

**For publication**

**The Anti-social Behaviour Crime and Policing Act 2014  
Designation of the Public Spaces Protection Order (Dog control)  
(HW1140)**

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Meeting:	Cabinet
Date:	24 <sup>th</sup> April 2018
Cabinet portfolio:	Health and Wellbeing
Report by:	Esther Thelwell, Senior Environmental Health Officer

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**For publication**

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**1.0 Purpose of report**

- 1.1 To inform Members of the offences listed under the proposed Public Spaces Protection Order (Dog Control).
- 1.2 To inform Members how the Public Spaces Protection Order (Dog Control) will be enforced.
- 1.3 To ask Members to approve the Public Spaces Protection Order (Dog Control) as attached in Appendix 2 and to ask Members to authorise the revocation of the Public Spaces Protection Orders that converted from existing Dog Control Orders to Public Spaces Protection Orders on 20<sup>th</sup> October 2017 by operation of law.

- 1.4 To ask Members to delegate authority to the Local Government and Regulatory Law Manager in consultation with the Cabinet Member for Health and Wellbeing, to determine the implementation of the Public Spaces Protection Order (Dog Control) and the revocation of the Public Spaces Protection Orders which converted by operation of law on 20<sup>th</sup> October 2017 from Dog Control Orders to Public Spaces Protection Orders.
- 1.5 To ask Members to approve the level of Fixed Penalty Notice for all dog related offences under the Public Spaces Protection Order (Dog Control) and to delegate authority to administer and enforce Fixed Penalty Notices.

## 2.0 **Recommendations**

- 2.1 That Members to agree to the implementation of the Public Spaces Protection Order (Dog Control), as attached in Appendix 2.
- 2.2 That Members authorise the revocation of the Public Spaces Protection Orders that arose by operation of law from existing Dog Control Orders on 20<sup>th</sup> October 2017.
- 2.3 That Members agree that the implementation of the Public Spaces Protection Order (Dog Control) and the revocation of the existing Public Spaces Protection Orders (which arose from the old Dog Control Orders) will be undertaken once the necessary preliminary steps have been completed and agree to delegate this decision to the Local Government and Regulatory Law Manager in consultation with the Portfolio Holder for Health and Wellbeing.
- 2.4 That Members approve the level of Fixed Penalty Notice to be set at £80 for all dog related offences under the Public Spaces Protection Order (Dog Control).

2.5 That Members request a further report to consider the impact and effectiveness of the Public Spaces Protection Order (Dog Control) once it has been in effect for 12 months.

### 3.0 **Background – a summary of dog control legislation**

3.1 There is a range of civil duties and legal remedies to control dogs in public areas including the Dogs Act 1871 and the Dangerous Dogs Act 1991 (enforced by the Police for 'dangerous dogs' and 'banned breeds') as well as the Environmental Protection Act 1990, the Control of Dogs Order 1992 and the Environmental Protection (Stray Dogs) Regulations 1992 (enforced by local authorities).

3.2 Under the Clean Neighbourhoods and Environment Act 2005, the Council adopted several Dog Control Orders (DCO's), these were cited as:

- DC01 – dog fouling is not permitted in cemeteries (Boythorpe, Brimington, Spital and Staveley).
- DC02 – dogs must be kept on a lead at cemeteries (Boythorpe, Brimington, Spital and Staveley).
- DC03 - requiring the removal of faeces on all public open spaces.
- DC04 – dog exclusion zone at Eastwood Park, Hasland (specified on a map).
- DC05 – dogs must be on a lead at Eastwood Park, Hasland (specified on a map).
- DC06 – dogs on leads by direction at Eastwood Park, Hasland (when requested by an authorised officer).

3.3 In October 2014, the Anti-Social Behaviour, Crime and Policing Act 2014 came into force and made provisions for local authorities to introduce Public Spaces Protection Orders (PSPO's).

3.4 PSPOs are intended to deal with a particular nuisance or problem in a particular geographical area that is detrimental

to the local communities' quality of life, by imposing conditions on the use of that area which apply to everyone. They are designed to ensure the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour.

