



ADUR & WORTHING
COUNCILS

Joint Strategic Committee
8 October 2019
Agenda Item 5

Key Decision [~~Yes~~/No]

Ward(s) Affected: All

Consultation response and recommendations on the extension and amendment of Public Space Protection Orders (Dog Control) for Adur and Worthing Councils

Report by the Director for Communities

1. Purpose

- 1.1. On 17 December 2019 two Public Space Protection Orders for dogs (one in Adur and one in Worthing) will expire.
- 1.2. On 5 March 2019 a report was brought to JSC recommending
 - to approve in principle proposed amendments to the orders outlined in paragraphs 4.5 and 4.8 of that report (contained as Appendix A to this report);
 - to approve the undertaking of a public consultation survey as outlined in that report;
 - to request that a further report be brought to JSC in September 2019 with the results of the public consultation and options for consideration.
- 1.3. This report provides the results of the public consultation carried out between Monday 15 July to Friday 6 September 2019 and includes a number of recommendations that Members of the Joint Strategic Committee are asked to consider.

2. Recommendations

- 2.1. That the Joint Strategic Committee confirm that both current PSPO's are extended for a period of 3 years.
- 2.2. That the Joint Strategic Committee approve that the fixed penalty fine be increased to £100.
- 2.3. That the Joint Strategic Committee determine whether the number of dogs that can be walked by dog walkers:-
 - a) remains at 6
 - b) is reduced to 4
- 2.4. That the Joint Strategic Committee refer these decisions for approval to the Full Council at both Adur District Council and Worthing Borough Council.

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 specific 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 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 which are Adur District Council PSPO No.1 Dogs and Worthing Borough Council PSPO No.4 Dogs will expire on 17 December 2019.
- 3.4 Local Authorities are able to extend (in time) 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 prevent the occurrence or recurrence

of the activities identified in the order or, an increase in frequency or seriousness of those activities.

- 3.5 At the Joint Strategic Committee on the 5 March 2019, a report was presented outlining the conditions for extending or amending the orders, the process and timeline to be followed and recommendations on the next steps.
- 3.6 A number of changes to the current PSPO's were presented as follows:
 - 3.6.1 Worthing Beach - an extension to the seasonal exclusion zone, currently Warwick Road to Heene Road. The proposed extended zone would be Warwick Road to Marine Gardens, Worthing.
 - 3.6.2 Increase the fixed penalty notice fine from £50 to £100.
- 3.7 At the JSC meeting on 5 March 2019 it was proposed that the current PSPO's be amended and extended for a further 3 years, from 18 December 2019.
- 3.8 Members also agreed to approve in principle, the proposed amendments to the orders outlined in paragraphs 4.5 and 4.8 of that report; approve the undertaking of a public consultation survey as outlined in paragraphs 3.8 and 3.9 of that report; and requested that a further report be brought to JSC in September 2019 with the results of the public consultation and options for consideration.
- 3.9 Following the Committee meeting in March 2019 an additional proposal was made to include an amendment, to be tested as part of the public consultation. This amendment was to reduce the maximum number of dogs under the control of a single person that can be taken onto land covered by the PSPO's from 6 dogs to 4 dogs. Further discussion is contained later in this report.
- 3.10 Public consultation on was undertaken from Monday 15 July to Friday 6 September 2019, the results of which are summarised in this report.

4. Issues for consideration

- 4.1 The public consultation was published on the Council's website (see Appendix B) and promoted via the council's social media channels. Paper versions were made available at Portland House, The Shoreham Centre and Lancing Parish Hall. Comments were invited to be submitted via an online form on the Council's website, via email to Public Health & Regulation or via post. The

online form questions are exhibited in Appendix C.

