

Title of Report:	Consideration of proposed Dog Control Order excluding dogs from lands
Committee Report Submitted To:	Environmental Services Committee
Date of Meeting:	14th June 2022
For Decision or For Information	For Decision

Linkage to Council Strategy (2021-25)	
Strategic Theme	Healthy and Engaged Communities
Outcome	Implementation of statutory requirements
Lead Officer	Head of Health & Built Environment

Budgetary Considerations	
Cost of Proposal	Advertising Costs
Included in Current Year Estimates	No
Capital/Revenue	N/A
Code	N/A
Staffing Costs	N/A

Screening Requirements	Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals.		
Section 75 Screening	Screening Completed:	N/A	Date:
	EQIA Required and Completed:	N/A	Date:
Rural Needs Assessment (RNA)	Screening Completed	N/A	Date:
	RNA Required and Completed:	N/A	Date:
Data Protection Impact Assessment (DPIA)	Screening Completed:	N/A	Date:
	DPIA Required and Completed:	N/A	Date:

1.0 Purpose of Report

- 1.1 The purpose of this report is for members to consider a request for a Dog Control Order excluding dogs from lands between Ballintoy Harbour and Whitepark Bay.

2.0 Background

- 2.1 Further to committee report ES220412 and CM220503 a decision was taken to defer consideration of a request to impose a Dog Control Order to enable further evidence to be provided.
- 2.2 The request is from a landowner seeking a Dog Control Order to be imposed on his lands where an asserted Right of Way footpath is located. The path runs from Ballintoy Harbour to Whitepark Bay. The lands in question are private lands where livestock are kept however the public use the pathway for recreation and for walking dogs.
- 2.3 The landowner claims that members of the public do not exercise proper control of their dogs by keeping them on a leash and as such the landowner has suffered loss due to dogs worrying the livestock.
- 2.4 The request is that Council impose a Dog Control Order to exclude dogs from this land.

3.0 Existing Legislative Provisions

- 3.1 Legislative provisions to control dogs on land where livestock is kept exist within the Dogs (NI) Order 1983. Regulation 25 of this Order requires anyone with a dog on land where livestock is kept to keep that dog under control by means of a leash. Any person who contravenes this regulation shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £200.
- 3.2 Regulation 28 of the Dogs (NI) Order 1983 states that if a dog worries livestock, or attacks and injures any other animal owned by another person, the keeper of the dog and the person in charge of the dog shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 (£1,000) on the standard scale.

4.0 Power to make Dog Control Orders

- 4.1 Under Part 5 Article 40 of the Clean Neighbourhoods and Environment Act (NI) 2011 a district council may make an order providing for an offence or offences relating to the control of dogs in respect of any land in its district to

which this Part applies. An order under this subsection shall be known as a “dog control order”.

- 4.2 Although the land in question here is private land used to keep livestock the power to make a Dog Control Order applies as it is land to which the public are entitled to access due to the asserted Right of Way path.

5.0 Considerations of imposing a Dog Control Order

- 5.1 The Department of the Environment (NI) produced guidance for District Councils to refer to when considering imposing Dog Control Orders called ‘Guidance on Part 5 of the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011’ which can be found at <https://www.daera-ni.gov.uk/sites/default/files/publications/doe/guidance-dog-control-orders.pdf>

- 5.2 The following excerpts are from that guidance on general principles:

- Paragraph 1.3 District councils may make dog control orders, provided that they are satisfied that an order is justified, and they have followed the necessary procedures.
- Paragraph 1.5 However, enforcement of the legislation is just one tool that is available to district councils to deal with dogs. Councils should bear in mind that the introduction of a dog control order may not always be the most appropriate course of action and that education also has an important part to play in promoting responsible dog ownership.
- Paragraph 2.2 The council needs to balance 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 the need for those in charge of dogs to have access to areas where they can exercise their dogs without undue restrictions. A failure to give due consideration to these factors could make any subsequent dog control order vulnerable to challenge in the Courts.
- Paragraph 2.3 District councils should also consider how easy a dog control order would be to enforce, since failure to enforce properly could undermine the effect of an order. This is particularly the case for orders that exclude dogs completely from areas of land.

