



Ward: All

Clean Neighbourhood & Environment Act 2005: Dog Control Orders

Report of the Street Scene Working Group

1.0 Summary

- 1.1 The Clean Neighbourhoods and Environment Act 2005 gives local authorities the opportunity to introduce Dog Control Orders.
- 1.2 Dog Control Orders provide for the use of Fixed Penalty Notices (FPNs). The currently default amount for Dog Control Offences is £75.
- 1.3 This report outlines the outcomes of the informal consultation process carried out over the summer and provides Draft Dog Control Orders that have been devised following this process. A summary of the consultation can be found in appendix A.

2.0 Background

- 2.1 The Clean Neighbourhoods and Environment Act 2005 has introduced five dog control offences that can be controlled by Dog Control Orders.
- 2.2 Section 55 of the Act enables local authorities or Town and Parish Councils to make Orders that apply to offences aimed at the control of dogs to specified land in their area.
- 2.3 An offence relates to the control of dogs if it relates to one of the following matters:
 - (a) fouling of land by dogs and removal of dog faeces;
 - (b) the keeping of dogs on leads;
 - (c) not putting, and keeping, a dog on the lead when directed to so by an authorised officer;
 - (d) the exclusion of dogs from land;
 - (e) the number of dogs which a person may take onto any land.

Dog fouling offences are not applicable to certain working dogs, guide dogs and designated assistance dogs.

- 2.4 Section 57 of the Act provides that Orders may apply to all public land which is open to the air and which the public are entitled or permitted to have access (with or without payment). There are exemptions to this definition which have been made by

the Secretary of State under the 'The Control of Dogs (Non-application to Designated Land) (England) Order 2006, which exempts Forestry Commission Land in respect of all Orders, and roads (including highways) in respect of Orders excluding dogs from land.

A road is defined in Section 142 of the Road Traffic Regulations Act 1984 as (in England and Wales) 'any length of highway or any other road to which the public has access, and includes bridges over which a road passes.' This definition includes public rights of way, including footpaths, and ways to which the public have access by permission of the landowner rather than by right, such as on private estates.

2.5 Section 59 of the Act allows authorised officers of the local authority or Town or Parish Council or any other person authorised in writing by the authority (such as a Police Community Support Officer with the Police Authority's consent) to issue a fixed penalty notice offering members of the public an opportunity to discharge any liability for offences under the Dog Control Order.

2.6 Section 60 enables a local authority or Town or Parish Council to specify the amount of fixed penalty in relation to their own Dog Control Orders. (The fine range is £50 - £80 and is specified by the Fixed Penalty (Miscellaneous Provisions) Regulations 2006. Authorities may also offer a reduced fine if payment is received within a specified time period. The current default amount is £75.

The penalty to be provided in relation to any offence under a Dog Control Order is, on summary conviction, a fine not exceeding level 3 on the standard scale (currently £1000).

2.7 The Overview and Scrutiny Committee has been considering this issue of Dog Control and has identified it as a priority. On 27 May 2008 Overview and Scrutiny agreed to informal consultation prior to the statutory process. Members were keen to discuss this matter with residents as they are aware that this is an important local issue. The consultation will also help to make sure that residents have the opportunity to shape and inform the final draft of the Orders. This matter has been considered by Street Scene Working Group and officers will be reporting back to the group on the findings of the consultation on Monday 29 September 2008.

2.8 The consultation period ran from 31st June until the 31st August 2008. The questionnaire was available online or hard copies were provided at the Civic Centre or by contacting the Street Scene Officer. Over 800 people took part in the consultation, demonstrating that this is an important issue for local people. A copy of questionnaire can be found in Appendix C.

2.3 The consultation generated significant media interest with articles in the Argus and Herald newspapers.

2.4 A number of interest groups and organisation were contacted as part of the consultation. A list of the organisations contacted can be found in appendix B and their comments have been included in the recommendations.

2.5 The Parish Councils have been consulted on the draft orders and no objections have been received. The Street Scene Project Officer is scheduled to attend a Parish Council meeting in Lancing on September 8th 2008 to update parish councillors on the process.

