

**CABINET**  
**14 JULY 2020**

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**REPLACEMENT OF DOG CONTROL ORDERS WITH PUBLIC SPACE  
PROTECTION ORDERS**

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**Responsible Cabinet Member -  
Councillor Jonathan Dulston, Stronger Communities Portfolio**

**Responsible Director -  
Ian Williams, Director of Economic Growth and Neighbourhood Services**

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**SUMMARY REPORT**

**Purpose of the Report**

1. This report presents responses to the consultation on the introduction of Public Space Protection Orders (PSPOs) to replace existing Dog Control Orders. In addition, introducing wider powers concerning the walking and supervision of dogs and the exclusion of dogs from cemeteries (with some exemptions).
2. Cabinet is invited after giving due consideration to approve the Public Spaces Protection Order in the terms set out in this report.

**Summary**

3. Cabinet previously approved, on 5 November 2019, a period of consultation on the implementation of a PSPO for the control of dogs. The consultation period was to run for eight weeks, however due to public interest in these orders, it was extended for a further four weeks. The consultation ran from November 2019 to February 2020. **Appendix 1** sets out the 'survey monkey' responses.
4. PSPOs were introduced in the Anti-Social Behaviour, Crime and Policing Act 2014. A PSPO is designed to deal with a particular nuisance or problem in an area. The behaviour must be having a detrimental effect on the quality of life of those in the community. It must be persistent or continuing and it must be unreasonable.
5. If the Council wishes to continue enforcing the provisions within the existing Dog Control Orders, which lapsed under legislation in October 2017 and have to be replaced by 20 October 2020, then they would need to be replaced with a PSPO.
6. A copy of the draft PSPO order is set out at **Appendix 2**.

**Recommendation**

7. It is recommended that :-
  - (a) Members consider the consultation feedback and the contents of this report.

- (b) Members approve and agree that the Public Spaces Protection Order should be formally made as set out in **Appendix 2** to replace the current Dog Control Orders for:
  - (i) Failure to remove dog faeces;
  - (ii) Not keeping a dog on a lead on specified land;
  - (iii) Not putting a dog on a lead and keeping on a lead when directed by an authorised officer;
  - (iv) Permitting a dog to enter land from which dogs are excluded;
  - (v) Not keeping a dog on a lead in East, North and West Cemeteries.

## **Reasons**

- 8. The recommendations are supported by the following reasons :-
  - (a) Current Dog Control Orders cease to exist by October 2020.
  - (b) For improved dog control/responsible dog ownership in Darlington.
  - (c) To improve the quality of life of persons visiting and working in the areas covered by the PSPO

**Ian Williams**  
**Director of Economic Growth and Neighbourhood Services**

## **Background Papers**

No background papers were used in the preparation of this report.

Ian Thompson : Extension 6628  
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S17 Crime and Disorder	Introducing a PSPO for dog control will enable the authority to take action against individuals who do not look after their dogs responsibly.
Health and Well Being	The PSPO will impact on the Health & wellbeing of the community, making sure dogs are supervised responsibly.
Carbon Impact and Climate Change	There is no impact on carbon as a result of this report.
Diversity	Exemptions are available under the PSPO to some sections of the disabled community.
Wards Affected	All.
Groups Affected	The main impact on any protected characteristic as a result of introducing a Public Space Protection Order will be on residents with a disability who require an assistance dog. As detailed in the report, those individuals who have assistance dogs are excluded from relevant offences under the PSPO.
Budget and Policy Framework	No impact on the Budget or Policy Framework.
Key Decision	No.
Urgent Decision	No.
One Darlington: Perfectly Placed	The PSPO will contribute to safer Darlington.
Efficiency	There is no impact on the Council's Efficiency agenda as a result of this report.
Impact on Looked After Children and Care Leavers	There is no impact on Looked After Children and Care Leavers as a result of this report.

