SAFER COMMUNITIES OVERVIEW and SCRUTINY COMMITTEE
19 OCTOBER 2016

ENVIRONMENTAL ENFORCEMENT PROPOSALS – DOG CONTROL ORDERS

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1. Area Affected

1.1 County Borough Wide.

2. Purpose of Report

2.1 To provide members with an overview of the current status in relation to Dog Control Orders, which were approved at Cabinet on 29th November 2011.

2.2 To provide members with an overview of the enforcement services available in other local authorities, in particular Blaenau Gwent.

2.3 To provide members with a proposal to partner with Blaenau Gwent on a temporary basis to enable enforcement patrols in “hot spot” dog fouling and exclusion areas; to begin in January/February 2017 using income retained from other Waste Enforcement Activity.

2.4 To inform members about recently introduced legislation – the Anti-Social Behaviour, Crime and Policing Act 2014 - and its effect on the current Dog Control Orders, and to seek members’ views on whether the current areas need to be revised along with the development of a new comprehensive and sustainable enforcement strategy.

3. Suggested scrutiny activity

3.1 The Committee is asked to:

1) Assess the current status relating to enforcement of Dog Control Order areas and consider whether the Authority should re-commence enforcement patrols in partnership with Blaenau Gwent on a temporary basis utilising the retained income from trade waste fines.

2) Consider the effect of the Anti-Social Behaviour, Crime and Policing Act 2014 – and whether the Committee should recommend the review of the current Dog Control Order areas before they are converted to Public Space Protection Orders along with the development of a new comprehensive and sustainable enforcement strategy.
4. **Background**


The Fouling of Land by Dogs Order applies to all public land and open spaces in the county borough. The Order made it an offence to fail to remove dog faeces from public areas. Enforcement is by way of fixed penalty notice fine of £75 or prosecution at court for the offence if the offender so elects or if the fixed penalty notice fine is not paid within the required timescale.

The Dog Exclusion Order applies to primary school grounds, children’s play areas, marked sports pitches in all 24 No. wards and the lapwing breeding ground (seasonal ban only) at Garn Lakes Local Nature Reserve. The Order created the offence of taking a dog into these designated areas. Maps showing where the Orders currently apply are available to the public on the Authority’s website ([www.torfaen.gov.uk](http://www.torfaen.gov.uk)). Enforcement is by way of fixed penalty notice fine of £75 or prosecution at court for the offence if the offender so elects or if the fixed penalty is not paid within the required timescale.

4.2 Patrols & Enforcement. Between Jan 2012 and Oct 2014, the Authority partnered with Xfor (which became Kingdom Security Limited) to undertake patrols for littering offences and the above dog control orders. This resulted in 2,431 No. fixed penalty notices issued during that period, the vast majority of which were for littering. This service was discontinued in 2014 due to the service, as it was arranged, becoming economically unattractive for both the Authority and Kingdom Security Limited.

4.3 Public Space Protection Orders. The Anti-Social Behaviour, Crime and Policing Act 2014 (“the 2014 Act”) introduced new powers by way of the adoption of Public Space Protection Orders (PSPOs). PSPOs can be used to prohibit activities carried on in a public place within the authority's area that have a detrimental effect on the quality of life. This includes dog related prohibitions. Under the 2014 Act, the Authority can no longer make new Dog Control Orders under the Clean Neighbourhoods & Environment Act 2005. If new dog related prohibitions are needed, then PSPOs must be used. In addition, all existing Dog Control Orders will automatically change to PSPOs in October 2017, unless the Council decides to review and replace them with PSPOs in the interim. Under the 2014 Act, PSPOs last for a maximum of 3 years – but they can be formally extended for a further 3 years if there are reasonable grounds. The maximum fixed penalty notice fine under the 2014 Act is £100 but there is a power to apply an early repayment reduction if the fine is paid within 14 days.

4.4 Public Protection Collaboration. From 1st October 2016, the Authority has extended its collaboration with Blaenau Gwent for the delivery of Public Protection Services to cover Environmental Health (in addition to Trading Standards & Licensing). Patrols and enforcement for littering and Dog Control Order offences have continued to take place in Blaenau Gwent since 2011. This enforcement service is managed by Environmental Health utilising the services of Kingdom Security Limited.
5. **Decisions to be made**

5.1 **Proposal 1** - that Officers put in place measures to partner with Blaenau Gwent on a temporary basis to enable enforcement patrols in “hot spot” Dog fouling/Control Order areas to recommence from January/February 2017 using income retained from other Waste Enforcement Activity.

5.2 **Proposal 2** - that the Council should review all the current Dog Exclusion areas in Torfaen and bring forward a revised list of areas to be designated as Public Space Protection Orders, under the 2014 legislation, along with a new comprehensive and sustainable Enforcement Strategy similar to the scheme operated in Blaenau Gwent. This work to be completed in by mid/late 2017.

