

DECISION ITEM



REPORT OF	MEETING	DATE	ITEM NO
RESOURCE DIRECTORATE	OPERATIONAL MANAGEMENT COMMITTEE	15 NOVEMBER 2016	4
PUBLIC SPACE PROTECTION ORDERS FOR DOG CONTROL			

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

This report presents the recommendations of the cross party working group established to consider the introduction of Public Space Protection Orders (PSPOs) for the enforcement of dog control in Fylde under the Anti-Social Behaviour Crime and Policing Act 2014. PSPOs can be introduced in a public place to prevent certain persistent activities that are having a detrimental effect on the quality of life of those in the locality. Failure to comply with a PSPO is an offence which can be dealt with by a fixed penalty notice (of up to £100) or by prosecution (maximum fine of £1000).

RECOMMENDATIONS

The Operational Management Committee is requested to consider and approve the recommendations detailed below and to instruct officers to carry out the necessary public consultation as required by the legislation. The results of the consultation will be reported back to a future meeting of the Committee, and if PSPO's are subsequently approved, a recommended implementation date of 1st June 2017 will be suggested.

Recommendations of Working Group:

- a borough wide PSPO requiring dogs to be kept on leads on all public highways at all times
- a borough wide PSPO requiring the removal of dog faeces at all times
- a borough wide PSPO excluding dogs from all children's play areas
- a borough wide PSPO limiting the number of dogs under the control of one person to a maximum of 4
- a PSPO requiring dogs to be kept on leads at various locations across the borough (Appendix A)
- a PSPO excluding dogs at various locations across the borough (Appendix A)
- the introduction of a fixed penalty notice (FPN) for breaching a PSPO to the value of £100, reduced to £50 if paid within 7 days
- after an introductory, educational period, a zero tolerance approach to be followed in relation to any PSPO made following the consultation
- to recommend to full council that existing dog related byelaws are repealed, to avoid conflicting restrictions
- to recommend to full council to include a 2017/18 one off budget item of £12,000 to fund a communication campaign and appropriate signage to support of the introduction of any dog

related PSPOs made following the consultation

- to approve the purchase and use of body worn CCTV cameras (subject to procedural requirements) by the Dog Enforcement Wardens as a Health and Safety measure to be funded from existing service budgets
- to recommend appropriate officers investigate the use of PSPO to control other ASB issues such as BBQs and public drinking and to make recommendations to the relevant committees (Tourism and Leisure and Public Protection).

SUMMARY OF PREVIOUS DECISIONS

The Operational Management Committee considered a report at the March 2016 meeting and RESOLVED:

1. That the committee agreed to establish a cross party working group to consider the introduction of Public Space Protection Orders for Dog Control across the borough, which would report back to the Operational Management Committee and make any appropriate recommendations.
2. That the cross party working group established consist of seven elected members with three from the Operational Management Committee, two from the Tourism and Leisure Committee and two from the Environment, Health and Housing Committee

The Cross Party working Group was comprised of the following Members:

Councillors David Eaves, Ben Aitken, Alan Clayton, Cheryl Little, Albert Pounder, Vince Settle and Heather Speak. The Working Group held 3 meetings to finalise the recommendations and suggested actions as detailed within this report.

CORPORATE PRIORITIES

Spending your money in the most efficient way to achieve excellent services (Value for Money)	√
Delivering the services that customers expect of an excellent council (Clean and Green)	√
Working with all partners (Vibrant Economy)	
To make sure Fylde continues to be one of the most desirable places to live (A Great Place to Live)	√
Promoting Fylde as a great destination to visit (A Great Place to Visit)	√

REPORT

BACKGROUND INFORMATION

1. The Dog Enforcement Service (the Service) covers the Council's statutory obligations including aggressive dogs, strays and fouling enforcement.
2. Since 2010 the Service has undergone a number of changes including the removal of welfare, active promotion to encourage residents to report fouling and changes to working arrangements. Since January 2014, there have been 2 dog wardens, working a 71 hour fortnight shift pattern, providing coverage from 7am-7pm Monday-Friday and a varying 6 hour shift on a Saturday.
3. Currently, dog fouling is enforced with fixed penalty notices (£50) under the Dogs (Fouling of Land) Act 1996.

