

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
HEAD OF ENVIRONMENTAL AND HOUSING SERVICES	OPERATIONAL MANAGEMENT COMMITTEE	14 MARCH 2023	4
PUBLIC SPACES PROTECTION ORDERS FOR ENFORCEMENT OF DOG CONTROL			

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

Public spaces protection orders are in place across the borough for the enforcement of dog control under the Anti-Social Behaviour Crime and Policing Act 2014. These PSPOs require a person in control of a dog to comply with conditions including:

- Dogs to be kept on leads in certain locations
- Dogs to be excluded from certain locations
- The immediate removal of dog faeces

Failure to comply with a PSPO is an offence which can be dealt with by a fixed penalty notice of £100 or by prosecution (maximum fine of £1000). The orders are due to lapse during September 2023. They can be extended, but only if they remain necessary to prevent certain persistent activities that are having a detrimental effect on the quality of life in the locality. The report asks members to consider whether they are minded to extend the orders and proposes delegating the authority to do so to the Head of Environmental Health and Housing following the mandatory processes of consultation, publicity and notification, with the matter being referred back to the committee for further consideration if consultation or publicity responses suggest it appropriate.

RECOMMENDATIONS

1. Committee considers whether it is minded to extend any of the public spaces protection orders described in the report for a further three years
2. In relation to each order that the committee is minded to extend, delegate authority to the Head of Environmental Health and Housing to carry out the necessary consultation, publicity and notification and then to extend the order, unless the Head of Environmental Health and Housing considers that the order should not be extended until a response to the consultation or publicity has been considered by the committee.

SUMMARY OF PREVIOUS DECISIONS

Operational Management Committee – May 2017: The committee unanimously RESOLVED to approve the recommendations to implement public spaces protection orders across the borough for the enforcement of dog control under the Anti-Social Behaviour Crime and Policing Act 2014.

Operational Management Committee – September 2020: The committee unanimously RESOLVED:

1. To extend all of the public space protection orders for a further three years,

2. To delegate authority to the Director of Resources to carry out the necessary consultation, publicity and notification and then to extend the order, unless the director considers that the order should not be extended until a response to the consultation or publicity has been considered by the committee at a special meeting

Operational Management Committee November 2020: The committee unanimously resolved:

1. To determine a preferred option around the beach exclusion zone and agree the preferred option for a replacement order.
2. To extend the public spaces protection orders beyond January 2021, for a further three years, including any changes to the beach exclusion order agreed in (1) above

Operational Management Committee 9 November 2021: Minded to change the PSPOs for Ashton Gardens, Lowther Gardens, Fairhaven Lake and (insofar as it was not already the case) the Promenade and Promenade Gardens to “dogs on lead” areas, rather than “dogs on lead by request” areas and delegated authority to effect the changes by:

- a. Varying the PSPO that required dogs to be placed on a lead when requested by an authorised officer to do so by (i) adding Ashton Gardens, Lowther Gardens and Fairhaven Lake to schedule 1 (“places where this order does not apply”) and (ii) Moving Promenade Gardens and Promenade from schedule 2 (“places where this order does not apply at certain time of the year”) to schedule 1 (“places where this order does not apply”);
- b. Making new PSPOs for each of Ashton Gardens, Lowther Gardens and Fairhaven Lake requiring dogs to be always kept on a lead; and
- c. Varying the PSPO that required dogs in the Promenade and Promenade Gardens to be kept on a lead to apply all year round, and not just between Good Friday and September 30th.

CORPORATE PRIORITIES

Economy – To create a vibrant and healthy economy	√
Environment – To deliver services customers expect	√
Efficiency – By spending money in the most efficient way	√
Tourism – To create a great place to live and visit	√

REPORT

1. Public spaces protection orders (PSPOs) are in force across the borough for the enforcement of dog control under the Anti-Social Behaviour Crime and Policing Act 2014. These PSPOs require a person in control of a dog to comply with certain conditions including:
 - Dogs to be kept on leads in certain locations
 - Dogs to be excluded from certain locations
 - The immediate removal of dog faeces
2. Failure to comply with a PSPO is an offence which can be dealt with by a fixed penalty notice of £100 or by prosecution (maximum fine of £1000).
3. The requirements of the current PSPOs are:
 - Paddling pools, fountains and other similar places: Keep your dog out
 - Enclosed outdoor play areas: Keep your dog out
 - St Annes beach and sand dunes (between the lifeboat station and North Promenade Car Park): Keep your dog out from Good Friday to 30 September
 - Ashton Gardens: Keep your dog on a lead
 - Lowther Gardens: Keep your dog on a lead