2.6 The informal consultation comprised of the following:

- A display at Adur Civic Centre from 31st June until 15th August
- Specific webpage on Dog Control Orders
- An online questionnaire for consultees to fill out (also available in hard copy)
- Consultation with the view point panel
- Posters in Libraries, Vets Practices, Buckingham Park and Pet Shops
- Letters sent to user groups and organisations with an interest in dog issues.
- Dedicated telephone and e-mail address for residents to call and ask questions.
- Articles in Adur Outlook (May and August editions)
- Press releases
- Meeting with PCSOs, the Police and local Housing Associations.
- Meeting with Lancing Parish Councillors scheduled for 8th September 2008.

A full summary of the results of the public consultation can be found in appendix A.

3.0 Proposals

3.1 Following the consultation the proposed Orders have been reviewed and amended where appropriate. These are outlined in the recommendations.

3.2 Over 90% of respondents supported the introduction of a Dog Control Order for dog fouling with over 60% of residents identifying that dog fouling is a problem in their neighbourhood.

3.3 Over 85% of respondents agreed that dogs should be on leads on the road, pavements, grass verges, footpaths, cemeteries and car parks. However, the Access Authority have asked that we clarify that the 'dogs on lead' order does not apply to access land, the Downs Link, bridleway, restricted byways and byways open to all traffic. There was also considerable support for the Council to authorise officers to instruct a dog walker to put dogs on a lead if necessary.

3.4 Although the majority of respondents supported the exclusion of dogs from the suggested areas, there are a significant number of residents who are concerned about dogs being excluded from rest gardens. The inclusion of the Rest Gardens in this Order is an anomaly and we are recommending that Rest Gardens (Cross Road, Croft Avenue and Manor Gardens) are removed from this Order.

3.5 There was some support for the exclusion of dogs from beaches; with 133 respondents suggesting that dogs should be banned from beaches during the bathing season. It is felt that at this stage that the Council should promote responsible use of public beaches by all users rather than introduce a blanket exclusion of dogs. Please note that Dog Control Orders can be amended in the future if necessary should any particular problems on the beaches arise. Officers will keep this matter under review.

- 3.6 Government guidance provides expert advice on the maximum number of dogs which a person can control and advises that this should not exceed six. Again, there is considerable support for this order, however some residents felt this was too many and would like to see the number of dogs restricted to a lower number. Again, officers will keep this matter under review.

4.0 Legal

- 4.1 The Dog Control Orders (Procedures) Regulations 2006 set out how Dog Control Orders shall be introduced by local authorities or Town and Parish Councils.

Before making a Dog Control Order the authority shall:

(a) Consult upon its proposals to make an order by publishing a notice of the proposal in a local newspaper circulating in the area in which the Order would apply is situated;

(b) Consult every other authority with powers under Section 55 of the Clean Neighbourhoods and Environment Act 2005, in the case of Adur, the Parish Councils;

(c) Where all or part of the land in respect of which the proposed order would apply is access land then we are required to consult with the Access Authority for that land, the local access forum for that land and the Countryside Agency, now Natural England.

- 4.2 The Notice referred to in Paragraph 4.1 (a) above shall identify the land that is Access Land; summarise the Order; state where any maps identifying the land can be viewed; state the period in which representations shall be made which should not be less than 28 days, state the address/e-mail where representations shall be made.

- 4.3 At least seven days before any Dog Control Order comes into force, Adur shall:

(a) where practicable place signs summarising the Order in conspicuous positions on or near land where the Order applies;

(b) publish in a local newspaper in the area where the Order applies a notice that the order has been made and stating the place where it may be inspected or copies obtained;

(c) Make available the information on the Councils website.

(d) Send copies of the information to the Parish Councils.

5.0 Financial implications

- 5.1 Publicity and administration costs have been met from existing resources. The cost of the dog control signage and some educational materials have been identified in the Street Scene Capital budget.