- 3.5 A PSPO can be made by the local authority if they are satisfied on reasonable grounds that the activities carried out or likely to be carried out, in a public place:
- Have had, or is likely to have a detrimental effect on the quality of life of those in the locality.
  - Is, or likely to be of a persistent or continuing in nature.
  - Is, or is likely to be unreasonable.
  - Justifies the restrictions imposed.
- 3.6 Breaching a PSPO is a criminal offence. A PSPO can be enforced by an officer authorised by the local authority (including police community support officers) and a police constable. A breach of the PSPO may be dealt with either through the issuing of a Fixed Penalty Notice (FPN) of up to a statutory maximum of £100 or by prosecution. A fixed penalty notice is not a fine but an alternative to prosecution whereby an individual accepts payment of a sum of money to discharge their liability for conviction. Failure to pay a FPN may result in the case being progressed to a prosecution.
- 3.7 In cases where an individual is convicted the maximum fine is a level 3 fine (currently £1000).
- 3.8 A PSPO can be challenged by anyone who lives in, or regularly works in or visits the area within six weeks of the date it comes into force or of the date a variation takes effect.
- 3.9 The PSPO can be in place for a maximum of three years and is designed to be flexible and responsive to need. There is no limit on the number of times that Orders can be renewed, as long as the need is still present. Variation of a PSPO can be

done at any time to respond to the changing needs of public spaces, subject to the appropriate consultation taking place.

### **Background – 11<sup>th</sup> July onwards**

- 3.10 On 11<sup>th</sup> July 2017, the previous report was presented to Cabinet with the following recommendations:
- To ask Members to approve the Public Spaces Protection Order for dog control; and
  - To ask Members to authorise revocation of the Dog Control Orders to coincide with the introduction of the Public Spaces Protection Order (Dog Control).

A copy of the previous Cabinet report dated 11<sup>th</sup> July 2017 is available in Appendix 1.

- 3.11 Members agreed to approve the Public Spaces Protection Order (Dog Control) and to revoke the then Dog Control Orders, to coincide with the introduction of the Public Spaces Protection Order (Dog Control).

- 3.12 On 20<sup>th</sup> October 2017 the DCOs converted by operation of law to PSPOs (for those areas listed in section 3.2 above) without revision.

- 3.13 The proposed Public Spaces Protection Order (Dog Control) (including schedules and maps) is attached in Appendix 2.

### **Background – evidence to support the revocation of existing PSPOs relating to Dogs and the introduction of the Public Spaces Protection Order (Dog Control)**

- 3.14 The following table shows the number of dog related complaints and current data.

Table 1 – number of complaints per year for dog fouling and nuisance dogs

<b>Year (April to March)</b>	<b>Number of dog fouling complaints</b>	<b>Number of complaints about dogs (off lead, causing alarm or distress)</b>
2013 - 2014	308	43
2014 - 2015	332	50
2015 - 2016	357	35
2016 - 2017	306	59
2017 - 2018	169	67

- 3.15 Table 1 shows the information collated by Environmental Health only. The Housing Rangers and Park Rangers also receive complaints about dog fouling and nuisance dogs on housing/park land. Officers in Environmental Health work closely with Housing Rangers and Park Rangers to investigate complaints about dog fouling and nuisance dogs in public spaces.

### **Background – consultation phase**

- 3.16 Public consultation took place between Monday 26<sup>th</sup> September and Friday 4<sup>th</sup> November 2016. A copy of the consultation report is available in Appendix 3 and a copy of the questionnaire is available in Appendix 4. The headline report is available in Appendix 5 and a copy of the response from the Kennel Club is available in Appendix 6.

## **4.0 Human resources/people management implications**

- 4.1 The officers within the Environmental Health team (specifically Environmental Protection) already lead on enforcement for environmental issues and have delegated powers to serve Fixed Penalty Notices for dog fouling, litter, anti-social behaviour etc.

