Notice of:	DEPUTY LEADER OF THE COUNCIL
Decision Number:	PH69/2018
Relevant Officer:	John Blackledge, Director of Community and Environmental Services
Relevant Cabinet Member	Councillor Gillian Campbell, Deputy Leader (Tourism, Economic Growth and Jobs)
Date of Decision	18 October 2018

PUBLIC SPACE PROTECTION ORDER – Dog Control and Dog Fouling

1.0 Purpose of the report:

1.1 To consider the proposed Blackpool Borough Council (Dog Control and Dog Fouling) Public Space Protection Order 2018, which has been formulated following a comprehensive public consultation exercise, which included the following proposals:

- Dogs on leads – increasing the current number of dogs on leads areas to include Fishers Field, Promenade Middle Walk, Cabin Walk, Starr Gate Tram Circle and South Promenade Grass Embankment;
- Dog exclusion areas – in addition to the current exclusion, to include marked-out sports pitches at all times whether in use or not;
- Number of dogs walked – limit the maximum number of dogs exercised by one person to four, with only two off a lead at any one time;
- Means to pick-up – that a dog walker/owner must be able to provide the means to pick up their dog's faeces at the request of an authorised officer;
- Dogs on leads by request – to continue with current powers that exist;
- Microchipping – to disallow non-microchipped dogs from being exercised off-lead in any public space, with a fixed penalty notice of £100 for non-compliance.

1.2 A question was also included in relation to the minimum age a child or young person should be able to walk a dog.

1.3 To consider whether to continue dialogue with interested parties, as a result of positive discussions and commitment from all sides to make Blackpool a more dog friendly town. (See 5.19)

2.0 Recommendation(s):

2.1 To approve the Public Space Protection Order Dog Control and Dog Fouling 2018 at Appendix 'A' for a period of three years starting from 1st December 2018.

2.2 Subject to approval of 2.1, to delegate to the Head of Legal Services to seal and advertise the Order.

2.3 In relation to the specific proposals:

- Dogs on Leads – increasing current number of dogs on leads areas to include:
  - Fishers Field – to agree **not** to include. (See 5.18.2)
  - Promenade Middle Walk – to **agree** as it is classed as a service road;
  - Cabin Walk (Cliff top foot walk from Uncle Tom's Cabin to Little Bispham)– to agree **not** to include and instead to be designated Dogs on Lead by request;
  - Starr Gate tram circle – to **agree** as result of proximity to tram track;
  - South Promenade Grass Embankment– to **agree** as adjacent to tram track.

- Dog Exclusion areas – to agree **not** to change current dog exclusion areas and not include marked out sports pitches, which will remain dog exclusion areas when in use. (See 5.18.2)
- Number of Dogs Walked – to agree **not** to progress this proposal. (See 5.18.1)
- Means to Pick-Up – to **agree** that an authorised officer will have the powers to challenge dog walkers as to whether they have a means to pick-up their dogs faeces, or not. The aim is for this to be intelligence led from individuals, Dog Interest Group or Friends of Parks. (See 5.17.5)
- Dogs on Leads by request – to **agree** to continue with the existing order, which allows authorised officers to request a dog be put on a lead. (See 5.17.4)
- Microchipping – to agree **not** to progress with this proposal. (See 5.18.3)

2.4 To not implement any restriction regarding the age of which a child or young person should be permitted to walk a dog, while noting that this may be revisited in the future (See 5.18.4).

2.5 To agree to form a group that meets regularly, which includes representatives of the Dog Interest Group and other interested parties, with the following key areas of work to consider:

- To review grazing land within the Borough to see if any areas can be opened up for use by dog walkers;
- To work with the Dog Wardens in order to consider greater education in terms of managing and owning a dog;
- To consider a campaign and ways to promote Blackpool as a dog friendly resort;

- To support the Council in helping to identify irresponsible dog owners, to facilitate the enforcement and encouraging a wider audience to provide intelligence.
- To review current provision and facilities related to dog walking and potential enhancements that can be considered, e.g. Signage/bins.

3.0 Reasons for recommendation(s):

3.1 The reason for the recommendations in relation to the Public Space Protection Order (PSPO) Dog Control and Dog Fouling are to ensure that the new Order, which is required to take place as a result of a transfer from the existing Dog Control Orders implemented in 2012 and 2013, is supportive of local dog walkers and aim to hold irresponsible dog owners to account (refer to 5.7.1, 5.7.2 and 5.8).

