

EAST AYRSHIRE COUNCIL

KILMARNOCK CENTRAL LOCAL COMMITTEE – 2ND SEPTEMBER 2003

DOG FOULING (SCOTLAND) ACT 2003

Report by Director of Community Services

1. PURPOSE OF REPORT

- 1.1 To advise the Local Committee of new legislation designed to deal with the problem of dog fouling, as requested by Community Services Committee.

2. BACKGROUND

- 2.1 At a meeting held on 28th May 2003, Community Services noted a report on the Dog Fouling (Scotland) Act 2003 and agreed that it be brought to the attention of the Local Committee.
- 2.2 The problem of dog fouling has been a contentious issue for many years and continues to arouse complaints from virtually all corners of the district.
- 2.3 Since 1997, East Ayrshire Council has regularly promoted the concept of responsible dog ownership using publicity campaigns, joint patrols with police, etc.
- 2.4 Existing legislative controls are contained in Section 4.8 of the Civic Government (Scotland) Act 1982 which makes it an offence for any person in charge of a dog to allow it to deposit its excrement upon
- (a) a footpath or footway
 - (b) a grass verge adjacent to a footpath or pavement maintained by a local authority
 - (c) a pedestrian precinct maintained by a local authority
 - (d) any place maintained by a local authority used exclusively as a children's play area
 - (e) any place maintained by a local authority and used for recreational or sporting activities, subject to appropriate warning notices being displayed
- 2.5 Enforcement of this legislation (within East Ayrshire) currently rests with the Police.
- 2.6 The Dog Fouling (Scotland) Act 2003, which was approved by the Scottish Parliament on 13 March 2003, is intended to provide local authorities and the Police with powers to tackle the problem more effectively.
- 2.7 The new Act introduces the following powers:-
- (a) change the nature of the offence from one of allowing a dog to foul to one of failing to clean up after it
 - (b) apply to any public open place (although not to agricultural land).

- (c) allow Police and authorised Council officers to issue fixed penalty notices to any person who has committed an offence in this regard.
 - (d) remove the need for corroborating evidence which should simplify enforcement of the legislation.
- 2.8 The fixed penalty notice will impose a fine fee of £40.00, payable within 28 days of issue of the notice. If payment is not duly made within this time, the fine fee is increased to £60.00.
- 2.9 Any person who has been served with a fixed penalty notice has the right to request a hearing, provided that the request is submitted prior to expiry of the period allowed for payment of the fixed penalty fine.

3. DISCUSSION

- 3.1 Dog fouling is a serious and widespread problem which results in numerous complaints from the public every year.
- 3.2 The existing system of enforcement prescribed in Section 48 of the Civic Government (Scotland) Act 1982 has resulted in a number of prosecutions by the Police, but its implementation is not highly cost effective and has to be balanced against constant demands on police manpower.
- 3.3 It is anticipated that the Dog Fouling (Scotland) Act 2003 will come into force in September 2003.
- 3.4 While East Ayrshire Council will take advantage of this new legislation, and authorise personnel to issue fixed penalty notices specific to dog fouling, it has to be recognised that limited resources will prevent officers being allocated enforcement work on a regular basis. It also has to be noted that there are health and safety implications for Council staff approaching members of the public and initiating dialogue which may lead to a confrontational situation.
- 3.5 It is the intention of the Council to ensure that the legislation is publicised at local level prior to its implementation.
- 3.6 East Ayrshire Council have provided a number of dog waste bins in some of their parks and landscaped areas and have purchased some additional bins which will be installed in a number of housing estates and public areas over the coming months. Litter bins can also be used for the dog waste, if suitably bagged.
- 3.7 As part of the promotional and publicity activities to publicise the new legislation a supply of "dog tidy bags" has been purchased. These will be available for a period of time at Local Offices.
- 3.8 It should be noted that the ultimate responsibility for the uplift and disposal of dog faeces rests with the person in charge of any dog – the absence of a dog waste bin or poop-scoop is no defence.

4. LEGAL IMPLICATIONS

- 4.1 The Council is required by Section 4 of the Dog Fouling (Scotland) Act 2003 to authorise in writing at least one person and such others as they deem necessary or expedient to issue fixed penalty notices.
- 4.2 Health and Safety at Work etc. legislation.

5. FINANCIAL IMPLICATIONS

- 5.1 The Council have committed expenditure towards the installation and servicing of a number of dog waste bins. There will also be some publicity costs incurred in the advertising of the legislation prior to its implementation.

6. POLICY IMPLICATIONS

- 6.1 The proposals support the principles of the Environmental Strategy.

7. CONCLUSIONS

- 7.1 The public perception of dog fouling which manifests itself in continuous flow of complaints indicates an increasing level of dissatisfaction that the problem is not being adequately tackled at the present time.
- 7.2 The replacement of the existing legislative measures prescribed in the Civic Government (Scotland) Act 1982 by the new Dog Fouling (Scotland) Act 2003 should result in the introduction of a simpler and consequently more effective control procedure.
- 7.3 Enforcement action will, however, be limited as a result of resources and health and safety legislation.

8. RECOMMENDATIONS

- 8.1 The Committee is invited to:-
- (i) note that the Director of Community Services will be empowered to authorise suitable officers to issue fixed penalty notices;
 - (ii) otherwise note this report.

William Stafford
Director of Community Services

12th June 2003

WS/JFC/PLT

LIST OF BACKGROUND PAPERS

Nil.

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