



## HEALTH SOCIAL CARE AND WELLBEING SCRUTINY COMMITTEE – 12TH DECEMBER 2016

**SUBJECT: OUTCOME OF INFORMAL CONSULTATION ON THE PROVISIONS TO  
BE INCLUDED IN A PUBLIC SPACES PROTECTION ORDER RELATING  
TO DOG CONTROL**

**REPORT BY: CORPORATE DIRECTOR, SOCIAL SERVICES**

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### **1. PURPOSE OF REPORT**

- 1.1 To advise the Scrutiny Committee of the outcome of the Council's informal Consultation on proposals to use new powers available to tackle irresponsible dog ownership and dog fouling, by making a Public Spaces Protection Order.
- 1.2 To make recommendations to Cabinet on the provisions to be included in a proposed Public Spaces Protection Order.
- 1.3 To ask Cabinet to authorise the commencement of the statutory order making process (including formal consultation) on the final content of the draft Public Spaces Protection Order.

### **2. SUMMARY**

- 2.1 Public Spaces Protection Orders (PSPOs) were introduced by the Anti-social Behaviour, Crime and Policing Act 2014 and can be used to regulate activities in particular public places to ensure that the law-abiding majority can use and enjoy public spaces safe from anti social behaviour. As such, they provide an opportunity to enhance the Council's enforcement ability to respond to public opinion regarding dog fouling. This opinion manifested itself through complaints to officers and Members, the Council's Household Survey, and concerns raised through the Your Voice process.
- 2.2 At its meeting on 9th February 2016 the Health Social Care and Well-being Scrutiny Committee endorsed proposals to undertake an informal consultation on various provisions which may be included in a Public Spaces Protection Order relating to Dog Control, some of which replace existing powers whilst others are new.
- 2.3 The overview of the consultation responses (summary report) is attached at **Appendix 2**. The informal public consultation provided support for action against irresponsible dog owners even though the majority of responses received were from dog owners themselves. There was strong agreement with all of the proposals put forward, with exception of excluding dogs from sports pitches where opinion was more divided.
- 2.4 The views of Health Social Care and Well-being Scrutiny Committee are sought in relation to the content of the proposed draft Public Spaces Protection Order prior to seeking Cabinet approval to commence the statutory consultation process.

### 3. LINKS TO STRATEGY

- 3.1 The prevention of dog fouling contributes to the Healthier and Greener themes of the single integrated plan, Caerphilly Delivers. Responsible dog ownership supports the Council's Medium Term Priority to promote the benefits of an active and healthy lifestyle.
- 3.2 The report seeks to highlight that the promotion and encouragement of good dog ownership can achieve the following well-being goals within the Well-being of Future Generations Act (Wales) 2015:
- A sustainable Wales;
  - A prosperous Wales;
  - A more equal Wales;
  - A Wales of more cohesive communities;
  - Globally responsible Wales.

### 4. THE REPORT

- 4.1 Public Spaces Protection Orders were introduced by the Anti-social Behaviour, Crime and Policing Act 2014 (the Act) and can be used to regulate activities in particular public places, to ensure that the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour. Whilst the Act allows local authorities to regulate activities in public places, the legislation specifies certain requirements which must be considered prior to making an Order.
- 4.2 A local authority may make a Public Spaces Protection Order if it is satisfied on reasonable grounds that two conditions are met. The first condition is that activities carried on in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality or it is likely that the activities will be carried on in a public place and that they will have such an effect. The second condition is that the effect or likely effect is likely to be of a persistent or continuing nature, is likely to be such as to make the activity unreasonable and justifies the restriction imposed by the Order.
- 4.3 Members will recall that in advance of proceeding to make a draft Order under the Act the Committee endorsed proposals to undertake an informal public consultation exercise to seek residents' and stakeholders' views on the following proposals:
- Excluding dogs from all enclosed children's play and multi-use games areas;
  - Additional requirements for putting dogs on leads at all times in certain areas;
  - Requiring dogs to be kept on leads in enclosed memorial gardens;
  - Requiring dog owners to remove dog faeces in public places;
  - Requiring dog owners to carry an appropriate receptacle for dealing with the waste that their dogs produce (that is to always have the means to pick their dog faeces);
  - Requiring dog owners to put their dogs on a lead when directed to do so by an authorised officer on any public land where the dog is considered to be out of control or causing harm or distress to prevent a nuisance;
  - Excluding dogs from all council owned marked sports/playing pitches.
- 4.4 The consultation was open to residents and stakeholders for a period of 12 weeks from 1st April to 24th June 2016 and was preceded by wide scale communication via the local press and the Council's website, social media accounts and newsletter "Newsline". Communication continued through a variety of media throughout the consultation period with a view to raising awareness of the consultation and increasing the response rate.
- 4.5 The key consultation tool was a questionnaire (**Appendix 1**). This was made available bilingually to residents for online completion via the Council's Website and shared on social media. The survey was also provided in paper format at some key Council venues and paper and alternative formats were available on request.

