to apply outcome or prosecution performance indicators to the dog control service, and he said that advertising the service can often result in an increase in complaints. In reply to a question from a Commission member CS said that the dog wardens respond to all complaints about dog fouling in five days and that they carried out observations if this was appropriate. M said that if they saw a dog owner walk off without removing the dog's excrement, they would, without exception prosecute them or serve them with a fixed penalty notice. He also said that they dealt with all dog related offences and this included trying to identify dead dogs and notify their owners.

MB told the Commission members that Davinhulme provided a 24 hour response service which was co-ordinated through the Council's Central Control service. Three officers were involved in this. . CS said that the provision of a 24 hour response was much easier with a contracted service.

Referring to the Clean Neighbourhood and Environment Bill, CS told the Commission members that all the current Police duties in relation to dogs would be transferred to the local authorities, and the inference of this was that Councils would need to provide a 24 hour service. CS pointed out that six years ago the Police had estimated the national cost of delivering their dog control as £17m. However last year they said it was only costing £1.8m. On this basis each of the country's 400 local authorities would only receive an additional £5,500 for taking on the Police responsibility for dogs. CS thought that the new legislation was likely to make things worse, not better as insufficient resources had been allocated.

CS confirmed that the current cost of the Dog Warden service provided by Mansfield District Council is £49,000 per year (approximately £0.50/head of population). He estimated that this would rise to around £80,000 when they took on responsibility for the Parks.

MB commented that the Police were not supporting the Dog Wardens in situations involving dangerous dogs. He also said that all the dog wardens and the Council itself were members of the national Dog Warden Association.

There being no further questions the Chair thanked CS, MB and BP for a very informative and thought provoking meeting.

8.4 Outcome of the Commission's meeting with Cllr Mike Carr, Andrew Hopkin and Ian Donnelly – 21 April 2005.

The Chair gave an update on the review and said that as part of the evidence gathering process, the Commission had thought it necessary to speak to Andrew Hopkin (AH) the Assistant Director - Environmental Health and Trading Standards, and to Councillor Carr (MC), the Council Cabinet Member about the way in which the Environmental Services Division dealt with the issue of dog fouling.

MC agreed that because of Dog Control Service staffing levels it was not possible to spend sufficient time enforcing the regulations. AH confirmed that there were no accessible kennels close to the City which meant that the two dog wardens spent a large proportion of their time transporting stray dogs to the kennels that the Council had to use. He said the possibility of using the Police kennels at St Mary's Wharf when the Police ceased to be responsible for stray dogs was being considered.

AH said that he and Ian Donnelly (ID), the Public Health Manager, were frustrated by the lack of prosecutions. He confirmed that officers had carried out observations at a location identified by Cllr Tittley but said that they had not seen anyone committing an offence. Cllr Willets suggested that the Council should try and get the public to report dog owners who allowed their dogs to foul and did not remove it. AH and MC said that this had been tried but the public were not prepared to give statements.

Cllr Baxter pointed out that Mansfield Borough Council had achieved successes and had taken a number of prosecutions. He suggested that the lack of enforcement encouraged irresponsible dog owners and he thought that a different approach to dog fouling in Derby was required. In response AH said that when compared to Derby, Mansfield had more resources to deal with dog fouling and dog control. He told the Commission that one of the problem areas was the City's parks and said that arrangements were being made to authorise Parks staff to deal with dog fouling.

Cllr Berry asked what happened with stray dogs and ID explained that if the dog was chipped or tagged it was returned on the first occasion. If it was collected on a second occasion it was taken to the kennels and the owner would have to pay to redeem it. If the owner did not collect the dog they were still billed and there was a policy of pursuing them vigorously to recover the cost.

In response to a question from Cllr Redfern, AH and John Hansed confirmed that Street Care cleaned dog excrement from roads and footways but said there was a problem with cleaning up on open spaces.

