



<b>REPORT TITLE</b>	<b>Proposed Dog Control Measures</b>
<b>REPORT OF</b>	<b>Mike Cockburn – Lead Commissioner - Environment</b>

### REPORT SUMMARY

During 2018, the Council embarked on a review of dog control measures across Wirral, this included full public and stakeholder consultation about proposals for future dog control measures. Such proposals were considered by this Committee at a special meeting in January 2019 and Committee made several recommendations in response to the proposals. The recommendations included the use of existing bylaws to deal with the minority of dog owners who act in an irresponsible manner.

These recommendations were reviewed, and a report was presented to this Committee in July 2019, recommending that Members note the Government and legal guidance for the use of PSPOs to replace bye laws when required.

Current bylaws include the prohibition of dogs from cemeteries and some play areas. The Council therefore proposes to introduce a dog control PSPO to replace these bylaws, to include:

- Cemeteries – dogs to be under control via use of a lead.
- Play areas, Multi Use Games Areas (MUGA) and Kickabouts – dogs prohibited from entering, subject to conditions.

The review of dog control measures in place across Wirral was brought about because of public concern about issues such as dog fouling and the apparent inadequacy of existing dog control measures in place. The Residents Survey of 2017 carried out by Ipsos Mori on behalf of the Council found that dog fouling was a major concern among residents. The Residents Survey analysis report said:

“We know that the appearance of the borough is very important to Wirral residents. Area cleanliness is a key driver to local area satisfaction and also of the Council representing value for money, so it is important to understand what shapes perceptions of litter issues. Dog fouling comes out as the top issue across the board, with all constituencies bar Wirral West naming it as the top issue in their area.” Ipsos Mori, 2017.

Members will also be aware that dog fouling and dog nuisance issues continue to prompt hundreds of complaints from residents every year, either direct to the Council, on social media, through the local press or through Member surgeries and community outreach work. The review of dog control measures was therefore carried out in response to this feedback and resident concern about keeping defined areas of Wirral’s parks and open spaces free of dog fouling and dog nuisance.

The original proposals included provisions that Council’s then environmental enforcement contractor, Kingdom Securities Ltd, were to enforce the measures as part of the Environmental Enforcement Contract (provisional contract item prior to any decision made to establish the PSPO). However, the Council terminated the contract with Kingdom by

mutual consent in March 2019 and have been developing a new approach to driving behaviour change and addressing environmental crime.

Offences against the dog control PSPO will be dealt with in an advisory capacity, using positive engagement and education.

This matter affects all wards within the Borough.

## **RECOMMENDATION**

Committee are requested to:

Consider the contents of the report and provide comments to the Cabinet Member – Environment and Climate Change, regarding the establishment of a Wirral dog control public spaces protection order for:

- a. Cemeteries – dogs to be under control via use of a lead.
- b. Play areas, Multi Use Games Areas (MUGA) and Kickabouts – dogs prohibited from entering, subject to conditions (including concessions for working assistance and therapy dogs).

## **SUPPORTING INFORMATION**

### **1.0 REASON FOR RECOMMENDATION**

- 1.1 The evidence base compiled as part of the review of dog control measures and the outcomes of the public and stakeholder consultation exercise carried out in Summer 2018, highlighted that there was a need to address the irresponsible actions of a minority of dog owners and levels of dog nuisance in Wirral. The Council initially proposed a Borough-wide dog control PSPO to address such irresponsible dog ownership and to improve the experience of Wirral's open spaces for all. However due to the termination of the enforcement contract with Kingdom and the decision to pursue a new approach to driving behaviour change, the Council has been looking at alternative approaches to addressing issues such as dog control and protecting the local environment.
- 1.2 Establishing the dog control PSPO in areas where current bylaws are inadequate (cemeteries and play areas), will benefit Wirral's local communities and help support safe and healthy neighbourhoods, through:
- Creating high levels of enjoyment and user experience of Wirral's play areas for all users.
  - Providing a safe environment for all users of Wirral's play areas, including dog owners and their pets.
  - Providing a safe and respectful environment for all visitors to Wirral's cemeteries.
  - Increasing responsible dog ownership and the promotion of excellent dog care and control.
- 1.3 Government guidance recommends the use of PSPOs to replace bye laws when required.

