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## AGENDA

Committee	JOINT SCRUTINY COMMITTEE
Date and Time of Meeting	MONDAY, 19 NOVEMBER 2018, 5.30 PM
Venue	COMMITTEE ROOM 4 - COUNTY HALL
Membership	<p><u>Economy &amp; Culture Scrutiny Committee</u> Councillor Howells (Chair) Councillors Henshaw, Gordon, Gavin Hill-John, Parkhill, Robson, Sattar, Simmons and Stubbs</p> <p><u>Environmental Scrutiny Committee</u> Councillor Patel (Chair) Councillors Derbyshire, Philippa Hill-John, Owen Jones, Lancaster, Jackie Parry, Owen, Wong and Wood</p>

*Time  
approx.*

### 1 Chairperson

To elect a Chairperson for the meeting.

### 2 Apologies for Absence

To receive apologies for absence.

### 3 Declarations of Interest

To be made at the start of the agenda item in question, in accordance with the Members' Code of Conduct.

### 4 Public Space Protection Orders - Control of Dogs (pages 5-50)

5.35 pm

The Joint scrutiny is being held to review the recent consultation on 'Public Space Protection Orders – Dog Controls'. This will include discussing the initial findings of the consultation exercise, gathering feedback from stakeholders and consideration of potential options to address concerns around dog control.

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*This document is available in Welsh / Mae'r ddogfen hon ar gael yn Gymraeg*

**5 Way Forward**

7.30 pm

To review the evidence and information gathered during consideration of the agenda item, agree Members comments, observations and concerns to be passed on to the relevant Cabinet Members by the Chairperson.

**6 Urgent Items (if any)**

**Davina Fiore**

**Director Governance & Legal Services**

Date: Tuesday, 13 November 2018

Contact: Andrea Redmond, [A.Redmond@Cardiff.gov.uk](mailto:A.Redmond@Cardiff.gov.uk), 02920872434.

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## Order of Meeting

- (a) Councillor Peter Bradbury, Cabinet Member for Leisure & Culture and Councillor Michael Michael, Cabinet Member for Clean Streets, Recycling & Environment have been invited to attend the meeting and to make a statement on Public Space Protection Orders – Control of Dogs;
- (b) An officer from the Planning, Transport & Environment Directorate will attend the meeting to deliver a short presentation on the initial findings of the recent public consultation on Public Space Protection Orders – Dog Controls;
- (c) Members will have an opportunity to question the Cabinet Members and officer(s) from the Planning, Transport & Environment Directorate;
- (d) Chair to invite oral statements from councillors, members of the public and other stakeholders attending the meeting;
- (e) Members will have an opportunity to question the councillors, members of the public and other stakeholders attending the meeting;
- (f) Members to consider any written statements presented by councillors, members of the public and other stakeholders to the meeting.

**CYNGOR CAERDYDD  
CARDIFF COUNCIL**

**JOINT SCRUTINY: ECONOMY & CULTURE & ENVIRONMENTAL SCRUTINY  
COMMITTEES**

**19 NOVEMBER 2018**

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**PUBLIC SPACE PROTECTION ORDERS – CONTROL OF DOGS**

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**Reason for the Report**

1. The scope of the report and joint meeting is to consider the content of the Cabinet paper on 'Public Spaces Protection Orders – Dog Controls' and the recent public consultation exercise on 'Public Spaces Protection Orders (PSPOs) – Proposed Dog Controls' that ended on the 22nd October 2018. In particular the scrutiny will look to:
  - Review the delivery of the public consultation exercise;
  - Review the results and findings of the public consultation exercise;
  - Receive feedback from key stakeholders and the public on the public consultation exercise, its range of proposals and future proposals;
  - Discuss a range of potential options that the Council might take to address any concerns about dog control that were identified in the Cabinet paper and public consultation exercise;
  - Where appropriate, provide feedback on dog control to the Cabinet to help inform future decision making.

**Background**

2. A paper titled 'Public Spaces Protection Orders – Dog Controls' was presented to Cabinet on the 12 July 2018; a copy of this report and its appendices is attached to this document as **Appendix 1**.

3. Cardiff Council has responsibility for the management and maintenance of public spaces across the city. These spaces include parks, play areas, adopted highways, sports grounds, schools and cemeteries.
4. The Council has a large number of parks and open spaces that are used by dog walkers. The majority of dog owners are responsible and clean up after their dogs, however, there are persistent issues across Cardiff - specifically where dog faeces are not removed by dog owners.
5. The Council has in recent years delivered a number of initiatives aimed at reducing dog fouling, for example, public educational campaigns. Despite the efforts made, dog fouling continues to be a concern for many Cardiff residents.
6. Public Space Protection Orders are available to Local Authorities to deal with specific nuisance problems in particular areas that are having, or are likely to have, a detrimental effect on the quality of life for those who live, work or play within the locality. An order can prohibit or restrict certain activities and are designed to ensure that the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour.
7. A Public Space Protection Order is different from other powers available under the Anti-Social Behaviour, Crime and Policing Act 2014 as they are led by the Council and concentrate on the identified problem behaviour. The final restrictions placed on a Public Space Protection Order should be evidence based and shaped by the opinions of key stakeholders and the individuals who live, work or visit the public spaces.
8. The Council can make a Public Space Protection Order in consultation with the Police and other relevant bodies who may be affected. The Public Space Protection Order will have effect for a period of no more than three years, however, the Council may extend the Order for a further three years if there are reasonable grounds for doing so. There is no limit on the number of times that a Public Space Protection may be reviewed and / or renewed.

9. Once a Public Space Protection Order is adopted by the Council, sanctions are available for persons who breach certain prohibitions within the order. A breach of the order can be enforced initially by way of a simple fine under a fixed penalty notice. If this fine is not paid then the enforcement action can be escalated through criminal powers available by way of a criminal prosecution through the Magistrates' Court.
10. A maximum fine of level three or £1,000 may be imposed. Alternatively, the opportunity to pay a Fixed Penalty Notice up to a maximum of £100 may be offered in place of prosecution and to avoid a criminal conviction.
11. The current fixed penalty notice for dog fouling is £80. The value of fines associated with dog controls from byelaws vary but enforcement has not taken place for a number of years.
12. Rhondda Cynon Taff County Borough Council and Denbighshire County Council have used Public Space Protection Orders to assist with the control of dogs. Other Councils have used Public Space Protection Orders to address issues such as access to public land, alcohol and intoxicating substances.
13. The byelaws currently in place in Cardiff were created under The Public Health Act 1875; The Open Spaces Act 1906; The Local Government Act 1972 and The Dog (Fouling of Land) Act 1996. The requirements of these byelaws are:
  - That dogs are controlled, so as not to cause a nuisance within open spaces, which came into effect in 1964;
  - The prohibition of dog fouling within designated areas across Cardiff;
  - The exclusion of dogs within cemeteries, which came into force in 1986; and,
  - The exclusion of dogs from children's playgrounds and certain pleasure grounds and open spaces, which came into force in 1991 and was updated in 1993.
14. The Anti-Social Behaviour, Crime & Policing Act 2014 repeals previous legislation and will eventually repeal The Dog (Fouling of land) Act 1996, which dealt with dog fouling and its enforcement. The Anti-Social Behaviour legislation enables a Public Space Protection Order to introduce enforcement rules on the presence of dogs, as

well as wider controls to deal with anti-social behaviour on land accessible to the public.

15. Should a Public Space Protection Order be introduced, the Council would be able to enforce the restrictions and requirements. In addition, Police Officers and Police Community Support Officers would have the ability to enforce the order, although Council officers would deal with the issuing of Fixed Penalty Notices.
16. Dog fouling is unsightly, unpleasant and can lead to serious illness in humans such as Toxocariasis - this can develop from direct contact with the faeces on the ground which can potentially lead to blindness. Particular concern is raised in relation to children and sports users using parks and open spaces.
17. The majority of dog owners are responsible, clean up after their dogs and keep them under control. However, a minority of irresponsible dog owners create significant problems. Each year the Council receives many complaints in relation to dog fouling and out of control dogs in public places.
18. It should be noted that some exemptions would be applied to such a Public Space Protection Order and so would not be applied against a person:
  - Who is partially sighted or blind and registered under, Section 29 of the National Assistance Act 1948;
  - Who is registered as sight impaired, severely sight impaired or as having sight and hearing impairments, registered under 18 of the Social Services and Well-Being (Wales) Act 2014;
  - Who has a disability which affects their mobility or any other disability, where the requirement of removing faeces would be unreasonable.
19. In addition to paragraph 16 (above) a Public Space Protection Order will not apply to working dogs, which are used for emergency search and rescue, law enforcement, HM armed forces or used for directing animals.