4. The Council operates a zero tolerance approach and any owner seen by the Dog Wardens failing to remove faeces forthwith is issued with a fixed penalty notice. Forty seven £50 Fixed Penalty Notices have been issued and paid since 2010/11.
5. The majority of children's play areas have signs advising that dogs should not be exercised in these locations. These signs are purely for guidance and there are currently no legislative controls enabling enforcement.
6. There are currently no restrictions on the number of dogs being exercised by one person within the borough. The open locations within the borough, for example the dunes and beach, are utilised by visitors and dog walkers exercising numerous dogs at once, usually off the lead.
7. There are currently a number of byelaws covering parts of the borough (designated areas) that require dogs to be held on leads or excluded during particular periods (amenity beach). Fixed penalty notices cannot be issued under the byelaws. There is an existing Dog Control Order implemented by Freckleton Parish Council on Bush Lane Playing Fields which will lapse in 2017 unless replaced with a PSPO.
8. The only way to enforce the byelaws is through prosecution, which would reduce the officer time available for the Service's statutory obligations and priorities. A successful prosecution would lead to an owner having a criminal record for failing to keep their dog on a lead in a designated area. In-line with guidance provided to the Service, currently a purely educational approach is utilised. Owners are reminded that their dogs should be held on the lead in the designated areas and requested to leave the exclusion zone on the amenity beach during the peak season. Additional signage erected in 2015 assisted with the educational patrols. However, feedback from residents and officers' observations has demonstrated that some owners are fully aware of the byelaws but refuse to comply or only comply when the wardens are present.

PUBLIC SPACE PROTECTION ORDERS

9. On 20 October 2014, the ability to make new dog control orders was removed by the Anti-Social Behaviour, Crime and Policing Act 2014 (the Act) although existing dog control orders remain enforceable for three years after which time they lapse.
10. The Act provides for the introduction of public space protection orders (PSPOs).
11. PSPOs may be made by a district council (and not a parish council) if they are satisfied on reasonable grounds that two conditions are met:

The first condition is that-

 - a. activities carried out in a public place within the council'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

The second condition is that 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.
12. A PSPO may apply to all persons, to persons in a specified category or to all persons except those in specified categories. They can prohibit specified things being done in the restricted area, specify things to be done by persons carrying on specified activities in that area, or do both of those things.
13. In relation to dog control a PSPO may cover the following activities which could formerly be the subject of dog control orders:

- Requiring dogs to be exercised on a lead in certain areas, at certain times or upon request by an Officer
 - Excluding dogs from certain areas and/or at certain times, for example children's play areas or the amenity beach
 - Requiring the removal of dog faeces
 - Limiting the number of dogs a person can take into an area
14. A PSPO must identify the activities it refers to, explain the effect of non-compliance, e.g. a fixed penalty notice will be issued, and specify the period for which the order has effect. In addition, a PSPO must be publicised as set out in legislation, including publishing the PSPO on the Council's website and erecting a notice on or adjacent to the land covered by the Order.
15. Failure to comply with a PSPO is an offence which can be dealt with by a fixed penalty notice (of up to £100) or by prosecution (maximum fine of £1000).
16. A PSPO lasts for three years at which time it automatically expires unless it has been extended. Extension is not automatic and may only take place if the council is satisfied on reasonable grounds that doing so is necessary to prevent—
- (a) occurrence or recurrence after that time of the activities identified in the order, or
 - (b) an increase in the frequency or seriousness of those activities after that time.

An extension

- (a) may not be for a period of more than 3 years;
- (b) must be published in accordance with regulations made by the Secretary of State.

