

Delegated Officer Report

Decision Maker: John Lamb Director of Environmental Management

Date of Decision: 26 January 2021

Subject: Proposed consultation to introduce Public Spaces Protection Orders, to replace the expired Dog Control Orders

Report Author: Samantha Cox, Environmental Health Manager

Ward (s): The proposed exercise is applicable to Orders across the whole borough.

Reason for the decision: To give approval to the commencement of consultation exercises to introduce new Public Spaces Protection Orders (PSPOs) to replace the expired Dog Control Orders, in accordance with the statutory requirements of the Anti-Social Behaviour, Crime and Policing Act 2014.

Summary: Public Spaces Protection Orders were introduced under the provisions of the Anti-Social Behaviour, Crime and Policing Act 2014. The Act also introduced transitional arrangements for a number of existing Orders which were designed to protect communities from crime and disorder, including Dog Control Orders.

Under the transitional arrangements the following Orders in force on the 14th October 2017 automatically converted to become Public Spaces Protection Orders.

- Dog Control Orders made under Chapter 1 of Part 6 of the Clean Neighbourhoods and Environment Act 2005.

Public Spaces Protection Orders may only be made for a period of up to three years, however they may be varied and extended for up to three further years per extension and this cycle can be repeated as required.

Following the transitional arrangements, within Oldham we have:

- 4 PSPOs (formerly Dog Control Orders)
 - Fouling of Land by Dogs Order applies to the whole borough.
 - Dogs on Leads Order applies to cemeteries
 - Dogs Specified Maximum Order applies to most open spaces
 - Dogs Exclusion Order applies to children's play areas which are fenced off.

Copies of the Orders and the restrictions they contain are included in the Appendices.

It is also proposed to commence consultation on additional play areas to be included in the Dogs Exclusion Order.

The Orders that were in place have automatically expired, and new Orders are necessary if we want to take action against irresponsible dog owners.

The Act introduced a number of statutory requirements in relation to consultation which must be undertaken before Orders can be made, varied or extended and these processes must be undertaken to reintroduce the current restrictions relating to dogs.

What are the alternative option(s) to be considered? Please give the reason(s) for recommendation(s):

Option 1. Approve the commencement of the consultation exercise for all the expired PSPOs regarding dog control and include the additional fenced off play areas in the Dogs Exclusion Order. (Recommended)

Option 2. Take no action. (Not recommended as the Council would not have the authority to deal with any dog control issues.

Consultation: including any conflict of interest declared by relevant Cabinet Member consulted.

Internal Council departments have been consulted on this proposal.

Recommendation(s):

Option 1. Approve the consultation exercise to

introduce new Public Spaces Protection Orders which are recognised as essential to deal with dog control issues.

Implications:

*What are the **financial** implications?*

This consultation exercise will require the associated notices to be published on-line and also placed physically at the affected areas.

The cost of this work is estimated to be £1K and will be met from an existing 2021/22 revenue budget resource held by the Environmental Health service.

(Nigel Howard)

*What are the **legal** implications?*

By virtue of section 75 of the Anti-social Behaviour, Crime and Policing Act 2014, the provisions of the Council's existing dog control orders remained in force until October 2020.

As the orders have ceased to exist, it is necessary to use the power in section 59 of the Anti-social Behaviour, Crime and Policing Act 2014 to make new Public Space Protection Orders dealing with these matters. Before making a Public Space Protection Order, the Council must be satisfied on reasonable grounds that two conditions are met.

The first condition is that-

- a) activities carried on in a public place within the authority'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 the 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

Order

Statutory guidance on the Anti-social Behaviour, Crime and Policing Act 2014 states that Councils will need to consider whether there are suitable public areas where dogs can exercise without restrictions. Councils should also consider if the proposed restrictions will displace dog walkers onto other sensitive land such as farmland or nature conservation areas. Guidance from the Department for Environment, Food and Rural Affairs on dog control states that Councils must consult dog law and welfare experts and organisations affected by restrictions such as the Kennel Club before seeking to impose restrictions. Councils are also encouraged to publish a list of alternative sites which dog walkers can use to exercise their dogs without restrictions so that dog walkers and non-dog walkers have the opportunity to submit their views on whether these alternatives are suitable.

It is an offence under section 67 of the Anti-Social Behaviour, Crime and Policing Act 2014 for any person without reasonable excuse to do anything that the person is prohibited from doing by a public spaces protection order or to fail to comply with a requirement to which the person is subject under a public spaces protection order. A person guilty of an offence under section 67 is liable on summary conviction to a fine not exceeding £1000. (A Evans)

What are the **procurement** implications?

There are no procurement implications.

What are the **Human Resources** implications?

There are no Human Resources implications.

Equality and Diversity Impact Assessment attached or not required because (please give reason)

An Equality and Diversity Impact Assessment is not required. Through the consultation exercise, the impact on equality and diversity for each PSPO varied, extended or introduced is considered in detail. Where the introduction or continuation of a PSPO is deemed to negatively impact on equality or diversity, then the terms of any Order will be amended as necessary to reduce or negate the impact where possible, and if this cannot be achieved the Order will not be made.

What are the **property** implications?

Risks:

Failure to consult on the variation and introduction of new Orders will mean the Council is unable to deal with dog fouling and other dog related offences in public places across the borough, as controlled within the provision of that Order.

Co-operative agenda

The statutory consultation exercise proposed is fully aligned with the Council's co-operative ethos. The consultation will be undertaken in accordance with the Public Spaces Protection Order Policy which clearly defines the responsibilities of the Council and landowners, the contribution of Elected Member and communities and the expectation of partnership working to achieve solutions to prevent/reduce crime and disorder.

Has the relevant Legal Officer confirmed that the recommendations within this report are lawful and comply with the Council's Constitution? Yes

Has the relevant Finance Officer confirmed that any expenditure referred to within this report is consistent with the Council's budget? Yes

Are any of the recommendations within this report contrary to the Policy Framework of the Council? No

List of Background Papers under Section 100D of the Local Government Act 1972:

Title	Available from
Anti-Social Behaviour, Crime and Policing Act 2014	Community Safety Services Level 9, Civic Centre, West Street, Oldham
Public Spaces Protection Order Policy	Community Safety Services Level 9, Civic Centre, West Street, Oldham

Report Author Sign-off:	
Date:	

Please list and attach any appendices: -

Appendix number or	Description
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letter	
1	Borough wide PSPO (formerly Dog Control Order)
2	PSPO Dogs on Leads (formerly Dog Control Order)
3	PSPO Dog Exclusion (formerly Dog Control Order)
4	PSPO Dogs Maximum Number (formerly Dog Control Order)
5	List of additional play areas to be included in the Dogs Exclusion Order

In consultation with John Lamb Director of Environmental Services

Signed :



Date: 26 January 2021