

CABINET

To Seek Approval for the Adoption of Public Space Protection Orders (Dog Control)

22nd October 2024

Report of Chief Officer – Housing and Property

PURPOSE OF REPORT				
To seek approval for the adoption of four Public Space Protection Orders (Dog Controls) as attached for a period of 3 years.				
Key Decision	<input checked="" type="checkbox"/>	Non-Key Decision	<input type="checkbox"/>	Referral from Cabinet Member
Date of notice of forthcoming key decision	23 rd September 2024			
This report is public				

REPORT SUMMARY

In 2012 Cabinet approved four Dog Control Orders. In 2017 the legislation changed meaning the original dog control orders were adopted as Public Space Protection Orders (PSPOs) for a period of 3 years and were reviewed in 2020.

The PSPO's have expired and been reviewed, including a public consultation in July/August 2024. The proposed orders are attached to this report along with guidance on the purpose and scope of PSPOs.

RECOMMENDATIONS OF COUNCILLORS

- (1) The four Public Space Protection Orders (Dog Control) be made, to include provisions set out in this report.
- (2) Delegate authority to the Chief Officer – Housing and Property to designate in writing authorised officers for the purposes of issuing fixed penalty fines.

1.0 Introduction

- 1.1 In November 2012 Cabinet approved four dog control orders that enabled the council to deal with issues such as dog fouling on our streets and parks, dogs off leads and dogs out of control, which can cause road traffic accidents, nuisance and aggression.
- 1.2 These orders were originally introduced under the Clean Neighbourhoods and Environment Act 2005 but were converted to become Public Space Protection

Orders (PSPOs) in 2017, following a change in legislation to the new Anti-social Behaviour, Crime and Policing Act 2014.

1.3 The Council is reviewing these PSPOs in order to implement them for another three-year period.

1.4 The test for making a PSPO is outlined in section 59 of the Anti-Social Behaviour Crime and Policing Act 2014. This says that a Local Authority may make a PSPO if satisfied on reasonable grounds that two conditions are met.

The first condition is that—

- (a) activities carried on 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
- (b) it is likely that activities will be carried on in a public place within that area and that they will have such an effect.

The second condition is that the effect, or likely effect, of the activities—

- (a) is, or is likely to be, of a persistent or continuing nature,
- (b) is, or is likely to be, such as to make the activities unreasonable, and
- (c) justifies the restrictions imposed by the notice.

1.5 Under section 72 of the Act, a local authority must carry out the necessary consultation and necessary publicity and the necessary notification

1.6 A public consultation was held between June and August 2024 in the form of an online questionnaire. 67 Responses were received. A summary of the responses is included as Appendix 1.

1.7 Since the introduction of the previous PSPOs, dog ownership has increased nationally. This has led to a rise in complaints about barking and noise, fouling, bites, and attacks. Each of the proposed PSPOs is designed to address different aspects, and the considerations mentioned above have been taken into account for each

2.0 The Proposed PSPOs.

2.1 Public Space Protection Order - Removal of dog faeces

This would make it an offence to fail to remove dog faeces on any land which is open to the air on at least one side and to which the public are entitled or permitted to have access. It is proposed to apply a blanket designation across the entire district.

Dog fouling is a major issue for residents of the district as both a nuisance and for its association with various diseases. In 2023/24, the Local Authority received 91 complaints relating to dog fouling.

100% of respondents to the online consultation were in favour of this proposal, and there were no comments objecting to it being applied across the district.

From 2012 there has been a Dog Control Order and since 2017 a PSPO, which has encouraged dog owners to clean up after their dogs. If there was no consequence for such offenders then breaches are likely to increase and have a detrimental effect on the quality of life of those in the locality. Thereby justifying the restrictions imposed by the notice.

2.2 Public Space Protection Order – Dog Exclusion

There are certain places where dogs could present a particular risk, where it is prudent to ban them completely for all or part of the year. These are termed 'dog-exclusion areas' for the purposes of this PSPO proposal.

This order would make it an offence to permit a dog to enter defined areas of land from which dogs are to be lawfully excluded, and would apply to

- enclosed children's playgrounds, enclosed sports pitches, the splash-pool in Happy Mount Park.
- Morecambe's North and South beaches between 1 May and 30 September each year (this is also to meet requirements laid down in the "Clean Beach Award" criteria)

84% of respondents were in favour of these proposals, but there were 11 objections with 3 referencing the exclusion of dogs from beaches, feeling that responsible dog owners were being unfairly punished. A similar number of respondents supported the exclusion but commented that more enforcement was required to discourage potential offenders.

