

Report of:	Meeting	Date	Item no.
Cllr David Henderson, Street Scene, Parks and Open Spaces Portfolio Holder and Mark Billington, Service Director People and Places	Cabinet	18 October 2017	8

<p><b>Review of Consultation and Implementation of a Public Space Protection Order (PSPO) for Dog Control</b></p>
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**1. Purpose of report**

- 1.1 To summarise the consultation feedback on the draft PSPOs relating to dog controls, agree changes and to seek approval for the Senior Solicitor to make the Order in accordance with regulations published by the Secretary of State.

**2. Outcomes**

- 2.1 The making of the Order will enable authorised officers to continue to enforce across the borough in relation to dog fouling and dog control measures.

**3. Recommendations**

- 3.1 That Cabinet agree to the making of PSPO as shown in Appendix 1.
- 3.2 To defer the decision to introduce a limit on the maximum number of dogs that can be exercised by one person across the whole of the borough, and to explore opportunities to introduce a permit scheme with neighbouring Local Authorities and The Kennel Club.
- 3.3 To defer the decision to introduce any Order on Fleetwood Nature Reserve, allowing further discussion with Lancashire County Council.
- 3.4 To authorise the Senior Solicitor to correct any minor drafting errors that may be identified and make minor amendments including deletions and insertions that may be necessary to ensure the PSPO is accurate.

## 4. Background

- 4.1 On 14 June 2017, The Parks, Street Scene and Open Spaces Portfolio Holder submitted a report setting out the rationale for making the Public Space Protection Order relating to dog control. The report recommended that the council should carry out a six week consultation on the draft PSPOs. The consultation started on 10 July and ended on 18 August.
- 4.2 The PSPO statutory provisions arising from the Anti-social Behaviour, Crime and Policing Act 2014, mean that the council's existing powers for dealing with irresponsible dog ownership issues need to be reviewed and updated.
- 4.3 The report at Appendix 2 summarises the feedback from the consultation.
- 4.4 This report does not repeat the overview of the [Portfolio Holder Report of the 14 June 2017](#), which summarised the legal background to the Orders and the need for introducing them within the borough.

## 5. Key issues and proposals

### **The Consultation Process**

- 5.1 The council notified a wide range of people and organisations of the consultation, including all of those that have to be consulted by law.
- 5.2 It also consulted local statutory and voluntary organisations working with the wider community.
- 5.3 The consultation was primarily carried out through emails, press release, and social media referring people to the council's consultation portal on the website. Paper copies were made available on request.
- 5.4 The consultation was undertaken in two parts, the first to gauge the opinion on the proposed PSPOs and the second (optional) to further understand the public concern in relation to dog fouling and other environmental crime issues. The results of the latter part will be evaluated separately and reported on in a future Portfolio Report of the Parks, Street Scene and Open Spaces Portfolio Holder.
- 5.5 The council received 285 responses, which have proved very helpful in assessing the need for the PSPO, the scope of the need for dog control measures, and forming a better understanding on public views.
- 5.6 It is satisfying to have received such a high level of response to the consultation, with a range of views expressed. This illustrates what an important issue responsible dog ownership is to both dog owners and non-dog owners. The responses received reflect users from a wide geographical spread and capture both dog owners and non-dog owners; with over 90% either currently or previously owning / caring for a dog.

## 5.7 Feedback relating to the proposed dog control PSPOs

5.8 The report in Appendix 2 provides a full breakdown of responses and Appendix 3 (a-g) shows the raw data comments.

In general the responses to key questions dealing with the transfer of the current Dog Controls Order provisions to the PSPO were well supported, as can be seen from points 1-5 in the Table below.

