

REPORT FROM: CORPORATE DIRECTOR
TO: POLICY AND RESOURCES COMMITTEE
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PUBLIC SPACES PROTECTION ORDER FOR PARKS

PURPOSE OF REPORT

To update the Committee on proposals and options for a Public Spaces Protection Orders (PSPOs) in relation to parks in Pendle

RECOMMENDATIONS

That the proposals outlined in the report be agreed and the necessary legal steps, including the provision of signage, be taken to implement them.

REASON FOR RECOMMENDATION

To enable the Council and its partners to respond to concerns regarding behaviour that is detrimental to the quality of life in public spaces in Pendle including enforcement action.

ISSUE

1. At its 30 June 2016 meeting the Executive agreed a detailed timetable to develop Public Spaces Protection Orders for parks; sports pitches; local nature reserves; town centres and back streets with alley gates.
2. In June 2017 area Committees agreed proposals for public consultation for a PSPO for the main parks across Pendle. Attached as Appendix 1 are proposals for a PSPO for parks in Pendle. These include Hard Platts in Nelson and King George V playing fields in Colne to enable the transferred bylaws to apply.

3. The consultation included notices at park entrances with details on how to participate in an on-line survey; detailed correspondence with partners, including the Town and Parish Councils, and groups that use Parks; a press release; an on-line survey and survey forms with business reply envelopes left at key park venues.
4. A total of 619 responses were received from residents and organisations. The results were ambiguous both in terms of numbers and in particular in the responses to open questions. The current proposals reflect the lack of a clear response and are also made in the light of the Government's revised statutory guidance on the ASB tools and powers, which include specific guidance on the proportionality and reasonableness of dog control provisions in PSPOs; the Kennel Club's response to the Pendle proposals; the result of a recent High Court PSPO appeal on dog control provisions and the resources now available within the Council to enforce some of the original proposals.
5. The intention of the proposals is to strike a balance between the use of those areas of a park set out for a specific use and those areas which are public open space. The proposals seek to minimize restrictions on dog walkers while maintaining the enjoyment of other park users. They will also enable officers to enforce the transferred bylaws by way of fixed penalty notice, when proportionate and reasonable to do so, rather than prosecution through the courts.
6. The starting point for the dog control proposals is to have no restriction. Dogs are only banned outright from areas where there is a specific use: children's play areas, multi use games areas, bowling greens, tennis courts, ball courts, and skate parks.
7. Dogs will be required to be on a lead on sports pitches, which is consistent with the Sports Grounds PSPO, and car parks which is in the interests of safety for dogs, pedestrians and drivers alike.
8. A dog walker will also be required to put their dog(s) on a lead at the request of an officer of the relevant Town or Parish Council; an officer of the District Council; a Police Officer or a Police Community Support Officer.
9. Officers consider that the Council can be satisfied that the proposals satisfy the legal tests i.e. the behaviour to be prevented is:
 - having or likely to have a detrimental effect on the quality of life of those in the locality
 - persistent or continuing in nature, and
 - unreasonable.

and that the PSPO is proportionate, reasonable and enforceable.

10. Once approved by Members, a draft PSPO will be publicised on the Council's website for a period of four weeks before being sealed and publicised on the website and by park specific signage at entrances to the parks.

IMPLICATIONS

Policy: The legislation reinforces the continuing role of the Council in responding to anti-social behaviour

Financial: The opportunity the legislation provides and public expectation imply that these powers will be used by the Council and costs will be incurred. It is anticipated that the implementation and the enforcement of the powers described above can be dealt with within existing staffing resources. The proposals have been drafted to reflect the resources

The cost of publicising the Orders (i.e. signage at all entrances of an area covered by an Order per entrance) will be managed within approved budgets.

Legal: The Council has the lead role on the use of PSPOs. Members of the public have a right of appeal on the basis the Council did not have the power to make the Order or to include particular prohibitions or requirements or that one or more of the preliminaries has not been complied with (eg consultation). Appeals are heard in the High Court.

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 1

Park specific options

Park	No Restriction	Dogs on lead	No dogs
Barrowford and Western Parishes			
Barrowford (the War Memorial is covered by an earlier PSPO)	All except	<ul style="list-style-type: none"> • Car Park 	<ul style="list-style-type: none"> • Children's Play Area • Bowling Green
Brierfield and Reedley			
Heyhead Park	All except	None	<ul style="list-style-type: none"> • Bowling green • Tennis courts • Ball court
Colne			
Alkincoates	All except	<ul style="list-style-type: none"> • Car Park 	<ul style="list-style-type: none"> • Children's Play Area • Bowling Greens • Tennis Courts • Ball court
Ball Gove	All except	<ul style="list-style-type: none"> • Car Parks 	<ul style="list-style-type: none"> • Children's Play Area
King George V (the children's play area and MUGA are covered by an earlier PSPO)	All	None	None
Nelson			
Hard Platts	All		
Marsden	All except	<ul style="list-style-type: none"> • Car Park 	<ul style="list-style-type: none"> • Children's Play Area • Bowling Greens • Tennis Courts