A PSPO may be extended more than once.

THE WORKING GROUP

17. Following the March 2016 Operational Management Committee, a cross party working group was established to consider the introduction of PSPO across the borough. The group met 3 times with officers representing the service and after careful consideration of the relevant facts and information, agreed the following 12 recommendations would be reported back to the Operational Management Committee for consideration:
- a borough wide PSPO requiring dogs to be kept on leads on all public highways at all times
 - a borough wide PSPO requiring the removal of dog faeces at all times
 - a borough wide PSPO excluding dogs from all children's play areas
 - a borough wide PSPO limiting the number of dogs under the control of one person to a maximum of 4
 - a PSPO requiring dogs to be kept on leads at various locations across the borough (Appendix A)
 - a PSPO excluding dogs at various locations across the borough (Appendix A)
 - the introduction of a fixed penalty notice (FPN) for breaching a PSPO to the value of £100, reduced to £50 if paid within 7 days
 - after an introductory, educational period, a zero tolerance approach to be followed in relation to any PSPO made following the consultation
 - to recommend to full council that existing dog related byelaws are repealed, to avoid conflicting restrictions

- to recommend to full council to include a 2017/18 one off budget item of £12,000 to fund a communication campaign and appropriate signage to support of the introduction of any dog related PSPOs made following the consultation
 - to approve the purchase and use of body worn CCTV cameras (subject to procedural requirements) by the Dog Enforcement Wardens as a Health and Safety measure to be funded from existing service budgets
 - to recommend appropriate officers investigate the use of PSPO to control other ASB issues such as BBQs and public drinking and to make recommendations to the relevant committees (Tourism and Leisure and Public Protection).
18. The working group considered the existing bylaws on a location by location basis before deciding to replace the bylaw with a PSPO on a like for like basis or to amend/cancel the restrictions. In addition, an email was sent to all Town and Parish Councils requesting feedback on any additional locations where PSPOs may be appropriate and these were considered by the working group. Other Council departments including Parks, Coast and Countryside and Planning were also consulted as part of the process.
19. At present dog fouling is enforced with fixed penalty notices (£50) under the Dogs (Fouling of Land) Act 1996. The introduction of a PSPO requiring the immediate removal of dog faeces at all times will allow the FPN to be increased to £100 if breached, acting as a further deterrent.
20. Fylde is now the only borough in the vicinity without any form of dog control, limiting the number of dogs under the control of one person. As a result, professional dog walkers from neighbouring authorities come in to the borough to exercise multiple numbers of dogs on the beach and in parks and recreational areas. The service recently received a complaint of a dog walker with 12 dogs off the lead in the Granny's Bay area. After discussion on this issue the working group agreed that a limit of 4 dogs under the control of one person was an appropriate recommendation.
21. The Dog Enforcement Wardens (DEWs) are required to approach dog walkers who are failing to demonstrate responsible dog control. A number of these interactions can become confrontational as some dog walkers resist when they are told they are not following the rules. The DEWs are trained to diffuse these situations or to walk away if they are at risk, but unfortunately the abuse does sometimes continue. In a recent incident, one of the DEWs was spat on as he walked away after challenging a dog walker who refused to put his dog on a lead. This was understandably an extremely upsetting and stressful situation for him.
22. A number of other Local Authorities have introduced the use of body worn cameras to assist their enforcement officers. The purpose of using body worn cameras is to:
- serve as a deterrent to acts of aggression or verbal and physical abuse
 - introduce a more imposing recording system to address high levels of anti-social behaviour
 - help to protect officers at work (for Health and Safety purposes)
 - capture images close up
 - allow the officers to maintain the use of their hands and enforcement equipment whilst recording an incident
 - provide evidence to support internal investigations (complaints), the issuing of a fixed penalty notices or prosecution cases
23. Blackpool Council's H&S team have confirmed that the addition of body worn cameras has proved a valuable tool in dramatically reducing incidents of abuse towards their staff by as much as 50%.

