

ENVIRONMENT OVERVIEW AND SCRUTINY COMMITTEE	
<b>Date of Meeting</b>	Tuesday, 19th September 2017
<b>Report Subject</b>	Consultation outcomes to the proposed conditions of the draft dog control Public Spaces Protection Order (PSPO)
<b>Cabinet Member</b>	Cabinet Member for Planning and Public Protection/ Cabinet Member for Streetscene and Countryside
<b>Report Author</b>	Chief Officer (Planning and Environment) / Chief Officer (Streetscene and Transportation)
<b>Type of Report</b>	Operational

## **EXECUTIVE SUMMARY**

In October 2014, the Anti-Social Behaviour, Crime and Policing Act 2014 came into force. The Act covers a wide variety of anti-social behaviour and the sections relevant to this report are the Public Spaces Protection Orders (PSPOs) (Chapter 2, Sections 59-74), which replace the current Dog Control Orders.

Following the decision of Cabinet in February 2017 to agree the implementation, subject to consultation, of a Dog Control Public Space Protection Order (PSPO), the intention was to replace the existing Dog Control Order with a new PSPO requiring dog owners to:

1. Remove their dogs' waste from all public places within Flintshire,
2. Have a means on their person to pick up dog waste,
3. Place their dog on a lead when asked by an authorised officer.
4. Prohibit dogs from entering the playing areas of public marked sports pitches, formal recreation areas including but not exclusively bowling greens and tennis courts, equipped children's play areas and all areas within school grounds,
5. Keep their dog on a lead in cemeteries.

An authorised officer could issue a fixed penalty notice of £75 to anyone he or she believes has committed an offence in breach of an implemented PSPO, but any person on summary conviction would be liable to a fine not exceeding level 3 on the standard scale (£1000)

Consultation on the prohibitions took place in accordance with legal requirements for twenty eight days between June 1st - 29<sup>th</sup>.

## RECOMMENDATIONS

1	<p>The views of the Environment Overview and Scrutiny Committee are sought on two options:</p> <p>(i) <u>Option 1</u></p> <p>Following the period of consultation, the Environment Overview and Scrutiny Committee recommends the making of a Public Space Protection Order (PSPO) to cover dog control and dog fouling in Flintshire with the following conditions to the Cabinet Committee for final determination. The PSPO will require a person in charge of a dog to:</p> <p>(i) Remove their dogs' waste from all public places within Flintshire.</p> <p>(ii) Prohibit taking, or permitting the dog to enter or remain in</p> <ul style="list-style-type: none"> <li>- All areas within school grounds,</li> <li>- The playing areas of marked sports pitches</li> <li>- The playing areas of formal recreational areas including but not exclusively bowling greens and tennis courts</li> <li>- Fenced enclosed children's play areas.</li> </ul> <p>(iii) Keep their dogs on a lead within a Cemetery.</p> <p>(iv) Have means on their person, at all times, appropriate means to pick up their dogs' waste from all public places in Flintshire.</p> <p>(v) Put their dog on a lead, when directed by an authorised officer, if the dog is loose and causing a nuisance or annoyance to any other person, bird or animal.</p> <p>(ii) <u>Option 2</u></p> <p>Following the period of consultation, the Environment Overview and Scrutiny Committee recommends the making of a Public Space Protection Order (PSPO) with the conditions as in Option 1 to the Cabinet Committee for final determination, but removes the proposal of dogs being excluded from the playing areas of marked sports pitches in response to a lack of alternative areas for dogs to be exercised nearby at the current time. Allowing for a period of further consultation for Town and Community Councils to consult locally on marked sports pitches in their areas.</p>
2	<p>For information, but subject to final Cabinet determination, the agreed Public Space Protection Order covering dog control and dog fouling commences on 20<sup>th</sup> October 2017, following a Notice period and publicity of the upcoming order.</p>

