

CABINET	
Date of Meeting	Tuesday 20 October 2020
Report Subject	Renewal of Public Space Protection Orders (PSPOs)
Cabinet Member	Deputy Leader of the Council and Cabinet Member for Streetscene and Transportation Cabinet Member for Planning and Public Protection
Report Author	Chief Officer (Streetscene and Transportation) Chief Officer (Planning, Economy and Environment)
Type of Report	Operational

EXECUTIVE SUMMARY

Public Spaces Protection Orders (PSPOs) are an intervention to prevent individuals, or groups, committing anti-social behaviour in a public space. They are part of the Anti-social Behaviour, Crime and Policing Act 2014 (“the Act”).

Councils may make a Public Spaces Protection Order after consultation with the Police, the Police and Crime Commissioner and appropriate Community representatives. They can be enforced by Council Officers, Police Officers or Police Community Support Officers if they are designated to do so.

Cabinet approved the making of a dog control PSPOs in September 2017, following a period of consultation. PSPOs can last for a maximum of three years before a review is required. To renew a PSPO, the Council must undertake, in accordance with the Act, a further public consultation and notification exercise, as if it were making a new order.

Under provisions of the Act, Flintshire’s Alcohol Designated Public Place Order transitioned automatically into a Public Space Protection Order. This order allows Police Officers the power to ask members of the public to surrender alcohol if a member of the public are believed to be causing a nuisance in a public place. This is not a total alcohol ban in public areas, and is not applicable to licensed premises, but encouragement of sensible drinking. This Order also needs to be reviewed.

As the current PSPOs expire on the 19th October 2020, Cabinet approved the commencement of such a consultation on the 14th July 2020. This report informs Cabinet of the process and outcome of this consultation.

RECOMMENDATIONS

1	That Cabinet approves the extension of a Public Space Protection Order (PSPO) for dog control with only existing restrictions included.
2	That Cabinet approves the extension of a Public Space Protection Order (PSPO) for alcohol control.
3	That Cabinet recommends that a review is undertaken of all signage at all sites subject to the PSPO arrangements.

REPORT DETAILS

1.00	EXPLAINING THE BACKGROUND TO THE PROPOSALS
1.01	<p>Public Space Protection Orders (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> <p>Flintshire County Council has two PSPOs in place, one covering dog control measures and one covering alcohol control, which are due to expire in October 2020.</p>
1.02	<p>On 12th September 2017, Cabinet approved the making of a Dog Control Public Space Protection Order (PSPO) following a period of consultation and other requirements under the Act. The PSPO required dog owners to:</p> <ol style="list-style-type: none">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 if the dog was causing a nuisance.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, fenced equipped children's play areas and all areas within school grounds,5. Keep their dog on a lead in cemeteries.
1.03	<p>Since the implementation of the dog control PSPO over 1,100 dog walkers have been approached and provided with information and advice on the prohibitions of the Order. A total of 3 Fixed Penalty Notices (FPNs) have been issued for dog fouling and 45 for dogs entering the boundaries of marked sports pitches.</p> <p>Whilst enforcement activity is timed to busy periods of dog walking and when intelligence is received about a regular offender, it is difficult to actually witness dog owners not clearing up after their dogs. The Council has adopted a high profile approach in order to act as a deterrent and enforcement officers enter into dialogue with dog walkers during their patrols to ensure that they are aware of the PSPOs. As the officers are in uniform it is less likely that dog walkers will not comply with the local rules and it should be noted that a high number of FPNs is not the only measure</p>