## MAIN REPORT

### Information and Analysis

9. Owing a dog can bring a great happiness but also places a lifelong responsibility on the owner to ensure that the dog is not a hazard, a health risk or nuisance to other members of the community. Unfortunately, some owners do not take a responsible attitude towards dog ownership and as a result, a number of complaints are received by the Council covering a range of issues. The Council needs to balance the needs of those in charge of dogs with the interests of those affected by the activities of dogs, bearing in mind the need for people, in particular children, to have access to dog-free areas and areas where dogs are kept under strict control.
10. Currently the Council has in place Dog Control Orders that cover:
  - (a) Failure to remove dog faeces;
  - (b) Not keeping a dog on a lead on specified land;
  - (c) Not putting a dog on a lead and keeping on a lead when directed by an authorised officer;
  - (d) Permitting a dog to enter land from which dogs are excluded.

11. In addition to the existing Dog Control Orders, the Council currently has byelaws in place banning dogs from cemeteries, namely:
  - (a) East Cemetery, Geneva Road
  - (b) North Cemetery, North Road
  - (c) West Cemetery, Carmel Road North
12. The existing Dog Control Orders come to an end on 20 October 2020 and if Members wish to continue to impose controls then existing Dog Control Orders and any other measures need to be introduced as a new PSPO.
13. In November, Cabinet approved a period of consultation with regard to introducing a PSPO and replacing the existing Dog Control Orders mentioned above, as well as replacing the existing byelaws in the three cemeteries mentioned above. In addition, the following provision was proposed to be consulted on:

Walking more than a specified number of dogs (suggested 4 maximum)

### Outcome of Consultation

14. Consultation ran from November 2019 to February 2020, for twelve weeks and was carried out in the following ways:
  - (a) One Darlington magazine
  - (b) Online survey
  - (c) Social media
15. Attached at **Appendix 1** is the overall feedback from the consultation.
16. There were 887 replies to the online survey. The headline results are as follows:
17. **Question** We propose to keep all four elements as part of the new PSPO's do you agree?
  - a) Failure to remove dog faeces

<b>Yes</b> 97.17%	<b>No</b> 2.27%	<b>Don't Know</b> 0.57%
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General themes from consultation:

- (i) More Dog Bins
- (ii) Dog bins emptied more regularly
- (iii) Patrols of hot spot areas
- (iv) Early morning and evening patrols of hot spot areas
- (v) Stiffer penalties for offenders

Sample comments.....

*"The amount of dog dirt around town shows people are not worried about getting caught."*

*“A way to enforce the public and identify whose dog had fouled and left on floor.”*

*“Something definitely needs to be done about not picking up dog poo - it’s like playing a game of dodge the poo when taking my own dog out for a walk around the Harrowgate Hill area, recently seems to be getting worse.”*

*“More bins are required, and the ones that are around are often overflowing.”*

b) Not keeping a dog on a lead on specified land

<b>Yes</b> 81.01%	<b>No</b> 12.20%	<b>Don’t Know</b> 6.79%
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General themes from consultation:

- (i) Designated play area for dogs – exercise freely, potentially fenced off
- (ii) More visible signage to indicate if dog can be off lead or not in parks
- (iii) South Park is an area of concern

Sample comments.....

*“It’s not always obvious where dogs are not allowed on open land, also seems unfair if it is an open public area and the dog is under the owner’s control.”*

*“Dogs need to run ...they can’t be kept indoors or on a leash 24 hours. There must be designated area for dogs to be exercised without restraint.”*

*“We need designated safe spaces in Darlington for dogs to free roam and burn off energy, perhaps a fenced off area at South Park.”*

*“There is no map whereby you can check where to let your dog off the lead.”*

c) Not putting a dog on a lead and keeping on a lead when directed by an authorised officer

<b>Yes</b> 89.66%	<b>No</b> 7.36%	<b>Don’t Know</b> 2.99%
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No comments were made in this section.

d) Permitting a dog to enter land from which dogs are excluded (see maps for specified area)

<b>Yes</b> 82.11%	<b>No</b> 10.44%	<b>Don’t Know</b> 7.45%
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General themes from consultation:

- (i) Dogs on leads should be allowed in cemeteries.
- (ii) Little reference to play areas.
- (iii) More visible signs, your nearest location is....

