

Report of:	Meeting	Date
Councillor Simon Bridge, Street Scene, Parks and Open Spaces Portfolio Holder and Mark Billington, Corporate Director Environment	Cabinet	6 September 2023

**Review of Consultation and Implementation of Public Space Protection Orders (PSPOs) for Dog Control**

**Key decision:** Yes

**1. Purpose of report**

**1.1** To summarise the consultation feedback following the review of the Public Space Protection Orders (PSPOs) relating to dog controls, agree changes and to seek approval for the Legal Services Manager to make the Orders in accordance with regulations published by the Secretary of State.

**2. Corporate priorities**

**2.1** A cleaner, greener, and more sustainable environment.

**3. Recommendations**

**3.1** That Cabinet agree to the making of the PSPOs (six control measures) as shown in Appendix A.

**3.2** To authorise the Legal Services Manager to make minor amendments that may be necessary to ensure the PSPOs are accurate, enabling authorised officers to continue to enforce across the borough in relation to dog fouling and dog control measures.

**4. Background**

**4.1** On 18 October 2017, Cabinet approved a Public Space Protection Order relating to a range of dog control measures across the borough following a period of statutory consultation.

**4.2** The PSPO statutory provisions arising from the Anti-social Behaviour,

Crime and Policing Act 2014, require PSPOs to be reviewed every three years.

- 4.3** A public consultation exercise was undertaken during summer 2020, resulting in the renewal of the PSPOs for a 3-year period (Oct 2020 – Oct 2023); a further consultation was undertaken in July 2023.
- 4.4** As part of the consultation process, the statutory consultees were notified (police, Parishes, County Council), along with nationally interested parties including the Dogs Trust and the Kennel Club and local community and voluntary groups such as Friends of Parks Groups and grassroots sports clubs alongside wider inclusion on the website and other media channels for residents and other stakeholders.
- 4.5** Dog fouling and dog related anti-social behaviour is a concern to local residents and elected members, clearly evident from the Life in Wyre surveys, ongoing reports to the council, observation by council officers working on site and Friends of Parks Groups. The table below shows the reported incidents over recent years.

Year	No. of Dog Fouling Incidents
2019/20	303
2020/21	268
2021/22	262
2022/23	365

## **5. Key issues and proposals**

- 5.1** Consultation response - the council received 197 responses, which have proved very helpful in assessing the continued need for dog control, the scope of the need for dog control measures and forming a better understanding on public views.
- 5.2** The level of response and wide range of views expressed illustrates what an important issue responsible dog ownership and the impact on wildlife/public open space is to both dog owners and non-dog owners. The responses received reflect users from a wide geographical spread within the borough and some from outside Wyre and capture both dog owners and non-dog owners; with over 76% either owning (67%) or caring for a dog either in a private or professional capacity (1.7%), at some point.
- 5.3** The report in the appendix provides a full summary of the findings of the consultation and raw data comments.
- 5.4** In general, the responses to key questions dealing with the continuation of the current control measures were well supported, as can be seen in the following table:

Consultation Question	Response Yes %	Response No %
Do you agree with the extension of the order relating to dogs fouling on land and the requirement for anyone in control of a dog to pick up the faeces?	98.9	1.1
Do you agree with the extension of the order relating to the requirement to put dogs on leads by direction from an authorised officer?	97.8	2.2
Do you agree with the extension of the order relating to the requirement to have dogs on leads in certain areas?	87.8	12.2
Do you agree with the extension of the order relating to dog exclusion areas?	77.9	22.1
Do you agree with the extension of the order that restricts the number of dogs one person can exercise at a time in certain areas?	93.9	6.1
Do you agree with the extension of the order, where it is an offence to fail to have the means to pick up after a dog under your control when asked by an authorised officer?	92.2	7.8
Do you agree with the level of the Fixed Penalty for non-compliance remaining at £100?	72.2	27.8

*Please note the above percentages have been rounded.*

- 5.5** The requirement to apply a borough-wide PSPO to pick up dog foul (98.9%) and to have the means to pick it up when requested by an authorised officer (92.2%) was heavily supported; this reflects the ill feeling towards dog fouling, the impact it can have on health, quality of place/enjoyment of an environment and harm it can create.
- 5.6** There remains strong support (97.8%) for the requirement for an authorised officer to request a dog to be put on a lead in certain areas to prevent a nuisance or behaviour by the dog that is likely to cause annoyance or disturbance. This is considered more favourable by some to the requirement to have dogs on a lead in nominated areas i.e., areas where there is likely to be a safety concern, such as highways and car

parks; whilst still a majority support (87.8%) some respondents feel that it is restrictive on the ability to exercise dogs.

