Beach Dog Control
Orders and Enforcement
Single Issue Panel
Communities Overview and Scrutiny Committee
20 January 2011
Beach Dog Control Orders & Enforcement

Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chair’s Foreword</td>
<td>3</td>
</tr>
<tr>
<td>Executive Summary</td>
<td>4</td>
</tr>
<tr>
<td>Recommendations</td>
<td>5</td>
</tr>
<tr>
<td>Background</td>
<td>6</td>
</tr>
<tr>
<td>Aims of the review</td>
<td>9</td>
</tr>
<tr>
<td>Methodology</td>
<td>10</td>
</tr>
<tr>
<td>- Meeting of the 9 July 2010</td>
<td>10</td>
</tr>
<tr>
<td>- Letter to the Parish/Town Councils and Members of Cornwall Council</td>
<td>11</td>
</tr>
<tr>
<td>- Meeting of the 24 September 2010</td>
<td>11</td>
</tr>
<tr>
<td>- Meeting of the 10 November 2010</td>
<td>16</td>
</tr>
<tr>
<td>Conclusions and Recommendations</td>
<td>19</td>
</tr>
<tr>
<td>Appendix one</td>
<td></td>
</tr>
<tr>
<td>Background Report – 9 July 2010</td>
<td></td>
</tr>
<tr>
<td>Appendix two</td>
<td></td>
</tr>
<tr>
<td>Terms of Reference</td>
<td></td>
</tr>
<tr>
<td>Appendix three</td>
<td></td>
</tr>
<tr>
<td>Letter to Parish/Town councils and Members of Cornwall Council</td>
<td></td>
</tr>
<tr>
<td>Appendix four</td>
<td></td>
</tr>
<tr>
<td>Report of the 24 September 2010</td>
<td></td>
</tr>
<tr>
<td>Appendix five</td>
<td></td>
</tr>
<tr>
<td>Responses to the letter sent to Parish/Town Councils and Members of Cornwall Council</td>
<td></td>
</tr>
<tr>
<td>Appendix six</td>
<td></td>
</tr>
<tr>
<td>Report of the 10 November 2010</td>
<td></td>
</tr>
</tbody>
</table>

Links to DEFRA guidance


Chairman’s foreword

Introduction
The Communities Overview & Scrutiny Committee recognised the need to establish a Single Issue Panel to look at whether all dog Control Orders on the beaches in Cornwall should fall under the Clean Neighbourhood & Environment Act 2005 and if there should be any changes in the current dog bans.

This could have been an enormous task however firstly we wanted to identify how Parish/Town Councils felt about the current orders. The results of this, together with other information and cost implications have lead us to our recommendations.

I would like to thank the members of the Single Issue Panel for their input and the officers of Cornwall Council for all their assistance.

Judith Haycock C C
Chairman of the
Beach Dog Control Orders and Enforcement Single Issue Panel
Executive summary

The Communities Overview & Scrutiny Committee agreed at their meeting in April 2010 to establish a Single Issue Panel (SIP) to look at the issue of existing dog beach bans in Cornwall, whether there is a need to review existing bans and/or to replace existing Orders made under older legislation with Dog Control Orders made under the Clean Neighbourhoods and Environment Act 2005.

The SIP was formed at a meeting on 09 July 2010 whereby Councillor Haycock was elected as Chairman, Councillors Cullimore, Fitter and Tucker being the other members of the Panel. To assist the SIP in considering the way forward, the Panel considered it prudent to send correspondence to every Town and Parish Council in Cornwall requesting their initial views on dog beach bans throughout Cornwall.

A report providing specific detail in respect of process and enforcement and resource issues was considered by the SIP at a meeting held on the 24 September 2010. The Report set out a number of options for the SIP to consider. Having considered all relevant legislation, Defra Guidance, evidence gathered, initial responses from the Town/Parish Councils and resource implications (particularly in relation to consultation, signage, implementation and enforcement), the SIP resolved that it was minded to support that the status quo be maintained regarding existing dog control measures on beaches. However, the SIP was mindful of the potential impact of this approach on the status of Blue Flag beaches in Cornwall and the financial ability of Town and Parish Councils to make and implement Dog Control Orders. The SIP wished to hold a further meeting to address these issues and determine that way forward.

