



B O S T O N

B O R O U G H C O U N C I L

REPORT TO:	ENVIRONMENT AND PERFORMANCE COMMITTEE
DATE:	12 OCTOBER 2016
SUBJECT:	PUBLIC SPACES PROTECTION ORDER / DOG CONTROL POWERS
PORTFOLIO HOLDER:	DEPUTY LEADER, PORTFOLIO HOLDER FOR PERFORMANCE AND WASTE SERVICES, COUNCILLOR MICHAEL BROOKES PORTFOLIO HOLDER FOR GROUNDS AND OPEN SPACES, COUNCILLOR CLAIRE RYLLOTT
REPORT AUTHOR:	HEAD OF OPERATIONS
EXEMPT REPORT?	NO

SUMMARY

To replace the current enforcement activity carried out under The Dogs (Fouling of Land Act) 1996 with a Public Spaces Protection Order providing authorised officers with the powers to deal more effectively with dog fouling and other forms of irresponsible dog ownership.

RECOMMENDATIONS

That the Committee scrutinise the content of this report and recommend to Cabinet that it recommends to Full Council:

1. The implementation of a Public Spaces Protection Order under s.59 of the Antisocial Behaviour, Crime and Policing Act 2014 as set out at Appendix A.
2. Approve a Fixed Penalty Notice of £100 for all controls contained in the PSPO
3. Bring the PSPO into force with effect from 1st February 2017

REASONS FOR RECOMMENDATIONS

The Antisocial Behaviour, Crime and Policing Act 2014 provides local authorities with powers to create a Public Spaces Protection Order (PSPO) where they are satisfied that activities carried out in a public place:-

- have had, or are likely to have, a detrimental effect on the quality of life of those in the locality
- is, or is likely to be, persistent or continuing in nature
- is, or is likely to be unreasonable
- justifies the restrictions imposed

Boston Borough Council currently enforces dog fouling under The Dogs (Fouling of Land) Act 1996. That legislation was repealed and became part of the [Clean Neighbourhoods and Environment Act 2005](#) and has since been replaced by “Dog Control Orders” which are now made under the Anti Social Behaviour, Crime and Policing Act 2014 (the act) forming part of a PSPO.

The current legislation is obsolete and restricts the ability for the Council to act on the types of anti-social behaviour caused by irresponsible dog ownership, including dog fouling.

The £50 current Fixed Penalty Notice offered in order to discharge any liability for conviction for the offence of failing to clean up dog faeces is no longer proportionate when considering the extent of this problem, the impact this has on the safety of the public and the detrimental effects this activity has on the local environment.

ALTERNATIVES CONSIDERED

The Committee could chose not to approve the PSPO; however the Council will be unable to effectively carry out its duty to address dog fouling and dog related anti-social behaviour.

REPORT

1.0 The PSPO will introduce controls to deal effectively with:

- Dog Fouling
- The exclusion of dogs from fenced off children’s play areas
- Comply with a direction to put nuisance or dangerous dogs on a lead
- Provide evidence of the means of a suitable receptacle to pick up dog faeces

1.1 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 (s 74(1) of the Act). This means that the controls will apply to all land open to the air including agricultural land.

1.2 The Dogs (Fouling of Land) Act 1996 and associated By-Laws will cease to have effect.

1.3 The PSPO will expire after 3 years, at which point a full review of the controls in place will be carried out and if necessary amendments will be made or the order will be extended for a further 3 years.

1.4 The controls will not apply to assistance dogs used by the blind or by persons who lack the physical ability to comply with the requirements of the PSPO.

2.0 Consultation

2.1 Cabinet approved the consultation process on the proposed PSPO at their meeting of 29th June 2016.

- 2.2 The consultation was conducted between 01 July 2016 and 31 August 2016, the result of which being crucial in developing the PSPO. The PSPO is provided in appendix A and the consultation results and comments provided in appendix B.
- 2.3 A survey was sent to 150 members of the viewpoint panel and other interested parties including vets, kennels and dog groomers. The survey was made available on the website, social media, the Bulletin and through the local press. In addition, two market stall events were held in the town centre to help explain the proposed controls to the public and to obtain a view on the public support for these controls. Position statements were received from the RSPCA and The Kennel Club and in total 362 surveys were received.
- 2.4 A summary of the results are shown below:

Results

Q1. Would you like it to be an offence if dog walkers/owners do not carry bags or other means at all times to clear up after their dog?

Yes	90%
No	10%

Q2. Would you like it to be an offence to refuse to put a dangerous or nuisance dog/dogs on a lead when requested to do so by an Authorised Officer?

Yes	97%
No	3%

Q3. Would you like it to be an offence to allow a dog/dogs into an enclosed, designated children's play area?

Yes	94%
No	6%

Q4. What level of fine would you consider to be appropriate for the proposed controls under a PSPO?

£75	26%
£100	74%

CONCLUSION

- 3.1 As a statutory body we have a duty to deal with dog fouling. To comply with current legislation there is a need for the Borough Council to introduce dog controls under a PSPO.
- 3.2 Overwhelming public support has been established to introduce these controls. The new powers will enable the Council to deal more effectively with dog fouling and meet public demands in respect of introducing tougher controls on the exclusion of dogs in enclosed children's play areas, requesting dogs to be put on a lead where appropriate, and enable a more proactive approach to address dog related anti-social behaviour.

FINANCIAL IMPLICATIONS

Signage stating that dogs are excluded from fenced off children's play areas will need to be installed at each of the sites. The cost will be covered from existing budgets.

LEGAL IMPLICATIONS

Fixed Penalty Notices will be issued offering the opportunity to discharge liability to conviction where necessary. Prosecutions under the PSPO may be carried out in situations where this is proportionate and in the public interest.

ANY OTHER IMPLICATIONS

The PSPO is expected to make a positive impact on the safety and quality of the local environment.

APPENDICES

Appendices are listed below and attached to the back of the report: -

APPENDIX A	PSPO
APPENDIX B	Consultation results and comments
APPENDIX C	Consultation template
APPENDIX D	Government comment on dog control

FINANCE PROFORMA

BOSTON BOROUGH COUNCIL

**PROFORMA FOR EXECUTIVE APPROVAL OF THE RELEASE OF RESOURCES
(CAPITAL AND REVENUE BUDGETS)**

FROM: C ALEXANDER

THIS PROFORMA PROVIDES THE FINANCIAL IMPLICATIONS
IN RESPECT OF THE ATTACHED

REPORT: PUBLIC SPACES PROTECTION ORDER / DOG CONTROL POWERS

REPORT DATE: 12 OCT 2016

OPTION 1	£ Year 1 2016/17	£ Year 2 2017/18	£ Year 3 2018/19	£ Year 4 2019/20	£ Year 5 2020/21
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Revenue

Signs for the exclusion of dogs in children’s play areas.	£800	£0	£0	£0	£0
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Total Revenue	£800	£0	£0	£0	£0
Cost					

Funding required:		Considered by:	Date:
Total capital cost	£0		
Revenue cost	£800	Environment & Performance Committee	12/10/16

Financial Services Comments

The cost for 30 new signs excluding dogs from fenced off children’s play areas is £800 and will be met from existing budgets.

Risk

All risks have been addressed in the report attached, no additional financial risk identified.

This FP is valid for 3 months from FP date	If this FP is no longer required please advise Finance	If there are changes to the original report it may invalidate this document, it must be reviewed by Finance.