

REPORT OF Public Health and Housing Manager

To: Full Council

Subject: Public Spaces Protection Order – Dog control provisions across the District.

Date: 11th April 2022

PURPOSE OF REPORT:

1. To seek designate dog control Public Spaces Protection Orders for defined locations across Torridge under section 59 of the Antisocial Behaviour, Crime and Policing Act 2014

1. Introduction

In 2013 TDC introduced a series of Dog Control Orders (DCOs) under the Clean Neighbourhoods and Environment Act 2005. This designated offences of failing to pick up faeces, failure to put a dog on a lead (by location or by direction) and exclusion of dogs from specified areas.

The DCO provisions were superseded by the Anti-Social Behaviour Crime and Policing Act 2014. The provisions available under this Act to tackle dog related issues is by the designation of a Public Spaces Protection Order (PSPO). These provision must be reviewed every 3 years and so we are seeking to continue with the majority of existing provisions in place across the district. Updates to some of the provisions of the PSPO are highlighted later in this report.

PSPO's are a legal tool that are used to stop individuals or groups committing antisocial behaviour or nuisance in a public space that is detrimental to the local community's quality of life. The test in implementing a PSPO must be that the behaviour being restricted has to:

- Be having, or be likely to have, a detrimental effect on the quality of life of those in the locality;
- Be persistent or continuing in nature; and
- Be unreasonable; and
- Justifies the restrictions imposed.

In implementing a PSPO, restrictions or requirements to address the antisocial behaviour must be set by the council. PSPO's can be enforced by a police officer, police community support officers and authorised council enforcement officers. A breach of a PSPO is a criminal offence and can result in a fixed penalty notice of £100 on breach of an order. Alternatively a fine of up to £1000 can be imposed by the court on conviction for the breach.

A PSPO can be appealed to the High Court by anyone who lives in, or regularly works or visits the area within six weeks of issue or variation of the Order.

2. Consultation process

The process to implement a PSPO's is prescribed and must include a consultation process. This has consisted of the following:

1. Direct notification of the draft provisions and consultation document to all Town and Parish Councils, all District and Torridge County Council members, Police and OPCC, Dogs Trust and RSPCA.
2. Publication of the draft provisions and consultation link on the TDC website and promotion through press releases, social media and local radio.

The consultation took place from the 11th February until the 28th March. A copy of the draft order and coverage of the provisions are given in appendix 1 of this report.

3. Outline of the provisions/ offences proposed:

What	Where	When
Dog Fouling	District Wide	All year
Dogs on lead by direction	District Wide	All year
Beach ban	Westward Ho!	1 st May – 30 th September
Dogs on lead	Westward Ho! Promenade	1 st May – 30 th September
Dog exclusion *	Westward Ho! Park tennis courts	All year
Dogs on lead *	Westward Ho! Park	All year
Dogs on lead	Victoria Park Bideford	All year
Dog exclusion – children's play areas **	District Wide	All year

* New provision

** Modified provision

It is proposed the majority of existing provisions are carried over into the new Order, in particular the well-established Westward Ho! seasonal dog exclusion arrangements which are a requirement to maintain its Blue Flag status.

The inclusion of the Westward Ho! Park mirrors reiterates existing by-laws and clarifies/ supports enforcement of controls at the site.

The revised order also has the following changes:

- Children's play areas: The current order lists children's play areas that are specified as dog exclusion zones. These proposals take a different approach – any enclosed children's play area (as defined) falls under the order. This means that Parish and Town Councils can enact these provisions for a new play area simply by way of their enclosure. If a Town or Parish Council doesn't want it included in the order there's the clause that suspends the exclusion on the basis that: *"The owner, occupier or other person or authority having control of the restricted areas has consented (generally or specifically) to them failing to do so."*
- The current order specified that the provisions related to 'nuisance to people or other animals'. These provisions expand this to 'people, other animals, *livestock and wildlife*'. This is to make explicit in the order issues around livestock worrying and roost interference.

4. Response to the consultation

The consultation ran from 11th February to 28 March and a total of 214 responses were received. These are given in full in Appendix 2 to this report.