- 4.2 As well as carrying out enforcement duties, officers from the Environmental Protection team also deliver educational presentations (specifically for responsible dog ownership, safety around dogs, etc.) in schools and to children/youth organisations (such as Brownies, Beavers etc.).
- 4.3 The team works closely with the Housing Team and Park Team and attend local tenancy meetings/ward events to promote responsible dog ownership.
- 4.4 The team regularly attend community events and roadshows throughout the Borough. It is expected that the enforcement officers will continue to promote the responsible dog ownership message as well as carrying out enforcement duties.
- 4.5 There is evidence to show that many of the complaints about dog fouling and irresponsible dog ownership are made 'out of hours' (i.e. during the evening and at the weekend). Currently, the enforcement officers work Monday to Friday. Patrols carried out during the evening and at the weekend rely on officers being available/voluntary basis.
- 4.6 There is currently a review of enforcement across the health and well-being service (including Licensing and Community Safety teams) with a view to redesign to provide additional resource for this function and this will be reported to cabinet later in the year.
- 4.7 In Autumn 2017 'Keep Britain Tidy' delivered training to the Housing Rangers and Tenancy Management Officers on issuing Fixed Penalty Notices.

## 5.0 **Financial implications**

- 5.1 Should the Order (in Appendix 2) be approved, the PSPO must be published in accordance with the regulations made by the

Secretary of State. Furthermore, appropriate signage must be placed at all entrances to areas where there are restrictions in place.

- 5.2 There are 44 areas where restrictions are recommended and at each of these locations there will need to be appropriate signage that is visible and prominent. All old signage will need to be removed.
- 5.3 Preliminary research suggests that each sign (size A4, colour) would cost £7. For some locations (such as Queens Park), signage would need to be displayed at each entry into the park. The Kennel Club recommend that signs mark “you are now entering a dog on lead area” as well as “you are now leaving a dog on lead area”.
- 5.4 For other locations with existing prominent information boards (i.e. Eastwood Park), these too will need to be updated.
- 5.5 The cost of signage will be met from existing budgets for 2018/2019 period.
- 5.6 It is anticipated that there will be a full media campaign including a dedicated web page, updates on social media and officers handing out information at forthcoming events.
- 5.7 Breaching a PSPO is a criminal offence and enforcement officers can issue a Fixed Penalty Notice if appropriate to do so or recommend commencement of legal proceedings. The Anti-Social Behaviour Crime and Policing Act 2014 specifies that the Fixed Penalty Notice can be a maximum of £100. It is proposed to set the Fixed Penalty Notice penalty for all breaches under the Public Spaces Protection Order (Dog Control) at £80.

## 6.0 **Legal implications**



- 6.1 On 20<sup>th</sup> October 2017, the existing DCO's converted to PSPOs. The PSPOs imposes the following:
- dog fouling is not permitted in cemeteries (Boythorpe, Brimington, Spital and Staveley);
  - dogs must be kept on a lead at cemeteries (Boythorpe, Brimington, Spital and Staveley);
  - immediate removal of faeces on all public open spaces;
  - dog exclusion zone at Eastwood Park, Hasland (specified on a map);
  - dogs must be on a lead at Eastwood Park, Hasland (specified on a map); and
  - dogs on leads by direction at Eastwood Park, Hasland (when requested to do so by an authorised officer).
- 6.2 The proposed Public Spaces Protection Order (Dog Control) including schedules and maps is attached in Appendix 2.
- 6.3 Should Members not approve the revocation of the existing PSPOs (i.e. start date of 20<sup>th</sup> October 2017) and the implementation of the proposed Public Spaces Protection Order (Dog Control) (attached as Appendix 2), the existing PSPOs would remain in force and there would be no additional locations for 'dogs on leads' or 'dog exclusion areas'.
- 7.0 **Risk management**
- 7.1 It is necessary to proactively identify and manage significant risks which may prevent delivery of business objectives.
- 7.2 The following risks associated with this report have been identified as:

***Table 2 – risk factors***

Description of the Risk	Impact	Likelihood	Mitigating Action
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Challenge of the PSPO at High Court by an interested party.	High	Low	Statutory consultees have been contacted during the consultation phase.
Complaints from dog owners who feel that there are too many restrictions.	High	Low	Full media campaign. Advertise where the restrictions are. Advertise locations where dogs can be fully exercised.
Increase in complaints about dog owners not complying with the PSPO	High	Low	Full media campaign. Draw upon enforcement staff across the Council. Ensure enforcement officers are available at the weekend.

