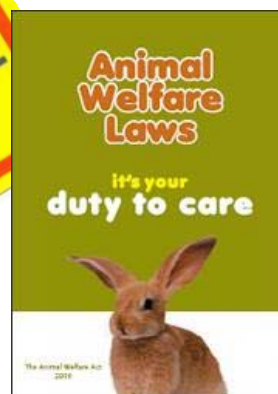


Environment Select Committee

Review of Dog Fouling / Animal Welfare

16 April 2009



Select Committee – Membership

Councillor Mrs Rigg (Chair)
Councillor Smith (Vice-Chair)

Councillor Cains
Councillor Larkin
Councillor Leckonby
Councillor Rix
Councillor Stoker
Councillor Womphrey
Councillor Woodhead

ACKNOWLEDGEMENTS

The Committee thank the following contributors to this review:

M. Batty, Head of Community Protection
M. Berry, Principal Environmental Health Officer
Chief Inspector Gent, RSPCA
C. Snowdon, Environmental Health Unit Manager
C. Willows, Service Development Manager

A special thanks go to the teachers and school children from Crooksbarrow Primary and St Mark's Elmtree schools who attended the committee meeting on 13th October 2008 as part of Local Democracy Week.

Foreword

The subject of this review is of interest to a large number of residents, both animal owners and complainants. The Committee did not expect to find easy solutions to the problems of either dog fouling or animal welfare problems. We were, therefore, neither surprised nor disappointed.

Both issues will only be resolved fully by responsible ownership but in the short to medium term the Committee believes that the Council can do much to encourage people to take responsibility for their animals. The recommendations in this report represent a mixture of education, reinforcement and control alongside measures to improve cleansing of affected areas.

Mindful of the budgetary position for the foreseeable future we have resisted any temptation to recommend the easy option of significantly increased staff levels. Indeed some of the recommendations require almost no extra resource provision. As a result we look forward to some of them being implemented very quickly.

Alongside the thanks expressed on the preceding page the Committee would like to thank the scrutiny officers who have supported the review throughout.



Original Brief

What are the main issues?

- To consider the trend of dog fouling complaints over the last ten years and the effect the Council's policy has had on this.
- To consider the various elements of the policy, namely education, enforcement and look at the service delivery of each of these elements.
- To consider issues regarding the adoption of the Dog Control Order provisions of the Clean Neighbourhoods and Environment Act 2005 to further control dog fouling in certain designated areas and how these orders would be enforced. Flexibility regarding the level of any fines imposed.
- To consider resource issues arising from the first six months of implementation of the Clean Neighbourhoods and Environment Act 2005 from April 2008 placing sole responsibility on the Council for dealing with stray dogs.

The Thematic Select Committee's overall aim/ objectives in doing this work is:

To respond to public concern regarding:-

- the amount of dog fouling occurring within the Borough (with approximately 350 formal complaints received each year);
- public demand on the Animal Welfare Service (with an estimated 2,300 requests for service each year);

and whether or not service improvements can be introduced within both areas.

The possible outputs/outcomes are:

- A reduction in the number of incidents of dog fouling occurring in the Borough each year, with a resultant improvement in both cleanliness and customer satisfaction arising as a consequence.
- A clear, concise and suitably resourced short, medium and long term dog fouling strategy.
- Contributions made to assist development of an Animal Welfare Service Plan for 2008/9.
- Lobbying for a national policy and strategy with a lead taken by central government office.

What specific value can scrutiny add to this topic?

To encourage public responsibility with regard to their ownership of dogs through a review of existing policies regards dog fouling and via a review of the operation of new powers as part of the Animal Welfare Service.

Who will the panel be trying to influence as part of their work?

Public, Care for Your Area, Parks and Countryside, Encams (a DEFRA funded organisation).

What category does the review fall into?

Policy Review	<input checked="" type="checkbox"/>	Policy Development	<input checked="" type="checkbox"/>
External Partnership	<input type="checkbox"/>	Performance Management	<input type="checkbox"/>
Holding Executive to Account	<input type="checkbox"/>		

1.0 Executive Summary and Recommendations

(The recommendations are submitted for approval, in principle, subject to a full assessment of both service and medium term financial planning implications.)

