



Littering & dog fouling - penalties and enforcement issues

Summary:

The Comité des Connétables wants your views on the issue of litter, including dog fouling, the current penalties and enforcement options available and alternative options which might be considered.

Start date: 9 October 2015

**End date and
deadline for comments:** 31 December 2015

Outline of consultation

Dropping litter, and not clearing up dog faeces, is an offence under Jersey.

A review of the policing of beaches and parks was carried out by the Education and Home Affairs Scrutiny Panel in 2011.

The Panel concluded that the existing legislation is sufficient and does not require amendment but did say:

“It is a reality that littering is given lower social priority than crimes such as vandalism or theft, and is therefore given lower policing priority. Nevertheless, considerable public concern remains, and it would seem appropriate that the Minister for Home Affairs should work with the States of Jersey Police and Parishes to enforce the existing regulations addressing antisocial behaviour and littering as a priority, ensuring consistency across the Parishes.”

How should we encourage greater compliance but also identify offenders? What is an appropriate penalty that will deter further offences? Are the required resources available to identify and to catch offenders and is the administration required to impose a penalty proportionate and affordable?

Consultation

Comité des Connétables



Ways to respond

Survey: <https://www.surveymonkey.com/r/8N9CJJD>
Write to: Littering and dog fouling consultation
Comité des Connétables, East Wing, RJA&HS, Route de la Trinité,
Trinity, JE3 5JP

This consultation paper has been sent to the Public Consultation Register.

Feedback on this consultation

We value your feedback on how well we consult or seek evidence. If you have any comments on the process of this consultation please contact the Comité des Connétables Secretary by Email: sr.degruchy@gov.ie or write to: Comité des Connétables, East Wing, RJA&HS, Route de la Trinité, Trinity, JE3 5JP.

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1. Background

A review of the policing of beaches and parks was carried out by the Education and Home Affairs Scrutiny Panel.

The Panel's report 'Policing of Beaches and Parks' (S.R.10/2011) was presented to the States in 2011.

In his foreword to that report the Chairman of the Panel said –

For many people Jersey is a beautiful Island, its beaches and parks being of great importance to Islanders and Tourists alike. These areas are where many spend their leisure time, and so the vast majority of people care about the condition of these sites.

However, it would appear that for some standards are slipping, and through the Scrutiny process members of the public have expressed their concerns. Indeed, the Sub-Panel received significantly more submissions in its call for evidence than are usually received by Scrutiny Panels.

The question for the Sub-Panel throughout was "How do you deal with the minority that do not behave in a responsible manner?" What became apparent during the course of the Review was that in order to combat anti-social behaviour in all of its forms, a multi-pronged approach was essential.

The Panel concluded that the Policing of Beaches (Jersey) Regulations 1959 and the Policing of Parks (Jersey) Regulations 2005 are sufficient and do not require amendment but did say:

"It is a reality that littering is given lower social priority than crimes such as vandalism or theft, and is therefore given lower policing priority. Nevertheless, considerable public concern remains, and it would seem appropriate that the Minister for Home Affairs should work with the States of Jersey Police and Parishes to enforce the existing regulations addressing antisocial behaviour and littering as a priority, ensuring consistency across the Parishes."

The 2014 social survey asked for views on the cleanliness of various facilities which are summarised in the table below.

Around nine in ten rated the cleanliness of roads and pavements to be 'good' or 'very good', and over 80% gave a similarly high rating to the cleanliness of beaches in Jersey (see Table 7.2 below).

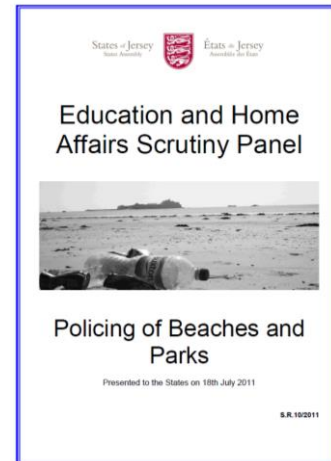




Table 7.2 “How would you rate the following in Jersey?”	Very good	Good	Poor	Very poor	Don't know	Total
Cleanliness of roads and pavements	24	67	8	1	0	100
Cleanliness of car parks	15	65	13	1	6	100
Cleanliness of public toilets	11	52	21	5	10	100
Cleanliness of main and fish market in town	27	65	2	0	5	100
Cleanliness of promenades	22	71	3	0	4	100
Cleanliness of beaches	19	66	11	1	2	100
Cleanliness of piers and areas around the harbour buildings	13	66	9	1	10	100

2. Current legislative position

Dropping litter, and not clearing up dog faeces, is an offence under Jersey law (see section 5 below).