At a meeting held on 10 November 2010 the SIP agreed their recommendations and it was decided that the Final Report of the SIP would be submitted to the Communities Overview and Scrutiny Committee at their meeting on 20 January 2011 for potential ratification and consequential submission to Cabinet for determination.

The aim of this report is to present the findings of the SIP on Beach Dog Control Orders and Enforcement together with any recommendations that the Members consider appropriate.

If approved, this report will set future policy for Cornwall Council in respect of dog beach bans.
Recommendations:

i. Cornwall Council leaves the current Dog Control Orders and dog beach bans in place;

ii. Where appropriate, Cornwall Council will allow Town and Parish Councils to make any future Dog Control Orders and will revoke any existing orders made by Cornwall Council or its predecessor authorities to enable the Town and Parish Councils to do so;

iii. Town and Parish Councils are required to enforce any new Dog Control Orders made by them and Cornwall Council will endeavour to provide low cost DEFRA approved training on the issue of Fixed Penalty Notices for breaches of Dog Control Orders where practicable for that purpose;

iv. Cornwall Council shall provide, where requested, general guidance to Town and Parish Councils in respect of procedures involved in the making and enforcement of Dog Control Orders; this will include templates for legal notices and signs.

v. All relevant departments of Cornwall Council and their partners shall endeavour to work together to ensure opportunities are used to address adequate signage of Dog Control Orders.
Background

On the 6 April 2006 The Clean Neighbourhoods and Environment Act 2005 (‘The Act’) came into force. Sections 55 to 67 of the Act provide Primary Authorities (i.e. The Cornwall Council) and Secondary Authorities (i.e. Town and Parish Councils) with the ability to make Dog Control Orders. A Dog Control Order is an Order providing for an offence relating to the control of dogs in respect of the land in the area of the Authority making the Order. A Dog Control Order can exclude dogs from land which is open to the air and to which the public are entitled or permitted to have access. A Dog Control Order can be made in respect of land which is not owned by the Authority. A Dog Control Order can make it an offence for a person to take a dog onto (or permit a dog to enter or to remain on) land specified by the Order.

Before making, amending or revoking a Dog Control Order, the relevant Authority must comply with certain consultation and implementation requirements (described below), as prescribed by The Dog Control Orders (Procedures) Regulations 2006.

The Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations 2006 provide further requirements as to the content of Dog Control Orders and enforcement.

Defra have provided guidance on Sections 55 to 67 of the Act to assist Authorities when seeking to make a Dog Control Order.

Although a Secondary Authority may make a Dog Control Order excluding dogs from relevant land in their area, they cannot do so if a Primary Authority has already made a Dog Control Order in respect of the same land. Consequently, if a Town or Parish Council wishes to make a new Dog Control Order in respect of beach subject to a Dog Control Order made by a former District Authority, they can only do so if Cornwall Council revokes the existing order. However, the proposal to revoke could be built into the Town or Parish Council’s consultation notices so as to avoid duplication of resources.

As a Primary Authority, the Cornwall Council could replace a Dog Control Order made by a Town and Parish Council if it were so minded.

Before making any Dog Control Order, a Town and Parish Council would have to consult with Cornwall Council although it does not have to accept the views of Cornwall Council in response.

Orders made under the Act differ from some existing orders excluding dogs from beaches made under The Cornwall County Council Act 1984, in that a Dog Control Order can be enforced by an authorised person serving a fixed penalty notice on an offender. This is a notice requiring them to pay a fine (between £50 and £80). If they pay the fine, the offender is discharged of the offence. If they fail to pay, they can be prosecuted in the Magistrates Court, where, if found guilty, they could be fined up to a maximum of level 3 on the standard scale of fines (currently £1,000). Orders made under the Cornwall County Council Act do not enable a fixed penalty notice to be issued.
so that the order can only be enforced by prosecution through the Magistrates Courts.

Fixed penalties can be issued by persons authorised by a Primary or Secondary Authority to do so although that person must undergo certain training approved by Defra before they are able to do so.