3.1.1 The consultation undertaken was wide ranging to ensure all options were considered.

3.1.2 The creation of a group as described at 2.5 will ensure the monitoring of the effectiveness of the Order and their appropriateness, and provide a forum for the Council to work together with dog owners.

3.2a	Is the recommendation contrary to a plan or strategy adopted or approved by the Council?	No
3.2b	Is the recommendation in accordance with the Council's approved budget?	Yes

4.0 Other alternative options to be considered:

4.1 There is no other option than to have a PSPO Dog Control and Dog Fouling as highlighted in 3.1, with consultation ensuring people have an opportunity to input into the process. If the Order was not agreed, the existing Dog Control Orders will lapse and there would be no controls over dogs in public spaces.

4.2 Council priority:

4.3 The relevant Council priorities are:

"The economy: Maximising growth and opportunity across Blackpool".
"Communities: Creating stronger communities and increasing resilience".

5.0 Background information

5.1 Local authorities up until October 2017 were able to have in place four separate dog control orders:

a) dogs on leads in nominated areas
b) dog exclusion in nominated areas
c) dog fouling of land
d) dogs on lead by request.

5.2 Under the provisions of the Anti-Social Behaviour, Crime and Policing Act 2014 all existing dog control orders were automatically transferred to a PSPO in October 2017.

5.3 Home Office guidance indicates that the areas which the PSPO will cover must be clearly defined.

5.4 This compliance was not clear in the automatically transferred dog control orders. It was essential to review each of the controls and an opportunity to consider additional or lesser restrictions.

5.5 There has always been a frustration and annoyance throughout neighbourhoods in respect to the amount of dog fouling not being 'picked up', this matter and other concerns created by irresponsible dog owners has been thoroughly considered as part of the consultation questions.

5.6 The analysis of the consultation, together with the discussions with the Dog Interest Group has allowed for all concerns to be aired. It has helped develop a PSPO Dog Control and Dog Fouling which is fit for purpose. It has created a mutual understanding that the proposed Order is to control the irresponsible dog owner and not deny responsible dog walkers the freedom to exercise their dogs with unnecessary restrictions.

5.7 Local authorities can make an order as long as two conditions are met:

5.7.1 First condition:

- Activities carried out in a public space within the local authority's area have a detrimental effect on the quality of life of those in the locality, or
- It is likely that activities will be carried out in a public place within the area that will have such an effect.

5.7.2 Second condition:

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 activities unreasonable
- Justifies the restrictions imposed by the notice.

5.8 Any requirement must be reasonable in order to prevent the detrimental effect from occurring or reoccurring, or must reduce the detrimental effect or reduce the risk of its occurrence, reoccurrence or continuance.

5.9 The consultation commenced on 31st July 2018 for eight weeks finishing on 25th September 2018. Its purpose to examine public opinion on a key set of questions to determine the final PSPO Dog Control and Dog Fouling 2018.

5.10 A total of 1625 responses were received by the Infusion research team, Customer First and Councillors. Some respondents got in touch with organisations such as the Dog's Trust. Two petitions were received during the consultation period in opposition to some of the proposals. One of these had 423 signatures while the other had 49 signatures. (See Appendix 'B' for Questionnaire and Headline Report).

5.11 The consultation contained four open-ended comments boxes for respondents to leave comments regarding issues relating to dogs, the impact of dog issues on themselves or their family, the proposals and any other comments. 4287 comments were received in total across these four comments boxes. In some cases comments have been repeated by respondents, for example, making the same point across all four comment boxes. (See Appendix 'C' for Coding of Comments).

5.12 In addition to the public consultation and owing to confusion of the existing dog control areas, officers attended two open meetings with dog walkers (170 persons) to reassure them that the proposals were for consultation only and that the existing areas where controls existed would be largely unaffected.

5.13 These meetings were met with mixed reactions which resulted in greater dialogue with representatives of a social media formed Dog Interest Group with a reported 2000 members.

5.14 The informal consultation with representatives of the Dog Interest Group allowed officers and the representatives to examine the consultation proposals in a manner which was clear to follow and easily understood. It took into account a wide range of opinions and gave a greater perspective of the impact and potential opportunities available to work together.

5.15 It has allowed for the draft PSPO Dog Control and Dog Fouling to consider all the views expressed in the public consultation and meet only those priorities, which are

considered absolutely necessary to maintain dog control and reduce the nuisance(s) and its impact on the public.