- 4.2 To ensure these changes were widely promoted, consultation signs were erected at Worthing beach and in our main public open spaces - the main parks in Adur and Worthing and some areas adjacent to the South Downs. These signs summarised the proposals and advised the public how they could submit comments. The sign is exhibited in Appendix D.
- 4.3 The Anti Social Behaviour Crime & Policing Act 2014 requires the local authority to consult the police. The Office of the Sussex Police & Crime Commissioner was consulted prior to the public consultation commencing. They confirmed the consultation met the legal requirements for PSPO's and have no objections to the proposals. Sussex Police have also been consulted and they confirmed they have no issues with the proposals.
- 4.4 Others notified of the proposals included West Sussex County Council, Lancing Parish Council, Sompting Parish Council, local veterinary centres, local dog rescue charities, The Kennel Club and The Dogs Trust.

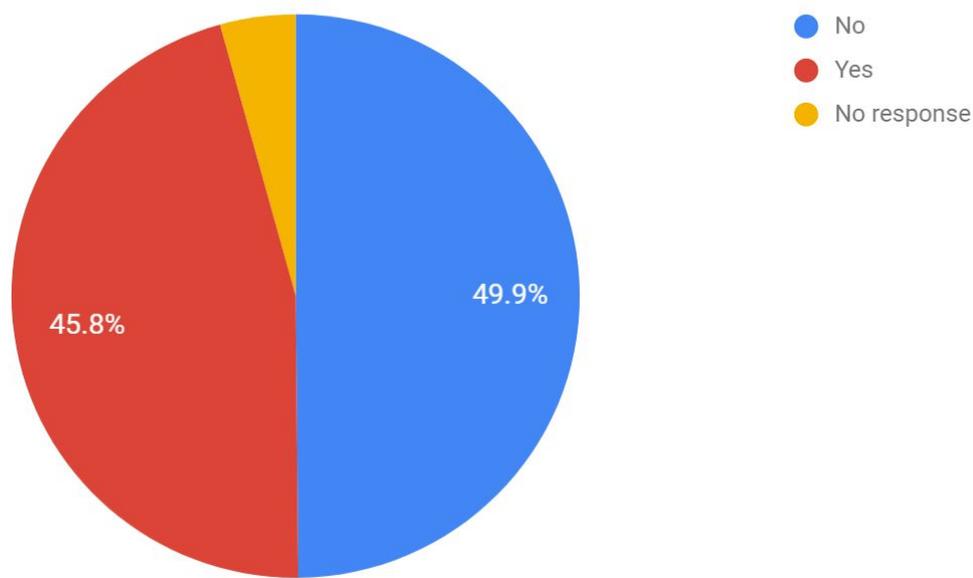
5. Results of the Consultation

- 5.1 A total of 1074 responses were received
- 1025 via the online form
 - 46 via email
 - 3 letters
- 5.2 Summaries of the responses to each question follow below.
- 5.3 No formal responses were received from West Sussex County Council, local veterinary centres and local dog rescue charities (other than the Dogs Trust).

CONSULTATION QUESTIONS AND RESPONSES

Q1: Are you in favour of an extension of the PSPOs for a further three years?

Are you in favour of an extension of the PSPOs for a further three years? (until 18th December 2022)



- 5.4 The above chart depicts a marginal result with just under half of respondents not being in favour of the continuation of the PSPO's beyond 19 December 2019. However, while this slight margin against the continuation of PSPO's is recognised, it is important to consider other variables in reaching a conclusion.
- 5.5 Of the responses received only 364 made comments on this question. The vast majority (well over 90%) focussed their responses on the other three subsequent questions posed in this survey (beach exclusion zone extension, increased fine and reduction in maximum number of dogs from 6 to 4). Other comments were made in relation to ensuring enforcement of the current restrictions, the problem of littering and dog fouling being a problem.
- 5.6 Members are reminded that at the meeting in March 2019 they approved the principle of renewing the existing PSPO's for a further three years, having taken into account the evidence base for the recommendations to extend the orders.
- 5.7 Public Spaces Protection Orders are required by law to be evidence based

and it is necessary to be satisfied that the following two conditions are met should the PSPO's continue beyond 19 December 2019.