- 5.7** The level of support for the extension of the order relating to dog exclusion areas was less favourable. However more than three quarters of respondents (77.9%) did agree. This Order includes areas ranging from multi-use play areas, sports grounds during organised sporting events, picnic areas, sites of special scientific interest (SSSI) and the bathing beaches (seasonal ban).
- 5.8** There was strong support (93.9%) for the continuation of the order restricting the number of dogs one person can exercise at a time in certain areas (i.e., four dogs). 72.2% agreed with the level of the fixed penalty for non-compliance; a slight majority were in favour of a higher penalty; however, it is felt this remains proportionate. It is essential that enforcement works hand in hand with education. The council will continue to promote responsible behaviour to 'bag it and bin it', alongside other anti-littering messages and national campaigns.
- 5.9** It should be noted that the comments across all areas are very mixed with some suggestions that the council are discriminating against responsible dog owners and clearly 'anti-dog', even restricting business practices, whilst others suggesting the actions are not restrictive enough. This illustrates that this continues to be a very complex area and it is difficult to achieve a full consensus of everyone as opinions will vary widely depending on individual/organisational interests/experiences with dogs. In making these Orders 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 Orders seek to balance the interests of those in charge of dogs against the interests of those affected by the activities of dogs.
- 5.10** 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 and community protection notices, to signposting for dog training.
- 5.11** 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 Life in Wyre surveys have repeatedly illustrated that irresponsible dog ownership and fouling are issues of great concern to the local community.
- 5.12** Signage will be reviewed and amended across the borough, if necessary, this will continue to be supported with wider digital communications and publicity campaigns. Parish and Town Councils will be approached to provide financial support to provide additional/upgraded signage at their sites and Lancashire County Council will be required to review the signage at their Fleetwood Marsh Nature Park.

**5.13** Equality Impact Screening has been reviewed in relation to the PSPOs. This did identify the fact that the enforcement of the PSPOs is likely to involve work with vulnerable people and disabled people. However, this should not result in any group being discriminated against. For example, it continues to 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 at the time or on provision of supporting evidence and seek alternative support / engagement to address an issue on an individual basis from partner agencies.

## **6. Alternative options considered and rejected**

**6.1** Alternative options were considered as part of the consultation process and are documented in detail in section 5 and the appendices.

<b>Financial, Legal and Climate Change implications</b>	
Finance	It is anticipated that there will be costs associated with new/updated signage for PSPOs in the parks and other areas where they need to be displayed and these costs will be met from existing budgets.
Legal	<p>Pursuant to section 59 of the Anti-social Behaviour, Crime and Policing Act 2014 a local authority may make a Public Spaces Protection Order if satisfied on reasonable grounds that</p> <ol style="list-style-type: none"> <li>1. (a) activities carried on in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality, or (b) it is likely that activities will be carried on in a public place within that area and that they will have such an effect and 2. that</li> </ol> <p>the effect, or likely effect, of the activities (a) is, or is likely to be, of a persistent or continuing nature, (b) is, or is likely to be, such as to make the activities unreasonable, and (c) justifies the restrictions imposed by the notice.</p> <p>Pursuant to section 60 of the Act before the time when a public spaces protection order is due to expire, the local authority that made the order may extend the period for which it has effect if satisfied on reasonable grounds that doing so is necessary to prevent—</p> <ol style="list-style-type: none"> <li>(a) occurrence or recurrence after that time of the activities identified in the order, or (b) an increase</li> </ol>

in the frequency or seriousness of those activities after that time.

Any extension may not be for more than 3 years and must be published.

A local authority must carry out consultation, publicity, and notification before extending the period for which a public spaces protection order has effect, or varying a public spaces protection order.

Although new orders will be created, the effect of this decision is equivalent to an extension of the existing orders

Revised statutory guidance has been issued by the Secretary of State.

A local authority, in deciding whether to make a public places protection order or extend the period for which a public spaces protection order has effect and if so for how long, must have particular regard to the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the Convention.

Before making a PSPO, councils must consult with the local police community representatives and others as appropriate (section 72(3) and 72(4) of the Act).

The Act also stipulates that councils must notify relevant parish councils and the county council and publicise for consultation with the local community on any proposed PSPO. PSPO's must be reviewed at least every three years. Similar provisions apply to extensions.

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.

With regard to breaches of a PSPO, it is an offence for anyone, without reasonable excuse, to do anything they are 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.

Climate Change	There are no anticipated climate change implications arising from this report.
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### 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.

risks/implications	✓ / x
community safety	✓
equality and diversity	✓
health and safety	✓

risks/implications	✓ / x
asset management	✓
ICT	x
data protection	x

### Processing Personal Data

In addition to considering data protection along with the other risks/ implications, the report author will need to decide if a 'privacy impact assessment (PIA)' is also required. If the decision(s) recommended in this report will result in the collection and processing of personal data for the first time (i.e., purchase of a new system, a new working arrangement with a third party) a PIA will need to have been completed and signed off by Data Protection Officer before the decision is taken in compliance with the Data Protection Act 2018.

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List of background papers:		
name of document	date	where available for inspection
N/A		

### List of appendices

Appendix A – PSPO (Schedule 1 – 6)

Appendix B i – Consultation Summary Report, personal data removed

Appendix B ii - Additional comments, personal data removed

Appendix C - Equality Impact Assessment

