

This Report will be made public on 14 April 2022



Report Number

OS/21/17

To: Overview and Scrutiny Committee
Date: 26 April 2022
Status: Key Decision
Responsible Officer: Ewan Green, Director of Place
Cabinet Member: Cllr Peall Cabinet Member for Enforcement, Regulatory Services, Waste & Building Control

SUBJECT: Dog Control - Public Spaces Protection Order

SUMMARY:

On 23 February 2022, Cabinet agreed to consult the public on the new Dog Control Public Spaces Protection Order (PSPO). The Dog Control PSPOs provides authorised council officers effective means to enforcement against irresponsible dog ownership and related anti-social behaviour.

The public consultation exercise ends on 4 May 2022 and the purpose of this report is to give the Overview and Scrutiny Committee the opportunity to give feedback to be included in the consultation.

RECOMMENDATIONS:

1. To receive and note report OS/21/17.
2. To provide any comments and feedback on the proposal to add a new Dog Control Public Spaces Protection Order to be included in the public consultation.

1. BACKGROUND

1.1. The district has for several years applied restrictions on dogs and their owners in public spaces. Originally these were restrictions under various local byelaws, then Dog Control Orders under the Clean Neighbourhoods and Environmental Act 2005 and latterly Dog Control Public Space Protection Orders (PSPO) made under the Anti-Social Behaviour, Crime and Police Act 2014.

1.2. The current Dog Control PSPO came into force on 18 May 2018. The PSPO was for an initial three-year period and was then extended for a further year as allowed under the 2014 act. A copy of the 2018 Dog Control PSPO is included as Appendix 1 or can be linked –

https://www.folkestone-hythe.gov.uk/media/2405/PSPO-Dogs/pdf/PSPO_Dogs_1.PDF?m=637214285937670000

1.3. Public Spaces Protection Orders are generally intended to deal with a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone. They are designed to ensure the use and enjoyment of public spaces is safe from anti-social behaviour.

1.4. The Dog Control PSPO imposed restrictions for the following:

- Dog fouling (across the district)
- Dogs off leads (selected areas and dates)
- Dogs banned (selected areas, dates and times e.g. beaches)

1.5. Failure to comply with a PSPO will result in a Fixed Penalty Notice (FPN) being issued to any person the authorised person (which includes designated Local Authority Officers, Police Constables and PCSOs) believes has committed an offence. This allows the person whom has committed the offence to discharge their liability for that offence, by a payment of a Fixed Penalty Notice, to the local authority, for the sum of £100, payable within 14 days of the date of issue. However, failure to pay the FPN within the agreed timescale can result in a court prosecution and fine of up to £1000.

1.6. The Corporate Action Plan 2021-24 under the Plan Priority 'ensure an excellent environment for everyone' includes actions to 'undertake proactive enforcement within our district' and to renew the Dog Control PSPO along with the other ASB PSPOs this year.

2. REVIEW OF THE CURRENT DOG CONTROL PSPO

2.1. Local authorities when renewing their Dog Control PSPO are required to review the effectiveness and necessity for their current (and proposed) orders.

2.2. The following table shows the number of FPNs issued since 2018:

PSPO Offence	2018	2019	2020	2021
Dogs Banned	1	3	34	4
Dogs off leads	1	7	81	37
Dogs on beach during restricted dates	0	1	16	10
Dog Fouling	0	2	5	3
Total	2	13	136	54

2.3. The figures in the table in 2.2 show a clear increase in Fixed Penalty Notices issued from 2018 to 2020. Part of the increase in that period is due to changes made to the Environmental Enforcement Team resulting in increased and more effective patrolling. It also demonstrates that offences are still occurring in the restricted areas. In 2021, the same enforcement resource has been deployed and there has been a reduced but still significant number of FPNs issued. We think there are several reasons for this. Firstly, there was an extended social media campaign by the council on responsible dog ownership. Secondly, we believe that there were increased levels of compliance or at the very least awareness of enforcement patrols in dog control areas.