Question: Do you think the council should continue with measures as suggested in the proposed public space protection orders, that is if a person in charge of a dog...	Response %		
	Yes	No	Don't know
1. Fails to pick up poo and put it in a bin?	97	2	1
2. Allows a dog into a dog exclusion area?	81	16	3
3. Fails to have a dog on a lead in a designated area?	89	9	2
4. Fails to put a dog on a lead when requested to do so by an authorised officer?	95	4	1
4a-Do you think that this power should be applied across the whole borough?	93	6	1
5. Exercises more than four dogs at once within a designated area?	80	14	6
5 a -Do you think this power should be applied to all publicly owned land?	95	5	0
6. Do you think the ban on bathing beaches should be applied all year round?	20	71	9
7. Do you agree with the inclusion of a new offence, that is, the failure of a person in charge of a dog/s to produce a suitable means of removing and transporting dog poo to a bin (whether or not the dog has defecated) when asked to do so by an authorised officer?	81	17	2

*Please note the above percentages have been rounded.*

5.9 As can be seen from the Table above, there is also positive support to the application of the 'Dogs on lead when requested to do so by an authorised Officer' to be applied across all public land within the administrative boundary of Wyre (Point 4a above).

5.10 Over 80% of respondents agreed that the continuation of a limit of a maximum of four dogs exercised by one person should be continued in the designated areas, whilst 90% then went on to support this being applied on all public land within the administrative boundary of Wyre (point 5 and

5a). A number of comments of concern have been raised in relation to this requirement and the council are aware the Kennel Club are suggesting a permit scheme be considered. Before it is recommended that this restriction be applied across the whole borough, officers will review this further in conjunction with neighbouring Local Authorities.

**5.11** The introduction of a new restriction (Point 7 above) of making it an offence for a person in charge of a dog not to be able to produce suitable means for removing and transporting dog poo to a bin was again supported by the majority of respondents (81%).

**5.12** It should be noted that the wider general comments are very mixed with some suggestions the council are discriminating against responsible dog owners and clearly 'anti-dog' whilst others suggesting the actions are not restrictive enough. This illustrates that this is a very complex area and it is difficult to achieve the full consensus of everyone as opinions will vary widely depending on individual / organisational interests / experiences with dogs. In making this Order the approach taken is one that is necessary and proportionate in response to the problems caused by the activities of dogs and those in charge of them. The Order seeks to balance the interest of those in charge of dogs against the interests of those affected by the activities of dogs.

**5.13** In terms of the wider general comments, the commentary was analysed and applied to 13 broad areas as seen in the table below:

<b>Aspect theme</b>	<b>Number of comments</b>
<i>Dog mess</i>	55
<i>Penalty and enforcement</i>	44
<i>Restrictive measures</i>	36
<i>Dogs on leads</i>	34
<i>Beach and promenade</i>	31
<i>Dog walking areas</i>	23
<i>Nuisance</i>	11
<i>Signs</i>	8
<i>Dog walkers</i>	7
<i>Education</i>	5
<i>Disability</i>	4
<i>Terminology and wording</i>	4
<i>Nature reserves</i>	3

**5.14** Officer's responses to each of these areas can be summarised as follows:

## **5.15 Dog Mess, Penalty and Enforcement**

It is recognised that some respondents have concerns about the level of enforcement action in relation to dog fouling. Catching irresponsible dog owners / walkers allowing their dog to foul and not clearing up is notoriously difficult owing to the times that irresponsible dog owners walk their dogs and the large geographical area that needs to be covered. It is human nature that many people comply when others, especially council officers are within close proximity. The reports of incidences of dog fouling increases in the darker winter months. Enforcement is intelligence led by complaints and information from the public. Authorised officers patrol reported hot-spot areas and respond to intelligence from local residents of times / locations for known offenders. However the officers cannot be everywhere all of the time, so welcome feedback / reports from the general public to work with the council to combat this and ensure the minority become more responsible. The council needs local residents and visitors to be willing to assist in this process and provide statements for court where necessary.

**5.16** In order to increase the pressure on irresponsible owners, a new requirement was included in the draft PSPO which requires dog owners to be equipped when walking their dogs to pick up dog faeces. Rather than having to catch a person in the act of not picking up, this means an offence is committed if a person does not have a means of picking up the faeces should the dog defecate.