5.16 In addition, direct contact was made with the Dogs Trust, The Kennel Club and the RSPCA to highlight the consultation was taking place and to initiate a response. Consultation has also taken place with Lancashire Constabulary.

5.17 The draft PSPO Dog Control and Dog Fouling covers the following :

5.17.1 **Fouling of Land**

There has been no change to this order and applies to any owner exercising their dog to 'pick up forthwith' any of their dogs fouling in any open space. Failing to do so will result in a Fixed Penalty Notice being issued. (See Appendix 'A' Schedule 1).

5.17.2 **Dog Exclusion Areas**

In terms of this, opinions are very different between dog owners and non-dog owners, in relation to this continuing to exclude dogs from certain areas with a much greater support from non-dog owners. However, further consultation and discussion with the Dog Interest Group(s), and taking into account health and safety considerations, has resulted in full agreement with the existing scheduled areas. (See Appendix 'A' Schedule 3).

In relation to the seasonal beach exclusion area, the same applies although the gap is not as great between dog owners and non-dog owners. Although, in discussion with the Dog Interest Group and weighed up with dialogue with other interested parties in the consultation, the importance of beach management and its links to the European Bathing Directive and Blue Flag status which is monitored during the season May to September by the Environment Agency is agreed. (See Appendix 'A' Schedule 4).

5.17.3 **Dogs on Lead Areas**

The existing order has been extensively reviewed, with areas highlighted in Appendix 'A' Schedule 5. Some of the areas where the restrictions existed have **been relaxed to the lesser order of 'dogs on lead by request'** (basically off lead areas). The areas which have been relaxed are few but significant in open space which they cover. The changes replicate current custom and practice of dog walkers, with no significant evidence to support the existing controls being applied. In particular **Herons Reach** and **Bispham Cliff Tops** (Uncle Tom's Cabin to Little Bispham) where 5.17.4 will apply Dogs on Lead by Request (basically off lead areas).

In relation to the Promenade Middle Walk this is included as a Dogs on Lead area, as it is a service road with vehicles accessing it, which would be a concern if dogs were off lead.

In terms of Starr Gate Tram Circle and South Promenade Grass Embankment are

included as a result of their close proximity to the tramway, which relates to a health and safety concern.

In consultation with the Parks Division, Friends of Stanley Park and the Dog Interest Group the new PSPO Dog Control and Dog Fouling will relax the Dogs on Leads that exist in the Italian Gardens and Café Terrace in Stanley Park. Dogs on leads in the Italian Gardens/Café Terrace will be a seasonal restriction operating from the 1 May to 31 August, between 10:00am – 4:00pm. This would control dogs during the parks busiest period and reduce the potential for damage to the flower beds which will be in full bloom for all patrons of the park to enjoy. (See Appendix 'A' Schedule 5 (3)).

5.17.4 **Dogs on Lead by Request**

This existing order applies to all land within the Borough. It should be noted, that if an area is not identified in 5.17.2 or 5.17.3, then it is effectively a dog off lead area by choice. Public awareness around its use was limited and through the consultation process clearly misunderstood by many and perceived to be a new control. **Its purpose is simply to allow an authorised officer the tools and powers to instruct for a dog to be placed on a lead when required.** This request will be obvious to most responsible dog owners in any given situation, which could relate to the safety of a dog or in order to bring a dog under control for example.

5.17.5 **Means to Pick Up**

This new control order will offer greater opportunity for authorised officers to target areas most affected by dog fouling. It has overwhelming support from dog owners (80.7%) and non-dog owners (85.3%) and considered a necessary control to reduce the nuisance of dog fouling. This order is seen as a strong deterrent which will raise the awareness and behaviour change in irresponsible dog owners. (See Appendix 'A' Schedule 2).

As a result of resources available, this will not be about stopping everyone who has a dog requesting them to produce their means of picking up. **It is about irresponsible dog owners** and in agreement with the Dog Interest Group which will be intelligence led. The group or individuals or Friends of Parks will have contact details of who to report offenders to and these individuals will be challenged by an authorised officer.

5.18 The consultation questionnaire offered the opportunity to consider three other proposals for potential controls, which **have not been included** in the proposed order:

5.18.1 1. **Limit the maximum number of four dogs being exercised and only two off-lead at any one time**.

The consultation gave a combined total 45.7% who strongly agreed or tend to agree with the proposal. The number of dog owners with four dogs or more was less than 3%. To include this as an additional requirement would therefore

require greater evidence to meet the two primary conditions of PSPO legislation to make such an order reasonable.