- (iv) Perhaps some current confusion as to what is in place right now, regarding Cemeteries thus the amount of comments.

Sample comments.....

*“Do not see the need to keep dogs out of cemeteries.”*

*“Dogs should be allowed in cemeteries (on the lead). They are comforting to the bereaved and people may want to take their dogs to visit the grave of someone who loved the dog.”*

*“I do not agree that dogs should be banned from cemeteries. Visiting a memorial to a loved one can be difficult and having a dog with you can give comfort at this difficult time. I therefore think that dogs should be allowed but kept on a lead at all times.”*

*“I think it’s unfair to exclude dogs from areas such as the cemeteries. Some people take their pet with them to the cemetery whilst visiting their loved ones resting place and therefore should still be permitted to do so. The problem is the minority of dog owners who are lazy and/or flout the rules. These people should be targeted instead of the good law-abiding citizens.”*

**Question** It is proposed to replace the existing restrictions within the existing Dog Control Orders and the existing byelaws for the exclusion of dogs from East Cemetery, North Cemetery and West Cemetery, do you agree?

	<b>Yes</b>	<b>No</b>	<b>Don’t Know</b>
<b>East Cemetery</b>	45.64%	38.31%	16.06%
<b>North Cemetery</b>	45.49%	38.63%	15.88%
<b>West Cemetery</b>	45.63%	38.66%	15.72%

General themes from consultation:

- (i) The general theme of comments implied a strong feeling that as long as a dog is on their lead and that any dog fouling is picked up by the owner that it is acceptable for dogs to be allowed into all cemeteries.
- (ii) Many people spoke of how a dog is a loyal and loving member of the family, whether the dog was a loyal companion to the deceased or indeed gave some comfort to the person visiting the cemetery to pay their respects.
- (iii) For many older people, as loved ones have deceased, a dog may be their only companionship, someone to talk to.

Sample comments.....

*“I think dogs should be allowed in on a lead as some people like to visit their loved ones and walk there, and if one of their owners has passed away, they like to take dog to visit.”*

*“Often a dog is a sole companion of a person visiting a grave and should be allowed at all times not just for a memorial etc. Don’t want to see a council officer or others issuing fine just because she has her dog with her.”*

*“I see no reason why dogs on leads cannot be permitted in all cemeteries.”*

*“Allow dogs in but enforce leads and picking up after.”*

**Question:** It is proposed to include within the PSPO’s a new additional restriction to prevent people from walking more than 4 dogs at one time, do you agree?

<b>Yes</b> 34.99%	<b>No</b> 58.62%	<b>Don’t Know</b> 6.39%
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General themes from consultation:

- (i) Professional dog walkers may suffer as a consequence of the proposed restrictions, with some people relying on their services whilst being at work.
- (ii) Professional dog walkers’ licenses to enable these businesses to continue unaffected.
- (iii) Other comments agree that the proposal is fair and safe as some people whether walking their own dogs or professionally may not be able to control more than 4 dogs, are the dogs being walked reactive to the presence of other dogs ,pulling, barking, are they able to safely pick up any dog fouling whilst still holding onto the dogs safely.
- (iv) Other comments have asked the question how is it fair to penalise people when walking 5 or 6 dogs which are well behaved , responsive to their owner and serve no threat to the community as opposed to a person walking one dog that is aggressive, unpredictable and a danger to the general public . There appears to be so many different scenarios to comprehend.

Sample comments.....

