

The Vale of Glamorgan Council

Cabinet Meeting: 19 February, 2018

Report for the Cabinet Member for Neighbourhood Services and Transport

Public Spaces Protection Order (Dog Controls)

Purpose of the Report

1. To seek authority to start the process of introducing a PSPO for dog controls in the Vale of Glamorgan under Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 by undertaking a statutory consultation exercise with members of the public and other relevant stakeholders on a proposed PSPO.

Recommendations

1. That authority is given to undertake an 8-12 week statutory consultation exercise, on the proposal to make a PSPO to introduce dog controls in the Vale of Glamorgan under Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014. In relation to dog controls the proposal is as follows on public spaces maintained/owned by the Council:
 - The prohibition of dog fouling in all public places with the Vale of Glamorgan;
 - A requirement for a person in charge of a dog at all times to carry bags or suitable means for the disposal of dog faeces;
 - A requirement for a person in control of a dog to be kept on a lead in specific featured parks;
 - A prohibition excluding dogs from all marked sports pitches (seasonal) and play grounds;
 - A prohibition excluding dogs from the specific featured parks;
 - A prohibition excluding dogs from the specific beaches from 1st May – 30th Sept;
2. That a further report is presented to Cabinet on conclusion of the consultation process.

Reasons for the Recommendations

- 1 To authorise the statutory consultation exercise in respect a PSPO to introduce dog controls in the Vale of Glamorgan

- 2 To permit Cabinet to consider the responses and to take a decision as to whether to introduce a dog control PSPO or not.

Background

2. The Anti-social Behaviour Crime and Policing Act 2014 (the Act) provides local authorities with a set of powers, including PSPOs, to prevent and reduce all sorts of anti-social behaviour and other issues in public spaces which have a negative or detrimental impact on the local community and the local community's quality of life. A PSPO works by imposing certain restrictions on the public spaces which in turn enable the law abiding majority of people to enjoy these areas. To this end the Council has already previously approved a list of areas where the consumption of alcohol is controlled through the implementation of a PSPO. Further activities that can be specifically tackled through a PSPO are dog control including dog fouling enforcement.
3. A PSPO is different from other powers available under the Act in that they are led by the Council and concentrate on the identified problem behaviour. The restrictions and prohibitions introduced through a PSPO should be evidence based and shaped by the opinions of key stakeholders and the individuals who live, work or visit the public spaces. To this end the Council is obliged to carry out a statutory consultation exercise before introducing a PSPO.
4. Although there have been several educational interventions to tackle people who allow their dogs to foul public spaces and do not pick up after them, there continues to be issues in the Vale of Glamorgan with irresponsible dog ownership, specifically where dog faeces is not being removed. The Council is aware that the majority of dog owners are responsible and control their dogs in public spaces; however there is still a minority of people who do not take full responsibility for their animals and ignore the Council's byelaws. Consequently a significant number of complaints are continuing to be received by the Council in relation to dog fouling.
5. Dog fouling is unsightly and unpleasant and in turn can lead to serious illness in humans, such as Toxocariasis. This is a roundworm parasite that lives in the digestive system of dogs. The worms produce eggs which are released in the faeces of infected dogs and contaminate soil. Once the eggs get into soil they can survive for months. Humans can become infected when they come into contact with contaminated soil. Sports players and children are most at risk of coming into contact with contaminated soil.
6. A recent staff survey was undertaken of those who maintain and work in the parks, countryside and beaches within the Vale of Glamorgan. This survey found 93% claim there is an issue with people not removing dog faeces and 81% claim this problem is all year round. Staff responsible for maintaining the featured parks have expressed their frustration with irresponsible dog owners and claim that the problem with dog fouling is underreported to the Council.
7. The Council has had correspondence from the Vale Football Association who state that there has 'been an increase with dog fouling on Council pitches and matches have to be stopped whilst someone removes the waste'. Keep Wales Tidy reported that dog faeces was present on 13.7% of streets within Vale of Glamorgan during 2016 / 2017 and this has increased from the 2015 / 2016 figures.
8. Rhondda Cynon Taf County Borough Council and numerous other Councils have successfully used the PSPOs to assist with dog fouling and dog control.