5. Summary of Responses

As expected, the consultation has elicited a range of responses, opinions and comments on the proposed measures. However, with particular regard to the responses to questions 8 to 15 and 18 of the survey, there appears to be clear support for the measures put forward in the draft PSPO. However, members are asked to note all the comments given in the consultation response in order to inform their position on the proposals.

6. Breakdown of complaints to TDC on dog related issues

The Neighbourhood Enforcement Team receive direct complaints relating to a range of dog related issues. A breakdown of those are as follows:

	Stray dogs	Fouling	Dangerous dogs
2017	107	69	32
2018	77	58	24
2019	78	70	25
2020	32	39	30
2021	25	73	37
2022 (Q1)	5	22	4

7. Enforcement of PSPO provisions

A number of the consultation comments relate to the enforcement of the provisions should they be enacted. Members are reminded that the need to review the PSPO covering a locality is a legal requirement and that we have had enforceable provisions in place for some time. We do issue warnings and carry out enforcement action as a result; for example, over the period given above, a total of 8 fixed penalty notices have been served for dog fouling. We are currently reviewing our enforcement plans, including in conjunction with our Burrows wardens in relation to specific issues in that area. However, this report only relates to the implementation of the provisions, without which we will be limited in taking any sort of enforcement action for dog related issues.

8. Consideration of the test for implementing a PSPO

1. Be having, or be likely to have, a detrimental effect on the quality of life of those in the locality

Consultation responses as well as complaints made to the Council on dog related issues show that irresponsible dog ownership has a detrimental effect on the quality of life across the district.

2. Be persistent or continuing in nature

The number of incidents reported have persisted over the 5 years up to this review. Consideration must also be given to those incidents that do not get reported directly but come through other means such as complaints to members, Town and Parish Councils, and on a regular basis, local social media.

3. *Be unreasonable*

The vast majority of dog owners are responsible individuals and no issues arise from their animals. It is a small percentage of irresponsible owners who cause antisocial and potentially dangerous behaviour which has a negative impact on communities. These actions cannot be viewed as reasonable.

4. *Justifies the restrictions imposed.*

Taking into account the above factors, it is proposed that the provisions consulted upon meet the necessary test for implementing a PSPO, and put this forward to committee for approval.

9. Implications

Legal Implications

Imposition of Public Space Protection Orders are available to Local Authorities under section 59 of the Antisocial Behaviour, Crime and Policing Act 2014 to address antisocial behaviour and nuisance issues that are having or a likely to have a detrimental effect on the local community. Certain tests must be met in order to impose an order and must be taken into consideration at the final decision stage of the PSPO. This consultation process seeks to determine public need and impacts of imposing such an order.

Financial Implications

N/A

Human Resources Implications

NA

Sustainability/Biodiversity Implications

N/A

Equality/Diversity

N/A

Risk Management

PSPO provisions are designed to address antisocial behaviour and nuisance issues that are having or are likely to have a detrimental effect on the local community. Failure to implement this or implement them effectively may lead to the continuation of this nuisance or antisocial behaviour.

Conversely, it should be noted that draconian implementation of these provisions has drawn negative, sometimes national, press therefore any provisions must be carefully considered and be a fair and proportionate response to evidenced need.

Without PSPO provisions in place we are limited in enforcement options to deal with dog related issues within Torridge.

It should also be noted that the following is are a requirement of the Blue Flag award status for Westward Ho! beach:

Criterion 23. Access to the beach by dogs and other domestic animals must be strictly controlled.

Dogs or pets, other than assistance dogs are not allowed on a Blue Flag beach or in the Blue Flag area if it is part of a larger beach. If the presence of pets is permitted by the local and national legislation, animals are only allowed in the parking areas, walkways and promenades in the inland beach area and must under control.

Compliance with Policies and Strategies

NA

Data Protection (GDPR) Implications

NA

Climate Change

NA

Lead Member Views – Cllr Hackett

I support the approval of this Order

8. CONCLUSIONS

The consultation on the PSPO dog control proposals show the legal test has been met and the need for the provisions to be put in place.

9. RECOMMENDATIONS

That the Public Space Protection Order for Dog Control under section 59 of the Antisocial Behaviour, Crime and Policing Act 2014 be approved.

SUPPORTING INFORMATION

Consultations:	Lead Member for Public Health – Cllr Hackett
Contact Officer:	Jan Williams Public Health and Housing Manager
Background Papers:	None