5.7.1 Condition 1

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

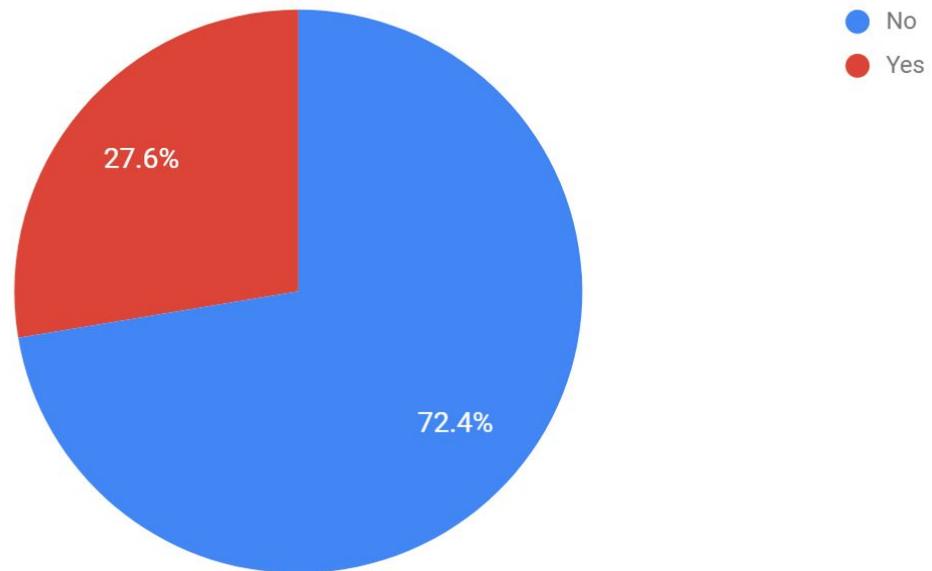
5.7.2 Condition 2

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.

- 5.8 Evidence from the JSC report in March 2019 set out for Members that the evidence test and statutory requirements for Conditions 1 and 2 have been met and recommended the continuation of PSPO's. This evidence included the number of dog fouling complaints received and the number of fixed penalty notices issued in relation to breaches of the PSPO's.
- 5.9 The Joint Strategic Committee agreed at its meeting in March 2019 that PSPO's are an essential tool in providing an effective dog control service across Adur and Worthing, as without them we would have no powers to tackle dog fouling issues in public places, dogs on leads, dog exclusion zones, etc.
- 5.10 The retention of PSPO's assists in the provision of a balanced system for dog owners and their dogs to enjoy the freedom to exercise their dogs, and also for the general public including dog and non dog owners to enjoy our open spaces. Without PSPO's we lose the mechanisms to address irresponsible dog owners and support the rights of all users of our open spaces.
- 5.11 **Recommendation:** It is recommended that both current PSPO's are extended for a period of 3 years.

Q2. Worthing Beach extension to the seasonal exclusion zone - are you in favour of the proposed extension of the zone from Warwick Road to Marine Gardens?

Are you in favour of the proposed extension of the zone from Warwick Road to Marine Gardens?



The above chart shows that 72% of respondents were against an extension of the beach exclusion zone, with the general themes from comments detailed below.

General themes from the comments of those who responded YES	General themes from the comments of those who responded NO
I support the extension	The current exclusion zone is sufficient
Extend the exclusion zone to George V Avenue	This would be detrimental to local resident dog owners, especially the elderly and those with disabilities
Extend the exclusion to include the childrens play area at George V Avenue	Local dog walkers would have to drive to reach a dog walking area
	Trust issues associated with Southern Water.
	Would have a negative effect on the local economy and tourism
	Address the issue of litter on the beach
	More enforcement of current exclusion

	zone needed
	Lack of evidence of fouling
	This will simply shift the problem and concentrate fouling into a smaller area

5.12 A number of comments claimed that the extension of the exclusion zone would adversely affect residents and business within the town - citing the following concerns

- That dog owning residents in the town centre, immediately adjacent to the beach exclusion zone would be unable to walk their dogs
- That an extension would be likely to prevent elderly dog owners and those with disabilities who live in the town centre, from being able to access the beach with their dogs.
- That the extension would result in dog owners having to resort to driving out of the town centre, along the seafront in order to walk their dogs on the beach and/or
- That the extension would affect tourism and the economy by putting off dog owning visitors from visiting the town.