The revenue of fixed penalties is payable to the Authority whose officer gave the Notice, so a Town or Parish Council may retain the revenue of a fixed penalty issued by them however the Authority will have to comply with Sections 96 and 97 of the Act and related Regulations in respect of the use of the revenue from fixed penalties. Generally, the receipts have to be used for the Authority’s qualifying functions which include dog control measures.

Several of the former District Councils in Cornwall implemented Dog Control Orders under the Act. However, some dog beach ban orders made under the Cornwall County Council Act 1984 still exist. As explained above, under the old Orders, no fixed penalty notice can be issued. This presents a difference in the Council’s options in enforcement. A prosecution can be time consuming and costly and the Council needs to consider whether there is sufficient evidence and whether it is within the interests of justice to prosecute before doing so. However, the Council is in the same position in the event that an offender fails to pay a fixed penalty notice issued under a Dog Control Order.

Presently, there are a number Dog Control Orders and other Orders excluding dogs from beaches across Cornwall. The majority of the current Dog Control Orders were implemented by the old District Councils. The Orders differ (sometimes materially) in dates and times of operation. Many beaches are not subject to any beach bans. Many of the beaches in Cornwall including a large proportion of those currently subject to Orders are not owned by Cornwall Council. Instead they are owned by Trusts such as the National Trust, The Duchy of Cornwall and other private landowners. This can be further complicated as some beaches have several different owners and in other cases the landowner is unknown. Any authority wishing to impose a Dog Control Order on a beach should firstly undertake relevant searches to identify all the interested parties and consult with them. If an owners or occupiers of land subject to a Dog Control Order provide consent to a person to bring their dog onto the land, that person will have a valid defence to the offence created by the Dog Control Order.

The Statutory requirements in respect of consultation (before a Dog Control Order can be made include;

(a) publishing a notice of the proposed Order in a local newspaper, and

(b) consulting with every other authority with power to make an Order on the relevant land concerned.

(Further requirements relate to open access land).
The Authority has to consider the responses from the consultation carefully before deciding whether to make the proposed order. The Authority should aim to achieve an equitable balance between dog friendly beaches and dog banned beaches.

Before making an Order the Authority must (not less than seven days before it comes into force);

(a) publish a further notice in a local newspaper confirming that the Order is being made;

(b) send confirmation of the order to every other authority with power to make an Order on the relevant land concerned;

(c) publish the order on its website (if it has one); and

(d) where practicable, place signs summarising the order in conspicuous positions on or near the land in respect of which the Order applies.

(Further requirements relate to open access land).
Aims of the Review

It was agreed that the main purpose and scope of the SIP was to have an understanding of Dog Control Orders and to determine whether it is necessary to review, amend or revoke existing dog control measures and/or to make new Dog Control Orders.

Although there is also an issue around Dog Control Orders in open spaces (e.g. playing fields) it was decided that this would be dealt with separately and therefore does not fall within the remit of the SIP.
Methodology

The SIP held three meetings which were open to the public.

Meeting of the 9 July 2010
At its first meeting the SIP received a report from the Area Manager for Public Health and Protection presented a report outlining the background to the current position regarding dog bans on beaches in Cornwall – see Appendix 1 to this report.

This report informed Members about the Clean Neighbourhoods and Environment Act 2005 which, came into force on the 6 April 2006 and also the situation throughout Cornwall with regard to the variation of dog control orders – see background section of this report on Page 6.

It was discussed and agreed by the Members of the SIP that a letter be sent to every Town and Parish Council in Cornwall and every Member of Cornwall Council asking for initial views in relation to dog bans on beaches in their area - see page 7 of this report and Appendix 3.

One of the current criticisms of the Council is that not enough enforcement takes place particularly in respect of dog fouling. If new dog control beach bans are made on additional beaches how will they be enforced as there would be a public expectation that any new beach bans would be enforced adequately?