20. The Cabinet report explained that the introduction of dog controls to remove antisocial behaviour is consistent with the Well-being Goals under the Wellbeing of Future Generations (Wales) Act 2015:
- **A Healthier Wales** – a society in which people’s physical and mental wellbeing is maximised and in which choices and behaviours that benefit future health are understood.
  - **A Wales of Cohesive Communities** – attractive, viable, safe and well-connected communities.

### Issues

21. The current legislation for dog fouling (The Dog (Fouling of Land) Act 1996 and more recently the Clean Neighbourhoods and Environment Act 2005) is currently not supported by Magistrates Courts and will at some point be completely repealed due more current legislation, specifically the Anti-Social Behaviour, Crime and Policing Act 2014.
22. The Council has brought a small number of prosecutions to court in the last five years. The Council issue fines relating to dog fouling and there will come a time when the Council is challenged on the legislation used to underpin these; therefore, a Public Space Protection Order covering dog fouling is required to allow for the continued issuing of Fixed Penalty Notices and prosecutions.
23. Public Spaces Protection Orders have to be reviewed at least every three years to ensure that they are an effective way of addressing anti social behaviour issues. When reviewing Public Space Protection Orders it is important to assess if the listed anti social behaviour issues have not been displaced to other areas. The current byelaws are not reviewed or enforced and there is no method in place or any legal obligation for these to be reviewed by the Council to ensure that they are effective.
24. The Cabinet report explains that the introduction of a Public Space Protection Order in respect of dog controls would replace existing byelaws currently in place to control dogs in certain areas across Cardiff. The current byelaws are outdated, with some dating back to 1964. Since the implementation of byelaws, boundaries and land ownership has changed, which is why the Council deems it important to implement a

Public Space Protection Order to give uniformity and consistency to the control of dogs across specific identifiable areas of Cardiff.

25. If Public Spaces Protection Orders are not introduced to replace old legislation, this could prevent the Council from fully achieving its Corporate commitments within the Community Strategy 2011 - 2021 and the Corporate Plan. A dog control Public Space Protection Order will allow Cardiff Council to demonstrate continued commitment towards achieving a cleaner, more attractive and sustainable environment.

### **Cabinet Report Recommendations**

26. The Cabinet report titled 'Public Spaces Protection Orders – Dog Controls' made the following recommendations:

- To undertake a six to twelve week public consultation exercise on the proposal to introduce a Public Spaces Protection Order (PSPO) under the Anti-Social Behaviour, Crime and Policing Act 2014 to introduce dog controls in areas across the Cardiff and to report back to Cabinet.
- To propose the consultation for dog control specifically looks at:
  - ❖ The prohibition of dog fouling in all public places owned and/or maintained by the Council;
  - ❖ The exclusion of dogs in all enclosed playgrounds, marked sports pitches and Schools, which are owned and/or maintained by Cardiff Council;
  - ❖ A requirement that dogs are kept on leads within all Cemeteries owned and/or maintained by Cardiff Council;
  - ❖ A requirement allowing authorised officers to give a direction that a dog (s) be put and kept on a lead if necessary;
  - ❖ Setting the fixed penalty fine for breach of the order to the maximum permitted of £100.
- To endorse revoking the current byelaws in Cardiff.

27. The recommendations made in the Cabinet report were accepted and recorded in the relevant section of the Cabinet decision register. A copy of this decision register is attached to this report as **Appendix 2**.

### **Consultation Exercise - Public Spaces Protection Orders (PSPOs) – Proposed Dog Controls**

28. As stated above, the acceptance of the recommendations made in the Cabinet report triggered the start of a consultation exercise into 'Public Spaces Protection Orders (PSPOs) – Proposed Dog Controls'.
29. The consultation exercise started on the 10 September and ran until the 22 October 2018. It was completed by 6,002 people. The Cabinet report identified a list of consultees who were invited to contribute to the exercise, these were:
- All Community & Town Councils in Cardiff Council;
  - Chief Constable of South Wales Police;
  - Police & Crime Commissioner for South Wales Police;
  - All neighbouring Local Authorities;
  - Operational Managers of all Council departments within Cardiff Council;
  - Community Centres;
  - Natural Resources Wales;
  - All Schools in Cardiff owned and/or maintained by Cardiff Council;
  - The Assembly Members and Members of Parliament for Cardiff;
  - Unison, Unite & GMB;
  - All Councillors;
  - Public Access Forums;
  - Friends of Parks Groups;
  - Ramblers & Walking Groups;
  - Animal Welfare Groups;
  - The Kennel Club;
  - Boarding Kennels;
  - Sports Clubs;
  - Youth Forum;

- Older Persons Advisory Group;
- Members of the public.

30. A key part of the consultation exercise was a survey titled 'Public Spaces Protection Orders (PSPOs) – Proposed Dog Controls' – a copy of this document is attached to this report as **Appendix 3**. All of the consultees named above were invited to complete this survey and / or to make submissions through a range of methods including letters, the Council website, email and telephone. All aspects of the consultation exercise were made available in English and Welsh.
31. As background information to this paper, a summary of the ROSPA advice covering 'Dogs on Play Areas' has been attached to this report as **Appendix 4**.

### **Way Forward**

32. Councillor Peter Bradbury, Cabinet Member for Culture & Leisure and Councillor Michael Michael, Cabinet Member for Clean Streets, Recycling & Environment have been invited to attend for this item. They will be supported by officers from the Planning, Transport & Environment Directorate.
33. The meeting will also receive written and oral submissions from councillors, members of the public and other stakeholders.

### **Legal Implications**

34. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters there are no direct legal implications. However, legal implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any legal implications arising from those recommendations. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Scrutiny Procedure Rules; (e) be fully and

properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

### **Financial Implications**

35. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters there are no direct financial implications at this stage in relation to any of the work programme. However, financial implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any financial implications arising from those recommendations.

### **RECOMMENDATION**

The Committee is recommended to:

- i) Consider the information in this report and the information presented at the meeting;
- ii) Determine whether they would like to make any comments, observations or recommendations to the Cabinet on this matter in time for its meeting on 15 November 2018; and
- iii) Decide the way forward for any future scrutiny of the issues discussed.

**DAVINA FIORE**

**Director of Governance & Legal Services**

**13 November 2018**

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**CARDIFF COUNCIL  
CYNGOR CAERDYDD**



**CABINET MEETING: 12 JULY 2018**

**PUBLIC SPACES PROTECTION ORDERS – DOG CONTROLS**

**CULTURE AND LEISURE (COUNCILLOR PETER BRADBURY)**

**AGENDA ITEM: 3**

**Reason for this Report**

1. To consider widening enforcement powers, in order to deliver a cleaner and more sustainable environment across Cardiff by supporting the use of Public Space Protection Orders as defined in Cardiff Council's Policy Statement.
2. To consider authority to consult with members of the public and other relevant stakeholders to introduce a Public Spaces Protection Order (PSPO) under Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014. The purpose of the order is to improve and replace current outdated dog controls powers across the City of Cardiff.

**Background**

3. Cardiff Council's Policy Statement for Public Space Protection Orders is Appendix A.
4. PSPOs are available to Local Authorities to deal with specific nuisance problems in particular areas that are having, or are likely to have, a detrimental effect on the quality of life for those who live, work or play within the locality. An order can prohibit or restrict certain activities and is designed to ensure that the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour.
5. The PSPO is different from other powers available under the Anti-Social Behaviour, Crime and Policing Act 2014 as they are led by the Council and concentrate on the identified problem behaviour. The final restrictions placed on a PSPO should be evidence based and shaped by the opinions of key stakeholders and the individuals who live, work or visit the public spaces.
6. The Council can make a PSPO in consultation with the Police and other relevant bodies who may be affected. The Order will have effect for a period of no more than 3 years. However, the Council may extend the Order for a further 3 years if there are reasonable grounds for doing so.