Implementation of this proposal is in accordance with the commitment in the Lancaster City Council Plan for 2024 – 2027 to keep the district's neighbourhoods, parks, beaches and open spaces clean, well-maintained and safe. It is also a requirement of the 'Clean Beach Award' bestowed on the district's beaches.

It is proposed that dog exclusion on Morecambe's North and South beaches be continued as a seasonal control between 1 May and 30 September each year.

From 2012 there has been a Dog Control Order and since 2017 a PSPO, which has encouraged dog owners to avoid "dog exclusion areas". If there was no consequence for such offenders, then breaches are likely to increase and have a detrimental effect on the quality of life of those in the locality. Thereby justifying the restrictions imposed by the notice.

2.3 Public Space Protection order – Dogs on leads under Direction

This order would make it an offence not to put and keep a dog on a lead when directed to do so by an officer authorised in writing by the council. This is intended to be used under exceptional circumstances where a dog is causing

a nuisance in an area where it would typically not have to be on a lead. It is proposed to apply a blanket designation throughout the district, enabling this power to be used as necessary, for example when a dog is running around out of control during a sporting event, or where lots of children are playing.

94% of respondents agreed with this proposal.

2.4 Public Space Protection Order – Dogs on Leads

This order would make it an offence not to keep a dog on a lead on defined areas of land. This would apply to :

- All public highways, footways and adjoining verges, including Morecambe Promenade, and pedestrianised areas
- Car parks and public vehicle parking areas maintained by the council:
- Cemeteries and churchyards
- Certain council parks and gardens.

It is not proposed to include canal towpaths, off-road cycle ways, or Williamson's Park.

97% of respondents supported these proposals.

Whilst no specific objections were raised during this consultation two issues have been raised previously are addressed at 2.4.1 and 2.4.2 below. The remaining areas proposed in the public consultation are listed at 2.4.3.

2.4.1 Off-road 'cycle ways'

In previous consultations, the observation was made that holding dogs on leads on cycle ways is unnecessary because most dog walkers, cyclists and other users are considerate and take steps to avoid obvious conflict with each other. Dogs on leads could be more hazardous to cyclists, particularly when extending type dog leads are used, because they are more likely to stretch across and block the path of cyclists, also they can be difficult for approaching cyclists to see.

Other concerns raised were that it could lead over time to such routes becoming viewed as cyclist-priority routes rather than multi-user routes, and that this could lead to a potential risk of cyclists travelling faster and less carefully. A concern that dogs could not receive sufficient exercise if they were not allowed off leads, and be less able to socialise, which could contribute to aggressive behaviour.

The Order implemented in 2012 did not require dogs to be held on a lead on off-road cycleways and only 9 (less than 1 a year) complaints have been received since the orders were introduced relating to incidents involving dogs on the cycleway.

After careful consideration the proposal is to allow dogs to continue to be walked off their lead on the Cycle Tracks and on the Canal tow path.

2.4.2 Williamson's Park.

In 2019 a public consultation was carried out on the proposal to introduce a new policy requiring dogs to be kept on leads in Williamson's Park. After reflection on the responses from this consultation, the decision was made not to take it any further.

The proposal is to allow dogs to continue to be walked off their lead in Williamson's Park.

2.4.3 Other areas proposed for 'dogs on leads' control

The other proposed areas and public consultation responses are outlined in the table below.

Car parks and public vehicle parking areas maintained by the council	No objections were received
pedestrianised areas of central Lancaster and central Morecambe	No objections were received
Cemeteries, graveyards and burial grounds, and the Lancaster and Morecambe Crematorium grounds	No objections were received
Certain public gardens: Dallas Road Gardens in Lancaster Regent Park, Happy Mount Park and Hall Park in Morecambe	No objections were received
Public Highways, including the adjoining footways and verges	No objections were received

From 2012 there has been a Dog Control Order and since 2017 a PSPO, which has encouraged dog owners to walk their dogs appropriately in "dogs on leads areas". If there was no consequence for such offenders then this problem is likely to increase and have a detrimental effect on the quality of life of those in the locality. Thereby justifying the restrictions imposed by the notice.

2.5 The Human Rights Act 1998

Particular regard has been given to the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the Convention but it is considered that the proposed PSPOs will offer no restrictions.

3.0 Fixed Penalty Notice

- 3.1 It is proposed that PSPO (Dog Control) Fixed Penalty Notices will carry a similar penalty to other offences under the Anti-social Behaviour, Crime and Policing Act 2014 which are already enforced by the Council. A Fixed Penalty Notice will carry a £100 penalty reduced to £65 for early payment. A discount exists for early payment due to difficulties experienced in obtaining payments.

