

**Report of Chief Officer (Environment)**

**Report to** Director of Communities and Environment.

**Date:** 12<sup>th</sup> June 2018

**Subject:** Approval of Public Spaces Protection Order 2018 – Dog Related Restrictions and Restrictions Relating to Smoking in Children’s Play Areas

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

**Summary of main issues**

- 1.1 On 20th October 2017, all previous Dog Control Orders became Public Space Protection Orders under the provisions of the Anti-Social Behaviour, Crime and Policing Act 2014. This change in legislation provided the opportunity for any appropriate amendments to be made whether these be dog related or not.
- 1.2 Proposals to include some new city wide and site specific requirements, including an additional unrelated requirement that prohibits smoking in children’s play areas have now been consulted upon.
- 1.3 Following the consultation process, the Public Space Protection Orders has been drafted to include a requirement for person(s) in charge of a dog(s) to carry a means by which to clean up; clarification on the number of dogs that can be walked by professional dog walkers; exclusion of dogs from Leeds City Council tennis courts and Multi-use games areas; requirement for dogs to be kept on leads in a number of key locations where closer control is needed and addition of a small number of requirements for sites that were new or had been omitted from the previous order.

**Recommendations**

- 1.4 The Director of Communities and Environment is recommended to approve the implementation of the Public Spaces Protection Order– Dog Related Restrictions and Restrictions Relating to Smoking in Children’s Play Areas and the associated schedules on 1<sup>st</sup> July 2018.
- 1.5 The Director is also recommended to approve a 3 month period during which the focus will be education and informal warnings in relation to the new the requirement to carry the means to pick up after a dog and for professional dog walkers on the number of dogs permitted to be walked.
- 1.6 That the Fixed Penalty Notice is set at £100, reduced to £80 if paid within 10 days.
- 1.7 That the current dog related Public Spaces Protection Orders (formerly Dog Control Orders) that came into effect on 20<sup>th</sup> October 2017 are repealed at midnight on 30<sup>th</sup> June 2018.

## **2 Purpose of this report**

- 2.1 To seek approval of the Director of Communities and Environment to implement the Public Space Protection order 2018 - Dog Related Restrictions and Restrictions Relating to Smoking in Children's Play Areas and the associated schedules.

## **3 Background information**

- 3.1 On 20<sup>th</sup> October 2017, Dog Control Orders became Public Spaces Protection Orders under the provisions of the Anti-Social Behaviour Crime and Policing Act 2014.
- 3.2 This change provided the opportunity to review the existing control and make additions, whether they were dog-related or other types of anti-social behaviour. Most of the current controls in place are considered to be proportionate and effective. However, it was proposed to introduce an additional requirement for dog owners to carry the means to clean up after their dog, and clarification was made of the wording in relation to the number of dogs that professional dog walkers can walk at once.
- 3.3 In addition, a number of site specific requirements were also put forward to require dogs to be kept on leads or excluded where the sites were new, had not been included on previous orders or where a specific issue had arisen that required dogs to be kept under closer control.
- 3.4 In autumn 2015, a non-enforceable smoking ban was introduced across all children's play areas in Leeds in order to reduce the exposure of young people to second hand smoke and see less smoking happening as they grow up. As almost all of the children's play areas form dog exclusion areas already, the introduction of a Public Space Protection Order allows the opportunity to prosecute or offer an alternative fixed penalty notice for people found to be smoking in a children's play area.
- 3.5 In order to fulfil the legal requirements of implementing a new PSPO, a well-publicised public consultation took place from 1st November to 15th December 2017.
- 3.6 Although there were some minor variations, all of the proposals were well supported, with some proposals such as the requirement for dog owners to carry a means to pick up and the prohibition of smoking in children's play areas that were very strongly supported. In view of this, the next stage in the process is to enact the Public Spaces Protection Order.
- 3.7 Non-compliance with a Public Spaces Protection Order can result in a maximum fine in the magistrate's court of £1000, although a Fixed Penalty Notice can be offered as an alternative to discharge the individual's liability for the offence and the level for the FPN will be set at £100 (discounted to £80 if paid within 10 days). Non-payment of an FPN could may result in the case proceeding to court.