Victoria	All except	<ul style="list-style-type: none"> • Car Park • Pavilion and fenced area behind 	<ul style="list-style-type: none"> • Children's Play Area • Ball court and surrounding area • RC Track
Walverden	All except	None	<ul style="list-style-type: none"> • Children's Play Areas • MUGA
West Craven			
Letchcliffe	All except	<ul style="list-style-type: none"> • Car park 	<ul style="list-style-type: none"> • Children's Play Area
Sough	None	<ul style="list-style-type: none"> • Sports pitches 	<ul style="list-style-type: none"> • Children's Play Area • Tennis courts • Bowling Green • Skate Park
Valley Gardens	All except	None	<ul style="list-style-type: none"> • Children's Play area
Victory	None	<ul style="list-style-type: none"> • Sports pitches 	<ul style="list-style-type: none"> • Children's Play Area • MUGA • Skate Park • Junior cycleway

Conditions applicable in all Parks:

1. A dog walker must put their dog(s) on a lead at the request of an officer of the relevant Town or Parish Council; an officer of the District Council; a Police Officer or a Police Community Support Officer
2. No smoking or dogs in enclosed Children's Play Areas; MUGAs; Tennis Courts and Ball Courts
3. Using fireworks of any description at any time without the express consent of an authorised officer of the Council
4. Removing, displacing or tampering with, other than in the case of an emergency, any lifesaving appliance, including defibrillators, provided or authorised by the Council
5. Providing; offering to provide or using the park to provide any service for which a charge is made, including but not limited to, selling ice cream, paid for fitness

camp/sessions and paid for dog walking services, without the express consent of an authorised officer of the Council

6. Throwing, kicking or propelling any object in a way that is liable to cause deliberate or reckless injury to anyone else
7. Erecting or occupying a tent, vehicle, caravan or any other structure for the purpose of camping for any period whatsoever without the express consent of an authorised officer of the Council
8. Lighting a camp or any other type of fire without the express consent of an authorised officer of the Council
9. Allowing or permitting any radio or wireless controlled aircraft or vehicle, including model aircraft and drones and radio controlled cars, to take off from; land within or fly over a park or operate across any part of the park
10. Bringing on to or riding a horse except on authorised bridleways
11. Causing or likely to cause a nuisance or annoyance to anyone else in the park or in the locality by way of (including but not limited to) shouting or singing; use of a musical instrument or use of a radio; smartphone; tablet or any other device capable of playing amplified music other than as part of an event which has the express consent of an authorised officer of the Council
12. Engaging in the sport of archery; golf or field sports such as javelin, discus, shot put or hammer unless as part of an organised event which has the express consent of an authorised officer of the Council
13. Taking part in or permitting a public performance or show without the express consent of an authorised officer of the Council
14. Climbing any wall or fence in or enclosing a park or any tree, or any barrier, railing, post or other structure
15. Using any device designed or adapted for detecting or locating any metal or mineral in the ground without the express consent of an officer of the Council
16. Removing, displacing, damaging or defacing any barrier, post, seat or implement, or any part of any structure provided for use in the laying out or maintenance of the park
17. Removing, displacing, damaging or defacing any stone, soil, or turf or the whole or any part of any plant, shrub or tree
18. Erecting any post; ride or swing; or building or other structure without the prior express consent of an authorised officer of the Council
19. Bringing on to or driving a motor vehicle; trailer; motorcycle; mini-moto; quad bike; Segway or any other motorised, wheeled vehicle whatsoever other than on an approved roadway or in an approved parking area of the park or one relating to a disability
20. Leaving a motor vehicle; trailer; motorcycle; or any other motorised, wheeled vehicle whatsoever in a park between the hours of 10pm and 6am
21. Allowing any animal to graze in a park without the express consent of an authorised officer of the Council
22. Killing, injuring, taking or disturbing any animal, or engaging in hunting, shooting, or the setting of traps or the laying of snares

23. Bathing or swimming in (include jumping from structures in to waterways, e.g. Barrowford Park); fouling or polluting; or obstructing or diverting, any waterway or opening or shutting or otherwise moving or operating any sluice or similar apparatus within a park
24. Allowing or permitting any aircraft, including helicopters, hot air balloons and hang gliders, to land in or take off from a park other than in an emergency or with the express consent of an authorised officer of the Council
25. No person shall step on to or otherwise place their weight upon any frozen waterway.
26. No person shall operate a power-driven model boat on any waterway.
27. No person shall sail or operate any boat, dinghy, canoe, sailboard or inflatable on any waterway without the consent of the Council.
28. No person shall in any waterway cast a net or line for the purpose of catching fish or other animals except in a designated area for fishing.
29. BBQ's are only allowed in designated areas of the Park