7. Once a PSPO is adopted by the Council, sanctions are available for persons who breach certain prohibitions within the order. A breach of the order can be enforced initially by way of a simple fine under a fixed penalty notice. If this fine is not paid then the enforcement action can be escalated through criminal powers available by way of a criminal prosecution through the Magistrates' Court. A maximum fine of level 3 or £1,000 may be imposed. Alternatively, the opportunity to pay a Fixed Penalty Notice (FPN) up to a maximum of £100 may be offered in place of prosecution and to avoid a criminal conviction.
8. The current fixed penalty notice for dog fouling is £80. The value of fines associated with dog controls from byelaws vary but enforcement has not taken place for a number of years.
9. Rhondda Cynon Taff County Borough Council and Denbighshire County Council have used the PSPOs to assist with the control of dogs. There are also other Councils, which have used the order to address access to public land, alcohol and intoxicating substances.
10. The byelaws currently in place in Cardiff were created under The Public Health Act 1875, The Open Spaces Act 1906, The Local Government Act 1972 and The Dog (Fouling of Land) Act 1996. The requirements of these byelaws are:
  - That dogs are controlled, so as not to cause a nuisance within open spaces, which came into effect in 1964.
  - The prohibition of dog fouling within designated areas across Cardiff
  - The exclusion of dogs within cemeteries, which came into force in 1986 and,
  - The exclusion of dogs from children's playgrounds and certain pleasure grounds and open spaces, which came into force in 1991 and was updated in 1993.
11. The Anti-Social Behaviour, Crime & Policing Act 2014 repeals previous legislation and will eventually repeal The Dog (Fouling of land) Act 1996, which dealt with dog fouling and its enforcement. The Anti-Social Behaviour legislation enables a PSPO to introduce enforcement rules on the presence of dogs, as well as wider controls to deal with anti-social behaviour on land accessible to the public.
12. Council officers will be able to enforce the restrictions and requirements. In addition, police officers and Police Community Support Officers will have the ability to enforce the order, although Council officers will deal with the issuing of FPN's.
13. Dog fouling is unsightly and unpleasant and in turn can lead to serious illness in humans, such as Toxocariasis, from direct contact with the faeces on the ground which can also lead to blindness. Particular concern is raised in relation to children and sports users using parks and open spaces



14. The majority of dog owners are responsible, clean up after their dogs and keep them under control. However, a minority of irresponsible dog owners create significant problems. Each year the Council receives many complaints in relation to dog fouling and out of control dogs in public places, which is a significant concern.
15. The Council continues to receive a significant number of complaints in relation to dog fouling from local residents and Councillors. From April 2016 to April 2017 there were over 500 complaints made to the council in relation to dog fouling. Appendix B shows examples of complaints in parks relating to dog control in Cardiff.
16. From reviewing the byelaws and complaints it is proposed the first phase of dog controls are:
  - the prohibition of dog fouling in all public places owned and/or maintained by the Council,
  - the exclusion of dogs in all enclosed playgrounds, marked sports pitches and Schools, which are owned and/or maintained by Cardiff Council.
  - a requirement that dogs are kept on leads within all Cemeteries owned and/or maintained by Cardiff Council.
  - a requirement allowing authorised officers to give a direction that a dog (s) be put and kept on a lead if necessary,
17. The introduction of dog controls to remove antisocial behaviour are consistent with the Well-being Goals under the Wellbeing of Future Generations (Wales) Act 2015:
  - A healthier Wales – a society in which people’s physical and mental wellbeing is maximised and in which choices and behaviours that benefit future health are understood.
  - A Wales of cohesive communities – attractive, viable, safe and well-connected communities.

## **Issues**

18. The current legislation for dog fouling, The Dog (Fouling of Land) Act 1996, are currently not supported via Magistrates Courts and will eventually be completely repealed due to there being more up to date legislation that the Council should be utilising, specifically the Anti-Social Behaviour, Crime and Policing Act 2014.
19. The Council has only brought a small number of prosecutions to court in the last 5 years. However, although the Council continues to issue fines relating to dog fouling, there will become a time when the Council are challenged more broadly and therefore a PSPO covering dog fouling is required to allow for the continued issuing of FPN’s and prosecutions.
20. Public Spaces Protection Orders are reviewed every 3 years to ensure that they are effective in addressing ASB issues and the issues have not been displaced to other areas. The current byelaws are not reviewed, nor

enforced and there is no method in place or any legal obligation for these to be reviewed by the Council, to ensure that they are effective in addressing certain issues across Cardiff.

21. The introduction of a PSPO in respect of dog controls will replace existing byelaws currently in place to control dogs in certain areas across Cardiff. The current byelaws are outdated, with some dating back to 1964. Since the implementation of byelaws, boundaries and land ownership has changed, which is why it is essential to implement a PSPO to give uniformity and a consistent approach to the control of dogs across specific identifiable areas across Cardiff.
22. If Public Spaces Protection Orders are not introduced to replace old legislation, this could prevent the Council from fully achieving its Corporate commitments within the Community Strategy 2011 - 2021 and the Corporate Plan. A dog control PSPO will allow Cardiff Council to demonstrate continued commitment towards achieving a cleaner, more attractive and sustainable environment.
23. The Cabinet by approving the recommendations within this report, support a full and extensive consultation with residents and relevant stakeholders. This will allow the Council to introduce orders, which are relevant, necessary and consistently enforced across Cardiff.
24. The consultation response will include the methodology, statistics, comments made, key findings, the number of responses and recommendations / amendments to the proposed dog controls.
25. A list of consultees have been identified in Appendix C. The consultation will include opening and closing dates of when consultees can respond on this matter. This will be via:
  - Letters
  - Online Surveys
  - Cardiff Councils website
  - Newspaper Advert
  - Email
  - Telephone

All means of consulting will be translated bilingually into Welsh and English languages. For those who cannot access the internet, other options will be advertised, such as the option to send a letter or e-mail.

26. The Council will undertake direct consultation in a number of parks and public space areas throughout the consultation period to ensure views from users are captured.
27. A PSPO would supersede the current byelaws shown in relation to the control of dogs across Cardiff shown in Appendix D. Therefore, there would be a need for these byelaws to be revoked.

## **Reason for Recommendations**

28. The Council receives a significant number of complaints about dog fouling and out of control dogs in public places each year. In 2016/17, there were more than 500 complaints to the authority in relation to dog fouling.
29. PSPOs are available to local authorities to deal with specific nuisance problems in particular areas that are, or are likely to have a detrimental effect on the quality of life of people in the area.

### **Legal Implications**

30. Under the Anti-social Behaviour, Crime and Policing Act 2014, a Local Authority, after consultation with the public, Police, Crime Commissioner and other relevant bodies, are able to make a Public Spaces Protection Order (PSPO) if evidence of a nuisance exists.
31. Under Section 59 of the act, a Local Authority may make a PSPO if satisfied on reasonable grounds that two conditions are met.
32. The first condition being:
  - 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.
33. The second condition being 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.
34. A Public Spaces Protection Order identifies the public place referred to and sets out a number of conditions, such as;
  - a) prohibiting specified things being done in the area,
  - b) requiring specified things to be done by persons carrying on specified activities in that area, or
  - c) covering both of those prohibitions.
35. Prohibitions or requirements may be imposed if they are reasonable to impose through the order –
  - a) to prevent the detrimental effect referred to from continuing, occurring or recurring, or
  - b) to reduce the detrimental effect or to reduce the risk of its continuance, occurrence or recurrence
36. An interested person may appeal to the High Court to question the validity of a PSPO, or a variation of an Order. An appeal must be made within the period of 6 weeks beginning with the date on which the Order or variation is made.