- 1.1 The Council's Environmental Health service receive approximately 2,000 animal welfare requests each year regarding dogs. The service also receive about 350 complaints a year about dogs fouling in public places.
- 1.2 Legislation is in place to assist the Council to deal with irresponsible dog owners who do not remove the mess made by their pet.
- 1.3 Currently there are 200 dedicated dog bins located in popular dog walking areas. There is no legal requirement for local authorities to provide dog bins but this has proven to reduce the amount of dog waste placed in litter bins by responsible owners wanting to dispose of their pets waste in a safe manner.
- 1.4 Maps do exist showing location of dog bins across the Borough. Eventually the location of all dog bins could be plotted using GIS with location details posted on the Council's website and Maps@Stockton.

Recommendations

- R1 Ensure that dog waste bins are GIS located and that this information is available on the SBC web site.**
- R2 To improve the reduction of dog fouling in the borough such incidents should be GIS recorded and that this information be available through the FLARE system.**
- R3 The call centre to include asking for the nearest lamp post number to assist locating dog fouling on the GIS system if an identifiable address can not be provided.**
- 1.5 Under section 57 of the Clean Neighbourhoods and Environment Act 2005 a Dog Control Order can be made in respect of any land which is open to the air and to which the public are entitled or permitted to have access.
- 1.6 Fixed penalties for offences under dog control orders may be issued by employees of primary and secondary authorities who are authorised for this purpose including Police Community Support Officers or any person authorised by an authority in writing to do so.
- R4 To explore the possibility of Dog Control Orders, as per the Clean Neighbourhoods and Environment Act 2005, for specified areas including enclosed children's play areas and associated public seating areas.**
- R5 To introduce a pilot scheme of biodegradable pavement painted stencils in known areas of dog fouling to act as an additional reminder to dog owners to act responsibly.**
- R6 The Council turn it's attention to dog fouling problems on and around school grounds and on footpaths that are used to access school grounds and Safe Routes to School to try and minimise the incidence of children being exposed to a potential health and safety hazard.**

- 1.7 The Clean Neighbourhoods and Environment Act 2005 transferred all responsibility for stray dogs from the police to local authorities creating a huge increase in work for the Council and charity organisations all of whom are becoming overstretched.
- 1.8 The Committee learned that Stockton Council is different to many of the other local authorities because it has its own animal welfare department. There have been times where, due to workload and for animal welfare reasons, the RSPCA has been able to contact the Council's department to assist, deal and provide advice regarding calls which the RSPCA have received.
- 1.9 To try to reduce poor animal welfare incidents the Committee would like to see is increased education of members of the public to be aware of the law and the animal's welfare. This could be targeted at young people which hopefully would result in a reduction in animal cruelty. The Council can assist this as it can reach the wide spread network of schools and colleges in its area.
- R7 To continue to use responsible dog ownership education packages in schools and explore the expansion of its delivery when budgetary pressures allow.**
- 1.10 The Committee agreed with the RSPCA that the introduction of compulsory dog registration and micro-chipping of dogs would be a great step towards improved animal welfare. A registration fee for this would hopefully make people think twice about even getting a dog. In the past the Council has offered, on occasion, micro-chipping as a free service, one of the many discretionary powers it has. The Committee would therefore be supportive of measures introduced to increase the level of responsibility for owners of dogs.
- R8 The Committee recommend that the Council proactively lobby local MPs to campaign for the introduction of compulsory dog registration and micro-chipping of dogs.**

