

Report To: Cabinet

Date of Meeting: 6 March 2023

Report Title: Reviewing the need for a Dog Control Public Space Protection Order (DC PSPO)

Report By: Victoria Conheady - Assistant Director Regeneration and Culture

Key Decision: Yes

Classification: Open

Purpose of Report

To summarise consultation feedback on proposals to update the Dog Control Public Spaces Protection Order (DC PSPO).
Agree any changes to the draft DC PSPO.
Seek approval for the Chief Legal Officer to create the Order in accordance with regulations published by the Secretary of State.

Recommendation(s)

- 1) Agree the proposed and recommended restrictions for a new Dog Control Public Space Protection Order and authorise the Chief Legal Officer to create this Order to last 3 years, in accordance with regulations published by the Secretary of State.**
- 2) Authorise the Chief Legal Officer to correct any minor drafting errors that may be identified and make minor amendments including deletions and insertions that may be necessary to ensure the ASB PSPO is accurate.**

Reasons for Recommendations

- The Hastings Dog Control PSPO lapsed in June 2020, and a new PSPO is required to enable enforcement to be carried out where needed to address problems like fouling and dogs not being under control.
- Before making these recommendations, the council gathered views from local people and affected organisations and parties during the public consultation.

Introduction

1. Public Spaces Protection Orders (PSPO) are intended to deal with a particular nuisance or problem in a specific 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 intended to help ensure that the law abiding majority can use and enjoy public spaces, safe from anti-social behaviour.
2. Local councils are responsible for making a PSPO and these are the nationally recognised framework for imposing dog restrictions and regulations.
3. The last Dog PSPO expired on the 12 June 2020. In March of that year this item was due to be discussed at CAP to extend the PSPO. It was agreed at this time to go out to consultation on a review of the existing order. But after this the Covid pandemic took hold of the country, and the first national lockdown was imposed.
4. As a result of all the COVID response work there was no capacity to implement the decision. At one point early in the pandemic the Government was approached, and we asked them to consider allowing LAs to temporarily extend their PSPOs until after the pandemic without the need for consultation. Government refused, and our Dog Control PSPO lapsed.
5. Since then, we have not been able to enforce any dog control measures in the Borough. This has not been advertised but we have had to disclose it to some people when they complained about dog control issues, asking us to take enforcement action against irresponsible dog owners. Over time it has become more widely known.
6. It is important that we now make a new Dog Control PSPO. Then we will again have the option of taking enforcement action against irresponsible dog owners when the need arises. This includes being able to tackle dog fouling, dogs being off lead and dog exclusion areas such as the beach.

Consultation

7. Before making a PSPO, the council must consult with the police. This should be done formally through the chief officer of police and the Police and Crime Commissioner, but details could be agreed by working level leads.
8. In addition, the owner or occupier of the land should be consulted. This should include the county council (if the application for the Order is not being led by them) where they are the Highway Authority. The council must also consult whatever community representatives they think appropriate. It is strongly recommended that the council engages in an open and public consultation to give the users of the public space the opportunity to comment on whether the proposed restriction or restrictions are appropriate, proportionate, or needed at all.
9. The cabinet agenda planning board authorised the council to go out to consultation on proposals for a new Dog PSPO. The consultation ended on 16 October 2022 and lasted for 6 weeks.
10. The brief for the consultation including the proposed restrictions can be seen in Appendix 1 and the maps for the beach proposals can be seen in Appendices 2, 3 and 4.
11. A copy of the original and now expired PSPO can be seen as Appendix 5.

12. The main changes from the expired PSPO and the consultation concern parks and gardens and the beach.
13. In January 2020 the council received a petition from dog owners that use Gensing Gardens asking the council to change restrictions for controls, so they match those in St. Leonards Gardens.
14. A copy of this can be seen as Appendix 6.
15. In the old order in Gensing Gardens exercising dogs off lead was not permitted between 8am and 6pm. Whereas in St. Leonards Gardens this restriction was different and dogs only had to be on lead as follows:
 - 9am until 5 pm between 1 April and 31 October, every day of the week
 - 10am until 4pm from 1 November to 31 March but only at the weekend.
16. In meetings before the elections with Cllrs more feed back on this was given. For parks and gardens with a children's playground or an open play place area it was felt then that dogs should be on lead between 9am and 5pm.
17. This would affect the following areas:

Parks /Gardens that have playgrounds are

- Alexandra Park - only the section of the park between Bethune Way and Dordrecht Way
 - West Hill (North Side)
 - Grosvenor open space
 - Gensing Gardens
 - Wishing Tree Road North
 - Linton Gardens
 - Bembrook open space
 - White Rock gardens skate park
18. The area of Alexandra Park has always been considered as two distinct areas for the purposes of the PSPO. The park area between Bethune Way and Dordrecht Way is proposed to have dog controls as it did in the old order which would be dogs on leads between 9am and 5pm. The area the other side of Dordrecht Way up to Silverhill has never had dog restrictions and this strikes a balance between proving a controlled area for families to enjoy and an area where dogs can be exercised.
 19. If the park and garden area have no playground facilities, then the dog on lead controls will be seasonal. From April to October from 9am to 5pm but from November to March 10am to 4pm at weekends only.