In discussion with Dog Interest Group and other interested parties it is felt that this should be a standard agenda item, highlighting any issues related to dog control, which would provide intelligence and consideration for the next review.
If there were issues in relation to a person who was irresponsible in the management of a number of dogs, then this could be dealt with through a Community Protection Warning and Notices.

5.18.2 2. **Exclude dog from being exercised on marked out sports pitches**.

The consultation gave a combined total of 58.5% who strongly agreed or tend to agree with the proposal, with a greater proportion agreement from non-dog owners. Whilst there was clear support to introduce such a restriction, strong representation from the dog walking representatives highlighted the limited open space available within Blackpool and that such a restriction would have a dramatic impact on dog walkers to exercise their dogs off lead without breaking the law.

In addition, when we consider that 4,287 comments were made, only 204 relate to anything to do with sports pitches. The question must be asked if it is such a big problem, ensuring close monitoring and recording feedback and consider.

The dog walking representatives recognised the consultation findings. Working closely together they offered reassurance that they would raise awareness amongst the dog walking fraternity via social media, act as 'eyes and ears' to report irresponsible dog owners and agree to meet quarterly to discuss problem areas. This potentially presents a more positive way forward, as trying to manage this restriction with the resources available would be extremely difficult across the Borough.

Also, the Council's Parks Division will aim to get feedback from users as to whether this is a major problem, ensuring close monitoring and recording feedback and consider actions to try to resolve.

Therefore, the existing control will apply, which states dogs are excluded on marked out sports pitches whilst they are in use.

5.18.3 **3. Exclude any un-microchipped dog from being exercised off lead in any public place.**

The consultation gave a combined total of 65.8% who strongly agreed or tend to agree with the proposal. In relation to this, although there is support, the question of priority and resources were considered and it was felt that this should be dealt with through the legislation already in place to address non-compliance, rather than creating a PSPO. All dogs found or straying will continue to be scanned for a chip and owners given 21 days to produce evidence of the dog being chipped or details updating or face prosecution where appropriate to do so.

5.18.4 **4. Finally the consultation sought opinion on the age at which a responsible person should be permitted to exercise a dog on lead or off lead.**

The purpose of including the question 'What is the minimum age you think a child should be able to walk a dog on a lead and off a lead' within the consultation was to seek the views of the public on this matter. The question asked was a very general one although the responses indicated a need to provide additional clarity on some points, the results showed some level of public support especially in the matter of children exercising a dog off lead.

The Dog Interest Group felt that their members had given a strong indication that this very much depends on parental supervision, size and breed of dog and in relation to this the Council will work with them to consider this matter further.

5.19 **Continuing Dialogue with Interested Parties**

As a result of discussions with the Dog Interest Group representatives, it has been agreed that a programme of meetings will be held where a representative from the Friends of Parks will be invited and representatives of any other interested parties to consider ways of improving provision for the walking of dogs and addressing issues related to irresponsible dog owners. Key areas of work agrees are as follows:

- To review grazing land within the Borough to see if any areas can be opened up for use by dog walkers.
- To work with the Wardens in order to consider greater education in terms of managing and owning a dog.
- To consider a campaign and ways to promote Blackpool as a dog friendly resort.
- To support the Council with its limited resources in helping to identify irresponsible dog owners, to facilitate the enforcement and encouraging a wider audience to provide intelligence.
- To review current provision and facilities related to dog walking and potential enhancements that can be considered.

5.20 Does the information submitted include any exempt information? No

5.21 List of Appendices:

Appendix A: Public Space Protection Order Dog Control and Dog Fouling 2018
Appendix B: Questionnaire and Headline Report
Appendix C: Coding of Comments

6.0 Legal considerations:

6.1 The process of creating the Public Space Protection Orders is being conducted through an appropriate and due process.

6.2 Section 72 of the Anti-Social behaviour and Policing Act 2014 requires the Cabinet Member as decision maker to pay particular regard to rights of freedom of expression and freedom of assembly set out in articles 10 (the right to freedom of expression) and 11 (freedom of assembly and association) of the European Convention on Human Rights in considering the making any such order.

7.0 Human resources considerations:

7.1 The implementation will be by staff within Community and Environmental Services.

8.0 Equalities considerations:

8.1 The aim is to ensure that the Public and Green Open Space Dog Control is fair and affords accessibility for all.

9.0 Financial considerations:

9.1 Once the PSPO Dog Control and Dog Fouling is agreed, in conjunction with the newly formed Dog Support Group, signage requirements will be assessed, which will be costed and funded through the Community and Environmental Services revenue budget.

