

REPORT TO	ON
CABINET	25 OCTOBER 2017

September 2017

TITLE	PORTFOLIO	REPORT OF
INTRODUCTION OF PUBLIC SPACE PROTECTION ORDERS	NEIGHBOURHOODS AND STREETSCENE	ROGER ASHCROFT

Is this report a <b>KEY DECISION</b> (i.e. more than £75,000 or impacting on more than 2 Borough wards?)	<b>Yes</b>
Is this report on the <b>Statutory Cabinet Forward Plan</b> ?	<b>Yes</b>
Is the request outside the policy and budgetary framework and therefore subject to confirmation at full Council?	<b>No</b>
Is this report confidential?	<b>No</b>

## 1. PURPOSE OF THE REPORT

The Council adopted Dog Control Orders (DCOs) in September 2009. These orders replaced a number of bye-laws previously in force covering a range of offences and also allowed offences to be discharged by the payment of a £80 fixed penalty notice, thereby avoiding prosecution and the need to appear at Magistrates' Court.

From October 2017 DCOs will lapse and be replaced by Public Spaces Protection Orders (PSPOs). This report seeks approval to replace DCOs with PSPOs.

## 2. PORTFOLIO RECOMMENDATIONS

That Cabinet:

2.1 Considers the consultation responses and approves the introduction of the following PSPOs with immediate effect:

- a) The Dogs Exclusion in the Borough Council of South Ribble Public Space Protection Order 2017
- b) The Fouling of Land by Dogs in the Borough Council of South Ribble Public Space Protection Order 2017
- c) The Dogs on Leads by Direction in the Borough Council of South Ribble Public Space Protection Order 2017
- d) The Dogs on Leads in the Borough Council of South Ribble Public Space Protection Order 2017
- e) The Means to Pick Up Foul by Dogs in the Borough Council of South Ribble Public Space Protection Order 2017

2.2 Considers the consultation responses and does not approve the introduction of the following PSPO but keeps this under continuous review:

a) The Dogs (Specified Maximum) in the Borough Council of South Ribble Public Space Protection Order 2017

2.3 Agrees a review of PSPOs is undertaken before October 2020.

2.4 Agrees delegation to the Director of Neighbourhoods, Environmental Health and Assets to implement the relevant steps for enforcement of PSPOs.

2.5 The level of Fixed Penalty Notice be set at the highest amount possible of £100.

### 3. CORPORATE PRIORITIES

The report relates to the following corporate priorities (*tick all those applicable*):

Clean, green and safe	x	Strong and healthy communities	x
Strong South Ribble in the heart of prosperous Lancashire	x	Efficient, effective and exceptional council	

### 4. BACKGROUND TO THE REPORT

4.1 The Council adopted DCOs in September 2009 under powers afforded to local authorities by the Clean Neighbourhoods and Environment Act 2005. These orders replaced a range of bye-laws previously in force covering a range of offences and also allowed offences to be discharged by the payment of a £80 Fixed Penalty Notice (FPN), thereby avoiding prosecution and the need to appear at Magistrates' Court. From October 2017 DCOs will lapse and be replaced by PSPOs.

4.2 PSPOs apply to public spaces where the activities that are taking place have a detrimental effect, or are likely to have a detrimental effect, on the quality of life of those in the local community.

4.3 Guidance recommends that the Council should review the existing DCOs as part of the process of replacing them with PSPOs which must comply with the new legal tests. Also, it is crucial that the new PSPOs clearly reflect the level of restriction that the public feel is required.

4.4 A consultation process was authorised through a delegated decision in August 2017. The consultation process took place between 23 August and 31 September 2017 and the responses are detailed later in this report for Cabinet to consider.

4.5 The changes proposed aim to create a more comprehensive and consistent approach when dealing with issues such as dog fouling, keeping dogs on leads and excluding dogs from specified areas.