This would be in place at:

- St. Leonards Gardens
- Warrior Square Gardens

- West Marina Gardens.

20. All fixed equipped playgrounds, MUGAs and outdoor sports facilities would be Dog Exclusion areas.

Beach Areas

21. The lapsed PSPO had two seasonal dog exclusion areas. The first one being the area of beach from the Harbour Arm in the East to the West of the Pier. The other being the area of beach from the East Side of Warrior Square to eastern end of the ramp outside the Royal Victoria Hotel. This exclusion operated from the 1 May to the 30 September.
22. It was decided that we should consult on increasing the amount of dog controls that affected the beach during the summer. This was because it was felt that the usage of the beach had changed and increased dramatically especially through the pandemic and that the beach should be protected for the use of it by families and visitors.

Penalty and Fines

23. With the old order all offences were dealt with by way of issuing Fixed Penalty Notices and these were all set to the maximum amount of £100 with no reduction period. In all enforcement we need to be fair, proportional, and consistent. There can be no argument that dog fouling is absolutely a zero-tolerance issue and the maximum fine seems fair.
24. We are though, proposing an early payment reduction for the dog off lead offence. This is the most issued fine and previously we would often be approached with requests for payment plans, advised of hardship and low income so an early payment reduction would save officer time and seem more proportional.

Outcome of the Consultation

25. 835 people commented and responded to the consultation.
26. Sussex Police through Inspector Aidan Cornwall supported the proposal and commented as follows:

I have read these proposals and on behalf of Sussex Police we are in support of these new dog control measures. Although thankfully dog attacks on people are rare, they are deeply traumatic incidents which can leave lifelong physical and mental scarring on their victims. These measures if approved could go a long way to reducing such attacks locally

27. The responses through citizen lab are summarised in the table below:

601 comments and responses	Specifically opposed the proposed restrictions on the beach.
114 comments and responses	Mentioned that the previous or existing beach controls seemed fair and enough.
124 comments	Directly mentioned that beach controls were not needed in West St.

and responses	Leonards or Bulverhythe Areas.
53 comments and responses	Specifically opposed all the proposals.
74 comments and responses	Approved or agreed with the proposals.
52 comments and responses	Mentioned that Southern Water and Sewage were bigger issues to deal with.
4 comments and responses	Felt that timed restrictions made areas unsafe for women walking dogs as they would need to walk later.
9 comments and responses	Felt that enforcement (lack of) of current restrictions was more of an issue
6 comments and responses	Opposed the dog exclusion covering the Cemetery with them suggesting dogs on leads would be more appropriate
2 comments	Specifically mention Bembrook Open Space stating it did not need restrictions
1 comment	Welcoming restrictions on Bembrook Open Space

28. **The Dogs Trust** commented as follows:

Re: Fouling of Land by Dogs Order:

Dogs Trust consider ‘scooping the poop’ to be an integral element of responsible dog ownership and would fully support a well-implemented order on fouling. We urge the Council to enforce any such order rigorously.

Re: Dog Exclusion Order:

Dogs Trust accepts that there are some areas where it is desirable that dogs should be excluded, such as children’s play areas, however we would recommend that exclusion areas are kept to a minimum and that, for enforcement reasons, they are restricted to enclosed areas. We would consider it more difficult to enforce an exclusion order in areas that lack clear boundaries

Re: Dog Exclusion Order and beaches:

With phone calls often being made to the RSPCA and Police alerting to dogs being left in hot cars in coastal areas, we would urge you to consider the danger animals may be put in, and

the difficult decisions owners have to make, by not being allowed to take their dogs onto the beach

If the Council does choose to implement this order, Dogs Trust would encourage looking into a compromise between beach goers and dog owners, e.g. allowing dogs onto the beach in the evenings or early mornings, or having dog friendly sections on the beaches. Strict dog exclusion restrictions can also lead to a decrease in dog friendly tourism for businesses along the coast, which in turn could have a negative impact on the local economy.