6. **Expected outcomes**

6.1 Patrols would begin in targeted areas in January/February 2017 under proposal 1 until the available funding has been utilised and Officers would commence work to review and revise the list of Dog Exclusion Areas, along with the development of a new Enforcement Strategy, for implementation in mid/late 2017 (proposal 2).

7. **Issues and Findings**

7.1 Current Position in Torfaen. As stated above, there are Dog Control Orders in place in every ward and the Kingdom Security Ltd enforcement scheme was discontinued in 2014 due to the service, as it was arranged, becoming economically unattractive for both the Authority and Kingdom. As such, at present, there are no enforcement patrols taking place.

Complaints. Public Protection records relating to 2014/15 to date indicate that the Authority continues to receive approximately 150 complaints per year in relation to dog fouling from all parts of the County Borough. This indicates that there is still significant concern about the issue in local communities.

Dog Poop-Scoop Bins. Street Scene reports that there 350 sites where there are bins, located throughout the county borough, which can be used for the depositing of dog waste as well as litter. Street Scene Officers also report the following areas of concern in relation to dog fouling:

- Blaenavon Park
- Garn Welfare, Garndiffaith
- Glanysschan Park, Abersychan
- Pontypool Park
- Panteg Park, Sebastopol
- Pontnewydd Park
- Boating Lake
- Recreational grounds Southfields and Northfields, Llanfrechfa Way, Cwmbran.

Dog Control Order Signage. Signage is in place at a number of the school and children’s play area locations (though not all) and stick-on signs are also widely distributed on lamp-posts etc. Permanent signage costs approximately £100 each plus installation. Current Signs will become out of date once the Dog Control Orders change to Public Space Protection Orders in October 2017, and so will
7.2 Income from Waste Enforcement Work. As a result of waste enforcement action against trade premises, the Authority has generated and retained a small revenue budget of £900 that can be utilised to fund proposal 1, above. This will equate to approximately 25 hours of patrols bought from the Blaenau Gwent scheme (see paragraph 7.5, below). At the time of writing, Officers have been unable to identify a purse for additional patrol hours, although this work is ongoing. Once the income has been utilised then patrols will stop although income from associated fines that are paid, if available/sufficient, could be used to purchase additional hours. This activity would then recommence once the activities outlined under proposal 2 are completed and implemented.

7.3 Enforcement Activity by other Local Authorities. A survey of the 21 other local authorities in Wales, in September 2016 resulted in the following:

- 7 No. local authorities used in-house enforcement officers for this work.
- 8 No. local authorities use local authority support services (2 No private companies – Kingdom and 3GS)
- 6 No. local authorities do not enforce this legislation/did not respond.

All Wales Statistics. Appendix 1 reproduces Welsh Government data returns relating to fixed penalty notices issued by all local authorities in Wales.

7.4 Kingdom Security Limited provides environmental enforcement services in a number of local authorities in England (including Barnsley, Birmingham, Enfield, Maidstone, Wirral and Woking.) In Wales, Kingdom is successfully operating in Conwy, Denbighshire, Flintshire, Wrexham and Blaenau Gwent.

7.5 Litter & Dog Control Enforcement in Blaenau Gwent. A local authority support service for litter and dog fouling/Dog Control Order offences was first introduced in October 2011. Amongst other things, this resulted from outcomes of the Living in Blaenau Gwent survey (2009) where 72% of local respondents stated they were concerned about dog fouling and 61% were concerned about litter and illegal dumping. In addition, Keep Wales Tidy (KWT) surveys of the time gave rise to Blaenau Gwent having the lowest standards of street cleanliness in Wales. During the period of the scheme, improvements have been noted anecdotally, by members and others) and some improvement in KWT survey outcomes has ensued though this has since slipped back again. Today, the ongoing “Blaenau Gwent we want” communication initiative shows that littering and dog fouling continues to be a prominent issue and this, along with the number of complaints received and the KWT survey outcomes, highlights the need for the continuation of this initiative.

7.5.1 Kingdom Security Ltd (formerly Xfor) has been the service provider throughout this period, appointed initially to pilot the scheme and later by way of successful competitive tender. Kingdom deploy 4 No. full time enforcement officers (that patrol in pairs) and 1 No. Office/Admin Manager whose role is crucial in dealing with a high volume of public enquiries, monitoring non-payments, putting together prosecution files, producing other necessary reports and undertaking other support functions to enable the smooth running of the scheme.
7.5.2 How does the Blaenau Gwent Kingdom Contract work? It is split into two parts. Part 1 (known as “Contract 1”, which relates to 2 No, of the Enforcement Officers) states that for each fixed penalty notice that is properly issued, the Authority will pay Kingdom £45. Part 2 (known as “Contract 2”, which relates to the other 2 No. Enforcement Officers), states that the Authority will pay an hourly rate for each of those two Officers – currently £18 per hour. It is Officers who are funded via Contract 2 that are utilised to patrol for dog fouling and other dog control order offences, where the deterrent effect of patrols is as important as the number of fixed penalties that are issued.

