



Broxtowe
Borough
COUNCIL

DOG CONTROL POLICY

Community Safety Committee
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1.0 Introduction

Statistics show that for the year 2017-18, 26% of the households in the United Kingdom owned at least one dog. In the East Midlands, this equates to 694, 000 households with a dog. (Statista – The Statistics Portal; Pet Food Manufacturers Association). The benefits of dog ownership are well known, but it is vitally important that dogs are kept responsibly to ensure that they don't become a danger or a nuisance to others, or their own welfare is put at risk.

2.0 Purpose

This policy states how Broxtowe Borough Council (the Council) operates in relation to issues of dog control. It covers a number of areas including stray dogs, fouling, microchipping, and dangerous dogs.

The Council's Enforcement Policy governs the general approach to enforcement in all areas of work. As such it should be read in conjunction with this policy document.

This policy should also be read in conjunction with specific departmental written instructions and procedures concerning the operation of the dog control service.

3.0 Overall aim

The aim of this policy is to ensure the needs of dogs and the responsibilities of their owners are met, and the potential for any danger, distress or nuisance that may be caused by dogs is minimised.

4.0 Roles and responsibilities

4.1 Head of Public Protection

The Head of Public Protection will:

- Ensure that this policy is reviewed annually and updated as and when necessary.
- Ensure that the Council's duties and responsibilities with respect to enforcement of the legislation are properly discharged.

4.2 Chief Communities Officer

The Chief Communities Officer is the line manager of the Neighbourhood Wardens and as such, will be responsible for:

- Ensuring proper training is provided, and that appropriate procedures and practices, approved by officers of the Council's Legal Section, are produced, implemented and followed.
- Arranging publicity which may be from time to time considered appropriate in respect of duties of keepers, and other related issues.
- Arranging for the secure retention of data pertinent to the Council's responsibilities and duties relating to the legislation.
- Reporting any relevant matters under the legislation to the Secretary of State
- Ensuring officers are appropriately authorised to undertake their duties
- Ensuring appropriate kennelling services are available to the Council
- Providing and monitoring appropriate performance information

- Managing the relevant income and expenditure budgets
- Monitoring and amending, as appropriate, the contract provisions to ensure the Council has access to adequate kennelling facilities

4.3 Chief Environmental Health Officer

The Chief Environmental Health Officer is the line manager for the Environmental Health Officers and Environmental Health Technical Officers and as such, will be responsible for:

- Ensuring proper training is provided, and that appropriate procedures and practices, approved by officers of the Council's Legal Section, are implemented and followed.
- Ensuring officers are appropriately authorised to undertake their duties

4.4 Neighbourhood Wardens

The Neighbourhood Wardens will be responsible for:

- Undertaking all dog control duties on a day to day basis
- Providing information, guidance and advice to the public and other officers of the Council on all aspects of dog control.
- Notifying the Chief Communities Officer or the Head of Public Protection of any issues where a senior officer decision is required or a matter requires reporting to the Secretary of State.
- Undertaking animal welfare duties where appropriate.

4.5 Environmental Health Officers and Technical Officers

The Environmental Health Officers and Technical Officers will be responsible for;

- Dealing with cases of alleged noise nuisance from dogs.
- Dealing with cases of alleged nuisance from dog faeces on private properties.
- Dealing with cases of filthy and verminous properties arising as a result of the keeping of dogs

5.0 Specific controls

5.1 Microchipping

The relevant legislation is The Microchipping of Dogs (England) Regulations 2015.

In any instance where a dog is found not to be microchipped and the keeper is resident in Broxtowe, action by way of service of a notice requiring the dog to be microchipped will, under normal circumstances, be instigated by a Neighbourhood Warden.

In order to check if a dog has been microchipped, the Council may lawfully take possession of a dog without the consent of the keeper. It is anticipated that checking of a dog will be undertaken by agreement in the majority of cases.

If the notice is not complied with, or an officer is obstructed in carrying out their duties in accordance with the Regulations, further action may be considered as appropriate. This decision will be taken by the Chief Communities Officer or Head of Public Protection in consultation with the Neighbourhood Warden managing the case. Options available include:

- a) The instigation of legal proceedings. The final decision on whether or not to instigate legal proceedings will rest with the Director of Legal and Planning Services.

- b) Arranging for the dog to be microchipped (if necessary without the consent of the owner). Costs may be recovered from the keeper in respect of such action.

If it comes to the attention of the Council that a person undertaking microchipping within the borough is not of a class of persons detailed in Regulation 9(1) of the Regulations, consideration will be given by the Head of Public Protection or the Chief Communities Officer as to whether the matter will be reported to the Director of Legal and Planning Services for a decision on whether or not legal proceedings should be implemented. The operator will be advised, in writing, of their obligations under the legislation.

