



ADUR & WORTHING
COUNCILS

Joint Strategic Committee
5 March 2019
Agenda Item 11

Key Decision [~~Yes~~/No]

Ward(s) Affected: All

The Future of Public Space Protection Orders for Dogs

Report by the Director for Communities

Executive Summary

1. Purpose

- On 18 December 2019, two Public Space Protection Orders (PSPO) for Dogs will expire.
- The orders can be extended or amended for a further 3 years if certain conditions are met.
- This report outlines the conditions for extending or amending the orders, the process and the timeline that needs to be followed if members wish to extend or amend the orders and recommendations as to next steps.

2. Recommendations

2.1 Joint Strategic Committee is recommended to resolve to recommend to Adur District Council and Worthing Borough Council that :

- (a) Adur District Council PSPO No.1 Dogs, is amended and extended in its revised form for a further three years until 18 December 2022.

(b) Worthing Borough Council PSPO No.4 Dogs, is amended and extended in its revised form for a further three years until 18 December 2022.

3. Context

- 3.1 The Anti Social Behaviour, Crime and Policing Act 2014 provides a power to local authorities to implement Public Space Protection Orders (PSPOs) in specified locations to prevent a particular nuisance or problems in a specified area that is detrimental to the local community's quality of life.
- 3.2 A PSPO is designed to deal with a particular nuisance or problem by placing conditions on the use of the area and providing sanctions for those that do not comply. The breach of a PSPO is a criminal offence for which a fixed penalty notice can be issued and on summary conviction, a fine of up to £1,000 can be imposed. The fixed penalty can be up to £100. At the time of implementation in 2016, Adur and Worthing Councils set the fixed penalty for breach of a PSPO at £50.
- 3.3 On 19 December 2016, Adur District Council and Worthing Borough Council implemented the following two Public Space Protection Orders (PSPOs), using the powers contained within the Anti Social Behaviour, Crime and Policing Act 2014. These PSPOs were a conversion from pre-existing Dog Control Orders. The following PSPOs were proposed and agreed:
- Adur District Council PSPO No.1 Dogs.
Worthing Borough Council PSPO No.4 Dogs.
- 3.4 Under the terms of the Anti Social Behaviour, Crime and Policing Act 2014, the maximum term of the orders is 3 years. The current orders will all expire on 18 December 2019.
- 3.5 Local Authorities are able to extend a Public Space Protection Order under Section 60 (2) of the Anti Social Behaviour, Crime and Policing Act if it believes that the order is necessary to to prevent occurrence or recurrence of the activities identified in the order or, an increase in frequency or seriousness of those activities.
- 3.6 If Members decide to extend the orders unchanged for a further 3 years, there is a requirement to consult relevant stakeholders. This would include the local police and any other community representatives thought appropriate.

- 3.7 If Members however, decide to vary or amend any or all of the orders, the proposed changes to the conditions will also require to be consulted upon.
- 3.8 Consultation was previously undertaken in 2016 and the same process will need to be followed if the orders are to be amended. This will comprise:
- A Public consultation survey on Adur and Worthing Councils' website
 - Surveys with local residents who make use of areas affected by the PSPO's.
 - Notices placed at key entrances to areas affected by the PSPO's proposed changes such as parks, open spaces and foreshores where applicable.

There is also a requirement to consult with the Police Crime Commissioner and the Chief Officer of Police, appropriate community representatives and if applicable the owner or occupier of land within restricted areas.

- 3.9 The timeline for the consultation process is displayed in the table below.

Action	Date
Report to JSC - decision to extend or amend current orders	March 2019
Consultation Period - consult stakeholders, online survey, focus groups, face to face surveys, social media	June/ July 2019
Return to JSC with results of consultation and agree to implement orders as per terms consulted on	September 2019
Full Council - Ratify extension	October 2019

4. Issues for consideration

- 4.1 Public Space Protection Orders must be evidence based. It is therefore necessary for decision makers to be satisfied, on reasonable grounds, that the following two conditions are met, should they wish the orders to continue.