*“One dog can be as bad as ten, can depend on the types of dog, the big issue is the type of owner/handler and whether they have control.”*

*“As long as the person walking the dogs had them under control, I don’t see an issue. This is quite a statement as you could have someone walking 4 Chihuahuas and another walking 4 St Bernard’s, totally different situations.”*

*“Some people cannot control 1 dog never mind 4, but yes it’s a good step.”*

*“Four large dogs would be more than most people could control, dogs should be restrictive to maximum of two. All dogs that are under control should be within the physical capability of the dog walker at all times.”*

*“Ridiculous, what about dog walkers doing it for a living, those that own more than four dogs and people visiting the town, who says how many dogs people can own and walk at once, ludicrous.”*

*“The number of dogs is irrelevant as long as they are under control.”*

**Question** If you have any other ideas on how we can improve dog control in Darlington.

The general theme of comments/suggestions within the survey in response to this question:

- (i) Enforce existing laws and regulations rather than exploring more.
- (ii) More poo bins in dog walking hotspots.
- (iii) Poo bins to be emptied more regularly, people have commented that a poo bin overflowing is a regular sight.
- (iv) Free poo bags via a dispenser to be attached to dog bins.
- (v) A dedicated dog park, to enable dogs to exercise freely off the lead.
- (vi) Maps/signs as to where dogs can be off lead to freely exercise.
- (vii) A licence which covers ownerships of the dog.
- (viii) A licence to enable professional dog walkers to exercise 4 or more dogs.
- (ix) Education to dog owners, dog behavioural classes, education in schools.
- (x) Regular patrols of park area where people exercise their dogs – South Park mentioned.
- (xi) Increase number of Dog Wardens to police laws.
- (xii) Out of hours patrolling, early hours, evenings.
- (xiii) Increase number of Civic Enforcement Officers.
- (xiv) A genuine concern that professional dog walkers would suffer as a result of proposed restrictions.
- (xv) A feeling of dog owners being penalised rather than tackling the crime/behaviours of youths.
- (xvi) Unfairness in regard to the proposal of 4 dogs being walked, due to the different characteristics/abilities of both owners and dog breeds and the potential persecution of responsible dog owners.

It would appear that people’s perception of the Council is that there is a lack of physical presence with regard to Dog Wardens and the Civic Enforcement team. They have a lack of trust that the current laws/legislation are being enforced by means of fines. In the same breath they understand that there is a lack of resources to police and to implement these restrictions successfully. They also question how realistic it is to enforce further restrictions with this in mind.



## **Kennel Club Advice**

18. The Kennel Club would advise not to introduce banning dogs from cemeteries, this is supported by the public consultation in that several people visiting loved ones' graves find it emotionally comforting to take their dog. They suggest dogs should be kept on leads in the cemeteries and 'policed' more effectively.

## **Dog Walking Businesses Consultation**

19. Following the consultation, over recent months we have been working closely with the dog walking businesses, including Petpals. We are in the early stages of having a working group in Darlington in order to trial innovative solutions to tackling dog control/responsibility through education and schemes such as dog walking groups. Enforcement is only a part of the solution when it comes to tackling responsible dog ownership and the working group is an exciting new partnership that will consider the more medium to longer term solutions in relation to dog control in Darlington.

## **Communities and Local Services Scrutiny Committee**

20. At their meeting on 13 December 2019, Members considered a report on Replacement of Dog Control Orders with a Public Spaces Protection Order.
21. Members resolved that as part of the consultation process, Cabinet be advised of Scrutiny's view that:
- (a) Consideration should be given to the introduction of a licensing scheme for individuals wanting to walk more than 4 dogs.
  - (b) Consideration should be given to the implementation of a phased approach in respect of the introduction of the Public Space Protection Order.

