

REPORT TO: Cabinet Member Leisure and Tourism
DATE: 21st April 2010
SUBJECT: Dog Fouling and Enforcement
WARDS AFFECTED: All
REPORT OF: Leisure and Tourism Director, Graham Bayliss
CONTACT OFFICER: Head of Coast and Countryside, Dave McAleavy 2961
**EXEMPT/
CONFIDENTIAL:** No

PURPOSE/SUMMARY:

To advise the Cabinet Member of a proposal to enhance the Council's ability to deal with issues relating to dog fouling and litter and to ask that a partnership approach between the Environmental Protection and Leisure & Tourism Departments be supported.

REASON WHY DECISION REQUIRED:

Strategic Intelligence Assessments (SIA's) produced by the Sefton Safer Stronger Communities Partnership identify residents concerns about dog fouling and litter and to enhance the Council's ability to deal with these issues additional personnel require authorisation and training. The Council's Constitution will require amending to reflect the delegation of powers to the Leisure and Tourism Director on behalf of the Cabinet Member for Leisure and Tourism in respect of the Environmental Protection Act 1990 and Clean Neighbourhoods and Environment Act 2005.

RECOMMENDATION(S):

1. That the Leisure and Tourism Director authorise operational staff who, following training, will apply and enforce dog fouling and litter legislation in a partnership with the Dog Wardens and Enforcement Officers;
2. That the Cabinet Member for Environmental supports the proposals to develop a coordinated approach to dealing with dog fouling and litter.
3. That Cabinet be requested to approve the draft Leisure and Tourism Enforcement Policy and recommend to Council that the Responsibility For Functions of the Constitution be amended by addition of the following:

"Environmental

Cabinet Member

Delegations

E. Leisure and Tourism Director

‘Power to appoint authorised officers under the Environmental Protection Act 1990 and Clean Neighbourhood and Environment Act 2005’

KEY DECISION: Yes

FORWARD PLAN: Yes

IMPLEMENTATION DATE: As soon as possible following the necessary changes to the Councils Constitution.

ALTERNATIVE OPTIONS:

There is no alternative option for the Council due to personnel in Leisure Services not having the authority or training to carry out enforcement or issue FPN's for dog fouling and litter.

IMPLICATIONS:

Budget/Policy Framework: None

Financial:

<u>CAPITAL EXPENDITURE</u>	2006/ 2007 £	2007/ 2008 £	2008/ 2009 £	2009/ 2010 £
Gross Increase in Capital Expenditure				
Funded by:				
Sefton Capital Resources				
Specific Capital Resources				
<u>REVENUE IMPLICATIONS</u>				
Gross Increase in Revenue Expenditure				
Funded by:				
Sefton funded Resources				
Funded from External Resources				
Does the External Funding have an expiry date? Y/N				
How will the service be funded post expiry?				

Legal: None

Risk Assessment: None

Asset Management: N/A

CONSULTATION UNDERTAKEN/VIEWS

Environmental Protection
Legal Department

CORPORATE OBJECTIVE MONITORING:

<u>Corporate Objective</u>		<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		√	
2	Creating Safe Communities	√		
3	Jobs and Prosperity		√	
4	Improving Health and Well-Being	√		
5	Environmental Sustainability	√		
6	Creating Inclusive Communities		√	
7	Improving the Quality of Council Services and Strengthening local Democracy	√		
8	Children and Young People		√	

LIST OF BACKGROUND PAPERS RELIED UPON IN THE PREPARATION OF THIS REPORT

Report Dog Fouling Enforcement and Practice , Cabinet Member Environmental 5th December 2007