The reality is there is only a limited number of staff available to undertake these duties. In Public Health and Protection there are 6 FTE? dog welfare and enforcement officers employed by Cornwall Council and 2.5 contracted dog wardens. The employed officers operate in the West and East of Cornwall and the contracted staff operate in the former Carrick and Restormel areas. These officers not only have responsibility for enforcing dog fouling and the beach bans they must also deal with noise complaints and other nuisances associated with dogs. Additionally, they deal with the collection, reuniting and re-homing of lost and found dogs which can be time consuming. These officers are contracted to work Monday to Friday on the council’s flexi scheme. Additional hours such as patrolling at weekends require the payment of overtime which in the current financial climate presents problems. There are other rangers employed by the Environment Service in the former North Cornwall area who are authorised to enforce Dog Control Orders and some consideration has been given to extend this. However the Environment, Waste and Transport Services are undergoing their own review of service delivery so this may not be an option.

Officers were directed to produce a report for the next meeting of the SIP outlining various potential alternatives to the way the general matter of Dog Control Orders could be progressed. Each of the alternatives provided to identify any legal or resources issues pertaining to each of them– see Appendix 4.
The Terms of Reference for the SIP were also presented at this meeting; these had been ratified by the Communities Overview and Scrutiny Committee at its meeting on the 25 May 2010. These were discussed and subject to one or two changes (additional suggestions to go on the list of expert/witnesses), the Terms of Reference were agreed – see Appendix 2.

**Letters to Town/Parish councils and Members of Cornwall Council**

Letters were sent on 30 July 2010 which asked for initial views in relation to beaches in their area and requested that they advise the SIP which beach/beaches they were referring to and their views on whether existing Orders were satisfactory. Where a change was proposed they were asked to outline their views on whether there should be:

1. A total ban;
2. A Seasonal ban (including months to be covered);
3. A Time limited ban (day time - including times);
4. No ban;
5. Any other option or comments they felt appropriate.

The closing date for receiving responses was the 6 September 2010. It was made clear in the letter that this was not a full public consultation and that if the Panel’s deliberations resulted in the need to make new Orders a full public consultation would be undertaken – see Appendix 3.

**Meeting of the 24 September 2010**

Responses to the letters that had gone out to the Parish/Town councils and the members of Cornwall Council asking for their initial views – see Appendix 5 - were received and discussed by members together with copies of recent replies received from St Ives Town Council, Camelford Town Council, Porthleven Town Council and Jacobstow Parish Council, these arrived too late to be inserted into the table with the others but were received and accepted by the SIP. See Appendix 5.

A report concerning the Council’s approach to the possible implementation, variation and/or revocation of Dog Control Orders excluding dogs from beaches in Cornwall was presented to the SIP, at this meeting. A wide range of possible alternatives for the Single Issue Panel (SIP) to consider in order to decide on the approach to be taken were offered in the report. The Panel considered the evidence gathered and were mindful of the cost of consultation, implementation and enforcement together with other resource issues, especially given the present financial climate – see Appendix 4 for the full report.

It was emphasised that these were only potential alternatives and that any other examples were open for discussion if put forward, the alternatives outlined in the report were not necessarily the only options.

There were five possible alternatives outlined in the report – see below. The costings set out below were based on current estimates at that time, which are subject to possible changes and also do not include officer time required to carry out this work.
1. Review those beaches that are currently subject to Orders

There are currently some 47 beaches in Cornwall which are subject to Orders banning dogs from the beach. These vary regarding the time which the ban is in operation e.g. all year, Easter to October, May Sept etc. Also some of the bans are time related and only ban dogs from the beaches from the hours of 7am to 7pm or 8am to 7pm. Some of the bans were made under the Act while others were made under the Cornwall County Council Act 1984. If all of these beaches that are currently subject to a Dog Control Order were to have their bans renewed then a minimum of 200 signs would be needed, at a cost of £8 + VAT per sign would come to at least £1,600. The relevant Regulations provide that signs summarising an Order made must be placed where practicable, in conspicuous positions on or near the land in respect of which the Order applies. This means that for some beaches only three signs would be required but for others (dependent on its geography) they would require significantly more. There is also the issue of the erection of the signs; this was previously carried out within the districts by either the dog wardens or the Direct Labour Organisation (DLO). However this may not be the appropriate use of the dog wardens time and therefore another alternative may need to be sought, possibly highways, but this would incur an added cost, which is unquantifiable at this point in time. There is also the cost of the public consultation, notices have to be published in the local press and an approximate cost of this is £3,096.00 + VAT. Therefore if Members decided to go down this route the estimated cost would be: £4,696.00 plus VAT this is excluding the cost for the erection of signs that would be extra. The current owners of the beaches concerned should be identified for consultation. This would involve some Land Registry searches which in total could exceed £400.