2.0 INTRODUCTION

- 2.1 Councillors identified that an area of fairly constant contact with residents was complaints regarding the amount of dog waste that was left on public pavements and in public parks. Having undertaken some work regarding rat and pigeon problems in the borough the Committee thought it timely to address the issue of dog fouling. Allied to this it was decided to examine the Council's Animal Welfare Service as legislation has been introduced that impacted on its delivery of services.
- 2.2 The Clean Neighbourhoods and Environment Act 2005 replaced the dog byelaw system and Dogs (Fouling of Land) Act 1996 with powers to make Dog Control Orders. Primary and secondary authorities (local authorities and, principally, parish councils) can make Dog Control Orders in relation to 5 dog control matters, including dog fouling, dog ban areas, dogs on leads, putting and keeping a dog on lead under supervision and multiple dog walking restrictions. The maximum fine upon conviction for a Dog Control Order offence is £1000, and Fixed Penalty Notices may also be issued.
- 2.3 Though section 65 of the Clean Neighbourhoods and Environment Act 2005 repealed the Dogs (Fouling of Land) Act 1996, legislative savings were made to preserve the offence but only in respect of land designated under the 1996 Act prior to its repeal. Authorised officers of local authorities can issue fixed penalty notices fixed at £50 and/or seek prosecution where a fine of up to £1000 may be given upon conviction.
- 2.4 The Act also transferred all responsibility for stray dogs from the police to local authorities. The local authority has the responsibility to collect strays and charge for kenneling a dog. If a dog is not claimed within seven days the authority has the right to find him a new home, or destroy the dog.
- 2.5 The Committee was therefore keen to consider issues regarding the adoption of the Dog Control Order provisions of the Clean Neighbourhoods and Environment Act 2005 and issues arising from having sole responsibility for dealing with stray dogs.

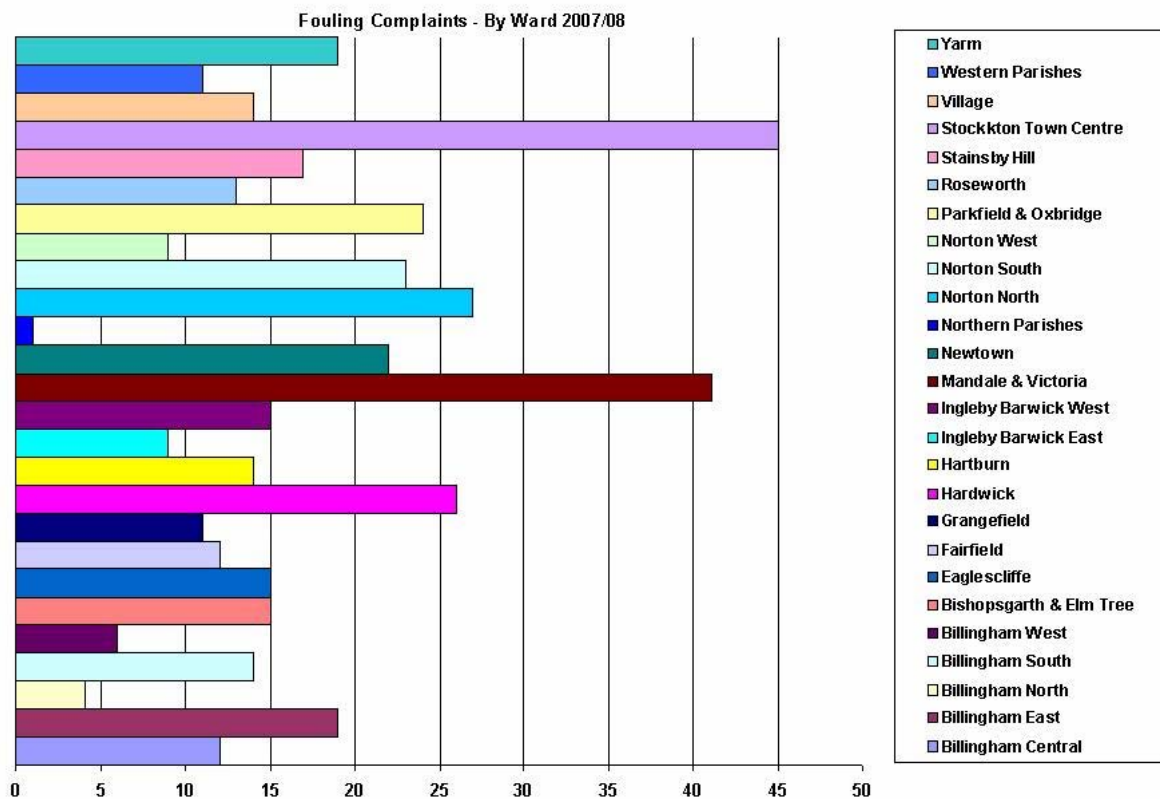
3.0 EVIDENCE/FINDINGS

(The recommendations are submitted for approval, in principle, subject to a full assessment of both service and medium term financial planning implications.)

