

# Chichester District Council

THE CABINET

7 February 2017

## Public Spaces Protection Order – Control of Dogs Consultation Exercise

### 1. Contacts

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### 2. Recommendations

- 3.1 That the Cabinet authorises the Head of Housing and Environment to carry out a consultation exercise relating to the matters included in the draft Public Spaces Protection Order – Control of Dogs.
- 3.2 That the Cabinet approves the attached draft Public Space Protection Order – Control of Dogs and schedules and maps (appendices one to three) for the purposes of that consultation.

### 4. Background

- 4.1. The Anti-Social Behaviour, Police and Crime Act 2014 introduced Public Spaces Protection Orders (PSPO's). The Act is designed to put victims at the heart of the response to anti-social behaviour and give professionals the flexibility they need to deal with given situations.
- 4.2. This PSPO replaces the existing Dog Control Orders (DCOs), which in themselves replaced a number of byelaws. It has not been felt necessary to amend the existing DCOs, however, should evidence be forthcoming through the consultation exercise, this will be considered and any revisions brought back to Cabinet.
- 4.4 The power to make a PSPO rests with local authorities, in consultation with other relevant stakeholders that may be affected and once made can be in force for any period up to a maximum of three years after which it must be reviewed.
- 4.5 Appeals against a PSPO can be made in the High Court within six weeks of the date the order comes into effect by anyone who lives in, or regularly works in or visits the area. Further appeal can be made if a PSPO is varied by a local authority.
- 4.5 Orders can be enforced by authorised officers of the Council, a police officer, a police community support officer where authorised by the Police Authority and

authorised employees of housing associations where the Council has delegated such authority. In establishing a PSPO, appropriate signage must be displayed in accordance with the requirements of the Act.

- 4.8 The Council's Anti-Social Behaviour (ASB) Policy and delegated powers for enforcement were approved by Cabinet at their meeting of 4 December 2014. Specific delegated powers were also included in the PSPO for Chichester City Centre report to Cabinet on 12 July 2016.
- 4.9 The Council's ASB Policy describes the Council's approach to enforcement and states that all cases will be addressed firmly, fairly and proportionately. A breach of the PSPO can be dealt with through the issuing of a Fixed Penalty Notice of up to £100, or a Level 3 fine of up to £1,000 on prosecution.

## **5 Outcomes to be Achieved**

- 5.1 That the statutory consultation exercise is undertaken to seek views on the draft PSPO – Control of Dogs. Consultation will enable the Council to understand the views of the public and other stakeholders. The consultation responses and any resulting amendments to the draft PSPO will be reported back to the Cabinet.

## **6 Proposal**

- 6.1 A new PSPO is proposed as the legal authority for the DCOs has been repealed, albeit with a 3 year transition period which ends on 30 September 2017.
- 6.2 The draft PSPO includes proposals relating to dog fouling, exclusion of dogs from specific geographical areas e.g. bathing beaches, some public parks and children's play areas and provision for keeping dogs on leads, by direction, around Fishbourne Channel to protect feeding birds from recreational disturbance. The draft PSPO, schedules and maps are attached as appendices 1 to 3.
- 6.3 The consultation exercise will consider the views of consultees, the public and partner agencies to the proposed behaviours included in the draft PSPO and the identified areas to which they relate.

## **7 Alternatives Considered**

- 7.1 The alternative to making the PSPO is to allow the DCO to lapse without replacement, however, the public health and ecological rationale for controls over certain dog behaviours is well understood and generally widely accepted by the public. The Council has evidence to support the proposed PSPOs in terms of complaints made and PSPOs are intended as a timely and effective tool which may be useful where other tools or remedies are slow or otherwise inadequate.

## **8 Resource and Legal Implications**

- 8.1 Staff time will be required to undertake the consultation.
- 8.2 There are legal requirements in consulting on an order. The statute and guidance also set out in detail the further requirements if an order is to be made. This will be covered in a future report as to the making of an order.

## 9 Consultation

- 9.1 This report requests that a public consultation exercise is undertaken based on the draft PSPO at Appendices 1 to 3.

## 10 Community Impact and Corporate Risks

- 10.1 The PSPO - Control of Dogs enables the Council to deal with dog related nuisance and public health issues that arise from dog fouling.
- 10.2 Failure to consult and consider the views of consultees, the public and partner agencies to the evidence based PSPOs would place the Council at legal, financial and reputational risk.
- 10.2 The primary operational risk is the likely risk of nuisance behaviours being dealt with less effectively by the Council, and that operational activities are therefore hampered by out of date practices. These issues may lead to reducing the Council's effectiveness as an enforcing authority.

## 11 Other Implications

	Yes	No
<b>Crime and Disorder</b> If supported a PSPO will directly address aspects of antisocial behaviour.	x	
<b>Climate Change</b>		X
<b>Human Rights and Equality Impact</b> PSPO may impact Article 8, the right to respect private and family life by restricting the right to take a dog on to those areas where they are excluded by the Order. However, the restriction is on the grounds of protection of health and is therefore deemed as reasonable and necessary. An Equality Impact Assessment demonstrates that the PSPO will have a positive impact on equalities because it exempts registered blind people and people with a disability that would prevent them from doing so, from having to remove dog faeces and the same are exempt from provisions of the exclusion areas.	x	
<b>Safeguarding</b>		X
<b>Other</b> (please specify) eg biodiversity		X

## 12 Appendices

Appendix 1 – Draft PSPO Control of Dogs 2017 and Schedules

Appendix 2 – Draft PSPO Control of Dogs 2017 Maps for Dog Fouling

Appendix 3 – Draft PSPO Control of Dogs 2017 Map for Dogs on Lead by Direction

## 13 Background Papers

- 13.1 None