6.0 Recommendation

Members are asked to:

- i) Note the summary of the consultation on Dog Control Orders and agree the following recommendations;
 - a) **Fouling of Land by Dogs Control Order** – It is recommended that this should include all land which is open to the air which the public are entitled or permitted to access (with or without payment) within Adur including all parks and open spaces, cemeteries, car parks, beaches, nature reserves, roads, footpaths, pavements, alleyways, twittens, grass verges and other public spaces.
 - b) **The Dog on Lead Order** – it is recommended that this includes all roads, pavements, grass verges, footpaths, allotments and car parks, but not apply to access land, the Downs Link, bridleways, restricted byways and byways open to all traffic.
 - c) **The Dogs on Leads by Direction Order** - it is recommended that this includes all parks, open spaces, recreational ground, beaches, nature reserves, cemeteries, allotments, sports fields.
 - d) **The Dog Exclusion Order** - it is recommended that this order includes all children's play areas, skate parks, specified sports fields, the Civic Centre and the Adur recreational model car club area. It is also recommended that Rest Gardens (Cross Road, Croft Avenue and Manor Gardens) are not included in the dog exclusion order.
 - e) **The Dog (specified number) Order** – It is recommended that it becomes an offence to take more than six dogs onto land.
 - f) To allow for the inclusion of land owned by the Parish Councils following further consultation.
- ii) Agree the revised timeline in appendix E
- iii) Refer the matter to the Clean and Green Cabinet Member to agree the final Orders and commence the statutory process.

Local Government Act 1972

Background Papers:

Clean Neighbourhoods and Environment Act 2005
Dog Control Orders (Prescribed Offences and Penalties, etc) Regulations 2006
Dog Control Orders (Guidance on Sections 55 to 67 of the Clean Neighbourhoods and Environment Act 2005) DEFRA 2006
Fixed Penalty (Miscellaneous Provisions) Regulations 2006
Local Environmental Enforcement (Guidance on the use of fixed penalty notices) DEFRA 2007
Dog Fouling and the Law (A Guide for the Public) ENCAMS 2006
Report to Overview and Scrutiny - Clean Neighbourhood & Environment Act 2005: Dog Control Orders (27 May 2008)

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Appendix

1.0 Council Priority

1.1 To promote a clean and green environment

2.0 Specific Action Plans

2.1 These Orders will help Adur District Council in its duty under the Environmental Protection Act (EPA) 1990 to keep public areas clear of dog faeces.

3.0 Sustainability Issues

3.1 There are no particular sustainability issues raised by the report.

4.0 Equality Issues

4.1 Issues relating to disability are covered by the legislation and government guidance.

5.0 Community Safety issues (Section 17)

5.1 The introduction of Dog Control Orders will assist the Council in its duty to reduce crime and disorder in the district.

6.0 Human Rights Issues

6.1 Consultation has been undertaken to ensure that the introduction of Dog Control Orders is proportionate to the issues experienced by residents and the anticipated outcome.

7.0 Reputation

7.1 Cleansing and improvements in the street scene have been identified by the IdEA as having a significant impact of the Council's reputation. He Council has also identified 'to promote a clean and green environment' as one of its priorities.

8.0 Consultations

8.1 Details contained in the report.

9.0 Risk assessment

9.1 These will be addressed as part of the Enforcement Strategy.

10.0 Health & Safety Issues

10.1 Health and safety issues will be taken into consideration as part of the enforcement strategy.

11.0 Procurement Strategy

11.1 Procurement will be undertaken in accordance with the procurement strategy.

12.0 Partnership working

- 12.1 Officers will explore opportunities for joint working with Worthing Borough Council and other local authorities.

Appendix A

Dog Control orders questionnaire data

Q1 Where do you live by Q2 Do you own a dog?

Do you own a dog?