Dog Fouling

3.1 The Council's Environmental Health service receive approximately 2,000 animal welfare requests each year regarding dogs and 300 regarding other animals. The service also receive about 350 complaints a year about dogs fouling in public places which means that it is regularly identified as one of the main concerns of the residents of Stockton. Not only are Environmental Health officers contacted but it is also regularly reported to ward councillors by their constituents.

3.2 The following graph shows the level of reported dog fouling incidents by ward during 2007/08 recorded on the FLARE database.



3.3 It is estimated that daily faecal and urinary output per dog is 100 – 200g and 0.25 – 1.25 litres.

3.4 Legislation is in place to assist the Council to deal with irresponsible dog owners who do not remove the mess made by their pet. Under the Dogs (Fouling of Land) Act 1996 authorised Council Officers can issue a £50 Fixed Penalty Notice to anyone that is seen to allow their dog to foul in a public place and not clean up after it. Failure to pay the fixed penalty could result in prosecution that may lead to the offender being fined up to £1,000.

3.5 Consideration needs to be given regarding the introduction and adoption of Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations 2006 and the Dog Control Orders (Procedures) Regulations 2006, which

- implement sections 55 and 56 of the Clean Neighbourhoods and Environment Act 2005.
- 3.6 The Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations provide for five offences which may be prescribed in a dog control order:
- a) failing to remove dog faeces;
 - b) not keeping a dog on a lead;
 - c) not putting, and keeping, a dog on a lead when directed to do so by an authorised officer;
 - d) permitting a dog to enter land from which dogs are excluded;
 - e) taking more than a specified number of dogs onto land.
- 3.7 The penalty for committing an offence contained in a Dog Control Order is a maximum fine of level 3 on the standard scale (currently £1,000). Alternatively, the opportunity to pay a fixed penalty may be offered in place of prosecution.
- 3.8 Currently there are 200 dedicated dog bins located in popular dog walking areas. Requests for additional bins are made to the Council by local residents so it is possible to identify where more bins could be located but there is no dedicated budget so dog bins are purchased from any identified underspend. There is no legal requirement for local authorities to provide dog bins but this has proven to reduce the amount of dog waste placed in litter bins by responsible owners wanting to dispose of their pets waste in a safe manner. Care For Your Area officers identified that dog fouling placed in litter bins tends to increase in the colder months when parks become less accessible and walkers stay within housing estates which tend to have more litter bins.
- 3.9 Maps do exist showing location of dog bins across the Borough. Eventually the location of all dog bins could be plotted using GIS with location details posted on the Council's website and Maps@Stockton.
- 3.10 A Task & Finish Group that considered rat and pigeon problems in the borough considered that purchase of available software would allow a connection to be made between the recording of reported problems on the Council's FLARE system; and the specific highlighting of locations, trends and other related problems on the Council's GIS system, which would assist officers in addressing problems in a more strategic manner, concentrating resources where they are required in a more economic manner than available at present. The estimated cost of the software was £8k.
- 3.11 It was recommended, and approved at Cabinet, that the benefits of the connectivity of the two systems be acknowledged and the Environmental Health Manager build into Service Improvement Planning the acquisition of the appropriate software necessary to achieve greater connectivity between use of the Council's FLARE and GIS systems. This Committee support this proactive approach and even in the financial constraints currently operating believe this would be a responsible and cost effective purchase to assist improved environmental standards.