**5.17** It is recognised that some respondents have questioned the provision of litterbins. The council have heavily invested in recent years in new bins. This has seen the standardisation of bins and removal of the small singular dog bins, which were not fit for purpose. The new dual bins can accept both litter and bagged dog foul and the council will seek to promote this message further. It is apparent from separate engagement activity that some customers are unaware of this. Litterbins have been positioned where there is an identified litter issue or heavy footfall, but this also needs to be linked to operational considerations, including access. The absence of dog-waste bins is not a reasonable defence against the offence of failing to clear up after a dog. Dog owners / keepers should bag the waste and carry it to the next nearest bin or take it home with them.

## **5.18 Free bag dispensers.**

A number of people responded suggesting that the council should provide free 'poo' bag dispensers as offered on the continent. This has been evaluated previously, but it is questionable as to whether it is making the minority more responsible as they are not accepting responsibility to provide bags themselves and become reliant on the council, whereas other responsible dog owners happily provide their own and pick up. It raises the question of what would happen if they went to areas without a dispenser or the dispenser was empty? Reports from other Local Authorities have suggested that the dispensers become a focus for vandalism and littering.

However, officers will again seek to evaluate options for dispensers' in high priority areas.

**5.19 Dog Faeces in Trees / hedges.**

Dog faeces bagged and left in a tree or hedge would be classed as a litter offence.

**5.20 Other litter.**

Authorised officers of the council do enforce on other litter related issues and the council is committed to a cleaner greener environment.

**5.21 Naming and shaming those fined.**

By accepting and paying the Fixed Penalty Notice, this means the offence will not be taken further and prevents further criminal action. Therefore details of individuals cannot be shared.

**5.22 Restrictive Measures**

A number of respondents commented that they felt the council is 'anti-dog'. This is not the case, rather it is pro-responsible dog owner / walker. The council believes that the proposed order contains sensible controls that should be welcomed by responsible dog owners and the general public alike.

**5.23** Whilst there is a majority support for the new Order of having the means to pick up, it has equally raised a number of concerns, some by responsible dog owners who believe they could be 'caught' out after using up all the bags or offering them to other walkers. The council does recognise some of the potential pitfalls associated with this requirement and the comments of respondents do reflect some of the officers' own thinking when considering this requirement (and mirrored in other LA areas). However, the council are keen to impose a proactive requirement on dog owners and believe that responsible dog owners will quickly take this requirement on board and carry a sufficient supply of spare bags. Authorised Officers will receive the necessary training to be able to apply this provision in a sensible and pragmatic way, giving the owner an opportunity to explain their behaviour. It is felt this would be another method of tackling fouling.

**5.24** A full publicity and educational campaign will precede this Order being enforced.

**5.25 Dogs on leads**

The areas with restriction for a dog to be kept on a lead are types of premises / areas rather than your typical public open spaces. Therefore, while dogs would still be welcome, the nature of the premises / area makes it appropriate that the dog should be kept on a lead while they are in these areas. This may be to ensure respect for the purpose of the area e.g. cemeteries as a place of mourning and quiet contemplation; or to avoid conflict with other users or to mitigate a general safety concern e.g. highways / car parks.