2. Review only the beaches that are owned by Cornwall Council

The number of beaches in Cornwall that Cornwall Council own or part own is 40. Of that number 23 are currently subject to Orders banning dogs. If only the beaches that are currently subject to a Dog Control Order and are owned by Cornwall Council were amended or revoked then the cost would be significantly lower than that mentioned in Example One above. The cost would be considerably less regarding the signage and erection of the signs (an estimated cost for signage would be £918.00 + VAT). The cost of the notices in the press would be the same. Therefore if Members decided to go down this route an approximate cost would be: £4,014 plus VAT this is excluding the cost for the erection of signs that would be extra.

3. Increase the number of beaches with Dog Control Orders in place

This alternative would need to be considered carefully taking into account the initial responses – see Appendix 5 and the financial implications, as by extending the number of beaches this would increase the signage requirement, the cost of erecting the signs and could also incur certain legal costs which have not been budgeted for e.g. Land Registry searches where it is not clear who owns the beach. Such costs could easily exceed £2,000 and would involve substantial time and work. This would also have enforcement implications, consideration needs to be given regarding sufficient resources to enforce the Dog Control Orders, as the guidance from DEFRA states that
“Authorities should also consider how easy a Dog Control Order would be to enforce, since failure to properly enforce could undermine the effect of an order”.

4. Leave the current status quo with the exception of where Dog Control Orders are still under an old bye-law or the Cornwall County Council Act 1984 renew these under the Clean Neighbourhoods & Environment Act 2005.

This route would mean that there would only be 13 beaches to look at and replace old bye-laws/Cornwall County Council Act 1984 with dog control Orders under the newer legislation this allows for fixed penalty notices to be issued, for which the Council would keep the revenue. The cost of putting notices in the newspapers would be the same as for the other examples above but there would be less signage required as this would only relate to 13 beaches and therefore less signs need to be erected. However, if the Members decided that all signage needed to be replaced with Cornwall Council signs rather than the former district ones, this would make the financial cost the same as for Example One. As set out above, this approach would enable Fixed Penalty Notices to be issued to offenders which cannot currently be done under Orders pursuant to the Cornwall County Council Act 1984. Legal Services’ view on this option is that it would be preferable to update the old Orders but that there is no obvious need to do so at this time considering the likely time and resource implications. Although there is a discrepancy in the manner of enforcement, the initial responses from Town and Parish Councils indicate that the older and established Orders are “working well”. Also, enquiries reveal that very few (if any) referrals have been made to Legal Services in respect of the potential prosecution of offenders breaching the Orders existing under the Cornwall County Council Act 1984.

5. Relevant officers to liaise with the Town & Parish Councils regarding the setting up of Dog Control Orders.

This would mean that the Parish/Town Councils could put their own Dog Control Orders in place (in accordance with the public consultation requirements). The Dog Control Order could be enforced by the Town or Parish Council or Cornwall Council. Departments of Public Health and Protection and Legal Services could advise and assist the Town and Parish Councils on the process and enforcement. The receipts from the fixed penalty notices issued by the Town or Parish Council could then be retained by them for the purpose of dog control measures (possibly to fund the enforcement of the Dog Control Orders). If the Parish/Town councils did not want to enforce the Dog Control Orders themselves and wanted Cornwall Council to enforce it, there is a resource issue to look at and also whether Cornwall Council should re-charge the Parish/Town council for this service? Any prosecution in the event of a failure to pay the Fixed Penalty could be taken by Cornwall Council. Where a Dog Control Order is already in place, the Council could revoke the order at the same time as the Parish or Town Council advertises their proposed order. This could be done on the basis that the Town or Parish Council is better placed to consult and determine the most appropriate Order and could bear the costs of advertising and signage.
Legal Services suggested to the SIP that the Town and Parish Councils are better placed to consult and determine the most appropriate Order considering the nature and needs of their area. The Town and Parish Councils have the local knowledge of beaches so as to determine the options available for dog walkers. They should know which beaches are open to the public and which are not. They should have a good understanding as to the types of visitors to the beaches, the extent of local tourism, the size of the local populations and any local preference for or against dog beach bans. They should have a good involvement in the local community so as to properly consult. If the SIP where to propose a standardised Order to apply to all beaches then Example 5 would not be appropriate. However, the responses to the letters to Town and Parish Councils and the differences in the existing orders suggests a difference in preference depending on the beaches concerned. Implementation of Dog Control Orders by District Councils has proved to be a very emotive. To upset existing and established Orders in light of what the Council considers appropriate could give rise to much contention. Moreover, many of the beaches concerned are not owned by the Council and the SIP advised to consider whether it is appropriate to incur the time and expense in consulting and implementing an Order in respect of such land. Although it would be preferable to have neat new Orders made under the same Act with the same date, Legal Services cannot identify a compelling need to do so considering the likely cost and time implications.

