

Cabinet Member for Policing and Equalities
Cabinet

18 December 2014
6 January 2015

Name of Cabinet Member:

Policing and Equalities for Councillor Townshend

Director Approving Submission of the report:

Executive Director of People

Ward(s) affected:

All

Title:

Public Space Protection Order (Coventry Dog Control)

Is this a key decision?

Yes

Executive Summary:

At the Cabinet Member meeting on 4th September 2014, Officers were requested to consult the general public and other interested organisations on extending the remit of current dog control in the City. These controls would assist Officers in dealing with a minority of dog owners who do not adequately supervise their dogs. A five week public consultation was conducted in September and early October 2014.

The responses from the consultation demonstrated significant support for these additional controls and this report seeks permission to create a Public Space Protection Order, under the new Anti-social Behaviour, Crime and Policing Act 2014, which would incorporate the existing Dog Control Order (Fouling of land) and the proposed additional controls upon which the City Council consulted.

Recommendations:

The Cabinet Member is requested to recommend that Cabinet approve:

- (1) The creation of a City-wide Public Space Protection Order (Coventry Dog Control) incorporating the following controls: Fouling of land by dogs; dogs on leads; dogs on leads by direction; and dogs exclusion and Dogs (specified maximum)
- (2) The consultation and consideration of the views from the 'park friends groups' (paragraph 2.3) concerning the areas within parks to be covered by the Public Space Protection Order prior to its implementation.
- (3) Setting the level of the Fixed Penalty Notice payable for breaches of the Public Space Protection Order at £100, but reduced to £60 if paid within 14 days.

- (4) Launching an education campaign prior to the launch of the Public Space Protection Order and operate an 'advisory notice' system of fixed penalty notice for the new offences under the Public Space Protection Order for a three month period. However, it is proposed that Dog fouling offences will continue to receive a Fixed Penalty Notice, from the Public Space Protection Order implementation date at the new proposed rate.

The Cabinet is recommended to consider any comments from the Cabinet Member (Policing & Equalities) and approve recommendations 1 to 4 above.

List of Appendices included:

Appendix One: Dog Control in Coventry Final Report: Findings from the Public Consultation – November 2014

Appendix Two: Proposed Dog Control Orders in Coventry: Responses to Specific Questions

Appendix Three: Evidence of the detrimental effect of irresponsible dog ownership has on the quality of life

Appendix Four: Dog damage to play equipment in parks

Appendix Five: Public Space Protection Order (Coventry Dog Control)

Other useful background papers:

None

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

Yes, Cabinet on 6th January 2015

Will this report go to Council?

No

Report title:

Public Space Protection Order (Coventry Dog Control)

1. Context (or background)

1.1 Currently, the City only has one Dog Control Order (DCO), which governs dog 'fouling on land' and has been in force since 2007. This particular Order was created under the Clean Neighbourhood & Environment Act 2005. The power to create further Orders under this specific piece of legislation was repealed and replaced on 20th October 2014 by the Anti-social Behaviour, Crime and Policing Act 2014. Therefore, any new dog control measures will now have to be introduced as a Public Space Protection Order (PSPO). A single PSPO could include all of the dog control measures the Council considers justified.

1.2 The existing DCO enables the Council to deal with dog fouling. However, the Council is unable to respond to other issues raised by local people, which includes dog anti-social behaviour and damage to play equipment and trees. Birmingham City Council, Nuneaton and Bedworth Borough Council, Rugby Borough Council and Warwick District Council have DCO's in force, which address these issues.

1.3 At the Cabinet Member meeting on 4th September 2014, Officers were requested to consult the general public and other interested organisations on extending the remit of current dog control in the City. The Council conducted a public consultation from 8th September–12th October 2014 to consider proposals to:

1.3.1 Keep dogs on a lead, in specified areas

Under a PSPO, the Council could insist that dogs are kept on leads at all times in the following areas:

- a. A highway, carriageway, cycle lane, footway or footpath, maintainable at the public expense, any grass verge managed by the Local Authority and which is adjacent to the carriageway or footway of a highway, including gutters and adjoining footpaths;
- b. clearly specified and signed areas in the city's parks (see 2.3);
- c. all churchyards and graveyards (but not green burial areas);
- d. all car park areas, shopping centres and precincts that are: open to the air (which includes land that is covered but open to the air on at least one side); and to which the public are entitled or permitted to have access (with or without payment), irrespective of ownership;
- e. all sports pitches, which are maintained by the Local Authority and are not subject to 'Dog Exclusion', but only when in use for officiated sporting matches.