### **2.0 OTHER OPTIONS CONSIDERED**

- 2.1 Following receipt of the proposals to establish a dog control PSPO at a special meeting in January 2019, this Committee made subsequent recommendations regarding future dog control measures. Committee recommended that the Cabinet Member should withdraw the dog control PSPO proposal and instead instruct officers to use the Council's existing powers to their full extent to deal with the minority of dog owners who act in an irresponsible manner.
- 2.2 Officers subsequently investigated the opportunity to update the Council's existing bylaws for dogs in cemetery grounds and children's play areas. Currently the bylaw for cemeteries prohibits dogs from entering and the bylaw for children's play areas does not cover all play areas. The current bylaws are also inadequate in that they do not apply to a range of facilities where it may be appropriate to apply dog control measures to enhance public safety and enjoyment.
- 2.3 Having taken advice and undertaken research, officers have found that the powers to make or amend bylaws affecting dogs (to change the current measure for cemeteries and include all bounded play areas) cannot be used in relation to

offences where alternative legislative measures already exist that could be used to address the problem. Government guidance advises the use of PSPOs to replace bylaws when required. This was the main reason the PSPO for dog control was proposed in the first place.

### **3.0 BACKGROUND INFORMATION**

3.1 Following a full review of the PSPO evidence base, the outcomes of the consultation exercise, consultation with all parties and stakeholders and scrutiny by this Committee, it is proposed that the following measures will be contained within the PSPO:

- The exclusion of dogs from listed land locations (play areas, MUGAs and Kickabouts);
- Dogs on leads at all times at listed locations (cemeteries).

3.2 The Council terminated the contract with Kingdom Securities Ltd in March 2019 by mutual consent, having received criticism about the way environmental enforcement was being carried out. When announcing the decision to terminate the contract, the Cabinet Member for Environment acknowledged that a change in approach was required and the Council will take the time necessary to determine what the new approach should involve.

3.3 This has included working with all parties and stakeholders collaboratively to identify effective ways to drive behaviour change in relation to the local environment and to develop proposals for making it happen.

3.4 The Council is developing the new approach to driving behaviour change in relation to the local environment. There will be more emphasis in the future on educating and supporting residents to take pride in their local environment. For the foreseeable future there will be no enforcement activity for the offences specified in the former Environmental Enforcement Contract (littering, dog fouling and smoke free).

3.5 The Dogs (Fouling of Land) Act 1996 allows Councils to enforce against dog fouling. The Council is considering action against dog fouling as part of the wider approach for driving behaviour change, but action is expected to be in an advisory capacity in the first instance, as with the proposed dog control PSPO. In the meantime, the Council is embarking on a series of pilot exercises at hot spot locations for dog fouling. Officers will work with Councillors and residents to raise awareness of the local dog fouling problems and consider issues such as adequacy and proximity of litter bin provision. The outcomes of this exercise will be fed into the review of the approach to behaviour change.

### **4.0 FINANCIAL IMPLICATIONS**

4.1 The implementation and coordination of the dog control PSPO will be met within existing resources from several service areas.

4.2 The communications and promotions campaign that will be delivered prior to and following the PSPO's implementation will utilise the Love Wirral branding and funding.

## **5.0 LEGAL IMPLICATIONS**

5.1 A PSPO is a local authority power introduced by the Anti-Social Behaviour, Crime and Policing Act 2014. A PSPO can be made if, on reasonable grounds, the local authority is satisfied that two conditions are met.

5.2 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.

5.3 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.