Recommendations

- R1 Ensure that dog waste bins are GIS located and that this information is available on the SBC web site.**

- R2 To improve the reduction of dog fouling in the borough such incidents should be GIS recorded and that this information be available through the FLARE system.**
- R3 The call centre to include asking for the nearest lamp post number to assist locating dog fouling on the GIS system.**
- 3.12 Public concern is raised not only due to the unsightliness, smell and mess caused by dog faeces but also the human infection of Toxocariasis caused by the roundworm *Toxocara* found in dog faeces carrying eggs of the parasite. A single dog mess contains approximately 1 million microscopic eggs although the prevalence of *Toxocara* diminishes as a dog grows older.
- 3.13 As the parasite can last up to two years, contaminated soil and sand is often the carrier as the faeces degrade. The parasite can only infect humans if swallowed. Once swallowed the infection can last between 6 and 24 months. Frequently the infection is through hands, but also with the dogs themselves or through inanimate objects such as wheels of toys or the soles of shoes. The prevalence of the toxocariasis is said to be dominant in children between 18 months and 5 years of age.
- 3.14 Many infected soil samples are found in the vicinity of children's play areas, even though dogs are often banned from these areas. Other samples are found on streets. In the UK, about half of the most serious cases of Toxocariasis, such as blindness, occur in families who have never owned a dog or a cat.
- 3.15 *Toxocara* eggs are not infectious until the embryos begin to develop. This is usually at least 2 – 3 weeks after they have been deposited by a dog. As a result, freshly deposited faeces are not infectious, so they can be safely cleared up after a dog has defecated.
- 3.16 Under section 57 of the Clean Neighbourhoods and Environment Act 2005 a Dog Control Order can be made in respect of any land which is open to the air and to which the public are entitled or permitted to have access.
- 3.17 There are defences in all Dog Control Orders. No offence is committed if a person in control of a dog has a reasonable excuse for failing to comply with an order and it will be for the Courts to decide whether someone had a reasonable excuse for failing to comply with a dog control order. However, the prescribed Fouling of Land by Dogs Order in Schedule 1 to the Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations states specifically that being unaware of a dog's defecation, or not having a device or other suitable means of removing the faeces is not a reasonable excuse for failing to comply with the order.
- 3.18 Although the Dogs (Fouling of Land) Act 1996 has been repealed, the Order commencing the repeal provision preserves the offence under the 1996 Act in respect of any designation orders made prior to the repeal. Therefore any orders made under the 1996 Act will continue to have effect indefinitely, and enforcement through fixed penalty notices and prosecution can continue as normal. However, if any type of Dog Control Order is made that applies to land already subject to the 1996 Act, the 1996 Act ceases to have effect in respect of the land subject to the Dog Control Order. For example, if a district has designated all its land under the 1996 Act, but makes any type of Dog Control Order in respect of a park, the 1996 Act will cease to apply in respect of the park, but will continue to have effect in the rest of the district.

- 3.19 The authority 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.
- 3.20 Fixed penalties for offences under dog control orders may be issued by authorised officers under section 59(1) and (2). Section 59(11) defines who are 'authorised officers':
- Employees of primary and secondary authorities who are authorised for this purpose
 - Any person authorised (including employees of that person) in writing by a primary or secondary authority in pursuance of arrangements made by that person and the relevant authority
- 3.21 Section 62 extends the same powers to Police Community Support Officers and other persons accredited by Chief Police Officers under the Police Reform Act 2002.
- 3.22 In connection with dog control order offences, authorised officers of primary and secondary authorities have the power to require the name and address of a person they wish to issue with a fixed penalty notice. In such cases failure to supply these details or to give a false name and address to an authorised officer is an offence for which a maximum fine of level 3 (currently £1000) on the standard scale may be given upon conviction.

Recommendation

R4 To explore the possibility of Dog Control Orders, as per the Clean Neighbourhood and Environment Act 2005, for specified areas including enclosed children's play areas and associated public seating areas.

- 3.23 As a way of reminding dog owners to act responsibly Councillor Cains, on a visit to Market Weighton, noticed the use of pavement stencilling to further publicise the need to remove dog waste. The Committee was interested to see an example of this (reproduced below) and considered the likely effectiveness of introducing a similar scheme to targeted areas of Stockton Borough.