37. Articles 10 and 11 of the Human Rights Act 1998 regarding freedom of expression and freedom of assembly and association have been considered and no issues have been identified.
38. The Council must satisfy its public sector equality duties under the Equality Act 2010 and at the same time as or following the outcome of consultation it will be necessary to undertake an Equality Impact Assessment to ensure that the Council has properly understood and assessed the potential impact of the proposed PSPO in terms of equality.
39. The enforcement of breaches of the order will be initially enforced through the use of a simple fine under a fixed penalty notice and then to criminal prosecution in the Magistrates' Court if not paid. It is expected that the issue of fixed penalties and the prosecution of cases will be income generating.
40. Provision will need to be made for any additional legal resources that are required.
41. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council eg. standing orders and financial regulations; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

### **Financial Implications**

42. The report is recommending the commencement of a public consultation period for which there will be no direct financial implications. The outcome of the consultation will be presented in a further report to Cabinet which will allow definitive enforcement proposals to be confirmed. This will include an assessment of any associated financial implications. Based on the processes outlined in this report the Directorate consider that the introduction of the PSPO can be achieved within existing resources.
43. If there is a significant increase in the number of prosecutions undertaken by the Council then further discussions with other Service Areas, in particular Legal Services, may be required to consider the implications arising from this potential additional activity.

## **RECOMMENDATIONS**

Cabinet is recommended to:

1. Authorise officers to undertake a 6 -12 week public consultation exercise on the proposal to introduce a Public Spaces Protection Order (PSPO) under the Anti-Social Behaviour, Crime and Policing Act 2014 to introduce dog controls in areas across the Cardiff and to report back to Cabinet.
2. Agree that the consultation for dog control specifically looks at:
  - the prohibition of dog fouling in all public places owned and/or maintained by the Council,
  - the exclusion of dogs in all enclosed playgrounds, marked sports pitches and Schools, which are owned and/or maintained by Cardiff Council.
  - a requirement that dogs are kept on leads within all Cemeteries owned and/or maintained by Cardiff Council.
  - a requirement allowing authorised officers to give a direction that a dog (s) be put and kept on a lead if necessary,
  - setting the fixed penalty fine for breach of the order to the maximum permitted of £100.
3. endorse the revocation of the current byelaws associated with dog control in Cardiff (appendix d)

<b>SENIOR RESPONSIBLE OFFICER</b>	<b>ANDREW GREGORY</b> <b>Director Planning, Transport &amp; Environment</b>
	<b>15 June 2018</b>

*The following Appendices are attached:*

- Appendix A - Cardiff Council's Policy Statement – Public Space Protection Orders.
- Appendix B - Examples of complaints in parks relating to Dog Control in Cardiff.
- Appendix C- Consultees for dog control.
- Appendix D - Byelaws relating to dog control to be revoked.

*The following Background Documents have been taken into account:*

1. Home Office: Anti-social Behaviour, Crime and Policing Act 2014: Reform of anti-social behaviour powers : Statutory guidance for front line professionals, July 2014
2. Local Government Association: Public Spaces Protection Orders - Guidance for Councils



**Cardiff Council**

# **Public Spaces Protection Orders** **Policy Statement**

**June 2018**

## **1. Introduction**

- 1.1. The Council has commitment to develop a systematic proactive approach to street and public space enforcement including implementing Public Space Protection Orders to remove anti-social behaviours.
- 1.2. The Local Authority recognises how anti-social behaviour can have a detrimental impact on local resident's quality of life, with those affected often feeling powerless to act. The Local Authority plays a key role in helping to make local communities within its area, safe places to live, visit and work.
- 1.3. Members of the public and Council employees are aware of the anti-social behaviour issues that occur within their local communities. It is key that we address and reduce these issues from occurring, by consulting with members of public and other stakeholders, in order to highlight areas of concern that in turn need addressing.

## **2. What is Anti Social behaviour?**

- 2.1. Anti-social behaviour is a broad term used to describe the day-to-day incidents of crime, nuisance and disorder that make many people's lives a misery – from litter and vandalism, to public drunkenness or aggressive dogs, to noisy or abusive neighbours.
- 2.2. Victims can feel helpless, bounced from one agency or department to another and then back again. In many cases, the behaviour is targeted against the most vulnerable in our society and even what is perceived as 'low level' anti-social behaviour, when targeted and persistent, can have devastating effects on a victim's life.
- 2.3. Legislation to eliminate this type of behaviour was developed in July 2014, to provide more streamlined powers to authorised agencies. Local Authorities are now empowered to make and enforce Public Spaces Protection Orders (PSPO)
- 2.4. Such a wide range of behaviours means that responsibility for dealing with anti-social behaviour is shared between a number of agencies, particularly the Police and relevant Local Authority departments.

### **3. What is a Public Spaces Protection Orders (PSPO)?**

- 3.1. Under the *Anti-Social Behaviour, Crime and Policing Act 2014*, A Public Spaces Protection Order (PSPO) sits amongst a broad range of powers and tools to help reduce anti-social behaviour within particular areas.
- 3.2. A PSPO deals with specific nuisance problems, which is having, or is likely to have, a detrimental effect on the quality of life of those who live, work or visit a locality.
- 3.3. A PSPO can substantially reduce anti-social behaviour by the means of reasonable and proportionate restrictions and prohibitions. Its aim is ensuring public spaces can be enjoyed and is designed to ensure that the law-abiding majority can still use and enjoy public spaces, safe from anti-social behaviour.
- 3.4. These Orders are not about stopping responsible people from using publicly accessible land, but to provide Local Authorities and other Local Government departments with the means to help deal with persistent issues, which can be damaging to local communities.

### **4. Introducing a PSPO**

- 4.1. The Local Authority can make a PSPO for any public space within its own area. The definition of public space is wide and includes any place to which the public has access, on payment or otherwise, as of right or by virtue of express or implied permission, for example a shopping centre.
- 4.2. The threshold for making a PSPO is set out in *Section 59 of The Anti-social Behaviour Crime and Policing Act 2014*, which permits Local Authorities to make a PSPO if satisfied, on reasonable grounds, that two conditions are met as defined by the Act.
  - 4.2.1 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
  - 4.1.2. 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 Order



- 4.3. The Local Authority must carry out the necessary consultation, publicity and notification before making, extending and/or varying a PSPO.
- 4.4. Under *section 72 of the Anti-Social Behaviour, Crime and Policing Act 2014*, the Local Authority must consult formally through the Chief Officer of Police and the Police and Crime Commissioner. In addition to this, all owners or occupiers of the land within the area to be restricted by the PSPO must be consulted, where reasonably practicable.
- 4.5. The Local Authority must also consult whichever community representatives it thinks appropriate. This could relate to a specific group, for instance the residents association, or an individual or group of individuals, for instance, regular users of a park or specific activities. Before a PSPO can be implemented, the Local Authority must publish the draft Order in accordance with regulations made by the Secretary of State.

## **5. Duration of a PSPO**

- 5.1. The maximum duration of a PSPO is three years however; they can last for shorter periods where appropriate. Short-term PSPOs could be used where it is not certain that restrictions will have the desired effect, for instance, when closing a public right of way, Local Authorities may wish to make an initial PSPO for 12 months and then review the decision when it expires.
- 5.2. Whilst a PSPO is in place, the Local Authority can extend it by up to three years if deemed necessary to prevent the original behaviour from occurring or recurring. They should also consult with the local Police and any other relevant community representatives.

