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<b>PART A:</b>	<b>MATTERS DEALT WITH UNDER DELEGATED POWERS</b>
<b>REPORT TO:</b>	<b>POLICY &amp; RESOURCES</b>
<b>DATE:</b>	<b>26 SEPTEMBER 2019</b>
<b>REPORT OF THE:</b>	<b>HEAD OF CUSTOMER SERVICE (INTERIM) MARGARET WALLACE</b>
<b>TITLE OF REPORT:</b>	<b>REVIEW OF ENFORCEMENT INCLUDING DOG RELATED DUTIES</b>
<b>WARDS AFFECTED:</b>	<b>ALL</b>

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## **EXECUTIVE SUMMARY**

### **1.0 PURPOSE OF REPORT**

1.1 Following a motion to Council and referral to Policy and Resources, the purpose of this report is to update Elected Members of the implications of the T20/20 restructure programme and the loss of the dedicated dog warden on the following areas

- Dog Fouling
- Stray dogs
- Cruelty to animals
- Dangerous dogs

And to assess whether Ryedale should re-instate the position of a dedicated dog warden.

1.2 The report also makes reference to a linked review of the Council's approach to enforcement. Stage 1 of this review has been completed allowing for recommendations to be made.

### **2.0 RECOMMENDATIONS**

2.1 It is recommended that the Policy and Resources Committee note:

- (i) The findings of the dog warden review.
- (ii) That the next stage of the enforcement review is carried out to address the issues raised, which includes a corporate Enforcement Plan detailing clearly and publicly Ryedale District Council's intended approach to enforcement.
- (iii) That a recommendation has been made to the Head of Paid Service that the Council on a trial basis employs a team of dedicated neighbourhood officers to undertake a range of enforcement functions which should include dog-related

issues.

### **3.0 REASON FOR RECOMMENDATIONS**

3.1 After the Council last restructure various functions were divided across service departments. In reviewing roles and remits there would appear to be a service gap around enforcement action, which includes dog-related activity. This has highlighted that there is a risk that the Council will not fulfil its legislative responsibilities resulting in financial, legislative and reputational risk.

### **4.0 SIGNIFICANT RISKS**

4.1 The significant risks would be the failure to meet the local authorities' legislative responsibilities.

### **5.0 POLICY CONTEXT AND CONSULTATION**

5.1 Customers and Communities - "helping our partners to keep our communities safe and healthy" and "supporting communities to identify their needs, plan and develop local solutions and resilience".

## **REPORT**

### **6.0 REPORT DETAILS**

6.1 In April 2017 the Council implemented a new operating model based on the recommendations of the T20/20 restructure. This resulted in the duties and responsibilities of enforcement and more specifically the dog warden service being distributed between different Council departments.

#### *Dog related responsibilities*

6.2 Legislative responsibilities in regards to dogs are as follows:

- **Dangerous Dogs Act 1991**
- **Environmental Protection Act 1990**
- **Dogs (Fouling of Land) Act 1996 - England and Wales**
- **Animal Welfare Act 2006**
- **The Clean Neighbourhoods and Environment Act 2005**
- **Anti-Social Behaviour, Crime and Policing Act 2014**
- **The Microchipping of Dogs (England) Regulation 2015**
- **The Control of Dogs Order 1992**

6.3 Different legislation has different duties placed on Local Authorities and the Police, as set out below:

6.4 **Dangerous Dogs Act 1991** was introduced in response to a number of dogs' attacks, particularly on children or in relation to dangerous dogs and dogs worrying livestock which are dealt with the Police.

6.5 **Environmental Protection Act 1990** The law requires local councils to treat all unaccompanied dogs on public land as strays, regardless of whether they are wearing a collar and disc or have been microchipped. The council must seize such dogs and if they cannot be returned immediately to their owner they must be taken to the agreed

stray pounds where they are held for a mandatory period of 7 days. It is no longer the responsibility of the police to accept stray dogs, and they should not be taken to police stations.