24. Five separate instances of verbal abuse towards the DEWs have been severe enough to report through to the H&S team in the past 5 months; excluding the spitting incident; and many more less abusive issues go unreported as they are just 'part of the job'.
25. No degree of verbal or physical abuse is acceptable and an independent H&S assessment of the DEWs' duties has recommended the introduction of body worn cameras to give the officers legal backing and act as a visual deterrent to further abuse.
26. The working group are supportive of this recommendation and suggest that body worn cameras are introduced regardless of the possible future introduction of PSPOs. The use of cameras will be subject to specific procedural requirements which will be reported to a future meeting of the Operational Management Committee.

CONSULTATION AND PUBLICITY

27. Before Fylde could make a PSPO, it would need to consult with the Police, the Police and Crime Commissioner, whatever community representatives the local authority thinks it appropriate to consult and the owner or occupier of land within the restricted area (unless it is Council owned land). The Council must also notify Lancashire County Council and the parish council for the area proposed to be within the PSPO. In addition, the authority must have particular regard to the rights of freedom of expression and freedom of assembly and association before making a PSPO.
28. The Operational Management Committee is requested to consider the recommendations of the working group with respect to dog control and instruct officers to carry out the consultation as required by the legislation. The Council's legal team have already confirmed that they will provide the necessary support on this. Consultation responses will be reported back to a future meeting of the Committee and if PSPO's are subsequently approved, a recommended implementation date of 1st June 2017 will be suggested.
29. The introduction of any PSPOs for dog control will need to be accompanied by a comprehensive communication campaign and improved, updated signage in all affected locations to insure that all local and visiting dog owners and walkers are fully informed with regards to the requirements of the PSPOs. A dog walking map will be developed so it is clear where dogs can be exercised off leads. The dog control budget is very limited with regards to communications and an unfunded budget increase will be proposed to full council to fund the costs of the campaign resources.

IMPLICATIONS	
Finance	Fixed penalties under PSPOs are payable to the Council. Additional costs would be incurred with the consultation and the requirements for new signage.
Legal	The adoption of a PSPOs instead of multiple byelaws will aid enforcement.
Community Safety	It would be considered good practice to consult widely on the proposals for implementing PSPOs especially covering any new restrictions such as exclusions in children play areas, specified number of dogs and increasing the fixed penalty notice for dog fouling.
Human Rights and Equalities	Neither the existing or proposed restrictions are believed to impact disproportionately on any particular sector of the community.
Sustainability and Environmental Impact	If the restrictions proposed for dogs on leads areas are new, it would be sensible to consider whether dog owners would be likely to use their cars to travel to more distant

	areas where dogs could exercise off their leads. This is not necessary for PSPOs that replicate present restrictions.
Health & Safety and Risk Management	Requiring dogs to be on leads in certain areas is a response to the health and safety risks that would be caused by allowing them to roam free in those areas.

LEAD AUTHOR	TEL	DATE	DOC ID
Kathy Winstanley	01253 658634	16 th August	

LIST OF BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Appointment of Member Working Group - PSPOs	March 2016	www.fylde.gov.uk