7.5.3 Up to the end of 2015/16, 9,988 Fixed Penalty Notices have been issued. Table 1 (in Appendix 2) provides a breakdown of the above figure by each year of activity.

7.5.4 The number of fixed penalty notices issued by category varies from year to year and is dependent on a number of variables, e.g. staffing changes/turnover within Kingdom Security Limited (i.e. vacancies=less patrols for a temporary periods), and/or better compliance (which is the ultimate goal for the Authority). From Table 1, Members will note the reduction in dog related offences. Amongst other things, this coincides with a significant (70%) reduction in dog fouling complaints by constituents (1,110 recorded in 2011/12, 327 recorded in 15/16). This progress can perhaps be attributed to 4 years of hot-spot patrols and enforcement in addition to better bin provision.

7.5.5 Fines & Prosecutions. Persons who receive a fixed penalty notice for litter and dog control order offences are currently subject to a fine of £125 (reduced to £100 if the fine is paid within 14 days). The current maximum fine in Wales for these offences (under the 2005 Act) is £150. The payment rate for 2015/16 was 57% and there were 343 successful prosecutions.

7.5.6 Net Service Costs: in 2015/16, the net cost of the service was £7,294. Net costs can vary year to year, depending on the number of fixed penalty notices issued, the number of fixed penalty notices paid and the number of prosecutions and resultant income from court costs that have been awarded. Table 2 (in Appendix 2) shows the service costs since 2012/13. In 2014/15, Blaenau Gwent Officers separated out the costs of the Kingdom scheme into a separate revenue budget account to enable improved monitoring. This is reproduced in Table 3 (in Appendix 2).

7.5.7 Members will note the higher net cost in the first year. This should be expected as it takes time for non-payers to be successfully prosecuted and for court costs awarded to the Authority to be paid. Typically, offenders pleading guilty at court are fined £125, with a £20 victim surcharge and up to £120 costs awarded to the Authority. Other cases can incur higher fines/costs especially where a not-guilty plea fails. Once received, court costs are shared between Public Protection and the legal dept. (75/25 split).

7.6 Public Space Protection Orders. With reference to paragraph 4.3, above, Blaenau Gwent has recently revised all its Dog Control Orders (including Exclusion & Lead-only areas) that were first introduced in 2012. A new Public Space Protection Order covering Dog Fouling, Exclusion and Lead-only areas was approved by Blaenau Gwent’s full Council in September 2016. This Order will replace all previous Dog Control Orders from 1st November 2016. Fixed Penalty Notices issued to offenders will result in a fine of £100 (which is the maximum allowed under the 2014 Act) with
no early repayment reduction (this will be reviewed after one year).

8. **Consultation**

8.1 Internal colleagues from Neighbourhood Planning & Public Protection and other local authorities.

9. **Implications**

9.1 Policy – The proposals will contribute positively to council’s corporate key priorities. It will contribute to a cleaner environment and a reduction in the health and safety risks particularly from dog fouling. An increase in enforcement action will contribute to relevant behaviour change.

9.2 Legal – All relevant Officers undertaking this enforcement work will be duly authorised in accordance with the Council’s constitutional arrangements. Public Space Protection Orders will be made in accordance with the Council’s constitution and subject to statutory consultation.

9.3 Financial – There is currently a small revenue budget of £900 that will be utilised to fund proposal 1, above. (equivalent to approximately 25 hours of patrols). At the time of writing, Officers have been unable to identify a purse for additional patrol hours, although this work is ongoing. Once the income has been utilised then patrols will stop although income from associated fines that are paid, if available/sufficient, could be used to purchase additional hours. With reference to proposal 2, there will be costs relating to new signage to reflect the changes to Public Space Protection Orders – estimated at £2,000. In this respect, the Authority will need to consider how best to share the cost between Public Protection, internal land-owner departments (e.g. Education/Schools) and external land-owners (e.g Leisure Trust).

9.4 Communication – For proposal 1, relevant communication with the public will be needed by way of a press release and website update to promote the targeted patrols. Signage in the target areas will also need to be checked for adequacy. For proposal 2 - statutory public consultation will be undertaken at the appropriate juncture as part of the process of introducing Public Space Protection Orders.