The Policing of Beaches (Jersey) Regulations 1959 makes it an offence to:

- deposit, throw down or leave any refuse of any nature whatsoever;
- fail to remove any faeces deposited by a dog of which the person is in charge

The Policing of Parks (Jersey) Regulations 2005 makes it an offence to:

- leave refuse in a park;
- fail to clean up any faeces deposited by a dog of which the person is in charge;

The Policing of Roads (Jersey) Regulations 1959 makes it an offence to:

- deposit, throw down or leave any refuse of any nature whatsoever;
- permit any animal to foul a footpath;
- foul the road with saliva, mucus or other excrement;
- fail to remove any faeces deposited by a dog of which the person is in charge;

The penalty for committing an offence listed above is a fine of up to £500 but, if the offence is dealt with at a Parish Hall Enquiry, a penalty of up to £200 may be imposed.

It is therefore the responsibility of -

- each person not to create litter and
- each dog owner to ensure they clean up dog faeces and dispose of it appropriately (not by leaving plastic bags in the hedgerow!).



Despite the high rating on cleanliness, littering and dog fouling is regularly the subject of correspondence to Connétables and to the media.

The issue is therefore how to discourage people from littering but also to identify offenders and to impose an appropriate penalty that will deter further offences.

In particular, the resources required to identify and to catch offenders must be available and the administration required to impose a penalty must be proportionate and affordable.

It is important that any changes to legislation take into account a wide range of views and experiences. Therefore we would like to hear from members of the public and dog owners.

3. Improving compliance

So what is being done, what could be done and who should meet the cost?

Littering and dog fouling have a low priority in the States of Jersey Policing Plan as few complaints are made.

But littering and dog fouling have the following impact:

- creates an eye-sore
- spoils the Island's natural beauty
- environmental impact (dog fouling affects the natural balance of the soil and damages the native ecosystem)
- cost to the ratepayer and taxpayer from removing litter
- health risks associated with dog faeces (toxocariasis, though a rare condition, can cause severe symptoms and can lead to blindness for humans; and bovine neosporosis¹ causes abortion in cattle with infection arising from feed, including silage, and water sources contaminated with dog faeces)
- anti-social behaviour
- negative impact on the environment



Litter can include larger items which are dumped in rural and isolated areas (sometimes referred to as "fly-tipping") rather than taken to the recycling sites operated by Transport and Technical Services. Household items such as settees, fridges, etc are the usual type of items but often green waste and industrial items have also been found. There are public health and environmental implications of dumping toxic waste and other pollutants.

¹ Testing for bovine neosporosis is estimated to cost the Jersey dairy industry £20,000 p.a.



Campaigns/education

The Scrutiny Panel recommended a “prominent media campaign” – would this be effective in the long-term and should it be funded by the taxpayer or the ratepayer?

Various groups and organisations have assisted with campaigns including “Stop the drop” and the “Dog mess” campaign.

The Department of the Environment has work projects aimed at reducing such antisocial behaviour:

- the Natural Environment Team projects are aimed at public open spaces;
- the Marine Resources Team deals with marine litter
- the eco-Active Programme (including beach cleaning and dog fouling) and the Environmental Protection team’s fly-tipping project
- multi States department and parish initiatives have addressed security of loads on vehicles and the responsible use of leaf blowers.

Between 2004 and 2007 the Environment Department coordinated campaigns to deal with dog mess and to educate the public about the health and environmental implications of not cleaning up after their dogs. The results were considered promising as they showed that the campaigns were successful in the short term and also had a long term effect in educating people to pick up their dog’s mess.