If it comes to the attention of the Council that a keeper has transferred a dog to a new keeper without being microchipped (unless a certificate issued under regulation states that the dog should not be microchipped for reasons of the animal's health) consideration will be given by the Head of Public Protection or the Chief Communities Officer as to whether the matter will be reported to the Director of Planning and Legal Services for a decision on whether or not legal proceedings should be implemented. Greater emphasis will be given to taking formal action if the person transferring the dog is a breeder.

If it comes to the attention of the Council that there has been an adverse reaction to a microchip, or the failure of a microchip which has not been reported, then the Chief Communities Officer shall report that reaction or failure to the Secretary of State.

If it comes to the attention of the Council, by other means than being collected as a stray, that a dog which is kept outside the borough is not microchipped, the Neighbourhood Wardens will arrange for all relevant details to be passed on to the relevant local authority where the dog is kept.

Where a dog is collected as a stray and is found not to be microchipped, appropriate procedures will be agreed with the kennels to ensure dogs are microchipped before collection / rehoming.

5.2 Stray dogs

The relevant legislation is the Environmental Protection Act 1990.

5.2.1 Handling of stray dogs within the hours of 8 am to 4.30 pm

A stray dog is any dog which is running free in a public place without its owner being present. Legally it makes no difference if the dog is loose accidentally, has been released without authority of the owner, or has been deliberately allowed to roam. Only those dogs which can be classified as such will be secured and removed to kennels for safety by the Neighbourhood Warden.

When reports regarding stray dogs are received by the Council, the receiving officer will attempt to ascertain as much detail as possible with regards to the situation, the dog and precisely where it was found/seen.

Collection of dogs can only be guaranteed where they are secured and not running free.

The Neighbourhood Warden will be provided with details of reports of stray dogs as soon as is practicable and dispatched accordingly to investigate the report.

Once on site the Neighbourhood Warden will assess the situation and secure the dog (where possible) if it can be classified as a stray.

The Neighbourhood Warden is authorised to detain and seize any stray dog on public land. Where a stray dog is found on private land, the Neighbourhood Warden can and will only detain and seize a stray dog where the permission of the land owner has been obtained.

If a dog is found as a stray, the Neighbourhood Warden will make all reasonable enquiries to ascertain the identity of its owner including checking for implanted microchips, looking for details on dog's collar and talking to persons who reported the stray dog or who are in the immediate vicinity. While the Council is not obliged to immediately return stray dogs to their owners, in circumstances where;

- a) the owners can be easily identified and contacted, and;
- b) where the dog has not been reported as a stray before,

then the Neighbourhood Warden will attempt to return the stray dog to its owner at the point of it being secured and detained. An administration fee will be charged for this service.

Where the above criteria are not met and/or where circumstances make this approach unreasonable or impracticable, the dog will be taken directly to the kennels and registered as a stray dog.

Where the owner of a stray dog can be identified, and where it has not been possible to return to the owner as above, the owner shall be advised that their dog has been reported and collected by the Neighbourhood Warden as a stray dog. The owner will be advised of the release fee which is payable and arrangements needed for them to reclaim their dog.

Stray dogs seized by the Council are held for eight clear days at the Council's kennelling facility. During that period the owners of a stray dog may come forward and reclaim their dog. To do so they must pay the appropriate kennelling costs in addition to a release fee. Kennelling costs and release fees are reviewed annually as part of the budget setting process.

Where keepers do not have access to sufficient funds within the eight day period to reclaim the dog a payment plan can be set up with the council to cover the costs. However where a keeper has defaulted on a previous payment plan this facility will not be available and dogs can only be released on payment in full.

Following the eight-day period, stray dogs which are not reclaimed are handed to the kennels who in turn will attempt to re-home them. However, the kennels will arrange for tests to be undertaken on the dog. If it fails this test, the kennels reserve the right not to accept ownership of the dog.

5.2.2 Handling of stray dogs at other times

Although the Council's Neighbourhood Warden Service operates at weekends, no collection service is provided on any day before 8.30 am or after 4.30pm.

The Council's kennelling facility operates a drop-off facility outside of the operating hours where members of the public, emergency services, etc. can bring found stray dogs to.

Although there is no out of hours call out service a kennel at the Council's kennelling facility where dogs can be securely deposited during the night

All dogs taken in during out of normal operating hours will be registered as a stray and detained in the Council's kennels. Provisions detailed above regarding providing notice to known owners, retaining the dog for seven clear days and finally handing the dog to the kennels for rehoming apply here also.

5.2.3 Veterinary treatment of stray dogs kept within the Council's care

The Council will ensure that all stray dogs within its care receive appropriate veterinary care and attention to ensure they are free from pain and kept in a comfortable condition.

The Council cannot undertake extensive veterinary care of stray dogs beyond that stated above.

Where veterinary treatment is administered to a stray dog which is subsequently re-claimed by its owners, the costs for the veterinary treatment will be recovered from the owner.

