

**Options paper in response to petition**

## **Options to Control Dogs in Higher Memorial Park Failsworth**

**Report to: District Executive – Failsworth and Hollinwood**

**21<sup>st</sup> January 2014**

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### **1 Purpose of Report**

- 1.1 The purpose of this report is to outline the options available to members in response to the petition received regarding inappropriate use of the park by some dog owners.

### **2 Recommendation**

- 2.1 For discussion at the meeting

### **3 Introduction**

3.1 Dog Control Orders can be used to prescribe offences for the manner in which dogs are controlled in certain public places. They replace the previous system of bylaws for the control of dogs, and also the Dogs (Fouling of Land) Act 1996. The current Dog Control Orders in place in Oldham are as follows:-

- The Dogs on Leads Borough of Oldham Order 2009,
- The Dogs Exclusion Borough of Oldham Order 2009, and
- The Fouling of Land by Dogs Borough of Oldham Order 2009

3.2 These orders were implemented in June 2009 and have been used to control Dogs in the following areas:-

i) the Dogs on Leads Borough of Oldham Order 2009

Dogs must be kept on a lead in all cemeteries, crematoria and associated memorial gardens. Anyone in charge of a dog in these areas, who fails to keep their dog on a lead, shall be guilty of an offence. These areas have appropriate signage to inform the public of their responsibilities under the Order.

ii) Dogs Exclusion Borough of Oldham Order 2009

Dogs will be prohibited from children's play areas within parks and public places. Anyone in charge of a dog, who allows it to enter into one of these areas, shall be guilty of an offence. These areas have appropriate signage to inform the public of their responsibilities under the Order.

iii) The Fouling of Land by Dogs Borough of Oldham Order 2009

If a dog defecates at any time on designated land and a person who is in charge of the dog at that time, fails to remove the faeces from the land forthwith, that person shall be guilty of an offence. For the purpose of this Order, designated land is any land which is open to the air and to which the public are entitled or permitted to have access (with or without payment) unless exemptions apply.

3.3 The penalties for breaching the existing Dogs on Leads Borough of Oldham Order 2009 and Dogs Exclusion Borough of Oldham Order 2009 were agreed by Cabinet on 16 April 2007.

3.4 They are by way of fixed penalty notices set locally at £80, reduced to £50 if payment is made within 10 days of the notice being issued. A Community Reparation Scheme is also in existence, whereby offenders are given the opportunity to 'work off' the offence by carrying out a day of litter picking

3.5 Guidance provided by the Department for the Environment Food and Rural Affairs (DEFRA) advises that any Order made must be proportionate to the problems caused by the activities of dogs and those in charge of them. A balance must be struck between:

- i) the interests of those in charge of dogs against the interests of those affected by the activities of dogs, bearing in mind the need for people, in particular children, to have access to dog free areas and areas where dogs are kept under strict control; and
- ii) The need for those in charge of dogs to have access to areas where they can exercise their dogs without undue restrictions.

#### **4 Current Position at Higher Memorial Park, Failsworth**

4.1 Higher Memorial Park in Failsworth is currently covered by the Dogs Exclusion Order 2009 whereby dogs are excluded from the child's play area and the multi use games area. Signs are displayed informing users of the park of these exclusions and this seems to be working for those specific areas within the park.

4.2 The park is a relatively small but well used facility and there seems to be continuing conflict between dog users who want to freely exercise their dogs throughout the park and other users such as children. This is eloquently described by the lead petitioner Mrs Rained.

4.3 There are a number of options that can be explored in response to this petition and the issues it describes. Each option is considered below and where necessary costs and other resources that would be needed are outlined.

#### **5 Options/Alternatives**

##### **5.1 Option 1: Install advisory signs**

New signage could be erected requesting users to be considerate to each other when in the park. This potentially would not answer the concerns of the 78 signatures on the petition as more robust action is being requested. The reported problems between users in the park would continue.

The indicative costs for these options are as follows:-

Signage £500

**5.2 Option 2: Consider the introduction of a Dogs on Leads order for the whole park**

This option would seek to address the problems encountered with dogs being allowed to run free throughout the park. If this option is considered as a potential solution the Council is under an obligation to consult the community and other users of the park and invite wider representations using a statutory consultation process.

Any ongoing monitoring of an order for compliance and the responding to complaints will take a resource and maybe an option to address this would be to train other colleagues that work in the neighbourhood so that monitoring patrols can be sustained at the park into the future especially in the evenings and at weekends.

The indicative costs for these options are as follows:-

Statutory advertisement £1600

Resultant signage £500

Ongoing enforcement patrols - during week £40 per patrol (2 hours) - at weekends £ 80 per patrol (4 hours)

**Total £2,100** plus weekly monitoring costs £120

**5.3 Option 3 - Create a dog exercise area to be used voluntarily by dog owners**

This option has come from a suggestion contained within the petition. This option as proposed in this report is voluntary and therefore unenforceable. Potentially the exercise area will not be used by the dog owners and it could soon deteriorate if not cleaned regularly. The cost of fencing also needs to be factored into this option and this is detailed below.

The indicative costs for this option are as follows:-

Signage £500

Fencing £10,500 (indicative costs obtained from Parks)

Ongoing upkeep of area £ 40 per week

**Total £ 11,000** plus weekly cleaning costs £40

**5.4 Option 4 - Create a dog exercise area and designate the rest of the park 'Dogs on Leads'**

This option is a combination of options 2 and 3 with enforcement of the resultant 'Dogs on Leads order' backing up the use of a Dog exercise area.

Statutory advertisement £1600

Signage £500

Ongoing enforcement patrols - during week £40 per patrol (2 hours) - at weekends £ 80 per patrol (4 hours)  
Fencing £ 10,500 (indicative costs obtained from Parks)  
Ongoing upkeep of exercise area £ 40 per week

**Total £12,600** plus weekly patrol and cleaning costs £160

## **6 Preferred Option**

6.1 For discussion

## **7 Consultation**

7.1 In the event that it is agreed to go out to statutory consultation on any proposals, the Dog Control Order (Procedures) Regulations 2006 require that authorities must publish a notice describing the proposed Orders in a local newspaper circulating in the same area as the land to which the Order would apply and invite representations on the proposals. The final date for representations must be at least 28 days after the publication of the notice.

7.2 Cabinet approval must be obtained before any consultation process is commenced.

## **8 Financial Implications**

8.1 DEFRA has indicated that no additional funding is to be made available for enforcement powers under the Clean Neighbourhoods and Environment Act. However, local authorities can utilise the income from fixed penalty notices for enforcement activities.

## **9 Environmental and Health & Safety Implications**

9.1 The introduction of additional Dog Control Orders will help to bring about environmental improvement through the reduction of dog fouling problems in public areas.

9.2 The introduction of additional Dog Control Orders will improve public safety in specific areas where dogs are required to be on leads or excluded.

9.3 Officers enforcing the legislation have been trained in issuing fixed penalty notice and the activity is risk assessed.