



## Cabinet

5<sup>th</sup> June 2019

Report of:	Portfolio Holder for Environment and Regulatory Services
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### PUBLIC SPACE PROTECTION ORDERS: CONSULATATION

1.0 Corporate Priority:	Decision Type:	
1.1 PL4: Achieving a clean and attractive local environment	Non Key Decision	

2.0 Summary:
2.1 To seek approval to go to formal consultation on the making of a Public Spaces Protection Order (PSPO) relating to dogs and aspects of anti-social behaviour (following initial consultation with the Police) in accordance with the Anti-social Behaviour, Crime and Policing Act 2014 (the Act).

3.0 Recommendations
3.1 <b>That consultation on the draft Public Spaces Protection Order (PSPO) attached at Appendix One is undertaken between 1 July 2019 and 30 August 2019.</b>

4.0 Reason for Recommendation:
4.1 The Council understand well how anti-social behaviour can blight the lives of people in its local communities. The Council recognises that it has a key role to play in helping make local areas safe places to live, visit and work and tackling anti-social behaviour continues to be a high priority for the Council and its partners.
4.2 The Council has approved corporate priorities as part of its Corporate Delivery Plan 2018-2020. One of the corporate priorities is 'achieving a clean and attractive local environment'. It was identified within the Corporate Delivery Plan that one way of meeting this priority is to undertake additional environmental enforcement, so we can more proactively tackle issues like litter, dog fouling and fly-tipping as we work to improve the quality and attractiveness of the Borough of Melton.
4.3 Another corporate priority is to 'work with our partners to address vulnerability and tackle the root causes of social problems, building safe, happy and healthy communities'.
4.4 The Council receives complaints about dog fouling on a regular basis. The introduction of a PSPO would be a proactive way of ensuring that we try and stop

dog fouling and have the ability to take enforcement action against those persons who do not pick up after their dog/s

The PSPO process will assist in supporting both of these priorities. The overall aim of introducing a PSPO is to:

- create a clearer, simpler system thereby making it easier for the public to understand,
- provide a more comprehensive and consistent approach to the control of dogs in the district,
- increase the penalties for those committing offences,
- balance the needs of dog owners and other members of the community.

A period of public consultation ensures the views of those affected are taken into account

## 5.0 **Alternate Options Considered**

- 5.1 **Refuse** the request to go out to consultation. However since the existing Dog Control Order (“DCO”) will be repealed in 2020, and the Council have no adopted DCOs this will leave the Council with no provision under which to enforce dog offences, e.g. fouling of land.

## 6.0 **Report Detail**

- 6.1 A Public Space Protection Order (PSPO) is an Order which bans specific acts in a designated geographical area. Councils were given the power to introduce them in October 2014 under the Anti-Social Behaviour, Crime and Policing Act 2014 (“the Act”).
- 6.2 If a person contravenes a PSPO once implemented they will be committing an offence which the Council can issue a Fixed Penalty Notice for. If the Notice is not paid, the Council can prosecute and if found guilty, they may be subject to a fine.
- 6.3 PSPO’s must identify a particular public place and either prohibit specified action or require specified action to be taken. Councils throughout the country have introduced them for acts such as banning alcohol consumption in the specified areas, banning groups of people gathering at specified places and requiring dog walkers to carry disposable bags.
- 6.4 The Council has identified that a PSPO may be a suitable response to particular issues within the Borough.
- 6.5 On December 31<sup>st</sup> 2007 the Council adopted Dog Control Orders in the Borough for Fouling of land by dogs and the removal of dog faeces. This is currently the tool used to enforce dog fouling. It is not however the best tool to use as it has restrictions which the proposed PSPO would not.
- 6.6 The Council can make a PSPO if it is reasonably satisfied that the following tests are met:
- that activities carried out in a public place within the Borough have either had a detrimental effect on the quality of life of those in the locality or it is

likely that activities carried out will have such an effect;

- that the effect or likely effect of the activities is, or is likely to be of a persistent or continuing nature and;
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- the effect is likely to be such as to make the activities unreasonable and justifies the restrictions imposed by the order.

6.7 The Council believes that it may have evidence to satisfy the tests above. It is therefore proposed to consider introducing a PSPO which would cover the entire Borough and would require;

- Dog faeces to be removed
- Persons to produce a device or other means or removing dog faeces on demand
- Dogs to be put and kept on a lead when directed to do so by an authorised officer
- Dogs to be excluded from enclosed children play areas

A draft PSPO is attached at Appendix One.