		Base	No reply	Yes	No	Considering one
Please state where in Adur you live	Base	858				
Fishersgate	7	1%	0%	56%	43%	1%
Lancing	225	26%	2%	34%	61%	3%
Shoreham by Sea	331	38%	2%	31%	64%	3%
Shoreham Beach	60	8%	1%	23%	74%	2%
Southwick	163	18%	2%	27%	61%	10%
Sompting	77	9%	1%	36%	55%	8%

In most areas the majority of respondents do not own a dog.

Q1 Where do you live by Q4 Dog fouling is a problem in my area

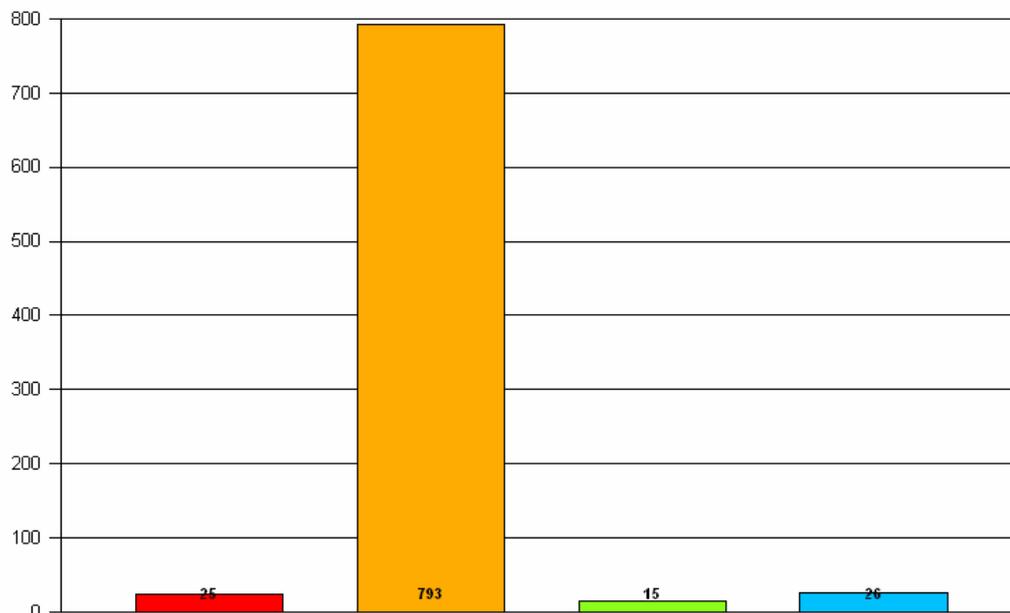
Dog fouling is a problem where I live

	Base	No reply	Strongly agree	Tend to agree	Neither	Tend to disagree	Strongly disagree	No opinion
<i>Where in Adur do you live?</i>	858	43	238	285	111	128	35	18
Fishersgate	7	0	72%	14%	14%	0	0	0
Lancing	225	4%	36%	32%	10%	10%	4%	4%
Shoreham by Sea	331	5%	21%	32%	16%	20%	5%	1%
Shoreham Beach	60	8%	28%	33%	16%	10%	3%	0
Southwick	153	5%	31%	35%	10%	14%	4%	1%
Sompting	72	4%	22%	40%	16%	15%	1%	2%

The majority of respondents either 'strongly agree' or 'tend to agree' that dog fouling is a problem in their area.

Q3 - count (not percentage)

Do you support the introduction of Dog Control orders for dog fouling throughout the district?



Overwhelmingly respondents supported the introduction of DCO throughout the district.

Q5 Please state any specific areas of dog fouling.

Beach	37
Buckingham Park	29
Church	6
Downs	20
Lancing (all including Green)	32
Manor Hall School	22
Middle Road	5
Mill Hill	11
Schools (other)	7
Southwick Green	7
Widewater	11