5.13 In relation to the comments claiming the extension to the beach exclusion zone would adversely affect those with disabilities, it should be made clear that the section on dog exclusion in the current PSPO's does not apply to any person who:

(a) is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948; or

(b) is deaf, in respect of a dog trained by Hearing Dogs for Deaf People (registered charity number 293358) and upon which he relies for assistance; or

(c) has a disability which affects his mobility, manual dexterity, physical coordination or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a prescribed charity and upon which he relies for assistance.

5.14 A number of people raised the issue of a lack of enforcement of the current zone and how any extension could be enforced, within existing resources. The issue of enforcement is a common response to each question. The Councils employ two Dog Wardens and use a combined education and enforcement approach. We are continually looking at how enforcement activity can be improved. Clearly through this consultation enforcement has

been identified as an issue and we will therefore be reviewing our enforcement options going forward.

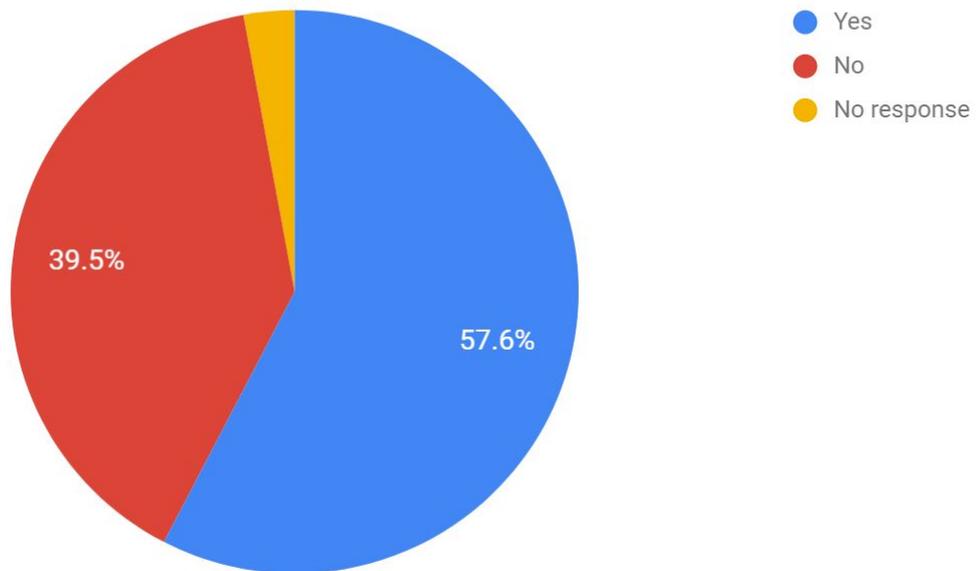
- 5.15 Southern Water requested an extension to the exclusion zone in order to help protect bathing water quality at the designated bathing beach in Worthing, the sample point for which is opposite Heene Road. However it is clear the majority of those who responded are not in favour of any extension to the current beach exclusion zone.
- 5.16 Clearly a balance has to be struck between the request of Southern Water and the views expressed by the general public. DNA analysis of the Worthing bathing water by Southern Water, at the designated sampling point opposite Heene Road, suggested elevated levels of faecal matter attributed to dogs. With longshore drift from west to east it was suggested that by extending the exclusion zone to encompass a part of the beach to the west of the designated bathing waters water quality could be improved. This is an action from the Southern Water Bathing Water Enhancement Programme of which Worthing Borough Council is a lead partner. The aim of the programme is to enhance Worthing's current bathing water classification from 'Sufficient' to 'Excellent' by Autumn 2019. This can only be achieved with a number of actions working in partnership with Worthing Borough Council, one of which is to reduce dog fouling on the beach.
- 5.17 Conversely, the majority of respondents to the consultation were opposed to the extension. Common concerns expressed were the impacts on tourism and the local economy, the disproportionate impacts on local resident dog owners, especially the elderly and those with disabilities and littering on the beach having a detrimental effect on water quality.
- 5.18 Taking all the views expressed into account it is recommended that the exclusion zone is not extended at this time.

