

	<b>REPORT TO CABINET</b>  <b>TO BE HELD ON</b>  <b>14 MARCH 2017</b>
	<b>Key Decision</b> <b>YES</b>  <b>Forward Plan Ref</b> <b>No</b>
<b>Corporate Priority: ALL</b>	<b>Cabinet Portfolio</b> <b>Cllr. Bill Chatt</b> <b>Holder</b>

## **REPORT OF THE DIRECTOR (NE) – 17/8**

**WARDS AFFECTED: ALL**

**SUBJECT: INTRODUCTION OF A PUBLIC SPACE PROTECTION ORDER COVERING THE BOROUGH OF SCARBOROUGH**

### **RECOMMENDATION(S):**

It is recommended that in accordance with section 72 of the Anti-social Behaviour, Crime and Policing Act 2014 Cabinet authorise the commencement of the necessary;

1. consultation (for a period of 8 weeks from 20 March 2017);
2. publicity; and
3. notification to;
  - (a) all Parish Councils within the Borough; and
  - (b) the North Yorkshire County Council;

in relation to the draft Public Spaces Protection Order set out at Appendix A.

### **REASON FOR RECOMMENDATION(S):**

To seek authority to commence consultation, publicity and notification in relation to a Public Spaces Protection Order covering dog ownership and responsibly exercising dogs within the Borough

## **HIGHLIGHTED RISKS**

Failure to commence the necessary consultation, publicity and notification will mean that the Council will not be able to proceed to adopt a Public Space Protection Order with sufficient time to replace the current Dog Control Orders (which expire in October 2017). This may result in there being no enforceable dog control measures in place.

### **1. INTRODUCTION:**

- 1.1 This report sets out proposals for consulting on the introduction of a Public Space Protection Order (PSPO) covering the entire Borough specifically in relation to dog ownership and responsibly exercising dogs within the Borough. It also sets out proposals for revised levels of fixed penalty notice.

### **2. CORPORATE AIMS/PRIORITIES AND THE COMMUNITY PLAN**

- 2.1 This report supports all of the corporate aims and the community plan.

### **3. BACKGROUND AND ISSUES**

- 3.1 In 2012 the Council (pursuant to The Clean Neighbourhoods & Environment Act 2005) brought into force a number of Dog Control Orders (DCOs) dealing with dog exclusion, restriction and fouling within the Borough.
- 3.2 This enabled the Council to replace the considerable number of byelaws and orders in place at the time which had been introduced in tranches over many years, thus addressing confusion and improving enforceability, whilst creating a more convenient and consistent method of addressing dog related issues.
- 3.3 On 20 October 2014, the power to make any further DCOs, Designated Public Place Orders, and Gating Orders was repealed by the Anti-social Behaviour, Crime and Policing Act 2014 ('the Act').
- 3.4 The Act instead gives local authorities powers to deal with a broad range of anti-social behaviour through the use of Public Spaces Protection Orders (PSPOs).
- 3.5 The Act states that any DCO in force at the commencement date would cease to be a DCO at the end of a period of 3 years (being 20 October 2017).
- 3.6 PSPOs are intended to deal with a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone. They are designed to ensure the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour.

- 3.7 District Councils are responsible for taking the lead, with enforcement being carried out by both local authorities and the police.
- 3.8 A PSPO can be made by a Council if it is satisfied on reasonable grounds that the activities carried out, or likely to be carried out, in a public space;
- have had, or are likely to have, a detrimental effect on the quality of life of those in the locality;
  - is, or is likely to be, persistent or continuing in nature;
  - is, or is likely to be, unreasonable; and
  - justifies the restrictions imposed.
- 3.9 The maximum duration of a PSPO is 3 years, and at any point before expiry the Council can extend the PSPO by up to 3 years if it is considered necessary to prevent the original behaviour from occurring or recurring. The Council can also discharge or vary the PSPO.
- 3.10 Once a PSPO is made by the Council, it will be an offence for any person, without reasonable excuse, to do anything that is prohibited by the PSPO, or to fail to comply with any requirement under the PSPO. A person guilty of an offence is liable on summary conviction to a fine not exceeding Level 3 (currently £1000).
- 3.11 The Act also allows offences to be dealt with by use of Fixed Penalty Notice (FPN). The Council has the discretion to set the level of penalty up to a maximum amount of £100, and can also specify a discounted figure if the FPN is paid within a specified number of days (less than 14).
- 3.12 Where an FPN is not paid within 14 days, a prosecution can be initiated.

