

RENEWAL OF DOG PUBLIC SPACE PROTECTION ORDERS

**Responsible Cabinet Member -
Councillor Amanda Riley, Stronger Communities Portfolio**

**Responsible Director -
Dave Winstanley, Group Director of Services**

SUMMARY REPORT

Purpose of the Report

1. This report provides the outcome of the consultation exercise to enable Cabinet to consider renewal of the Dog Public Space Protection Orders (PSPOs).

Summary

2. 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.
3. The current dog PSPO was introduced on 31 January 2021, and this is due to lapse in January 2024. When considering the possible extension or renewal of the order, the Council must undertake statutory consultation as part of the review process. Cabinet previously approved, on 3 July 2023, a period of consultation on the renewal of the PSPO for the control of dogs. The consultation period ran for eight weeks. **Appendix 1** sets out the 'survey monkey' responses and the main report analyses the findings.
4. Based on the consultation and the ongoing issues associated with responsible owner behaviour outlined in this report it is recommended that that the order is renewed. A copy of the draft PSPO order is set out at **Appendix 2**.

Recommendations

5. 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 renew the current PSPO 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;

Reasons

6. The recommendations are supported by the following reasons :-
- (a) The current Dog PSPO cease to exist by 31 January 2024;
 - (b) For 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.

Dave Winstanley
Group Director of Services

Background Papers

Cabinet: 3 July 2023 – Consultation on Renewal of Dog Public Space Protection Orders.

Anna Willey: Extension 6756

S17 Crime and Disorder	Renewing the 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.
Council Plan	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

7. Owning a dog can bring 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.

8. Currently the Council has in place a Public Space Protection Order that covers:
 - (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) Allowing dogs to enter North, East, West Cemeteries on a lead.
9. The existing Public Space Protection Order comes to an end on 31 January 2024 and if Members wish to continue to impose controls, then existing PSPO requires renewal.
10. In July 2023, Cabinet approved a period of consultation with regard to renewing the elements set out in paragraph 10 and aimed to seek the views of the public in terms of any additional control of dogs.

Outcome of Consultation

11. Consultation ran from 7 July 2023 to 31 August 2023, for eight weeks and was carried out in the following ways:
- (a) One Darlington magazine
 - (b) Online/hard copy survey
 - (c) Social media
 - (d) Business Community (dog walking businesses)
 - (e) Kennel club
12. Attached at Appendix 1 is the overall feedback from the consultation.
13. There were 105 replies to the online survey. The headline results are as follows.
14. **Question** - We propose to keep all four elements as part of the new PSPOs do you agree?
- (a) Failure to remove dog faeces

Yes	97.1%	No	2.9%	Don't Know
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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) More enforcement officers
- (v) Stiffer penalties for offenders

Sample comments.....

“Having moved from Stockton the last year, I am dismayed by how much of a mess local dog owners leave on pavements here.”

“Dog fouling in this town is horrendous I would like to see more measures to tackle it, you are too lenient.”

“The town needs more dog waste bins and stronger enforcement of this policy.”

“Simply need more staff to counteract the problem.”

- (b) Not keeping a dog on a lead on specified land.

Yes 94.3%	No 2.9 %	Don't Know 2.9%
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General themes from consultation:

- (i) Designated enclosed area for dogs – exercise freely, potentially fenced off
- (ii) Clearer signage
- (iii) Limit on the number of dogs
- (iv) Enforce microchipping

Sample comments.....

“The signage is not always clear and or people just don't notice it.”

“Observed numerous dogs off leads.”

“How will this be policed. There are many dogs off the lead in South Park when not supposed to.”

“Give them their own space.”

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

Yes 96.2%	No 2.9%	Don't Know 1.0%
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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)

Yes 93.3%	No 4.8%	Don't Know 1.9%
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General themes from consultation:

- (i) There should be an enclosed dog exercise area in the Borough.
- (ii) Clearer signs
- (iii) More staff to enforce.
- (iv) More bins

Sample comments.....

“It might be useful if an area of fenced land could be found for the exercise of unleashed dogs.”

“Make all public areas that dogs have to be on leads or have cordoned off areas for them to run”.

“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.”

15. **Question** - Allow dogs in Cemeteries, do you agree?

Yes	No	Don’t Know
80%	15.2%	4.8%

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.....

“There should be no reason why a dog shouldn’t be allowed to walk in cemeteries (lead only)”.

“Excluding dogs from cemeteries is ridiculous. For many people a dog is a family member and a support mechanism in times of loss”.