5.19 Recommendation:

The seasonal exclusion zone is not extended beyond its current boundaries at this time.

- 5.20 Q3. Are you in favour of an increase to the fixed penalty notice fine from £50 to £100?**

Are you in favour of an increase to the fixed penalty notice fine from £50 to £100?



The above chart depicts 58% of respondents were in favour of an increase of the fixed penalty notice fine.

General themes from the comments of those who responded YES	General themes from the comments of those who responded NO
Fines should be higher	£50 is large enough
More enforcement of the fines is needed	Enough money from council tax/ money making scheme
A warning should be given first	Enforcement difficulties/ current fine not enforced
This is fair	Better signage needed
This will act as an extra deterrent	No fine at all
Agree but this needs additional signage to work	
More fines for littering are also needed	

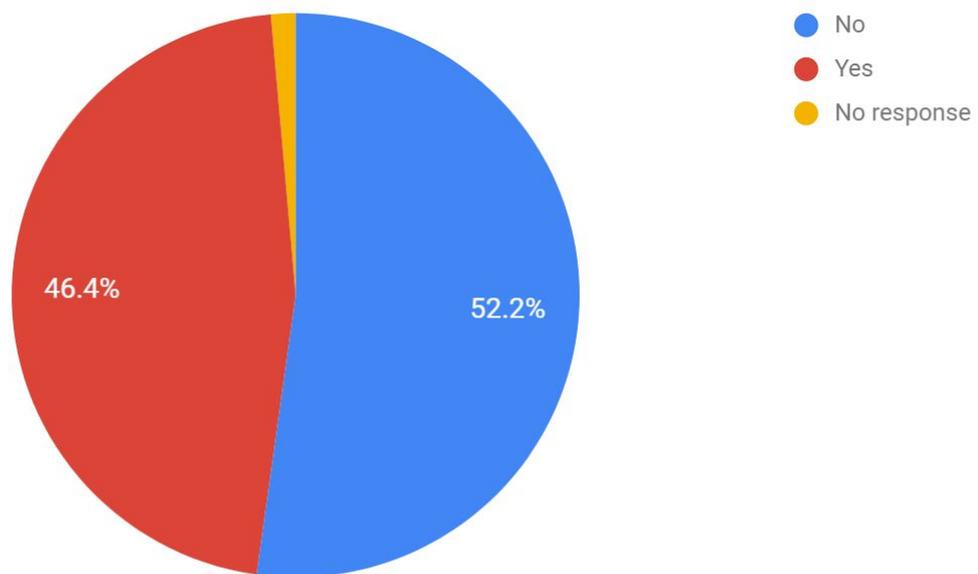
5.21 It should be noted that the level of the Fixed Penalty Notice does not need to be included in the text of the PSPO and can be amended without the PSPO being changed.

5.22 **Recommendation** : It is recommended that the fixed penalty fine be increased to £100.

5.23 **Q4. Are you in favour of reducing the maximum number of dogs, under the control of a person that can be taken onto land covered by the PSPOs, from 6 dogs to 4 dogs?**

5.24 This question was added to the consultation, after the original report to Members in March, in response to the Councils being made aware of a significant issue in relation to the walking of 6 dogs, along with some wider concerns. It was therefore deemed appropriate to add this to the consultation to test with communities.

Are you in favour of reducing the maximum number of dogs, under the control of a person that can be taken onto land cov...



General themes from the comments of those who responded YES	General themes from the comments of those who responded NO
A professional dog walker commented they already limit themselves to 4 dogs	This will be detrimental to dog walking businesses/lose trade/impact livelihoods
5 would be reasonable	Increase hours for dog walkers, increase driving, extra walks needed if only 4 dogs are allowed