- 4.6 Stakeholder groups were contacted directly via e-mail or in writing and invited to respond to the survey. Those contacted include the Kennel Club, Dogs Trust, RSPCA, Farmers Unions, Horse Society, Open Spaces Society, Ramblers, Parent Network, and Welsh Language groups, Voluntary Sector, Community Safety networks and all Head Teachers for the attention of parents. Members of the Youth and Junior Forums as well as young people at Youth Clubs from across the county borough were supported in completing the survey in a workshop setting.
- 4.7 A total of 456 questionnaires were completed online. Eighty-two young people aged 9-11 attended the Junior Forum meeting and eighty-nine 11-20 year olds completed the survey. A number of additional written responses were received from individuals and stakeholders. Of those who responded to the survey, 92% identified themselves as residents. An Assembly Member, a small number of elected members, business people and those representing a charity or organisation plus those who visit the county borough also completed the survey. 65% of those who responded were dog owners.
- 4.8 The full (*redacted*) consultation responses are included at Appendix 3 with a summary at Appendix 2. Set out below is an overview of responses received in respect of each proposal with recommendations in relation to the proposed content of the draft Order for members' consideration.

#### 4.9 **Excluding dogs from Children's Play Areas and Multi Use Games Areas**

- 4.9.1 The consultation covered all enclosed children's playing area and multi use games areas within the County Borough. 88% of survey respondents agreed with this proposal as did most members of the Youth Forum and Junior Forum. The health and safety of the children and families using these facilities was the underlying issue within the responses received. Of those who disagreed, there were a number of comments about ensuring enforcement of legislation and educating irresponsible dog owners.

The Council currently excludes dogs from all enclosed children's play areas and multi use games areas (MUGAs) within the County Borough under existing Dog Control Orders and is proposing to continue with thin the proposed draft Order. A list of all the enclosed children's play areas /MUGAs are in Appendix 4.

#### **Proposal**

It is recommended that a draft Order is progressed to include a provision which makes it an offence to allow dogs onto all enclosed children's play areas and multi-use games areas within the County Borough. We believe that this is a proportionate response required to protect young children.

#### 4.10 **Dogs on Leads in Enclosed Memorial Gardens**

- 4.10.1 The proposal to require that dogs are put on leads at all times in enclosed memorial gardens was supported by 91% of survey respondents. Responses emphasised the need for respect. Youth and Junior Forum views reflected those of the wider public in relation to this proposal. Of the few objections concern was expressed that the actions of a few were affecting responsible dog owners.

#### **Proposal**

It is recommended that a draft Order is progressed to include a provision requiring dogs to be put on leads at all times in enclosed memorial gardens in the County. We believe that this is proportionate response. The memorial gardens included in this proposal are listed in Appendix 4.

#### 4.11 **Dog Fouling**

- 4.11.1 Currently the issue of dog fouling is addressed through the Dogs (Fouling of Land) Act 1996, however the offence under this Act only covers certain designated land and therefore does not apply universally to all public land in the County Borough. PSPO's provide for a more wide ranging application of controls it may introduce such as dog fouling and may apply to all public places in the County Borough. This means a place to which the public or any section of the public have access on payment or otherwise as of right or by virtue of express or implied permission.
- 4.11.2 The consultation outcome showed that 98% of those who responded to the survey agreed with the proposal to continue existing powers that makes it an offence for a person in charge of a dog to fail to clean up its faeces. Youth and Junior Forum views reflected those of the wider public in relation to this proposal.
- 4.11.3 It therefore remains evident from the consultation outcome that the failure to "pick up" after a dog has fouled is an important issue in the local environment generally, which has detrimental effect on the quality of life. The problem is likely to continue in nature unless the issue is addressed.

#### **Proposal**

It is recommended that a draft Order is progressed to include a provision requiring people to clean up after their dogs on all public land in the county, which is justified and is a proportionate and balanced response to the dog fouling problems in the county.