Commission members discussed specific problems in their areas and Cllr Troup referred to a particular problem with dog fouling on the footpaths near schools in Blagreaves Ward. Members suggested to AH that one way of tackling the problem would be to devote a lot of resources to it over a short period of time. This would raise the profile and might achieve some prosecutions that would gain further publicity.

Members agreed that there was a need to see the scale of the dog fouling problem for themselves and confirmed arrangements for a tour of the City on the evening of 26 April 2005.

8.5 Outcomes of the Commission's Dog Fouling Tour - 26 April 2005.

Those involved: Cllrs J Ahern, P Berry and R Baxter plus DRR

Table 4

	Location and reason for visit	Observation
1.	West Avenue, Derby This location was reported by Cllr P Hickson as having a problem with dog fouling.	Observations of the pavements were made in the course of a slow drive past but no fouling was seen.
2.	Darley Park/Derwent Park near the South Drive entrance – reported by Cllr Repton	One filled bag thrown under the hedge. Several deposits seen on the grass. Dog bin in use.
3.	Former Sturgess School playing fields off Kedleston Road – reported by Cllr Repton	Found two filled bags that had been deposited near the path across the playing fields
4.	Footpath between Enfield Road and Cricklewood Road, Mackworth – reported by Cllr Baxter	Obvious that the footpath is used by dog walkers. Several deposits on verges to either side. Complainant lives in adjacent house which has good view of the footpath. Several signs in the area.
5.	Drewry Lane Jitty – reported by Cllr Jackman	This was the worst of the sites visited on the tour. Numerous deposits on the roadway, on the pavements and along the jitty itself. No poop scoop bins.
6.	Mickleover/Etwall cycle path – letter from complainant	Saw no evidence of dog fouling
7.	Footpath near Sunnydale schools – reported by Cllr Troup	Slight evidence of dog fouling, but nothing really significant
8.	Balfour Road – reported by Cllr Williamson	Small amount of fouling on the footpath
9.	Dale Road Park – Spondon – reported by Cllr P Berry	Several deposits seen on the grass. Dog bin in use.

Appendix A

The following information was provided to the Commission by Ian Donnelly – Group Leader Public Health, Environmental Health and Trading Standards Division

BRIEFING NOTE ON DOG WARDEN SERVICE

What services does the Council offer?

- Service to deal with stray dogs.
- Dog Fouling Enforcement.
- Offer reduced cost spaying and neutering vouchers for people in receipt of benefit.
- Identichipping.
- Do some promotional activities to encourage responsible dog ownership.

Stray Dogs

The Dog Wardens primary function is the collection of stray dogs. These are either returned home to the owner if known, or are taken to kennels if the owner is unobtainable, if there is no identification or if the dog is a repeat stray. Dogs are kept in kennels for a period of seven days and if they are not claimed they are generally rehomed/sent to an appropriate rescue centre.

Derby City Council uses two kennels for stray dogs, which are situated in Eastwood and Swadlincote. There are no kennels available in the city itself. Dogs also need to be inoculated before the kennels will accept them, so they are taken to a local veterinary surgery first. Approximately 75% of the Dog Wardens time is taken up with dealing with stray dog issues.

What action is the Council required to take to deal with stray dogs?

The Environmental Protection Act 1990 requires all LAs to appoint someone to deal with stray dogs, but doesn't specify how this is done and the service level required. The local authority can seize dogs that are straying or that have been contained by a member of the public. It can also deal with dogs that are dangerously out of control in public places. When a stray is seized it will be returned home if it has Identification. If not, or if it is a dog that has strayed before, it is taken to kennels. Dogs are kept for 7 days and if not claimed in that time they will be rehomed/sent to rescue centres. We aim not to put any dogs down although sometimes unavoidable if they are very aggressive. We have put down 4 dogs this year on Vet's advice because of illness when picked up.

There is a charge for claiming a dog from kennels which starts at £70 for the first day. This increases every day and has to be paid up front. This was introduced because there were a significant number of owners who part paid and never paid the rest of the fee. Finance would end up writing off the unpaid debts because of the amount.