1. Background.

- 1.1 The Fouling of Land by Dogs (Metropolitan Borough of Sefton) Order 2006 makes it an offence if a person who is in charge of a dog that has defecated fails immediately to remove the faeces deposited by the dog from the land. (subject to certain exemptions).
- 1.2 In Sefton the above is primarily enforced by the Environmental Protection Department Dog Warden Service, more so in built up areas; the service consists of three Wardens/Enforcement Officers. Offenders identified are subject to a range of sanctions, including: prosecution, Fixed Penalty Notices (FPN) formal caution or informal caution, (e.g. warning letter/verbal warning/advice). The general framework for action is set by the Environmental Protection Department's Enforcement Policy; the primary aim is to ensure that enforcement is carried out in a fair and consistent manner.
- 1.3 The coast, countryside areas, parks and open spaces managed by the Leisure and Tourism Department suffer problems in respect of dog fouling and other issues relating to the use of Council land for dog walking. Enforcement is carried out by the Coast and Countryside or Park Rangers; however, this enforcement is largely restricted to advice as the formal process, including issuing Fixed Penalty Notices (FPN's), has to be carried by the Dog Wardens, due to the Leisure and Tourism personnel requiring specific authorisation from the Leisure and Tourism Director on behalf of the Cabinet Member. Over the last twelve months personnel have received training from external specialists and the Environmental and Legal Departments.
- 1.4 This report sets out the proposals for the Cabinet Member for the Director of the Leisure and Tourism to seek approval and be authorised to enforce, issue FPN's and deal with any subsequent prosecutions. This requires amendments to the make-up of the Council's constitution and will have to be reported in the Forward Plan.

2. Developing the Partnership

- 2.1 Section 17 of the Crime and Disorder Act 1998 requires certain responsible authorities to work in partnership to address crime and disorder issues of concern to their local community and to consider how they can discharge their duties to minimise the potential for crime and disorder to occur. There is now a high level of public concern in respect of dog fouling in urban areas and the coast and parks are now seeing higher level of dog fouling and other dog related offences.
- 2.2 The Environmental Protection and Leisure and Tourism Departments are developing closer working arrangements to respond to Strategic Intelligence

Assessments (SIA's) produced by the Sefton Safer Stronger Communities Partnership. An SIA was prepared for each of the Area Committee areas and identify the community safety issues, including environmental concerns which are of importance to residents.

- 2.3 Both the Coast and Countryside & Park Rangers are skilled in respect of enforcing byelaws and dealing with anti-social problems, supported by partners and Merseyside Police in their respective areas. Considerable intelligence is held by Leisure Services through incident reporting procedures and this can be added to intelligence gained through the SIA's and other Sefton Household surveys.
- 2.4 Leisure Services ranger personnel can support the work of the Environmental Protection Department in enforcement, issuing FPN's and developing education and awareness activities relating to dog litter issues, but there is a need to ensure that the consistent approach across the different departments is maintained. To be able to take this partnership further and to allow for training to take place that is specific to the FPN's and the enforcement process the permission of the Environmental Protection Director is required. This will allow identified staff in Leisure Services to be trained in enforcement and issuing FPN's where they relate to dog fouling and litter.
- 2.5 The draft Leisure and Tourism Department Enforcement Policy attached (Annex 1) will follow the Regulators Compliance Code to ensure that enforcement is carried out in a fair and consistent manner and sets out policy in respect of coast, countryside, parks and open spaces. The Cabinet Member is asked to agree the policy and recommend to Cabinet that the policy is approved.

3. Conclusion

- 3.1 There is considerable potential to develop and improve the partnership between the Environmental Protection Department Dog Wardens and Enforcement Officers and Leisure Services rangers working on the coast, Rimrose Valley and parks and open spaces.
- 3.2 The Sefton Safer Stronger Communities Partnership, Strategic Intelligence Assessments have identified residents' concerns about dog fouling and litter; additional intelligence also identifies problems on coastal sites, countryside areas, and in parks and open spaces. A consistent approach is required across the Borough to ensure that problems are not just displaced and this requires additional staff to be trained to work with the Dog Wardens/Enforcement Officers.
- 3.3 This partnership also offers opportunities to raise the profile of environmental issues through events, local media and successful prosecutions and make

residents and visitors who own dogs but allow their dog to foul more aware of the possible penalties.

SEFTON COUNCIL

LEISURE AND TOURISM DEPARTMENT

ENFORCEMENT POLICY FOR COAST, COUNTRYSIDE, PARKS AND OPEN SPACES

1.0 INTRODUCTION

Sefton Council has a statutory duty to enforce a number of laws and regulations, which relate to Local Authorities. These laws and regulations seek to improve the quality of life and safety of all those who live, work and study within Sefton. The purpose of this policy is to secure effective compliance with byelaws and other legislation while minimizing the burdens to both the Council and to users.

