

<b>Subject:</b>	<b>PUBLIC SPACES PROTECTION ORDER CONSULTATION</b>
<b>Meeting and Date:</b>	<b>Cabinet – 5 March 2018</b>
<b>Report of:</b>	<b>David Randall, Director of Governance</b>
<b>Portfolio Holder:</b>	<b>Councillor Trevor Bartlett, Portfolio Holder for Property Management and Environmental Health</b>
<b>Decision Type:</b>	<b>Key</b>
<b>Classification:</b>	<b>Unrestricted</b>
<b>Purpose of the report:</b>	To seek Cabinet authorisation to go out to formal consultation on the renewal and amendment of the Public Spaces Protection Order (Dover District Council) 2015.
<b>Recommendation:</b>	That Cabinet authorise the commencement of the necessary period of consultation in accordance with section 72 of the Anti-social Behaviour, Crime and Policing Act 2014, on the extension and variation of the Public Spaces Protection Order, with consultation to run between 12 March 2018 and 9 April 2018.

## 1. Summary

The Anti-Social Behaviour Crime and Policing Act 2014 (the 2014 Act) provides local authorities with powers to make Public Spaces Protection Orders (PSPOs). These orders are intended to address activities carried out in public spaces which have a detrimental effect on the quality of life of those in the locality.

Dover District Council previously implemented a PSPO which came into effect on 27<sup>th</sup> July 2015. This relates to dog control and covered fouling, leads, leads by order and exclusions. Under the Act a PSPO runs for 3 years unless extended and/or varied in accordance with the provisions of the 2014 Act. Variations to the order can increase or reduce the restricted areas and add new requirements. The proposal is to extend the PSPO for another 3 years with minor amendments. The level of the fixed penalty notice shall remain at £75 to be paid within 14 days with no reduction for early payment.

## 2. Introduction and Background

2.1 A local authority can make a PSPO if satisfied on reasonable grounds that two conditions are met:

- that activities carried out in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality or that it is likely that activities carried on in a public place within that area will have such an effect.
- and
- the effect or likely effect of the activities is, or is likely to be of a persistent or continuing nature; is or is likely to be such as to make the activities unreasonable and justifies the restrictions imposed by the order

In order to extend a PSPO in accordance with section 60, the local authority must be satisfied on reasonable grounds that doing so is necessary to prevent -

- (a) occurrence or recurrence after that time of the activities in the order, or
- (b) an increase in the frequency or seriousness of those activities after that time.

## 2.2 The current PSPO lists 4 offences

- (i) Failing to remove dog faeces (covering the whole District)
- (ii) Failing to put a dog on a lead after being requested to do so by an authorised officer (covering the whole District)
- (iii) Failing to keep a dog on a lead in specified places
- (iv) Permitting a dog to enter specified land from which dogs are excluded

Detail of the current areas covered can be viewed at

<https://www.dover.gov.uk/Environment/Environmental-Crime/Public-Spaces-Protection-Order/Public-Spaces-Protection-Order.aspx>

## 2.3 The table below details the enforcement action taken since the introduction of the PSPO.

	FPNs	Warnings	Successful prosecutions
Fouling	18	0	1
Dogs on lead	21	36	2
Dog exclusion	61	37	7
On lead by direction.	0	0	0

This shows the introduction of the PSPO has had an important impact and it is considered the current PSPO has been an effective tool preventing anti-social behaviour having a detrimental effect, as set out in section 59 of the 2014 Act The Council also seeks to publicise prosecutions as we believe this sends out a message that action is taken against irresponsible dog owners. A recent initiative of publishing a monthly social media report detailing the actions taken by the Environmental Crime Team also ensures we reach a wide audience.

## 2.4 It is proposed to maintain all dog related offences with some minor changes as outlined below and on the maps included in the draft PSPO at Appendix 1.

- (i) Failing to remove dog faeces. This covers the whole District and no change is proposed. .
- (ii) Failing to put a dog on a lead after being requested to do so by an authorised officer. This covers the whole District and no change is proposed. .
- (iii) Section 3 relating to the requirement to keep dogs on leads in specified places is to be amended in the following areas:
  - **Deal Prom.** Extend the area to cover green space and gardens at Sandown Castle. These gardens are enclosed and have been entered in the Britain in Bloom competition.
  - **Dover Seafront**  
Remove the restriction on the gardens so dogs only have to be on a lead on the promenade.  
Remove the restriction beyond the last groyne where the promenade runs alongside the main road

These changes are detailed in Appendix 2 with maps illustrating the changes.

