

EAST AYRSHIRE COUNCIL

CABINET : 23RD FEBRUARY, 2011

THE CONTROL OF DOGS (SCOTLAND) ACT 2010

Report by Executive Director of Finance and Corporate Support

1. PURPOSE OF REPORT

- 1.1 To advise Cabinet of the Control of Dogs (Scotland) Act, 2010 and the implications of the legislation in terms of new powers and duties of local authorities.

2. BACKGROUND

- 2.1 The Control of Dogs (Scotland) Act 2010 comes into force on 26 February 2011 and introduces new powers and duties for local authorities with respect to the control of dogs and monitoring of dogs deemed to be dangerous, potentially dangerous, aggressive or out of control.
- 2.2 The Control of Dogs (Scotland) Act 2010 is designed to highlight the responsibilities of dog owners by identifying out of control dogs at an early stage and provide measures to change the behaviour of these dogs and their owners before the dogs become dangerous.
- 2.3 The key purpose of the Act is to promote more responsible ownership of dogs and ensure those dogs which are out of control are brought and kept under control.
- 2.4 There has been a reported increase in the number of out of control dogs in Scotland which is evidenced by the number of dog attacks reported to the police in Scotland. In 1999 - 2000 there were 239 attacks reported with this rising to 623 attacks in 2006/07.
- 2.5 The Control of Dogs (Scotland) Act 2010 does not alter the present legislative provision relative to stray or abandoned dogs nor does it alter the powers relative to dangerous dogs in terms of specific breeds of dogs detailed in the Dangerous Dogs Act 1991. It does however amend the aforementioned Act making it a criminal offence to allow any dog to be dangerously out of control in any place (rather than previously in a public place).

3. DISCUSSION

3.1 The Control of Dogs (Scotland) Act 2010 places a duty on local authorities to appoint at least one authorised officer who will be required to be skilled in the control of dogs and to advise and instruct others in dog control matters.

3.2 Authorised officers of the local authority will be permitted to serve a written Dog Control Notice (DCN) on dog owners who do not keep their dog under proper control.

3.3 A dog is deemed to be “Out of Control” if:

- It is not being kept under control effectively and consistently (by whatever means) by the proper person (generally the proper person is the owner of the dog but it may be the person who has parental responsibilities in relation to an owner under 16 or any person who appears to have day-to-day charge of the dog) and
- Its behaviour gives rise to alarm, or apprehensiveness on the part of any individual, and the individual’s alarm or apprehensiveness is, in all circumstances, reasonable. The apprehensiveness may be as to (any or all) – (a) the individual’s safety, (b) the safety of some other person, or (c) the safety of an animal other than the dog in question.

Both elements of the test must be met in order for an authorised officer to be able to serve a Dog Control Notice.

3.4 The intention of the Dog Control Notice is to emphasise the importance to the owner of the dog or person in control of the dog of the need to control their dog before attacks happen and to encourage responsible dog ownership.

3.5 The Dog Control Notice can include a range of specific control measures including:

- Implanting the dog with a microchip to enable future identification.
- Muzzling the dog whenever it is in a place to which the public have access to.
- Keeping the dog on a lead in a public place.
- Neutering a male dog.
- Keeping the dog away from a place or certain categories of place.
- Attendance and completion of a course of training in dog control.

3.6 A duty is placed on local authorities to enforce and monitor the effectiveness of the new Dog Control Notice regime and to update and record information in relation to all Notices issued.

3.7 Failure to comply with the terms of a Notice is an offence and reportable through the courts. In the event of an offence being reported through the courts and a conviction obtained the court may disqualify a person from owning or keeping a dog or it may make an order for the dog's destruction.

4. SERVICE REQUIREMENTS

4.1 At present the dog warden service in East Ayrshire is provided by two officers having joint responsibility for provision of pest control services and dog warden services. In relation to stray dog control the officers receive an average of 200 service requests per year, and this is likely to increase following introduction of the new legislation.

4.2 The Act will require the Council to kennel any dog, the control of which is subject to proceedings under the Act, for an indeterminate period until such proceedings are resolved. The Council currently has an appropriate arrangement for the provision of kennelling facilities in relation to stray dogs, and these will be utilised in respect of any requirements under the new legislation.

