

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	OPERATIONAL MANAGEMENT COMMITTEE	23 MAY 2017	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 outlines the recommendations from 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 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).

The report provides details of the work carried out by the Working Group whose objective is to remove the existing outdated bureaucratic bylaws and implement measures that allow responsible dog owners to continue enjoying the Fylde whilst any irresponsible owners can be appropriately managed.

RECOMMENDATIONS

The Operational Management Committee is requested to consider and approve the recommendations from the cross party working group outlined below:

- To remove all existing bylaws across the Borough in relation to dog control
- To propose a borough wide PSPO for fouling
- To propose a PSPO for dogs on lead on public vehicular highways
- To propose a PSPO for dogs on lead in all council owned car parks
- To propose a PSPO for dogs on lead in Lytham cemetery
- To propose a PSPO for dogs to be excluded from enclosed/fenced children play areas
- To propose a PSPO for dogs to be excluded from ornamental water features
- To propose a seasonal PSPO for dogs to be excluded on the designated Amenity Beach
- To propose a seasonal PSPO for dogs on leads along the Promenade Gardens
- To propose a borough wide PSPO for dogs on lead **by direction** only
- To explore an accreditation scheme for professional dog walkers as an alternative to limits on the number of dogs in partnership with the Kennel Club and representatives from the professional dog walking organisations
- To introduce the proposed PSPO's from 1 October 2017 (to allow for an educational phase) with enforcement commencing from 1 November 2017
- To introduce new signage that is clear, polite and informative in appropriate locations across the Borough based on best practice and feedback from the dog walking representatives, the cost of which can be met from existing approved revenue budgets

- To remove all outdated signage in relation to dog control bylaws.

SUMMARY OF PREVIOUS DECISIONS

Operational Management Committee - March 2016: RESOLVED 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.

Operational Management Committee - November 2016: RESOLVED to instruct officers to carry out the necessary consultation and engagement as required by the legislation. The results of the consultation would be reported back to a future meeting of the Committee. The Committee also resolved 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 PSPO's made following the consultation.

Operational Management Committee - March 2017: The chairman reiterated that no decisions had been made and further consultation was on going with the Kennel Club, Natural England, Town and Parish Councils and representatives from the local professional dog walking community.

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

1. The cross party working group consisted of elected members from the Operational Management, Tourism & Leisure and the Environment, Health & Housing committees. The group was tasked with addressing the challenge of ensuring that the vast majority of responsible dog owners that live and visit the borough are able to enjoy exercising their dogs whilst at the same time introducing measures to effectively manage the behaviour of the small number of irresponsible owners. It was considered that the existing bylaws, which can only be enforced through criminal proceedings, are an inefficient and unwieldy mechanism for addressing any issues.

2. PSPOs may be made by a district 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.

3. 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.
4. PSPO's have been used extensively by other local authorities to introduce measures that would enable all dog owners to enjoy exercising their dogs whilst providing enforcement measures to target irresponsible owners. The working group was conscious that Fylde is an attractive area for dog walkers both residents and visitors who make a significant contribution to the local economy all year round, it is a market that should be encouraged and supported.
5. The areas which would be covered by the PSPOs proposed in this report (other than the proposed borough-wide dogs on lead by direction PSPO) are all public spaces where access and use by the community is encouraged. It is clear that loose dogs and dog fouling in these areas would be likely to have a detrimental effect on the quality of life of the members of the public using them, by causing a risk of children or adults coming into contact with dog faeces or being intimidated by loose nuisance/aggressive dogs. Both of these risks would be unreasonable in such areas.
6. The proposed PSPOs address the specific problems that can be caused by the issues outlined above. They address different areas differently, depending on the sensitivity of the areas. It is considered that the issues in each type of area justify the particular kind of restriction that is proposed. This will ensure that the vast majority of responsible dog owners are able to enjoy exercising their dogs whilst at the same time introducing measures to effectively manage the behaviour of the small number of irresponsible owners.
7. The working group was keen to engage as much as possible with all stakeholders to ensure that any measures introduced were appropriate and reasonable based on best practice. Whilst the requirement under the legislation for introducing PSPO's was to consult with identified stakeholders the working group asked for an open public consultation that gave everyone the opportunity to comment rather than just identified stakeholders. The results of the consultation were used to inform the recommendations and were reported to the Operational Management Committee and published on the website, the results can be viewed [at this link](#).
8. The most significant outcome from the open public consultation was the additional opportunity for further detailed engagement with key stakeholders that the council was not previously connected with. The Kennel Club and the Dogs Trust submitted extensive informative feedback along with representatives from professional dog walkers, dog trainers and residents who had set up social media groups to co-ordinate feedback. The volume of response was extraordinary providing the members of the working group with a clear remit from the public and a comprehensive understanding of the strength of feeling. The respondents to the consultation are commended by the working group for engaging with the process and having their say to help shape the recommendations.
9. As a consequence the working group required more time to engage with key stakeholders and obtain further feedback. This included meetings or correspondence with the Kennel Club, Natural England, Town and Parish Councils and representatives from the local dog walker/owner community. The Kennel Club sent a representative to meet officers, members and Natural England over a two day period during which they shared best practice from other local authorities and advised on what measures would be most appropriate for the particular circumstances at Fylde. The working group have taken into account all the feedback, advice and opinion to inform the recommendations put before the committee.
10. The following PSPOs are proposed for consideration by the committee:
 - A borough wide PSPO for fouling - 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
 - A PSPO for dogs on lead on public vehicular highways, including pavements in proximity to cars and other road traffic, this does not include bridleways and other rural 'highways'
 - A PSPO for dogs on lead in all council owned car park
 - A PSPO for dogs on lead in Lytham cemetery

