

	<b>REPORT TO CABINET TO BE HELD ON 13 NOVEMBER 2018</b>
	<b>Key Decision</b> <b>NO</b>  <b>Forward Plan Ref No</b> <b>N/A</b>
<b>Corporate Priority Place</b>	<b>Cabinet Portfolio Holder</b> <b>Cllr Bill Chatt Portfolio Holder for Public Health and Housing</b>

**REPORT OF: DIRECTORS (NE) - 18/303**

**WARDS AFFECTED: ALL**

**SUBJECT: INTERIM REVIEW OF PUBLIC SPACE PROTECTION  
ORDER: DOG CONTROLS**

**RECOMMENDATION (S):**

It is recommended that Council:

1. Approve the variation of the 2017 Dog Control Public Spaces Protection Order ('the Order') as set out at Appendix 1, subject to no challenge being made during the expiry of the statutory appeals process;
2. Approve a full consultation exercise on the entire PSPO in Summer 2020, to include input from the Council's Overview and Scrutiny Board.

**REASON FOR RECOMMENDATION (S):**

To ensure the Authority's controls remain fair and proportionate and reflect both Council and the public's priorities.

## **1. INTRODUCTION**

- 1.1 The purpose of this report is to present the findings from an extensive consultation exercise on proposed variations to the 2017 PSPO covering dog controls – Appendix 2.
- 1.2 This consultation exercise and review exercise was initiated in light of feedback from residents and visitors about certain restrictions within the 2017 Order.

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

- 2.1 The Plan supports the Safe and Healthy aim of the Sustainable Community Strategy and the People and Place themes of the Corporate Plan.

## **3. BACKGROUND AND ISSUES**

- 3.1 The Anti-Social Behaviour, Crime and Policing Act 2014 came into force on the 20 October 2014, and changed the powers available to local authorities and the police to deal with anti-social behaviour (ASB) in our communities.
- 3.2 The Act introduces a new power, a PSPO, which is granted by the Local Authority but which can be enforced by either the local authority or the Police. The PSPO is intended to protect a public space from persistent or continuing anti-social behaviour by individuals or groups which are having a detrimental effect on the quality of life in the designated area. Orders last for a period of up to three years, with provision for extensions for further three year periods.
- 3.3 If the provisions of a PSPO are not adhered to then it is open to those authorised to enforce the order to consider what form this would take. It may be appropriate to issue seek conviction in the Magistrates' Court, a person guilty of an offence is liable on summary conviction to a fine not exceeding Level 3 (currently £1000). The intention would be for most offences however to be dealt with via fixed penalty notices, except in cases with aggravating factors, or if the penalty goes unpaid. The Act allows for Local Authorities to set a local level for FPNs to a maximum of £100.
- 3.4 Prior to the introduction of the 2017 PSPO officers undertook a comprehensive consultation exercise with all statutory stakeholders and the public. A total of 314 responses were received with the final draft being amended in light of feedback. Cabinet approved the Order in November 2017 and Council in January 2018. Subsequent to the introduction of the PSPO a number of residents and visitors raised significant concerns about the impact of the Order on their ability to exercise their dogs how they wished.

## 4. CONSULTATION

- 4.1 The public's views were sought on 16 specific questions relating to the PSPO and invited to submit comment and feedback through the corporate consultation process, on our website, through the residents panel, local ward councillors and other statutory and key stakeholders. The consultation attracted 1249 responses, a breakdown of the results and the comments and feedback collected is attached as Appendix 2.
- 4.2 At its meeting on 31 October, the Overview and Scrutiny Board considered the results of the public consultation and endorsed the proposed variations to the 2017 PSPO covering dog controls set out in this report.

