

LONDON BOROUGH OF HAMMERSMITH & FULHAM

Report to: Cabinet

Date: 06/02/2023

Subject: Consideration of petition: "Ensuring responsible dog ownership and ensuring dogs' essential needs are met"

Report of: Councillor Rebecca Harvey - Cabinet Member for Social Inclusion and Community Safety

Report author: Charis Champness, Service Transformation Lead

Responsible Director: Bram Kainth, Strategic Director of Environment

SUMMARY

On 16 November 2022, the Council launched a public consultation seeking views on a proposed Public Spaces Protection Order (PSPO) in relation to responsible dog ownership and dog control. The proposed PSPO would introduce a series of 'dog exclusion zones' and 'dogs on lead zones' in parks and open spaces and introduce new rules in relation to dog fouling and the maximum number of dogs which can be walked by any one person at any one time in H&F. The PSPO also proposes giving authorised Council and Police officers powers to request a dog be put on a lead. Authorised officers would have powers to issue a Fixed Penalty Notice (FPN) of £100 (reduced to £60 if paid within 10 days) to those who engage in an activity that is prohibited by the Order.

The consultation period ended on 15 January 2023, and officers are currently analysing the findings. During the consultation period, a petition against the proposed PSPO was started by the petition organiser. This petition has a total of 253 signatures from residents. Under the Council's Petitions Scheme, a petition which attracts 250 valid signatures (of people who live, work or study in the borough) triggers consideration of the petition by Cabinet. This petition meets this criterion, and so is considered here. A formal decision regarding introducing the PSPO following the public consultation will be the subject of a separate Cabinet Member decision report, by the Cabinet Member for Social Inclusion and Community Safety.

RECOMMENDATIONS

1. To note the petition
 2. To take any decisions accordingly
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Wards Affected: All

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Financial Impact

This report considers the petition received during the consultation period only. A formal decision regarding the potential introduction of a PSPO will be the subject of a separate cabinet member decision report, including financial implications. However, it is expected that the financial costs associated with implementing a PSPO will be limited to the cost of signage. The PSPO would be enforced by the council's Law Enforcement Officers as part of their regular duties, meaning no additional resources would be required. The income from any Fixed Penalty Notices issued would contribute to the cost of enforcement.

Implications completed by Kellie Gooch – Head of Finance (Environment), 23 January 2023.

Legal Implications

Section 59 of the Anti-Social Behaviour Crime and Policing Act 2014 allows the Council to make a PSPO.

A formal decision has not been made regarding introducing the PSPO following the public consultation. However, before making a decision regarding the introduction of a PSPO, the Council must be satisfied that certain dog related behaviours across the borough are having a detrimental effect on the quality of life. Also, that the effect of those behaviours is, or is likely to be, of a persistent and continuing nature; and is, or is likely to be, unreasonable. In addition, the Home Office statutory guidance states that the proposed restrictions should, be proportionate to the detrimental effect that the behaviour is causing and be necessary to prevent it continuing.

Anyone who lives in, regularly works in or visits the area can appeal a PSPO in the High Court within six weeks of issue on the grounds that the council did not have the power either to make the order or to include particular prohibitions or requirements, or that proper processes had not been followed as prescribed by the Act.

The Council must, when carrying out its functions, have due regard to the needs set out in section 149 of the Equality Act 2010 (the Public Sector Equality Duty, "PSED"). This duty includes having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. The Council must consider the duty, which is personal to decision makers. In order to assist the Council to comply with section 149, an Equality Impact Assessment ("EQIA") will be completed and submitted alongside the decision report drafted. The relevant decision-maker must carefully consider the EQIA as applicable to the decision they are asked to approve. In summary, the PSED requires the Council, when exercising its functions, to have "due regard" to the need to:

- a. Eliminate discrimination, harassment and victimisation and any other conduct that is prohibited by or under the Act (which includes conduct prohibited under section 29);
- b. Advance equality of opportunity between people who share a relevant protected characteristic and those who don't share it;

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- c. Foster good relations between people who share a relevant protected characteristic and those who do not (which involves having due regard, in particular, to the need to tackle prejudice and promote understanding).