Attached documents

1. Appendix A – Locations and Restrictions for Proposed PSPOs

APPENDIX A

Location	Proposed PSPO/comments	Amendment from original Bye-law	Considerations and Rationalisation
All adopted highways in Borough	Dogs on leads	No change	Safety considerations in relation to vehicles, pedestrians and other dogs/animals
Lytham St Annes Nature Reserve	Dogs on leads	No change	Potential increase in use with new developments. SSSI site, monitored by Natural England to confirm FBC is managing appropriately.
Promenade and Promenade Gardens	Dogs on leads	No change, bar further clarification that restriction is from Railway Track by Beach Terrace café	Historical parks area, utilised by many people including young children, flanked by adopted highways
Lowther Gardens	Dogs on leads/ dogs excluded	No change for main areas of park New restrictions, dogs excluded from water features and children play areas	Historical parks area, previous complaints
Ashton Gardens	Dogs on leads/ dogs excluded	No change for main areas of park New restrictions, dogs excluded from water features and children play areas	Historical parks area, previous complaints. Safety/cleanliness considerations for children's play area. Open sided children's play equipment. Water features – wildlife considerations and the protection of dogs from water borne infections/plants such as algae
Land between North Promenade Car Park to Bentinck Road, St Annes	No restriction	Dogs on lead restriction removed	To allow dog owners to exercise dogs without restrictions
Land between South Promenade and the sand dunes from Denford Avenue and Fairhaven Car Park, St Annes	No restriction	Dogs on lead restriction removed	To allow dog owners to exercise dogs without restriction
Fleetwood Road Playing Field, Wesham	Dogs on leads/ dogs excluded	No change and new restrictions, dogs excluded from children play areas	Safety/cleanliness considerations for football pitch on field. Need to balance varying requirements by different users Safety/cleanliness considerations for children's play area.
Derby Road, Wesham	Dogs on leads	No change	Need to balance varying requirements by

			different users, and there is a separate dog exercise area.
Larbreck Play area, Elswick	Dogs on leads/ dogs excluded	No change for main areas of park New restriction, dogs excluded from area immediately adjacent to children play equipment	Safety/cleanliness considerations for children's play area. Open sided children's play equipment.
Roseacre Play area, Elswick	Dogs excluded	Amended from dogs on lead area to excluded	Safety/cleanliness considerations for children's play area.
Elswick Village Hall, MUGA, Orchard and Nature Reserve	Dogs Excluded	New restriction	Safety/cleanliness considerations for MUGA. Wildlife considerations and nature reserve is utilised by local primary schools for outdoor classrooms
Elswick Village Hall, playing field	Dogs on leads	New restriction to be considered if Elswick increase the size of dog exercise area (approximately double size)	Safety/cleanliness considerations for football pitch on field. Anecdotal evidence from Parish Council that professional dog walkers are utilising field to exercise numerous dogs, whilst watching from hedgerow and concerns regarding the ability to observe all dogs behaviour at once.
Staining Rise Play area, Staining	Dogs excluded	Amended from dogs on lead area to excluded	Safety/cleanliness considerations for children's play area, need to pass the children's play area to access grassed section. Previous reports of damage to children's play equipment by dogs.
Meadow Park Play Area, Staining	Dogs on leads/ dogs excluded	No change for main areas of park New restrictions, dogs excluded from area immediately adjacent to children play equipment. Recommendation to Parish Council that fencing is considered around children's play area to provide clearer boundaries	Safety/cleanliness considerations for children's play area. Open sided children's play equipment. Small grassed area with need to balance varying requirements by different users.
Kirkham Memorial Park	Dogs on leads/ dogs excluded	No change for main areas of park New restrictions, dogs excluded from	Safety/cleanliness considerations for children's play area and MUGAs. Need to