Condition 1

Activities carried out in a public space within the local authority's area have had detrimental effect on those in the locality, or it is likely that activities carried out in a public place will have such an effect.

Condition 2

The effect or likely effect of the activities is, or is likely to be, of a persistent and continuing nature and is, or is likely to be such as to make these activities unreasonable, and this justifies the restrictions imposed by the notice.

- 4.2 In order to extend the two orders, members should be satisfied that the above two conditions are met. The following information regarding the two PSPO's is included in order to support this decision making process.

4.3 Adur District Council PSPO No.1 Dogs

- 4.3.1 This order covers all of the Adur district and allows authorised officers to enforce the PSPO when breaches of the order are witnessed, either directly or through a member of the public providing a suitable statement of witness.

Breaches are as follows, failure to remove dog faeces, failure to put a dog on a lead if directed to do so, failure to have a dog on a lead in a 'dogs on lead' area, taking a dog onto a dog exclusion area and a person being in charge of more than 6 dogs at any one time.

- 4.3.2 The current PSPO was converted from a pre-existing Dog Control Order in 2016. The PSPO is an essential tool incorporating itself as part of the dog control service. The service deals with collection of straying dogs, returning stray dogs home, rehoming abandoned dogs through various animal charity organisations, responding to noise complaints and utilising Community Protection Notices to tackle persistent cases of a range of nuisances caused by dogs and irresponsible dog owners, investigating Animal Welfare cases and inspecting animal licensable establishments. The PSPO provides a balanced system for dogs and their owners to enjoy the freedom to exercise their dogs but also for the general public to enjoy particular environments such as specified beaches in summer without the presence of dogs. It should be mentioned that most dog owners abide by these set rules, however the ability to issue fixed penalty notices is reserved for dog owners who flout the rules.

4.3.3 The table below depicts the number of fixed penalty notices (FPN) issued during the current PSPO period.

Year	2017	2018
FPN's issued	7	1

4.3.4 The table below depicts what category a FPN was issued under and the Outcome.

Category	Year	Number	Outcome
Failure to remove dog faeces	2017	7	7 fines paid
Failure to remove dog faeces	2018	1	1 fine paid

4.3.5 There has been a drop in the number of FPN's issued between 2017 and 2018. The Dog Control Service transferred to Public Health & Regulation Section on 1 May 2018 and has undergone a reshaping of the service. One of the main changes was in the dealing with complex cases surrounding anti social behaviour displayed by irresponsible dog ownership and nuisance dogs and the utilising of Community Protection Notices for the first time, in order to deal more effectively with these types of cases. This requires resources to be directed elsewhere and may also have reduced the the time committed to routine patrols. Going forward however this should rebalance to allow for patrols to be conducted.

Other reasons for the drop in FPNs may be the need for an authorised officer to witness an offence being committed or receiving a valid witness statement from a member of the public who has witnessed such an event and gaining their permission to be involved in legal proceedings if required. Also, the public may be more aware of their requirement to comply with the PSPO and an overall reduction in the number of offences being committed hence no FPN's being issued.

4.4. Options for Adur District Council PSPO No.1 Dogs

4.4.1 The Committee is asked to consider the options of

1. Continuing with the PSPO as it is;
2. Amending the PSPO; or
3. Removing the PSPO.

4.4.2 As previously stated, we must be satisfied that there is an evidenced need to retain the powers contained in the PSPO and that Conditions 1 and 2 are met.

4.4.3 Dog fouling complaints continue to be received at higher levels by the Public Health & Regulation Section. From April 2017 to March 2018, **84 complaints** of dog foul were received and from April 2018 to December 2018, **34 complaints** of dog foul were received. These figures show a decrease between 2017 and 2018, however 2018 covers 9 months only.

4.4.4 Complaints received help us to focus on 'hot spots' for dog fouling and to focus patrols in these areas, hence the provision or issuing fixed penalty notices is required. It is considered that the two conditions highlighted above are met.

4.4.5 The fine for a fixed penalty notice is currently £50, however the legislation allows for fines up to £100. In comparison, neighbouring authorities such as Arun District Council, Horsham District Council and Brighton & Hove City Council's fines range between £75 and £100.