#### 4.12 **Carrying an Appropriate Receptacle**

- 4.12.1 The consultation resulted in 92% of respondents agreeing with the proposal to introduce a new offence that would require dog walkers to carry an appropriate receptacle for dealing with the waste that their dog or dogs produce. RSPCA Cymru believed it would help to improve responsible dog ownership. Again, Youth and Junior Forum views reflected those of the wider public in relation to this proposal.
- 4.12.2 Whilst there was general overall agreement, a number of respondents felt that this would be difficult to enforce and that more dog waste bins would be required or that bins would need to be emptied more regularly. It was also felt that this proposal would need to be part of an effective communication campaign to ensure responsible dog owners are reminded to carry a supply of appropriate receptacles with them.
- 4.12.3 The Kennel Club raised concerns over this issue. They expressed the view that it would be perfectly plausible that this proposal would perversely incentivise dog walkers not to pick up. The example given was of an individual who witnessed their dog fouling and realising they were down to their final bag. A decision would result to retain their means to pick up and avoid being caught for not having a receptacle if approached or to pick up. They also raised the example of dog owners who would tie a bag to the lead without any intention of ever using it. Dog owners are expected to pick up after their dogs and it is reasonable to expect that when out with their dog they would have the means to be able to do so.

In consultation with Legal Services consideration can be given to including a definition of "appropriate receptacle" within the Order so as to minimise the potential for legal challenges in future.

#### **Proposal**

It is recommended that a draft order is progressed to include a provision to require a person in charge of a dog to carry an appropriate receptacle for dealing with the waste that their dog or

dogs produce, within the County Borough. We believe that this is proportionate response and will help improve responsible dog ownership.

#### 4.13 **Dogs on Leads by Direction**

- 4.13.1 Of those who responded to the survey, 92% agreed with the proposal to make it an offence to fail to put a dog on a lead when directed to do so by an authorised officer where the dog is considered to be out of control or causing alarm or distress or to prevent a nuisance. It would allow responsible dog owners who had their dogs under control to exercise their dogs whilst allowing the local authority powers to restrict those not under control. Youth and Junior Forum views reflected those of the wider public in relation to this proposal.

##### **Proposal**

Due to the consistent consultation response it is recommended that a draft order is progressed to include a County-wide provision requiring dogs to be placed on a lead when directed to do so by an authorised officer of no more than two meters in length where the dog is considered to be out of control or causing alarm or distress or to prevent a nuisance. This is a fair, proportionate and balanced means of dealing with dog control issues as they occur, whilst allowing people to exercise their dogs off a lead provided that they are under control and not causing a nuisance.

#### 4.14 **Additional requirements for putting dogs on leads at all times in certain areas.**

- 4.14.1 Of those who responded to the survey only 43% believed that other areas should be included. Examples included all public spaces, paths alongside public highways, canal tow paths and cycle ways. On review it is considered that of the areas highlighted, the provision in respect of dog fouling and putting dogs on leads by direction will address those concerns.

##### **Proposal**

It is therefore proposed to rely on the “dog fouling” and “dogs on lead by direction” provisions proposed above to address any dog fouling problems and dogs not properly controlled. We will be able to monitor to see how well they work, and to gather evidence to support the need for any further restrictions. If necessary, further PSPOs could be made in the future to address any ongoing problems.

#### 4.15 **Excluding dogs from all council owned marked sports/playing pitches**

- 4.15.1 Of those who completed the survey 54% agreed with the proposal to introduce a new requirement that makes it an offence to allow dogs onto all marked sports playing pitches owned by Caerphilly CBC, with 46% of respondents against. The proposal was supported by local sports clubs. Youth Forum views agreed with the proposal to introduce the requirement. Amongst those in disagreement with the proposal, a number of issues were raised including the lack of an alternative open space for dogs to run off leads, and difficulty enforcing the proposal.

- 4.15.2 A number of older and disabled people disagreed with the proposal and cited age and mobility as reason. It was suggested that these are some of the few areas they can access easily and safely. In areas where park and sports fields share the same boundaries it would be quite easy for their dog to stray across the line of a marked playing field thus leaving them open to action.

The Kennel Club did not support proposals to introduce blanket restrictions on dog walkers accessing public open space as dog owners are required to provide their dogs with daily exercise and ask the authority to consider a seasonal restriction to allow dogs to exercise on playing fields when they are not in use. The Kennel Club also noted that compliance with such an order can be difficult for a dog walker if there are no boundaries around the playing field as when exercising their dogs off lead, dogs will not recognise the difference between playing

fields and other grassed areas. RSPCA Cymru would like to see proper enforcement, using the other powers contained within this PSPO, to target and tackle the dog fouling in these areas and to encourage better dog ownership of offenders.