		children's play areas and MUGA (multi-use game areas)	balance varying requirements by different users, nearby areas without any restrictions. Respect considerations within a memorial area
Memorial Gardens, Freckleton	Dogs on leads (all areas of park bar Rose Garden)/ dogs excluded (from Rose Garden only)	No Change	Rose garden – respect considerations within a memorial area. Need to balance varying requirements by different users, nearby areas without any restrictions.
Hope Street Park, St Annes	Dogs on leads/ dogs excluded	No change for main areas of park New restriction, dogs excluded from area immediately adjacent to children play equipment. Recommendation to Town Council to consider dog exercise area	Safety/cleanliness considerations for children's play area. Open sided children's play equipment. Need to balance varying requirements by different users, nearby areas without any restrictions.
Fairhaven Lake Marine Park	Dogs on leads / dogs excluded	No change for dogs on leads throughout park New restriction, dogs excluded from bodies of water, MUGAs and children play areas.	Safety/cleanliness considerations for MUGA's, children's play area. Water features – wildlife considerations and the protection of dogs from water borne infections/plants such as algae
Lytham Green	Dogs on leads by direction at all times across full area/ Section of Lytham Green (between Fairlawns and the Windmill) dogs on lead between 1 May – 30 September	Amendment from full area being dogs on lead at all times	Need to balance varying requirements by different users at a popular location, particularly in peak season. Recognition this is a popular area to exercise dogs. Previous complaints of nuisance, dog attacks, predominantly in peak times.
Cenotpah Gardens, Freckleton	Dogs excluded	No Change	Respect considerations within a memorial area.
Beach Exclusion Zone	Dogs excluded 1 May – 30 September (Northern end of North Promenade Car Park and the	No Change	Need to balance varying requirements by different users at a popular location, particularly in peak season, nearby areas without any restrictions. Previous evidence

	area Southwards past St Annes Pier to the slipway near the new St Annes Lifeboat Station, extends out to the tideline)		and impact of dog faeces in water quality samples.
Bush Lane Playing Field	Dogs on leads on one field	Amendment of Dog Control Order, once lapsed, from dogs on lead around field and excluded from middle of field	Need to balance varying requirements by different users, one field with football pitches has on lead restriction, other field would have no restriction. Safety/Cleanliness by football pitches
Exclusions for water features including ponds, fountains and lakes	Dogs excluded	New restriction	Water features – wildlife considerations and the protection of dogs from water borne infections/plants such as algae
All Council Car Parks	Dogs on leads	New restriction	Safety considerations in relation to vehicles, pedestrians and other dogs
Lytham Cemetery	Dogs on leads	New restriction	Respect considerations within a memorial area.
Grannies Bay	Dogs on leads	New restriction	SPA (Special Protection Area), wildlife considerations. Popular picnic spot in peak season requiring need to balance requirements by different users.
Children's Play area and Multi Use Games Areas	Dogs excluded	New restriction	Safety/cleanliness considerations for children's play area/MUGAs
All public areas	Requirement for dog faeces to be removed	No change (currently covered by Dogs (Fouling of Land) Act 1996)	Safety/cleanliness of areas
All public areas	Limit of four dogs per person	New restriction	Verbal reports/concerns raised regarding numerous dogs (sometimes 10+) being exercised regularly off leads and concerns regarding the ability to observe all dogs' behaviour at once.
Blackpool Road North Playing Fields, St Annes	Dogs on leads	New restriction	Safety/Cleanliness of football pitches. Previous complaint on football pitches regarding fouling, and reports of dog attacks.

Football pitches at Park View, Lytham	Dogs excluded	New restriction	Safety/Cleanliness of football pitches. Football pitches have clear boundaries, allowing easy of identification of excluded area.
Staining Village Hall	Dogs excluded	New restriction excluding from children's play area and ponds. Recommendation to consider excluding dogs from football fields on Village Hall if Parish Council fence area.	Safety/Cleanliness of children's play area. Water features – wildlife considerations and the protection of dogs from water borne infections/plants such as algae Safety/Cleanliness of football pitches, whilst still providing areas for dogs to be exercised off lead within village area.
The beach in the beach area bounded by King Edward Avenue and Queen Street (street names used as landmarks/references only)	Dogs on leads	New restriction If implemented the recommendation is not to renew the PSPO upon review after three years as required works should be completed.	Wildlife and funding considerations. Natural England has expressed a preference for measures to be put in place for dogs to be kept on leads in compensatory areas identified for feeding/roosting birds displaced whilst the existing concrete coast defences at Fairhaven (St Paul's Avenue) through to Lytham (Seafield Road) are replaced. The implementation of a restriction will assist in securing £19.8 million of funding from the Environment Agency.