

Title of meeting: Cabinet Member for Community Safety & Environment

Date of meeting: 20 December 2021

Subject: Extension of the PSPO (Dog Controls)

Report by: Director of Culture, Leisure and Regulatory Services

Wards affected: All

Key decision: No

Full Council decision: No

1. Purpose of report

- 1.1 To seek approval for the extension and variations of the existing Public Spaces Protection Order ('PSPO') in relation to dog fouling and dog controls.

2. Recommendations

- 2.1. The Cabinet Member notes the outcome of the consultation on proposals to extend and vary the PSPO.
- 2.2. The Cabinet Member approves a variation to the existing PSPO in the following terms:
- To include in the 'prescribed charity'
 - Assistance Dogs UK registered charity (119538)
- 2.3. The Cabinet Member approves the extension of the PSPO for a further 3 years (07.01.2025).

3. Background

- 3.1. Section 59 and Section 62 of the Anti-Social behaviour, Crime and Policing Act 2014 enabled Portsmouth City Council ("the Council") to introduce a PSPO to replace the Dog Control Order introduced in 2011 (Section 51 of the Clean Neighbourhoods and Environment Act 2005).
- 3.2. Local authorities may use PSPO's to prohibit specified activities and require certain things to be done by people engaged in particular activities within a defined area. PSPOs differ from other tools 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.

- 3.3. The 2014 legislation enabled PCC to cover all aspects of owner's responsibility, fouling of land by dogs, dog exclusion areas and dogs on lead under one PSPO following full consultation in accordance with the Act and statutory guidance, currently contained in the "Anti-Social Behaviour, Crime and Policing Act 2014: Anti-social behaviour powers" revised in January 2021.
- 3.4. The PSPO made under the 2014 legislation is cited as the Portsmouth City Council (Dog Controls) PSPO which was enacted on 7th January 2019. Under s.60 of the 2014 legislation, PSPOs can only last for a maximum 3-year period unless extended. Unless the Council extends or varies this Order before it has expired, it shall expire 7th January 2022.
- 3.5. In order to extend the PSPO for a further period, the Council must be satisfied on reasonable grounds that extension is necessary to prevent:
 - a) occurrence or reoccurrence of the activities identified in the PSPO after the expiry of the current PSPO; and
 - b) an increase in the frequency or seriousness of those activities after the expiry of the PSPO.
- 3.6. The Council must also be satisfied that it is reasonable to vary the PSPO to add amended and/or new requirements to prevent, reduce or reduce the risk of the continuance, occurrence or recurrence of the detrimental effect that those activities specified in the PSPO have had, or are likely to have, on the quality of life of those in the proposed areas.
- 3.7. The intended purpose of the Portsmouth City Council (Dog Controls) PSPO is considered to have been successful with the majority of persons accepting the controls put in place and where these have been ignored, there are powers to issue Fixed Penalty Notices.

4. Reasons for recommendations

- 4.1. If the Council does not extend the existing PSPO it will cease to have effect. This would mean that officers could not take action and may lead to serious issues with dog fouling and dog control.
- 4.2. The existing PSPO will only remain in force up to three years (07.01.2022). The PSPO may be extended for a further 3 years (2025).
- 4.3. Dog fouling has and is likely to continue to have a detrimental effect on the quality of life of people in the City and it is for the benefit of the public that there are clear restrictions in place to prevent dog fouling and to enforce responsible dog ownership.



- 4.4. In addition to causing public nuisance, dog faeces can, on rare occasions in children lead to Toxocariasis, which can lead to blindness.
- 4.5. The response from consultation with City Councillors, The Kennel Club, Police and Crime Commissioner and Senior Hampshire Police Officer is broadly supportive. The detrimental effect on the quality of life of people in the City and the effect or likely effect of the activities is likely to be persistent, unreasonable, and therefore justifies the restrictions proposed.
- 4.6. The PSPO will be subject to a regular review as the maximum duration is of up to three years after which it may be extended again if certain criteria under section 60 of the Act are met. This includes consideration of whether an extension is necessary to prevent activity from reoccurring or there has been an increase in frequency or seriousness of the activity.
- 4.7. The powers / restrictions imposed by the proposed PSPO would not apply to those who are registered blind or use an Assistance Dog from Dogs for the Disabled, Support Dogs and Canine Partners for Independence or Hearing Dogs.
- 4.8. In order to approve the recommendations in respect of dog controls, the Cabinet Member has to be satisfied that the need to provide safe places to exercise dogs has been balanced against the interests of those who may be affected by the activities of dogs.
- 4.9. If the Cabinet Member approves the recommendations, the extended and varied Order will be published on the Council's website and implemented from 07.01.2022. Additional and/or amended signage, where necessary, will be erected and the PSPO will be kept under review to ensure it is still necessary.

5. Integrated impact assessment

- 5.1. A full Integrated Impact Assessment was carried out and shows how it relates Communities and Safety, Environment and Public Space and Equalities and Diversity.
- 5.2. The PSPO will enable enforcement action against those who allow their dogs to foul the highways and open spaces in Portsmouth. Keeping footpaths and open spaces clean of dog faeces will be monitored by the community safety team.
- 5.3. By keeping our footpaths and open spaces clean of dog faeces, it will improve the quality of the footpaths and green spaces making for a safer city for all residents and visitors.
- 5.4. The PSPO will not apply those who use assistance dogs or those with a disability which affects their mobility.

6. Legal implications

- 6.1. The Anti-Social Behaviour, Crime and Policing Act 2014 (sections 59 to 75) set out the requirements for a PSPO to be made and the procedures for consultation, publicity and notification of orders before a PSPO is made.
- 6.2. The Council must be satisfied on reasonable grounds that the prohibitions imposed are ones that are reasonable to impose in order to prevent the detrimental effect from continuing, occurring or recurring or to reduce the detrimental effect or reduce the risk of its continuance, occurrence or recurrence.
- 6.3. Section 61 of the 2014 legislation provides a power to vary a PSPO by altering or removing a prohibition or requirement included in the Order or adding a new one.
- 6.4. Section 72 details the requirements for consultation rights, consultation, publicity and notification. Consultation includes consulting the chief officer of police and the local policing body, any community representatives the LA thinks it appropriate to consult and the owner or occupier of land within restricted areas (where this is not the Council). In addition, consultation should be undertaken with animal law and welfare organisations.
- 6.5. The Cabinet Member must consider the results of the consultation and the evidence in support of making the PSPO in the terms attached.
- 6.6. Following the making of an order by the LA, 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. An interested person is someone who lives in, regularly works in or visits the area in question.
- 6.7. The enforcement of breaches of the PSPO will continually to be initially enforced through the use of a simple fine under a fixed penalty notice in most cases and then to criminal prosecution in the Magistrates' Court if not paid.
- 6.8. The Cabinet Member has the power to make the recommendations contained within this report.

7. Director of Finance's comments

- 7.1. Any costs arising from the recommendations in this report will be met from existing budgets.

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Signed by:
Stephen Baily
Director of Culture, Leisure and Regulatory Services

Appendices:

1. Integrated Impact Assessment
2. Draft PSPO
3. Kennel Club consultation
4. P&CC and Hampshire Constabulary consultation

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
Appendix 1. Integrated Impact Assessment	Attached
Appendix 2. Draft PSPO	Attached
Appendix 3. Kennel Club consultation	Attached
Appendix 4. P&CC and Hampshire Constabulary consultation	Attached

The recommendation(s) set out above were approved/ approved as amended/ deferred/
 rejected by on

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Signed by:
Councillor Dave Ashmore
Cabinet Member for Environment & Community Safety