4.6 The proposed PSPOs will cover the following, which are currently dealt with under DCOs:

- Fouling of land by dogs
- Dogs exclusion areas
- Dogs on leads
- Dogs on leads by direction

In addition to the above, the consultation looked into potential additional provision for the following:

Means to pick up dog faeces  
Dogs (Specified Maximum)

4.7 The Council enforcement team deals with dog related issues detailed above such as fouling, dog and dog owner behaviour, dogs off lead, dogs in excluded areas etc. It is important that the Council is able to continue to respond to these issues through the adoption of PSPOs to meet any concerns raised by the public and ensure that the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour.

## 5. PROPOSALS

5.1 The adoption of PSPOs relating to the control of dogs in the borough, aims to create a more consistent approach and balance the needs of dog owners against other members of the community. It will also assist the Council's zero tolerance approach to dog fouling, keeping the streets clean and protecting and enhancing open spaces.

5.2 The PSPOs will replace the current DCOs (with some amendments) within the Borough of South Ribble. It is proposed to make the following Public Space Protection Orders under Part 4 Section 59 of the Anti-social Behaviour Crime and Policing Act 2014:

- a) The Dogs Exclusion in the Borough Council of South Ribble Public Space Protection Order 2017. All these areas are fenced and new signs will be erected.
- b) The Fouling of Land by Dogs in the Borough Council of South Ribble Public Space Protection Order 2017
- c) The Dogs on Leads by Direction in the Borough Council of South Ribble Public Space Protection Order 2017
- d) The Dogs on Leads in the Borough Council of South Ribble Public Space Protection Order 2017
- e) The Means to Pick Up Foul by Dogs in the Borough Council of South Ribble Public Space Protection Order 2017 (This will allow officers to issue a FPN if a person in control of a dog does not have the means to pick e.g. poo bag)

5.3 See **Appendix 1** which includes the proposed PSPOs.

5.4 The above proposed PSPOs (a – d) will have substantially the same effect as the existing DCOs. However, there is a new PSPO (e above) which has been proposed which covers an issue not currently covered by the existing DCOs. This is in relation to having appropriate means to pick up dog faeces such as a plastic bag.

5.5 A further PSPO has been considered (see (a) below) in relation to only being able to have a specified number of dogs under your control as we have had complaints regarding professional dog walkers using the council's open space to exercise large numbers of dogs. A minute from a meeting of the Scrutiny Committee raising the issue is attached see **Appendix 3**. Officers consulted other councils who had introduced this PSPO and six dogs was the most common number.

- a) The Dogs (Specified Maximum) in the Borough Council of South Ribble Public Space Protection Order 2017 (To limit the number of dogs controlled by an individual to 6)

However, following the consultation exercise which was not supportive of this PSPO being introduced it is proposed that it is not introduced at this stage but is kept under continuous review.

## 6. CONSULTATION CARRIED OUT AND OUTCOME OF CONSULTATION

6.1 In accordance with statutory requirements, the Council has undertaken a formal consultation which was approved by delegated decision in August of this year. The Act does not define the level of or appropriate consultation. However, the Council consulted with the Chief Officer of Police for the area, The Police and Crime Commissioner, the Local Policing Body, Lancashire County Council, the Business Improvement District (BID), businesses, partnerships, parish and town councils, members, local communities and community representatives including the Kennel Club and the RSPCA and the general public.

6.2 The draft PSPO's were published for public consultation for a period of 5 weeks during August and September. Consultation was by the way of consultation letters, a notice in the local press, a notice on the Council's website (including a questionnaire) and via social media.

6.3 The proposal for the introduction of PSPOs relating to dog control within the borough has been widely consulted on as set out above.