- 5.26** It is recognised that dogs in cemeteries can be very emotive and these areas should be respected. However many families wish to take dogs to visit their loved ones whilst paying their respects. Dogs will only be allowed on a lead and should be restricted to paths and stay away from headstones.
- 5.27** It is apparent that some respondents feel that this should be applied as a blanket ban. However, it is recognised that there is also a need for dogs to be able to exercised and have social playtime.
- 5.28 Beach / Promenade**  
There is a majority support for exclusions areas, especially play areas and sports pitches. Concerns primarily seem to be raised around the amenity beaches. There was limited support (20%) for a year-long ban. The bans have been in place for a number of years in the amenity beach areas recognising that these are the areas safer for bathing and patrolled by the lifeguards in the bathing season.
- 5.29** The localised seasonal beach ban equates to a seasonal ban on just 1.430 km of beach, with a further 11.07 km open access / no restrictions. The council recognises that children and dogs should be able to socialise under supervision, but equally some families may choose to come to the beach to be away from dogs. By limiting the ban to the amenity areas only, this leaves wide expanses either side that dogs can roam freely.
- 5.30** There also appears to be a misconception that dogs can foul on the beach (and dunes) and there is no requirement to pick it up believing that the sea will 'wash' it away. Dog foul is reportedly affecting bathing water quality, it is not always washed away and is still a hazard until it is removed. The council will seek to address this with a campaign working alongside neighbouring coastal authorities, the Love My Beach co-ordinator and the many friends groups developed along the coast.
- 5.31** Comments have been made suggesting dogs should be allowed access during the summer months, early mornings and late evening when the beach is not in use by families. However this would be difficult to promote and does not prevent dog fouling, which is still evident.
- 5.32** The promenade is a shared space used by many parties and all users need to be considerate to each other, cyclists and dog owners alike.
- 5.33** The council will look to put in more positive signage / promotions to show were dogs can be exercised without restriction and delineation of ban areas during the season.
- 5.34 Dog Walking Areas**  
As stated previously the council will seek to promote the areas were dogs can go.

**5.35** A number of responses suggested that parks should be created just for dogs. This in itself can lead to other problems, with The Kennel Club raising concerns that dog parks concentrate urine and barking in a small area so they are hard and costly to manage and often unpopular with those nearby. Enclosing all dog owners in a small area is not beneficial and a more proportionate and fair approach is to see dog owners and non-dog owners sharing public spaces responsibly. The Kennel Club believes that developing dogs parks will not benefit dogs, dog owners nor the general public because:

- People walk less in dog parks, reducing the human health benefits from dog walking. They tend to stand around and chat instead, rather than go for a walk.
- With fewer people in wider green space, anti-social behaviour is more likely to occur owing to the lack of routine informal surveillance by dog walkers at all times of the day and year.
- Concentrating lots of dogs in one small area can increase the frequency of dog attacks as there is no space to get away and diffuse the situation.
- Just one poorly trained dog can render a whole dog park unusable to everyone else.

### **5.36 Education**

It is essential that enforcement works hand in hand with education. The council will continue to promote responsible behaviour change campaigns, including 'bag it and bin it – any bin will do'. We will work with partner agencies, both national and local and local schools to help promote this message.

One suggestion was to run a social media campaign to better promote the areas that dogs can be exercised / enter. The Communication team will evaluate this and seek to produce information on public land and other establishments that welcome dogs.

### **5.37 Disability**

A number of comments felt that exceptions should not be made for people with disabilities and mobility issues with particular reference to dog fouling. This would be seen as being discriminatory and against individuals that fall within a 'protected characteristic' group.

A request has been made to include Assistance Dogs Under Training within the exemptions and this has been included in the Order.

### **5.38 Nuisance**

A number of respondents provided specific examples of encounters they had with dogs out of control and wished for greater restrictions in these areas, for example Towerwood. However it is felt this would not be proportionate. Issues with individual dogs and their owners will be



addressed on a case-by-case basis using the most appropriate tools available.

Customers are encouraged to report incidents. Areas identified as 'hot-spots' for nuisance dogs will be reviewed on an ongoing basis.

### **5.39 Terminology and Wording**

Authorised Officer does not mean any officer of the council. The Officer would have been delegated specific authorisation to undertake enforcement activity via the anti-social behaviour legislation or other Dog related legislation by a Service Director and will have had training and instruction to take a common sense approach.

### **5.40 Nature Reserves**

There are currently no Orders on the Nature Reserve at Fleetwood. This land is owned and under the jurisdiction of Lancashire County Council (LCC). LCC officers wish to introduce restrictions in relation to dog fouling and the number of dogs to be exercised by one person. However for this to take place agreements are required with LCC for either their officers to be authorised to enforce or an SLA agreement to be in operation with Wyre. This will be deferred to allow further consultation with LCC.