10.0 Risk management considerations:

10.1 Authorised officers will need to have completed appropriate training in order to be able to issue fixed penalties.

11.0 Ethical considerations:

11.1 The management of Public Space Protection Orders will be subject to the current

performance management arrangements within the division, with performance benchmarking as part of the process.

12.0 Internal/external consultation undertaken:

12.1 Consultation has taken place both with responsible authorities and with the public.

13.0 Background papers:

13.1 None.

14.0 Key decision information:

14.1	Is this a key decision?	Yes
14.2	If so, Forward Plan reference number:	20/2018
14.3	If a key decision, is the decision required in less than five days?	Yes

14.4 If **yes**, please describe the reason for urgency:

To avoid further delay in implementing the proposed order and to allow clarity before their implementation.

15.0 Call-in information:

15.1 Are there any grounds for urgency, which would cause this decision to be exempt from the call-in process? No

15.2 If **yes**, please give reason:

TO BE COMPLETED BY THE HEAD OF DEMOCRATIC GOVERNANCE

15 Scrutiny Committee Chairman (where appropriate):

Date informed: 16 October 2018 Date approved: 17 October 2018

16 Declarations of interest (if applicable):

16.2 None.

17 Executive decision:

17.2 The Cabinet Member agreed the recommendations as outlined above namely:

1. To approve the Public Space Protection Order Dog Control and Dog Fouling 2018 at Appendix 'A' for a period of three years starting from 1st December 2018.

2. To delegate to the Head of Legal Services to seal and advertise the Order.

3. In relation to the specific proposals:

• Dogs on Leads – increasing current number of dogs on leads areas to include:
- Fishers Field – to agree not to include. (See 5.18.2)
- Promenade Middle Walk – to agree as it is classed as a service road;
- Cabin Walk (Cliff top foot walk from Uncle Tom's Cabin to Little Bispham)– to agree not to include and instead to be designated Dogs on Lead by request;
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• Dog Exclusion areas – to agree not to change current dog exclusion areas and not include marked out sports pitches, which will remain dog exclusion areas when in use. (See 5.18.2)
• Number of Dogs Walked – to agree not to progress this proposal. (See 5.18.1)
• Means to Pick-Up – to agree that an authorised officer will have the powers to challenge dog walkers as to whether they have a means to pick-up their dogs faeces, or not. The aim is for this to be intelligence led from individuals, Dog Interest Group or Friends of Parks. (See 5.17.5)
• Dogs on Leads by request – to agree to continue with the existing order, which allows authorised officers to request a dog be put on a lead. (See 5.17.4)
• Microchipping – to agree not to progress with this proposal. (See 5.18.3)
To not implement any restriction regarding the age of which a child or young person should be permitted to walk a dog, while noting that this may be revisited in the

future (See 5.18.4).

4. To not implement any restriction regarding the age of which a child or young person should be permitted to walk a dog, while noting that this may be revisited in the future (See 5.18.4).

5. To agree to form a group that meets regularly, which includes representatives of the Dog Interest Group and other interested parties, with the following key areas of work to consider:

- To review grazing land within the Borough to see if any areas can be opened up for use by dog walkers;
- To work with the Dog Wardens in order to consider greater education in terms of managing and owning a dog;
- To consider a campaign and ways to promote Blackpool as a dog friendly resort;
- To support the Council in helping to identify irresponsible dog owners, to facilitate the enforcement and encouraging a wider audience to provide intelligence.
- To review current provision and facilities related to dog walking and potential enhancements that can be considered, e.g. Signage/bins.

18 Date of Decision:

18.2 18 October 2018

19 Reason(s) for decision:

19.2 The reason for the recommendations in relation to the Public Space Protection Order (PSPO) Dog Control and Dog Fouling are to ensure that the new Order, which is required to take place as a result of a transfer from the existing Dog Control Orders implemented in 2012 and 2013, is supportive of local dog walkers and aim to hold irresponsible dog owners to account (refer to 5.7.1, 5.7.2 and 5.8).

The consultation undertaken was wide ranging to ensure all options were considered.

The creation of a group as described at 2.5 will ensure the monitoring of the effectiveness of the Order and their appropriateness, and provide a forum for the Council to work together with dog owners.

20 Date Decision published:

20.2 18 October 2018

21 Executive Members in attendance:

21.2

22 Call-in:

22.2

23 Notes:

23.2