6.4 A report on the consultation exercise was available on the council's website and a copy of the results are attached in **Appendix 2**, a summary of the survey results can be seen in the table below:

	Questions	Yes	No
1.	Do you own a dog or walk a dog for someone else?	85 %	15%
2.	Are you a... resident of South Ribble? person who works in South Ribble? Councillor? a local business owner? representative of a charity/organisation?	85%	15%
3	Do you agree with the proposal to introduce a borough wide Public Space Protection Order?	49%	51%
4	Do you think the Council should continue to enforce against persons in charge of a dog who fails to clean up its faeces?	99%	1%
5	Do you think additional enforcement should be taken against persons in charge of a dog who has no means to pick up dog faeces?	69%	31%
6	Do you think the Council should continue to exclude dogs from areas specified in the proposed order?	53%	47%
7	Do you have any suggestions as to other locations where you feel dogs should be excluded?	List attached	
8	Do you think the Council should continue to make it a requirement for persons in charge of a dog to put their dog on lead in the areas specified in the proposed order?	86%	14%
9	Do you have any suggestions as to other locations where you feel dogs should be on leads?	List attached	

10	Do you think the Council should continue to be able to make it a requirement for persons in charge of a dog to put their dog on a lead when asked to do so by an authorised officer?	86%	14%
11	Do you think provision should be made in the new order to restrict the number of dogs that can be walked by an individual on and off the lead?	27%	73%
12	Do you think that the current signage for Dog Control Orders across the borough is prominent and clear?	25%	75%
13	If you feel that any of these proposals will affect you as an individual because of any of the following, please give details below.  Age, Disability, Ethnic Origin, Gender, Religious or Non-Religious Belief, Nationality, Responsibility for Dependents, Language, or any other reason.	22% List attached	78%

6.5 The consultation resulted in 146 on line response forms being completed with the majority of these being supportive of introducing the PSPOs. It should be noted that the majority of responses were from dog owners or those who exercised dogs for other people. The main points of objection was the proposal to restrict the number of dogs that can be walked by an individual on and off the lead. It should be noted that the Scrutiny Committee has previously identified this as an issue. There is also an even balance on the responses regarding current exclusion zones and the overall PSPO's. The responses to questions 7, 9 and 13 are attached in Appendix 2 and are mainly based on requesting additional exclusion zones around children's play areas, although this is difficult to enforce without fencing these areas.

6.6 When deciding whether to make requirements or restrictions on dogs and their owners, the council needs to consider whether there are suitable alternatives for dogs to be exercised without restrictions. It is considered there are numerous such areas throughout the borough where dog owners can take their dogs for exercise. The proposals therefore offer a balanced approach recognising the needs of the dog owning community as well as the general public.

6.7 It is important the proposed PSPOs are visibly policed and enforced. The existing Neighbourhood Officers group will continue to enforce the fixed penalty notices. The Immediate period following the introduction of the PSPOs will be actively publicised and front line officers will be on hand to offer advice to members of the public.

6.8 In respect of the statutory consultee responses, a response was received from Lancashire County Council Highways Team relating to the proposed Dogs on Lead PSPO. The response stipulated that the proposed wording for the Dogs on Leads Order is a little ambiguous or inconsistent with respect to public rights of way and provided that this should be amended. In light of this, the Schedule at i) and ii) of the proposed dogs on lead order (which went out to consultation) has been amalgamated under bullet point i) of the amended schedule. It is proposed that subject to consideration by Cabinet that the amended schedule is approved.

6.9 Comments received have been taken into consideration and approval is now sought to authorise the PSPOs and bring them into force with immediate effect and a proposed review date being prior to October 2020.

## **7. OTHER OPTIONS CONSIDERED**

Consideration could be given to not replacing DCOs with PSPOs. However, this is not a viable option as it would mean that the council could not enforce and deal with dog related issues on the borough's public space.

## **8. FINANCIAL IMPLICATIONS**

The estimated one-off cost of advertising and signage in relation to the proposed PSPOs is £1,500. This can be met from existing budgets.

