

REPORT FROM: NEIGHBOURHOOD SERVICES MANAGER

TO: EXECUTIVE

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PUBLIC SPACE PROTECTION ORDERS AND DOGS

PURPOSE OF REPORT

To update on the Executive on proposals and options for PSPOs in relation to the control of dogs in Pendle.

RECOMMENDATIONS

- (1) To agree the plan and timetable as set out in the report.
- (2) That regular reports be submitted to the Executive to enable it to monitor progress

REASON FOR RECOMMENDATIONS

To enable the Council and its partners to respond to concerns regarding dogs in public places including enforcement action.

Issues

1. At its meeting of 28th May 2015 the Executive considered the report of the Dogs Working Group and requested a further report on progress plan, process and timetable for the review of controls and the introduction of Public Space Protection Orders (PSPOs) relating to the control dogs in public spaces in Pendle.
2. The Appendix to this report outlines the legal requirements for the making of PSPOs.
3. As reported to the May meeting the Council has recruited two additional Enforcement Officers to assist with the enforcement of PSPOs. As requested by Members they have been employed on a full time basis. Their hours will include weekend and early and late day working to help tackle hotspots and provide a visible presence. They will be expected to take a vigorous approach to the issue of fixed penalty notices but will also have an educational role.
4. Pendle has a number of dog control orders in place that will need reviewing and making into PSPOs by 2017. These include:

- A Borough-wide order requiring people in control of dogs to pick up and remove dog fouling in public places forthwith
 - All cemeteries within the Borough have an order requiring people in control of dogs to have the dogs on a lead at all times. Some of these orders limit the number of dogs allowed per person.
 - A dog banning order on the Remembrance Garden in Barrowford Park
5. The public consultation carried out by the Dogs Working Group highlighted the continuing very high level of concern about dog fouling. There was also a high level of concern about the lack of restrictions on dogs in children's play areas and multi use games areas (MUGAs) along with sports areas and parks generally.
 6. The proposed timetable is also based on securing existing dog control and beginning to incorporate new priorities bearing in mind limited staff and financial resources.
 7. The proposal for 2015/16 is to convert the current Borough-wide dog fouling order and the orders in the cemeteries to PSPOs and to make PSPOs banning dogs from play areas and MUGAs located outside parks. (These are the play facilities currently under consideration for possible transfer to town and parish councils. There are 31 play areas and 15 MUGAs involved and the town and parish councils will not have the authority to introduce PSPOs themselves).
 8. The suggestion for 2016/17 and 2017/18 is a park, play and sports facility by facility approach to include:
 - The Barrowford Remembrance Garden control order within a Barrowford Park PSPO
 - Dog banning orders on children's play areas and MUGAs in parks
 - Dog restrictions on cycle tracks, skate parks, playing fields, tennis courts and bowling greens
 - Possible other controls on dogs in parks.
 9. Area Committees would have a vital role in the consideration, development and public consultation in relation to this work. At the same time the Executive will need to maintain an overview of the programme in relation to costs, commitment of staffing resources, adequacy of enforcement, consistency of approach etc.
 10. Next steps for the 2015/16 programme are:
 - Prepare draft orders
 - Consult the Police, other interest partners and community representatives
 - Seek the approval of Area Committees
 - Report back to the Executive on overall progress
 - Once agreed publicise on the website, order and install signage

IMPLICATIONS

Policy: The legislation reinforces the continuing role of the Council in relation to the control of dogs throughout the Borough and responding to any ASB related to dogs through the actions of the Environmental Crime Team and the ASB team.

Financial: The opportunity the legislation provides and public expectation imply that these powers will be used by the Council and cost will be incurred.

Whilst it is anticipated that the implementation and the application of the powers in the 2015/16 programme can be dealt with within existing staffing resources along with a reasonable level of on the ground enforcement, there will be further costs yet to be quantified that will arise from publicising the Orders (i.e. signage at all entrances of an area covered by an order which may be

up to £200 per entrance in the case of a play area or MUGA). Work will be undertaken to establish these costs and they will be reported to the Executive.