2.4. The need for a new Dog Control PSPO is supported by the continued complaints the council receives for dog related ASB. In the period of the current PSPO, 51 dog related complaints were received in respect of, dogs banned, dogs in restricted area (beaches), dogs off leads and failure to pick up dog fouling. A breakdown of the complaints by area is shown in the table below:

Area	Dog fouling	Dogs off leads	Dogs banned areas
Folkestone	5	11	1
Sandgate	2	0	1
Hawkinge	4	5	1
Hythe	3	3	1
Lydd	3	0	0
Seabrook	1	0	0
Littlestone	0	2	0
Dymchurch	3	4	0
St Mary's Bay	0	1	0

2.5. The Dog Control PSPO responds to public concerns and is an important measure to counter irresponsible dog ownership when supported by enforcement patrolling.

3. PROPOSED NEW DOG CONTROL PSPO

3.1. The proposed new Dog Control PSPO for 2022 will incorporate the current area restrictions along with the additional locations listed in 3.7 (PSPO Table

– Currently No Restrictions). The proposed full order is set out in Appendix 2 (Summary list of locations for the new Dog Control PSPO 2022)

- 3.2. The main restriction on Dog Fouling will apply anywhere in the district which is open to the air and accessible by the public and lies within a 40 mile an hour or less speed limit zone. It will apply to all beaches. This proposal is in line with national guidance and means that all urban, village and residential areas are covered by the restriction. It also means that there would be no restrictions in the unpopulated and remote rural or highway areas. Churchill Avenue will also be included even though it is a road covered by the national speed limit, it is well used by dog owners and therefore should be included in the order. Fixed Penalty Notice amount is set at £100.
- 3.3. The additional locations and changes to current restrictions suggested within the new Dog Control PSPO are listed in the tables below. These changes have resulted from requests and complaints from the public, community groups, councillors and our Grounds Maintenance Service.
- 3.4. The first section of the table in 3.7 identifies the locations where there are currently no restrictions in place. The changes suggested mainly relate to cemeteries and requiring dogs on leads. The purpose of this is to reduce dog fouling in those areas as dog owners will have more control.
- 3.5. The second section of the table under 3.8 identifies suggested amendments to current restrictions, mainly lifting dog bans and allowing dogs on leads. The only exception to this is bowling green and tennis courts at Wear Bay Road where a ban has been requested.
- 3.6. The final section of the table under 3.9 outlines suggested time changes to the seasonal beach restrictions limiting the dog ban to 9am to 6pm but now allowing dogs in these areas outside of these times.
- 3.7. PSPO Table - Currently No Restrictions

Proposals for the 2022 PSPO Currently No Restrictions			
Map No	Location – No Restriction	Proposed restriction	Consultation Comments
78	East cliff pitch and putt, including top of the cliff westwards, area known as the Triangle	Dogs on leads	
79	St Martins Cemetery	Dogs on leads	
80	St Eanswythe Cemetery - Folkestone	Dogs on leads	
81	Wakefield, Lady's and Lucy's walks - Hythe	Dogs on leads	

82	Christchurch tower gardens - Folkestone	Dogs on leads	
83	North Rd playing field - Cheriton	Dogs on leads	
84	Bayle pond gardens - Folkestone	Dogs banned	
85	Corbett Rd play area, Hawkinge	Dogs banned	
87	Royal military canal town section, Swiss Rd bridge to Scanlon's bridge, north and south side.	Dogs on leads	
88	Brenzett churchyard	Dogs on leads	
89	Brookland churchyard	Dogs on leads	
90	St Peter & St Paul cemetery, Dymchurch	Dogs on leads	
91	St Leonards cemetery, Hythe	Dogs on leads	
92	Lydd Churchyard	Dogs on leads	
93	St Nicholas churchyard, New Romney	Dogs on leads	

