

**CABINET
5 NOVEMBER 2019**

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

**Responsible Cabinet Member - Councillor Jonathan Dulston
Community Safety Portfolio Councillor**

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

SUMMARY REPORT

Purpose of the Report

1. Approval is requested to proceed with an 8-week period of public consultation to replace previous Dog Control Orders with Public Space Protection Orders (PSPOs) and introduce wider powers concerning the walking and supervision of dogs and the exclusion of dogs from cemeteries (with some exceptions).

Summary

2. 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 with PSPOs then consultation will need to take place before the new PSPOs can be implemented.
3. The majority of dog owners and walkers in Darlington behave responsibly. However, dog related anti-social behaviour (ASB) is still a concern to some residents, businesses and people who visit the Borough.
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. The PSPO can impose restrictions on the use of that area which apply to everyone who is carrying out that activity. The orders are designed to ensure that the law-abiding majority can enjoy public spaces, safely and free from anti-social behaviour.

Recommendation

5. It is recommended that Members approve a consultation period of 8 weeks (prior to a further report coming back to Cabinet) to consider implementation of PSPOs for control of dogs as detailed in this report.

Reason

6. The recommendation is supported to enable consultation to take place prior to Cabinet making the final decision on whether or not to introduce new PSPOs for dog control in Darlington.

Ian Williams
Director of Economic Growth and Neighbourhood Services

Background Papers

Below is the link to maps of the proposed PSPOs for dog control.

<https://www.darlington.gov.uk/your-council/community-safety-team/civic-enforcement/dog-control/public-space-protection-orders/>

Attached at **Appendix 1** are copies of the draft PSPOs for dog control.

Ian Thompson / Anna Willey: Extension 6628 / 6756
 IT/AW/CD

S17 Crime and Disorder	Introducing PSPOs for dog control will enable the authority to take action against individuals who do not look after their dogs responsibly.
Health and Well Being	PSPOs 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 PSPOs 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	PSPOs 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

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 a nuisance to other members of our community. Unfortunately, some owners do not take a responsible attitude towards dog ownership and as a result we receive a number of complaints each year covering a range of issues, such as noise nuisance from barking, uncollected dog faeces or out of control dogs. We need 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 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 the lead when directed by an authorised officer
 - (d) Permitting a dog to enter land from which dogs are excluded
9. In addition to the existing Dog Control Orders, the Council currently has bylaws in place banning dogs from cemeteries, namely:
 - (a) East Cemetery, Geneva Road, Darlington
 - (b) North Cemetery, North Road, Darlington
 - (c) West Cemetery, Carmel Road North, Darlington
10. The existing Dog Control Orders come to an end at 20 October 2020 and if Members wish to continue to impose controls then existing Dog Control Orders and any other measures need to be included in new PSPOs.
11. PSPOs are a key element of the Anti-Social Behaviour, Crime and Policing Act 2014 which came into force in October 2014. The aim of a PSPO is to improve the enjoyment of public spaces for the majority of people and in respect of dogs reduce anti-social behaviour caused by dog fouling and nuisance dogs.
12. The responsibility for making a new PSPO rests with the Council. The Council must, prior to making an order, be satisfied, on reasonable grounds, that activities carried out in a public space have had or are likely to have a detrimental effect on the quality of life of those in the locality and that the effect or likely effect of the activities:
 - (a) Is or is likely to be persistent or continuing;
 - (a) Is or is likely to be such as to make the activities unreasonable; and

(b) Justifies the restrictions imposed.

13. Before making a PSPO, the Council must carry out consultation with the local Police, the Police and Crime Commissioner, the owners and occupiers of any land included in the PSPO which is not in Council ownership and wider consultation with representatives from the local community. It must also publish the draft PSPO in accordance with Statutory Regulations.
14. An offence involving failure to comply with a PSPO is punishable by a fine of up to £1,000 or by a fixed penalty of up to £100.
15. Any PSPO introduced would be for a 3-year period at which time it must be extended, or it would cease. The Council have the power to remove specific prohibitions or end a PSPO early, for example if an activity no longer existed. If significant new issues arose during the PSPO then the Council can vary prohibitions.
16. It is proposed to replace the existing restrictions within the existing Dog Control Orders and the existing bylaws for the exclusion of dogs from East Cemetery, North Cemetery and West Cemetery. In addition, it is also proposed to include an additional restriction:
 - (a) Walking more than a specified number of dogs (suggested four maximum)

A copy of the proposed PSPOs is attached at **Appendix 1**.

Financial Implications

17. No financial implications.

Equalities Implications

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

Legal Implications

20. Under Section 66 of the Anti-Social Behaviour, Crime and Policing Act 2014 an 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.
21. If on an application under this section the High Court is satisfied that (a) the local authority did not have 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 a 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 risk of such a challenge should a decision ultimately be made to introduce a town centre PSPO.

Consultation

22. Subject to Members' approval, an 8-week consultation process will commence in November, the outcome of which will be brought back to Cabinet for them to consider prior to implementing new PSPOs for Dog Control. The Council must consult with the following:

- (a) Chief Officer for the Police area
- (b) The area's Police and Crime Victim Commissioner
- (c) Representatives of the public who it is believed will be affected by the restrictions, e.g. residents' associations or people who use the area
- (d) The owner or occupier of the land
- (e) Dog Law and Welfare Experts, e.g. vets, animal welfare officers
- (f) Organisations affected by any restrictions

23. Direct contact will be made with the relevant organisations to provide their feedback and an online survey will be introduced for residents generally to provide their feedback. The consultation will be advertised through social media, the Council's website, in One Darlington magazine and other appropriate channels to encourage as many residents as possible to take part in the consultation.