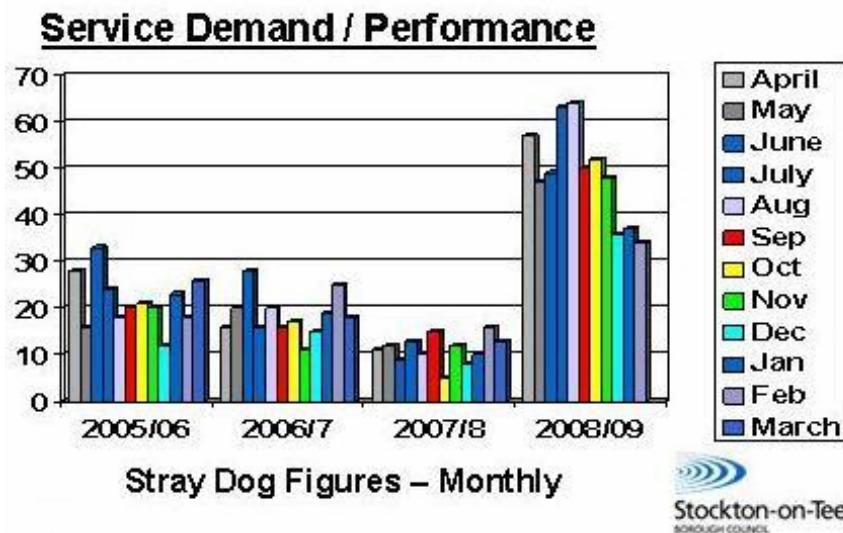
Recommendation

- R5 To introduce a pilot scheme of biodegradable pavement painted stencils in known areas of dog fouling to act as an additional reminder to dog owners to act responsibly.**
- R6 The Council turn it's attention to dog fouling problems on and around school grounds and on footpaths that are used to access school grounds and Safe Routes to School to try and minimise the incidence of children being exposed to a potential health and safety hazard.**

Animal Welfare

3.24 The following table and graph give an understanding of the level of work undertaken by the Council's Animal Welfare Department showing the trend from 2005 until 2008. The graph also includes the amount of work during most of the current municipal year showing a huge increase in work compared to the same months in previous years as a result of the adoption of new legislation and its transfer of responsibilities to the Council as well as the service becoming well known and charity organisations becoming overstretched.

ENVIRONMENTAL HEALTH UNIT PLAN: Animal Welfare				
OBJECTIVE: Investigate Animal Health and Welfare complaints and raise profile of service				
Area of Work	Objective	2005/6	2006/7	2007/8
Respond to dog complaints	Anticipated Service Requests	1930	2321	2212
	Respond within 5 days	92%	92%	89%
	Prosecutions / Formal Cautions	2	1	2
	% of stray dogs returned to owner	14.2%	22.1%	24.3%
Respond to complaints about other animals	Anticipated Service Requests	254	314	324
	Respond within 5 days	95%	93%	95%
	Prosecutions	0	1	0
Enforce the Dogs Fouling of Land Act	Public area dog fouling complaints	378	345	438
	Reduction in dog fouling complaints from previous year	-6%	-9%	+27%
	(378/403)	(345/378)	(438/345)	
	Patrols	832	867	642
	Warning letters sent (based on information from public)	122	87	103
	Fixed Penalty Notices	26	14	8
Increase the number of identifiable animals	Dogs micro chipped	440	696	504
	Other animals micro chipped	27	15	16
	Other animals	136	236	236
NCDL Neutering partnership	Dogs neutered	21	10	39
	Other animals	9/9	9/9	7/9
Inspect animal premises	Inspect all premises due	9/9	9/9	7/9
Education	School visits / Talks / Crucial Crew	11	15	12