"I do not agree dogs being allowed in cemeteries at all. Allowing dogs supposedly on leads has given free rein to many dog owners who now think it's ok to let and even encourage, their dog to run around the cemetery."

16. **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) More patrols and better response to complaints.
 - (ii) Get more dog wardens and severely punish owners if they break the PSPO.
 - (iii) More severe fines for those not removing their dog faeces, more frequent emptying of waste bins (overflowing with bags of dog faeces).
 - (iv) With an increase in dog ownership and dog attacks then encouraging responsible ownership is essential.
 - (v) Dog walkers shouldn't be allowed to walk more than 6 dogs at once.
 - (vi) More visible staff in public areas.
 - (vii) More litter bins, more fines and publicity about them.
 - (viii) None I couldn't see any changes that would enrich the town.
 - (ix) Volunteer patrols.
 - (x) Publicised enforcement.
 - (xi) Do not allow retractable leads.
 - (xii) Bring back dog licence.
17. The feedback from the consultation process demonstrated that there is a level of concern regarding irresponsible dog ownership and more should be done to encourage better behaviour. There was an understanding that there are limited resources both within the Police and Council.
18. Throughout the consultation the suggestion of segregated dog exercise areas was raised. This is not directly related to the renewal of the PSPO but may need to be considered separately as the Council does not have any segregated dog exercise areas in the Borough.

Business Consultation

19. A separate consultation has taken place with dog walking businesses, who state the following.

Sample comments.....

“We are still seeing activity in some areas that cause angst, for example green spaces where children frequent, and there is an expectation to see more done on the persistent offenders who don’t care and are out usually during out of work hours.”

“No comment on the current restrictions to excluded areas, cemeteries, etc.”

“Further comments would be an expectation to introduce further restrictions to enhance public safety around dogs. A growing number of local authorities around the UK are bringing in controls to limit the number of dogs being walked by an owner or handler or professional of between 3 and 4 – I’ve listed those announced in the last month.”

Kennel Club Advice

20. 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.

Communities and Local Services Scrutiny Committee

21. At their meeting on 24 August 2023, Members considered a report on the Renewal of Public Space Protection Orders for dogs.
22. Members resolved that as part of the consultation process, Cabinet be advised that this Committee supports the renewal of the existing Dog Public Space Protection Order (PSPO) on the proviso that the consultation process does not identify a requirement for amendments to the PSPO.

Evidence

23. Issuing fixed penalty notices under the PSPO is used as a last resort. Officers offer advice and informal warnings initially in relation dog related offences, including dogs off leads in and dogs within exclusion areas. Most people act upon the advice given. However, the PSPO provides the framework to escalate matters should advice and guidance not be heeded.
24. There have been two successful dog related campaigns over the past two years. ‘Bag it and bin it’, is an enforcement campaign which is intelligence led and encourages the community to provide the Council with intelligence in relation to repeat offenders.
25. ‘Walk this Way’ was an educational dog campaign in partnership with the Dogs Trust, which was piloted in the Baydale Beck area. There was considerable reductions in the number of dog fouling incidents in the area following the launch of this campaign.
26. From 2020-2023, the Council had received the following requests with regard to dog related matters:

- (a) 688 requests to clean up dog faeces, compared to 730 the previous three years.
27. During the same period, officers have carried out the following enforcement actions:
- (a) Issued 24 warning letters for out of control dogs.
 - (b) Issued 9 community protection notices for out of control dog.
28. In addition, the following Fixed Penalty Notices have been issued.
- (a) 2020: 0 for dog fouling, 1 for failing to put on a lead.
 - (b) 2021: 4 for dog fouling, 2 for failing to put on a lead.
 - (c) 2022: 2 for dog fouling and 1 for failing to put on a lead.
 - (d) 2023: 2 for dog fouling and 1 for failing to put on a lead.

Proposed Public Space Protection Order for Control of Dogs

29. It is evident from the consultation that there is strong support for the existing PSPOs. Therefore, taking on board the consultation and evidence available, it is proposed to renew the PSPO covering the same elements:
- (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.
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. It must be noted that the majority of people comply in terms of putting a dog on a lead by direction, under the PSPO they need to be given the opportunity to put the dog on the lead prior to a fine being issued for refusal to comply.
32. 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.
33. 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.
34. A copy of the proposed PSPO is attached at Appendix 2.

Equalities Implication

35. 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.
36. 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.
37. Officers will obviously be able to apply common sense when enforcing the PSPO involving residents with disabilities or other impairments.

Legal Implications

38. 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.
39. 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.
40. This consultation has been carried out, which is included in this report for Members' consideration.