## **Evidence**

22. From January 2017 to November 2019, the Council had received the following requests with regard to dog related matters:
- (a) 730 requests to clean up dog faeces.
  - (b) 732 requests to Environmental Crime regarding a range of issues, of which a significant number will have related to dogs, however it isn't possible to separate these out.
23. During the same period, officers have carried out the following enforcement actions:
- (a) Issued 5 warning letters for out of control dogs
  - (b) Issued 1 community protection notice for out of control dog
24. In addition, the following Fixed Penalty Notices have been issued.
- (a) 2016/17: 5 for dog fouling and 3 for dog control offences
  - (b) 2017/18: 4 for dog fouling and 4 for dog control offences

(c) 2018/19: 5 for dog fouling and 1 for dog control offence

25. There is only one recorded incident where the Council's Dog Warden became involved with regard to the number of dogs being walked, at which time, advice and guidance were provided to the individual concerned.

### **Proposed Public Space Protection Order for Control of Dogs**

26. It is evident from the consultation that there is strong support for the original Dog Control Orders.

- (a) Failure to remove dog faeces;
- (b) Not keeping a dog on a lead on specified land;
- (c) Not putting a dog on a lead and keeping on a lead when directed by an authorised officer;
- (d) Permitting a dog to enter land from which dogs are excluded.

27. There is less support for introducing a PSPO to exclude dogs from cemeteries. However, there are a number of comments and guidance from the Kennel Club to allow dogs into cemeteries on leads.

28. With regard to introducing a PSPO restricting the number of dogs that an individual can walk, there was strong opposition with the majority not in support of this.

29. Therefore, taking on board the consultation and evidence available, it is proposed to introduce a PSPO covering the following:

- (a) Failure to remove dog faeces;
- (b) Not keeping a dog on a lead on specified land;
- (c) Not putting a dog on a lead and keeping on a lead when directed by an authorised officer;
- (d) Permitting a dog to enter land from which dogs are excluded;
- (e) Not keeping a dog on a lead in East, North and West Cemeteries.  
Note: the existing byelaws in East, North and West Cemeteries will need to be revoked.

30. Under a PSPO, it is an offence if an individual fails to comply with restrictions and is punishable by a fine of up to £1,000 or by a Fixed Penalty of up to £100.

31. Where the PSPO is in force, an authorised Council officer, Police Officer or Police Community Support Officer witnessing behaviour that breaches the conditions, may challenge the individual concerned and ask them to comply. If the individual does not comply with the request, an offence is committed.

32. Any PSPO introduced will be for a three-year period, at which time it must be extended or it would cease. The Council have the power to remove specific prohibitions or end the PSPO early, for example, if an activity no longer existed. If any significant new issues arose during the PSPO, the Council can vary the prohibitions.

33. A copy of the proposed PSPO is attached at **Appendix 2**.

## **Equalities Implication**

34. It is proposed to put in place exemptions for anyone with an assisted dog for all of the PSPO areas with the exclusion of failure to remove dog faeces.
35. It is proposed to exclude registered blind individuals with an assisted dog and other individuals with disabilities who have mobility dexterity issues and are unable to pick up dog faeces from this offence.
36. Officers will obviously be able to apply common sense when enforcing the PSPO involving residents with disabilities or other impairments.

## **Legal Implications**

37. Under Section 66 of the Anti-Social Behaviour, Crime and Policing Act 2014, any individual who lives in the restricted area or who regularly works in or visits that area, may apply to the High Court to question the validity of a PSPO. The grounds on which an application under this Section may be made are either; that the Local Authority did not have the power to make the Order, or to include particular prohibitions or requirements imposed by the Order, or that a requirement under the 2014 Act was not complied with.
38. If on an Order under this Section, the High Court is satisfied that a) the Local Authority did not have the power to make the PSPO or to include particular prohibitions or requirements imposed by it, or b) the interests of the applicant have been substantially prejudiced by a failure to comply with the requirement under the 2014 Act, the Court may quash the PSPO or any of the prohibitions or requirements imposed by it. It is therefore important that a thorough consultation exercise is carried out in order to mitigate the risks of such a challenge, should a decision ultimately be made to introduce the PSPO.
39. This consultation has been carried out, which is included in this report for Members' consideration.