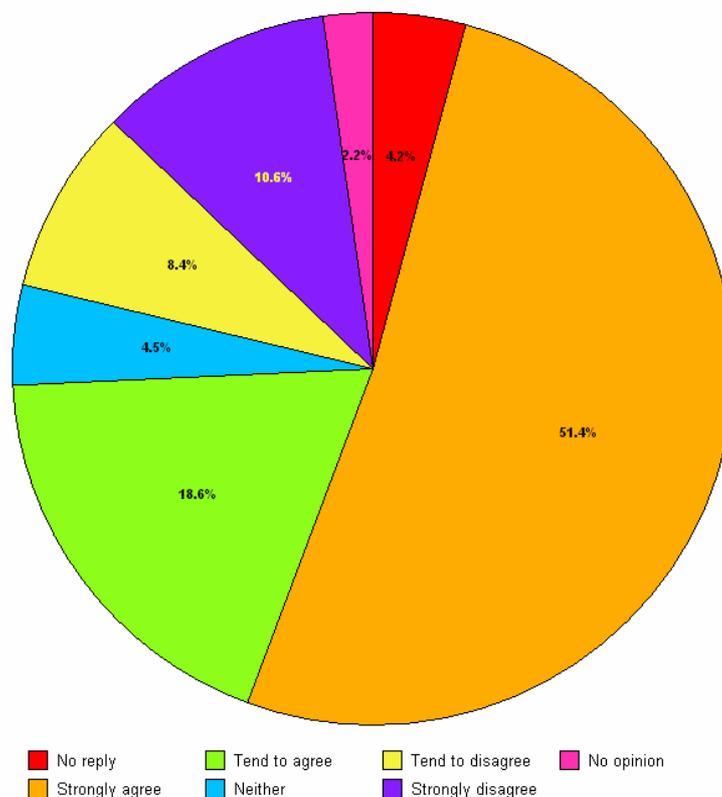
'Beaches' issue seems to be walkers walking dogs at low tide assuming faeces will be washed away, but it gets washed in with the tide.

There is an issue in Lancing that stood out over and above other area in the district. Specific areas noted were, the green and the twittens in the village.

Other areas where attention is needed are Buckingham Park and Middle Road School.

Q6 percentage

One dog walker should be restricted to walking only 6 dogs at any one time



51.4% of respondents strongly agree that dog walkers should be restricted to walking 6 dogs at a time. Below you will see the results of further questions 7 and 7a, do you think 6 is the right number? Although 67% of respondents felt 6 was not the right number, those that answered question 7a and responded, the highest number 4 only equates to 25% of the total respondents. Therefore it could be deemed that the majority of respondents felt that 6 is the right number of dogs.

Q7 Do you think 6 dogs is the right number

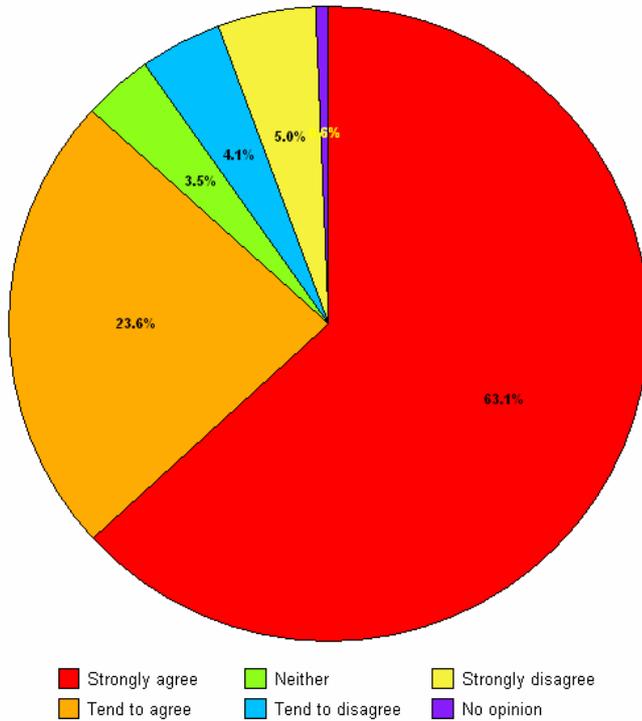
Yes 25%
 No 67%
 No reply 8%

Q7a If no how many?