## 5. ASSESMENT – CONTROLS

- 5.1.1 The expansion of the seasonal dog exclusion zone on Whitby beach for the 2018 season was a key area of concern for the public, it was originally proposed to standardise the entire area in front of the beach chalets at Whitby. A large number of dog owners raised concerns that the access points at the extent of the enlarged area presented them with difficulties. Improvements were made to the steps but Officers and the Portfolio Holder felt that the strength of feeling was strong enough for us to visit this issue again. Consultees were asked if they agreed with the 2018 expanded beach ban area, the majority did not agree with this decision. Of the 69.5% who disagreed, 95.8% believe that the area should be reduced.  
Officer Comment/Recommendation; The consultation exercise demonstrates that there is strong feeling on both sides of this particular issue, unfortunately striking a consensus is unlikely to be achieved and some will invariably be disappointed. The matter was referred and rejected by the Local Government and Social Care Ombudsman, who found no evidence of fault on the Council's actions in implementing the order or the consultation. Reviewing the latest results shows that the dominant view is to revert the restriction; it is therefore recommended that we reduce the area covered by a seasonal exclusion, effectively reinstating the 2017 restriction for the beach area.
- 5.2 An area of community recreation space at Kingfisher Drive at Whitby is currently covered by a year round dogs on lead area. This restriction is at odds with other similar areas locally, and so the proposal to remove this restriction was backed by 70.7%.  
Officer Comment/Recommendation; It is therefore recommended to remove the restriction and monitor the impact prior to the next review.
- 5.3 Similarly Marton Court, Whitby has the same dogs on lead requirement, 70.6% of respondents backed the removal of this restriction.  
Officer Comment/Recommendation; It is therefore recommended to remove the restriction and monitor the impact prior to the next review.
- 5.4 The promenade at Whitby is covered by a year round dogs on lead requirement, officers proposed to alter this to a seasonal dogs on lead area.

Allowing owners to exercise their dog off the lead in the quieter periods – October – April. 77.5% of respondents agreed with this proposal.

Officer Comment/Recommendation: It is therefore recommended to amend this restriction to a seasonal dogs on lead area and monitor the impact prior to the next review.

- 5.5 As with the Promenade at Whitby, Scarborough's North Bay promenade is a year round dogs on lead area. 71.2% of respondents agreed with the proposal to move this to a seasonal restriction.

Officer Comment/Recommendation: It is therefore recommended to amend this restriction to a seasonal dogs on lead area, subject to the implementation of the recommendation in 5.7, and monitor the impact prior to the next review.

- 5.6 In Scarborough on Northway – Merryweather Gardens is a small open area of community grass, it is currently covered by a year rounds dogs on lead area. 71.7% of respondents agreed with the removal of this restriction.

Officer Comment/Recommendation It is therefore recommended to remove the restriction, it is important to note the paths outside the green space have no restriction, Officers will monitor the impact prior to the next review.

- 5.7 In Scarborough – Northstead Manor Gardens is covered by year round dogs on lead order. 68.8% of respondents agreed to remove this restriction.

Officer Comment/Recommendation There is a concern which was recorded as part of the consultation that removing the area around the miniature railway station and theatre was regressive. It is therefore recommended to retain the restriction for the area from the miniature railway station through to the Northerly entrance to the theatre. We would then recommend the area from the Northerly entrance to the bulge [former site of the cliff lift] to be included in an amended seasonal dogs on lead restriction covering the North Bay promenade.

- 5.8 In Scarborough – Granville Square is currently a dog prohibition area all year. Although not owned by the Borough Council this land is maintained by our Parks teams and is open to use by the general public. The restriction in this area is at odds with other community spaces in the local area, 74.5% of respondents agreed with the removal of this.

Officer Comment/Recommendation This is a small piece of open space in a densely populated part of the town, there is some concern about anti-social dog owners abusing any restriction. However the consultation results are quite striking, it is therefore recommended to remove the restriction.

- 5.9 The Green, off Stone Quarry Road in Burniston is again covered by a dog prohibition Order all year. 79.9% of respondents agreed with removing this restriction.

Officer Comment/Recommendation It is therefore recommended to remove the restriction and monitor the impact prior to the next review.

- 5.10 In Scarborough – Quarry Mount Park is currently a year round dog prohibition area, this seems at odds to the informal structure to the Park and open

community aspect. Officers suggested removing this restriction, 80.9% of respondents agreed.