6.8 At this stage, Members are requested to consider only whether to authorise consultation on the proposed PSPO. However once the consultation has concluded a further report would be considered by Cabinet. Members would therefore make a decision whether it is proportionate and appropriate to grant the PSPO only once they had considered the following;

- the appropriate scope of the Order
- the area covered by the restrictions
- the potential impact of the proposals
- how each of the restrictions meets the legal test identified above

Members would do this by considering the evidence presented to them and the consultation responses. The decision would be a Key Decision.

6.9 The Governments “Public Space Protection Order Guidance” provides helpful guidance on consultation methods prior to the considering of granting a PSPO. It is proposed that open consultation is undertaken in line with paragraph 7 of this report. During the consultation period it is proposed that the Scrutiny Committee consider the proposals and provide their views for Cabinet to consider when they make their decision.

## **7.0 Consultation and Feedback (including Scrutiny Committee)**

7.1 By virtue of section 72 of the Act, before introducing a PSPO the Council should carry out consultation with the Chief Officer of police, and the Police and Crime Commissioner, Parish Councils, the County Council as the highway authority, any community representatives the Council consider necessary, and owners/occupiers of land covered within the order. The consultation will be publicised widely through the Council’s website, but also include, via press releases in local media, Facebook, e-mailing parish councils, community groups, the Kennel Club, and by leaving copies for public perusal in the Council Offices.

Signs will also be erected in areas the order specifies advising of the Council's proposals. In addition, the Council will publish a notice of its intention to make a PSPO in a local newspaper which covers the whole district. It is intended that the consultation exercise will be carried out between the 1 July and 1 August 2019.

## **8.0 Next Steps**

8.1 To commence consultation through the methods identified in paragraph 7 on 1 July.

To consult with Scrutiny Committee during the consultation period.

- Following the conclusion of the consultation period to present a report to Council for approval of the PSPO.

## **9.0 Financial Implications**

9.1 There are costs associated with going out to consultation, in terms of placing notices in the newspapers and signage. Additionally there are costs associated in relation to staff resources required for the consultation process. These can be met from existing budgets.

9.2 If the PSPO is adopted, there will be a cost for signage and further press notices. Additionally further resources will be required to ensure compliance with the new order.

## **10.0 Legal and Governance Implications:**

10.1 Section 59 of the Anti Social Behaviour, Crime and Policing Act 2014 allows PSPOs to be introduced

10.2 The maximum fine on summary conviction is level 3 on the standard scale. This is currently £1,000.

10.3 Section 60 of the Act provides that a PSPO shall not have effect for longer than 3 years unless extended under this section.

10.4 Section 70 details the requirements for convention rights, consultation, publicity and notification.

## **11.0 Equality and Safeguarding Implications:**

11.1 The PSPO aims to ensure a consistent approach to anti-social behaviour offences in the District. It does not disproportionately affect any particular group and is relevant to all those on whom the law places a duty and on those whom the law protects. An equalities assessment will be undertaken to assess whether the proposed PSPO will have disparate impact on groups with protected characteristics. This process will help the Council to establish any potential negative impacts and consider how to mitigate against these. This exercise will also help to ensure transparency.

## 12.0 Community Safety Implications:

12.1 Adoption of PSPOs should have a positive impact on Community Safety.

## 13.0 Other Implications

13.1 The PSPO is seeking to address issues which affect the quality of life and public safety. These issues can affect both the physical and mental well-being of residents and therefore these proposals would have a significant impact on community well-being.

## 14.0 Risk & Mitigation:

14.1 There are inherent risks associated with taking any enforcement actions. The adoption of a PSPO will reduce those risks.

14.2

L I K E L I H O O D	A	Very High				
	B	High				
	C	Significant		1, 2		
	D	Low				
	E	Very Low				
	F	Almost Impossible				
			Negligible 1	Marginal 2	Critical 3	Catastrophic 4

### IMPACT

Risk No	Risk Description
1	Failure to adopt a PSPO would leave us with no powers to deal with dog fouling.
2	Failure to go through due process and consultation could lead to a legal challenge on the validity of the PSPO

## Background Papers:

Anti Social Behaviour, Crime and Policing Act 2014

Public Space Protection Orders- Guidance for Councils

<b>Appendices</b>
Appendix 1 – Draft PSPO

<b>Report Timeline:</b>
Director Approval : 23 <sup>rd</sup> May 2019 Deputy Chief Finance Officer Sign Off : 21st May 2019 Deputy Monitoring Officer Sign Off: 28 <sup>th</sup> May 2019
<b>Exempt Reports</b>
Not applicable

<b>Date of Review to make public</b>	
Not applicable as public document	

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