- A PSPO for dogs to be excluded from enclosed/fenced children play areas – children and dogs will be able to continue socialising together safely under adult supervision in open play areas
 - A PSPO for dogs to be excluded from ornamental water features
 - A seasonal PSPO for dogs to be excluded on Amenity Beach as follows:
 - Option A – as per the existing byelaw i.e. 1st May – 30th September
 - Option B – commencing from Easter i.e. Good Friday – 30th September (Working Group preference)
 - Option C – extending over full holiday period i.e. Good Friday – 31st October (this covers the main holiday periods and half terms when the highest number of visitors and residents use the beach)
 - A seasonal PSPO for dogs on leads along the Promenade and Promenade Gardens, in line with the seasonal restriction on the amenity beach; the area is adjacent to a busy public highway, has a number of ornamental water features and flowerbeds, strategically placed benches for relaxation, food on sale/consumed and is a general busy location which would be unsuitable for dogs to be running off lead, the proposed Borough wide PSPO for ornamental gardens and vehicular highways would result in a lot of this area being covered anyway
 - A borough wide PSPO for dogs on lead **by direction** only – dog walkers will be required to put their dog/s on a lead when directed to do so by an authorised officer. They will only be asked to put their dog on a lead if the dog is considered to be causing a nuisance to other people or another animal. This will support a targeted approach to address the small minority of irresponsible dog walkers that have proven to be a challenge to deal with under the existing bylaws. The authority will also explore the use of other more flexible measures such as Acceptable Behavioural Contracts and Community Protection Notices to tackle the minority of irresponsible dog walkers or persistent offenders who allow their dogs to run out of control or refuse to pick up fouling
 - Officers explore options for the introduction of an accreditation scheme as an alternative to placing a limit on the number of dogs that any one person can walk - the maximum number of dogs a person can walk in a controlled manner depends on a number of factors relating to the dog walker, the dogs being walked, whether leads are used and the location where the walking is taking place; limiting the maximum number of dogs per person does not stop people with multiple dogs walking together at a given time; in addition, limits could encourage some dog walkers to leave excess dogs in their vehicles, which can give rise to welfare concerns. The Kennel Club is currently developing a national Code of Practice for Commercial Dog Walking for launch in 2017. Officers will look to work with the Kennel Club, neighbouring authorities, local dog walkers and other interested parties in developing a Fylde Coast accreditation scheme
 - The original committee report (November 2016) recommended an implementation date of 1st June 2017 for any approved PSPOs. Given the level of interest shown in the consultation and the length of time required to consider the additional in depth feedback and suggestions, it is proposed that the implementation of any PSPOs approved by the committee is delayed until a later date in order to give officers sufficient time to effectively communicate proposed changes to all dog walkers, residents, visitors, businesses and organisations that may be affected by the changes. The working group recommend the introduction of the proposed PSPO's from 1 October 2017 (to allow for an educational phase) with enforcement commencing from 1 November 2017.
11. If PSPOs are approved, appropriate exemptions will be put in places for users of registered assistance dogs. All signage relating to dog control bylaws will be removed.
 12. In relation to PSPOs the "The Anti-Social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014" require local authorities to erect notices on or adjacent to the public place to which the order relates to draw the attention of any member of the public using that place to the requirements of the order.
 13. At the November 2016 meeting, the committee agreed to recommend a one off budget increase of £12,000 to fund a communication campaign and appropriate signage in support of the introduction of any dog related PSPOs made following the consultation. It is now proposed that the cost can be met from existing approved revenue budgets.

14. In relation to dog access restrictions such as a “Dogs Exclusion Order” or “Dog on Lead Order”, the Kennel Club recommends that on-site signage should make clear where such restrictions start and finish. This can often be achieved by signs that on one side say, for example, “You are entering [type of area]” and “You are leaving [type of area]” on the reverse of the sign.
15. Officers will look to work with the Kennel Club and other interested parties in developing appropriate and sufficient signage to communicate any control measures.

IMPLICATIONS	
Finance	Fixed penalties under PSPOs are payable to the Council. However at this stage it is not possible to quantify the levels of additional income that may arise. Any additional income will be reflected in future updates to the Financial Forecast at the appropriate time. Additional costs would be incurred for new signage should that recommendation be adopted, estimated to be in the order of £12,000, which it is proposed will be met from existing approved revenue budgets.
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	CONTACT DETAILS	DATE
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BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Previous committee reports	March 2016 – March 2017	www.fylde.gov.uk