Officer Comment/Recommendation It is therefore recommended to remove the restriction and monitor the impact prior to the next review.

- 5.11 A 250m section of the promenade at Scarborough South Bay has a year round dogs on lead restriction, this area is in front of the spa. Either side of this area has no restriction. 69.3% of respondents agreed with removing this restriction.

Officer Comment/Recommendation It is therefore recommended to remove the restriction and bring the area in line with the rest of the Foreshore.

- 5.12 St Martins Square in Scarborough, is currently a year round dogs on lead area, outside of the Square is unrestricted. 71.6% of respondents agreed with removing this restriction.

Officer Comment/Recommendation It is therefore recommended to remove the restriction and monitor the impact prior to the next review.

- 5.13 The 2018 PSPO removed the requirement for dogs to be exercised on a lead at Sea View Drive public open space, Officers have received requests for the reinstatement of this. 82.5% of respondents agreed the area should remain unrestricted.

Officer Comment/Recommendation It is therefore recommended to make no change to the status of this area.

- 5.14 Dogs on lead restrictions along main and side roads are currently not consistent and with no evidence base behind why some are restricted and others not. Officers therefore proposed to standardise the restriction to all pedestrianised areas of the public highway only. 92.7% of respondents agreed. Officer Comment/Recommendation It is recommended to replace all previous highways restrictions with this new requirement.

- 5.15 Currently some playing fields and bowling greens are covered with a requirement for dogs to be exercised on a lead or banned entirely, others are not. Officers proposed to standardise a dogs on lead requirement across both, when signed at the entrance/perimeter. 72% of respondents agreed with this proposal.

Officer Comment/Recommendation A number of respondents raised the concern that bowling greens and playing fields are very different public spaces. It is therefore recommended to add bowling greens to the spaces which are automatically a dog prohibition area when signed. Playing fields would then be added to an automatic dog on lead requirement, when signed. It is important to note that the majority are owned/managed by outside bodies/groups, there would be no immediate change to the restrictions at these locations.

- 5.16 As part of the consultation exercise Officers asked for suggestions and general comments, these are reproduced in Appendix 2.

- 5.17 This consultation exercise and proposed changes to the PSPO are part of an interim review of the Order. It is proposed to consult again on all remaining aspects of the Order in Summer 2020, ahead of the statutory expiry of the Order - December 2020, which can only be extended after a further period of consultation.

## **6. IMPLICATIONS**

### **6.1 Policy**

The provisions in this report support the Corporate aim - Place - to protect and improve our environment, now and for the future

### **6.2 Legal**

All enforcement action is taken in accordance with agreed Council policy and any proceedings are authorised by a Director upon reviewing the evidence in consultation with the public interest.

### **6.3 Financial**

There is no target for the number of fixed penalty notices or Court action the service undertakes. The revenue from fixed penalty notices, in line with legislation, is ring fenced for education - and functions directly related to the offence - i.e. street cleansing.

### **6.4 Equalities and Diversity**

No identified implications

### **6.5 Staffing Implications**

None

### **6.6 Planning Implications**

There are no planning implications arising from this report.

### **6.7 Crime and Disorder Implications**

The provisions within this report will provide an additional tool through which anti-social behaviour within the Borough can be tackled.

### **6.8 Health and Safety Implications**

No identified implication.

### **6.9 Environmental Implications**

The provisions in this report will improve the local environment through more effectively controlling behaviour which is unsightly and impacts negatively on the physical appearance of the area.

## **7. ACTION PLAN**

- 7.1 Subject to the approval of Cabinet it is proposed the PSPO is approved and enacted immediately after full Council approval.

*Nicholas Edwards*

Nick Edwards  
**Director**

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**Background Papers:**  
None

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

## Risk Matrix

<b>Risk Ref</b>	<b>Date</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	10/2016	Incidents of anti-social behaviour are not effectively managed.	Reduced quality of life for local residents. Negative experience for visitors.		C3	B2	Paul Thompson	