

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	COUNCIL	5 FEBRUARY 2018	15
REVOCATION OF DOG BYELAWS			

PUBLIC ITEM

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

SUMMARY

The Council has recently introduced a range of public spaces protection orders containing measures that enable all dog owners to enjoy exercising their dogs whilst providing enforcement measures to target irresponsible owners. During the currency of the orders, the council's existing byelaws that deal with the control of dogs are of no effect. However, they are not revoked, and would become effective again if the orders lapsed.

The introduction of public space protection orders was driven partly by the view that byelaws are an ineffective and archaic way of enforcing dog control. It is inconceivable that there could be a wish to revert to the byelaws. The report therefore asks the council to approve steps that would lead to the revocation of the relevant byelaws.

RECOMMENDATIONS

1. Adopt the attached draft byelaw, together with the assessment set out in paragraphs 8 to 10, as the council's scheme to make a byelaw revoking the dog control byelaws listed in the draft.
2. Publicise the proposal to make the byelaw in accordance with statutory requirements.
3. Subject to no representation being received in response to the consultation, make the byelaw, thereby revoking the byelaws listed in it.

SUMMARY OF PREVIOUS DECISIONS

Operational Services Committee 23 May 2017: RESOLVED to approve the recommendations from the cross party working group as outlined below:

- To remove all existing bylaws across the Borough in relation to dog control
- To implement a borough wide PSPO for fouling
- To implement a PSPO for dogs on lead on public vehicular highways
- To implement a PSPO for dogs on lead in all council owned car parks
- To implement a PSPO for dogs on lead in Lytham cemetery
- To implement a PSPO for dogs to be excluded from enclosed/fenced children play areas
- To implement a PSPO for dogs to be excluded from ornamental water features
- To implement a seasonal PSPO for dogs to be excluded on the designated Amenity Beach from Good Friday to 30th September.
- To implement a seasonal PSPO for dogs on leads along the Promenade Gardens in line with the Amenity Beach exclusion period.
- To implement a borough wide PSPO for dogs on lead by direction only

- To explore an accreditation scheme for professional dog walkers as an alternative to limits on the number of dogs in partnership with the Kennel Club and representatives from the professional dog walking organisations
- To implement the proposed PSPO's from 1 October 2017 (to allow for an educational phase) with enforcement commencing from 1 November 2017
- To implement new signage that is clear, polite and informative in appropriate locations across the Borough based on best practice and feedback from the dog walking representatives, the cost of which will be met from existing approved revenue budgets
- To remove all outdated signage in relation to dog control bylaws.
- To provide an update report to the committee in September 2018.

CORPORATE PRIORITIES

Spending your money in the most efficient way to achieve excellent services (Value for Money)	✓
Delivering the services that customers expect of an excellent council (Clean and Green)	✓
Working with all partners (Vibrant Economy)	✓
To make sure Fylde continues to be one of the most desirable places to live (A Great Place to Live)	✓
Promoting Fylde as a great destination to visit (A Great Place to Visit)	✓

REPORT

PSPOs AND BYELAWS

1. Following the decision of the Operational Services Committee on 23 May 2017, nine public spaces protection orders have been made to deal with the control of dogs in the borough. The orders are intended to replace the pre-existing patchwork of dog control byelaws in their entirety.
2. Under the Anti-social Behaviour, Crime and Policing Act 2014, '*a byelaw that prohibits...an activity regulated by a public spaces protection order is of no effect...during the currency of the order*'¹. The existing byelaws are therefore in abeyance while the orders are in force.
3. Public spaces protection orders are in force for three years, but can be renewed before they lapse. If any of the orders lapse without being renewed or replaced, any existing byelaw covering the activity regulated by the lapsed order would automatically become effective again.
4. Part of the reason for introducing the public spaces protection orders was because the byelaws were seen as being inefficient, archaic and impracticable to enforce. It is therefore inconceivable that members would wish to revert to them if the orders lapsed. Further, the continued existence of the byelaws, but without them being effective, would give rise to justified confusion. For both of these reasons, it is sensible to revoke the relevant byelaws. This was acknowledged by bullet point 1 of the decision of the Operational Services Committee.