0 = 1	6 = 1
1 = 9	7 = 1
2 = 131	8 = 4
3 = 161	9 = 0
4 = 216	11 = 1 (suggestion from respondent)
5 = 3	20 = 1 (suggestion from respondent)

Q8

Dogs should be kept on a lead on all roads, pavements, grass verges, and footpath, cemeteries, allotments, car parks. Do you...?



The majority of respondents strongly agree.

Q9

If will also be an offence to not put your dog on a lead if instructed to do so by an authorised officer.

Do you...?

Strongly agree	tend to agree	Neither	Tend to disagree	Strongly disagree	No opinion
66.0%	20.0%	4.0%	2.5%	5.0%	0.5%
564	175	32	15	41	4

No reply = 27 = 2%

Although 66% of respondents strongly agree with this proposal please note that there were concerns from respondents that if wardens were going to be employed that they would be able to use discretion. i.e. a well behaved dog walking calmly next to its owners may need to be considered differently to a badly behaved dog running all over the place.

Q10

	Base	% of total respondents	Yes	No	Not sure
Rest gardens	821	95.60%	70%	18%	12%
Children play areas	822	95.80%	95%	2%	3%
Bowling greens	827	96.30%	97%	2%	1%
Tennis courts	824	96%	97%	1%	1%
Fenced off grass areas / sports pitches	821	95.60%	80%	12%	8%

As you can see the vast majority of respondents support these proposals. Please note that a lot of people thought 'rest gardens' were memorial gardens, and perhaps the 70% figure should not be considered as a majority.

Q10f Please state any other areas of land you feel dogs should be excluded from.

Beaches	133
Parks	21
Schools	10
Churches	7
Allotments	6
Downs	6
Grass verges	4

As you can see the majority of those who chose to respond to this question felt that there should be a ban on beaches. The reality of this figure is 15.5% of the total number of respondents. However there is an issue with the beaches that will need to be noted; however it would seem that a ban is not supported.

Q11 Do you have any further comments you would like to make?

In total 447 (52%) of the total number of respondents chose to make a relevant comment in this section.

After reading through then all they were coded against 12 different subject matters.

- 1 Control (leads, muzzle, restricted locations)
- 2 Dog bins (more needed)
- 3 Licenses (introduction)

- 4 Education (publicity, signage, training for owners)
- 5 Beach (when, were, times)
- 6 Amount (of dogs walked at one time)
- 7 Wardens (who, where, shifts, funding)
- 8 Professional dog walkers (lack of control of the dogs they have)
- 9 Sports pitches (banning or not)
- 10 Abandoned bags (people dumping their bags not in the dog bins)
- 11 Fines (introduction of)
- 12 Children (walking dogs not in control, not picking up)

- 1 = 120 1st
- 2 = 71 2nd
- 3 = 18
- 4 = 28
- 5 = 41
- 6 = 20
- 7 = 57 3rd
- 8 = 12
- 9 = 21
- 10 = 30
- 11 = 46 4th
- 12 = 5

Q12 Gender by Q13 Age

	Age of respondent					
	Base	under 18	18-24	25-44	45-60	over 60's
Gender						
Male	316	0	1%	14%	28%	57%
Female	499	0	1%	22%	34%	43%

The total number of surveys received was 858

Appendix B – List of organisations contacted

Walkies
Access Authority
South Downs Joint
Committee
Secretary to the forum
Kennel Club
South Downs Access
Forum
Natural England
WSCC Highways
Lancing Parish Council
Sompting Parish Council
Shoreham Police Station
West Sussex PCT
Dogs Trust Shoreham
Friends of Lancing Ring
Farm Watch
Tenancy Manager
Corporate Health and
Safety Manager
CDRP Chair
Community Safety
Officer
Community Safety
Officer - ASB
CDRP
Shoreham Police
Worthing Homes
Guinness Trust
Southern Housing Group
Southern Horizon
Housing
Southdown Housing
Sussex Oakleaf Housing
Downland Housing

Dog Control Orders

Please read this summary of the proposals from the Clean Neighbourhoods and Environment Act 2005 before you complete the questionnaire.