- 6.6 **Environmental Protection Act 1990 – Section 79(1)** the Council has a duty to investigate complaints relating to dog barking and dog fouling and if satisfied that a statutory nuisance exists then a Section 80(1) Abatement Notice must be served. Community officers will start the initial investigation and collect relevant evidence to pass to environmental services to take enforcement action.
- 6.7 **Dogs (Fouling of Land) Act 1996** it is illegal to allow your dog to foul in a public place and not clean up after it, under the Dogs (Fouling of Land) Act 1996. Anyone who fails to clean up after their pet can be issued with a fixed penalty fine or taken to court where they could be fined up to £1,000. Currently the community team are not authorised to issue fixed penalty notices for dog fouling offences.
- 6.8 **Animal Welfare Act 2006** is when anyone causing unnecessary suffering to an animal either through an act or failure to act. Issues relating to the cruelty of dogs are initially investigated by the community team and then passed to the **Royal Society for the Prevention of Cruelty to Animals (RSPCA)** via a dedicated local authority telephone line. The community team currently assess any issues and make referrals.
- 6.9 After the 2017 restructure the stray dog's operational model resulted in a private company being contracted to provide the collection and kennelling of stray dogs. The current provider is unable to provide a consistent collection service due to staff resources, and as a result of this there can be inconsistency. Alternative arrangements have been made in partnership with local vets who agreed to keep stray dogs until they can be collected or delivered to the kennels. Community officers if available will also assist in the collection and delivering of stray dogs to the kennels.
- 6.10 **Anti-Social Behaviour, Crime and Policing Act 2014** is intended to deal with unreasonable, ongoing problems or nuisances that are "detrimental to the local community's quality of life" (such as noise, graffiti, littering and dog fouling) and target the person responsible. They replace Litter Clearing Notices, Street Litter Control Notices and Defacement Removal Notices.
- 6.11 The introduction of Public Protection Orders can impose conditions on the use of an area in order to address a particular nuisance or problem that is, or might become, detrimental to the local community's quality of life. They replace Designated Public Places Orders, Dog Control Orders and Gating Orders and could be used in lieu of some local byelaws. They are designed to ensure the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour.
- 6.12 The community team also deals with unreasonable ongoing problems or nuisance that impact on the community, for example noise nuisance complaints (dog barking), dog fouling. The team run prevention campaigns within local areas to also promote responsible dog ownership.
- 6.13 There is a gap in service provision in relation to the collection and delivery of stray Dogs. At the moment the good partnership working with vets has managed to bridge this gap, however this is based on verbal agreement and goodwill. Due to the conflicting priorities of the community team this results in them not always being available to attend or have the correct equipment to pick up stray dogs.

- 6.14 **The Microchipping of Dogs (England) Regulation 2015** sets out requirements to have a dog chipped and to register change of ownership of a dog on the database held for such purpose. This function is currently undertaken by the community team. Currently no enforcement action has been taken.
- 6.15 The analysis of complaints over a 5 year period for dog barking and dog fouling has shown a steady decline in complaints.

YEAR	BARKING DOGS	DOG FOULING
2019	17	16
2018	34	34
2017	65	42
2016	114	78
2015	96	111

Analysis from Council Idox system

- 6.16 The decline in complaints could be interpreted in many ways with the introduction of legislation and the running of campaigns for the promotion of responsible dog ownership which may all have had an impact. However, the data has to be viewed with caution as the collection of the data across the council has been problematic due to various different reporting mechanisms within the council since the removal of the dog warden post.
- 6.17 Although the function of the dog wardens' post has been undertaken by various different departments there are functions that are problematic and require addressing to fulfil our legislative duties. There is no corporate enforcement strategy to address this giving clear guidance to staff or the public.
- 6.18 Looking at data across the council, there have been no fixed penalty tickets for dog fouling or failure to have dogs' microchipped over the last two years. Staff have undertaken fixed penalty training but are currently not authorised to undertake this role. They also have not been provided with policy and procedures and necessary equipment to comply with regulatory guidance or health and safety.
- 6.19 The "Don't be a waster" campaign was successfully delivered by the community's team. As stated above, the campaign worked with schools, local communities and partners to highlight the importance of being a responsible dog owner. However, there was no follow up work in enforcing the message of being a responsible dog owner.

