

COUNCIL - 26 FEBRUARY 2019

PART I - DELEGATED

6. PUBLIC SPACES PROTECTION ORDER WITH RESTRICTIONS FOR DOGS (DCES)

1 Summary

- 1.1 This report requests that Council extend and varies the Dogs Public Spaces Protection Order for the District.

2 Background

- 2.1.1 The Anti-Social Behaviour, Crime and Policing Act 2014 (the Act) provides Local Authorities with powers to make Public Spaces Protection orders (PSPOs). These orders are intended to address activities carried out in public spaces which have a detrimental effect on those in the locality.
- 2.1.2 The Council implemented a PSPO relating to the control of dogs which came into effect on 1 April 2016. Under the Act a PSPO runs for 3 years unless extended and/or varied in accordance with the provisions of the Act. The proposal is to extend the current PSPO for a further 3 years. The level of the fixed penalty notice shall remain at £75.00 to be paid within 14 days reduced to £50.00 if paid within 7 days.

3 Details

- 3.1 In order to extend a PSPO in accordance with section 60 of the Act, the local authority must be satisfied on reasonable grounds that doing so is necessary to prevent occurrence or recurrence after that time of the activities in the order or an increase in the frequency or seriousness of those activities after that time.

- 3.1.1 The current PSPO lists the following offences:

1. Failing to remove dog faeces.
2. Failing to keep a dog on a lead.
3. Failing to put a dog on a lead if directed to do so by an authorised officer.
4. Permitting a dog to enter specified land from which dogs are excluded.
5. Restrict the maximum number of dogs one person can be in charge of.

- 3.1.2 It is proposed to maintain all dog related offences and the areas they were applied to:

1. Failing to remove dog faeces - district wide.
2. Failing to keep a dog on a lead - applies only to the area directly surrounding the café at The Aquadrome.
3. Failing to put a dog on a lead if directed to do so by an authorised officer - district wide.

4. Permitting a dog to enter or remain on specified land from which dogs are excluded - children's play areas, courts, outdoor gyms, skate areas, fenced picnic areas - district wide.
5. Permitting a dog to enter or remain on land used for the grazing of animal on Chorleywood House Estate - between 1st June and 30th September inclusive.
6. Restrict the number of dogs one person can be in charge of to a maximum of 4 - district wide.

3.1.3 It is also proposed to change the wording of the definition of Assistance dogs in the exemption to pre-empt any changes to the names of the existing charities. This wording can be viewed at **Appendix 3** but it is recommended to use only paragraphs (a) – (c) as paragraph (d) creates an exemption for self-trained dogs. Self-trained dogs are not necessarily accepted as equivalent to the dogs trained by the prescribed charities as those charities have strict guidelines that ensure common and transparent standards of dog training.

3.1.4 By virtue of section 72 of the Act, before extending or making a variation to a PSPO the Council is obliged to carry out consultation with the Chief Officer of Police, the local police, community representatives and owner/occupiers of land covered within the order.

3.1.5 In order to inform any decision of Council, officers have undertaken the required consultation alongside a public consultation. The public consultation was open for 4 weeks and closed on 7 January 2019. It was publicised through the council website, social media and emailed to Parish Councils, the Police, the Police and Crime Commissioner, Hertfordshire County Council and Community groups.

3.1.6 The consultation showed that the majority of the public who took the survey agreed that the restrictions of the PSPO should be offences. The full survey can be viewed at **Appendix 1**. The Council also received a submission from the Kennel Club which raised a number of points. Their observations along with a detailed response are outlined at **Appendix 2**.

4 Options and Reasons for Recommendations

4.1 Option 1 – The recommended option. To approve the extension of the PSPO relating to dog control throughout the district for a further 3 years. By maintaining the current powers related to dog control ensures there are deterrents in place and penalties for those who fail to behave responsibly. It aids in balancing the needs of dog owners and other members of the community and in dealing with anti-social behaviour.

4.2 Option 2 – do not approve the extension and allow the PSPO to expire on 31 March 2019. This would mean dog fouling and requirements to keep dogs on a lead or out of specified areas could only be addressed through old byelaws or the individual application of Community Protection Warnings, Community Protection Notices and associated fixed penalty notices and prosecutions. The byelaws are dated and inconsistent in terms of penalties for breaching them (ranging from £2 - £500 on conviction). Many enclosed children's parks are not covered by these byelaws. Breach of byelaws can only be dealt with by prosecution; there is no scope for issuing Fixed Penalty Notices, and so is a timely and costly process. There is no byelaw that restricts the number of dogs one person can be in charge of

which means one person can be in charge of an unlimited number of dogs. The great advantage that PSPOs have over the making of new bye-laws is that a PSPO can be phrased (as this one is) to be district wide and can cover all land in the administrative area of the Authority to which the public or any section of the public has access, on payment or otherwise, as or right by virtue of express or implied permission.