Relevant Issues and Options

9. There is currently a system of byelaws in place for the control of dog fouling and prohibiting dogs from certain beaches during particular time of the year, country parks, highways and public open spaces in the Vale of Glamorgan. These byelaws have been in place since 2001 and though there are fines associated with them following the potential to prosecute offenders in the Magistrates' Court, it is not possible to issue 'on the spot' fixed penalties. A new dog control PSPO could ensure consistency of enforcement across the Vale of Glamorgan by allowing both fixed penalty fines and/or prosecution in the Magistrates' Court.
10. Any PSPO introduced is a short term tool and would need to be reviewed within 3 years to assess the effectiveness and necessity of the order. However, it is generally accepted that a PSPO would allow better control on how public land is used by dog owners and balance this with wider uses of the area.
11. Unless specified, the PSPO will cover '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'. This definition is provided for at section 74(1) of the Act.
12. The Cabinet could consider a "do nothing" approach and continue to enforce the existing byelaws. However there will not be a review of the existing byelaws to assess if they are effective, address the anti-social behaviour in question and if the laws are in place in the correct areas.
13. It is therefore suggested that Cabinet approve the recommendations which would allow a full and extensive consultation with residents and relevant stakeholders to make orders which are relevant, necessary and consistently enforced across the Vale of Glamorgan.
14. A copy of the suggested questions that will be posed during the consultation exercise is attached at [Appendix A](#).

Resource Implications (Financial and Employment)

15. An amount of £40k has been allocated from a Vale of Glamorgan Regulatory Services reserve for the staff costs associated with this work and the further work suggested the use of such orders to control other activities.
16. There will be subsequent additional costs associated with signage and legal orders if it transpires that it is necessary to make a PSPO. It will only become evident how many areas will be covered by a PSPO following consultation with the public and key stakeholders. A report will be taken to Cabinet on the findings of the consultation and at that point, it will be possible to make an accurate estimate of those associated costs of making those orders and identification of appropriate budget to cover those costs.
17. Enforcement of any new PSPO is likely to be undertaken by existing external contractors (3gs Ltd) who currently undertake waste enforcement and issue fixed penalty notices in this regard. There will be no additional costs associated with the enforcement of this particular PSPO.
18. An enforcement protocol and monitoring process will have to be agreed by internally by the Council. Once Officers have met the legal test set out in the Act, where the behaviour has, or is likely to have a detrimental effect on the local community – restrictions can then be implemented through the PSPO. If an individual breached the conditions set and an authorised person witnesses the behaviour, this officer can

serve a fixed penalty notice of £100 and/or prosecute up to a level 3 fine on conviction.

Sustainability and Climate Change Implications

19. There is no climate change implications associated with this project. However reduced levels of dog related anti-social behaviour improve the sustainability of our open spaces and beaches. PSPOs are an established method of reducing levels of anti-social behaviour.

Legal Implications (to Include Human Rights Implications)

20. By virtue of section 72 of the Act, before introducing a PSPO the Council is obliged to carry out a statutory consultation exercise.
21. The ability to make and implement a PSPO arises under section 59 of the Act. The Council can make a PSPO if it is reasonably satisfied that two conditions are met. The first of these is that activities carried out 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 that it is likely that activities carried out will have such an effect. The second is that the effect or likely effect of the activities is, or is likely to be of a persistent or continuing nature; is or is likely to be such as to make the activities unreasonable and justifies the restrictions imposed by the order.
22. A PSPO may not have effect for a period of more than 3 years; however, that period can be extended for a further 3 years if it continues to be necessary.
23. Whilst a PSPO is in force, any byelaws relating to the same activity will cease to have effect.
24. An interested person may appeal to the High Court to question the validity of a PSPO, or a variation of an Order. The PSPO could be subject to a Judicial Review, where the decision may also be challenged.
25. The grounds on which an application can be made is that the Local Authority did not have the power to make the Order, or that particular prohibitions or requirements imposed by the Order or requirements by the Act have not been complied with.
26. An appeal must be made within the period of 6 weeks beginning with the date on which the Order or variation is made.
27. Articles 10 and 11 of the Human Rights Act 1998 regarding freedom of expression and freedom of assembly and association have been considered and no issues have been identified.

