

## **RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL**

### **CABINET**

**9<sup>TH</sup> FEBRUARY 2017**

#### **PUBLIC SPACES PROTECTION ORDERS (DOG CONTROLS)**

#### **JOINT REPORT OF DIRECTOR OF HIGHWAYS & STREETCARE SERVICES & SERVICE DIRECTOR PUBLIC HEALTH & PROTECTION IN DISCUSSION WITH THE RELEVANT PORTFOLIO HOLDERS, COUNCILLOR A CRIMMINGS & COUNCILLOR J ROSSER**

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

- 1.1 The purpose of the report is to seek authority to consult on the proposal to make a Public Spaces Protection Order to introduce dog controls in Rhondda Cynon Taf.

#### **2. RECOMMENDATIONS**

It is recommended that the Cabinet:

- 2.1 Undertake a 8 week public consultation exercise on the proposal to make a Public Spaces Protection Order (PSPO) to introduce dog controls in Rhondda Cynon Taf as detailed in section 5 of this report, specifically:
- The prohibition of dog fouling in all public places,
  - A requirement that dogs are kept on leads in play grounds & cemeteries owned/maintained by the Council,
  - A requirement to carry bags or other suitable means for the disposal of dog faeces,
  - A requirement allowing authorised officers to give a direction that a dog be put and kept on a lead if necessary,
  - A prohibition excluding dogs from all schools and marked sports pitches owned/maintained by the Council, and
  - Increasing the fixed penalty fine to the maximum permitted of £100
- 2.2 Receive a further report detailing the responses to the public consultation and any recommendations for amendments to the proposed PSPO.

### **3. REASONS FOR RECOMMENDATIONS**

- 3.1 Dog fouling remains a significant concern for the Council. Despite considerable efforts to promote responsible dog ownership and enforce the Dogs (Fouling of Land) Act 1996, there remain a minority of dog owners who do not clean up after their dogs or keep them under control. Dog fouling is unpleasant and a risk to human health, particularly amongst children.
- 3.2 A Public Spaces Protection Order will allow the Council to introduce a range of reasonable and proportionate restrictions on the use of publicly accessible land across the County Borough that would better control the harmful activities of irresponsible dog owners whilst allowing responsible dog owners to continue to exercise their dogs without undue restrictions.

### **4. BACKGROUND**

- 4.1 Dog fouling is unsightly, unpleasant and can lead to toxocariasis in humans. Toxocariasis causes serious illness and even blindness. It is caused by a parasite that lives in dogs' digestive systems. Eggs are present in the faeces of infected animals. If infected material is ingested, the eggs hatch into larvae and can cause toxocariasis. The disease can be controlled if dog faeces are disposed of immediately in a responsible manner.
- 4.2 The majority of dog owners are responsible, clean up after their dogs and keep them under control. However, a minority of irresponsible dog owners create significant problems. The Council receives many complaints each year about dog fouling in public places. In addition, some of our playing fields need to be checked for dog fouling before they can be used; on occasion individuals wishing to use the playing field for sport are doing this.
- 4.3 Currently, the Enforcement Team will approach a dog walker and ask whether they are carrying dog bags. If they are not, the Enforcement Team will give the dog owner dog bags and remind them that it is offence not to pick up dog mess. At the moment, our officers are unable to enforce this requirement.
- 4.4 The Anti-Social Behaviour, Crime & Policing Act 2014 introduced provisions whereby a local authority can make Public Spaces Protection Orders (PSPOs). The PSPO is designed to deal with a particular nuisance or problem in an area. The behaviour must be having a detrimental effect on the quality of life of those in the community, it must be persistent or continuing and it must be unreasonable.
- 4.5 The PSPO can impose restrictions on the use of that area which apply to everyone who is carrying out that activity. The orders are designed

to ensure that the law-abiding majority can enjoy public space, safe from anti-social behaviour.