What responsibilities do the Police have to deal with stray dogs?

Much the same as LAs, although the Police powers are under different, older legislation. They can take stray dogs in and deal with them in the same way, although they don't operate a warden service and won't collect strays. They will accept strays 24hrs a day. St Mary's Wharf and Cotton Lane Police Stations have some kennels. They can also seize dogs from property under the Dangerous Dogs Act, which LAs can't do.

The Police powers will be revoked under the Clean Neighbourhoods Bill. When this goes through all responsibility for strays will pass to LAs. There are reports that some Police Stations are already shutting their kennels in anticipation of this. However DEFRA has indicated that responsibilities cannot be handed over by the Police until agreement on the transfer of resources has been agreed.

Also included in this is that Community Support Workers employed by Police will be able to issue fixed penalties for dog fouling too, but it is not known how much impact this will have.

Dog Fouling

The Dogs (Fouling of Land) Act 1996 allows the Local Authority, by the use of designation orders, to deal with dog fouling issues. The local authority can issue fixed penalty notices and/or prosecute dog owners for failing to clear up after their pets. It is not an offence to allow a dog to foul; the offence is to fail to clear up.

Derby City Council has two full time Dog Wardens, based within the Public Health Team of the Environmental Health and Trading Standards Division of Corporate Services. These two members of staff have responsibility for issues relating to dogs in public areas and the public highway within the city boundary. In the summer months the Dog Wardens may be seconded to carry out pest control duties. The Park Rangers, employed by Commercial Services, are also authorised to issue dog fouling notices.

Environmental Health and Trading Standards has no responsibility for providing dog waste bins. This is done by Commercial Services in the Park areas. Development & Cultural Services do not provide dedicated dog waste bins on streets, although dog waste may be deposited in normal waste bins. The reason for this that waste collected separately has to be treated as clinical waste, which is expensive, also people do not like dog waste bins adjacent to their homes. Streetcare are responsible for cleaning any dog waste from the highway/pavement area.

Whilst the number of complaints about fouling/requests for 'no fouling' signs is fairly high (242 in 2003/4) the amount of time that can be allocated to fouling monitoring is limited given current resources. Monitoring is carried out where possible, and the dog wardens are a visible presence, which does discourage

owners allowing dogs to foul. The numbers of dog owners who fail to clean up are in the minority, and it would appear that the 'poop scoop' bags supplied by the Council are well used. Unfortunately the incidences of fouling are most prevalent in the mornings and evenings, when it is not always possible to have staff on duty on a frequent basis. The Division's current policy is that monitoring is carried out in pairs for health and safety considerations, which also limits the staff available.

Is there thought to be a significant dog fouling problem in Derby?

In an ideal world there would be no fouling everyone would pick up after their pet. Dog fouling is always a problem that is high on residents list of problems. It would be fair to say that there are certain areas that are repeatedly complained about.

Part of the difficulty in assessing problems is that when we receive complaints concerning fouling – we respond to all complaints about dog fouling but often when a visit is made there is little evidence there for us to be able to take further action.

It is apparent that whilst staff are out and about, both Dog Wardens and Park Ranger's view is that the **vast majority of people do pick up.**

Fouling complaints

2000/1 – 232 complaints about fouling

2001/2 – 161 complaints about fouling

2002/3 – 143 complaints about fouling

2003/4 – 214 complaints about fouling

2004/5 - 170 *complaints about fouling*

**estimate to 31/3/05 based on figures to end of Feb 05*

2004/5 slightly skewed by multiple complaints about one area (which is being dealt with).

May still be fouling and some problem areas but we feel that there is a trend change in the attitude of owners

Street care do clean up very quickly if a problem is reported to them as well and we have a good relationship with Streetcare.

What action is being taken to discourage dog fouling?