4.5 Recommendation for Adur District Council PSPO No.1 Dogs

4.5.1 It is recommended that Adur District Council PSPO No.1 Dogs is amended from its current form in order to consider matters previously mentioned at 4.4.5. A consultation process as described at 3.9 will be required.

4.5.2 In order to assist in cost recovery and to be more of a deterrent it is recommended to consult with a view to increase the fine to £100.

4.6 Worthing Borough Council PSPO No.4 Dogs

4.6.1 This order covers all of the Worthing borough and allows authorised officers to

enforce the PSPO when breaches of the order are witnessed, either directly or through a member of the public providing a suitable statement of witness.

Breaches are as follows, failure to remove dog faeces, failure to put a dog on

a

lead if directed to do so, failure to have a dog on a lead in a 'dogs on lead' area, taking a dog onto a dog exclusion area and a person being in charge of more than 6 dogs at any one time.

4.6.2 The current PSPO was converted from a pre-existing Dog Control Order in 2016. The PSPO is an essential tool incorporating itself as part of the dog control service. The service deals with collection of straying dogs, returning stray dogs home, rehoming abandoned dogs through various animal charity organisations, responding to noise complaints and utilising Community Protection Notices to tackle persistent cases of a range of nuisances caused by dogs and irresponsible dog owners, investigating Animal Welfare cases and inspecting animal licensable establishments. The PSPO provides a balanced system for dogs and their owners to enjoy the freedom to exercise their dogs but also for the general public to enjoy particular environments such as specified beaches in summer without the presence of dogs. It should be mentioned that most dog owners abide by these set rules, however the ability to issue fixed penalty notices is reserved for dog owners who flout the rules.

4.6.3 The table below depicts the number of fixed penalty notices (FPN's) issued during the current PSPO period.

Year	2017	2018
FPN's issued	33	3

4.6.4 The table below depicts what category a FPN was issued under and the Outcome.

Category	Year	Number	Outcome
Failure to remove dog faeces	2017	27	24 fines paid 1 FPN rescinded 1 referred to legal- not proceed 1 referred to legal- successful prosecution
Failure to have a dog	2017	5	5 fines paid

on a lead			
Dog in an exclusion area	2017	1	1 FPN rescinded
Failure to remove dog faeces	2018	2	2 fines paid
Dog in an exclusion area	2018	1	Legal proceedings pending

4.6.5 As discussed at 4.3.5 the Dog Control Service was transferred to the Public Health & Regulation Section on 1 May 2018 and has undergone a reshaping of the service. It should be noted that 5 of the FPN's in 2017 were issued by Parks and Foreshore staff, however none were issued in 2018. There may also be a requirement to utilise the expertise of these staff and refocus attention in surveillance of offences under the PSPO and if necessary the issue of FPNs.

4.7 Options for Worthing Borough Council PSPO No.4 Dogs

4.7.1 The Committee is asked to consider the options of:

- Continuing with the PSPO as it is;
- Amending the PSPO; or
- Removing the PSPO.

4.7.2 As previously stated, we must be satisfied that there is an evidenced need to retain the powers contained in the PSPO and that Conditions 1 and 2 are met.

4.7.3 Dog fouling complaints continue to be received at higher levels by the Public Health & Regulation Section. From April 2017 to March 2018, **106 complaints** of dog foul were received and from April 2018 to December 2018, **44 complaints** of dog foul were received. These figures show a decrease between 2017 and 2018, however 2018 covers 9 months only.

4.7.4 Complaints received help us to focus on 'hot spots' for dog fouling and to focus patrols in these areas, hence the provision or issuing fixed penalty notices is required. It is considered that the two conditions highlighted above are met.

4.7.5 The fine for a fixed penalty notice is currently £50, however the legislation allows for fines up to £100. In comparison, neighbouring authorities such as Arun District Council, Horsham District Council and Brighton & Hove City Council's fines range between £75 and £100.

