

COUNCIL:

18 JULY 2019

REPORT OF THE CABINET MEMBER FOR CULTURE & LEISURE

PUBLIC SPACES PROTECTION ORDERS – DOG CONTROLS

Reason for Report

1. For Council to note and approve the dog controls being introduced in the Cardiff Public Spaces Protection (Dog Control) Order 2019.

Background

2. At the Cabinet meeting on 11th July 2019, the Cabinet approved a draft Cardiff Public Spaces Protection (Dog Control) Order 2019, and agreed that this matter should be reported to full Council.

Issues

3. Local authorities understand well how anti-social behaviour can blight the lives of people in their local communities, with those affected often feeling powerless to act. Councils have a key role to play in helping make local areas safe places to live, visit and work and tackling anti-social behaviour continues to be a high priority for local authorities and their partners.
4. The Anti-social Behaviour, Crime and Policing Act 2014 introduced several new tools and powers for use by councils and their partners to address anti-social behaviour (ASB) in their local areas. These tools replaced and streamlined a number of previous measures.
5. Public Space Protection Orders (PSPOs) are one of the tools available under the 2014 Act. These are wide-ranging and flexible powers for local authorities, which recognise that councils are often best placed to identify the broad and cumulative impact that ASB can have. The Act gives councils the authority to draft and implement PSPOs in response to the particular issues affecting their communities, provided certain criteria and legal tests are met.
6. Councils can use PSPOs to prohibit specified activities, and/or require certain things to be done by people engaged in particular activities, within a defined public area. PSPOs differ from other tools introduced under the Act as they are council-led, and rather than targeting specific individuals or properties, they focus on the identified problem behaviour in a specific location.

7. The legislation provides for restrictions to be placed on behaviour that apply to everyone in that locality (with the possible use of exemptions). Breach of a PSPO without a reasonable excuse is an offence.
8. Orders can be introduced in a specific public area where the local authority² is satisfied on reasonable grounds that certain conditions have been met. The first test concerns the nature of the anti-social behaviour, requiring that:
 - activities that have taken place have had a detrimental effect on the quality of life of those in the locality, or it is likely that activities will take place and that they will have a detrimental effect and
 - the effect or likely effect of these activities:
 - is, or is likely to be, persistent or continuing in nature;
 - is, or is likely to be, unreasonable; and
 - justifies the restrictions being imposed.
9. Following a review of complaints and concerns relating to the control of dogs in public spaces across Cardiff, the Cabinet supported a consultation on dog control measures to get a citizen view on dog control measures and associated aspects such as whether there were adequate bins in parks for disposing of dog fouling.

Consultation on Proposals

10. The Council carried out a consultation on dog controls for 6 weeks from the 10th September to the 22nd October 2018. This consultation was advertised on the Council's website, social media and via posters that were displayed in each community hub and library across Cardiff. The reporting methods to respond to the consultation were via email, post, survey, publication through Council websites and social media.
11. In total, there were 6,002 responses to the public consultation on dog controls.
12. The consultation promoted comprehensive debate relating to the banning of dogs from sports pitches, the outcome of which was that this aspect was not included in the draft proposals for the introduction of a Public Space Protection Order for Dog Controls.
13. There was a subsequent consultation on the wording of the draft Public Space Protection Order for the introduction of Dog Controls. There were limited responses to this second consultation and on 11th July 2019 Cabinet approved the draft Public Space Protection Order for the introduction of Dog Controls.

Dog Controls

14. The draft Cardiff Public Space Protection (Dog Control) Order 2019 (**Appendix A**) includes:

1. The prohibition of dog fouling (unless it is immediately removed) in all public spaces owned and/or maintained by the Council.
2. The requirement for a dog owner to have a means of clearing dog fouling.
3. The exclusion of dogs in all enclosed playgrounds and schools, which are owned and / or maintained by Cardiff Council.
4. The requirement that dogs are kept on a lead within all cemeteries owned and / or maintained by Cardiff Council.
5. A requirement allowing authorised officers to give a direction that a dog (s) be put and kept on a lead if necessary.
6. The fixed penalty notice charge for a breach of a Public Spaces Protection Order for dog controls, as set out above, is set at £100.
7. The dog controls will be exempt for persons who have a disability that affects the person's mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a registered charity and upon which the person relies for assistance.

Next Steps

15. The Council will formally make the Public Spaces Protection Order and will publish the Order.
16. The development of a media programme to support the promotion of the new Public Spaces Protection Order for Dog Controls across Cardiff. This will also include welfare messages relating to keeping dogs in cars due to the associated dog controls.
17. The Street Scene team will design and implement signage across the Public Spaces in the Order to support education and enforcement.

Legal Implications

18. As noted in the body of the report, the Council has statutory power (under section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014, 'the 2014 Act') to make a Public Space Protection Order (PSPO) if it is satisfied that:
 - (i) activities carried on in a particular area have had a detrimental effect on the quality of life of those in the locality, or are likely to do so; and (ii) the effect of the activities is, or is likely to be, persistent or continuing and unreasonable, and justifies the restrictions being imposed.
19. The making of a PSPO is an executive function by virtue of section 13 of the Local Government Act 2000 and the Local Authorities (Executive

Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007. This means that Cabinet has the power to approve the draft Order, subject to compliance with the statutory criteria and procedure set out in the 2014 Act and associated statutory guidance.

20. Details of the statutory requirements were set out in the report to Cabinet on 11th July 2019 and the draft Order has been prepared having full regard to the same.
21. After a PSPO is made, the Council is required (by statutory regulations SI 2014/2591) to publish the Order on its website and erect notices on or adjacent to the land in question (where the dog controls apply) which are sufficient to draw public attention to the restrictions imposed by the Order.
22. The validity of the Order may be challenged within 6 weeks after it is made, by application to the High Court. The Court may quash the Order or any of the prohibitions or requirements imposed by the order if it is satisfied that (a) the Council did not have power to make the order, or to include particular prohibitions or requirements imposed by the order, or (b) the interests of the applicant have been substantially prejudiced by a failure to comply with the statutory requirements.
23. Any byelaws relating to activities regulated by a PSPO are of no effect during the currency of the Order (by virtue of section 70 of the 2014 Act). This means there is no necessity to revoke any existing bye-laws imposing controls on dogs, since they are of no effect while the PSPO is in force.
24. It should be noted that the introduction of a Public Space Protection Order is likely to lead to an increased number of criminal prosecutions in the Magistrates' Court, with a consequential increase in the legal resources required to manage this additional work.

Financial implications

25. The introduction of a Public Space Protection Order for Dog Controls will be funded from within existing resources.

RECOMMENDATION

The Council is recommended to note and approve the draft Cardiff Public Spaces Protection (Dog Control) Order 2019 and the arrangements to be made for its implementation.

CABINET MEMBER FOR CULTURE & LEISURE

11 July 2019

Appendices

Appendix A draft Cardiff Public Spaces Protection (Dog Control) Order 2019

Background papers

Cabinet report 'Public Space Protection Order – Dog Controls – Draft Order', July 2019