

REPORT TO:		CABINET	
DATE:		02 December 2015	
PORTFOLIO:		Cllr Paul Cox - Deputy Leader - Environmental Services	
REPORT AUTHOR:		Tony Akrigg – Head of Environmental Partnerships	
TITLE OF REPORT:		Public Space Protection Orders (“PSPO’s”)	
EXEMPT REPORT (Local Government Act 1972, Schedule 12A)	No	Not applicable	
KEY DECISION:	No	If yes, date of publication:	

1. Purpose of Report

- 1.1 To advise Cabinet on the results of the recent consultation exercise on introducing public space protection orders (“PSPO’s”) under Part 4 Chapter 2 of the Anti-Social Behaviour, Crime and Policing Act 2014; and to consider the introduction of a number of PSPO’s in the Borough.

2. Recommendations

- 2.1 That Cabinet agrees to the introduction of PSPO’s for the following:
- i. Exclusion of dogs from Council owned childrens play facilities.
 - ii. Dogs to be kept on leads within Hyndburn’s main town centre areas as defined in the Borough of Hyndburn Local Plan.
 - iii. Dogs to be kept on leads in the Borough’s cemeteries.
 - iv. Exclusion of dogs from designated Council owned bowling greens.
- 2.2 That Cabinet considers the results of the consultation exercise in relation to the exclusion of dogs from designated areas of Council owned sports pitches, and decides whether a PSPO should be introduced or not in respect of the same.
- 2.3 That Cabinet agrees that the PSPO’s are in place for 3 years after which they will be reviewed as required by the Act.
- 2.4 That Cabinet delegates authority to the Head of Environmental Partnerships to:

- i. Take all action required to introduce the PSPO's referred to above following consultation with the Executive Director (Legal & Democratic Services); this will include the text of the PSPO's;
- ii. Determine the level of any Fixed Penalty Notices issued in respect of the PSPO's, together with the amount of any discount for early payment (the FPN can specify two amounts; a lower one if paid within 14 days [suggested £60 to be consistent with other fixed penalties imposed by the Council] and a maximum higher amount of £100);
- iii. Determine the length of the proposed period of education and amnesty when anyone found contravening the PSPO will be advised and written to informally, rather than served with a fixed penalty notice.
- iv. Take action as he deems appropriate to implement or enforce the PSPO's referred to above.

3. Reasons for Recommendations and Background

- 3.1 Under sections 59-75 of the Anti-social Behaviour, Crime and Policing Act 2014, local authorities have the power to make PSPO's.
- 3.2 The Council must be satisfied that the activities carried out, or likely to be carried out, in a public space:
 - have had, or are likely to have, a detrimental effect on the quality of life of those in the locality;
 - are persistent or continuing in nature; and
 - are unreasonable.
- 3.3 The suggested PSPO's have been proposed as a response to complaints and concerns raised by Council officers, Councillors, user groups of parks and open spaces, and members of the public in respect of the activities of dogs and dog fouling in children's play areas, bowling greens, cemeteries and town centre areas. From this information and evidence officers are satisfied that the statutory criteria are met and that there are reasonable grounds for making an order. In this regard:
 - the exclusion of dogs from children's play facilities, and requiring dogs to be kept on leads in cemeteries, will replicate the requirements of dog control orders and give officers enforcement powers to back up existing rules and requirements;
 - the exclusion of dogs from Council owned sports pitches and bowling greens will respond to complaints from user groups of fouling on pitches. The exclusion of dogs is considered to be more realistic than a requirement for dogs to be kept on leads and will be more practical to enforce
 - there appears to be a commonly held belief that there is already a requirement to keep dogs on leads in town centre areas and we have had complaints from the public about the activities of dogs in these areas, and in particular dogs off leads and not under control.

- for the period October 2014 – October 2015 the Council received 326 complaints of dogs out of control/off leads. In the same period 344 complaints were received relating to dog fouling in the Borough. These complaints were Borough wide and included town centres, play areas, bowling greens, cemeteries and sports pitches. Anecdotally this is supported by observations from parks staff, cemetery staff, bin crews, and other field officers working for the Council.

3.4 The Council have carried out a consultation exercise in accordance with section 72 of the Anti-Social Behaviour, Crime and Policing Act 2014, following Home Office guidance, and this exercise ended on 31st October 2015.

Consultees have included:

- Lancashire constabulary via the Neighbourhood Policing Inspector Hyndburn, East Division, Accrington. (no response)
- 4 local veterinary practices (no response)
- Altham Parish Council (no response)
- Aspen Valley kennels, Hyndburn Stray Dogs in Need, and the local RSPCA East Lancashire branch. (no response)
- 4 local professional dog walkers (no response)
- Local residents groups, parks groups, sports groups (responses included)
- The Kennel Club (letter received)
- Individual specific requests from members of the public. (letters received)

Lancashire County Council as the highways authority were not consulted as none of the proposed PSPO's place restrictions over a highway.

The consultation was advertised via the local press, HBC web-site, Members bulletin, and local temporary signage in areas affected by the consultation.

3.5 The results relating to the recommendations in paragraph 2.1 are relatively clear, as detailed below:

- 380 responses with 85% in favour of the introduction of the PSPO excluding dogs from play facilities (15% against)
- 377 responses with 75% in favour of the introduction of a PSPO requiring dogs to be kept on leads within Hyndburn's main townships (25% against)
- 381 responses with 90% in favour of the continuation of the requirement for dogs to be kept on leads in the Borough's cemeteries (10% against)
- 380 responses with 83% in favour of the introduction of the PSPO excluding dogs from designated Council owned bowling greens (17% against).