3.8. PSPO Table – Change From One Restricted Status To Another

Proposals to change from one restricted status to another restricted status for the 2022 PSPO				
Map No	Location	Current Restriction (From)	Proposed Restriction (To)	Consultation Comments
94	Brabner Close Play Area, Folkestone	Dogs banned	Dogs banned in play area and dogs on leads in all other areas within the park location	
95	Folly Road Play Area, Folkestone	Dogs banned	Dogs banned in play area and dogs on leads in all other areas	

			within the park location	
96	Widgeon Walk, Killing Wood Open Space, Hawkinge	Dogs banned	Dogs on leads	
98	Lade Fort Play Area, Lydd on Sea	Dogs banned	Dogs banned in play area and dogs on leads in all other areas within the park location	
99	Bowling green and tennis courts, Wear bay Rd	Dogs on leads	Dogs banned on bowling green and in the tennis courts	

3.9. PSPO Table - Seasonal Beach Restrictions

Proposals to change seasonal beach restricted status to another restricted status for the 2022 PSPO				
Map No	Location	Current Restriction (From)	Proposed Restriction (To)	Consultation Comments
74(1) & (2)	Jolly Fisherman Beach (Great stone)	Dogs banned from 1 st May to 30 September inclusive	Removal of 4 zones to partially allow <u>and</u> ban dogs access – to - Dogs banned across the whole of the beach	

4. PUBLIC CONSULTATION

4.1 As required by Section 72 of Anti-Social Behaviour, Crime and Policing Act 2014 Act, the council has contacted the following to notify them of the intention to renew the PSPO and that it is open to public consultation. –

- Chief Officer of Police
- Local Policing Body
- Police Crime Commissioner
- Community representatives (e.g. Town & Parish Councils) and owners/occupiers of land covered within the Order.

4.2. An eight-week consultation commenced on 1 March 2022 and ends on 4 May 2022.

4.3 At the end of the consultation period, the comments will be summarised for review and the final version of the PSPO prepared for approval by the Cabinet Member for Communities.

5. Next Steps

- 5.1 The Overview and Scrutiny Committee are asked give feedback or comments on the proposed new Dog Control PSPO.
- 5.2 The public consultation remains open until 4 May 2022 should committee members wish to make any further comments following this meeting.

6. RISK MANAGEMENT ISSUES

Perceived risk	Seriousness	Likelihood	Preventative action
The council does not renew the Dog PSPO and loses the means to enforce dog-related ASB in the district.	High	Low	Renewed PSPO

7. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

7.1 Legal Officer's Comments (TH)

There are no legal implications arising directly out of this report. Section 59 of the Anti-social Behaviour, Crime and Policing Act 2014 allows PSPOs to be introduced in a specific public area where the Council is satisfied on reasonable grounds that two conditions have been met. The first condition is that (a) activities carried on in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality, or (b) it is likely that activities will be carried on in a public place within that area and that they will have such an effect. The second condition is that the effect, or likely effect, of the activities (a) is, or is likely to be, of a persistent or continuing nature, (b) is, or is likely to be, such as to make the activities unreasonable, and (c) justifies the restrictions imposed by the notice.

7.2 Finance Officer's Comments (TM)

There are no financial implications relating to this report.

7.3 Diversities and Equalities Implications

The Dog Control PSPO exempts dogs and owners in the following categories.

- a) Is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948, or
- b) Is deaf in respect of a dog trained by Hearing Dogs for Deaf People (registered charity number 293358) and upon which he relies for assistance; or

- c) Has a disability which affects his mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a prescribed charity and upon which he relies for assistance.

7.4 Climate Change Implications (AT/HS)

There are no climate change implications arising from this report.

8. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officers prior to the meeting.

Andrew Clarke - Senior Environmental Enforcement Officer
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Karen Weller – Senior Environmental Protection Specialist
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The following background documents have been relied upon in the preparation of this report: None

Appendices:

Appendix 1: Existing PSPO

Appendix 2: Summary list of locations for the new PSPO