4.3 The Act will require authorised officers to be appropriately trained in the handling and control of aggressive and potentially dangerous dogs. It is suggested that an appropriate number of officers within the Environmental Health service be authorised under the Act which will provide sufficient resources to enable the recipient of any Dog Control Notices to be suitably monitored. The details of the officers to be authorised are as follows:-

- William Gilchrist, Pollution Control Team Leader
- Ron Murray, Leigh Richardson and Eleanor Bell - Environmental Health Officers
- Sandy Loudon, Environmental Health Technician
- Robert Turnbull and Andrew Graham, Pest Control Officers/Dog Wardens

All of these officers are currently based at the Environmental Health offices at Western Road, Kilmarnock.

4.4 There may be a financial impact to the Council in terms of the potential number of dogs which fall within the Control of Dogs (Scotland) act 2010 and require kennelling. The Environmental Health Service has obtained information from its existing kennel contractor in relation to the number of dogs seized by Strathclyde Police during 2009/10 which may potentially have been dealt with in terms of the Act. The total number of dogs taken to kennels by the Police in 2009/10 was 98 with all but three dogs rehomed. The remaining three were destroyed with one a prescribed dangerous dog.

5. LEGAL IMPLICATIONS

- 5.1 East Ayrshire Council will require to authorise and provide appropriate training and instruction to suitable officers within the Environmental Health Service to discharge duties as required by the implications of the Act as outlined above.

6. FINANCIAL IMPLICATIONS

- 6.1 There is likely to be a financial impact to the Council from the introduction of this legislation in terms of training resources and kennelling where required. Given the nature and effect of the legislation it is difficult to quantify any future additional kennelling costs, but these will be based on a charge of £5.75 per dog per day or part day.

- 6.2 A suitable training provider has been identified in respect of both the practical elements of handling animals covered by the new legislation and the detailed provisions of the Act in terms of the new administrative and legal processes. The total training costs for the seven members of staff identified in Para. 4.3 have been quantified at approximately £1,000. The training provider is the Association of Pet Behaviour Counsellors which has been approved by the Scottish Government to deliver training in respect of the new legislation.

7. COMMUNITY PLANNING/POLICY IMPLICATIONS

- 7.1 The introduction of the proposals in the Control of Dogs (Scotland) Act 2010 is commensurate with the themes of the Community Plan in terms of Improving the Environment and Improving Community Safety.

8. CONCLUSION

- 8.1 The Control of Dogs (Scotland) Act 2010 imposes additional duties on local authorities in Scotland in relation to the control of potentially aggressive and/or dangerous dogs and highlights the responsibilities of dog owners by identifying and dealing with out of control dogs.

- 8.2 The Council is required to authorise an officer or officers to discharge its duties under the Act who will require to be suitably trained.

- 8.3 The introduction of the provision of the Dog Control Notice with its specific requirements for control of dogs is a new means of addressing dogs deemed to be out of control.

- 8.4 Administration and enforcement of the Act can be met from existing resources.

- 8.5 Financial implications in terms of officer training and kennelling of seized dogs have been identified.

9. RECOMMENDATIONS

9.1 Cabinet is invited to:-

- (i) agree the authorisation of officers within the Environmental Health Service for the administration and enforcement of the Council's powers and duties under the Act, being the officers specified in Para. 4.3 of this report;
- (ii) authorise the Head of Legal, Procurement and Regulatory Services, to approve expenditure incurred in the discharge of the Council's powers and duties under the Act, and to provide a further update report to a future meeting of Cabinet advising on the implementation of the Act during 2011/12;
- (iii) remit to the Head of Legal, Procurement and Regulatory Services to make arrangements for appropriate training of staff; and
- (iv) otherwise to note the contents of this report.

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AMcP//PLT/SMcD

10 February 2011

LIST OF BACKGROUND PAPERS

1. Scottish Government : Guidance on the Control of Dogs (Scotland) Act 2010 .
Cabinet Secretary for Justice.

Any person wishing to inspect the background papers should contact David Mitchell, Head of Legal, Procurement and Regulatory Services on 01563 576061 or by E-mail to David.Mitchell@east-ayrshire.gov.uk.