The Kennel club also raised the point that dog owners are required under the Animal Welfare Act 2006 to provide for the welfare needs of their animals and this includes providing the necessary amount of exercise each day. Their ability to meet this requirement would be greatly affected by the amount of publicly accessible parks and other public spaces in the area where dogs could be exercised without restrictions. It was highlighted that this part of the Animal Welfare Act was included in the statutory guidance produced on the use of PSPOs.

Owners may feel the need to keep dogs on leads simply to avoid the risk of them inadvertently straying onto pitches or they may avoid the adjoining open space areas all together.

- 4.15.3 The presence of dog faeces on sports pitches is a potential health hazard to all members of the public using those pitches. However one of the difficulties introducing exclusions that apply to marked sports pitches is that many of them are not enclosed. The positions of the pitches within a park can change during the year or from one year to the next, and pitch markings are not maintained all year round. During the closed season, the posts on football fields are removed and these areas revert to being public open spaces. Officers within Public Services have advised that rugby and football pitches would be deemed to be marked from the first Saturday in August to the last Sunday in May. Cricket pitches first week in May to the second Sunday in September. As such any proposed restrictions would be seasonal according to the type of pitch being used.

Participating in sport on a pitch where dog fouling is present is unpleasant and unhygienic. Dog fouling is a health hazard and can lead to toxocariasis in humans. Toxocariasis is caused by a parasite that can live in dogs' digestive systems. Eggs are released in the faeces of infected animals and contaminated soil. If someone ingests infected material, the eggs may hatch into larvae and can lead to toxocariasis. A list of the council owned sports pitches by reference to rugby football and cricket pitches are listed in appendix 4.

### **Proposal**

It is recommended that a draft order is progressed to exclude dogs from marked sports pitches within the County Borough on a seasonal basis according to the specific uses identified above.

### 4.16 **Conclusion**

Based on the information set out above Members are asked to consider and recommend to Cabinet that it is recommended that a public space protection order is drafted to include the following provisions and taken on to the formal statutory process (including formal consultation).

- Excluding dogs from enclosed children's plays and multi-use game areas as defined in Appendix 4;
- A requirement to place dogs on a lead in all enclosed memorial gardens within the county Borough as defined in Appendix 4;
- A requirement to pick up after their dogs on all public land within the County Borough;
- A requirement for dog walkers to carry an appropriate receptacle for dealing with the waste that their dog/s produce within the County Borough;
- A requirement to place a dog on a lead by direction of no more than 2 meters in length when directed to do so by authorised officer, which could include local authority officers, police officers and/or PCSOs;
- An order excluding dogs from all council owned marked sports/playing pitches on a seasonal basis according to use as defined in Appendix 4.

It is considered that the above proposals are a fair, balanced and proportionate response to the current problems and addresses the views of the consultees. We believe that they are necessary and proportionate in terms of the controls that they impose, whilst recognising the right of dog owners and their needs for areas where they can exercise their dogs off lead for animal welfare reasons.

Appropriate signage will need to be erected to inform members of the public and dog owners if there is a PSPO in place in the area in relation to all the proposals outlined in the report. If there is evidence that the above orders are not adequate to deal with the current problems, the Council will be able to make further PSPOs at that stage to address any continuing problems.

## **5. WELL-BEING OF FUTURE GENERATIONS**

- 5.1 The Well-being of Future Generations (Wales) Act became law in April 2015. The Act is about improving the social, economic, environmental and cultural well-being of Wales. It will make public bodies listed in the Act think more about the long term, work better with people and communities and each other, look to prevent problems and take a more joined-up approach. It will have a significant impact on all Council policies and priorities and has the potential to significantly affect the way we plan and deliver services and how we engage with individuals and communities within the Caerphilly county borough.
- 5.2 This proposals contribute to the Well-being Goals as set out in Links to Strategy above, as follows:
- Resilient. The proposals will contribute to a cleaner, safer environment by removing the likelihood of dog faeces and associated environmental issues;
  - Healthier. The proposals are intended to minimise the public to the exposure to risk including the prevention of spread of disease from dog faeces and preventing injury from dog bites or the fear of walking in areas where dogs are being exercised without due control by their owners. It would also allow person to exercise with or without their animals in a safer more controlled environment;
  - More equal. The exemptions included will allow for all groups to be involved;
  - Cohesive communities – The consultation process has allowed all persons to be involved and will allow communities to be involved in making the proposals sustainable;
  - Vibrant culture and thriving Welsh language – The underlying objective is to enable people to participate safely in sport and recreation;
  - Globally responsible –The proposals are intended to improve the environment within parks and all areas within the county Borough.
- 5.3 The proposals are consistent with the five ways of working as defined within the sustainable development principle:
- Involvement - The proposals have been out to consultation where the views of the public have been sort on all the proposals. The proposals are intended to improve the area and make it safer for individuals to go about their daily routines without added risk. The involvement of the public as a whole from the outset will create ownership and participation to allow the orders to have a meaningful outcome. This would include actively encouraging individuals to report issues and incidents;
  - Collaboration - Outside stake holders including sports clubs, the RSPCA, Kennel Club have also been involved and their views have been included in the considerations to allow the proposals to be subsequently sustainable;
  - Long Term - The proposals look to reduce the public to both short term and long term risks relating to dog ownership and will seek to improve the living environment;
  - Integration. The proposals contribute to health objectives through disease prevention. They also contribute to resilient objectives by promoting and ensure a clean safe environment;