## REPORT DETAILS

1.00	EXPLAINING THE BACKGROUND TO THE PROPOSALS
1.01	<p>PSPOs are designed to stop individuals or groups committing anti-social behaviour in a public place. PSPOs may not be made for a period of more than three years, but can be extended or varied if legal requirements are met.</p>
1.02	<p>A constable or authorised person of the Council may issue a Fixed Penalty Notice of £75 to anyone he or she believes to be guilty of an offence, which would be required to be paid within 14 days. Failure to do so may lead to a fine on summary conviction not exceeding level 3 (currently £1000) on the standard scale.</p>
1.03	<p>Flintshire currently has one Dog Control Order which covers all open space in the County as follows:-  <i>Fouling of Land by Dogs, (Flintshire County Council) – Order Number 1, 2009.</i>  The proposed Dog Control PSPO will seek to replace the current order in force by the 20<sup>th</sup> October 2017.</p>
1.04	<p>The consultation on the PSPO prohibitions was conducted between June 1<sup>st</sup> -29<sup>th</sup> 2017. Information regarding the consultation and how to take part was sent to each County Councillor, Town &amp; Community Council, Head Teacher, Bowling club secretaries, North Wales Police, The Police and Crime Commissioner and dog representative groups. A press release explaining the proposals and how the public could take part was also released in print and online. The consultation was undertaken via an online survey which included maps of potentially affected areas, a Frequently Asked Questions and Answers document and a copy of the proposed order. Town and Community Councils had previously been asked to provide areas within their ownership they would allow Flintshire County Council to enforce conditions of the proposed PSPO (legal requirements and timeline included within Appendix 1).</p>
1.05	<p>The results of the consultation on the proposed PSPO were as follows. There were 310 responses, however due to spoilt surveys the final completed figure was 285. 65% of responders were dog owners.</p> <p>There was very strong support for FCC to:</p> <ol style="list-style-type: none"> <li>1. Continue to enforce the requirement for owners to pick up dog waste <b>(98% agreed with the proposal)</b>.</li> <li>2. Enable officers to have the power to ask dog owners to place their dog on a lead if the dog is causing harassment/nuisance to others <b>(97%)</b>.</li> <li>3. Ensure that dog owners have on their person a means to collect dog waste at all times <b>(97%)</b></li> <li>4. Enforce dogs be kept on a lead in Cemeteries <b>(94%)</b></li> </ol>

	<p>5. Exclude dogs from fenced enclosed Children's play areas <b>(92%)</b></p> <p>6. Exclude dogs from the playing areas of formal recreation areas (Bowling greens/tennis courts) <b>(91%)</b></p> <p>7. Exclude dogs from all areas within school grounds <b>(80%)</b></p> <p>8. There was strong support that dogs be excluded from within the boundary of Marked sports pitches <b>(68%)</b> but this was the least supported proposal.</p>
1.06	<p>Consultees were able to make further representations or comments of which 174 chose to do so. 21 made supportive comments, 24 made representation questioning the prohibition around marked sports pitches and 31 questioned whether alternative provisions for dog exercise were to be made as a result of the planned exclusion areas. Many questioned individual land area classifications which will be checked to ensure compliance with the proposals of the PSPO and also how the other proposals would affect them.</p> <p>The RSPCA in their public newsletter and the Kennel Club considered that dogs should be allowed onto marked sports pitches, as excluding dogs, in their opinion, is contrary to DEFRA/Welsh Government guidance on PSPOs in allowing restriction free sites for dog walkers to exercise their dogs, and the Animal Welfare Act that dog owners provide the necessary exercise for their dogs. They also considered dog faeces can be removed easily by responsible owners in exclusion areas and other enforcement methods (not penalising responsible dog owners) could be enforced against known offenders. The Dog's Trust commented that exclusion areas should be contained to enclosed areas and that signage be provided directing dog owners to suitable areas elsewhere.</p> <p>There were some calls for dogs to be kept on a lead at all times which is felt would be not reasonable or proportionate.</p>
1.07	<p>The Animal Welfare Act 2006 states that owners of dogs are required to provide for the welfare needs of their animals and this includes providing the necessary amount of exercise each day. The Home Office guidance states Councils should be aware of the publicly accessible parks and other public places in their area which dog walkers can use to exercise their dogs without restrictions. Under the draft proposals of the dog control PSPO dogs would not be excluded from entering public playing fields in their entirety, only from within the marked boundary of marked sports pitches. There is a complete exclusion proposed for school grounds.</p> <p>Currently there are a small number of designated dog exercise areas in some areas of the County, but not all.</p>
1.08	<p>There were differing views with regard to dog owners having a means to collect dog waste on their person at all times. The RSPCA agreeing with the proposal and the Kennel Club suggesting in certain circumstances a dog owner/walker would not pick up their dogs waste if they had only one bag on their person and were in danger of being challenged. Some members of the public commented they believe being challenged on the contents of their</p>