## 8.0 Equalities Impact Assessment (EIA)

8.1 A copy of the EIA is available in Appendix 7.

8.2 No negative impacts are anticipated on protected groups.

- 8.3 The PSPO for dog control includes the three following exemptions to mitigate against potential indirect discrimination:

Exemptions

This Order shall not apply to a person who: -

- (a) is registered as a blind person in a register compiled under Section 29 of the National Assistance Act 1948;
- (b) has a disability which affects his/her mobility, manual dexterity, physical coordination or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a prescribed charity and upon which he/she relies on for assistance;
- (c) has received written permission/exemption from Chesterfield Borough Council.

9.0 **Alternative options and reasons for rejection**

- 9.1 Should Members not approve the revocation of the existing PSPOs (i.e. start date of 20<sup>th</sup> October 2017) and the implementation of the proposed Public Spaces Protection Order (Dog Control) (attached at Appendix 2), the existing PSPOs would remain in force and there would be no additional locations for 'dogs on leads' or 'dog exclusion areas'.

10.0 **Recommendations**

- 10.1 That Members to agree to the implementation of the Public Spaces Protection Order (Dog Control), as attached in Appendix 2.
- 10.2 That Members authorise the revocation of the Public Spaces Protection Orders that arose by operation of law from existing Dog Control Orders on 20<sup>th</sup> October 2017.
- 10.3 That Members agree that the implementation of the Public Spaces Protection Order (Dog Control) and the revocation of the existing Public Spaces Protection Orders (which arose

from the old Dog Control Orders) will be undertaken once the necessary preliminary steps have been completed and agree to delegate this decision to the Local Government and Regulatory Law Manager in consultation with the Portfolio Holder for Health and Wellbeing.

- 10.4 That Members approve the level of Fixed Penalty Notice to be set at £80 for all dog related offences under the Public Spaces Protection Order (Dog Control).
- 10.5 That Members request a further report to consider the impact and effectiveness of the Public Spaces Protection Order (Dog Control) once it has been in effect for 12 months.

#### 11.0 **Reasons for recommendations**

- 11.1 PSPO's are intended to deal with a particular nuisance or problem in a particular geographical area that is detrimental to the local communities quality of life, by imposing conditions on the use of that area which apply to everyone. They are designed to ensure the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour.
- 11.2 To ensure visitors and users of our parks and open spaces (dog owners and non-dog owners) can use these spaces in harmony.

<b>Glossary of Terms</b> <i>(delete table if not relevant)</i>	
<i>DCO</i>	<i>Dog Control Order</i>
<i>PSPO</i>	<i>Public Spaces Protection Order</i>

#### **Decision information**

<b>Key decision number</b>	813
<b>Wards affected</b>	All
<b>Links to Council Plan priorities</b>	To improve the quality of life for local people.

## **Document information**

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<b>Background documents</b> These are unpublished works which have been relied on to a material extent when the report was prepared.	
N/A	
<b>Appendices to the report</b>	
Appendix 1	Previous cabinet report dated 11 <sup>th</sup> July 2017.
Appendix 2	Proposed PSPO (dog control) - Order, schedules 1, 2 and 3 and corresponding maps.
Appendix 3	PSPO (dog control) – consultation document.
Appendix 4	Consultation questionnaire.
Appendix 5	Consultation – headline report.
Appendix 6	Consultation – response from The Kennel Club.
Appendix 7	Equalities Impact Assessment