There were no objections to the penalty level in the consultation.

- 3.2 In accordance with the Act, fixed penalty notices may only be issued by “authorised officers”, and it is recommended that the Chief Officer – Housing and Property be able to designate such authorised officers.

4.0 Options and Options Analysis (including risk assessment)

Option 1: Adopt the PSPOs as proposed in the consultation, with no amendments
Advantages: <ul style="list-style-type: none">• Reflects the majority of representation made during the public consultation• Enables less able-bodied people to continue to exercise dogs off leads on the flat hard surfaces of ‘cycle ways’• More consistent and less confusing enforcement• More rapid, effective and efficient enforcement
Disadvantages: <ul style="list-style-type: none">• None identified
Risks: <ul style="list-style-type: none">• The decision concerning dogs on leads would not reflect the views of all consultees
Option 2: Do not adopt the PSPOs (Dog Control)
Advantages: <ul style="list-style-type: none">• Saving on staff time to implement new Dog Control Orders, and advertising for signage costs.
Disadvantages: <ul style="list-style-type: none">• Confusion from discontinuation of existing enforcement.• Going against majority of consultees• Return to a system of enforcement which is unclear and inconsistent• Unnecessary expense and complications in having to prosecute for offences instead of issuing fixed penalty notices available under option 1 leading to delays, lower efficiency and cost-effectiveness• The extent of land within the district on which regulatory dog controls apply would remain limited.
Risks: <ul style="list-style-type: none">• The decision not to introduce available dog-related regulatory measures for public protection would lead to criticism, particularly given the strength of public feeling about aspects of irresponsible dog ownership.

5.0 Officer Preferred Option (and comments)

- 5.1 The officer preferred option is Option 1 to adopt the PSPOs (Dog Control) as consulted on. This option addresses needs for public protection, supports enforcement and most closely reflects the majority of public comment arising from the consultation.

6.0 Conclusion

- 6.1 Adoption of the original Dog Control Orders has led to more straightforward and effective dog control and enforcement in the district. There continues to be

considerable public support for enforcement, as confirmed by comments received in the recent consultation, but this is balanced with a fair approach towards responsible dog owners.

From 2012 there has been a Dog Control Orders and since 2017 PSPO's, which have encouraged dog owners to take responsibility for their dogs appropriately. This has also given authorised officers appropriate powers should the owners choose not to. If there was no consequence for such offending then dog related problems will likely increase and thereby have a detrimental effect on the quality of life of those in the district, justifying the restrictions imposed by the Public Space Protection Orders (Dog Control).

RELATIONSHIP TO POLICY FRAMEWORK

Keeping our district's neighbourhoods, parks, beaches and open space clean, well-maintained and safe.

CONCLUSION OF IMPACT ASSESSMENT

(including Health & Safety, Equality & Diversity, Human Rights, Community Safety, HR, Sustainability and Rural Proofing)

When considering any proposed PSPOs, the authority must consider any equality issues pursuant to its duty under section 149 of the Equality Act 2010.

An Equality Impact Assessment has been carried out and are appended to this report. Appendix 3.

LEGAL IMPLICATIONS

The PSPO's have been drafted in consultation with Legal Services and are appended to this report. Appendix 2.

The continuation of the PSPOs will allow officers to discharge offences with a Fixed Penalty Notice rather than prolonged legal proceedings.

Written authorisation will have to be given to the officers issuing Fixed Penalty Notices under the PSPOs.

FINANCIAL IMPLICATIONS

This is a continuation of an existing service and any costs relating to the fixed penalty system (including officer time) can be managed from within existing budgets.

There is currently no budgetary allowance for income raised from the issuing of fixed penalty notices (FPN's) relating to the four orders. However, any income raised is expected to be minimal and will be highlighted as part the Council's usual financial monitoring arrangements should it be significant.

OTHER RESOURCE IMPLICATIONS

Human Resources: None.

Information Services: None.

Property: None.

Open Spaces: None.

SECTION 151 OFFICER'S COMMENTS

No comments to add

MONITORING OFFICER'S COMMENTS

No comments to add

Links to Background Papers

LGA guidance on Public Space
Protection Orders -

https://www.local.gov.uk/sites/default/files/documents/10.21%20PSPO%20guidance_06_1.pdf

Map of Lancaster City Council district.

<https://lancaster.maps.arcgis.com/apps/mapviewer/index.html?webmap=cf92fb1402054b2581bedebce7333045>

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