Crime and Disorder Implications

28. Once made and during the period of the PSPO, Council officers will aim to avoid the displacement of anti-social behaviour to other areas. Officers intend to work with internal departments and in particular the Dog Warden Service based within the Shared Regulatory Service, to identify suitable areas for dog walkers. The public will have an opportunity to comment on these areas during the consultation period. Officers are aware of the legal requirement set by the Animal Welfare Act 2006, where dogs must be suitably exercised, which means regular opportunities to walk and run off the lead.
29. A lack of dog control and enforcement against dog fouling in public places can lead to nuisance and disorder. The proposed PSPO, controlling the activity of dogs within

public spaces including the exclusion of dogs within certain areas will help to prevent or reduce dog related anti-social behaviour and assist the Council to work towards the Community Strategy and the Corporate Plan.

30. The Council inputs vast resources into ensuring that its public spaces are kept maintained and are something the community can all be proud of. Officers want to continue to keep these public spaces at a high quality for all the community and visitors to the Vale of Glamorgan to enjoy. The introduction of a PSBO will assist with this.

Equal Opportunities Implications (to include Welsh Language issues)

31. The consultation exercise documents including any letters, survey, webpage, notices and adverts will all be provided bilingually.
32. For those who cannot access the internet, other options will be available, such as the option to send a letter or to give responses to the Council's call centre via telephone.
33. An equalities impact assessment has been undertaken and is available upon request.
34. All future PSPOs including the one proposed for dog controls and any associated notices, publications and advisory signs will be produced bilingually in compliance with the Welsh Language Act 1993.
35. The proposed PSPO cannot apply, and it will be clear on the face of the order that it does not apply, to those in control of assistance dogs.

Corporate/Service Objectives

36. Community Strategy, the Vale of Glamorgan 'Planning and Working Together' 2011-2021;
 - Priority Outcome 9: Residents and visitors are safe and feel safe and the Vale is recognised as a low crime area.
 - Strategic assessment and consultation have identified the following priorities. Working together to:
 - Make the Vale of Glamorgan a safe place to live, work and visit, free from crime and the fear of crime.
 - Reduce the impact of anti-social behaviour.
37. Vale of Glamorgan Corporate Plan 2016-2020. Well-being Outcome 1: An inclusive and safe Vale.
 - Prevent and tackle incidents of anti-social behaviour including implementing restorative justice approaches for young people.

Policy Framework and Budget

38. The Council has the freedom to determine its own procedure for introducing a PSPO. It will be a matter for Cabinet to approve the commencement of the statutory consultation process and a matter for Full Council to make and implement any new PSPO.

Consultation (including Ward Member Consultation)

39. Draft consultation list;

- Vale of Glamorgan Councillors
- Internal - Sports and Play Development
- Internal Education Departments
- Land Owners/Occupiers
- Town & Community Councils
- Chief Constable in Police
- Police and Crime Commissioner
- Local Police
- Kennel Club
- Dog warden within SRS
- Community Safety/Safer Vale
- Tourism
- Local Access Forums
- Resident Groups
- Public
- Ramblers
- Disability Rights UK
- National Trust
- Public Forums
- Public Health Wales
- Community Reps
- Keep Wales Tidy
- Paws in the Vale walks
- Dogs Trust
- Hearing Dogs UK
- RSPCA
- Friends of Victoria Park

Relevant Scrutiny Committee

40. Environment and Regeneration.

Background Papers

Local Government Association: Public Spaces Protection Orders - Guidance for Councils

Home Office: Anti-social Behaviour, Crime and Policing Act 2014: Reform of anti-social behaviour powers: Statutory guidance for front line professionals, July 2014

Contact Officer

Sian James - Team Manager Neighbourhood Services (Team 2)

Officers Consulted

Operational Manger - Waste, Recycling and Coastal Management
Team Leader - Country Parks and Commons Countryside and Environment
Committee Reports - Legal Services
Visible Services and Building Accountant

Responsible Officer:

Miles Punter - Director of Environment and Housing Services