	<p>by which the success of PSPOs should be measured and overall cleanliness and public awareness of the FPN process should also be considered.</p>
1.04	<p>Flintshire's Designated Public Place Order automatically transitioned to a PSPO under the Act in October 2017. The order allows designated officers, in this case Police Officers, the power to ask members of the public to surrender their alcohol if they are deemed to be a nuisance in public areas. Licensed premises are not included under these restrictions. Drinking alcohol in a public place is not a breach of the Order, but refusing the officers request to cease drinking, or surrender their alcohol when asked.</p>
1.05	<p>PSPOs can be introduced in a specific public area where the local authority is satisfied on reasonable grounds that certain conditions have been met. These would include the nature of the anti-social behaviour requiring that:</p> <ul style="list-style-type: none"> • Activities that have taken place have had a detrimental effect on the quality of life of those in the locality, or it is likely that activities will take place and that they will have a detrimental effect • The effect or likely effect of these activities: <ul style="list-style-type: none"> • Is, or is likely to be, persistent or continuing in nature • Is, or is likely to be, unreasonable • Justifies the restrictions being imposed <p>Any local authority that has made a PSPO, may extend the period for which it has effect if it is satisfied, on reasonable grounds that doing so is necessary to prevent an occurrence or recurrence of the activities identified in the order, or an increase in the frequency or seriousness of those activities, after that time.</p>
1.06	<p>PSPOs are not permitted to have an effect for a period of more than 3 years, unless extended under Chapter 2 Section 60 of the Act.</p> <p>Before the time when a PSPO is due to expire, the local authority that made the PSPO may extend the period for which it has effect if satisfied on reasonable grounds that doing so is necessary to prevent—</p> <p>(a) occurrence or recurrence after that time of the activities identified in the order, or</p> <p>(b) an increase in the frequency or seriousness of those activities after that time.</p> <p>An extension under this section may not be for a period of more than 3 years, but a PSPO may be extended under this section more than once.</p>
1.07	<p>Therefore Cabinet approved the consultation process on the 14th July 2020, following support from the Environment Overview and Scrutiny Committee on 13th July 2020. The consultation would be with the required stakeholders to renew the current orders with the same level of restrictions as previously made.</p>

	<p>The consultation ran between the 3rd August and 4th September 2020 and, as required, information and detail on how to take part was shared with:</p> <ul style="list-style-type: none"> • Elected Members, • Town & Community Councils, • Head Teachers, • Bowling club secretaries, • North Wales Police, • The Police and Crime Commissioner and • Dog representative groups. • Flintshire residents (via press release explaining the proposals and how to take part) <p>The consultation was undertaken via an online survey, which included maps of potentially affected areas, a frequently asked questions and answers document and copies of the proposed orders.</p> <p>In preparation for the consultation, and in addition to Flintshire County Council land, Town and Community Councils were asked to identify areas within their ownership they wanted to be included in the renewed PSPO. This would allow Flintshire County Council to enforce the conditions on their land (legal requirements and timeline included within Appendix 1).</p>
1.08	<p>The results of the consultation on both proposed PSPOs were as follows:</p> <p>Dog Control PSPO</p> <p>66 responses received, of which 64% were dog owners.</p> <p>There was strong support for FCC to:</p> <ol style="list-style-type: none"> 1. Dog owners should be made to put their dogs on a lead, when requested by an authorised officer, ONLY if the dog is loose and causing a nuisance or annoyance to any other person, bird or animal (100% agreed with the proposal). 2. Ensure that dog owners have on their person a means to collect dog waste at all times (100%) 3. Enforce dogs be kept on a lead in Cemeteries (89%) 4. Dogs should be excluded from fenced, equipped children’s play areas (92%) 5. Exclude dogs from the playing areas of formal recreation areas (Bowling greens/tennis courts) (88%) 6. Exclude dogs from all areas within school grounds (64%) 7. That dogs be excluded from within the boundary of marked sports pitches (65%).