In the 6 areas which were monitored, there was a reduction in the amount of waste found of between 48% and 82% in the week following the campaign compared to the week before the campaign was launched. Since then specific areas have been targeted by the Department with signage and staff on site.



In May 2015 Eco-Active launched the “proud of you (for picking up my poo) campaign”. The campaign aims to educate people to be responsible owners and always pick up after their dog. An assortment of publicity materials is available including pin badges; bin stickers; poo bags; and posters available from Parish Halls, pet-shops etc.

The public is also encouraged to notify the worst areas for dog mess so these can be the focus of efforts to improve them (areas can be reported using Facebook, Twitter or by email). ‘Hot spots’ will have additional publicity displayed and will be visited a week later to assess whether there is less dog mess.

Initial feedback suggests the campaign has been effective and resulted in public engagement; the final results will be published in due course.



Policing options - Parish Hall Enquiry and Court options

There are two stages in any decision to prosecute.

- The first stage is the evidential test i.e. is there sufficient evidence to provide a realistic prospect of conviction against each defendant on each charge. Can the evidence be used in Court and is the evidence reliable? If a police officer witnesses an offence s/he could provide evidence; or statements may be provided by witnesses to corroborate evidence. If the case does not pass the evidential test it must not go ahead no matter how important or serious it may be.
- The second stage is the public interest test. This must be considered in each case where there is enough evidence to provide a realistic prospect of conviction. Deciding on the public interest is not simply a matter of adding up the number of factors on each side but also of deciding how important each factor is in the circumstances of each case.

If an offence such as littering or dog fouling is witnessed by a police officer the pragmatic approach is to ask the person to place the litter in a suitable receptacle. This encourages compliance and is an appropriate interaction with the public for what might be considered a 'low level' offence.

Further action, including giving words of advice, might only be taken if the person did not comply with the request or was otherwise obstructive in his/her behaviour.

"Words of advice" are often used for a first offence of a minor nature. Since June 2013 all "words of advice" are recorded by the States of Jersey Police against a person's record. However there are no recorded instances of Police giving "Words of Advice" since recording began for either littering or for dog fouling incidents.

In response to a question in the States on 17 January 2012 the Chairman of the Comité des Connétables replied that no fines had been imposed for dog fouling offences over the previous 3 years under the Policing of Roads (Jersey) Regulation 1959, as amended. There has been one fine imposed since then for the offence of 'Failing to remove dog faeces'. In the last 6 years two other incidents have been dealt with by the Honorary Police. A written caution was issued on one occasion and no further action was taken on another occasion.

Fixed penalties / spot fines

An alternative to hearing an offence at a Parish Hall Enquiry or in Court is the use of a fixed penalty or spot fine.

These are a type of financial penalty that police and other officials can issue to punish people for certain offences without the usual legal procedures. Such fines must be paid immediately. If not, the person issued with the fine might face prosecution.



A “Fixed Penalty Law” has been introduced in Guernsey and further details are in section 4 below.

Authorised officers

Legislation covering both beaches and parks empowers an authorized person to require, on demand, the name and address of any person who has committed a “prohibited act” in a park or on a beach (‘prohibited act’ is defined in the relevant legislation).

It is an offence for a person to fail to comply or to give a false name or address (the penalty is a fine of £500 (level 2 on the standard scale)).

An authorised officer is a police officer and any person appointed by the Minister². In July 2014 the following were appointed as authorised officers and issued with identity cards –

- 5 officers from the Department of the Environment and
- 70 officers from the Transport and Technical Services Department.

Four Parish Wardens have also been appointed in various parishes by the relevant Connétable.

Should more people be appointed as Wardens/authorised officers to police parks and beaches? Are the current powers to take the name and address of a person who has committed an offence sufficient or should they have greater powers?

DNA profiling for dogs

Some other jurisdictions have turned to DNA profiling to track dog owners who don't clean up their pet's mess. A database of the DNA profile of every dog would be maintained and a sample taken from dog faeces would be tested and matched to identify the culprit.

Dog profiling may be done by oral swabs or EDTA blood. A sample of faeces would be profiled using smears from the surface of fresh faeces containing gut cells. Only the faeces' surface contains gut cells from the dog, the faeces inside mostly contains DNA material from the dog's food so DNA profiling from faeces may be challenging as the surface could be contaminated by other dogs.