#### *Enforcement strategy – phase 1*

- 6.20 A range of Council services have been informally working together on operational enforcement matters for some time. A more consistent joined up approach would be beneficial and review of its working practices and procedures has commenced to strengthen the Council's approach. Adopting a Corporate Enforcement Plan would assist and provide a directional steer in this process.
- 6.21 Phase 1 of the review has identified that there is no one single case management system being used across the Council to record enforcement. The lack of a single case management system and back office administration means that systems are not in place to undertake the enforcement role in a clear, efficient and effective manner and to meet our statutory responsibilities. Action is required to address this.
- 6.22 The Regulators' code, published by the Better Regulation Delivery Officer which sits within the Department of Business Energy and industrial Strategy came into force in

April 2014. This sets out the Government's expectations that local authorities will ensure their approach to regulatory activities is transparent.

- 6.23 Whilst it is acknowledged that the Regulators Code relates principally to the councils Environmental Health and licensing activities, the principles are considered to be equally relevant to other council services undertaking enforcement functions including:
- Community Safety and Anti-social Behaviour
  - Environmental Health (including food hygiene, Health & Safety, housing, pollution control and smoking)
  - Licensing (including alcohol, animals, establishments, gambling, public entertainment and taxis)
  - Parks and open spaces
  - Planning
  - Street – Dog fouling, fly- tipping, fly posting, littering, trade and domestic waste).
- 6.24 The Council is committed to following good enforcement practices in accordance with legislation, guidance and code of practice. Principle of good regulations suggests we aim to carry out activities in a robust but fair way. That we will exercise our regulatory activities by:
- Open and transparency
  - Helpfulness
  - Consistency
  - Proportionality
  - Targeting resources'
  - Accountability.
- 6.25 All of these findings suggest there is an urgent need for investment in this area. The findings of phase 1 of the review are therefore being considered by the Head of Customer Service, Head of Communications, Deputy Chief Executive and Section 151 Officer. An invest to save business case will be developed to look at a ways of implementing the recommendation for a team of neighbourhood officers to implement enforcement related activity so that the review's findings are addressed in a way that minimises costs.
- 6.26 Any new posts will need to cover a range of enforcement priorities. The proposed posts will sit alongside the community team to provide a better joined up approach to meeting the council's legislative responsibilities. This new approach will include data led intelligence that will help the officers to deliver an operational model that encompasses a prevention, intervention, education and enforcement approach in a more targeted way to the areas of Ryedale.

## **7.0 IMPLICATIONS**

7.1 The following implications have been identified:

- a) Financial - The introduction of a neighbourhood civil enforcement officer will have an initial financial cost. However, it would be hoped that the issuing of fixed penalty tickets would result in the post being cost neutral in the future. This will be considered further through an Invest to Save Business case that will be produced by the Interim Head of Customer Service and assessed by the Section 151 Officer.

Now that phase 1 of the review of enforcement has been completed, it is recommended that the recruitment of any staff, if this proceeds, is made following full consideration of the full costs for investment in enforcement across the local authority. This includes

training, technology and equipment.

- b) Legal - There is possible legislative risk in not fulfilling our legislative duty as outlined above. Currently there is no up to date policy and procedures in regards to enforcement legislative responsibilities. A new strategic approach to enforcement may result in more legal services time being required.
- c) Health and Safety - Currently staff do not have all the equipment they require to undertake their duties and meet the legislative responsibilities. New equipment will need to be purchased and new risk assessment undertaken with staff to fulfil our health and safety requirements.

## **8.0 NEXT STEPS**

- 8.1 A review of roles and responsibilities is being undertaken during phase 2 of the review to inform the development of the corporate enforcement plan. This will allow for the review of service functions and responsibilities to be made clear. Heads of Service will then put in place the necessary delegated authorisations for named officers to undertake enforcement action on behalf of the council. Where this requires specific amendments to the Constitution, there will be appropriate Elected Member involvement.
- 8.2 As the enforcement review and business case have not yet been completed, the Committee is not yet in a position to make a recommendation to Full Council about the dog warden motion and this will happen in due course.

### **Name of Head of Service**

#### **Job Title**

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### **Background Papers:**

Include any referenced papers

### **Background Papers are available for inspection at:**

Location or web address