It's not possible to clean up properly after 6 dogs	Will increase prices for customers
A number of dog walkers tend to walk their dogs together, meaning there are more than 6 being walked at any one time	Will result in dogs being left at home for longer periods as extra walks needed to cope with reduction in permitted numbers
Dogs tend to act as a pack, intimidating or acting against other dogs	6 works well
A number of dogs walked together is intimidating if not controlled properly	How will this be enforced?
4 is too many, 2 is enough	Why was the voluntary CoP abandoned?
6 dogs is too many	There are no such rules in surrounding areas
	6 is fine provided the dog walker is trained
	Experienced dog walkers are competent to walk 6
	One badly trained or misbehaving dog is worse than 6 well behaved dogs
	No evidence is provided to reduce numbers
	Some people own more than 4 dogs, how will this affect them?
	One badly trained or misbehaving dog attacking sheep is more dangerous than 6 well behaved dogs

5.25 The above chart shows that 52% of respondents are against reducing the maximum number of dogs under the control of a person that can be taken onto land covered by the PSPO's from 6 dogs to 4 dogs, whilst 46% were in favour.

5.26 There are legitimate arguments both for and against this proposal. The section of our business community involved in a professional dog walking service argue that a reduction in the maximum number of dogs would have a negative impact upon their livelihoods, may increase fees for their service

users and would have a detrimental effect on the work life balance of both themselves and their clients.

- 5.27 Concern was also raised about why the Councils had ceased to operate the Voluntary Code of Practice for Professional Dog Walkers Scheme. The scheme ceased on 15 November 2018 (having commenced in September 2016). The aim of the scheme was to encourage Professional Dog Walkers to follow best practice regarding the control of dogs under their care.
- 5.28 A review of the scheme identified that only scheme members insurances and vehicles legality were checked and that there was no system in place for grounds to exclude a member from the scheme should a problem be identified. This omission may have presented a reputational concern for the Council as it may be seen to endorse members of the scheme. Furthermore being a voluntary scheme the Councils had no powers to police it.
- 5.29 In summary, it was determined that the voluntary scheme did not have a positive impact on the regulation of Professional Dog Walkers and that there were more effective mechanisms in place such as the PSPO's.
- 5.30 Conversely those expressing support for a reduction in the number of dogs that can be walked, raised fears around feeling intimidated when confronted by a large number of dogs and the effect this has on single dogs. Concern was also expressed over multiple dog walkers walking together, and that a number of dogs walked together like this acted as a pack.
- 5.31 Officers reviewed the actions of the following authorities with regard this element of control including; Chichester, Crawley, Horsham, Arun and neighbouring Brighton and Hove City Council. None of these Councils placed any restrictions on the maximum number of dogs under the control of one person that can be taken onto land covered by a PSPO. Mid Sussex District Council restrict a person to 6 dogs in certain parks and nature reserves but do not operate a blanket restriction on all land.
- 5.32 The Professional Dog Walkers' Guidelines contain good practice designed for professional dog walkers, prepared in consultation with Dogs Trust, RSPCA, Pet Industry Federation and Tailster (<https://www.dogstrust.org.uk/news-events/news/dog%20walking%20guide%20online.pdf>) The Guidelines state

“the maximum number of dogs that can be walked at any one time should not exceed the number stated in the walker's insurance policy and comply with

local authority requirements regarding the number of dogs. It is recommended that no more than four dogs are walked at any one time.”

5.33 The Kennel Club have responded stating

“...an arbitrary maximum number of dogs a person can walk is an inappropriate approach to dog control that will often simply displace and intensify problems in other areas..... The Kennel Club is not aware of any robust evidence that it is not possible to walk six dogs in a manner that maintains the interests of both the dogs being walked and others site users.”

5.34 And *“The current Defra and Welsh Government practitioner’s manual for local authorities and the police in England and Wales in dealing with dog-related incidents - “Dealing with irresponsible dog ownership” refers to a maximum limit of six dogs per person as a guiding principle.”*

5.35 They go on to suggest that *“A lower limit on number of dogs a commercial dog walker can walk will reduce the income generated per walk. It is inevitable that the dog walker would seek to recoup this revenue loss, either by increasing the prices being charged and/or by cutting corners.....Or that they simply walk less far so they get in more walks and/or leave dogs in vehicles in the meantime with potentially significant welfare implications.”*

5.37 The Dogs Trust have responded by stating

“The behaviour of the dogs and the competency of the handler need to be taken into consideration if considering this order. Research from 2010 shows that 95% of dog owners have up to 3 dogs. Therefore the number of dogs taken out on to land by one individual would not normally be expected to exceed four dogs.”

