

North Tyneside Council

Report to Cabinet

Date: 9 October 2017

ITEM 6(f)

Title: Public Spaces
Protection Orders

Portfolio(s): Environment

Community Engagement

Cabinet Member(s): Councillor John
Stirling

Councillor Carole
Burdis

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 consider the introduction of Public Spaces Protection Orders (PSPOs) within the borough. 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.

At its meeting on 10 July 2017, Cabinet authorised a consultation exercise be undertaken on proposals to introduce PSPOs relating to dog control and the consumption of alcohol in public spaces. Cabinet agreed to receive a further report following the conclusion of the consultation exercise to determine if the PSPOs should be introduced.

1.2 Recommendation(s):

It is recommended that Cabinet:

- i. Note the consultation exercise undertaken on the proposed making of the Public Spaces Protection Orders and the consultation responses as outlined in this report;
- ii. Approve the making of Public Spaces Protection Orders as set out in section 1.5.7 and Appendices 2, 3 and 4 of the report and for such Orders to remain in force for 3 years from the making of such Orders;
- iii. Authorise the Head of Law and Governance in consultation with the Head of Environment, Housing and Leisure to correct any minor drafting errors that may be identified, and make minor amendments including deletions and insertions that may be necessary to ensure the Public Space Protection Orders reflect the intentions of Cabinet as set out in this report;

- iv. Agree the Fixed Penalty Notice amounts outlined in section 1.5.6 of this report and authorise the Head of Environment, Housing and Leisure in consultation with the Cabinet Member responsible for Environment, the Head of Law and Governance and the Head of Finance to periodically review and set the amount relating to these Public Space Protection Orders in accordance with legislation;
- v. Authorise the Head of Law and Governance in consultation with the Head of Environment, Housing and Leisure to make the Public Space Protection Orders proposed in this report subject to the correction of any minor amendments in accordance with recommendation iii. above and to undertake all ancillary matters associated with this recommendation;
- vi. Note that the Head of Environment Housing and Leisure has delegated authority under EHL99 of the Officer Delegation Scheme to discharge all functions under the Anti-Social Behaviour, Crime and Policing Act 2014 which includes the enforcement of Public Space Protection Orders; and
- vii. Agree that a review of the impact of the Public Space Protection Orders be undertaken and that a report be presented to Cabinet in spring 2018, following the conclusion of such a review.

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 11 September 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:

- 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. The Authority therefore needs to consider what public space controls it should have in place given the introduction of PSPOs under the 2014 Act.

1.5.2 What is a PSPO?

As explained to Cabinet at its meeting on 10 July 2017, 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 £500 in relation to the consumption of alcohol contrary to the terms of a PSPO or £1,000 in relation to other types of failure to comply with the terms of a PSPO.

1.5.3 Consultation on Proposed Controlled Activities

On 10 July 2017, Cabinet authorised a consultation exercise be undertaken on proposals to introduce PSPOs relating to dog control and the consumption of alcohol in public spaces.

In summary, the proposals were:

Alcohol:

Consumption - controlling the consumption of alcohol in a public space borough-wide.

Dog Control:

Fouling – controlling dog fouling and not picking up borough-wide.

Excluded areas – excluding dogs from designated play sites at all times and from designated beaches from 1 May to 30 September.

Leads – requiring dogs to be on a lead in designated public spaces and requiring a dog to be put on a lead in a public space when directed by an authorised officer to do so.

Cabinet agreed to receive a further report following the conclusion of the consultation exercise to determine if the proposed PSPOs should be made.

1.5.4 The Consultation

Public consultation on the proposals took place over a period of 6 weeks from Monday 14 August to Friday 22 September 2017. This was publicised using press releases and social media.

In addition, over 600 letters were sent out by post and by email to; residents who have signed up to be on our corporate engagement database, our partners, and organisations and groups with an interest in how our public spaces are managed. This is in keeping with the requirements of the 2014 Act which requires the Authority to consult with “community representatives” as considered appropriate.

Two Member Briefing Sessions were held and an article was included within the Weekly Briefing to Members. Also, Officers from both the Participation, Advocacy and Engagement Team and Environmental Services alerted the community to the consultation at meetings and events they attended.

The consultation pointed to information that was published on the Authority’s website and invited people to complete an online questionnaire with their views.