## **4. CONSULTATION**

- 4.1 Before making a PSPO, the Council must consult with;
- appropriate community representatives;
  - the chief officer of police and the Police and Crime Commissioner;
  - the owner or occupier of land within the restricted area; and
  - the County Council as Highway Authority.
- 4.2 The Council must also publish the text of the PSPO, and notify Parish and Town Councils covering the restricted area.

## 5. ASSESSMENT

- 5.1 The introduction of a PSPO to cover dog control will have a number of positive effects, and will address the issue of the Council's current DCOs ceasing to be DCOs in October 2017.
- 5.2 The draft PSPO at Appendix A of this report is largely based upon the DCOs currently in place, with some minor amendments. In this respect nothing controversial is being proposed.
- 5.3 It is intended that breaches of the PSPO will primarily be dealt with via FPNs. The level of penalty should act as a deterrent and suitable punishment in the eyes of the public, and Officers recommend (subject to consultation) the following penalty structure for approval;

PSPO offence	Recommended penalty
Dog fouling	£100
Dogs not on lead when required to be.	£75
Dogs within an exclusion zone	£75

- 5.4 Officers are of the strong view that there should be no reduction for early payment of an FPN. This is in line with the Council's practice in relation to other environmental offences for which FPNs are used, and the consensus of the Yorkshire and Humber Environmental Enforcement Managers Group.
- 5.5 The aforementioned Group were of the view that allowing early payment options:
- causes a considerable administrative burden and does not deliver the expected outcome of early and prompt payment;
  - reduces the deterrent impact of the FPN regime;
  - produces inequality between those who could afford, and those who may not be able to afford such penalties due to their economic background and circumstances, rather than willingness to pay the fixed penalty.
- 5.6 This Council has for a number of years allowed for a discounted rate for early payment, however Officers from the environmental service state that this has created a significant administrative burden. They advise that what tends to happen is that individuals will try and pay the reduced amount long after the discounted period has expired, resulting in the Council having to issue a credit prior to taking further proceedings if appropriate.
- 5.7 Not adopting an early payment option will simplify the system, strengthen the deterrent factor, reduce burden upon resources, and accord with the Council's neighbouring authorities across the region.

## **6. IMPLICATIONS**

6.1 All relevant implications have been considered in the body of this report.

## **7. ACTION PLAN**

7.1 Following the conclusion of the consultation as outlined in Part 4 of this report, a further report will be brought to Cabinet for consideration.

*Nicholas Edwards*

**Nick Edwards**  
**Director**

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### **Background Papers:**

N/A

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS, PLEASE CONTACT PAUL THOMPSON OR DAVID KITSON.

## Risk Matrix

<b>Risk Ref</b>	<b>Risk</b>	<b>Consequences</b>	<b>Mitigation</b>	<b>Current Risk Score</b>	<b>Target Score</b>	<b>Service Unit Manager/ Responsible Officer</b>	<b>Action Plan</b>
1	Incidents of anti-social behaviour are not effectively managed.	Reduced quality of life for local residents. Negative experience for visitors.	Consult on the implementation of the PSPO	C3	B2	PT	
2	Do nothing	Current DCOs will no longer be DCOs in October 2017 creating enforcement issues.	Consult on the implementation of the PSPO	C3	B2	PT	

## Glossary of Terms

Risk	An event which may prevent the Council achieving its objectives
Consequences	The outcome if the risk materialised
Mitigation	The processes and procedures that are in place to reduce the risk
Current Risk Score	The likelihood and impact score with the current mitigation measures in place
Corporate Objectives	An assessment of the Corporate Objectives that are affected by the risk identified.
Target Risk Score	The likelihood and impact score that the Council is aiming to achieve
Service Unit Manager	The Service Unit or Officer responsible for managing the risk
Action Plan	The proposed actions to be implemented in order to reduce the risk to the target score

## Risk Scoring

Impact	5					
	4					
	3					
	2					
	1					
		A	B	C	D	E
	Likelihood					

### Likelihood:

A = Very Low  
 B = Not Likely  
 C = Likely  
 D = Very Likely  
 E = Almost Certain

### Impact

1 = Low  
 2 = Minor  
 3 = Medium  
 4 = Major  
 5 = Disaster