1.3.2 Put dogs on a lead if instructed to do so by an Authorised Officer from the Council.

In cases where an irresponsible owner is allowing their dog to cause a nuisance, an Authorised Council Officer could require the owner to keep their dog on a lead on any land to which the public have access within the City boundary and which is open to the air (including land which is covered but open to the air on at least one side).

1.3.3 Restrict dogs from going into certain places i.e. children's play areas.

There are parts of the City where the public expect dogs to be excluded for public health and other specific reasons. Under a PSPO, it would be possible to prohibit dogs from the following specified areas:

- a. children's play areas (which are clearly signed);
- b. multi-use games areas (which are clearly signed);

- c. sport and recreational facilities i.e. courts and pitches (which are enclosed and clearly signed);
- d. sensitive nature areas, or specific horticultural areas within parks (which are enclosed and clearly signed)

1.3.4 **To limit the number of dogs a person has with them at any one time (which would include professional dog walkers).** Powers could be incorporated into the PSPO to restrict the number of dogs a person has under their control to six, on any land to which the public have access within the City boundary and which is open to the air (including land which is covered but open to the air on at least one side). Government guidance specifies that six should be the maximum number of dogs

1.3.5 **Fouling of Land by Dogs.** The existing powers under the DCO could be incorporated into a PSPO

1.4 **Exemptions.** The powers/restrictions referred to above would not apply to those who are registered blind or use an Assistance Dog from Dogs for the Disabled, Support Dogs, Canine Partners for Independence, or Hearing Dogs.

1.5 **Penalties.** Under the current DCO failure by an owner to clear up their dog's foul can result in the person being issued with a £75 Fixed Penalty Notice (FPN), which is reduced to £50 if paid within ten days of issue. The PSPO enables Local Authorities to issue FPNs of up to £100, with an option to reduce the amount if the charge is paid within 14 days. If the Fixed Penalty Notice is not paid, the Council could prosecute the offender in the Magistrates' Court, where the maximum fine is currently £1000 (level 3 on the standard scale).

1.6 **Implementation.** Officers have been issuing FPNs for dog fouling for many years and in the financial year 2013/14, 363 Notices were served and 34 cases were prosecuted.

Prior to making a PSPO the Council must be satisfied on reasonable grounds that:

- a. activities carried out in a public place within the City are having a detrimental effect on the quality of life of those in the locality; and
- b. the effect, or likely effect of the activities, is likely to be persistent, unreasonable and therefore justifies the restrictions.

1.7 The number of fixed penalty notices issued in the last financial year suggests that dog fouling has and is likely to continue to have a detrimental effect on the quality of life of people in the City. In addition to dog fouling, the Council also receives reports of stray and/or aggressive dogs and damage to park equipment; the annual cost of replacing this equipment averages between £3- £5K. More information regarding these reports is set out at appendices 3 and 4.

1.8 This information, together with the consultation responses indicate that there are reasonable grounds to be satisfied that the activities, which the Council is seeking to restrict, have a detrimental effect on the quality of life of people in the locality and the effect, or likely effect of the activities is likely to be persistent, unreasonable and therefore justifies the restrictions proposed at paragraph 1.3.

2. Options considered and recommended proposal

2.1 Do nothing (not recommended). The existing powers under the DCO would remain in force as if the powers were contained within a PSPO. However, the Council would continue to be limited in its ability to address dog related issues other than dog fouling. Therefore, this option is not recommended.