Additional matters that were included in the report presented were:
Blue Flag Beaches - For a beach to be awarded and to retain Blue Flag status it must comply with certain criterion. The Blue Flag Criterion 22 states:

“Access to the beach by dogs and other domestic animals must be strictly controlled.
On Blue Flag beaches, dogs and pets are permitted in the parking areas, on walkways and promenades in the back beach area only - if permitted by the beach authorities as well as local and national legislation. Animals in these areas must be controlled. It is recommended that a Dog-Free Zone be created to prevent dogs and other animals from entering the main beach and swimming area - this excludes guides dogs for the visually impaired.
If the beach is patrolled by mounted police measures must be taken to ensure that no faecal matter contaminates the beach.”

Consequently, the absence of a DOG CONTROL ORDERS could prevent a beach from obtaining Blue Flag status. This issue was clarified at the next meeting of the SIP on the 10 November 2010 – see below and Appendix 6 of this report.

Dog Fouling
The issue of dog fouling on beaches should not be the only or main reason for the implementation, variation or revocation of a beach ban Order. Cornwall Council has already implemented a county wide Dog Control Order in respect of dog fouling that applies to all land in Cornwall open to the air to
which the public have access. That Order can and is already enforced and applies to beaches with or without a dog beach ban. It would be disproportionate and unnecessary to introduce another Order to regulate the same issue.

The SIP needed to consider the need and drivers for creating a dog banning order for a beach.

The Assistant Operations Manager for the Environment Service reported that a review of beach management was being undertaken and also included National Trust beaches and those beaches leased by Cornwall Council. An options appraisal was being developed to help steer the beach strategy which would include minimum standards on a range of issues such as beach cleaning and ultimately the options appraisal would be presented to the respective portfolio holder for final consideration. Members were informed that operational services within the department were also being reviewed.

In respect of beaches with blue flag status (currently six in Cornwall) or wishing to attain such status, the Area Manager for Public Health and Protection agreed to contact ‘Keep Britain Tidy’ (who administer the Blue Flags) to establish the current beach blue flag criteria in relation to dogs on beaches as there seemed some confusion around the criteria. This was subsequently reported back to the next meeting of the Panel on the 10 November 2010 – see below. However, many other factors are considered for blue flag status including water quality, buildings and beach equipment and the display of general environmental education and information.

The legislation regarding the issue of Fixed Penalty Notices (FPN’s) states that employees of town and parish councils can only do so once they have been on a DEFRA approved training course. Currently there is only one approved provider in England and that is Keep Britain Tidy. The cost of this 1 day course might be considered by some town and parish councils prohibitively high. The Area Manager for Public Health and Protection agreed to investigate the possibility of obtaining DEFRA approval to offer low cost training to town and Parish Councils as well as other Council officers in order to allow them to issue fixed penalty notices.

It was **RESOLVED** at this meeting that;

The Single Issue Panel is minded to support that the status quo be maintained and relevant officers liaise with the Town and Parish Councils, at their request, regarding the administering of Dog Control Orders. This option be:

(a) Subject to a further report being presented to the Single Issue Panel, providing more specific detail in respect of process and enforcement with particular regard to resource issues including financial and staffing implications for Cornwall Council and Town/Parish Councils; and

(b) Information also be provided in relation to the impact of any changes to the Blue Flag criteria and to consider whether any such
changes would require current Dog Control Orders on existing blue flag beaches to be reviewed to ensure compliance.