Re: Dogs on Leads Order:

Dogs Trust accept that there are some areas where it is desirable that dogs should be kept on a lead.

Dogs Trust would urge the Council to consider the Animal Welfare Act 2006 section 9 requirements (the 'duty of care') that include the dog's need to exhibit normal behaviour patterns – this includes the need for sufficient exercise including the need to run off lead in appropriate areas. Dog Control Orders should not restrict the ability of dog keepers to comply with the requirements of this Act.

The Council should ensure that there is an adequate number, and a variety of, well sign-posted areas locally for owners to exercise their dog off-lead

Re: Dogs on Lead by Direction Order:

Dogs Trust enthusiastically support Dogs on Leads by Direction orders (for dogs that are considered to be out of control or causing alarm or distress to members of the public to be put on and kept on a lead when directed to do so by an authorised official).

We consider that this order is by far the most useful, other than the fouling order, because it allows enforcement officers to target the owners of dogs that are allowing them to cause a nuisance without restricting the responsible owner and their dog. As none of the other orders, less fouling, are likely to be effective without proper enforcement we would be content if the others were dropped in favour of this order.

Re: Taking more than a specified number of dogs onto a land:

The behaviour of the dogs and the competency of the handler need to be taken into consideration if considering this order. Research from 2010 shows that 95% of dog owners have up to 3 dogs. Therefore the number of dogs taken out on to land by one individual would not normally be expected to exceed four dogs.

29. The Fishers Protection Society commented as follows:

Dog consultation Blue Stade

Historically the fishermen's working beach has been exempt from strict dog controls on the blue Stade.

Hasting's fishermen for generations have enjoyed the freedom to engage with their dogs whilst working.

Any change in this historic privilege could only worsen the good working relationship with the council.

In fact, we have just agreed a new project with photographer John Cole on working dogs and their owners which we hope to exhibit outside.

30. Labour County Councillor Godfrey Daniel – Braybrooke & Castle, Hastings commented as follows:

Please ensure that The Pocket Park in Hughenden Road remains as under a Dog Exclusion Order. The Pocket is primarily used as a safe playing space for young children.

I would prefer the hours for dogs on leads in lower Alexandra Park to remain as 8am to 6pm. This allows children going to/from school and adults going to/from to work be confident that they will not be harassed by dogs off leads. I appreciate you want consistency, but the present hours have been well respected and that does not warrant a relaxation of this well used green space

Legal Issues

31. The legal tests focus on the impact that anti-social behaviour is having on victims and communities. A Public Spaces Protection Order can be made by the council if they are satisfied on reasonable grounds that the activity or behaviour concerned, carried out, or likely to be carried out, in a public space:
- has had, or is 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.
32. Given that these orders can restrict what people can do and how they behave in public spaces, it is important that the restrictions imposed are focused on specific behaviours and are proportionate to the detrimental effect that the behaviour is causing or can cause, and are necessary to prevent it from continuing, occurring, or recurring.
33. When deciding what to include, the council should consider scope. The broad aim is to keep public spaces welcoming to law abiding people and communities and not simply to restrict access.
34. When deciding whether to make requirements or restrictions on dogs and their owners, local councils will need to consider whether there are suitable alternative public areas where dogs can be exercised without restrictions. Councils should consider if the proposed restrictions will displace dog walkers onto other sensitive land, such as farmland or nature conversation areas.

Charity Committee

35. On January 16 the Charity Committee had a report paper to inform the Committee on the Dog Public Space Protection Orders (PSPOs). It advised them on the consultation results and allowed the Charity to provide feedback and views on the proposals of the PSPOs for the restrictions on Charity Committee Land.
36. This area will be concerning the proposals that cover the beach.

37. The committee discussed the paper and the proposals and when considering the consultation feedback they advised that they thought the original beach restrictions should be in the new order except for following amendments:
- That the area of beach in front of Rock a Nore Car Park (small section from groyne 1) should also be included in the dog exclusion area as this beach was known to be very popular with visitors.
 - That the exclusion should begin in April rather than May as this has been the start of the very busy summer season for the last few years.