- Prevention - The proposals are intended to minimise the public to the exposure to risk including the prevention of spread of disease from dog faeces and preventing injury from dog bites or the fear of walking in areas where dogs are being exercised without due control by their owners etc.

## **6. EQUALITIES IMPLICATIONS**

- 6.1 Dog Control Order and dog fouling legislation provides exemptions in particular cases for registered blind people, deaf people and for other members of the public with disabilities who make use of trained assistance dogs. Consideration will need to be given to the application of these exemptions across the different proposals.

An equalities impact assessment has been undertaken and used to inform the proposals resulting from the consultation.

## **7. FINANCIAL IMPLICATIONS**

- 7.1 The cost of producing and erecting new signage in the designated areas is estimated to be £20,000 which can be met from service reserves.

## **8. PERSONNEL IMPLICATIONS**

- 8.1 Temporary increase in workload to conduct the consultation and to develop the PSPOs. Any additional restrictions imposed may increase the potential for staff to be placed in confrontational situations. It would be important to ensure that the necessary training and procedures are in place so that staffs are able to assist with the expectations in relation to enforcement of these proposals. Increased workload for follow up enforcement requirement when orders are introduced.

## **9. CONSULTATIONS**

- 9.1 This report has been sent to the consultees listed below and all comments received are reflected in this report.

## **10. RECOMMENDATIONS**

- 10.1 It is recommended that members:-
- 10.2 Note the outcome of the informal consultation relating to dog control findings from the informal dog control order consultation.
- 10.3 Endorse the proposed restrictions to be included in a draft order at paragraph 4.16 of the report and recommend to Cabinet that the statutory order making process (including formal consultation) is commenced in relation to these restrictions with the outcome reported back to Cabinet for consideration.

## **11. REASONS FOR THE RECOMMENDATIONS**

- 11.1 To protect public health whilst providing suitable amenity for dog owners and to ensure that the council is compliant with its statutory obligations.



## 12. STATUTORY POWER

- 12.1 Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014.  
The Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014.

Author: Lyndon Ross, Senior Environmental Health Officer  
Consultees: Councillor Nigel George, Cabinet Member for Community & Leisure Services  
Councillor Lyn Ackerman, Chair of Health, Social Care & Wellbeing Scrutiny Committee  
Councillor Patricia Cook, Vice Chair, Health, Social Care & Wellbeing Scrutiny Committee  
Dave Street, Corporate Director, Social Services  
Rob Hartshorn, Head of Public Protection  
Ceri Edwards, Environmental health Manager  
Gail Williams, Interim Head of Legal Services & Monitoring Officer  
Lisa Lane, Solicitor  
Anwen Rees Policy Officer (Equalities & Welsh Language)  
Mike Eedy, Finance Manager  
Shaun Watkins, Human Resources Manager  
Mark S. Williams, Head of Community & Leisure Services  
Mike Headington, Acting Parks Manager  
Liz Sharma, Research Officer

### Background Papers:

The Anti-Social Behaviour, Crime and Policing Act 2014. Statutory guidance for frontline professionals.

Home Office

2014 DEFRA Practitioners guide on dealing with irresponsible dog ownership.

DEFRA

### Appendices:

Appendix 1 of 4 Consultation Questionnaire

Appendix 2 of 4 Summary Report

Appendix 3 of 4 Full [redacted] Consultation Responses

Appendix 4 of 4 List of enclosed children's playing areas, multi-use games areas, enclosed memorial gardens and council owned sports pitches.