## **6. Challenging the validity of a PSPO**

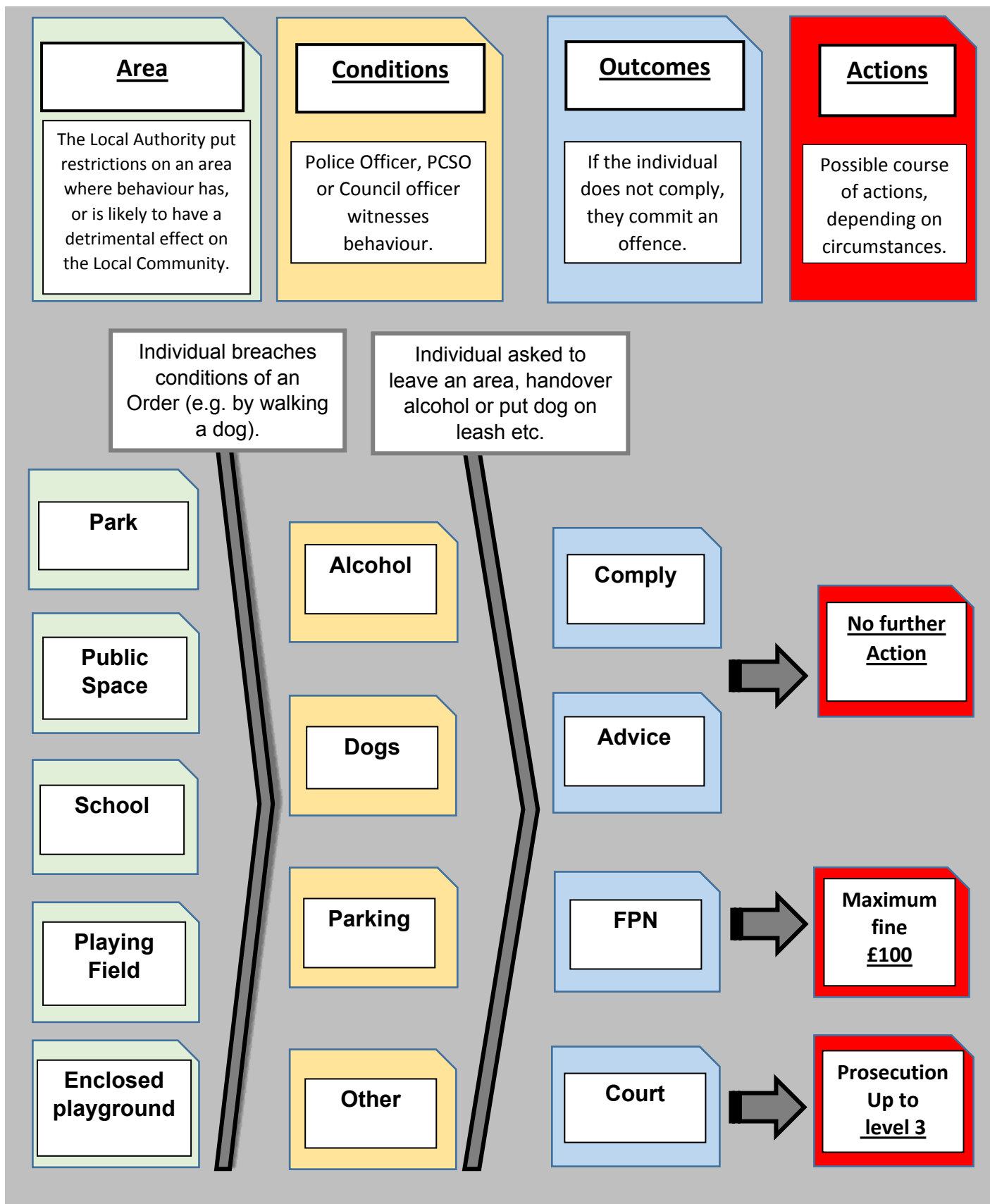
- 6.1. Under *section 66 of the Anti-Social Behaviour, Crime and Policing Act 2014* an interested person, which is someone who lives, regularly visits or works within a restricted area may apply, by way of a Judicial Review, to the High Court of Justice, to challenge the validity of a PSPO or a variation of a PSPO. This means that only those who are directly affected by the restrictions of an Order have the power to challenge it.
- 6.2. An interested person who wishes to challenge a PSPO must make an application to the High Court within 6 weeks of a PSPO being made or varied by the Local Authority.

- 6.3. The grounds on which an application may be made are;
- a) That the Local Authority did not have power to make an Order or variation, or to include particular prohibitions or requirements,
  - b) That a requirement under this chapter was not complied with, in relation to the Order or variation, such as statutory consultation.
- 6.4. Where a Judicial Review application is made, the High Court can decide to suspend the operation of a PSPO or variation or any of its requirements, pending the final outcome of the Judicial Review. The High Court has the ability to uphold the PSPO, quash it, or to vary it.
- 6.5. An interested person cannot challenge the validity of a PSPO in any legal proceedings before or after it is made, unless that person is charged with an offence. An interested person can challenge a PSPO to defend to a prosecution, where they have been found guilty of committing an offence. On the grounds that the Local Authority did not have the power to impose the restrictions or that the restrictions imposed are unreasonable.

## 7. Enforcement

7.1. Authorised Officers from Local Authorities and the Police will be able to enforce the restrictions and requirements of a PSPO.

<b>Purpose</b>	Designed to stop individuals or groups committing anti social behaviour in a public place.
<b>Who can make a PSPO</b>	Local Authorities issue a Public Spaces Protection Order (PSPO) after consultation with the Police, Police and Crime Commissioner and other relevant bodies.
<b>Test</b>	Behaviour being restricted has to: <ul style="list-style-type: none"><li>• Be having, or be likely to have, a detrimental effect on the quality of life of those in the locality;</li><li>• Be persistent or continuing in nature; and</li><li>• Be unreasonable</li></ul>
<b>Details</b>	Restrictions and requirements set by the Local Authority. <ul style="list-style-type: none"><li>• These can be blanket restrictions or requirements or can be targeted against certain behaviours by certain groups at certain times.</li><li>• Can restrict access to public spaces (including certain types of highways) where that route is being used to commit anti social behaviour.</li><li>• Can be enforced by a Police Officer, PCSO and Council officers.</li></ul>
<b>Penalty on Breach</b>	<ul style="list-style-type: none"><li>• Breach is a criminal offence</li><li>• Enforcement officers can issue a fixed penalty notice of up to £100 if appropriate.</li><li>• A fine of up to level 3 on prosecution.</li></ul>
<b>Appeals</b>	<ul style="list-style-type: none"><li>• Anyone who lives in, or regularly works in or visits the area can appeal a PSPO in the High Court within six weeks of issue.</li><li>• Further appeal is available each time the PSPO is varied by the Local Authority.</li></ul>
<b>Important changes / differences</b>	<ul style="list-style-type: none"><li>• More than one restriction can be added to the same PSPO, meaning that a single PSPO can deal with a wider range of behaviours than the Order it replaces.</li></ul>



- 7.2. Although PSPOs are made by the Local Authority, enforcement should be the responsibility of a wider group. Council Officers will be able to enforce the restrictions and requirements, as will other groups that they designate, including officers accredited under the community safety accreditation scheme. In addition, Police Officers and PCSOs will also have the ability to enforce the Order. It is envisaged that the other groups will be authorised by the Council to administer administrative remedies through fixed penalty notices only. Court proceeding for breaches of the Order will be undertaken by the Council.

## **8. Fixed Penalty Notices (FPNs)**

- 8.1. A Fixed Penalty Notice (FPN) is a notice offering the person to whom it is issued, the opportunity of discharging any liability to conviction for an offence by payment to the Local Authority the amount specified in the notice.
- 8.2. An authorised officer of the Local Authority or a Police Officer may issue a FPN to anyone they have reason to believe has committed an offence under *section 63 and 67 of the Anti-social Behaviour, Crime and Policing Act 2014*.
- 8.3. No proceedings can be taken before the end of 14 days following the date of issue for the notice. A conviction may not be sought if the recipient pays the FPN before the end of that period.
- 8.4. An FPN must contain prescribed information:
- a) give reasonably detailed particulars of the circumstances alleged to constitute the offence;
  - b) state the period during which proceedings will not be taken for the offence;
  - c) specify the amount of the fixed penalty;
  - d) state the name and address of the person to whom the fixed penalty may be paid;
  - e) specify permissible methods of payment
- 8.5. The fixed penalty notice amount is a maximum of £100.

## **9. Issuing a Fixed Penalty Notice**

- 9.1. There will be authorised enforcement officers patrolling the restricted areas, based on complaints. At the time, an officer sees an offence being committed he or she will issue a hand written fixed penalty notice using a FPN book.