5.4 PSPOs can last for up to three years once approved. An existing PSPO can be varied and it can be extended more than once. Orders can be enforced by council officers and delegated third party partners, police officers and police community support officers through delegated authority. A breach of the order is a criminal offence and can be dealt with through the issuing of a Fixed Penalty Notice (FPN) to discharge the offender's liability for the offence or a fine of up to £1000 on prosecution.

5.5 In the past many local authorities introduced byelaws to deal with the issue of dog fouling. However, the Dogs (Fouling of Land) Act 1996, came into force on 17th August 1996 and local authorities were then expected to use their powers under that act to deal with dog fouling. In 2005 the Clean Neighbourhoods and Environment Act 2005 was enacted and introduced Dog Control Orders to replace the previous system of byelaws for the control of dogs, and also the Dogs (Fouling of Land) Act 1996, which was repealed. In 2014 Dog Control Orders were replaced by Public Spaces Protection Orders under the Anti-Social Behaviour Crime and Policing Act 2014.

5.6 Following the implementation of the Dog Control Order Regulations under the 2005 Act no new dog byelaws could be made relating to any of the offences set out in the Regulations. Existing byelaws remained in force indefinitely and could continue to be enforced as normal. However, if an Authority made a Dog Control Order in respect of an offence on a specified area of land, any bylaw dealing with the same offence on the same land lapsed.

5.7 Government guidance states "Bylaws are considered measures of last resort after a local council has tried to address the local issue the bylaw applies to through other means. A bylaw cannot be made where alternative legislative measures already exist that could be used to address the problem." Therefore, bylaws affecting dogs (to change the current measure for cemeteries and include all bounded play areas)

cannot be made or amended in relation to offences where alternative legislative measures already exist that could be used to address the problem.

5.8 Guidance issued by DEFRA on irresponsible dog ownership has the following to say about the dog fouling aspect of PSPOs:

“Existing designations under the Dogs (Fouling of Land) Act 1996 are not affected by the introduction of PSPOs, however, as before, no new designations may be made under this repealed Act. It is recommended that local authorities keep these designations under review and consider subsuming them into PSPOs where appropriate.”

## **6.0 RESOURCE IMPLICATIONS: ICT, STAFFING AND ASSETS**

One of the considerations for the development of proposals for the future approach to driving behaviour change will be the identification of the resource needed to deliver educational programmes and public awareness and advisory campaigns.

## **7.0 RELEVANT RISKS**

A risk assessment exercise will be undertaken as part of the development of proposals for the new approach to driving behaviour change and future dog control measures.

## **8.0 ENGAGEMENT/CONSULTATION**

The Council carried out a full public consultation and stakeholder engagement exercise over a 6-week period in Summer 2018, regarding proposed dog control measures. The statutory consultees for this exercise included the Chief Constable of Merseyside Police, the Police and Crime Commissioner’s Office, landowners in Wirral and national and local stakeholders.

As part of the development of the proposals for the new approach to driving behaviour change the Council has consulted with stakeholders to seek views on new approaches.

## **9.0 EQUALITY IMPLICATIONS**

A full Equality Impact Assessment will be carried out as part of the development of proposals for the new approach to behaviour change to consider the implications on identified protected groups.

## **10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS**

The proposed PSPO focuses primarily on dog control or exclusion from designated areas, highlighted to help ensure the safety of service users. However, this will also help to ensure a clean environment, clear of dog fouling.

The content and/or recommendations contained within this report are expected to have no impact on emissions of carbon dioxide or other greenhouse gases.

**REPORT AUTHOR:** **Mike Cockburn**  
Lead Commissioner - Environment  
telephone: 0151 606 2453  
email: [mikecockburn@wirral.gov.uk](mailto:mikecockburn@wirral.gov.uk);

**APPENDICES**

None

**BACKGROUND PAPERS**

Not applicable

**SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>
Special Environment Overview & Scrutiny Committee	<b>15 January 2019</b>
Environment Overview & Scrutiny Committee	<b>2 July 2019</b>