This demonstrates public support for these PSPO's and members are asked to consider the outcome of the consultation when reaching a decision in respect of the recommendations.

- 3.6 The results for the exclusion of dogs from designated areas of Council owned sports pitches was not as clear.
There were 378 responses with 45% in favour of the PSPO and 55% against its introduction. In addition there were 228 'any other comments', which on analysis showed there were 17% of responses in support of the PSPO, 60% against the introduction of the PSPO, and 23% which were not relevant to the consultation question.
There were 8 separate letters sent in, of which 5 were in favour of the exclusion of dogs and 3 were against the proposal.
- 3.7 Consultation with enforcement officers, and in particular the dog warden, have highlighted the difficulty in carrying out dog fouling enforcement successfully, especially when distances are involved for example across playing fields. Where dogs are excluded from an area this is far easier to enforce and therefore prevent fouling on playing areas and bowling greens.
- 3.8 A PSPO can be put in place for up to 3 years after which it must be reviewed to ensure it is still necessary. The PSPO can be extended for up to 3 years, with no limit to how many times it can be reviewed or extended.
- 3.9 A person will commit an offence if, without reasonable excuse, they do something which is prohibited by a PSPO; or fails to comply with the requirements of a PSPO. On summary conviction, the maximum penalty for breaching a PSPO is a fine not exceeding level 3 on the standard scale, which is currently £1000. An officer authorised by the Council may issue a fixed penalty notice for breaching a PSPO, giving 14 days to pay the fine, during which time no proceedings can be taken. The FPN can specify two amounts; a lower one if paid within 14 days and a maximum higher amount of £100.
- 3.10 The consultation results in full are appended to this report.

4. Alternative Options considered and Reasons for Rejection

- 4.1 The alternative is for dog control measures to remain as they are, but evidence and experience has shown that certain practical measures, as proposed in this exercise, need to be put in place to balance the needs of dog owners with the wider use of public spaces.

5. Consultations

- 5.1 Consultation on these proposals has taken place in accordance with Defra guidance contained in the Practitioner's manual (this manual assists practitioners in local authorities in dealing with dog related issues), and the Home Office statutory guidance for frontline professionals.

6. Implications

<p>Financial implications (including any future financial commitments for the Council)</p>	<p>Additional costs associated with sign posting the new Orders to be met within budget.</p>
<p>Legal and human rights implications</p>	<p>Any new PSPO's must be introduced as per Defra guidelines and in accordance with the 2014 Act.</p>
<p>Assessment of risk</p>	<p>Failure to comply with statutory procedures for making PSPO's can lead to legal challenge under section 66 of the Act.</p>
<p>Equality and diversity implications <i>A Customer First Analysis should be completed in relation to policy decisions and should be attached as an appendix to the report.</i></p>	<p>The Council is subject to the public sector equality duty introduced by the Equality Act 2010. When making a decision in respect of the recommendations in this report Cabinet must have regard to the need to:</p> <ul style="list-style-type: none"> • eliminate unlawful discrimination, harassment and victimisation; and • advance equality of opportunity between those who share a relevant protected characteristic and those who don't; and • foster good relations between those who share a relevant protected characteristic and those who don't. <p>For these purposes the relevant protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. To assist the Cabinet in this regard a Customer First Analysis has been carried out as part of the review process and is attached as to this report. Cabinet is advised to consider the Customer First Analysis and its obligations in respect of the public sector equality duty when making a decision in respect of the recommendations contained in this report.</p>

**7. Local Government (Access to Information) Act 1985:
List of Background Papers**

7.1 Anti-social Behaviour, Crime and Policing Act 2014 Chapter 12

Anti-social Behaviour, Crime and Policing Act 2014: Reform of anti-social behaviour powers. Statutory guidance for frontline professionals July 2014. Home Office.

Dealing with irresponsible dog ownership. Practitioner's manual. October 2014. Department for Environment Food & Rural Affairs.

8. Freedom of Information

8.1 The report does not contain exempt information under the Local Government Act 1972, Schedule 12A and all information can be disclosed under the Freedom of Information Act 2000.

Customer First Analysis

1. Purpose

- The introduction of PSPO's is designed to balance the needs of dog owners with the wider public use of open spaces, play areas, bowling greens, cemeteries and town centres. This has been put forward due to evidence from Council officers, Councillors, user groups and complaints from members of the public. Complaints received relate to dog fouling, dogs out of control and not on a lead, dogs running over graves and fouling, dogs in playgrounds, and dogs being exercised on bowling greens and football pitches with dog fouling associated with this activity.

2. Evidence

- A formal consultation exercise has been carried out to seek customers views on the introduction of the PSPO's and this evidence base will be used to guide Council decision and opinion.
- The consultation was widely advertised and specific groups were targetted in-line with practitioners guidance and local knowledge.

3. Impact

Advice, education and subsequent enforcement action will be applied consistently unless exemptions apply, for example disabled individuals with registered assistance dogs may be exempt from PSPO's. Guidance will be sought from the Office for Disability Issues and the Equality Act 2010 – guidance on matters to be taken into account for definition of disability.

4. Actions

- Once in place PSPO's have to be reviewed every 3 years to ensure they are still relevant, necessary, and proportionate. At this time they can also be reviewed to ensure they are being applied equally across Hyndburn's communities through further consultation as specified in Government guidance.

Name: Tony Akrigg Signed:

Service Area: Environmental Health

Dated: 28th October 2015