It might be possible to link the DNA profiling to the annual licence which must be purchased by an owner for each dog he/she keeps but some new legislation would undoubtedly be required. Initial enquiries indicate the cost of a test kit might be in the region of £25 per dog (some 7,000 dogs are licensed each year) and the cost of testing a faeces sample might be in the region of £80 (this cost might be recovered from the dog owner in addition to any penalty which might be levied). There would be

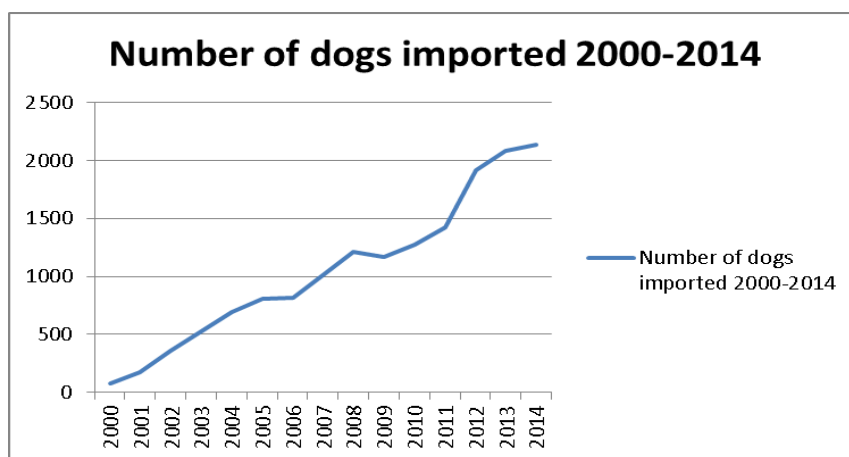
² Minister for Economic Development in respect of beaches; Minister for Transport and Technical Services in respect of parks.



a cost to maintaining the database of DNA profiles. Several companies would offer this type of service but further work would be required to establish a more precise cost.

Whilst DNA profiling would appear attractive, especially in an insular setting, it must be remembered that there is a pet passport scheme and dogs are regularly brought into and out of the island. Imports under Pet Travel Scheme are shown in the table below (some may be repeats i.e. Jersey dogs returning to the island on a regular basis from holidays in Europe and the figures do not include imports from UK and other Channel Islands, including those arriving on private vessels). Should all dogs, including those visiting, be sampled?

Year	Number of dogs imported 2000-2014
2000	77
2001	170
2002	357
2003	528
2004	689
2005	805
2006	815
2007	1008
2008	1215
2009	1169
2010	1270
2011	1422
2012	1913
2013	2085
2014	2139



4. Examples from other countries

Guernsey – fixed penalties

A “Fixed Penalty Law” has been introduced in Guernsey. The Offences (Fixed Penalties) (Guernsey) Law 2009 came into force on 1 July 2012 and enables a fixed penalty notice to be issued for a range of offences include the dropping of litter, control of dogs and boating offences, parking and motoring related offences. The Law has different levels of fixed penalty to reflect the relative seriousness of the different categories of offence. In the event that the fixed penalty is paid within seven days of the issue of the fixed penalty notice the amount payable is reduced by £10. Examples are -

- Band A Fixed Penalty Offence - £40 (reduced to £30 if paid within 7 days)
- Band B Fixed Penalty Offence - £70 (reduced to £60 if paid within 7 days)
- Band C Fixed Penalty Offence - £100 (reduced to £90 if paid within 7 days)

Band B includes offences such as the dropping of litter and the wrongful use of litter bins and dumping refuse.



Band C includes failure to clear a dog's faeces and prohibition of dog fouling in certain places.

Over 16,000 fixed penalty notices were issued in each of 2013 and 2014 with about 85% relating to Band A offences. 70% of fixed penalty notices are paid within 7 days thus benefitting from £10 discount. In 2013/2014 –

- only 1 fixed penalty notice was issued for dog fouling;
- 42 fixed penalty notices were issued for dropping litter.