No veterinary treatment of stray dogs under the Council's care will be undertaken without the permission of the Chief Communities Officer or Head of Public Protection. The only exception to this is where the need is of an imminent or emergency nature and it is not practicable to contact either of those officers first. In all cases, the Chief Communities Officer must be notified of any veterinary care given to a stray dog at the earliest opportunity. A decision to euthanize a dog in the Council's care will only be made by a Veterinary Surgeon on the basis of the animal's state of health or by the Head of Public Protection on advice by the kennels that the dog is not suitable for rehoming. The Council is not responsible for any veterinary treatments administered to a dog prior to its submission and registration in the Council's kennelling facility.

5.3 Dog fouling in public areas

The relevant legislation is the Dogs (Fouling of Land) Act 1996 and The Litter (Animal Droppings) Order 1991

Although the Dogs (Fouling of Land) Act 1996 has been repealed, the Order made by the Council on 5th June 1998 (the Borough of Broxtowe Prohibition of Dog Fouling Order 1998) and which came into force on the 6th July 1998, still applies on all relevant land apart from Basil Russell Playing Fields (see below).

The Borough of Broxtowe Prohibition of Dog Fouling Order 1998 designates land in the borough where the provisions of the legislation apply, that is if a dog defecates at any time on designated land and a person who is in charge of the dog at that time fails to remove the faeces from the land forthwith, that person shall be guilty of an offence unless—

- (a) he has a reasonable excuse for failing to do so; or
- (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

The land designated in the Order is as follows:

- All parks, recreation grounds, open spaces and other areas for informal recreation.
- All housing amenity areas
- All twitchells, footways. Footpaths and bridleways including adjoining grass areas.

- All public rights of way.
- All shopping precincts and privately owned, publicly accessible land adjacent to shops.
- All cemeteries and churchyards
- All carriageways with speed limits of 40 miles per hour or less, and adjoining footpaths and verges.

The Neighbourhood Wardens are authorised to issue Fixed Penalty Notices requiring payment of fifty pounds where an individual refuses to pick up their dog's faeces.

Where notifications of dog fouling are received, these will be dealt with in the manner considered for most appropriate. For example, if fouling has taken place near to a school, the Environment Division will arrange for the faeces to be cleaned up as quickly as possible.

If a complainant advises that fouling is taking place regularly at a particular time of day, the Neighbourhood Wardens will endeavour to patrol the area at those times where they fall within normal working hours.

The Litter (Animal Droppings) Order 1991 was made under section 86 (14) of the Environmental Protection Act 1990. It means that the provisions of Part IV of the 1990 Act which apply to refuse shall apply to dog faeces on land of the following descriptions which is not heath or woodland or used for the grazing of animals:

- Any public walk or pleasure ground;
- Any land laid out as a garden or used for the purpose of recreation;
- Any part of the seashore which is frequently used by large numbers of people, and managed by the person having direct control of it as a tourist resort or recreational facility;
- Any esplanade or promenade which is above the place where the tide flows;
- Any land not forming part of a highway, which is open to the air, which the public are permitted to use on foot only, and which provides access to retail premises;
- A trunk road picnic area;
- Picnic sites provided under the s.10 (2) of the Countryside Act 1968;
- Car parks provided in accordance with s.32 of the Road Traffic Regulation Act 1984.

5.4 Dog fouling on private property

The relevant legislation is the Environmental Protection Act 1990.

Complaints of nuisance from dog faeces on neighbouring properties will be investigated by officers of the Environmental Health team. In the case of dog fouling at dwellings owned by Broxtowe Borough Council, investigations and enforcement action will be taken by officers of the Housing Division.

5.5 Filthy and Verminous Premises

The relevant legislation is the Public Health Act 1936

Complaints of filthy and verminous premises arising as a result of the keeping of dogs will be investigated by officers of the Environmental Health team. In the case of filthy and verminous premises owned by Broxtowe Borough Council, investigations and enforcement action will be taken by officers of the Housing Division.

5.6 Dogs on leads

The relevant legislation is the Road Traffic Act 1988.

It is an offence for a dog to be on a designated road without being held on a lead. There are exceptions for dogs proved to be kept for driving or tending sheep or cattle in the course of a trade or business; and dogs proved to have been at the material time in use under proper control for sporting purposes. This legislation is enforced by the County Council.

5.7 Dogs to wear collars

The relevant legislation is the Control of Dogs Order 1992.

This requires every dog (subject to a few exceptions) while on a public highway or in a public place to wear a collar with the name and address of the owner inscribed on it or a plate or badge attached to it. The exceptions include:

- packs of hounds;
- dogs used for sporting purposes;
- dogs being used for the capture or destruction of vermin;
- dogs being used for the driving or tending of cattle or sheep;
- dogs being used on official duties by a member of the Armed Forces or Customs and Excise or a police force;
- dogs being used in emergency rescue work, and;
- dogs registered with the Guide Dogs for the Blind Association.