- 4.6 The Anti-Social Behaviour, Crime & Policing Act 2014 repealed a number of specific provisions relating to Orders, including dog control orders made under Chapter 1 of Part 6 of the Clean Neighbourhoods and Environment Act 2005. There were five offences available under a Dog Control Order:
- a) Failing to remove dog faeces;
  - b) Not keeping a dog on a lead;
  - c) Not putting, and keeping, a dog on a lead when directed to do so by an authorised officer;
  - d) Permitting a dog to enter land from which dogs are excluded;
  - e) Taking more than a specified number of dogs onto land.
- 4.7 These provisions of the Clean Neighbourhoods and Environment Act 2005 have been repealed by the Anti-Social Behaviour, Crime & Policing Act 2014. However, the Council is able to use a PSPO to introduce similar controls on the presence of dogs, as well as wider controls to deal with anti-social behaviour on land accessible to the public.
- 4.8 The Council can make a PSPO in consultation with the Police and other relevant bodies who may be affected. The Order will have effect for a period of no more than 3 years. However, the Council may extend the Order for a further 3 years if there are reasonable grounds for doing so.
- 4.9 The penalty for committing an offence of failing to comply with a PSPO without reasonable excuse is a maximum fine of level 3 on the standard scale (currently £1,000). Alternatively, the opportunity to pay a fixed penalty fine up to a maximum of £100 may be offered in place of prosecution.
- 4.10 The Council may make a PSPO, provided that the statutory criteria set out in the Act are met and that the proposed restrictions are proportionate having regard to the legitimate aim of preserving the quality of life for people accessing and using the land in question.
- 4.11 Although PSPOs are made by the Council, enforcement should be the responsibility of a wider group. Council officers will be able to enforce the restrictions and requirements, as will other groups that they designate, including officers accredited under the community safety accreditation scheme. In addition, police officers and PCSOs will have the ability to enforce the order.

## 5. CONSULTATION

- 5.1 The Act requires that before it can make a PSPO the Council must carry out the necessary consultation, the necessary publicity and the necessary notification as follows.
- 5.2 The “*necessary consultation*” means consulting with:
- a) The Chief Officer of Police for the area;
  - b) Whatever community representatives the local authority thinks it appropriate to consult;
  - c) The owner or occupier of the land within the restricted area (this does not apply to land that is owned and occupied by the local authority).
- 5.3 The “*necessary publicity*” means
- a) In the case of a proposed order, publishing the text of it;
- 5.4 The “*necessary notification*” means notifying the following authorities of the proposed order:
- a) The parish council or community council (if any) for the area that includes the restricted area.
- 5.5 It is proposed that the Council undertake a comprehensive consultation exercise with the public, relevant bodies and other interested parties on proposals to introduce a PSPO in the following areas, introducing prohibitions and requirements in relation to the control of dogs:
- a) Dog Fouling – applicable to all public places in the county borough of Rhondda Cynon Taf;
  - b) Dogs on Leads – applicable to all cemeteries and play grounds owned and/or maintained by the Council;
  - c) Dogs on Leads by Direction - applicable to all public places in the county borough of Rhondda Cynon Taf;
  - d) Dog Exclusions - applied to all schools and marked sports pitches under local authority control.
- 5.6 The prohibition on dog fouling will make it an offence if a dog defecates on land to which the Order applies, and the person in charge of the dog fails to remove the faeces from the land forthwith. This will include a requirement that the person in charge of the dog must have bags or other suitable means of removing the faeces with them.
- 5.7 The dogs on leads requirement will make it an offence if a person in charge of a dog fails to put the dog on a lead in all public parks owned/maintained by the Council.

- 5.8 The dogs on leads by direction requirement will make it an offence if a person in charge of a dog fails to comply with a direction given to them by an authorised officer of the Council to put and keep the dog on a lead for such period/or in such circumstances as directed by the Officer.
- 5.9 The dog exclusions prohibition will make it an offence if a person in charge of a dog takes it onto land, or permits the dog to enter or remain on, any land to which this part of the Order applies.
- 5.10 The definition of public space is wide and includes any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission.
- 5.11 The Council, in making a PSPO, may specify the amount of fixed penalty fine payable in respect of any of the above offences at no more than £100.