9.5 Personnel – Preparatory work to enable both the proposals will form part of Public Protection work plans going forward utilising existing staff. With proposal 1, patrols and enforcement work will be undertaken by Kingdom Security Limited personnel bought-in from the Blaenau Gwent scheme, subject to funding. Longer-term, with proposal 2, the Authority will need to consider how best to economically engage enforcement personnel in accordance with procurement rules.

9.6 Social Inclusion and Equalities – the proposals have no implications in relation to any of the protected characteristics. Guide/Assistance Dogs are not prohibited from Dog Exclusion Areas. In addition, Public Protection managers will consider any appeals by, or on behalf of, offenders with special educational needs/relevant medical conditions on a case by case basis.

9.7 Partners and service users – previous experience (in Torfaen and Blaenau Gwent) is that such proposals have been welcomed by the Police, registered social
landlords, Leisure Trusts, Schools and other private land-owners.

9.8 Business community – Local Businesses will not be affected by proposal 1. Longer term, with proposal 2, local business should benefit from the development of a more sustainable enforcement strategy that contributes to a cleaner and safer environment. Businesses can opt-in to patrols on their land (for litter and dog fouling offences).

9.9 Sustainability – Sustainability is funding/income dependent. The proposal for in-year patrols (as per proposal 1) is sustainable albeit limited in duration by the level of income/funding available. As stated previously, a longer-tem sustainable enforcement strategy will need to be developed.

9.10 Crime and disorder – the proposals are designed to contribute to a reduction in relevant environmental offences.

10. **Risks**

10.1 Proposal 1 – Risks are low. Budget wise, the Authority will only buy-in patrols in accordance with the funding available. Reputational risk. The Authority may receive isolated complaints from offenders who are dissatisfied about receiving fixed penalty notices. These will be dealt with by managers on a case-by-case basis. Conversely, there are also reputational risks by way of adverse criticism from the wider general public and other interested bodies by undertaking no or very little enforcement patrols and action in relation to these environmental offences. The actions emanating from proposal 2 will go a significant way to reducing these risks as it will aim to provide a comprehensive and sustainable approach to litter and dog fouling/exclusion area enforcement.

11. **Actions to be taken following consideration by the scrutiny committee**

11.1 Recommendations made by the committee regarding the proposals outlined above, will be considered by the service, If favourable, officers would seek permission from Cabinet/Chief Officer to put in place measures to enable enforcement patrols in “hot spot” Dog fouling/Control Order areas on a temporary basis to commence from January/February 2017. In relation to proposal 2, Officers will begin to revise all the current Dog Exclusion areas with a view to bringing forward a draft Public Space Protection Order for consideration and approval in accordance with the Council’s constitution and subject to statutory consultation.

12. **Monitoring and evaluation**

12.1 Monitoring and evaluation will be by way of annual/regular activity reports, as appropriate in relation to proposal 1. With proposal 2, further reports relating to consultation outcomes and the revised list of areas designation as Public Space Protection Orders will be reported for approval in accordance with the Authority’s constitution.

13. **Conclusion/summary**

13.1 The Authority made Dog Control Orders in 2011 that made it an offence to fail to
remove dog faeces from public areas and which created dog exclusion zones in every ward relating to school grounds, children’s play areas and marked sports pitches. At present there is no enforcement taking place in relation to dog fouling/exclusion zones.

13.2 The Authority is now in collaboration with Blaenau Gwent in the delivery of Public Protection services and, as a result, there is an opportunity to buy-in enforcement patrols from the Blaenau Gwent service, if the Authority so wishes. In addition, the Anti-Social Behaviour, Crime and Policing Act 2014 will automatically convert the current Dog Control Orders to Public Space Protection Orders in October 2017. With this in mind, there is an opportunity now to consult and make a Public Space Protection Order that includes a revised and up to date list of dog exclusion zones and to develop a sustainable enforcement strategy for Torfaen.

14. **Suggested scrutiny activity**

The Committee is asked to:

1) Assess the current status relating to enforcement of Dog Control Order areas and consider whether the Authority should re-commence enforcement patrols in partnership with Blaenau Gwent on a temporary basis utilising the retained income from trade waste fines.

2) Consider the effect of the Anti-Social Behaviour, Crime and Policing Act 2014 – and whether the Committee should recommend the review of the current Dog Control Order areas before they are converted to Public Space Protection Orders along with the development of a new comprehensive and sustainable enforcement strategy.

| Appendices                  | Appendix 1 – Welsh Government Data – Fixed Penalty Notices Issues – All LAs |
|                            | Appendix 2 – Tables 1 to 3 – Blaenau Gwent/Kingdom Enforcement Service & Financial Data |

| Background Papers | None |

For a copy of the background papers or for further information about this report, please telephone:  
save contact information here