Anyone failing to comply with the legal requirements for a collar can be prosecuted by the district council under the Animal Health Act 1981. Furthermore, if a dog does not have a collar on a highway or in a public place, it can be treated as a stray dog and seized by the Local Authority.

5.8 Noise from dogs

The relevant legislation is the Environmental Protection Act 1990.

Complaints of noise nuisance from dogs will be investigated by officers of the Environmental Health team. In the case of noise nuisance from dogs at dwellings owned by Broxtowe Borough Council, investigations and enforcement action will be taken by officers of the Housing Division.

5.9 Dangerous dogs

The relevant legislation is the Dangerous Dogs Act 1991

Dangerous Dogs are predominately an area which the police deal with. A memorandum of understanding is in effect between all local authorities and

Nottinghamshire Police which confirms this and commits the police to taking the lead on such matters.

The Council's Neighbourhood Wardens will, where necessary and appropriate, support the police or any other agency in dealing with dangerous dogs, however, the Council does not accept any liability or responsibility in relation to costs for the kennelling of such animals. Such costs are the responsibility of the police.

5.10 Animal Welfare

The relevant legislation is the Animal Welfare Act 2006

Although the lead agency in animal welfare cases is the RSPCA, the Neighbourhood Wardens are authorised to act under this legislation to serve notice on a person to require reasonable steps are taken to ensure that the needs of an animal for which that person is responsible are met to the extent required by good practice.

6.0 General controls

6.1 Community Protection Warnings and Notices

The relevant legislation is the Anti-social Behaviour Crime and Policing Act 2014.

If a dog's behaviour is persistent, unreasonable and negatively affects the quality of life of people or animals, the Council can use Community Protection Warnings (CPW) and ultimately Community Protection Notices (CPN) This process orders the person responsible for the dog (usually the dog owner) to stop or control its behaviour.

The process can be used, for example, when a dog strays, causes alarm, damages property, shows it's capable of aggression.

A CPW contains conditions which order the responsible person to:

- stop doing something, eg letting the dog into children's play areas
- do specified things, eg muzzling the dog or keeping the dog on a lead at all time when in public
- take reasonable steps to get specific results, eg attending dog-training classes

Conditions in a CPW have a timeframe within which the task must be carried out whilst others will be ongoing and can last for as long as the authority issuing it believes is necessary (eg two weeks to fix a fence, or several months to allow someone to attend a training course, up to unlimited time where a dog needs to be kept under control on a lead or muzzled in public).

This legislation can also be used to deal with dog on dog attacks, and noise from dogs.

6.2 Public Spaces Protection Orders (PSPOs) in relation to dog control

The relevant legislation is the Anti-social Behaviour Crime and Policing Act 2014

The Council has one PSPO in relation to dog control in place within the district at Basil Russell Playing Fields at Nuthall. This PSPO covers the following:

- dog fouling
- dogs on leads
- exclusion of dogs from certain areas.

This PSPO was implemented following a public consultation process and aims to address the main issues affecting the public regarding irresponsible dog ownership.

The Order is in place for a three year period after which it is subject to review to ensure it remains appropriate.

This PSPO is enforced by officers of Nuthall Parish Council who have been authorised by Broxtowe Borough Council to issue Fixed Penalty Notices. Any subsequent legal proceedings will have to be undertaken by the Council.

Any future use of PSPOs for dog control will be considered on an individual area basis.

6.3 Civil Proceedings

The relevant legislation is the Dogs Act 1871

As well as being charged with a criminal offence, it is possible for dog owners to face civil proceedings under s 2 of the Dogs Act 1871 if their dog is not under proper control (this usually means it is not on a lead or muzzled) and is dangerous.

The Act allows police, local authorities, or individual members of the public to bring such proceedings before the magistrates' court. The court can specify the measures to be taken for keeping the dog under proper control, whether by muzzling, keeping on a lead, excluding it from specified places or otherwise. In extreme cases, it can order that the dog be destroyed.

It is different to the Dangerous Dogs Act in that:

- it applies everywhere, not just in public;
- proceedings can only be brought against an owner;
- it applies if a dog's general behaviour is considered dangerous, rather than being to act dangerously towards a person
- except in exceptional cases, a single incident is not usually sufficient proof to show that a dog is dangerous.

7.0 Requests for assistance from third parties

Requests for assistance from bodies such as registered social housing providers are sometimes received by the Council. The Neighbourhood Wardens will support and assist where possible. However the Council is not responsible and will not take on any costs in relation to the kennelling of such animals.

Third Parties or the agencies who request the Council assist with a dog which is not a stray will be informed that while we can provide support, all costs for kennelling such animals must be met by themselves.