**Meeting of the 10 November 2010**

At the request of the SIP, a report was presented that provided specific detail in respect of the process for making orders and subsequent enforcement with particular regard to the resulting resource issues including financial and staffing implications. Also the report considered the impact of any changes to the Blue Flag criteria and whether any such changes would require current Dog Control Orders on existing blue flag beaches to be reviewed to ensure compliance – see Appendix 6.

**Blue Flag Criteria**

Members had been concerned about the possible impact on Blue Flag beaches should the current status quo in respect of beach bans be maintained.

In order for a beach to obtain a Blue Flag it has to meet a wide range of criteria from high level bathing water quality, provision of recycling facilities through to the requirement for a dog beach ban to be in place. There has been question around the issue of those beaches within Cornwall that hold a Blue Flag and have a day time only ban and whether they would be eligible for applying for the award next year.

Clarification was sought from the Keep Britain Tidy organisation which administers the award as to whether these beaches would remain eligible. Keep Britain Tidy have confirmed that a timed dog ban is acceptable for the purposes of a Blue Flag award providing the beach is cleaned and dog faeces removed before the dog ban comes into force on the following day. They state that if a beach ban were to come into operation at 8am (which is the case for some beaches) and a clean of the beach is undertaken prior to the ban coming into effect this is acceptable.

As it currently stands the award criteria also requires that a beach must be cleaned daily in order for an award to be granted, so this would not be an additional burden to the authority as a beach clean is commenced each morning as a matter of course.

Consequently a day time only ban should not impact on the eligibly of the beach for applying for Blue Flag status.

Members were concerned as they were aware that a beach had lost its Blue Flag for the 2010 season and wanted assurances this was not connected with the beach ban. It was confirmed that the beach concerned had lost the Blue Flag status due to poor bathing water quality results in 2009 as result of a wet summer and heavy rain.
Process for making Dog Control Orders/Enforcement

The process and legal implications involved in making and implementing a Dog Control Order (as described above) were reiterated and clarified to the SIP.

Resources of Town and Parish Councils

Members addressed the issue of cost of Town or Parish Councils in making a Dog Control Order raised at the previous meeting.

There is guidance available from the Defra which would assist Town and Parish Councils through the process. If members decide not to change the current beach bans within Cornwall but rather to allow Town and Parish Councils to make new orders where appropriate then officers within Cornwall Council confirmed that they could produce a guidance pack to supplement the Defra guidance with bespoke templates which could be downloaded from the Cornwall Council website and adapted for local use.

Placing 2 notices in local newspapers for every Dog Control Order within Cornwall proposed to be made, varied or revoked could be very expensive for Cornwall Council if a full review of existing bans were undertaken. However, a Town or Parish Council proposing to make an Order in their area need only place a notice in one local newspaper circulating in their area. Therefore, Town and Parish Council advertisement costs should be substantially lower than those that would be incurred by Cornwall Council. Additionally they will only be required to purchase signs for their local beach which could cost as little as £8 per sign. Cornwall Council would need to order hundreds of signs all of which would need to be bespoke to the locality if it were to undertake a full review of beach bans.

With regard the matter of enforcement and the issue of Fixed Penalty Notices (FPN), a person authorised to issue fixed penalty notices by a Town or Parish Council will need to have completed an approved Defra training course. Clarification has been sought from Defra by the Area Manager for Public Health and Protection (PH&P) as to whether a course offered by Cornwall Council officers could be endorsed by Defra as an approved course. They have confirmed that this is possible and a training package has been submitted to Defra for approval. Initial indications are the training course is likely to be approved meaning Cornwall Council will be the only other organisation in the Country approved to deliver this type of training. This means officers in PH&P will be able to deliver low cost training to Town and Parish councils so they can issue their own FPN and enforce their own dog control orders as well as the Cornwall Council Dog Control Order in respect of dog fouling. Town and parish councils will also be able to keep the revenue from the FPN notices issued (as explained above) which could go towards the cost of funding an enforcement officer. Moreover, as suggested in Defra guidance, smaller Town and Parish Councils could work together in employing a jointly funded enforcement officer.
Additionally, Town and Parish Councils could explore the possibility of sponsorship funding of materials such as signs particularly where a commercial organisation or trust owns a beach to be subject to a Dog Control Order.