United Kingdom – love clean streets App

Love Clean Streets! is an environmental reporting service. The app is recommended and supported by Keep Britain Tidy, Keep Scotland Beautiful and Keep Wales Tidy. It is free and very easy to use to make an environmental report which then reaches the right team within the correct authority.



It can be used to report graffiti, fly-tipping or fly-posting, potholes, abandoned cars, dog mess, and many other categories relevant to the area.

Australia

Anti-litter campaigns are promoted under the banner Keep Australia Beautiful (KAB).

Past campaigns included a fictitious "Litterers Anonymous" formed by a group of Australian celebrities. The Litterers Anonymous campaign hoped to make people more accountable for their actions and remind people to use the bin – and the right bin – given the growing number of recycling bins available in public places.

Under Local Law in Brisbane fines can be imposed for littering and dog fouling. A fine of \$58 can be imposed for failing, when walking a dog, to carry a bag or container for its droppings. A fine of \$235 can be imposed for failing to pick up and dispose of your dog's droppings when you walk your dog. Littering and illegal dumping may attract on the spot fines between \$235 and \$1884.

The Keep Australia Beautiful (KAB) Litter Report Scheme allows registered Litter Reporters to report littering or dumping of matter from a car, trailer or boat. When littering or dumping from a vehicle is reported to the KABC, a fine or infringement notice is issued to the registered owner. The registered owner of the vehicle is considered to have committed the offence unless they can give the name of any person authorised by the registered owner to use the vehicle at that time. The driver is also responsible for their passengers in relation to this offence unless they can give the name and contact details of the passenger concerned. An infringement of up to \$500 may be issued for individuals or up to \$2000 for companies.



5. Additional information

For additional information please refer to:

Education and Home Affairs Scrutiny Panel report S.R.10/2011 “Policing of Parks and Beaches”

“Policing of Beaches and Parks (S.R.10/2011): Consolidated Ministerial Response” S.R.10 Res.

The Policing of Beaches (Jersey) Regulations 1959 makes it an offence to:

- deposit, throw down or leave (otherwise than in a receptacle provided for the purpose) any bottle, tin, container, glass, crockery, paper, wrapper or any refuse of any nature whatsoever;
- fail to remove forthwith from the beach any faeces deposited by a dog of which the person is in charge (not being a guide dog in the charge of a blind person), for the purposes of which it shall be a sufficient removal if the faeces are hygienically disposed of in a receptacle provided for the deposit of litter

The Policing of Parks (Jersey) Regulations 2005 makes it an offence to:

- except in a receptacle provided for the purpose, leave refuse in a park;
- when in charge of a dog in a park, fail to clean up any faeces deposited by the dog;

The Policing of Roads (Jersey) Regulations 1959 makes it an offence to:

- deposit, throw down or leave (otherwise than in a receptacle provided for the purpose) any bottle, tin, container, glass, crockery, paper, wrapper or any refuse of any nature whatsoever;
- permit any animal to foul a footpath;
- foul the road with saliva, mucus or other excrement;
- fail to remove forthwith from the road any faeces deposited by a dog of which the person is in charge (not being a guide dog in the charge of a blind person), for the purposes of which it shall be a sufficient removal if the faeces are hygienically disposed of in a receptacle provided for the deposit of litter;

States of Guernsey - Offences (Fixed Penalties) (Guernsey) Law 2009



SURVEY

Thank you for taking time to consider this consultation.

If you wish to give your views on the issue of litter, including dog fouling, the current penalties and enforcement options available and alternative options which might be considered please complete the survey available online or in paper format.

- Online survey: <https://www.surveymonkey.com/r/8N9CJJD>
- Paper survey – return to Littering and dog fouling consultation, Comité des Connétables, East Wing RJA&HS, Route de la Trinité, Trinity, JE3 5JP.

How we will use your information

Thank you for taking time to complete this survey.

The information you provide will be processed by the Comité des Connétables in compliance with the Data Protection (Jersey) Law 2005 for the purposes of this consultation.

The Comité des Connétables may quote or publish responses to this consultation but will not publish the names and addresses of individuals without consent. Confidential responses will still be included in any summary of statistical information received and views expressed.

