

Report to the Executive



DATE	10th December 2019
PORTFOLIO	Leisure
REPORT AUTHOR	Simon Goff
TEL NO	664614
EMAIL	sgoff@burnley.gov.uk

Proposed Public Space Protection Orders (Dog Control)

PURPOSE

1. To report the outcome of public consultation on Public Space Protection Orders for the control of dogs and to seek the approval of the Executive for the of these orders.

RECOMMENDATION

2. The Executive is recommended to:
 1. Consider the results of public consultation on the Public Space Protection Orders
 2. Approve the control orders that are set out in Appendix 1.
 3. Authorise the Head of Legal Services & Democratic Services to execute all documents necessary to give effect to this decision.

REASONS FOR RECOMMENDATION

3. The introduction of Public Space Protection Orders requires consideration of public consultation responses and the approval of the Executive.

SUMMARY OF KEY POINTS

4 Introduction

The Council recognises that owning a dog brings great enjoyment and benefits the health and wellbeing of owners. The Council also recognises that the vast majority of dog owners are responsible; they pick up after their dogs and keep them under proper control.

However, there remains a small minority of people who do not exercise such responsibility for their dogs and the Council requires enforcement powers to protect the health and safety of the public.

5 Background to Dog Control Orders

The Council has undertaken enforcement against dog fouling using fixed penalty notices since 2001, when it implemented the powers made available through the Dogs (Fouling of Land) Act.

In 2011 the Dogs (Fouling of Land) Act was superseded by the Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations. Prior to introducing these, the Council undertook extensive public consultation and prescribed four offences:

1. Failing to remove dog faeces
2. Not keeping a dog on a lead (at specified locations)
3. Not putting, and keeping, a dog on a lead when directed to do so by an authorised officer
4. Permitting a dog to enter land from which dogs are excluded (at specified locations)

The existing Dog Control Orders automatically converted to Public Space Protection Orders in 2017. However, the Home Office's statutory guidance requires local authorities to review PSPO's periodically and undertake public consultation to ensure that the interests of different groups are balanced.

6 Public Consultation

Consultation was undertaken through an online questionnaire which was available to complete on the Council's website and which was promoted through press and social media coverage. The questionnaire asked for the public's views on the continuation of the existing Dog Control Orders and sought views on the introduction of four new controls, as listed below;

1. Should a person in control of a dog be fined for failure to show they are carrying a dog poo bag or other appropriate receptacle?
2. Should dogs should be permitted in Queens Park on a lead? (dogs are currently excluded)
3. Should dogs should be excluded from the Towneley war memorial pond?
4. Should dogs be kept on a short leash in cemeteries and churchyards, with extendable leads retracted?

554 surveys were completed, and these were analysed separately for dog owners (379 surveys) and non-dog owners (165 surveys). The results are summarised below and are shown in more detail in the accompanying Appendix 2.

7 Existing PSPO: Failing to Remove Faeces

Question: *Do you agree or disagree that a Fixed Penalty Notice for a £75 fine should be issued to a person who is in charge of a dog and who fails to clear up its poo in a public area?*

	Non-Owners	Dog Owners
Strongly agree	92%	66%
Agree	7%	26%
Neither agree nor disagree	0%	3%
Disagree	1%	3%
Strongly disagree	1%	3%
Don't know	0%	0%

The consultation identified strong support for the introduction of an order permitting the council to issue fines for dog owners who fail to pick up dog mess.

Recommendation: The Council should continue to issue fixed penalty notices for dog fouling.

8 Proposed PSPO: Requirement to carry spare dog poo bags

Question: *Some councils issue fines to dog walkers if they are unable to produce an unused dog poo bag when requested. Burnley Council currently does not. We would like your view on whether the Council should introduce this requirement. Do you agree or disagree that a person in control of a dog should be fined for failure to show that they are carrying a dog poo bag or other appropriate receptacle to remove dog poo?*

	Non- Owners	Dog Owners
Strongly agree	71%	28%
Agree	18%	23%
Neither agree nor disagree	4%	11%
Disagree	5%	21%
Strongly disagree	2%	15%
Don't know	0%	1%

A large majority (89%) of non-owners and a small majority of dog owners (52%) agree that fines should be issued to persons not carrying spare bags.

In deciding whether to introduce this order, the Council needs to consider whether enforcing such an order would be beneficial. There is a risk that the goodwill of responsible dog owners could be lost if they feel aggrieved because they are stopped and asked to produce bags, whilst less responsible dog owners would merely need to carry a spare bag to avoid a fine (whether or not they use it). There are also likely to be more appeals to these FPNs from dog walkers claiming to have used up all their spare bags.

Recommendation: The Council should not adopt an order that requires owners to produce spare bags.

9 Existing PSPO: Dogs on Leads

Question: Do you agree or disagree that dogs should be on a lead at all times in the following areas?