## **9. LEGAL IMPLICATIONS**

9.1 All offences can be dealt with by issuing a Fixed Penalty Notice (FPN). The current FPN for dog control order offences in the borough is set at £80. It is proposed that this will be increased to £100 for breaching a PSPO. (See also Comments of the Statutory Finance Officer). This is on the basis that the current £80 has been in place for some time and that the maximum FPN should be introduced as a deterrent to offenders. In cases of non-payment, the matter can be taken to court where the maximum fine on summary of conviction is level 3 on the standard scale which is currently £1000.

9.2 To challenge the validity of the PSPO orders - anyone who lives in, or regularly works in or visits the area can appeal a PSPO in the High Court within six weeks of issue. Further appeal is available each time the PSPO is varied by the council. This definition is provided for at section 66(1) of the Act.

9.3 While the PSPO is in force any byelaws and orders applying to the same activity will cease to have effect. A PSPO may not effect for a period of more than 3 years; that period can be extended for a further 3 years.

9.4 If cabinet authorise the making of the proposed PSPOs, there is a further requirement for publicity within the Anti-social Behaviour, Crime and Policing Act (publication of public space protection orders) Regulations. These require that where a local authority has made a PSPO, they must publish it on its website and erect such notices as it considers sufficient to advise members of the public that the PSPO has been made and the effect of such order.

## **10. HUMAN RESOURCES AND ORGANISATIONAL DEVELOPMENT IMPLICATIONS**

There are no implications to consider. Training on enforcement matters is regular reviewed and refreshed as appropriate.

## **11. ICT/TECHNOLOGY IMPLICATIONS**

The recent introduction of remote technology has improved efficiency in responding to issues.

## **12. PROPERTY AND ASSET MANAGEMENT IMPLICATIONS**

There are no implications.

## **13. RISK MANAGEMENT**

Should the PSPOs not be introduced the Council will not be able to enforce dog related issues. This is an unacceptable position for the Council.

#### **14. EQUALITY AND DIVERSITY IMPACT**

Neighbourhood Services has an Equality Impact Assessment in place covering enforcement and the clean environment. This will be updated to reflect the replacement of DCOs with PSPOs. Other than this there are no other implications.

#### **15. RELEVANT DIRECTORS RECOMMENDATIONS**

The Council has no other option but to replace DCOs with PSPOs to enable dog related enforcement to continue.

The recommendations below are therefore proposed:

That Cabinet:

2.1 Considers the consultation responses and approves the introduction of the following PSPOs with immediate effect:

- a) The Dogs Exclusion in the Borough Council of South Ribble Public Space Protection Order 2017
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2.2 Considers the consultation responses and does not approve the introduction of the following PSPO but keeps this under continuous review:

- a) The Dogs (Specified Maximum) in the Borough Council of South Ribble Public Space Protection Order 2017

2.3 Agrees a review of PSPOs is undertaken before October 2020.

2.4 Agrees delegation to the Director of Neighbourhoods, Environmental Health and Assets to implement the relevant steps for enforcement of PSPOs.

2.5 The level of Fixed Penalty Notice be set at the highest amount possible of £100.

#### **16. COMMENTS OF THE STATUTORY FINANCE OFFICER**

The current and proposed charges for Fixed Penalty Notices (FPNs) and fines for non-payment are set out in the financial and legal implications above. A one –off cost of £1.5k will be required from existing budgets to amend signage and formal communications. The proposed increase in charges for Fixed Penalty Notices is 25% which could increase over all income received by £1.5k per annum.

## 17. COMMENTS OF THE MONITORING OFFICER

Cabinet is being requested to consider the responses from the consultation process and to approve the PSPO's to tackle the problem issues relating to dogs.

The validity of a PSPO can be challenged in the High Court within six weeks of it being made.

## 18. BACKGROUND DOCUMENTS

Appendix 1 Proposed Public Spaces Protection Orders

Appendix 2 Consultation responses

Appendix 3 Scrutiny Committee minute

### **SMT Member's Name**

Mark Gaffney

### **Job Title**

Director of Neighbourhoods, Environmental Health and Assets

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