For the programme in subsequent years these costs are likely to be even greater and consideration will need to be given as to how they are to be funded.

PSPOs only last for 3 years and for them to continue they must be reviewed (using the same process as when created), and if still required be renewed, creating recurring work and cost.

Legal: The Council has the lead role on the use of PSPOs

Risk Management: The legislation supports those elements of the Risk Management Plan relating to community safety; environmental crime and environmental protection

Health and Safety: Direct intervention in the enforcement of breaches poses a risk for the staff involved which is mitigated through the Council's Risk Assessments, lone working policy, use of the Volcano database and working in partnership with other agencies

Sustainability: The legislation supports those elements of the Sustainable Communities Strategy relating to community safety; environmental crime and environmental protection

Community Safety: The legislation re-enforces the continuing role of the Community Safety Partnership; the Partnership Plan and local delivery on community safety within an area and county based strategic landscape

Equality and Diversity: The legislation was subject to a detailed government impact assessment

APPENDIX

On the 20th of October 2014 the Anti Social Behaviour Crime and Policing Act 2014 came in to force and repealed all dog control order legislation. Dog control orders already in place continue for three years when they become subject to the same review process as PSPOs.

PSPOs are a district council function power intended to deal with a particular nuisance or problem in a specified area that is detrimental to the local community's quality of life by imposing conditions on the use of that area which apply to everyone.

Authority to agree a PSPO is currently delegated to the Area Committees subject to the consultation provisions in the Act, regulations and the statutory guidance.

The conduct test for a PSPO is that behaviour must:

- Be having or be likely to have a detrimental effect on the quality of life of those in the locality
- Be persistent or continuing in nature
- Be unreasonable

Before seeking authority for a PSPO officers will need to gather evidence to support the need for an order; involve partners; community groups and residents in evidence gathering and support and be certain about whether the evidence supports the need for an order and whether the order will prevent the behaviour.

In addition, other options must be considered as part of the consultation and order making processes:

- What other options are available as well as or instead of a PSPO?
- Are decisions documented in case of appeal or enforcement?
- Can anything be done and planned for in order to remove the need for the PSPO in the future?

Consultation is a key element of the preparation of a PSPO and includes:

- Chief Officer of Police
- Police and Crime Commissioner
- Police (Pendle Inspector)
- Victims
- Land owners
- Land users
- County Council if a highway is involved
- Community representatives

The consultation should seek to establish:

- Is the order needed?
- Will it work?
- Can the geographic area be defined and understood easily?
- Is it enforceable and will the Police support it? (Not necessarily a problem with dog orders as PBC are the main enforcers)
- Are there other options available?
- Does the proposal need to be amended or adapted in any way?

In making the order the Council will have to:

- Identify the activities having the detrimental effect
- Explain the potential sanctions on breach
- Specify the period the PSPO has effect and its geographic scope
- Ensure evidence is of an appropriate standard and well documented
- Ensure what is in the order is something it can require and something it can enforce

Appeals against a PSPO are to the High Court within six weeks on the basis:

- The council did not have the power to make the order or to include particular prohibitions or requirements
- One or more of the preliminaries has not been complied with (e.g. consultation)

Once the PSPO is approved the Council must

- Publish the order as made, extended or varied on its website;
- Erect on or adjacent to the public place the order relates to a notice (or notices) it considers enough to advise members of the public of:
 - the fact that the order has been made, extended or varied and
 - the effect of that order being made, extended or varied

Breach of a PSPO is a criminal offence subject to a fixed penalty notice or prosecution based on:

- Doing anything that the person is prohibited from doing by the order
- Failing to comply with a requirement to which the person is subject under the order

Each PSPO must be reviewed at a maximum of three yearly intervals. This will include orders that will convert to PSPOs in 2017. The review process is the same in terms of identifying and evidencing need; consultation and publicity as for the initial order.