% of respondents that agree or strongly agree	Non-Owners	Dog Owners
Cemeteries	98%	92%
Car parks	94%	81%
Highways, pavements and pedestrianised areas	98%	89%
Bowling greens	93%	79%
Towneley Park:, ornamental gardens around Hall, Barwise picnic area and Rabbit Walk (across 18-hole golf course)	94%	57%
Scott Park: Ornamental areas around main entrance, tennis courts and play area	91%	56%
Memorial Park: Ornamental gardens around Knight Hill House, war memorial and air crash memorial	89%	51%

The consultation identified strong support from non-owners and owners for dogs to continue to be kept on leads in all of the areas identified. These are all existing PSPOs. Support from dog owners is less for the requirement to have dogs on lead in the ornamental area of Towneley, Scott and Memorial Parks. In these areas, dogs running off lead is disruptive to the quiet enjoyment of these spaces and dogs cause damage to ornamental planting.

Recommendation: The order that requires dogs to be kept on leads at all times in the areas identified should be continued.

10 Proposed PSPO: Use of Retracted Leads in Cemeteries and Crematoria

Question: *Do you agree or disagree that in cemeteries, crematoriums, churchyards and burial grounds, extendable leads must be retracted at all times (i.e. the dog should be kept on a short leash in these areas)?*

% of respondents that agree and strongly agree	Non- Owners	Dog Owners
Requirement for retracted leads in cemeteries & crematoria	91%	65%

The majority support a requirement for short leads in these locations, which will help to prevent dogs running over graves, which can occur with the long run-out on retractable leads that are often used by dog owners.

Recommendation: The dogs on lead order for cemeteries, crematoria and graveyards should be modified to require dogs to be kept on a lead of no more than 2m in length at all times.

11 Existing PSPO: Dogs on Lead by Order

The current PSPO contains an order that requires owners to put their dog on a lead if an authorised officer considers it necessary for reasons of safety. The recent public consultation did not include a question on this order.

This order is infrequently used by enforcement officers to direct a dog walker to control their dog (usually where dogs are being aggressive to other dogs) and it has not been necessary to issue any FPNs for non-compliance.

Recommendation: The existing Dogs on Lead by Order PSPO should be continued.

12 Existing PSPO: Exclusion of Dogs from Certain Areas

Question: Do you agree or disagree that dogs should be excluded from the following areas?

% of respondents that agree and strongly agree	Non-Owners	Dog Owners
Play areas, tennis & ball courts	96%	66%
Towneley golf courses	88%	55%
Thompson Park	83%	20%
Towneley war memorial reflective pond	70%	20%

Consultation identified strong support amongst both non-owners and owners for dogs to be excluded from the areas identified except Thompson Park and the Towneley war memorial pond.

The exclusion of dogs from Thompson Park, which has been in place since the late 1970s, should be continued because of the type of facilities including the paddling pool, miniature railway, boating lake and ornamental gardens.

The proposal to exclude dogs from the Towneley war memorial pond is a new order that is required because dog owners allow dogs to splash about in the reflective pond and this is both disrespectful and causes the pond filter to become blocked with dog hairs.

Recommendation: Dogs should be excluded from the areas identified.

13 Amendment to Dog Exclusion PSPO: Permitting Dogs on Lead in Queens Park

Question: *Currently, dogs are excluded from Queens Park. The Council, in response to a request from the Friends of Queens & Thompson Park, is considering whether dogs should be allowed in Queens Park on a lead. Please give us your opinion below.*

% of respondents that agree and strongly agree	Non-Owners	Dog Owners
Dogs should not be allowed in Queens Park.	67%	12%
Dogs should be allowed in Queens Park if kept on a lead at all times.	32%	85%

67% of non-owners wish the existing exclusion of dogs from Queens Park to continue, whilst 85% of owners wish dogs to be permitted, if kept on a lead. No dog owners currently walk their dogs in the park and so no benefit is being removed if the current restriction remains.

The Friends of Queens and Thompson Park were supported consultation on the permitting dogs on lead. However, taking account of the outcome of the consultation, the group prefers the existing 'no dogs' restriction to remain.

Recommendation: The existing PSPOs that excludes dogs from Queens Park should remain unchanged.

14 Review by the Dog Fouling Working Group

This report was referred to the Dog Fouling Working Group, which considered the report and agreed with the recommendations that are made.

15 Introduction and Enforcement of the Orders

If Executive approves the introduction of the Orders, they will come into force as soon as the orders have been completed under seal.

The Orders will be enforced by Kingdom, park rangers, the dog warden and other suitably authorised officers.

In most cases the Orders are simply confirming pre-existing restrictions on dogs. Where PSPOs are being applied for the first time, such as dogs on leads in certain areas, it will be necessary to provide signs and enforcement cannot commence until these are in place.

FINANCIAL IMPLICATIONS AND BUDGET PROVISION

16. It is a requirement under the regulations that land subject to a PSPOs must be adequately signed where it is practical to do so. The majority of signs are in place and any additional signs will be funded from GS&As 2019/20 revenue budget.

POLICY IMPLICATIONS

17. Introduction of PSPOs will help to tackle an issue which is a concern for local residents and help to improve the cleanliness and safety of the Borough

DETAILS OF CONSULTATION

As detailed in the report

BACKGROUND PAPERS

none

FURTHER INFORMATION

PLEASE CONTACT:

Simon Goff

ALSO:

Jonathan Jackson