Proposed amendments to the Dog PSPO proposals arising from the consultation feedback

38. The proposed amendments have been drawn up in consultation with the lead Councillor for Community Safety
39. When looking at the results of the consultation it seems appropriate to re-look at the restrictions for the beach and consider reverting to the original two seasonal dog exclusion areas
40. These being the area of beach from the Harbour Arm in the East to the West of the Pier. The other being the area of beach from the East Side of Warrior Square to eastern end of the ramp outside the Royal Victoria Hotel. This exclusion operated from the 1 May to the 30 September but could and should be changed to include April.
41. The eastern dog exclusion zone will be extended to include the beach at Rock a Nore which is a popular beach for families
42. If the beach restrictions are reduced in the final order, as a result of the consultation, the order will be reviewed after 12 months. Although PSPOs are in place for a maximum of 3 years they can be varied and or extended at anytime during this period. Following the 12-month review, if any changes are recommended, there would need to be a new consultation.
43. Following feedback from the Fishers Protection Society it is recommended that the order reflects and allows that dogs connected to Fishers are working dogs and would be an allowed exemption for the area to carry on traditional practices of the fishing industry. This exemption would not apply to the general public walking their dog(s) in this area.
44. It needs to be also noted nothing in this order shall apply to a person who –
- Is registered as a blind person in a register compiled under Section 29 of the National Assistance Act 1948; or
 - Is deaf, in respect of a dog trained by Hearing Dogs for Deaf People and upon which he or she relies for assistance: or
 - Has a disability which affects his or hers mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects in respect of a dog trained by a prescribed charity upon which he or she relies for assistance;
 - Has an accredited assistance dog.
45. The Pocket Park in Hughenden Road should be retained in the list of dog excluded areas and this was an oversight during the consultation.

46. Regarding comments about the Cemetery Grounds where we have consulted on a dog exclusion area for the whole of the grounds. This was in place in the old PSPO and for many years before. On consulting with the Cemetery and Crematorium manager it is recommended that this restriction stays in the completed order.
47. The staff at the Cemetery do not often receive requests for dogs to be allowed in the cemetery. If we allowed dogs on leads to enter the land there is a risk that dog fouling would become a problem and there would likely be budgetary considerations to provide dogs bins and likely extra cleaning to the grounds.
48. The restrictions would of course allow guidance and support dogs access to the Cemetery and surrounding grounds.
49. Bembrook Open Space and Wishing Tree Road North were included as new areas for dog controls as they are places that have a playground area and for consistency with other parks. The controls would be that dogs must be on leads everyday between 9am and 5pm.
50. The Dogs Trust have suggested that the number of dogs taken out on to land by one individual would not normally be expected to exceed four dogs. But the behaviour of the dogs and the competency of the handler need to be taken into consideration. In the old PSPO we had a maximum of six dogs and this is what was consulted on.
51. The council recognises the comments from the Dogs Trust about the maximum number of dogs and is concerned about the potential for incidents especially considering the sad incident in January where a dog walker died walking a number of dogs. However as we consulted on the maximum number of dogs being walked as six and not having any other evidence of local issues it is proposed to keep this figure to six but potentially include it in any subsequent reviews.
52. It is recommended that all other restrictions are included in the new full order of the PSPO.

Process for implementing the updated ASB PSPO

53. This report seeks authorisation for the Chief Legal Officer to create a new Dog Control PSPO in accordance with regulations published by the Secretary of State.
54. Any challenge to the PSPO must be made in the High Court by an interested person within six weeks of it being made. An interested person is someone who lives in, regularly works in, or visits the restricted area. This means that only those who are directly affected by the restrictions have the power to challenge.
55. Interested persons can challenge the validity of a PSPO on two grounds. They could argue that the Council did not have power to make the Order, or to include prohibitions or requirements, perhaps because there was insufficient evidence of a particular problem. In addition, the interested person could argue that one of the requirements (for instance consultation) had not been complied with. When the application is made, the High Court can decide to suspend the operation of the PSPO pending the verdict in part or in totality. The High Court can uphold the PSPO, quash it, or vary it.
56. The maximum duration of a PSPO is 3 years. At any point before the expiry, the Council can extend a PSPO by up to 3 years if they consider that it is necessary to prevent the original behaviour from occurring and recurring. However, they should first consult with the local

police and any other community representatives they think appropriate. If a new issue arises in an area where a PSPO is in force, the Council can vary the terms at any time. This is the process that has been followed in relation to these proposals.

57. The council intends to make a PSPO for 3 years but will consider how best to collect evidence of issues with dogs both positive and negative. This will form part of the 12 month review mentioned in paragraph 42. Any recommended changes as a result of this review will be consulted on. The council will continue to monitor these orders outside of the 12 month review period, and will consider on whether there is a need to vary the order prior to the PSPO lapsing.