A consultation has been carried out and the Cabinet Member must carefully consider the consultation responses when approving the decision report. So far no PSPO has been put in place.

Implications verified/completed by: Grant Deg, Assistant Director, Legal Services, Grant.Deg@lbhf.gov.uk, 07798588766, 22 January 2022.

DETAILED ANALYSIS

1. Prior to 2017, H&F had various rules in place around dog control through Dog Control Orders (DCOs), under the Clean Neighbourhoods and Environment Act 2005. With the introduction of the ASB, Crime and Policing Act 2014, DCOs were replaced by PSPOs. In 2017, the council converted its existing Dog Control Orders into a PSPO for a period of 3 years. This PSPO expired in October 2020.
2. The previous dog control PSPO contained prohibitions in relation to:
 - 'Dog exclusion' areas – areas of parks and open spaces where dogs weren't allowed, such as children's playgrounds
 - 'Dogs on lead' areas – areas of parks and open spaces where dogs must be kept on a lead, such as wildlife conservation areas and cemeteries
 - 'Leads by direction' – gave certain council and police officers powers to ask dog walkers to put their dogs on a lead if they were not under control, are acting aggressively or are causing damage
 - 'Specified Maximum' - No more than four dogs could be walked at a time by any one person
 - Dog fouling
3. In November 2022, the Council launched a public consultation seeking views on a proposed new Public Spaces Protection Order (PSPO) in relation to responsible dog ownership and dog control. The proposed PSPO would remain in place for a period of up to three years once introduced.
4. The proposed prohibitions for the new PSPO included:
 - A 'dog exclusion' order, which would introduce certain 'dog free' areas including children's playgrounds, sports courts, multi-use games areas and marked pitches (where games are in-play).
 - A 'dogs on leads' order, which would introduce certain 'dogs on lead only' areas and preventing dogs from being exercised off-leads in certain areas, such as wildlife conservation areas and cemeteries.
 - A 'dogs on leads by direction' order, which would grant authorised officers the power to request that dogs be put on leads where they are not under the

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appropriate control of their owner, or where they are causing damage or acting aggressively.

- A 'specified maximum' order, which would enable authorised officers to issue penalties to those walking more than the maximum number of dogs at any one time.
 - A 'dog fouling' order which would enable authorised officers to fine those that do not clean up after their dog.
 - A 'poop scoop and/or disposable bag' order, this would enable authorised officers to ask dog walkers to produce a clean-up bag which would be used to remove the faeces from the land on request.
5. The proposed PSPO would give authorised Council and Police officers powers to issue a Fixed Penalty Notice (FPN) of £100 (Reduced to £60 if paid within 10 days) to those who engage in an activity that is prohibited by the Order, such as bringing their dog into a 'dog exclusion' area; exercising their dog off lead in a 'dogs on lead' area or refusing to place their dog on a lead when requested by an authorised officer.
6. A map of the public areas affected by the proposed PSPO can be found at **Appendix 1** and the specific detailed areas (schedules) can be found in the draft order at **Appendix 2**.
7. Exemptions are proposed for some of these rules for Disabled people who have a dog on which they rely for assistance.
8. We began research into dog related ASB and dog control issues in April of 2021. This involved using internal resources to look at complaints and reports as well as working with our external partners such as the Police and our Stray Dog service. This helped us conclude the extent of the issues. Research into other council's approaches showed that a PSPO was the best proposal to help reduce dog related ASB in the borough.

Petition

9. The petition to "Ensuring responsible dog ownership and ensuring dogs' essential needs are met" was submitted during the statutory consultation period, and therefore will be considered when deciding on the future of the PSPO as part of the statutory process.
10. The residents' petition request is as follows:

*"We the undersigned petition the council to Accurately Restrict Irresponsible Individuals Not Individuals' Dogs and the Dog Walking Industry, and to help promote responsible dog ownership via less punitive methods.
We have created this petition in response to Hammersmith and Fulham's intentions to:*

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1. Ban even good-natured dogs from entering certain areas.
2. Enable officers to stop and search dog owners to prove they have poo bags.
3. Enable officers untrained in canine behaviour to force dogs to be put on leads based on their behaviour.
4. Enable officers to hand out £100 fines.
5. To amend the number of dogs being allowed to be walked.

