



**ENVIRONMENT OVERVIEW & SCRUTINY COMMITTEE**  
**2ND JULY 2019**

<b>REPORT TITLE</b>	DOG CONTROL MEASURES
<b>REPORT OF</b>	MIKE COCKBURN – LEAD COMMISSIONER - ENVIRONMENT

**REPORT SUMMARY**

During last year, 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 and Committee made several recommendations in response to the proposals.

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 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 proposals for future dog control measures received and considered by Committee were based on developing a public space protection order (PSPO) as a framework for establishing a range of dog control measures to increase public enjoyment of Wirral’s parks and open spaces. Subject to the PSPO being established the Council’s 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 decided to terminate the contract with Kingdom by mutual consent in March this year and to work towards adopting a new approach to driving behaviour change and addressing environmental crime. Therefore, the dog control PSPO will not be implemented or enforced in the way previously proposed. Following the termination of the contract with Kingdom, the Council is not enforcing against dog fouling or any other aspect of environmental enforcement previously carried out by Kingdom as part of the Environmental Enforcement Contract.

As announced at the time of the contract termination and cessation of environmental enforcement, the Council is now taking the time necessary to determine the future approach to driving behaviour change and addressing anti-social behaviour. It is intended to work in a collaboratively with all parties and stakeholders to develop these proposals, which will include the consideration of future dog control measures.

This matter affects all wards within the Borough.

The decision is not a 'key decision'.

## **RECOMMENDATION**

Committee are recommended to:

- Note the position reached in relation to the consideration of future dog control measures.

## **SUPPORTING INFORMATION**

### **1. REASON FOR RECOMMENDATION**

The evidence base compiled as part of the review of dog control measures and the outcomes of last summer's public and stakeholder consultation exercise 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 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 contract with Kingdom and the decision to pursue a new approach to driving behaviour change, the Council is now looking at alternative approaches to addressing such issues as dog control and protecting the environment.

### **2.0 OTHER OPTIONS CONSIDERED**

- 2.1 Following receipt of the proposals to establish a dog control PSPO at a special meeting in January, 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 have subsequently investigated the opportunity to update the Council's existing bye laws for dogs in cemetery grounds and children's play areas. Currently the bye law for cemeteries prohibits dogs and the bye law for children's play areas does not cover all play areas. The current bye laws 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 enjoyment.
- 2.3 Having taken advice and undertaken research, officers have found that the powers to make or amend byelaws 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 bye laws when required. This was the main reason the PSPO for dog control was proposed in the first place.

### **3.0 BACKGROUND INFORMATION**

- 3.1 The Council terminated the contract with Kingdom Securities Ltd in March this year 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.
- 3.2 This will include 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. This will include new alternative proposals for proportionate dog control measures.

- 3.3 In the meantime, the Council will monitor local environmental quality across Wirral to identify any adverse impact on standards of not enforcing against environmental crime. More emphasis will be placed on educating the public about the impact of environmental crime and supporting them to get involved in upkeep of their local area.
- 3.4 The Council will undertake a review of street cleansing resource deployment and street litter bin provision to address any downturn in local environmental quality and consider implications for future resource deployment as part of the development of proposals for the future.
- 3.5 The Council will take time to determine the new approach to driving behaviour change in relation to the local environment, however the intention is to have proposals prepared by this autumn. 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).

#### **4.0 FINANCIAL IMPLICATIONS**

- 4.1 The financial implications and requirements of the new approach to driving behaviour change are not currently known and will therefore be key consideration when developing the proposals. The communications and promotions campaign to be delivered as part of the new approach can utilise the Love Wirral branding and funding.

#### **5.0 LEGAL IMPLICATIONS**

- 5.1 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.
- 5.2 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 byelaw dealing with the same offence on the same land lapsed.

5.3 Government guidance states “Byelaws are considered measures of last resort after a local council has tried to address the local issue the byelaw applies to through other means. A byelaw cannot be made where alternative legislative measures already exist that could be used to address the problem.” Therefore, byelaws 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.

5.4 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**

6.1 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**

7.1 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**

8.1 The Council carried out a full public consultation and stakeholder engagement exercise over a 6-week period last summer 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.

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

## **9.0 EQUALITY IMPLICATIONS**

9.1 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.

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**APPENDICES**

None

**BACKGROUND PAPERS**

Not applicable

**SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>
None	