### **5.41 Implementation**

Signage will be reviewed and amended across the borough, commencing with the priority areas, where possible linking with other Public Space Protection Orders such as drinking in a public place. This will be supported with a communication campaign to support the new Order, requiring dog walkers to produce 'suitable means to pick up and dispose of dog waste' when requested to do by an authorised officer. As reported in the Report of 14 June 2017, costs for this will be met within existing budgets.

**5.42** A zero tolerance approach will continue with respect to dog fouling and measures that have rolled over from the Dog Control Orders. Where there have been changes, a common sense approach will be applied.

**5.43** Council officers, along with partners, will continue to use other tools available to them to tackle cases of dogs / dog owners reportedly behaving irresponsibly in a public place. This may range from acceptable behaviour contracts, community protection notices, to signposting for dog training.

**5.44** It is considered that the continuation of dog control measures would have a positive effect on the lives of residents and wider community making it a safer, cleaner and more attractive environment. The most recent Life in Wyre Surveys have illustrated that irresponsible dog ownership and fouling are issues of great concern to the local community.

**5.45** Equality Impact Screening has been undertaken in relation to the proposed PSPO. This did identify the fact that the enforcement of the PSPO is likely to involve work with vulnerable people and disabled people. However this should not result in any group being discriminated against. For example, the dog control PSPOs include exemptions for people with accredited

guide or assistance dogs; recognising the need to access areas and possible limitations for them and anyone with a disability or physical impairment making them unable to pick up dog waste. Similarly Authorised Officers would assess the mental capacity of an individual and seek alternative support / engagement to address an issue on an individual basis from partner agencies.

<b>Financial and legal implications</b>	
Finance	<p>It is anticipated that there will be costs associated with new signage for public space protection orders in the parks and other areas where they need to be displayed and this is estimated to be between £5,000 and £12,000. These costs will be met from existing budgets including underspent budgets carried forward from 2016/17.</p>
Legal	<p>The Anti-social Behaviour, Crime and Policing Act 2014 (“the Act”) came into effect on 20 October 2014. Section 59 of the Act gives local authorities the power to make PSPOs which are intended to deal with anti-social behaviour and nuisance in a particular area that is detrimental to the local community’s quality of life by imposing conditions on the use of that area.</p> <p>Before making a PSPO, councils must consult with the local police (section 72(3) and 72(4) of the Act). The Act also stipulates that councils must consult with the local community on any proposed PSPO. Consultation opportunities have been widely publicised within communities, councillors, business partner agencies, the media and websites and social media.</p> <p>Anyone who lives in or regularly works or visits the area can appeal a PSPO in the High Court within six weeks of issue. The PSPO will be publicised locally.</p> <p>With regard to breaches of a PSPO, it is an offence for anyone, without reasonable excuse, to do anything s/he is prohibited from doing by virtue of the order. Furthermore, it is an offence for anyone, without reasonable excuse, to fail to comply with a requirement in the PSPO. Section 67 of the Act specifies that anyone found guilty of an offence can be fined up to £1,000 by the Magistrates’ Court. Section 68 of the Act provides that, in the alternative, a constable or authorised officer of the Local Authority may serve a fixed penalty notice on those in alleged breach offering them the opportunity to discharge liability by payment of Fixed Penalty Notice in an amount set by each local authority up to £100. Fixed penalty notices in Wyre for anti social behaviour offences are currently set at £100.</p>

### **Other risks/implications: checklist**

If there are significant implications arising from this report on any issues marked with a ✓ below, the report author will have consulted with the appropriate specialist officers on those implications and addressed them in the body of the report. There are no significant implications arising directly from this report, for those issues marked with a x.

<b>risks/implications</b>	<b>✓ / x</b>
community safety	✓
equality and diversity	✓
sustainability	✓
health and safety	x

<b>risks/implications</b>	<b>✓ / x</b>
asset management	x
climate change	x
data protection	x

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<b>List of background papers:</b>		
name of document	date	where available for inspection
None		

### **List of appendices**

Appendix 1 – PSPO (maps will be available on website and paper copy in Members' Library)

Appendix 2 – Consultation Summary Report

Appendix 3 (a-g) – Raw data comments

Appendix 4 – Equality Impact Assessment

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