



CABINET REPORT

Report Title	STRAY DOGS APPOINTMENT OF OFFICER
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AGENDA STATUS: PUBLIC

Cabinet Meeting Date:	9 MAY 2018
Key Decision:	YES
Within Policy:	YES
Policy Document:	NO
Directorate:	Customers and Communities
Accountable Cabinet Member:	Cllr Mike Hallam
Ward(s)	All Wards

1. Purpose

- 1.1 To secure Cabinet agreement to appointment of an officer to discharge the Council's functions in relation to stray dogs and allow delegation of those functions under relevant contracts.

2. Recommendations

- 2.1 That Cabinet approve the appointment of the Environmental Health and Licensing Manager to discharge the Council's functions in relation to stray dogs to allow the officer to further delegate their responsibilities under the contracts for stray dog collection and kennelling.

3. Issues and Choices

3.1 Report Background

- 3.1.1 The Council's current contracts relating to dog collection and kennelling services expire in June of this year. The Council is currently involved in a procurement process to secure provision of further services to succeed those contracts. As is usual for such processes, a review of the relevant legislation has been undertaken.
- 3.1.2 Amendments to the law which have taken effect since the Council's Scheme of Delegation was drafted slightly alter the Council's responsibilities in relation to stray dogs, and it is therefore necessary to ensure that an officer is properly appointed to discharge those amended functions.
- 3.1.3 When the Council's Scheme of Delegations to officers was drafted both the Council and the police had responsibilities under the Environmental Protection Act 1990 ('1990 Act ') in relation to collection of stray dogs and failure to ensure that a dog has an identity tag. Since that time the police powers have largely been repealed and the Council is solely responsible for collecting stray dogs in its area and service of relevant notices on those believed to be the owner. The powers in relation to identity tags have also been repealed and replaced with provisions requiring microchipping which the Council enforces through another piece of legislation which is delegated to officers. As a result the delegations to officers do not quite match the responsibilities which now exist under the 1990 Act.
- 3.1.4 The 1990 Act contains a specific provision in relation to discharge of responsibilities in relation to stray dogs. The 1990 Act requires the Council to appoint an officer to discharge its functions under sections 149 and 150 in relation to stray dogs. The officer, once appointed, may delegate their responsibilities to another person but remain responsible for securing that the functions are properly discharged.

3.2 Issues

- 3.2.1 Unlike most Council functions which allow the Council to decide how a function is to be discharged, the 1990 Act expressly states that the functions must be discharged by an Officer specifically appointed for that purpose. Further, unlike most Council functions, that officer once appointed has a specific power to delegate the performance of some or all of their functions.
- 3.2.2 If the Council can not show that it has properly appointed an officer under section 149 then there is a risk that the Council would be challenged in relation to whether stray dogs are lawfully seized and may prevent recovery of the sums payable by owners who collect their dogs from the Council or its agent.
- 3.2.3 Further, since the Council is now entering into new contracts for collection and kennelling of stray dogs, if the officer is not properly appointed, they will not be able to delegate their functions to the contractor or contractors concerned. This may in turn lead to difficulties in recovery of the collection fees and

kennelling costs from owners and expose the Council to further liability under the contracts concerned.

- 3.2.4 Since the Cabinet has already approved the award of further collection and kennelling contracts a failure to appoint an officer under the 1990 Act is likely to impact on the award and enforcement of those contracts.

3.3 Choices (Options)

- 3.3.1 Members can agree to the appointment of an officer to discharge the Council's functions which will ensure that the powers concerned can be properly discharged.
- 3.3.2 Members can decide not to appoint an officer to discharge the Council's functions however; if an officer is not appointed the Council will be in breach of its duty to do so and it will not be possible to delegate those functions to the new contractor or contractors. It could also restrict the Council's power to recover sums due for kennelling and return of stray dogs and require the Council to pay higher sums under the contracts concerned.
- 3.3.3 It is therefore recommended that the Cabinet appoints the Environmental Health and Licensing Manager under section 149 of the 1990 Act.

4. Implications (including financial implications)

4.1 Policy

- 4.1.1 Cabinet has already approved the award of further collection and kennelling contracts.

4.2 Resources and Risk

- 4.2.1 Budgetary provision has already been made to pay external contractors for the collection and kennelling of stray dogs, up to the value of £30,000.00.
- 4.2.2 Budgetary provision has also been made for an officer to monitor the contract.

4.3 Legal

- 4.3.1 The legal provisions which apply are set out in the body of this report. If the Council does not appoint an officer for the purposes of discharging the provisions concerned it will not be able to properly enforce them. This could affect the Council's ability to recover costs from those whose stray dogs are collected from the Council and inhibit the discharge of the contracts for collection and kennelling of dogs.

4.4 Equality and Health

- 4.4.1 The proposal relates equally to all residents of Northampton and there are no equalities implications.

4.5 Consultees (Internal and External)

4.5.1 Legal and Finance

4.6 How the Proposals deliver Priority Outcomes

4.6.1 The appointment of an officer to discharge the Council's functions in relation to stray dogs via the appointed contractor or contractors supports the Priority 2 objective of creating an attractive, clean and safe environment. By properly discharging these duties the Council will assist in making streets, parks and open spaces more attractive to visitors and can assist in keeping those areas clean and tidy.

4.7 Other Implications

4.7.1 None

5. Background Papers

5.1 None

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