PROCEDURE FOR REVOKING BYELAWS

5. The council can only revoke a byelaw by the full council making another byelaw to revoke it. The procedure for doing so is detailed and unnecessarily complex. The decision of the Operational Services Committee to remove all existing byelaws relating to dog control is not effective by itself to revoke the byelaws.
6. The relevant regulations² require the council to prepare a 'scheme' to make a revocation byelaw. The scheme must include a draft of the proposed byelaw and a regulatory assessment of the proposal. The regulatory assessment must cover certain matters set out on the regulations. The council must then publicise the

¹ See [section 70](#)

² The Byelaws (Alternative Procedure) (England) Regulations 2016, particularly [regulation 14](#).

proposal in accordance with the regulations and take into account any written representations that it receives³.

7. A draft of the proposed revocation byelaw is appended to this report. The required regulatory assessment of the proposal is contained in paragraphs 8 to 10 below. Members are asked to adopt the draft order and the regulatory assessment as the council's scheme to make the revocation byelaw.

REGULATORY ASSESSMENT

8. The proposed byelaw seeks to secure that the byelaws of Fylde Borough Council relating to the control of dogs are revoked. Those byelaws are presently ineffective following the making of a comprehensive suite of public spaces protection orders relating to the activities of dogs and those in charge of them. The revocation would resolve the ambiguity whereby byelaws (albeit presently ineffective) remain in force, and would therefore avoid the potential for confusion among members of the public. The revocation would also remove obsolete and ineffective local regulation.
9. The only alternative means that could achieve the first objective (resolving ambiguity and avoiding potential for confusion) would be to discharge the public spaces protection orders. This would not be satisfactory because the purposes of making the orders would then be frustrated. There are no alternative means that could achieve the second objective (removing obsolete and ineffective regulation).
10. Carrying out no further action would result in the existing byelaws remaining in force, albeit without effect during the currency of the relevant public space protection orders. This would mean that a member of the public seeking to understand the law relating to the control of dogs within Fylde would be faced with two completely different sets of regulation which, on the face of it, would both apply. The resulting potential for confusion in such a situation undermines confidence in the law. Further, it would mean that the existing byelaws, which the council considers to be unfit for purpose, would automatically become effective upon the lapsing of the orders.

PUBLICITY AND REPRESENTATIONS.

11. The council must publish a notice of the proposal to make the revocation byelaw on its website and in one or more local newspapers, and publicise it in such other manner as it sees fit. The draft revocation byelaw must be open for inspection for at least 28 days. The council must consider any written representations that it receives.
12. The revocation of the existing byelaws is considered to be essentially an administrative action following the making of the public spaces protection orders. It is not anticipated that it will be controversial. Officers therefore recommend that there is no need to publicise the proposal other than via the website, the newspaper notice and the council's social media channels.
13. If no representations are received, the revocation byelaw can be made under delegated authority, as per recommendation 3. But if there are any representations (adverse or otherwise) there will need to be a further report to the council to consider them.

³ Members may note with some bemusement that the statutory procedure for revoking a byelaw is rather more prescriptive than that for making a public space protection order.

IMPLICATIONS	
Finance	None
Legal	The procedure for revoking a byelaw is contained in regulations. It must be complied with to ensure that the existing byelaws are effectively removed.
Community Safety	Problems caused by the small minority of irresponsible dog owners are now more effectively dealt with the public spaces protection orders, which allow fixed penalty notices to be issued.
Human Rights and Equalities	None
Sustainability and Environmental Impact	None
Health & Safety and Risk Management	None

LEAD AUTHOR	CONTACT DETAILS	DATE
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BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Local government legislation: byelaws	Accessed 5 January 2018	www.gov.uk/guidance/local-government-legislation-byelaws#revoking-a-byelaw

Attached documents

Draft byelaw