- 3.25 The Clean Neighbourhoods and Environment Act 2005 transferred all responsibility for stray dogs from the police to local authorities. Previously the Council's service was provided week days between 9.00 a.m. and 5.00 p.m. A local authority may impose a fine on the owner of a dog picked up as a stray and also charge the owner kennelling costs. A stray dog that is not identified and re-claimed within seven days may be sent to a re-homing agency or, as a last resort be destroyed.
- 3.26 Under the Animal Welfare Act 2006, if one owns or is responsible, whether on a permanent or temporary basis, for an animal, one has a legal duty to take reasonable steps to ensure its welfare needs are met. A parent or guardian of a child less than 16 years old, is also responsible for any animal that child is in charge of or owns.
- 3.27 Breach of a provision of the code is not an offence in itself, but if proceedings are brought for a welfare offence under the Animal Welfare Act, a court may take into account the extent of compliance with the code in deciding whether an offence has been committed or has met the required standard of care.
- 3.28 Owning and caring for a dog is a big responsibility and a long-term caring and financial commitment. It is an owners responsibility to make sure that a pets' needs are met, whatever the circumstances. The law requires that reasonable steps are taken to ensure that a pet:
- Has a suitable environment to live in;
 - Has a healthy diet;
 - Is able to behave normally;
 - Has appropriate company;
 - Is protected from pain, suffering, injury and disease
- 3.29 The change in animal welfare legislation has had a concomitant impact on the working for animal welfare services, including the RSPCA, as reported by RSPCA Chief Inspector Gent. Previously an animal had to be suffering before a prosecution could be brought, now the act is designed to identify problems at an early stage, issue a warning notice stating what needs to be put right to improve the animals welfare, failure to act on the advise may lead to a prosecution. This means the animal does not actually have to suffer but prosecution can follow a person's failure to act as they have a duty of care.
- 3.30 The increase in the number of cases brings added problems in finding places to accommodate all variety of animals sometimes for long periods of time. The added costs have to become a factor in this process.
- 3.31 Historically the North East has been the busiest area in the UK for animal welfare issues with the highest investigation and prosecution work load for the country. Newcastle and Teesside areas came very close last year with over 100 cases taken in each area.
- 3.32 The Committee learned that Stockton Council is different to many of the other local authorities Chief Inspector Gent has had dealings with because it has its own animal welfare department. The Council's department contains two Animal Welfare Officers and two Animal Collection / Enforcement Officers. Usually local authorities refer all domestic animal cruelty complaints direct to the RSPCA call centre. His view was that Stockton's approach can only be a good thing as its acts proactively.
- 3.33 There have been times where, due to workload and for animal welfare reasons, the RSPCA has contacted the Council's department to assist, deal

and provide advice regarding calls which the RSPCA have received and vice versa. There have also been occasions where Council officers have been dealing with a particular incident for which the RSPCA also received a call about resulting in the two organisations liaising with each other to achieve the required outcome.

3.34 Even with such a positive method of working collaboratively Chief Inspector Gent put forward possible ways of further improving the animal welfare service in the borough. His suggested improvements are two-fold.

3.35 The first is a long-term policy to improve animal welfare by education and publicity. The area, which needs to be concentrated on, is the education of members of the public to be aware of the law and the animal's welfare. Until public attitude changes toward animals there will always be a minority who will allow animals to suffer. If this minority were educated at a young age then hopefully this will result in a reduction in animal cruelty. The Council can assist this as it can reach a wide spread network of schools and colleges in its area.

Recommendation

R7 To continue to use responsible dog ownership education packages in schools and explore the expansion of its delivery when budgetary pressures allow.

3.36 The second is the short-term problem, which the services are dealing with at present. Until there are adequate staffing levels both in the Council and the RSPCA this problem can only be managed and not solved. There is a lot of work to be done and a lot of proactive measures, which could be looked at if the funding and resources were there.

3.37 The Committee acknowledge that this is an issue for the RSPCA and the Council as both services brought it to the Committee's attention. At the time of writing this report the financial situation places constraints on all public organisations and whilst the Committee supports the need for appropriate resources being available this must be considered alongside available budgets.

3.38 The Committee agreed with the RSPCA that the introduction of compulsory dog registration and micro-chipping of dogs would be a great step towards improved animal welfare. A registration fee for this would hopefully make people think twice about even getting a dog. In the past the Council has offered, on occasion, micro-chipping as a free service, one of the many discretionary powers it has. The Committee would therefore be supportive of measures introduced to increase the level of responsibility for owners of dogs.

Recommendation

R8 The Committee recommend that the Council proactively lobby local MPs to campaign for the introduction of compulsory dog registration and micro-chipping of dogs.

4.0 CONCLUSION

- 4.1 The Committee commend the work of officers dealing with dog fouling and animal welfare issues. The sharp increase in work caused by changes in legislation place an incredible pressure on the finite resources available to deal with the concerns of the public.
- 4.2 Even under such pressures the Committee was heartened to learn of the proactive workings of the Animal Welfare Service which was singled out for praise by the local RSPCA branch.

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