(iv) Section 4 relates to the offence of permitting a dog to enter specified land from which dogs are excluded. The proposal is to amend this in the following areas:

➤ **Dover Seafront**

Remove the exclusion to the eastern end of the beach beyond the last groyne adjacent to the Premier Inn. This is a small stretch of beach which is covered when the tide goes in. Allowing dogs there provides space on the beach for dog owners away from the main bay

➤ **St. Margaret's Bay Beach**

Remove the exclusion at point to the eastern end of the beach by the stairs. This permits dog walkers to go from St Margaret's beach to Kingsdown and vice versa without entering an exclusion area. This is marked by groynes restricting access to the remaining exclusion areas

The following sites are to be added to the exclusion section of the PSPO:

➤ **Victoria Park, Deal sports pitches**

Sited to the rear of Tides. The sports pitches are fenced. Dog walkers have sufficient areas within the park to exercise their pets.

➤ **North Deal playing field area**

New play park.

➤ **St Radigund's play area**

New play park

➤ **Aycliffe play area**

New play park

➤ **Wingham recreation ground**

New multi-use games area (MUGA).

These changes are detailed in Appendix 2 with maps illustrating the changes.

➤ **Freemens Way play area**

No longer exists so removed

Further changes may be made as a result of consultation. The final PSPO will come before Cabinet for approval with an intended commencement date of 28 July 2018.

- 2.5 By virtue of section 72 of the Act, before amending/extending a PSPO the Council is obliged to carry out consultation with the Chief Officer of police, the local policing body, community representatives and owners/occupiers of land covered within the order.

The consultation will be publicised widely through the Council's website, Twitter, Facebook, via press releases to local media, e-mailing Parish, Town Councils and community groups and leaving copies for public perusal in libraries and Council offices. Notices will also be put up in areas the order relates to.

In addition, the Council plan to publish a notice of its intention to amend/extend the PSPO in a local newspaper, which covers the whole district. Although this is not required by the legislation, guidance issued by the Department for Environment, Food & Rural Affairs suggests that it is best practice to do so. It is intended the consultation will be open for 4 weeks

### 3. Identification of Options

- 3.1 Option 1 – approve a period of consultation on the extension and variation to the PSPO as suggested.
- 3.2 Option 2 – approve a period of consultation on extending the current PSPO without the suggested amendments
- 3.3 Option 3 – do not authorise consultation on a revised/extended PSPO and allow the current PSPO to expire with effect from 27 July 2018.

#### 4. **Evaluation of Options**

- 4.1 Option 1 – The recommended option. The ultimate aim of consulting is to extend and amend the PSPO. It also aids in
  - balancing the needs of dog owners and other members of the community
  - maintaining the current powers related to dog control ensuring there are deterrents and penalties in place for those who fail to behave responsibly.
  - dealing with anti-social behaviour

A period of statutory and public consultation ensures the views of those affected are taken into account.

- 4.2 Option 2 - approve a period of consultation on a PSPO without the suggested amendments

This consultation option would seek to maintain the current dog related offences and would leave other areas within the District excluded from the scope of the Order

- 4.3 Option 3 – do not consult and allow the PSPO to expire on 27<sup>th</sup> July 2018.

This would mean dog fouling could only be addressed through old byelaws and the Dover District Council (Fouling of Land by Dogs) Order 1999. This does not cover

- Land comprised in or running alongside a highway which comprises a carriageway unless the driving of motor vehicles on the carriageway is subject, otherwise than temporarily, to a speed limit of 40 miles per hour or less
- Land used for agriculture or woodlands
- Common land to which the public are entitled or permitted to have access otherwise than by virtue of S193(1) of the Law of Property Act 1925 (right of access to urban common land)

Requirements to keep dogs on leads or out of specified areas would revert to byelaws. The byelaws are dated and inconsistent in terms of penalties for breaching them. This ranges from £2 to £500 on conviction. There is no scope for issuing FPNs for breach of byelaws. Many enclosed children's parks are not covered by these byelaws. Breach of byelaws can only be dealt with through prosecution. This is a timely and costly process.

#### 5. **Resource Implications**

- 5.1 There are minimal costs associated with going out to consultation, in terms of placing notices in the newspapers. There will be a cost for signage relating to changes once a PSPO is made. This is already budgeted for.

#### 6. **Corporate Implications**

- 6.1 Comment from the Section 151 Officer: Finance has been consulted and has nothing further to add (SB).

- 6.2 Comment from the Solicitor to the Council: The Head of Legal Services has been involved in the preparation of this report and has no further comment to make.
- 6.3 Comment from the Equalities Officer: 'This report does not specifically highlight any equalities implications however, in discharging their responsibilities members are required to comply with the public sector equality duty as set out in section 149 of the Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15> '

7. **Appendices**

The appendices may be viewed by clicking the links below

[Appendix 1: - Draft Public Spaces Protection Order.](#)

[Appendix 2: - Map of proposed changes to areas in the existing PSPO.](#)

or by typing the following addresses into your internet search bar

<https://dover.gov.uk/pspo2018>

<https://dover.gov.uk/pspomap>

It is recommended Google Chrome is used to open the above files.

8. **Background Papers**

Public Spaces Protection Orders - Extract from Anti-social Behaviour, Crime and Policing Act 2014 statutory guidance – December 2017.

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