The 2014 Act requires the Authority to consult with the Chief Officer of Police and the Police and Crime Commissioner. The Chief Officer and the Commissioner were written to at the start of the consultation period advising them that the Authority was consulting on the potential introduction of PSPOs.

In addition, the 2014 Act requires the Authority to consult with the owner or occupier of land within any proposed restricted areas as far as reasonably practicable. It is for this reason, for example, that Nexus was written to as part of the consultation exercise.

1.5.5 Outcome of the Consultation

The Authority received 768 responses to the online questionnaire and a further 14 responses by other means.

The online questionnaire consisted of three key aspects. We asked respondents:

1. Whether they agreed or disagreed with the specific proposals to control activity;
2. What their view was on the proposed Fixed Penalty Notice amount; and
3. To provide us with any comments they had.

1.5.6 Considering the Responses

The responses were considered with oversight provided by Cabinet Member for Environment and the Cabinet Member for Community Engagement.

Taking into account the consultation responses, the themes that emerged, and the balance that needs to be struck, the group concluded the following:

Alcohol:

There was considerable support for controls on consuming alcohol when nuisance is caused. It is recommended that the proposed borough-wide PSPO should be introduced.

Dogs:

Fouling: There was overwhelming support for controls on dog fouling and not picking up. It is recommended that the proposed borough-wide PSPO should be introduced.

Excluded areas: There was majority support for dogs to be excluded from designated play sites at all times and designated beaches (from 1 May – 30 September). It is recommended that the proposed PSPO should be introduced.

Leads: The majority disagreed with the extent of designated places where dogs would be required to be kept on a lead. The key concern was the extent to which it applied to parks and playing fields. It is recommended that the PSPO should be introduced but amended to remove parks and playing fields from being designated places at this stage. This issue will be reconsidered again as part of the overall review on the introduction of the PSPOs, which will result in a report to Cabinet in spring 2018 setting out the findings of that review.

In addition, there was majority support for the proposal that dogs be put on a lead in any public space within the borough, which will include parks and playing fields, when directed by a constable or an authorised officer to do so. It is recommended that this PSPO should be introduced.

Fixed Penalty Notice Amount:

There was majority support for introducing an FPN at the statutory maximum of £100 for breach of a PSPO, with a discount applied of £75 if paid within 14 days. It is recommended that this approach be introduced.

A more detailed summary of the conclusions of the group is provided in **Appendix 1**.

1.5.7 Final Proposals

As a result of the conclusions outlined in paragraph 1.5.6, the final proposals are outlined in the table below:

Table 1: Proposed Controlled Activities

Subject	Control	Extent
Alcohol	<u>Consumption</u> The consumption of alcohol in a public space.	Borough-wide as set out in the Order at Appendix 2 .
Dog Control	<u>Fouling</u> Dog fouling in a public space and not picking up.	Borough-wide as set out in the Order at Appendix 3 .
	<u>Exclusion</u> The exclusion of dogs from play sites.	Within the designated areas as set out in the Order at Appendix 4 .
	The exclusion of dogs from specified beaches between 1 May – 30 September.	Within the designated areas as set out in the Order at Appendix 4 .
	<u>Leads</u> 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 Order at Appendix 4 .

In addition it is proposed that the Fixed Penalty Notice amount be set at the statutory maximum of £100 however this be discounted to £75 if it is paid within 21 days.

1.5.8 Next Steps

Should Cabinet decide to introduce the PSPOs proposed in section 1.5.7 above the Authority will need to implement them appropriately and in accordance with the 2014 Act.

It is proposed that the PSPOs will come into force on 20 October 2017 should Cabinet agree to the making of such Orders. This will provide sufficient time for the PSPOs to be published on the Authority's website and for the erection of notices informing the public that the PSPOs have been made and the effect of the Orders that have been made.

It is proposed that responsibility for implementation of the PSPOs is delegated and this is included within the section 1.2 of the report.

1.6 **Decision options:**

1. To agree to the making of Public Spaces Protection Orders as set out in the report.
2. Not to agree the 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:

The Authority has the power to introduce Public Space Protection Orders (PSPOs) under the Anti-Social Behaviour, Crime and Policing Act 2014 if it reasonably believes the criteria is met as outlined in section 1.5.2 of the report. Cabinet considered proposals at its meeting on 10 July 2017 and agreed that a consultation exercise should be undertaken, which is a statutory requirement. The report outlines the outcome of that consultation exercise and recommends that PSPOs should be introduced.