This policy, which applies to the operation of coast and open spaces services through the Coast and Countryside Service and Park Ranger Service, follows the principles of the Regulators Compliance Code.

2.0 AIMS AND OBJECTIVES

Sefton Council is committed to providing consistent and equitable, proper and robust enforcement services to contribute to the priorities laid out in the Community Strategy. Improving the quality of life and enhancing the coast are key aspects of the strategy along with reducing crime and the fear of crime.

Sefton Council aims to follow the guidance laid out in the Government Concordat on enforcement policy and procedure.

Sefton Council will ensure that all authorised enforcement officers carrying out enforcement work are trained and fully acquainted with the requirements of this policy. All authorised officers must abide by this policy whenever making decisions on enforcement.

All authorised enforcement officers should be trained in those aspects of legislation relevant to their duties. The authority will ensure that officers are competent to carry out their duties and that the level of delegated authority for each officer has been approved.

3.0 STATEMENT OF POLICY

Enforcement on the coast is intended to be applied in a wide range of circumstances across a diverse and highly dynamic coastline with tact, fairness, diplomacy, transparency, proportionality and in a courteous and professional manner.

Sefton Council recognises that enforcement action can take many forms ranging between providing advice and guidance to challenging behaviour through to bringing formal actions which may culminate in prosecution.

ITEM NO. Annex 1

Sefton Byelaws that will apply:

- Pleasure Grounds and Open Spaces
- Rimrose Valley Country Park
- Crosby Coastal Park (to Hall Road)
- Parks and Open Spaces
- Seashore (between high and low water) – areas at Crosby / Hightown, Formby, Ainsdale, Birkdale and Southport
- Sandhills - areas at Hightown, Formby and Ainsdale
- Ainsdale and Birkdale Local Nature Reserve
- Ravenmeols Local Nature Reserve
- Dogs on the Seashore – Ainsdale and Southport Beaches
- For the Prevention of Danger, Obstruction or Annoyance to persons bathing in the sea.

There are further regulations under:

- The Fouling of Land by Dogs (Metropolitan Borough of Sefton) Order 2006
- Ss.55-67 - The Clean Neighborhoods and Environment Act 2006
- Dog Control Orders (Prescribed Offences & Penalties) Regulations 2006
- Dog Control Orders (Procedures) Regulations 2006.

A clear explanation of the mechanisms for complaint will be made available to any user on request.

3.1 ENFORCEMENT FACTORS

In making decisions about enforcement action, Sefton Council will act in the wider public interest with a primary aim of securing a safe and pollution free environment for all.

In considering the appropriate enforcement action, Sefton Council will also take the following into account;

- The risk of harm to the public and others
- What is in the public interest
- The explanation of the offender
- Whether the matter is a recurrence
- Whether there have been other contraventions of Bye-laws or Legislation
- The willingness of the alleged offender to prevent a recurrence of the incident
- The availability and reliability of witnesses
- The sufficiency of evidence

3.2 PROSECUTION

Sefton Council may consider prosecution from time to time using the legislation, byelaws and regulations listed in 3.0 above, or using other legislation should it be considered in the public interest to do so.

Prosecution will be considered in the following circumstances;

- Where the alleged offence is a breach of bye-laws or legislation such that public safety or well being is put at risk
- Where the alleged offence involves failure to comply with a warning
- Where the alleged offence involves risk of damage to the environment
- There are other public interest factors mitigating in favour of prosecution
- Where false information has been supplied willfully, or there has been an intent to deceive

3.3 FIXED PENALTY NOTICES (FPN's)

Certain legislation allows for offences to be dealt with by way of issuing an FPN. This allows the offender to discharge any liability for prosecution for the offence.

Fixed penalty notices will be issued when:

- The case warrants prosecution
- There is enough evidence to prosecute for the offence
- It will act as sufficient deterrent against re-offending

If the FPN remains unpaid after the specified period, a prosecution file will be prepared and passed to Legal Services to initiate a prosecution for the offence.

FPN's issued to young people will be issued with due regard to the Children's Act 2004 and the DEFRA guidance on issuing fixed penalties to juveniles 2006.