- 4.3 The use of Community Protection Warnings, Community Protection Notices with the associated fixed penalty notices and prosecutions under the Act, requires individual authorised officers to witness anti-social behaviour. As such they provide no general encouragement of appropriate behaviour amongst the general public in relation to dog control, other than on an individual basis. This is not an efficient or achievable method to promote responsible dog ownership with the Council's existing enforcement resources.

5 Policy/Budget Reference and Implications

- 5.1 The recommendations in this report are within the Council's agreed policy and budgets. The relevant policies are:

5.1.1 The Strategic Plan 2018-2021.

5.1.2 The Community Strategy 2018-2023.

5.1.3 The Anti-social behaviour Policy.

- 5.2 The recommendations in this report relate to the achievement of the following performance indicators.

5.2.1 EP13 – Manage the behaviour of dogs in our parks and open spaces.

5.2.2 CP01 – Satisfaction with 'keeping public land clear of litter and refuse'.

5.2.3 LL34 – To maintain accreditation for Green Flag.

5.2.4 CP47 – Perception of ASB as a problem in the local area.

5.2.5 CP07 – Perception to the extent to which public services are working to make the area safer.

5.2.6 CP02 – Satisfaction with parks and open spaces.

5.2.7 CP05 – Satisfaction with Three Rivers District Council.

- 5.3 The impact of the recommendations on this/these performance indicator(s) is:

5.3.1 EP13 – To improve the management of the behaviour of dogs in our parks and open spaces.

5.3.2 CP01 – To increase satisfaction with 'keeping public land clear of litter and refuse'.

5.3.3 LL34 – To help maintain accreditation for Green Flag.

5.3.4 CP47 – To reduce the perception of ASB as a problem in the local area.

5.3.5 CP07 – To increase the perception to the extent to which public services are working to make the area safer.

5.3.6 CP02 – To increase satisfaction with parks and open spaces.

5.3.7 CP05 – To increase satisfaction with Three Rivers District Council.

6 Financial, Staffing, Public Health, Customer Services Centre, Communications & Website, Risk Management and Health & Safety Implications

6.1 None specific.

6 Legal Implications

6.1 If Council do not extend the PSPO then there will be limited options for officers to use in promoting and enforcing appropriate dog control in the District.

6.2 The Legal Team have been consulted and have advised that the change to the wording of the definition of assistance dogs would amount to a variation within the meaning of section 61 of the Act. However, it is considered that the requirements of section 61 and section 59(5) are met as the variation does not make the prohibition or requirement more extensive

7 Equal Opportunities Implications

7.1 Relevance Test

Has a relevance test been completed for Equality Impact? There is no proposed change to current policy / service A relevance test was undertaken at the point of originally proposing the PSPO.	No
Did the relevance test conclude a full impact assessment was required? The Council's enforcement policy takes into consideration protected characteristics such as age, and disability. This alleviates any potential adverse impact of the PSPO on these protected groups.	No

8 Environmental Implications

8.1 Extending the PSPO will continue a consistent approach to the control of dogs in the district.

9 Community Safety Implications

9.1 Having the PSPO will aid ensuring that all members of the community can enjoy the amenities and will assist Officers in dealing with the activities of irresponsible dog owners in all areas of the district.

10 Risk Management and Health & Safety Implications

Nature of Risk	Consequence	Suggested Control Measures	Response <i>(tolerate, treat terminate, transfer)</i>	Risk Rating <i>(combination of likelihood and impact)</i>
Dogs are allowed to foul without their faeces being picked up	A resident falls ill through contact with dog faeces	PSPO Byelaws Use of CPNs	Publicise the enforcement powers of the council and restrictions of the PSPO	6

11 Recommendation

- 11.1 That approval is given to extend the current PSPO relating to dog control for a further 3 years.
- 11.2 That the restrictions in the current PSPO be maintained.
- 11.3 That the Council adopts paragraphs (a) – (c) in the definition of Assistance Dogs as outlined in Appendix 3.

Report prepared by: Debra Sandling Animal Welfare and Licensing Inspector

Data Quality

Data sources: Public Consultation on Dogs PSPO

Data checked by: Alison Mirpuri, Consultation Officer

Data rating:

1	Poor	
2	Sufficient	
3	High	X

Background Papers

Anti-Social Behaviour, Crime and Policing Act 2014

APPENDICES / ATTACHMENTS

Appendix 1 - Results of the public consultation undertaken regarding the extension of the current PSPO relating to the control of dogs.

Appendix 2 - Council response to observations and points raised in a submission received from the Kennel Club, together with the wording of Mole Valleys Exemption

Appendix 3 – Definition of Assistance dogs as used by Mole valley District Council.