## **10. Appealing a Fixed Penalty Notice (FPN)**

- 10.1. There is no right of appeal to the Local Authority or a Tribunal. Although an individual may be given, an opportunity to explain why they believe an offence has not been committed.
- 10.2. Failure to pay the FPN within 14 days from the date of issue may result in prosecution. If convicted, a defendant is likely to receive a fine and be ordered to pay prosecution costs and will incur a criminal record.
- 10.3. The fixed penalty notice for a breach of the prohibition will be £100 without the offer of discount. Any income received must be ring-fenced and spent on Local Authority functions relating to road traffic, litter and refuse.
- 10.4. The Local Authority may receive costs awarded against defendants following a successful prosecution once recovered by the Court service.

## **11. Considerations that the Local Authority must have regard for**

- 11.1. A PSPO will ensure that there is not any infringements on the freedoms permitted under article 10 and 11 of the Human Rights Act 1998, when drafting, extending, varying or discharging an Order.
- 11.2. Where Orders restrict public rights of way, section 64 of the Act requires the Local Authority to consider a number of issues, including the impact on those living nearby and the availability of alternative routes. It also sets out some categories of highways where rights of way cannot be restricted. The Local Authority may also conclude that PSPOs restricting access should only be introduced where the anti-social behaviour is facilitated by the use of that right of way.
- 11.3. When defining the area restrictions should cover, consideration will be given as to whether prohibitions in one area will displace the problem behaviour elsewhere, or into a neighbouring authority. The neighbouring Authorities will also be consulted to mitigate this.
- 11.4. The Local Authority will consider how best the Order should be worded and establish an evidence base to support the proposals, to include a consultation process. The prohibitions or requirements imposed by a PSPO will be written in clear English, easily understood and should be able to withstand scrutiny.
- 11.5. The Local Authority recognises that owners have a duty under the *Animal Welfare Act 2006*, to provide for their animal's welfare, which includes exercising them. In determining the area covered by restrictions, the Local Authority will therefore consider how to accommodate the need for owners to exercise their animals.

- 11.6. The area that a PSPO will cover will be clearly defined. Mapping out areas where certain behaviours are permitted; for instance identifying specific park areas where dogs can be let off a lead without breaching the PSPO.
- 11.7. Practical issues, such as effective enforcement and erecting signs in (or near) an area subject to an Order – as required by the legislation – will also be borne in mind when determining how large an area the Order proposals might cover.

## **12. Exemptions**

- 12.1. Exemptions of a PSPO will need be dealt with on a case by case basis, depending on what is proposed to be included into an Order and what that Order will restrict and/or prohibit, It will look at who will be affected and how. An Order will also ensure that it does not discriminate a person.
- 12.2. Careful consideration will be undertaken when introducing an Order to eliminate unlawful discrimination against protected characteristics that may be unintentionally affected by a PSPO. The planning phase of a PSPO will ensure that there is not a breach to the *Equality Act 2010*. This will be prevented via an Equality Impact Assessment (EIA).
- 12.3. An EIA is a specific assessment tool used to assess and ensure that a policy or project does not discriminate against any disadvantaged or vulnerable people. It also ensures that the Local Authority provides and delivers a service that reflects the needs of the local community and its stakeholders.

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## **13. References**

- *Anti-Social Behaviour, Crime and Policing Act 2014*
- *Anti-Social Behaviour, Crime and Policing Act 2014: Reform of Anti-Social Behaviour powers. Statutory guidance for frontline professionals. Home Office. July 2014.*
- *Local Government Association – Public Spaces Protection Orders, Guidance for Councils. May 2017.*

### **Consultees for PSPO – Dog Control**

- All Community & Town Councils in Cardiff Council
- Chief Constable of South Wales Police
- Police & Crime Commissioner for South Wales Police
- All neighbouring Local Authorities
- Operational Managers of all Council departments within Cardiff Council
- Community Centres
- Natural Resources Wales
- All Schools in Cardiff owned and/or maintained by Cardiff Council
- The Assembly Members and Members of Parliament for Cardiff
- Unison, Unite & GMB
- All Councillors
- Public Access Forums
- Ramblers & Walking Groups
- Animal Welfare Groups
- The Kennel Club
- Boarding Kennels
- Sports Clubs
- Youth Forum
- Older Persons Advisory Group
- Members of the public.



### Byelaws in relation to Dogs across Cardiff

#### **1964 – Pleasure ground and open spaces**

##### **Part 1**

Adams down Square Gardens  
Roath Brook Gardens – Sandringham Gardens  
Bute Park  
Clare Gardens  
Cyncoed Gardens  
Dispenser Gardens  
Fforest Ganol  
Gabalfa Open Space  
Gelligaer Gardens  
Grange Gardens  
Hailey Park  
Hill-Snook Recreational Grounds  
Howard Gardens  
Jellicoe Gardens  
Katherine Gardens  
Pentre Gardens  
Plasturton Gardens  
Plymouth Great Wood  
Rhigos Gardens  
Roath Botanical Gardens  
Roath Park Lake  
Roath Park Pleasure Grounds  
Roath Park Recreational Grounds  
Roath Park Wild Gardens  
Leckwith Woods  
Llandaff Fields  
Llandaff Village Green  
Llandenis Gardens  
Llanishen Reservoir Lands  
Llwynfedw Gardens  
Loudoun Square Gardens  
Mardy Gardens  
The Marl  
Maitland Gardens  
Merches Gardens  
Roath Mill Gardens  
Moorland Gardens  
Newminster Open Spaces  
Parc Cefn on  
Pengam Recreational Grounds  
Senghenydd Gardens  
Seven Oak Park

Splott Park  
Syr David's Field  
Waterloo Gardens  
Waungron Open Spaces  
The Wenault  
Windsor Esplanade Gardens

## **Part 2**

Caer Castell Open Spaces  
Canton Common  
Cathays Park  
Charlotte square  
Ely Bowling Green  
Ely Quarry Park  
Ely Recreational Grounds  
Fairwater Recreational Grounds  
Fairwater Park  
Rumney Hill Gardens  
Victoria Park  
Gabalfa River Reservation  
Greenway Road Recreational Ground  
Kitchener Gardens  
Llandaff Court Gardens (insole Estate)  
Llanishen Recreational Grounds  
Mynachdy children's playground  
North Crystals Open Spaces  
Robinson Square Gardens  
Splott Housing Open Space  
Trelai Park

## **Bye Laws – 1985 – Flatholm Island Nature Reserve**

Brining in or permitting to remain within the reserve any dog or other animal unless it is kept under proper control and is effectively restrained from injuries or disturbing any animal or bird.

*County Council of South Glamorgan*

## **Byelaws 1986 – Management of cemeteries**

Provided by the Council. A person shall not except as here in after provided, cause or duffer any dog (other than a guide dog accompanied by a blind person) or other animal belonging to him or in his charge to enter or remain in the cemetery.

## **Byelaws 1970 – Pleasure Grounds and open spaces (Amended)**

A person shall not cause or suffer any dog belonging to him or in his charge to enter or remain in the pleasure ground, unless such dog be and continue to be under proper control, and be effectually restrained from causing annoyance to any person, and from worrying or disturbing any animal or waterfowl, and from entering any ornamental water.

## **Part 1 – Pleasure Grounds**

Africa Gardens

Butetown Recreational Ground  
Burt Street Playground  
Caerau Recreational Ground  
Crundale Crescent Open Space  
Heol Llanishen Fach Open Spaces  
Heol Pant Glas Open Spaces  
Llanrumney Open Spaces  
Llanbleddian Gardens.  
Long Wood, Whitchurch  
Maindy Park  
Parkfield Place  
Rumney Recreational Ground  
Ruthin Gardens  
St. Brioc Road playground  
St. Martins Crescent playground  
Waterhall Recreational Ground

## **Part 2 – Open Spaces**

Library Gardens, Whitchurch  
New Road Rumney Open Spaces  
Sophia Gardens  
St Agatha Road Open Spaces  
St. Edwen Gardens Open Spaces  
Whitchurch Common  
Fairwater children's playground  
Heath Park  
Heol Y Gors Recreational Ground  
Leckwith Recreational ground  
Llwyn – Y – Grant Open Spaces  
Lower Gorse Playing Field  
North Llanishen Recreational ground  
Parc – y – pentre  
Pontcanna Lands  
Parc Caedelyn  
Trowbridge Mawr Gardens  
Ty Wern Road Playing Fields.  
Fairwater Green

## **Byelaws Relating to Playgrounds introduced in 1991**

### **Part 1**

Ball Road playground – Pepys Crescent  
Caerleon Park Playground  
Channel view playground - The Marl  
Cogan Terrace playground  
Colwinstone close playground  
Eastern Leisure Centre – Rumney Rec  
Hamacryad playground – Bute Street playground  
Heath Park  
Iron Bridge Road Playground

Lisvane playground  
Llanishen park playground  
Lydstep Crescent playground – Gabalfa open space  
Moorland Road playground – splott housing open space  
Rosedale crescent playground  
Splott Park playground  
Trelai Park playground  
Windsor Esplanade Playground

## **Part 2**

Loudon Square playground  
Moorland Road Library – Moorlands Gardens  
Roath Park playground  
Roath Rec Grounds playground.