Under the Freedom of Information (Jersey) Law 2011, information submitted to this consultation may be released if a Freedom of Information request requires it but no personal data may be released. For more information about how we handle data please contact the Comité des Connétables, East Wing RJA&HS, Route de la Trinité, Trinity, Jersey JE3 5JP E: sr.degruchy@gov.je T: 01534-767555.

The deadline for comments is 31 December 2015.

Consultation

Comité des Connétables



Littering and dog fouling - penalties and enforcement issues survey

The Comité des Connétables wants your views on the issue of litter, including dog fouling, the current penalties and enforcement options available and alternative options which might be considered.

Complete the survey and return it **by 31 December 2015** to: Littering and dog fouling consultation, Comité des Connétables, East Wing, RJA&HS, Route de la Trinité, Trinity, JE3 5JP

1. Do you consider littering and dog fouling in public places is a problem in Jersey? (tick one option for each)

	Not at all	A little	Somewhat	Quite	Extremely
Littering	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Dog fouling	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

2. Does the amount of litter and dog fouling need further policing? (tick one option for each)

	Not at all	A little	Somewhat	Quite	Extremely
Littering	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Dog fouling	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

3. Which options do you consider are, or might be, effective to discourage littering? (rate the options, 1 most effective, 8 least effective)

<input type="checkbox"/>	Use existing legislation
<input type="checkbox"/>	Use existing legislation but increase penalties
<input type="checkbox"/>	More policing to discourage littering and dog fouling
<input type="checkbox"/>	Make greater use of "words of advice"
<input type="checkbox"/>	Introduce new Fixed Penalty legislation
<input type="checkbox"/>	Occasional campaigns
<input type="checkbox"/>	Regular campaigns
<input type="checkbox"/>	More refuse bins/more frequent emptying



Littering and dog fouling - penalties and enforcement issues survey

4. Which options do you consider are, or might be, effective to discourage dog fouling? (rate the options, 1 most effective, 11 least effective)

<input type="checkbox"/>	Use existing legislation
<input type="checkbox"/>	Use existing legislation but increase penalties
<input type="checkbox"/>	More policing to discourage littering and dog fouling
<input type="checkbox"/>	Make greater use of "words of advice"
<input type="checkbox"/>	Introduce new Fixed Penalty legislation
<input type="checkbox"/>	Occasional campaigns
<input type="checkbox"/>	Regular campaigns
<input type="checkbox"/>	More refuse bins/more frequent emptying
<input type="checkbox"/>	Easier methods to report problems e.g. smartphone or tablet App
<input type="checkbox"/>	Increased provision of bag dispensers and bags
<input type="checkbox"/>	DNA profiling of dogs and testing of faeces

5. Are there any other options you would like to suggest to discourage littering and dog fouling?

6. Do you have any other comments or suggestions to make about the process of enforcement for littering and dog fouling and your experience of it?



Littering and dog fouling - penalties and enforcement issues survey

7. Who should meet the cost of each option (tick one option for each column)?

	Tax-payer	Rate-payer	Dog owners	All to share the costs
Regular campaigns	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Occasional campaigns	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
More policing to discourage littering and dog fouling	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
More refuse bins/more frequent emptying	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Increased provision of bag dispensers and bags	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
DNA profiling of dogs and testing of faeces	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

8. What are your views on DNA profiling of all dogs in Jersey?

Yes, I support this	Not sure	No, I don't support this
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

9. If you answered 'Yes' to question 8, should this extend to all dogs entering Jersey on pet passport schemes, even if the owner is only on vacation?

Yes	Not sure	No
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

10. Do you have any other comments or suggestions to make about littering and dog fouling?

Consultation

Comité des Connétables



Littering and dog fouling - penalties and enforcement issues survey

11. What is your age group?

	20 or under	21-40	41-60	61 or over
Age bracket	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

12. Do you own a dog or exercise someone else's dog?

Yes	No
<input type="radio"/>	<input type="radio"/>

13. Do you live in Jersey?

Yes	No
<input type="radio"/>	<input type="radio"/>

14. Do you give permission for your comments to be quoted?

- No
- Yes, anonymously
- Yes, attributed (enter name and/or organisation details below for comments to be attributed)

Name to attribute comments to:

Organisation to attribute comments to, if applicable:

How we will use your information

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