

## DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	COUNCIL	11 FEBRUARY 2019	12

### REVOCATION OF DOG BYELAWS

#### PUBLIC ITEM

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

#### SUMMARY

In 2017, the Council 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.

Council decided in February 2018 to revoke the existing byelaws, subject to no representations being received in response to the statutory publicity requirements. One representation has been received, so the council is asked to take that representation into account and confirm (or otherwise) whether it still wishes to revoke the existing dog control byelaws.

#### RECOMMENDATIONS

1. Notwithstanding the representation received, to make the byelaw which was attached in draft to the previous council report revoking the dog control 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 byelaws 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 30<sup>th</sup> 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.

Council 5 February 2018: Resolved to adopt a scheme to make a byelaw revoking dog control bylaws; to publicise the proposal to make the byelaw in accordance with statutory requirements; and, subject to no representation being received, to make the revocation byelaw.

## CORPORATE PRIORITIES

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

## 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 bylaws 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*'<sup>1</sup>. 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 was therefore felt to be 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 was considered sensible to revoke the relevant byelaws.

### PROCEDURE FOR REVOKING BYELAWS

5. The council can only revoke a byelaw by the full council making a 'revocation byelaw' - another byelaw that revokes the original one. The procedure for doing so requires the council to prepare a 'scheme' to make a revocation byelaw, which must include a draft of the proposed byelaw and a regulatory assessment of the proposal. The scheme was approved by the council on 5 February last year.
6. The procedure then requires the council to publicise the proposal in accordance with the regulations and take into account any written representations that it receives<sup>2</sup>. If no representations had been received, the council's decision last year would have given authority for the revocation byelaw to have been made. In fact, one representation was received in response to the publicity. It is therefore necessary for the council to take

<sup>1</sup> See [section 70](#)

<sup>2</sup> 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.

account of the representation before deciding to whether to make the revocation byelaw. The representation was as follows:

*In common with many Lytham residents, I think you should revert to using the more sensible 80s byelaws regarding dogs. The new rules you have put in place make life harder for those with disabilities/people who don't drive, as it is st [sic.] hard for them to get to any place they can let their dogs off the lead, and for some people, they struggle to actually walk any distance with their dog. The vast majority of people in Lytham and St Annes look after their dogs well, and the old byelaws worked perfectly well. The people who allow their dogs to cause trouble/ make mess are likely to disobey any laws and so are unaffected by the rules that just spoil this lovely area for people who have mobility issues/lack of time or money to drive places.*

- Members are asked to consider the representation and decide, in the light of it, whether to make the revocation byelaw.

IMPLICATIONS	
Finance	There are no financial implications arising directly from this report.
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 12 January 2018	<a href="http://www.gov.uk/guidance/local-government-legislation-byelaws#revoking-a-byelaw">www.gov.uk/guidance/local-government-legislation-byelaws#revoking-a-byelaw</a>
Representation in response to the proposal to make a revocation byelaw.	27 August 2018	Town Hall, Lytham St Annes