## **Byelaws 1993 – Exclusion of Dogs**

### **Part 1**

Adams down Square children's playground  
Caedeylyn park children playground – parc caedelyn  
Castle road children's playground  
Greenfarm road children's playground  
Heritage park Local Park 1 – St. Mellons children's playground  
Helen Street Children's playground  
Llandaff Fields children's playgrounds  
Maindy Park children's playgrounds  
Maitland Park children's playground  
Melrose Park Local Park 5 – Trowbridge children's playground  
North pentwyn park children's playground  
Orchard Park Local Park 1. St. Mellon's children's playground  
Plasnewydd Community Centre children's playground  
Sevenoaks Park children's playground  
Sedgemoor Road children's playground  
Tremorfa Park children's playground – Pengam Recreational Ground.  
Whitland Crescent children's playground – Fairwater Park

### **Part 2**

Bryn Glas children's playground  
Catherine Gardens children's playground  
Danescourt children's playground  
Thompson Park children playground – Syr David's Field.

## **Byelaws 1993 – Hermit Wood Nature Reserve Byelaws (Radyr Woods Community Nature area)**

Bringing in or permitting to remain within the reserve any dog or other animal unless it is kept under proper control and is effectively restrained from injuries or disturbing any animal or bird.

## **Byelaws – 1993 Howardian Local Natural Reserve**

Bringing in or permitting to remain within the reserve any dog or other animal unless it is kept under proper control and is effectively restrained from injuries or disturbing any animal or bird.

**Byelaws - Glamorganshire Canal Local Nature Reserve 1993**

Bringing in or permitting to remain within the reserve any dog or other animal unless it is kept under proper control and is effectively restrained from injuries or disturbing any animal or bird.

**Byelaws – Cwm Nofydd and Fforest Ganol Nautre Reserve – 1999**

Bringing in or permitting to remain within the reserve any dog or other animal unless it is kept under proper control and is effectively restrained from injuries or disturbing any animal or bird.

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**Decision details****Public Space Protection Orders - Dog Control**

- [Find out more about this issue](#)

**Decision Maker:** Cabinet**Decision status:** Recommendations Approved**Is Key decision?:** Yes**Is subject to call in?:** Yes**Purpose:**

Changes to legislation means the Council needs to have a Policy Statement relating to the use of Public Space Protection Orders. This new legislation supports widening enforcement powers to remove antisocial behaviours, in order to deliver a safer, cleaner and more sustainable environment across Cardiff.

**Decision:****RESOLVED:** that

1. Officers be authorised to undertake a 6 -12 week public consultation exercise on the proposal to introduce a Public Spaces Protection Order (PSPO) under the Anti-Social Behaviour, Crime and Policing Act 2014 to introduce dog controls in areas across the Cardiff and to report back to Cabinet.
2. The consultation for dog control specifically looks at:
  - the prohibition of dog fouling in all public places owned and/or maintained by the Council,
  - the exclusion of dogs in all enclosed playgrounds, marked sports pitches and schools, which are owned and/or maintained by Cardiff Council.
  - a requirement that dogs are kept on leads within all Cemeteries owned and/or maintained by Cardiff Council.
  - a requirement allowing authorised officers to give a direction that a dog (s) be put and kept on a lead if necessary,
  - setting the fixed penalty fine for breach of the order to the maximum permitted of £100.
3. The revocation of the current byelaws associated with dog control in Cardiff (appendix d to the report) be endorsed

**Contact:** Andrew Gregory, Director of Strategic Planning, Highways, Traffic & Transportation Email: [Andrew.Gregory@cardiff.gov.uk](mailto:Andrew.Gregory@cardiff.gov.uk) Tel: 0292078 8567.

**Report author:** Andrew Gregory

**Publication date:** 16/07/2018

**Date of decision:** 12/07/2018

**Decided at meeting:** [12/07/2018 - Cabinet](#)

**Effective from:** 26/07/2018

**Accompanying Documents:**

- [Cabinet 12 July 2018 Public Space Protection orders](#)  PDF 153 KB
- [Cabinet 12 July 2018 Public Space Protection orders App A](#)  PDF 220 KB
- Restricted enclosure [View reasons restricted](#)
- [Cabinet 12 July 2018 Public Space Protection orders App C](#)  PDF 42 KB
- [Cabinet 12 July 2018 Public Space Protection orders App D](#)  PDF 65 KB



# Proposed Public Spaces Protection Orders

## Dog Controls



# Survey on Dog Controls

The majority of dog owners are responsible and clean up after their dogs. We understand that dogs need to be exercised and we do not want to prohibit them from enjoying the open spaces that Cardiff has to offer. However, as you may be aware there are persistent issues across Cardiff where dog faeces are not being removed.

In order to tackle these issues, the Council has the authority to implement a Public Spaces Protection Order (PSPO). A PSPO can prohibit or restrict certain activities and are designed to ensure that the law abiding majority can use and enjoy public spaces, safe from anti-social behaviour.

Cardiff Council has the responsibility for the management and maintenance of public spaces across the city. These spaces include parks, sports grounds and cemeteries etc. A full list can be viewed at [www.cardiff.gov.uk/dogcontrols](http://www.cardiff.gov.uk/dogcontrols)

## Q1. Are you responding as: (please tick all that apply)

- |   |  |
|---|--|
| <input type="checkbox"/> A Resident of Cardiff  | <input type="checkbox"/> Someone who works and / or studies in Cardiff |
| <input type="checkbox"/> A Visitor              | <input type="checkbox"/> Councillor / Cabinet Member                   |
| <input type="checkbox"/> A Local Business Owner | <input type="checkbox"/> Other Stakeholder, please state               |

.....

Which area of Cardiff do you live?

- |   |   |   |   |
|---|---|---|---|
| <input type="checkbox"/> Adamsdown            | <input type="checkbox"/> Fairwater      | <input type="checkbox"/> Llanrumney                   | <input type="checkbox"/> Rhiwbina                 |
| <input type="checkbox"/> Butetown             | <input type="checkbox"/> Gabalfa        | <input type="checkbox"/> Pentwyn                      | <input type="checkbox"/> Riverside                |
| <input type="checkbox"/> Caerau               | <input type="checkbox"/> Grangetown     | <input type="checkbox"/> Pentyrch                     | <input type="checkbox"/> Rumney                   |
| <input type="checkbox"/> Canton               | <input type="checkbox"/> Heath          | <input type="checkbox"/> Penylan                      | <input type="checkbox"/> Splott                   |
| <input type="checkbox"/> Cathays              | <input type="checkbox"/> Lisvane        | <input type="checkbox"/> Plasnewydd                   | <input type="checkbox"/> Trowbridge               |
| <input type="checkbox"/> Creigiau & St Fagans | <input type="checkbox"/> Llandaff       | <input type="checkbox"/> Pontprennau & Old St Mellons | <input type="checkbox"/> Whitchurch & Tongwynlais |
| <input type="checkbox"/> Cyncoed              | <input type="checkbox"/> Llandaff North | <input type="checkbox"/> Radyr and Morganstown        | <input type="checkbox"/> Not sure                 |
| <input type="checkbox"/> Ely                  | <input type="checkbox"/> Llanishen      |   |   |

Please provide your postcode below to allow us to more accurately pinpoint respondents views by area:-

.....