4.7.6 The Council is currently working in partnership with Southern Water's Bathing Water Enhancement Program and Southern Water have requested that the current exclusion zone on Worthing Beach (Warwick Road to Heene Road) be

extended westerly to Marine Gardens. The rationale for this is to continue to improve the bathing water quality by excluding dogs and any potential fouling on the beach area during the exclusion time period 1 May until 30 September.

4.8 Recommendation for Worthing Borough Council PSPO No.4 Dogs

4.8.1 It is recommended that Worthing Borough Council PSPO No.4 Dogs is amended from its current form in order to consider matters previously mentioned at 4.7.5 and 4.7.6. A consultation process as described at 3.9 will be required.

4.8.2 In order to assist in cost recovery and to be more of a deterrent it is recommended to consult with a view to increase the fine to £100.

4.8.3 To consider extending the exclusion area at Worthing Beach as described at 4.7.6 with a view to assisting in improving the bathing water quality.

5. Engagement and Communication

5.1 Should members decide to amend any of the Orders going forward the Council will be required to undertake a similar process of full consultation as described at 3.9.

6. Financial Implications

6.1 There will be costs involved with a consultation process such as administration for surveys and posting notices at key areas as described at 3.8.

6.2 It is proposed to increase the fines from £50.00 to £100.00. The fees from fines are used to fund the enforcement costs.

7. Legal Implications

- Under Section 111 of the Local Government Act 1972, the Council has the power to do anything to facilitate or which is conducive or incidental to the discharge of any of their functions.
- Section 3(1) of the Local Government Act 1999 (LGA 1999) contains a general duty on a best value authority to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
- The Anti-social Behaviour, Crime and Policing Act 2014 (“the Act”) came into effect on 20 October 2014. Section 59 of The Act gives local authorities the power to make PSPOs which are intended to deal with ASB and nuisance in a particular area that is detrimental to the local community’s quality of life by imposing conditions on the use of that area.
- Before making a PSPO, councils must consult with the local police (section 72(3) and 72(4) of the Act). The Act also stipulates that councils must consult with the local community on any proposed PSPO.
- Anyone who lives in or regularly works or visits the area can appeal a PSPO in the High Court within six weeks of issue. The PSPO should be publicised locally. Signage will not be erected until after the six week period or, if an appeal is lodged, after any High Court ruling.
- Section 61 of the Act makes provision to review a PSPO which is in force and to vary the terms of the order which can be based upon the review findings. Furthermore, the maximum duration of a PSPO is three years, so proposals to undertake a full review prior to its expiry would be appropriate.
- A review of the PSPO can be assessed before the end of the fixed period, to assess impact and allow any required variations to the PSPO to be made in response to consultation with stakeholders.

Background Papers

- Anti Social Behaviour, Crime and Policing Act 2014
- Previous Report
<https://www.adur-worthing.gov.uk/media/media,141609,en.pdf>

Officer Contact Details:-

David Currie

Team Leader Specialist Food & H&S & Dog Control

Telephone 07968 515438

david.currie@adur-worthing.gov.uk

Sustainability & Risk Assessment

1. Economic

The use of all ASB tools and powers contributes to the perception of Adur and Worthing as safe and clean spaces to invest and spend time in. Public Space Protection Orders allow opportunities for engagement and low level intervention, often reducing the need for more resource intensive intervention.

2. Social

2.1 Social Value

Communities will benefit from safer and cleaner spaces.

2.2 Equality Issues

Matter considered and no issues identified

2.3 Community Safety Issues (Section 17)

Public Space Protection Orders are a valuable tool in reducing anti social behaviour and promoting safe use of public spaces. By extending these powers, we are retaining an enforcement tool to tackle irresponsible dog owners.

2.4 Human Rights Issues

The Council must ensure that the powers afforded by the PSPO is used responsibly and proportionately, and only where necessary to protect the public.

3. Environmental

The orders help prevent misuse of our public spaces including the green spaces and foreshores by irresponsible dog owners.

4. Governance

Public Space Protection Orders support Platforms for our Places strands ; Our Social Economies and Stewarding our Natural Resources.