## **4 Main issues**

- 4.1 Implementation of the Public Spaces Protection Order would support the Best Council Plan through helping to provide greater access to green spaces through the provision of better dog controls within those green spaces, and more stringent requirements to improve behaviours and reduce fouling in all areas including green spaces. Clean Green spaces can also encourage more people to use them and encourage the mental and physical benefits of outdoor exercise.
- 4.2 It is proposed that the PSPO will be enacted on 1<sup>st</sup> July 2018 and will be widely publicised. It is proposed that there shall be a 3 month period during which the focus will be education and informal warnings for the requirements relating to means to pick up.
- 4.3 It is also proposed that the 3 month period for education and informal warnings will also apply to professional dog walkers who are walking 5 or 6 dogs in the company other dogs and their walkers
- 4.4 No enforcement will take place until appropriate signage is in place.
- 4.5 A fair and proportionate enforcement policy will accompany the PSPO.

## **5 Corporate Considerations**

### **5.1 Consultation and Engagement**

- 5.1.1 In line with the legal requirements of implementing a Public Space Protection Order an extensive Public Consultation took place from 1<sup>st</sup> November- 15<sup>th</sup> December 2017. An online survey was produced and promoted through a press release, Facebook and Twitter posts, an email to key Councillors, Parish and Town Councils and key council colleagues requesting that they circulate the survey as widely as possible.
- 5.1.2 Posters were also put up in parks and business cards with a printed link to the surveys distributed at Golden Acre Park and Gotts Park Golf Course. Service users who didn't have access to the internet at home could receive assistance to complete the online survey at Community Hubs.
- 5.1.3 The Public Consultation was well received, receiving 2134 responses, a summary of the findings can be found in Appendix A.
- 5.1.4 A briefing note was prepared for Environmental Champions to explain the proposals before the Champions meeting at the end of November with a request to share the information with ward colleagues. Environmental champions were also provided with the opportunity to raise the PSPO as an agenda item at Environmental sub groups. Members were supportive of the proposals.
- 5.1.5 A consultative email was also sent to the Police and Crime Commissioner for West Yorkshire and West Yorkshire Police. A joint supportive response was received.

### **5.2 Equality and Diversity / Cohesion and Integration**

- 5.2.1 Any specific sites to which this order will apply have been selected due to specific or likely dog control related problems in that location rather than on impacting on

any specific group or characteristic. There are no significant equality and diversity or cohesion factors associated with this decision.

5.2.2 An equality impact screening form has been completed and is attached as Appendix B.

### **5.3 Council policies and the Best Council Plan**

5.3.1 Ensuring that an order is put in place to regulate the use of public areas so that they can be free from dog fouling and out of control dogs contributes towards the Council Plan and Vision for Leeds to be the Best City. Cleaner green spaces where dogs are under better control encourages them to be accessed by more people. Active outdoor lifestyles can also help to contribute to improved physical and mental health and can assist in Leeds becoming the best city for children in providing healthy lifestyles and having fun growing up.

5.3.2 Implementing the amended Public Spaces Protection Order also helps to contribute to Leeds' aim to be the best city for communities by ensuring that public areas in the city are clean and welcoming and that Leeds is the Best City to live with clean, green spaces where everyone can enjoy a good quality of life.

### **5.4 Resources and value for money**

5.4.1 The purpose of introducing the amendments to the PSPO is to achieve broad compliance with the requirement across all communities, rather than to increase the number of Fixed Penalties and prosecutions that are undertaken. Although there will be a period of promotion of the changes when the Order is initially implemented where more Officer time will be invested, all enforcement will be undertaken within existing resources.

5.4.2 One of the requirements for implementing a PSPO is that adequate signage is displayed in order that people are aware of what is expected of them. The signage requirements for the site specific requirements are currently being identified, but it is estimated that approximately 120 signs will be needed at a cost of around £5400. Additional or replacement signage will also be needed to take into account that both dogs and smoking will be prohibited in children's play areas which may result in a cost of around £6750.

### **5.5 Legal Implications, Access to Information and Call In**

5.5.1 As outlined in section 3E(f) of the Leeds City Council constitution the Director of Communities and Environment is authorised to discharge the function of Environmental Management including dog control and dog warden services. In addition the Director of Communities and Environment is also authorised to discharge the function of Parks and countryside for the creation, management and enhancement of related visitor attractions and facilities.

