

North Tyneside Council

Report to Cabinet

Date: 10 July 2017

ITEM 6(i)

Title: Public Spaces
Protection Orders

Portfolio(s): Environment

Cabinet Member(s): Councillor John
Stirling

Report from Service Area: Environment, Housing and Leisure

Responsible Officer: Phil Scott

Tel: 0191 643 7295

Wards affected: All

PART 1

1.1 Executive Summary:

The purpose of this report is to seek approval to consult on the proposed introduction of Public Spaces Protection Orders (PSPOs). PSPOs are designed to tackle activities that have had, or are likely to have, a detrimental effect on the quality of life of the community. The proposals relate to dog control and the consumption of alcohol in public spaces in the Borough. Existing controls are currently in place however the introduction of new legislation means that they will cease to have effect in October 2017. Following the consultation exercise a further report will be brought to Cabinet meeting so that a decision can be taken on the implementation of PSPOs.

1.2 Recommendation(s):

It is recommended that Cabinet:

1. authorise a consultation exercise be undertaken on the proposed making of the Public Spaces Protection Orders as outlined in this report; and
2. agree to receive a further report at Cabinet following the conclusion of the consultation exercise to consider the consultation responses and to determine if the Public Spaces Protection Orders should be made.

1.3 Forward Plan:

Twenty eight days notice of this report has been given and it first appeared on the Forward Plan that was published on 12 June 2017.

1.4 Council Plan and Policy Framework:

This report relates to the following priorities in the 2016-19 Our North Tyneside Plan:

Our places will:-

- Be great places to live, and attract others to visit or work here
- Provide a clean, green, healthy, attractive and safe environment

1.5 Information:

1.5.1 Background

Public Space Protection Orders (PSPOs) were introduced by the Anti-Social Behaviour, Crime and Policing Act 2014. The 2014 Act gives local authorities the power to introduce PSPOs.

PSPOs can be used to replace the following existing Orders relating to the use of public space which, due to the provisions of the 2014 Act, will cease to have effect in October 2017:

- Consumption of Alcohol: the Designated Public Place Orders made by the Authority under the Criminal Justice and Police Act 2001 relating to the public consumption of alcohol in certain areas within the Borough; and
- Dog Fouling: the Dogs (Fouling of Land) Order No 1 1997 made by the Authority on 28 July 1997 under the Dogs (Fouling of Land) Act 1996 which requires the immediate picking up of dog faeces by a person in control of a dog at that time.

In addition to these Orders, there are a number of byelaws made by the Authority in respect of dog lead and dog exclusion areas that will similarly cease to have effect in October 2017.

The Authority therefore needs to consider what public space controls it should have in place particularly given that the current controls will cease to have effect.

1.5.2 What is a PSPO?

PSPOs are intended to deal with any particular nuisance or problem having a detrimental effect on the quality of life of those in the community. A PSPO effectively prohibits specified things from being done or requires certain things to be done in an area covered by a PSPO whilst ensuring that law-abiding members of the public can use and enjoy that area.

A PSPO can be made by the Authority where there are reasonable grounds to believe that two conditions are met:-

- 1) The first condition is that activities carried on in a public place within the Borough have had, or are likely to have, a detrimental effect on the quality of life of those living or working in the locality.
- 2) The second condition is that the effect, or likely effect, of the activities:
 - a) is of a persistent or continuing nature;
 - b) is such as to make the activities unreasonable, and
 - c) justifies the restrictions imposed by the PSPO.

Before making a PSPO the Authority must have undertaken a consultation exercise. PSPOs that are implemented must be reviewed every 3 years but this does not prevent

revisiting and updating what is in place during that time. PSPOs are enforceable by means of a Fixed Penalty Notice of up to £100 and these can be issued by officers from the Authority and the Police. Court action can be taken against persons who have not paid the fixed penalty within the requisite period of time for the offence of failing to comply with the terms of the PSPO. A person who fails to comply with a PSPO on conviction can be fined up to £1,000, or in some cases £500.

1.5.3 Proposed Controlled Activities

PSPOs are available to tackle any activity that constitutes a nuisance or problem. An internal working group has considered the potential for making of PSPOs against the two statutory conditions outlined in section 1.5.2 above. The group has informally consulted with the Authority's partners and have identified that at this time it is appropriate to consider making the PSPOs outlined in the table below.

Table 1: Proposed Controlled Activities

Subject	Control	Extent	Commentary
Alcohol	<u>Consumption</u> The consumption of alcohol in a public space.	Borough-wide as set out in the draft Order at Appendix 1.	This proposal would preserve existing controls (detailed in Appendix 4A) and extend them to include the whole borough.
Dog Control	<u>Fouling</u> Dog fouling in a public space and not picking up.	Borough-wide as set out in the draft Order at Appendix 2.	This proposal would preserve existing controls that cover the whole borough.
	<u>Exclusion</u> The exclusion of dogs from play sites.	Within the designated areas as set out in the draft Order at Appendix 3.	This proposal would preserve existing controls (detailed in Appendix 4B) and extend them to include all play sites.
	The exclusion of dogs from specified beaches between 1 May – 30 September.	Within the designated areas as set out in the draft Order at Appendix 3.	This proposal would preserve existing controls.
	<u>Leads</u> The requirement to have a dog on a lead in a public space.	Within the designated areas as set out in the draft Order at Appendix 3.	This proposal would preserve existing controls (detailed in Appendix 4C) and extend them to include more areas.
	Requirement to put a dog on a lead in a public space when directed by an authorised officer to do so.	Borough-wide as set out in the draft Order at Appendix 3.	This is a new control.