1.8 Appendices:

Appendix 1	Consideration of consultation responses
Appendix 2	The Council of the Borough of North Tyneside (Consumption of Alcohol) Public Spaces Protection Order
Appendix 3	The Council of the Borough of North Tyneside (Dog Fouling) Public Spaces Protection Order
Appendix 4	The 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:

Public Spaces Protection Orders, report to Cabinet on 10 July 2017

http://www.northtyneside.gov.uk/browse-display.shtml?p_ID=569532&p_subjectCategory=41

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>

The Anti-Social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014

<http://www.legislation.gov.uk/uksi/2014/2591/contents/made>

Equality Impact Assessment

http://october.northtyneside.gov.uk:7778/browse-display.shtml?p_ID=569408&p_subjectCategory=1521

Consultation Responses and Review

http://october.northtyneside.gov.uk:7778/browse-display.shtml?p_ID=569408&p_subjectCategory=1521

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 was managed within environmental and housing revenue account budgets. The costs of introducing the PSPOs as outlined in section 1.5.8 of the report can be managed within existing environmental and housing revenue budgets.

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

Prior to the public consultation exercise, discussions were held with other local authorities to understand their approach and lessons learned.

The report seeks approval to implement PSPOs following consideration of the consultation responses. The report outlines at section 1.5.4 the approach taken to undertake the consultation exercise and the report also describes how the consultation responses have been considered.

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. The PSPOs proposed in the report have been developed in line with the reasonableness tests of the Anti-Social Behaviour, Crime and Policing Act 2014 and have been informed by a public consultation exercise.

2.5 Equalities and diversity

An Equality Impact Assessment (EIA) was undertaken prior to commencement of the consultation exercise. This has been reviewed and no changes have been made to the original EIA. Should Cabinet decide to introduce the PSPOs outlined in the report, the EIA will be reviewed again following the implementation period.

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

Public Spaces Protection Orders Consideration of Consultation Responses.

A public consultation took place on proposals over a period of 6 weeks from Monday 14 August to Friday 22 September 2017.

The consultation pointed to information that was published on the Council's website and invited people to complete an online questionnaire with their views. The Authority received 768 responses to the online questionnaire and a further 14 responses by other means.

Alcohol:

Consumption- controlling the consumption of alcohol in a public space borough-wide.

- The large majority of respondents (72%) to the on line questionnaire gave support to a borough-wide PSPO to control of nuisance on street drinking.
- A further 81% of respondents supported making it an offence for an individual to refuse to surrender alcohol.

Written comments reflected the support for this proposal.

Conclusion: There was considerable support for controls on consuming alcohol when nuisance is caused. As a result the proposed borough-wide PSPO should be introduced.

Dog Control:

Fouling – controlling dog fouling and not picking up borough-wide.

- The overwhelming majority (97%) of respondents to the on line questionnaire gave support to a borough-wide PSPO controlling dog fouling and failing to pick up.

Written comments reflected the support for this proposal.

Conclusion: There was overwhelming support for controls on dog fouling and not picking up. As a result the proposed borough-wide PSPO should be introduced.

Excluded areas – excluding dogs from designated play sites at all times and from designated beaches during the period 1 May to 30 September.

- The majority (56%) of respondents to the on line questionnaire gave support to a PSPO excluding dogs from designated play sites and designated beaches.

Written comments highlighted a key theme that there was concern about the effect the PSPO would have on being able to use parks and playing fields. There were also suggestions about amending the extent to which beaches were covered including hours of the day.

Conclusion: There was majority support for dogs to be excluded from designated play sites at all times and designated beaches (from 1 May – 30 September). As a result the proposed PSPO should be introduced.

Leads – requiring dogs to be on a lead in designated public spaces and requiring a dog to be put on a lead in a public space when directed by a constable or an authorised officer to do so.

- The majority (57%) of respondents to the on line questionnaire disagreed with a PSPO requiring dogs to be on a lead in designated public spaces.
- However the majority (64%) of respondents gave support to a PSPO requiring a dog to be put on a lead in a public space when directed by an authorised officer to do so.

Written comments highlighted a key theme that the PSPO was felt to be too restrictive and that the balance was wrong. There was a particular concern about the extent to which it applied to parks.

Conclusion: The proposed PSPO be introduced but amended to remove parks and playing fields from being designated places at this stage and that the issue be reconsidered. The cemeteries and coastal areas proposed in the consultation exercise will still be included.