Where Cornwall Council is required to revoke an existing Dog Control Order to enable a Town or Parish Council to make a new one, notice of the revocation could be incorporated into letters and notices prepared by the Town and Parish Council.

It was **RESOLVED** at this meeting that;

1. The following recommendations be included in the draft final report to the Communities Overview and Scrutiny Committee:
   
   a. Cornwall Council leaves the current Dog Control Orders and dog beach bans in place;
   b. Where appropriate, Cornwall Council will allow Town and Parish Councils to make future Dog Control Orders, and will revoke any of existing orders made by Cornwall Council or its predecessor authorities to enable the Town and Parish Councils to do so;
   c. Town and Parish Councils are required to enforce any new Dog Control Orders made by them and Cornwall Council will provide low cost DEFRA approved training where practicable for that purpose;
   d. Cornwall Council shall provide, where requested, general guidance to Town and Parish Councils in respect of procedures involved in the making and enforcement of Dog Control Orders; and
   e. All relevant departments of Cornwall Council and their partners endeavour to work together to ensure opportunities are used to address adequate signage of Dog Control Orders.

2. The draft recommendations above be circulated to all Members of the Beach Dog Control Orders and Enforcement Single Issue Panel for final comment and subsequent inclusion into the draft final report; and

3. The draft final report be circulated to all Members of the Beach Dog Control Orders and Enforcement Single Issue Panel
Conclusions and Recommendations

The members of the Single Issue Panel at their meeting on the 24 September 2010 considered various options – see previous reports at Appendices 4 and 6. Therefore, taking into account the options presented, the SIP has decided that it is minded to support that the status quo be maintained.

This decision is based on the following factors:

- The responses received from the Parish/Town Councils indicated that most felt that the current Dog Control Orders worked well.

- The cost to Cornwall Council of consultation, implementation and enforcement together with other resource issues such as officer time to draft notices, letters, orders and consider the responses to the consultation, especially given the present financial climate and impending cuts to some services (due to the Government’s Comprehensive Spending Review).

- All relevant Legislation and DEFRA guidance.

- Many of the beaches concerned are not owned by the Council and the SIP need to consider whether it is appropriate to incur the time and expense in consulting and implementing an Order in respect of such land they do not own.

- The Town and Parish Councils have the local knowledge of beaches so as to determine the options available for dog walkers, which beaches are open to the public and which are not. They also have a good understanding as to the types of visitors to the beaches, the extent of local tourism, the size of the local populations and any local preference for or against dog beach bans. They are better placed to determine local needs and to achieve a balance between dog banned beaches and dog friendly beaches in their area. This fits with the localism agenda and also the Council Business Plan which stresses that in the future Cornwall Council will be a strong council focused on community leadership.

- There is no pressing need to amend or make new Dog Control Orders for beaches and the costs involved in doing so would be disproportionate in the current circumstances.
Therefore having considered all of the above and the information at the meetings – see Appendices attached to this report - the Single Issue Panel makes the following recommendations:

1. Cornwall Council leaves the current Dog Control Orders and dog beach bans in place;

2. Where appropriate, Cornwall Council will allow Town and Parish Councils to make any future Dog Control Orders and will revoke any existing orders made by Cornwall Council or its predecessor authorities to enable the Town and Parish Councils to do so;

3. Town and Parish Councils are required to enforce any new Dog Control Orders made by them and Cornwall Council will endeavour to provide low cost DEFRA approved training on the issue of Fixed Penalty Notices for breaches of Dog Control Orders where practicable for that purpose;

4. Cornwall Council shall provide, where requested, general guidance to Town and Parish Councils in respect of procedures involved in the making and enforcement of Dog Control Orders; this will include templates for legal notices and signs.

5. All relevant departments of Cornwall Council and their partners shall endeavour to work together to ensure opportunities are used to address adequate signage of Dog Control Orders.
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