1.5.4 Next Steps

Following approval from Cabinet, a consultation exercise will take place over a period of six weeks and will include the statutory consultees, namely the Chief Officer of Police, the local police body, community representatives as considered appropriate and owner/occupiers of land within an area covered by a PSPO where it is practicable to do so.

An engagement plan has been developed which will include for example; publishing the information on the Authority's website, issuing of press articles, sending directed communications to Authority Partners and community stakeholders, targeting members of the public using our engagement database and highlighting the issue at community conversations.

Consultation responses will be collated and analysed with recommendations being brought back to a future Cabinet meeting so that an informed decision can be taken as to the implementation of PSPOs.

1.6 **Decision options:**

1. To agree to the commencement of the consultation exercise on the proposed making of Public Spaces Protection Orders and to receive a further report at Cabinet at the end of the consultation period to consider the making of the Public Spaces Protection Orders.
2. Not to agree to the commencement of the consultation exercise on the proposed making of Public Spaces Protection Orders and request Officers to examine other options.

1.7 **Reasons for recommended option:**

Option 1 is recommended for the following reason:

Before making a PSPO the Authority is required consult on the making of such Orders. The consultation responses will help inform Cabinet on the making, or otherwise, of the PSPOs.

1.8 **Appendices:**

Appendix 1	The draft Council of the Borough of North Tyneside (Consumption of Alcohol) Public Spaces Protection Order
Appendix 2	The draft Council of the Borough of North Tyneside (Dog Fouling) Public Spaces Protection Order
Appendix 3	The draft Council of the Borough of North Tyneside (Dog Control) Public Spaces Protection Order with Schedules and Maps

1.9 Contact officers:

Colin MacDonald, Senior Manager, Technical & Regulatory Services; Tel 0191 643 6620
Samantha Dand, Senior Manager, Local Environmental Services; Tel 0191 643 7294
Paul Worth, Senior Manager, Housing Operations; Tel 0191 643 7554
Alison Campbell, Senior Business Partner; Tel 0191 643 7038

1.10 Background information:

The Anti-Social Behaviour, Crime and Policing Act 2014
<http://www.legislation.gov.uk/ukpga/2014/12/contents>

The Anti-Social Behaviour, Crime and Policing Act 2014, Explanatory Notes
<http://www.legislation.gov.uk/ukpga/2014/12/notes/data.pdf>

North Tyneside Council Statement of Enforcement Policy
<http://my.northtyneside.gov.uk/category/691/statement-enforcement-policy>

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

The consultation exercise on the proposed introduction of the PSPOs outlined in the report will be managed within existing budgets. It is envisaged that the costs of introducing the PSPOs can be managed within existing budgets but a future report to Cabinet following consultation will provide the financial implications of any proposals.

2.2 Legal

The Anti-Social Behaviour, Crime and Policing Act 2014 (the 2014 Act) introduced Public Spaces Protection Orders (PSPOs) as a means of tackling a wide range of anti-social behaviour that can have a detrimental effect on the lives of those living and working in the Borough. PSPOs can be used to tackle such issues as litter, vandalism, public drunkenness, and the control of dogs.

Before making a PSPO under section 59 of the 2014 Act the Authority has to be satisfied on reasonable grounds that the two conditions set out in 1.5.2 above are met and must have consulted with the Chief Officer of Police, Police and Crime Commissioner, whatever community representatives the Authority thinks it appropriate to consult and the owner or occupier of land within the area of a proposed PSPO.

A PSPO can prohibit specified things being done in the area or areas covered by a PSPO and/or require specified things to be done in the area covered by the PSPO provided that it is reasonable to impose those prohibitions or requirements so as to prevent or reduce the detrimental effect of the anti-social behaviour from continuing occurring or recurring.

Any person wishing to challenge the validity of a PSPO must do so by application to the High Court within 6 weeks of the PSPO being made.

The decision to make a PSPO is a Cabinet function because there is nothing in the 2014 Act that specifies that such a decision has to be taken by Council and there is nothing in the Local Authorities (Functions and Responsibilities)(England) Regulations 2000 that indicates that the making of a PSPO is a function that is not the responsibility of Cabinet.

2.3 Consultation/community engagement

2.3.1 Internal Consultation

Proposals have been developed following informal consultation with Northumbria Police, the Safer North Tyneside Partnership, the Authority's Environment Board, and with the Cabinet Member for Environment and the Cabinet Member for Community Engagement.

2.3.2 External Consultation / Engagement

Discussions have been held with other local authorities to understand their approach and lessons learned.

The report seeks approval to conduct a public consultation. The report outlines at section 1.5.4 that there are statutory consultation requirements that need to be followed and that an engagement plan has been developed to ensure that members of the public are made aware of the consultation process.

2.4 Human rights

In deciding whether or not to make a PSPO the Authority must have particular regard to the rights of freedom of expression and freedom of assembly as set out Articles 10 and 11 of the European Convention of Human Rights respectively.

2.5 Equalities and diversity

An Equality Impact Assessment has been undertaken which will be kept under review during the consultation process. It will be updated prior to finalising and implementing the proposals outlined in the report.

2.6 Risk management

There are no risk management implications arising directly from this report. Risks are managed via the established risk management arrangements in place within Environment, Housing and Leisure which form part of the corporate risk management framework.

2.7 Crime and disorder

The purpose of a PSPO is to provide the Authority and Police with the ability to effectively tackle anti-social behaviour, which can amount to crime and disorder.

2.8 Environment and sustainability

The existence of PSPOs can improve the environment for the community by preventing behaviour that has a detrimental effect on the community from occurring or recurring.

PART 3 - SIGN OFF

- Deputy Chief Executive X
- Head(s) of Service X
- Mayor/Cabinet Member(s) X
- Chief Finance Officer X
- Monitoring Officer X
- Head of Corporate Strategy X