

# **WEST DUNBARTONSHIRE COUNCIL**

## **Report by Head of Legal, Administrative and Regulatory Services**

**Housing, Environment and Economic Development Committee: 6 April 2011**

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**Subject: Management Rules for Parks and Open Spaces**

### **1. Purpose**

- 1.1** The purpose of this report is to update the Committee on the position with regard to the current Management Rules for Parks and Open Spaces. At Council on 29 September 2010, it was decided that there was to be a review of the Management Rules for Parks and Open Spaces, specifically relative to the control of dogs. The review was to consider altering the Management Rules to make it an 'offence' for a person with a dog not to have the dog on a leash at all times. It was also further agreed that Officers should undertake a public consultation exercise when carrying out the review.

### **2. Background**

- 2.1** The Management Rules for Parks and Open Spaces were revised in 2007 following public consultation. The Rules at the time were revised to take into account changes made by the Land Reform (Scotland) Act 2003 and also the Scottish Outdoor Access Code.

### **3. Main Issues**

- 3.1** Officers have met with the police and the National Park to discuss issues surrounding Management Rules. With regard to the issue of making it an offence for a person with a dog not to have a dog on a leash at all times, there has been recent legislation, which came into force on 26 February 2011, entitled the Control of Dogs (Scotland) Act 2010 that provides officers with powers to issue Dog Control Notices on dog owners who do not keep their dogs under proper control. This new legislation would allow authorised Council Officers to have powers to intervene in situations where the small minority of irresponsible dog owners are not exercising their rights correctly.

It is envisaged that this new legislation will be more effective than Management Rules to tackle the minority of cases of irresponsible dog owners who do not keep their dogs under proper control. In any event, the current Management Rules at Point 7 follows the Scottish Outdoor Access Code which does not require all dog owners exercising their access rights to specifically have their dogs on a leash. The Code at Points 3.53 and 3.54 refers to keeping dog(s) "under proper control". The requirement for 'under proper control' reflects the terms of the Land Reform (Scotland) Act 2003, Section 9(d) that access rights extend to people with dogs, provided that the dog(s) are "under proper control".

The Code further states that what 'proper control' means varies according to the type of place a dog owner is visiting and on a short lead or under close control may be appropriate in certain places.

- 3.2** It is, therefore, the position that to alter the Management Rules for Parks and Open Spaces to require dogs to be on a leash at all times in park areas would arguably be contrary to the terms of the Land Reform (Scotland) Act 2003 and the access legislation. It would also alienate the vast majority of responsible dog owners who exercise their access rights responsibly. It would penalise responsible dog owners who keep their dogs under proper control. It is not felt appropriate at this stage to put the current Management Rules, only recently revised in 2007, out to public consultation for this issue of the control of dogs. It is the Council's position that the Scottish Outdoor Access Code clearly outlines the rights and responsibilities of persons. There are a number of options open to Council Officers for people who are not exercising their access rights responsibly in terms of the current Management Rules, including Exclusion Orders from parks etc.

#### **4. People Implications**

- 4.1** There are no other significant people implications from this proposal.

#### **5. Financial Implications**

- 5.1** There are no significant financial or cost implications on the Council in terms of this proposal.

#### **6. Risk Analysis**

- 6.1** Having analysed the risk, it is considered that there are no risks in returning this proposal. If it is the position that Management Rules are to be altered to it being a breach of the Management Rules for a person with a dog not to have the dog on a leash at all times within parks and open spaces, then there are potential challenges under the Access Code and the Land Reform legislation by parties that are properly exercising their rights in terms of the Scottish Outdoor Access Code.

#### **7. Equalities, Health & Human Rights Impact Assessment (EIA)**

- 7.1** No significant issues were identified in a screening for potential equality impact in this report.

## **8. Conclusions and Recommendations**

**8.1** The Council has previously reviewed the Management Rules in 2007 to update them and make them compliant with the Land Reform (Scotland) Act 2003 and the Scottish Outdoor Access Code. New legislation is recently in place in terms of the Control of Dogs (Scotland) Act 2010 that will, hopefully, prove effective in tackling persons not keeping dogs under control effectively and consistently. The effectiveness of the new Act will be monitored by Officers. Therefore, there are a number of powers under the new legislation that allows Council Officers to deal with this small minority of dog owners who do not exercise their rights responsibly.

**8.2** It is recommended that the Committee:

- (a) note the terms of the Report and the terms of the new legislation to tackle the issue of persons who are not keeping proper control of dogs within parks and open spaces; and
- (b) make no changes to the current Management Rules for Parks and Open Spaces that were previously updated in 2007.

**Andrew Fraser**

**Head of Legal, Administrative & Regulatory Services**

**Date: 7 March 2011**

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**Appendix:** West Dunbartonshire Council's Management Rules for Parks and Open Space

**Background Papers:** None

**Wards Affected:** All