- 2.2 For the reasons set out in paragraphs 1.6 - 1.8 it is recommended that the Council introduces a PSPO in the terms set out in Appendix 5.
- 2.3 It is recognised that the most contentious part of the proposed PSPO is where it directly impacts on the City's parks. These are important public areas and it is important that the correct balance of use is obtained for all park users; this includes suitable and sufficient areas where dogs can safely be exercised 'off lead'. It is therefore proposed that the PSPO, should on the whole, consolidate and reinforce the existing areas which are currently designated and signed as dogs on leads, or dogs prohibited areas. Most of these areas have already been agreed with 'park friends groups' where they exist and it is believed that this is a common sense approach to the matter and will receive wider public support. However, the City Council will liaise and discuss these 'specified areas' with 'park friends of groups', where they exist, before any Order is implemented. Maps detailing these areas will be made available to these specific groups for their comment.
- 2.4 Since the proposed new dog control measures will be new to the City, it is proposed that for a 3 month period, identified offenders, for the proposed new offences (not including dog fouling) are issued with an Advisory Notice of their offence and not issued with an FPN. This will raise the profile of the new proposed PSPO and will form part of a programme in which we seek to educate dog owners regarding their obligations under the proposed PSPO.
- 2.5 It is proposed that the amount of the FPN for non-compliance with a PSPO be set at £100 and reduced to £60 if paid within 14 days. Where fixed penalties are not paid, it is the Council's policy to prosecute offenders in the Magistrates' Court. It is proposed that this policy would also apply in relation to PSPOs.

3. Results of consultation undertaken

- 3.1 The Council consulted the general public and interested organisations from 8th September–12th October 2014. During this period Officers also met with the Friends of the War Memorial Park and dog walking and dog home boarding businesses. Officers also consulted with Coventry's Chief Police Officer and Coventry's Local Policing Body. The proposed dog control measures also featured twice in articles in the Coventry Telegraph and twice on BBC Coventry & Warwickshire Radio.
- 3.2 The Council received 1,080 responses to this consultation and the vast majority of the respondents were in support of extending the remit of dog control in the City. It was pleasing to note that just over two thirds of the respondents were dog owners.
- 81% supported the idea that dogs should be kept on leads in specific areas of the city i.e. pavements, precincts/shopping centres, car parks and burial grounds.
 - 78.9% of respondents believed that Authorised Council Officers should be empowered to insist that a dog is placed on a lead. This power would be used in instances where the owner was permitting the dog to cause a nuisance.
 - 80.6% of respondents believed that the Council should be able to restrict owners from taking their dogs into certain places which are clearly signed i.e. children's play areas and schools.
 - 68.3% of respondents believed that the Council should be able to insist that a person should not be walking more than four dogs at any one time.
- 3.3 The findings of the consultation are detailed at Appendix 1 and details of some of the specific consultation questions are detailed in Appendix 2.

4. Timetable for implementing this decision

If Cabinet decides to proceed with a PSPO, the Order will be published on the Council's website and implemented 28 days later. Suitable signage will need to be erected prior to the implementation of the PSPO. The PSPO will be for a three year period. Following the three years, the PSPO must be reviewed to ensure that it is still necessary.

5. Comments from the Executive Director, Resources

Finance: No additional resource will be required to implement the proposed PSPO. Any additional income generated by the introduction of a PSPO will contribute towards Council resources.

Legal: Under sections 59-75 of the Anti-social Behaviour, Crime and Policing Act 2104, Local Authorities have powers to make PSPOs. PSPOs can only apply to public places. This means any place to which the public, or and sections of the public, on payment or otherwise, have access to as of right or by virtue of express or implied permission.

Enforcement Officers can issue a Fixed Penalty Notice in respect of a breach of a PSPO. It is a criminal offence to do anything without reasonable excuse which is prohibited under a PSPO or failure to comply with a requirement of a PSPO. Such an offence is punishable by a fine of up to £1000 on prosecution.

The existing DCO will remain in force as if it were a PSPO until such time it is revoked or replaced by a new PSPO.

6. Other implications

None

6.1.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint / Local Area Agreement (or Coventry Sustainable Community Strategy)?

6.1.2 There are clear research findings that show that the local environmental quality in a person's living environment has a significant impact on their health and well-being. Residents in areas which have a low environmental quality often have an increased "fear of crime". This particular tool will contribute to the Council's key objectives to 'create an attractive, cleaner and greener city' and 'make communities safer together with the police, to reduce crime and anti-social behaviour'.

6.2 How is risk being managed?

None

6.3 What is the impact on the organisation?

None

6.4 Equalities / EIA

None

6.5 Implications for (or impact on) the environment

See 6.1.1

6.6 Implications for partner organisations?

None.

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