## **6 EQUALITY AND DIVERSITY IMPLICATIONS**

- 6.1 The Council must be able to demonstrate that a PSPO is a necessary and proportionate response to the problems caused by the activities of dogs and those in charge of them. The Council is required to balance the interests of those in charge of dogs against the interests of those affected by the activities of dogs.
- 6.2 This must take into consideration the need for people, particularly children, to have access to dog-free areas and areas where dogs are kept under strict control, and the need for those in charge of dogs to have access to areas where they can exercise their dogs without undue restrictions.
- 6.3 Under the Animal Welfare Act 2006, owners of dogs are required to provide for the welfare needs of their animals and this includes providing the necessary amount of exercise each day. The Councils will need to consider whether there are suitable alternatives for dogs to be exercised without restrictions.
- 6.4 Consideration should also be made on how any restrictions affect those who rely on assistance dogs. Should the Council choose to make a PSPO, an exemption may be included within the Order for people with a disability. The Order should also not apply to the normal activities of working dogs, such as those used by the emergency services.
- 6.5 An Equality and Impact Assessment will be required prior to making the Order. This will be included in a further report to Cabinet, taking into consideration the outcomes of the public consultation.

## **7. FINANCIAL IMPLICATION(S)**

- 7.1 The Council must consider how it will enforce the prohibitions and requirements introduced under the PSPO, as failure to enforce the Order will undermine its effect. This is particularly the case for Orders that exclude dogs completely from areas of land.
- 7.2 In order to enforce PSPO, the Council will need to provide signage to all areas where the Order/s are in place. To ensure the Order is monitored efficiently and effectively there will be a need to review the current levels of enforcement wardens within the Highways and Streetcare Directorate and potentially have some with the sole responsibility to monitor compliance with the orders.

## **8. LEGAL IMPLICATIONS OR LEGISLATION CONSIDERED**

- 8.1 Under section 59 of the Anti-social Behaviour, Crime and Policing Act 2014, a local authority may make a public spaces protection order if satisfied on reasonable grounds that two conditions are met.
- 8.2 The first condition is that:
- a) 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
  - b) It is likely that activities will be carried on in a public place within that area and that they will have such an effect.
- 8.3 The second condition is that the effect, or likely effect of the activities –
- a) Is, or is likely to be, of a persistent or continuing nature,
  - b) Is, or is likely to be, such as to make the activities unreasonable, and
  - c) Justifies the restrictions imposed by the notice.
- 8.4 A public spaces protection order is an order that identifies the public place referred to and,
- a) Prohibits specified things being done in the area,
  - b) Requires specified things to be done by persons carrying on specified activities in that area, or
  - c) Does both of those things.
- 8.5 The only prohibitions or requirements that may be imposed are ones that are reasonable to impose in order –
- a) To prevent the detrimental effect referred to from continuing, occurring or recurring, or
  - b) To reduce the detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.

## **9. LINKS TO THE COUNCILS CORPORATE PLAN / OTHER CORPORATE PRIORITIES/ SIP / FUTURE GENERATIONS – SUSTAINABLE DEVELOPMENT.**

9.1 The proposals in this report are consistent with the priorities of the Council's Corporate Plan, in particular *“Place – creating neighbourhoods where people are proud to live and work”*:

- *Rhondda Cynon Taf's local environment will be clean and attractive...*
- *Rhondda Cynon Taf's parks and green spaces will continue to be valued by residents...*

9.2 These proposals are also consistent with the Well-being Goals under the Wellbeing of Future Generations (Wales) Act 2015:

- *A healthier Wales – a society in which people's physical and mental well-being is maximised and in which choices and behaviours that benefit future health are understood.*
- *A Wales of cohesive communities – attractive, viable, safe and well connected communities.*

## **10. CONCLUSION**

10.1 The proposed PSPO will introduce a range of reasonable and proportionate prohibitions and requirements on the use of publicly accessible land that would better control of the harmful activities of irresponsible dog owners whilst enabling responsible dog owners to continue to exercise their dogs without undue restrictions. The Order will be subject to a comprehensive public consultation so that the views of all parties are properly considered.

### ***Relevant Scrutiny Committee***

Health & Well-being Scrutiny Committee  
Public Service Delivery, Communities & Prosperity Scrutiny Committee



**LOCAL GOVERNMENT ACT 1972**

**AS AMENDED BY**

**THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

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**Background Papers**

- a) Anti-social Behaviour, Crime and Policing Act 2014 – Chapter 12
- b) Anti-social Behaviour, Crime and Policing Act 2014: Reform of anti-social behaviour powers: Statutory guidance for frontline professionals, Home Office July 2014
- c) Dog Control Orders – Guidance on Sections 55 to 67 of the Clean Neighbourhoods and Environment Act 2005 – Welsh Assembly Government: March 2007

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