	<p>pockets would be unreasonable.</p> <p>Both the Dogs Trust and Kennel Club welcomed the provision of officers having the power to request dogs be placed on a lead.</p>
1.09	<p>Since the consultation closed, officers have received further objections to the proposal to exclude dogs from marked sports pitches, stating that local people were not aware of the proposals of the draft PSPO and consultation dates, as details were not posted on specific sites. A public meeting to air objections to the exclusion of dogs from marked sports pitches has taken place in one community and letters have been received from both members of the public and Member of Parliament on their behalf with regard to dog exclusion.</p>
1.10	<p>Due to the later representations received, a further period of consultation on the marked sports pitches proposal on a local level could be an option to be progressed in areas where no alternative dog walking areas are available.</p>
1.11	<p>Members are advised of their duty to consider the Equalities Act. The Equality and Welsh Language Assessment completed has been reviewed following the public consultation (Summary included as Appendix 2). The assessment found some disabled people may be affected by the proposal. It is reasonable that some disabled people may not be able to pick up dog waste and that a reasonable approach to be taken for assistance dogs. There has been a request to update the exemptions to incorporate all users of assistance dogs. An informal consultation was undertaken with the Equality Impact Assessment quality assurance group, who were in support of the proposals.</p>

<b>2.00</b>	<b>RESOURCE IMPLICATIONS</b>
2.01	<p>Budget – There will be costs associated with any signage for the new PSPOs in any areas where they may need to be displayed. These costs will be funded from current budgets.</p>
2.02	<p>Legal – Notice and publicity of the PSPO will need to be made prior to an order being made.</p>
2.03	<p>Staffing – A new PSPO would be enforced by Streetscene Enforcement staff supported by the current external enforcement organisation when required.</p>

<b>3.00</b>	<b>CONSULTATIONS REQUIRED / CARRIED OUT</b>
3.01	With Cabinet Member
3.02	With All Member workshop – January 5 <sup>th</sup> 2017
3.03	With Environment Overview and Scrutiny Committee – January 2017
3.04	Cabinet Meeting - February 2017
3.05	Public and Statutory Consultation - June 2017

3.06	Extensive consultation with Chief Officer of Streetscene and Staff
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<b>4.00</b>	<b>RISK MANAGEMENT</b>
4.01	If the current Dog Control Order is not replaced by 20 October 2017, the enforcement against owners that allow their dogs to foul in public areas would not be able to continue beyond this date.

<b>5.00</b>	<b>APPENDICES</b>
5.01	Appendix 1 – ASB, C&P Act 2014 & FCC implementation process Appendix 2 – Summary of Equality Impact Assessment

<b>6.00</b>	<b>LIST OF ACCESSIBLE BACKGROUND DOCUMENTS</b>
6.01	<b>Contact Officer: Gerwyn Davies</b> <b>Telephone: E-mail: <a href="mailto:gerwyn_davies@flintshire.gov.uk">gerwyn_davies@flintshire.gov.uk</a></b>

<b>7.00</b>	<b>GLOSSARY OF TERMS</b>
7.01	Public Spaces Protection Orders (PSPOs)