6.0 Procedures for making a Dog Control Order

- 6.1 The ‘Guidance on Part 5 of the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011’ also sets out the procedures for making a dog control

order. The following excerpts are from that guidance:

- Paragraph 2.5 The Procedures Regulations require that before it can make a dog control order, a district council must publish a notice describing the proposed order on the council's website and in a local newspaper circulating in the same area as the land to which the order would apply and invite representations on the proposal.

The notice must:

- (a) identify the land to which the order will apply;
 - (b) summarise the order;
 - (c) if the order will refer to a map, say where the map can be inspected. This must be at an address in the district council's area, be free of charge, and be available at all reasonable hours during the consultation period;
 - (d) state that representations about the proposal may be made to the council and give the date by which they must be made. The final date for representation must be at least 28 days after the publication of the notice.
- Paragraph 2.6 At the end of the consultation period the council must consider any representations that have been made. If it then decides to proceed with the order, it must decide when the order will come into force. This must be at least 14 days from the date on which it was made.

7.0 Outcome of Further Monitoring and Assessment of Current Situation

- 7.1 Further monitoring was carried out by officers from the Enforcement Team in order to ascertain the extent of ongoing offences relating to persons taking dogs onto these lands and not keeping them under control by means of a leash while livestock are present. Monitoring was undertaken during a period when there was potential for increased use by the public and their dogs in good weather.
- 7.2 Monitoring was carried out on weekdays from 29th April to 27th May 2022. In total 10 monitoring visits of monitoring was carried out at the lands in question. In order for an offence to be committed under Regulation 25 of the Dogs (NI) Order 1983 livestock must be present on the land in question and dogs must be off leash and not under control. In summary the findings are:
- Of the 10 visits livestock was present once
 - Of the 10 visits dogs were observed not under control once
 - Of the 10 visits no offences were detected whereby livestock was present and dogs were off leash
- 7.3 A previous monitoring exercise was carried out by officers from the Enforcement Team and the Senior Environmental Health Officer for Enforcement during the week and at weekends from 31st January to 22nd February 2022. In summary the findings were:

- Of the 37 visits livestock was present 5 times
- Of the 37 visits dogs were observed not under control 6 times
- Of the 37 visits no offences were detected whereby livestock was present and dogs were off leash

7.4 An elected member visited the area on two occasions and reported the following:

- 14th April 2022 - 3 walkers with dogs off leads and livestock present. 1 dog observed making an attempt to chase but was restrained by the owner.
- 3rd May 2022 – No dog walkers observed.

7.5 Environmental Services engaged with the person who made the request for the Dog Control Order to provide a written witness statement indicating the extent of the problem in their experience and to provide supplementary evidence to support any losses incurred such as veterinary records.

7.6 The complainant provided a witness statement confirming their general complaint of the land being used by dog owners but there are no specific details of number of incidents of dogs attacking livestock, no details of numbers of livestock lost and no veterinary evidence of treatment of livestock following dog attacks.

8.0 Considerations for Council

- There already exists legislation whereby dogs must be under control by means of a leash on lands where livestock is present.
- The relevant guidance requires that the introduction of any Dog Control Order must be justified.
- Councils must take into account the interests of dog owners to be able to exercise their dogs without undue restrictions.
- Any proposed Dog Control Order must have a public consultation and the responses from this consultation such as objections to the Dog Control Order must be considered.
- The introduction of any Dog Control Order is subject to legal challenge and may fail if Council cannot demonstrate that such an Order is required and justified.
- The Environmental Health Department have no recorded complaints of any incidents of dogs worrying livestock on these lands.

- From the total of 47 monitoring visits undertaken by the Enforcement Team no relevant offences were detected.
- From 2 visits undertaken by an elected member, 3 dogs were observed off lead while livestock present.
- The witness statement by the complainant does not provide any supporting evidence in relation to the complaint.

9.0 Recommendation

It is recommended that members of the Environmental Services Committee make a recommendation to Council that Council does not progress the procedure to introduce a Dog Control Order excluding dogs from these lands.