- Bins - Parks
- Bags – Environmental Services & Parks
- Letters to owners complained about
- Poop Scoop Days
- Education – leaflets
- Speak to dog walkers
- Can prosecute if complainant gives statement but people unwilling to do so
- Visible Patrols – very effective - enforcement

- Stencilling
- Education

Why hasn't the Council taken any fixed penalties/prosecutions under anti-fouling legislation?

- Generally have to fit any monitoring between calls to deal with stray dogs. Time is more at a premium now as we use kennels in Swadlincote and Eastwood because there are no suitable kennels nearer the city, meaning more travelling now.
- It's Department policy to carry out monitoring in pairs because of H&S and evidential issues which cuts down on the occasions we can do it.
- Need to be in the right place at the right time to witness offence: Many owners walk dogs before and after work, outside the normal working hours. Difficult, especially in winter as very difficult to witness offences. Summer is a problem because the Dog Wardens are often drafted in to meet demand for the Pest Control Service.
- Don't have resources to allow people to wait around all day waiting for someone to let their dog foul.
- Patrols are good deterrents.

Q&A info from first O&SC meeting

1. How much of a problem do stray dogs present in the city? 2. Where do problems occur? and 3. Are they increasing or decreasing?

- There is no denying there are stray dogs in the city. The Midlands has the highest rate of stray dogs in the country. It is fair to say that the problem in Derby is greater in terms of numbers than the neighbouring rural authorities, but is probably no better or worse than any other large urban area.
- Problems with strays are fairly evenly spread across the city, but the main areas tend to be Chaddesden/Derwent, Sinfen and Allenton. There appears to be a link between numbers of strays and the more socially deprived areas.
- Nationally there was a slight decline to 1999, with a steeper decline to 2001. Since then it's fluctuated.
- Locally –there's been a gradual decline following a peak in 2001/2. The numbers of strays reported and collected were fairly consistent in 2002/3 and 2003/4 and less than in 2001/2, but this was due to the fact that we used to collect strays on behalf of the Police but this stopped towards the end of 2002. The number of strays reported and collected will be less for 2004/5 but there are factors that have affected this and we aim to keep a downward trend.
- **2001/2** – 978 stray/cont/surr dog complaints. Collected 699 dogs

- **2002/3** – 1479 service requests of all types. re dogs 835 stray/cont/surr dog complaints. Collected 474 dogs
Stopped using Radbourne Kennels from April 2002, switched to Kilburn and Swadlincote
- Stopped taking Police Dogs from August 2002
- **2003/4** – 1687 service requests of all types. re dogs 854 stray/cont/surr dog complaints. Collected 446 dogs
- Stopped using Kilburn kennels from end Sept 2003
- **2004/5** – 1400 service requests of all types. re dogs up to 645 stray/cont/surr dog complaints. *Will probably collect 320 dogs**

We feel the reduced number is due to the fact that because of:

- Harder stance on dogs in kennels – we make dog owners pay all the costs for dogs up front to prevent part payment and repeat offences, also staffing issues during the summer of 2005 the Dog Wardens were regularly required to cover pest control, with the consequence that the dog warden service was reduced on a number of occasions, with not all reports of strays being responded to and the closure of the dog service for selected times.
- The Dog Wardens carry out work aside from collection of strays and dog fouling monitoring. They also get involved in erecting dog fouling signs, re-homing of dogs, welfare issues, home visits for potential dog adopters etc.

Other relevant notes

Clean Neighbourhoods Bill – received Royal Assent on 8/4/05. Likely to come into force mid/late 2005. Some relevance to Dog Warden Service:

- Councils are able to keep proceeds from fixed penalties issued, and high performing Councils can set their own fee levels.
- Police's responsibility for stray dogs will cease, with it all passing to LAs.
- Community Support Workers authorised under above legislation will be able to issue fixed penalties.
- Dogs (Fouling of Land) Act will be repealed by this legislation.

Clarification is still being gathered into the implications of this legislation and how DCC (and other LAs are going to adapt to changing requirements).