- Fairhaven Lake: Keep your dog on a lead
- Lytham Park Cemetery: Keep your dog on a lead
- Promenade and Promenade Gardens: Keep your dog on a lead
- Council-owned car parks: Keep your dog on a lead
- Roads and pavements: Keep your dog on a lead
- All other public places: Put your dog on a lead if requested
- All public places: Pick up your dog's fouling

Full details of the PSPOs for Dog Control in Fylde are available on the Council website at: <https://new.fylde.gov.uk/resident/dogs/public-spaces-protection-orders-psdo-for-dog-control/>

4. The PSPOs were established under the Anti-Social Behaviour, Crime and Policing Act 2014 to remove outdated bylaws and implement measures to ensure responsible dog owners are able to enjoy exercising their dogs whilst at the same time introducing measures to manage the behaviour of any irresponsible owners.
5. The PSPOs commenced on October 1 2017, were extended in November 2020, amended in December 2021 to add further 'dogs on leads' areas and remain in force **until 30th September 2023**, when they will lapse unless extended as described below.
6. PSPOs are not intended to remain in force indefinitely, but an order can be extended in duration for a further period of three years if it has not lapsed. A PSPO can be only extended if the authority is satisfied on reasonable grounds that two conditions are met:

The first condition is that:

- a. activities carried out in a public place within the council'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.
7. In deciding whether to extend a PSPO, the council is required to "have particular regard to the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the [European] Convention [on Human Rights]". Those rights are:

ARTICLE 10 Freedom of expression

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

ARTICLE 11 Freedom of assembly and association

1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

There is no evidence to support that anything in the present orders engages any of the rights guaranteed by articles 10 or 11.

PROCEDURE

8. Before extending a PSPO, the authority must carry out “the necessary consultation the necessary publicity, and the necessary notification”. The ‘necessary consultation’ means consulting with the Police and Crime Commissioner, any community representatives that the council considers it appropriate to consult and (unless it is not reasonably practicable to do so) the owner of the affected land. The ‘necessary publicity’ means publicising the proposal. The ‘necessary notification’ means notifying the county council and any relevant parish council.
9. A decision to extend any of the PSPOs cannot be taken until representations made as a result of the consultation and publicity have been considered.
10. If members consider that the criteria for extension set out in paragraph 4 are met and are minded to extend any of the PSPOs, it is recommended that authority be given to the Head of Environmental Health and Housing to carry out the processes of consultation, publicity and notification, and extend the orders, if he considers it appropriate to do so after considering any responses received. If the consultation and publicity resulted in any matters being raised that he feels should be referred to the committee, a further report would be presented to the committee, who would consider them and decide whether to go ahead with the relevant extension.

PERSISTENT ACTIVITIES HAVING A DETRIMENTAL EFFECT

11. The existence of the PSPOs have proved a successful deterrent against the anti-social behaviour sometimes associated with irresponsible dog ownership, such as the failure to remove dog faeces forthwith and allowing dogs to be off lead and or of control in public areas.
12. Despite these controls there are a small number of irresponsible dog owners whose persistent or continuing activities are having a detrimental effect on the quality of life of those in the locality, requiring the issuing of Fixed Penalty Notices for breaches of the existing dog control orders.
13. Officers have the power to issue FPN’s for both dog fouling and for breaching the dog exclusion order on the Amenity Beach in St Annes. Officers use a graduated approach to enforcement, in line with the rest of the department and therefore offer advice and education first.
14. There is the possibility that failing to extend the existing orders will result in an increase in the persistent and continuing anti-social behaviours traditionally associated with irresponsible dog ownership which have a detrimental effect on the quality of life for those in the locality.

IMPLICATIONS	
Finance	There are no financial implications arising directly from this report.
Legal	The powers to extend the orders, and the considerations members need to take into account, are set out in the report.
Community Safety	The orders are intended to enhance community safety by making it possible for an authorised officer to enforce against irresponsible dog ownership through the issuing of FPNs.
Human Rights and Equalities	Members should consider carefully the continuing need for the powers in each area. If they are not satisfied that problems of detrimental and persistent activities associated with irresponsible dog ownership would recur or intensify if a particular order were to lapse, they should not extend that order.
Sustainability and Environmental Impact	No material impact
Health & Safety and Risk Management	No material impact

LEAD AUTHOR	CONTACT DETAILS	DATE
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BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Operational Management Committee – May 2017	23/5/2017	Minutes
Operational Management Committee – September 2020	8/9/2020	Minutes
Operational Management Committee November 2020	10/11/2020	Minutes
Operational Management Committee 9 November 2021	9/11/2021	Minutes