5.5.2 Legal Services have been fully engaged at all stages of the planning, drafting and preparation of the PSPO and will continue to provide support with the implementation and enforcement of the order.

5.5.3 In order to introduce a PSPO the local authority must be satisfied the behaviour that is being restricted is:

- Having or is likely to have, a detrimental effect on the quality of life of those in the locality
- Is persistent or continuing in nature

- Is reasonable
- Justifies the restrictions imposed

- 5.5.4 The PSPO lasts for a maximum of 3 years, but can be extended beyond this time.
- 5.5.5 An interested person may apply to the high court to question the validity of an Order on the grounds that the Local Authority did not have the power to make the order or to include a particular restriction or requirement of that order or that it did not meet the “tests” outlined in the Anti-Social behaviour Crime and Policing Act 2014. Any such application has to be made to the High Court within 6 weeks of enactment of the Order.
- 5.5.6 The High Court has the opportunity to suspend or quash any of the requirements of the order.
- 5.5.7 The proposed order has been subject to extensive public consultation as required by the Anti-Social Behaviour Crime and Policing Act 2014
- 5.5.8 The Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014 requires that any PSPO that is implemented is published on the Council’s website and that signage is placed as deemed appropriate to ensure that the public are aware of the requirements.
- 5.5.9 The repeal of the existing dog related PSPO (formerly Dog Control Orders) will also need to be published on the Council’s website.
- 5.5.10 This decision constitutes a significant operational decision and as such is not eligible for call in.

## **5.6 Risk Management**

- 5.6.1 As outlined in 4.5.5, an interested person may apply to the high court to question the validity of that order. However, in order to mitigate such a risk, legal advice has been sought throughout the process and an extensive consultation process undertaken.
- 5.6.2 During the consultation process one site that had been proposed to be a dogs on leads area was opposed, and after further consultation with local residents, a decision was made not to implement the PSPO at that site, demonstrating that the legal test had been taken seriously and had been considered.
- 5.6.3 There are no additional resources available to enforce the additional requirements, which could result in the perception that the Orders won’t be properly enforced. The purpose of the implementation of the additional areas on the Public Spaces Protection Orders is to achieve broad compliance and that with assistance from colleagues and members of the public in providing intelligence, resources can be targeted to those areas and problems most requiring resources.
- 5.6.4 Publication of successful enforcement action can also be used to act as a deterrent.

## **6 Conclusions**

- 6.1 Following discussions with colleagues within Leeds City Council, a number of changes to the current Dog Controls (now PSPOs) were proposed, which were then put out for consultation with the public, Councillors, Parish and Town Councils as well as West Yorkshire Police.
- 6.2 In addition to the dog related controls, a requirement to implement a PSPO to prohibit smoking in children's play areas was also put forward and consulted upon.
- 6.3 Apart from one specific site proposal, which has been removed from the schedule, all of the proposals were well supported and now require formal approval prior to the implementation of the Public Spaces Protection Order on 1<sup>st</sup> June 2018.
- 6.4 Following approval preparation and updating of the appropriate stationary, including Fixed Penalty Notices and letters will take place as well as the erection of signage and extensive publicity around the implementation of the Order.
- 6.5 No enforcement will take place in any area until appropriate signage is in place. A 3 month period of education and informal warnings will be in place in relation to the requirement to carry a means to pick up and professional dog walkers who breach the amended requirements in relation to maximum number of dogs walked.

## **7 Recommendations**

- 7.1 The Director of Communities and Environment is recommended to approve the implementation of the Public Spaces Protection Order– Dog Related Restrictions and Restrictions Relating to Smoking in Children's Play Areas and the associated schedules on 1<sup>st</sup> July 2018 (Appendix C)
- 7.2 The Director is also recommended to approve a 3 month period for education and informal warnings in relation to the requirement to carry a means to pick for persons in control of a dog and for a professional dog walker walking more than the permitted number of dogs alongside another person in control of dogs.
- 7.3 That the Fixed Penalty Notice is set at £100, reduced to £80 if paid within 10 days.
- 7.4 That the current dog related Public Spaces Protection Orders (formerly Dog Control Orders) that came into effect on 20<sup>th</sup> October 2017 are repealed at midnight on 30<sup>th</sup> June 2018.

## **8 Background documents<sup>1</sup>**

None

---

<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.