**Q2. Are you a dog owner in Cardiff?**

☐ Yes ☐ No

**Q3. Are you a dog walker in Cardiff?**

☐ Yes - As a dog owner ☐ Yes - Walk dogs as a job ☐ No

If yes, on an average dog walk how many dogs do you have with you?

☐ 1 ☐ 2 ☐ 3 ☐ 4+

**Q4. Do you feel there are any areas across Cardiff of concern in relation to dogs being out of control?**

	Yes	No
Dogs being off leads in public areas	<input type="radio"/>	<input type="radio"/>
Dogs being on school grounds	<input type="radio"/>	<input type="radio"/>
Dogs in cemeteries	<input type="radio"/>	<input type="radio"/>
Dogs present in an enclosed playground/play area	<input type="radio"/>	<input type="radio"/>
Other, please state		

**Q5. Are you aware you can dispose of dog faeces in any Council public waste bin in parks or on pavements?**

☐ Yes ☐ No ☐ Don't know

**Q6. Do you think there are enough Council public waste bins across Cardiff in parks?**

☐ Yes ☐ No ☐ Don't know

**Q7. Do you feel these bins are emptied enough?**

☐ Yes ☐ No ☐ Don't know

**Q8. Do you think there are enough Council public waste bins across Cardiff on pavements?**

☐ Yes ☐ No ☐ Don't know

**Q9. Do you feel these bins are emptied enough?**

☐ Yes ☐ No ☐ Don't know

**Q10. Does the current behaviour of dogs in public spaces across Cardiff have, or is likely to have, a detrimental effect on your quality of life?**

- ☐ Yes it has a detrimental effect on my quality of life
 ☐ No, it does not affect my quality of life  
☐ Yes it is likely to have an effect on my quality of life
 ☐ Don't Know

If yes, please explain why

**Q11. Do you agree or disagree with the following proposed restrictions:**

	<i>Strongly Agree</i>	<i>Agree</i>	<i>Neither</i>	<i>Disagree</i>	<i>Strongly disagree</i>
The prohibition of dog fouling* in all public spaces** owned and / or maintained by the council.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The exclusion of dogs in all enclosed playgrounds, marked sports pitches*** and schools, which are owned and / or maintained by Cardiff Council.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
A requirement that dogs are kept on leads within all cemeteries owned and / or maintained by Cardiff Council.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
A requirement allowing authorised officers to give a direction that a dog(s) be put and kept on a lead if necessary.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

**Q12. Do you agree that enforcement measures should be put in place to ensure that dog owners/ walkers carry bags or other suitable means for the disposal of dog faeces?**

- ☐ Yes
 ☐ No
 ☐ Don't know

**Q13. Do you have any suggestions or recommendation to make in relation to the proposed restrictions across Cardiff? If yes please state below:**

**Q14. Are your day-to-day activities limited because of a physical or mental health condition, illness or disability which has lasted, or is expected to last 12 months or more?**

- ☐ Yes - limited a lot
 ☐ Yes - limited a little
 ☐ No
 ☐ Prefer not to say

\*This does not mean that a dog cannot foul, but that it would be an offence if the owners or the person responsible for that dog(s) failed to remove the dog faeces.

\*\*Means any place to which the public or any section of the public has access, on payment or otherwise, as of right by virtue of express or implied permission.

\*\*\*This would only apply when the sports pitches are marked – this may be a seasonal ban prohibiting dogs from entering marked sports pitches when they are in use during certain times of the year. Dogs can run freely outside of play areas or marked sports pitches at times when marked sports pitches are not marked (outside of peak season)



#### Q15. How old are you?

- |                                |                             |   |
|--------------------------------|-----------------------------|---|
| <input type="radio"/> Under 16 | <input type="radio"/> 35-44 | <input type="radio"/> 65-74             |
| <input type="radio"/> 16-24    | <input type="radio"/> 45-54 | <input type="radio"/> 75+               |
| <input type="radio"/> 25-34    | <input type="radio"/> 55-64 | <input type="radio"/> Prefer not to say |

The information that you provide in completing this form will be treated as confidential, in line with the requirements of the Data Protection Act 2018 and the General Data Protection Principles.

Any data supplied by you on this form will be processed in accordance with Data Protection Act requirements and in supplying it you consent to the Council processing the data for the purpose for which it is supplied. All personal information provided will be treated in the strictest confidence and will only be used by the Council or disclosed to others for a purpose permitted by law.

If you wish to withdraw consent at any time, please email **[consultation@cardiff.gov.uk](mailto:consultation@cardiff.gov.uk)**  
For further information on how we process your personal data please refer to our Privacy Policy - or contact the **Data Protection Officer, Room 357, County Hall, CF10 4UW**,  
email: **[dataprotection@cardiff.gov.uk](mailto:dataprotection@cardiff.gov.uk)**

## Thank you for your time

The results of this survey will be published on  
**[www.cardiff.gov.uk/haveyoursay](http://www.cardiff.gov.uk/haveyoursay)** in due course.

Please return this questionnaire to  
**Room 401,  
County Hall,  
Atlantic Wharf,  
Cardiff  
CF10 4UW**  
or complete online at **[www.cardiff.gov.uk/askcardiff](http://www.cardiff.gov.uk/askcardiff)**

Please return by **22nd October 2018**

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# Dogs on Play Areas

## The Problem

Dogs on children's playgrounds represent a major health and injury hazard:

- Toxocariasis - a rare infection caused by roundworm parasites, most commonly found in cats, dogs and foxes faeces.
- Children and young adults are usually affected due to contact with contaminated soil or sand within play areas by swallowing the infected egg.
- There is evidence that dogs can also carry E.coli and hepatitis in their faeces.
- There are over 7,000 admissions to hospital for dog bites and attacks annually in the U.K. and under 10's were most likely to be admitted. (NHS Digital)

## The Law

### **The Anti-social Behaviour, Crime and Policing Act: 2014 Dog control orders / Public space protection orders**

[www.gov.uk/control-dog-public/overview](http://www.gov.uk/control-dog-public/overview)

Under the Anti-social Behaviour, Crime and Policing Act 2014. Any person who permits a dog in their charge to foul any area that has a Dog Control order or Public space protection order enforcement is committing an offence.

Parish Councils can change or revoke existing dog control orders but can no longer make new ones. From October 2017, existing DCO's will become public space protection orders (PSPO's).

Public space protection orders will be set up by District Councils (but not Parish Councils) and they only apply to public land.

## Protecting children and play areas

There are a number of measures which can be taken to reduce the problems of dogs on playgrounds before considering design solutions:

- provide a fenced exercise area for dogs
- require dogs to be on a lead in parks and recreation fields
- provide poop-scoops and containers
- empty them regularly
- request owners to remove faeces
- provide clear signs
- develop publicity and education programmes

### Designing the play area

There are a number of design solutions to dog fouling and dog attacks:

- fencing
- self-closing gates or dog-grids
- provide clear signs banning dogs
- provide a catch for leads on the outside of the fence

### Maintaining the play area

Removing dog faeces from the playground is an unpleasant task for maintenance and cleansing staff. Some loose-fill surfaces (sand/bark) in areas will also attract cats which can also spread diseases in their droppings. In some areas fox and sheep droppings may be a problem. Operators should:

- check the playground regularly, preferably daily
- remove any faeces
- have an approved system for collection and disposal
- A leaflet on chemicals on playgrounds is available.

### Guide dogs

Guide dogs for the visually impaired are generally excluded from this advice.

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### Contact Us

Playsafety Ltd \*

+44 (0)1793 317470

[info@rospaplaysafety.co.uk](mailto:info@rospaplaysafety.co.uk)

Unit 78, Shrivenham Hundred Business Park, Watchfield, Swindon, SN6 8TY

[Contact form](#)

*\* RoSPA's activities in the area of play safety are carried out under an exclusive licence arrangement by an independent and highly experienced specialist company, "Playsafety Ltd" which trades under such licence as "RoSPA Play Safety".*