5.38 Following this consultation we have identified a need to collaborate with relevant stakeholders and landowners in relation to dogs in close proximity to livestock. The National Farmers Union (NFU) has joined forces with The Kennel Club to make countryside dog walks safer for both pet dogs and farm animals, by creating new footpath signs encouraging responsible dog ownership. We propose to investigate the use of these signs in dog walking areas close to livestock.

5.39 Members are also reminded that PSPO’s are required by law to be evidence based and it is necessary to be satisfied that the following two conditions are met:

5.39.1 Condition 1

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

5.39.2 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.

5.40 Both statutory tests must be met in order to proceed. The evidence for the reduction from 6 to 4 consists of one significant report of an issue with livestock scaring and hearsay evidence about resident concerns that 6 dogs are too many to allow proper control, particularly around livestock. Clearly any livestock scaring is serious and one could consider this as sufficient to satisfy the first condition above. However there is concern that evidence of one episode of livestock scaring alongside unsubstantiated hearsay evidence is too weak in order to satisfy condition 2.

5.41 In relation to this matter Members are asked to consider whether the number of dogs should be reduced from 6 to 4. Members are asked to consider the following:

- That it is the opinion of Officers that the two statutory conditions for PSPO's have not been fully met. The evidence for this is of one significant report of an issue and some hearsay evidence about resident concerns, alongside comments raised during this consultation about worries around people walking more than 4 dogs at one time;
- The marginal result showing more respondents being against this proposal;
- The concerns expressed by professional dog walkers about the impact of these measures on their business, as detailed above;
- The views of the professional bodies do not reach a single conclusion on this matter;
- The majority of neighbouring authorities do not have similar measures in place.

5.42 Options for Members to consider and approve after considering the above points:

1. *The maximum number of dogs permitted under the control of one person remains unchanged at 6, or*
2. *The maximum number of dogs permitted under the control of one person is reduced from 6 to 4.*

6. Engagement and Communication

- 6.1 The public consultation was published on the Councils website. Paper versions were also available at Portland House, The Shoreham Centre and Lancing Parish Hall. Comments were invited to be submitted via an online form on the Council's website, via email to Public Health & Regulation or via post.
- 6.2 To promote the consultation signs were erected at Worthing beach and areas frequented by dog walkers around Adur and Worthing - the main parks and areas adjacent to the South Downs. These signs summarised the proposals and advised the public how they could submit comments.
- 6.3 The Anti Social Behaviour Crime & Policing Act 2014 requires the local authority to consult the police. The Office of the Sussex Police & Crime Commissioner was consulted prior to the public consultation commencing. They confirmed the consultation met the legal requirements for PSPO's and have no objections to the proposals.
- 6.4 Others consulted included West Sussex County Council Highways, local veterinary centres, local dog rescue charities, The Kennel Club and The Dogs Trust.

Financial Implications

- 7.1 The cost of any enforcement activity will be funded from within the budget for the Councils, which includes provision for two Dog Warden posts managed by the Public Health and Regulation Team (PHR).
- 7.2 However, Members should note that any agreement to options requiring additional enforcement activity would require the use of other PHR officers across the Council to work alongside the two dog wardens.

7.3 The consultation process costs have been minimal and met from within existing budgets.

Legal Implications

8.1 The statutory tests that must be met before making, extending or varying a PSPO are set out in the report.

8.2 If the PSPOs are extended for a further period of time, either on the same or revised terms, the councils must comply with the statutory publication requirements set out in the Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014

8.3 There is a statutory 6 week appeal period during which an individual can make an application to the High Court if they believe that the Council's did not have the power to make an Order, or that a statutory requirement for making such an Order was not met.

Background Papers

- JSC report 8 March 2019

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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.
- If the reduction in the number of dogs permitted to be walked at any one time was agreed there is a potential impact on local dog walking businesses and their customers.

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

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

- The absence of a PSPO poses a risk to public health from the likelihood of increased accumulations of dog faeces.

4. Governance

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