The Clean Neighbourhood and Environment Act 2005 has introduced five dog control offences that can be controlled by Dog Control Orders.

An offence relates to the control of dogs if it relates to one of the following matters:

- (a) fouling of land by dogs and removal of dog faeces;
- (b) the keeping of dogs on leads;
- (c) not putting, and keeping, a dog on the lead when directed to so by an authorised officer;
- (d) the exclusion of dogs from land;
- (e) the number of dogs which a person may take onto any land.

* The Council is proposing to cover the whole District with regards to fouling of land by dogs and removal of dog faeces. Dog fouling offences are not applicable to certain working dogs, guide dogs and designated assistance dogs, nor would the offence apply where consent is given by the land owner. The proposed order will include any land that is open to the air and to which the public are entitled to have access (with or without payment)

* The Council is proposing that dog on lead offences will apply to all public roads, pavements, grass verges, footpaths and public owned cemeteries, allotments and car parks.

* The Council is proposing that the offence of not putting and keeping a dog on the lead when instructed by an authorised officer will apply to parks, open spaces, recreational grounds, beaches, nature reserves, and public owned cemeteries, allotments and car parks.

* The Council is proposing that the offence of allowing a dog into a dog exclusion area will apply to all rest gardens, children's play areas, bowling greens, tennis courts, multi-sports areas and fenced off grass areas all of which will be specifically listed.

* The Council is proposing that the offence of taking more than a specific number of dogs on to land will only apply to a person in control of 7 or more dogs at any one time, i.e. a person will be allowed to walk 6 dogs as recommended by Government Guidance.

Q1 Please state where in Adur you live

- Fishersgate*
- Lancing*
- Shoreham by Sea*
- Shoreham Beach*
- Southwick*
- Sompting*

Q2 Do you own a dog?

- Yes*
- No*
- Considering one*

Q3 Do you support the introduction of Dog Control orders for dog fouling throughout the district? This would make it an offence for dog owners not to remove dog faeces immediately.

- Yes*
- No*

Not sure

Q4 Dog fouling is a problem in my area.

	<i>Strongly agree</i>	<i>Tend to agree</i>	<i>Neither</i>	<i>Tend to disagree</i>	<i>Strongly disagree</i>	<i>No opinion</i>
Please tick one box only	<input type="checkbox"/>					

Q5 Please state any specific areas of dog fouling

Q6 One dog walker should be restricted to walking only 6 dogs at any one time.

	<i>Strongly agree</i>	<i>Tend to agree</i>	<i>Neither</i>	<i>Tend to disagree</i>	<i>Strongly disagree</i>	<i>No opinion</i>
Please tick one box only	<input type="checkbox"/>					

Q7 Do you think 6 dogs is the right number?

Yes.....
No.....

*If no, please state
how many you
deem reasonable*

Q8 Dogs should be kept on a lead on all roads, pavements, grass verges and footpaths, cemeteries, allotments, car parks. Do you...?

	<i>Strongly agree</i>	<i>Tend to agree</i>	<i>Neither</i>	<i>Tend to disagree</i>	<i>Strongly disagree</i>	<i>No opinion</i>
Please tick one box only	<input type="checkbox"/>					

Q9 It will also be an offence to not put your dog on a lead if instructed to do so by an authorised officer. Do you...

	<i>Strongly agree</i>	<i>Tend to agree</i>	<i>Neither</i>	<i>Tend to disagree</i>	<i>Strongly disagree</i>	<i>No opinion</i>
Please tick one box only	<input type="checkbox"/>					

Q10 Dogs should be excluded from the following locations:

	<i>Yes</i>	<i>No</i>	<i>Not sure</i>
Rest gardens	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Childrens play areas	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bowling greens	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tennis courts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fenced off grass areas / sports pitches	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

*Please state any other areas of land you
feel dogs should be excluded from.*

Q11 Do you have any further comments you would like to make?

Appendix D – The revised timeline

Dog Control Orders Timeline