	<p>8. That the steps are proportionate to achieve the aim of controlling dog fouling in Flintshire? (74%)</p> <p>Alcohol Control PSPO</p> <p>34 responses received.</p> <p>There was strong support for FCC to:</p> <ol style="list-style-type: none"> 1. Continue with the measures adopted in current alcohol Designated Public Space Order should continue under a Public Space Protection Order? (88%) 2. That this is a proportionate action to help control alcohol fuelled anti-social behaviour in Flintshire? (90%)
1.09	<p>Consultees were not able to make further representations or comments on the survey but a number of representations were subsequently received by email.</p> <p>Two representations made comments regarding the exclusion of dogs on school grounds in relation to Buckley Elfed High School specifically, and requested access to walk dogs along pathways that cross that school's grounds. On further consultation with the School Headteacher, who remains in full support of having the whole school grounds remain an exclusion zone, it is recommended that this representation not be considered further. This does not apply to the Public Rights Of Way in the area which will remain available for use by dog walkers.</p> <p>A third representation concerned the Ornamental Gardens by the tennis courts in Mold and requested that this area be included in the 'exclusion of dogs' category. At present, gardens are not included in any PSPO category, therefore it is not recommended that this area alone not be included at this time, however a review be undertaken of all garden areas to assess an appropriate dog control method to suit the needs of our residents.</p> <p>A fourth representation concerned the alcohol control PSPO and questioned the enforcement of the PSPO.</p>
1.10	<p>Members are advised of their duty to consider the Equality Act 2010.</p> <p>The Equality Impact and Welsh Language Assessment completed has been reviewed following the public consultation Appendix 2.</p> <p>The assessment found some disabled people may be affected by the proposal. Therefore a person will be exempt from the restrictions if that person:</p> <ul style="list-style-type: none"> • is registered as a blind person in a register compiled under Section 29 of the National Assistance Act 1948; • has a disability which affects that person's mobility, manual dexterity, physical coordination or ability to lift, carry or otherwise

	move everyday objects, in respect of a dog trained by a prescribed charity and upon which that person relies for assistance
1.11	Following review of all consultation feedback it is recommended that both PSPOs be renewed for a further three year period, starting from October 2020, with existing restrictions continuing.
1.12	<p>It is also recommended that Streetscene services undertakes a full review of current signage for the dog control PSPO, at all locations, to ensure they are complete and accurate.</p> <p>Where it is deemed that signage needs to be upgraded or renewed, this will be done in a timely manner and enforcement action will not be taken until it is clear to Flintshire residents that restrictions are in place.</p>

2.00	RESOURCE IMPLICATIONS
2.01	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.
2.02	Legal – Notice and publicity of the PSPO will need to be made prior to an order being made.
2.03	Staffing – The dog control PSPO is already enforced by Streetscene Enforcement staff, the alcohol control PSPO is enforced by North Wales Police.

3.00	RISK MANAGEMENT
3.01	<p>If the current Dog Control PSPO is not extended by 20 October 2020, the enforcement against owners that allow their dogs to foul in public areas would not be able to continue beyond this date.</p> <p>If the Alcohol Control PSPO is not extended, enforcement against those who refuse to comply with a request to stop drinking alcohol in a public place will not be able to continue.</p>

4.00	CONSULTATIONS REQUIRED / CARRIED OUT
4.01	With Cabinet Member
4.02	With Environment Overview and Scrutiny Committee – July 2020
4.03	Cabinet Meeting – July 2020
4.04	Public and Statutory Consultation – August-September 2020

4.05	Extensive consultation with Chief Officer (Streetscene and Transportation), Chief Officer (Planning, Environment and Economy) and Staff
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5.00	APPENDICES
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5.01	Appendix 1 – Anti Social Behaviour, Crime and Policing Act 2014 and Flintshire County Council implementation process
5.02	Appendix 2 – Summary of Equality Impact Assessment

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
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6.01	<p>Scrutiny Report: http://committeemeetings.flintshire.gov.uk/documents/s60053/Renewal%20of%20Public%20Space%20Protection%20Orders.pdf?LLL=0</p> <p>Cabinet Report: http://committeemeetings.flintshire.gov.uk/documents/s59996/Review%20of%20Public%20Space%20Protection%20Orders.pdf?LLL=0</p> <p>Website Information: https://www.flintshire.gov.uk/en/Resident/Streetscene/New-Measures-for-Dog-Control.aspx</p>
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7.00	CONTACT OFFICER DETAILS
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7.01	<p>Contact Officer: Stephen O Jones Telephone: 01352 704700 Email: stephen.o.jones@flintshire.gov.uk</p> <p>Contact Officer: Andrew Farrow Telephone: 01352 703201 Email: andrew.farrow@flintshire.gov.uk</p>
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8.00	GLOSSARY OF TERMS
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8.01	Public Spaces Protection Orders (PSPOs)
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