Other Considerations

58. When deciding whether to make requirements or restrictions on dogs and their owners, local councils will need to consider whether there are suitable alternative public areas where dogs can be exercised without restrictions.
59. Councils are also encouraged to publish a list of alternative sites which dog walkers can use to exercise their dogs without restrictions. Both dog walkers and non-dog walkers would then have a clear opportunity to submit their views on whether these alternatives were suitable. This should help minimise the risks of unwanted and unintended displacement effects
60. Subject to cabinet agreeing to these proposals and creating a new DC PSPO work will need to be undertaken to design and create new signage which is clear and easy to understand.

Issues with Dogs

61. When considering this PSPO the council recognises that most people that own a dog are law abiding but the council also recognises that the PSPO plays an important role in safety of the public.
62. Nationally it is known that since the global pandemic in 2020 there has been a rise in pet ownership with 3.2 million households welcoming a new pet into their home since. There are now over 12 million dogs in the UK.
63. With the rise in dog ownership there has also been a rise in dog bites in the UK in recent years and there were 8,655 admissions to the hospital due to dog bites and and injuries in 2021/2022.
64. This has meant there has been a 26% rise in dog bites in the UK since 2020.
65. Nine people died from dog bite attacks in 2022 in the UK.
66. 77% of dog bites occur at the front door, garden or drive of a home.
67. Dog attacks on people should be reported to the Police as they are the agency that investigate these incidents. From 1 January 2022 to 1 January 2023 specifically in Hastings and St. Leonards the Police have 70 incidents recorded where someone was injured by a dog. They only record this crime when a dog injures a person and to be injured someone has to be left with a mark in their body of some description.
68. Of these 70 incidents, 40 are marked as having taken place in a public place.
69. The council is responsible for investigating dog on dog attacks and this is done through the Warden service. This is investigated through different legislation to the PSPO. In quarters 1,

2 and 3 of this current year the wardens have had 11 dog on dog attacks reported. Unfortunately the difficulty with these types of incidents is finding out who the offender actually is so they are very difficult to investigate.

70. The council records reports sent to DSO for street cleansing and this includes incidents of dog fouling. In recent years these have shown a downward trend. In the calendar year of 2022 there were 58 reports, in the calendar year of 2021 there were 152 reports and in the calendar year of 2020 there were 288 reports. It is strongly felt that this is more down to under reporting rather than a true reflection of what is actually happening.

Timetable of Next Steps

71. Please include a list of key actions and the scheduled dates for these:

Action	Key milestone	Due date (provisional)	Responsible
Report to CAP	To give feedback on consultation and recommendations to the PSPO	21 February 2023	AD Regeneration and Culture
Cabinet approves proposals create a DC PSPO	Obtain authority to make new Dog Control PSPO	06 March 2023	AD Regeneration and Culture
Instruction from Cabinet to Chief Legal Officer	Make new Dog Control PSPO	During March / April 2023	Chief Legal Officer

Wards Affected

All

Policy Implications

72. The following policy implications are relevant to this report:

Financial Implications

73. Subject to cabinet agreeing these proposals, there will be no significant financial implications as costs for new signage will be met from within existing community safety budgets.

Crime and Fear of Crime

74. Although most dog owners are responsible about the way they exercise their dogs, an anti-social minority are not, and therefore it is necessary for local authorities to use these powers. Failure to do so could increase crime and the fear of crime.

Environmental Issues and Climate Change

75. If dog owners do not clear up after their dogs, there are negative consequences for the local environment as well as potential health issues such as toxocariasis.

Local People's Views

76. There is a statutory requirement to consult key stakeholders when proposing a PSPO and the consultation process has given the opportunity for local people to express their views on the proposals.

Legal

77. There is a statutory process for making a PSPO that must be carefully overseen by the councils Chief Legal Officer.

Reading Ease Score: 51.4 / 11.4

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	Y
Crime and Fear of Crime (Section 17)	Y
Risk Management	N
Environmental Issues & Climate Change	Y
Economic/Financial Implications	Y
Human Rights Act	Y
Organisational Consequences	Y
Local People's Views	Y
Anti-Poverty	Y
Legal	Y

Additional Information

Appendix 1 Consultation Brief and content
Appendix 2 Consultation Beach Map A
Appendix 3 Consultation Beach Map B
Appendix 4 Consultation Beach Map C
Appendix 5 Copy of lapsed DC PSPO
Appendix 6 Gensing Gardens Petition
Appendix 7 Beach Map

Officers to Contact

Victoria Conheady – Assistant Director Regeneration & Culture vconheady@hastings.gov.uk

Paul Cosson – Enforcement Manager pcosson@hastings.gov.uk