We ask the council not to implement these new rules in the way they suggest but rather consider these amended terms:

1. We ask that the council does NOT bring in any orders that restrict well-behaved sociable dogs from enjoying time with their families in public spaces like picnic areas and sports fields.

Dogs are social creatures and an important part of loving families and they must be able to join them. Further, some dogs suffer separation anxiety and need to be with their families.

2. We ask that the council address dog fouling by putting up an increased amount of dog poo bins with free bags on them, sponsored by pet businesses to meet the cost and we ask that dog owners and their dogs are not subjected to intimidating stop and search procedures to see if they have bags left on them.

This is a much more helpful and less discriminatory way of stopping dog fouling.

3. Ensure that any officer given any such power to impose fines and restrictions based on a dog's behaviour be qualified as a level 4 or above in canine behaviourism.

This is to ensure the safety of both the dog and the officer. Their role in the first instance should then be to advise irresponsible dog owners on how to improve safety, animal welfare and community harmony. This officer can additionally be given the power to enforce repeat offenders to pass a schedule of ongoing training and only a fine as a last resort for failure to comply.

4. We ask the council help to tackle the cause of poorly behaved dogs by erecting more dog pens for puppy socialization and adult training to help bring up well-behaved dogs in the borough from the start. We also ask that the council look for these to be sponsored by pet businesses to meet the cost.

This will help with dog socialization which is key to a happy healthy dog.

5. We ask that the number of dogs allowed to be walked per person in larger parks above 100 acres such as big scrubs be 5 per person, but for one group there is a maximum of 8 between two persons; for example, we oppose 3

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people walking 15 dogs but we support 1 trained individual walking 5 dogs in parks over 100 acres.

Dogs must be able to exercise off lead every day with their own kind to be well-behaved fulfilled dogs.

Making the number of dogs allowed to be walked 5 or 8 between two will help the average owner get their dog's essential daily needs met affordably and in daylight, by a skilled and thus responsible walker or trainer which would not be possible at a lower number.

This is to ensure responsible, skilled dog walkers and trainers want to continue to walk in the borough and are incentivised to become more skilled and thus ensure our borough has more fulfilled better-behaved dogs and so more harmony in the park. Reducing the number of dogs allowed to be walked will force skilled responsible walkers out of the business and thus only leave cheaper, unsafe & unskilled walkers as the only people who wish to remain walking.

Choosing the number of dogs as five or 8 between two will also allow dogs essential needs met with fewer vehicles taking fewer trips on the road.

6. We ask that the number of dogs allowed to be walked per person in smaller parks under 100 acres remain at 4 per person.

Please understand these requests and consider that a dog absolutely must be able to run off leash with groups of its own kind each day, in open spaces, in daylight and not be left longer than around 4hrs at home waiting for a walk. This considers that experienced walkers and trainers have the expertise to safely manage more dogs than the average person and that the existing dangerous dogs can prevent irresponsible walkers from continuing. Moreover, as social creatures, they will do all they can to seek out and be always with their people. (This means it does not work if Walkers 1 & 2 try to split their existing group by walking in different directions as the dogs ultimately get distressed and try to seek out the other walker and the rest of their group.)”

Reasons for decision

11. Under the Council's Petitions Scheme, a petition which attracts 250 valid signatures (of people who live, work or study in the borough) triggers consideration of the petition by Cabinet. This petition meets this criterion.
12. A formal decision has not been made regarding introducing the PSPO following the public consultation. Officers are currently analysing the findings of the consultation ahead of a formal decision being sought, via a Cabinet Member decision report, by the Cabinet Member for Social Inclusion and Community Safety.

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Equality Implications

13. The Council should give due regard to its responsibilities under Section 149 of the Equality Act 2010 when considering the introduction of a new PSPO.
14. An Equality Impact Assessment ("EQIA") should be completed and submitted before a decision is made regarding the introduction of a PSPO. The relevant decision-maker must carefully consider the EQIA as applicable to the decision they are asked to approve.

Implications verified/completed by: Yvonne Okiyo, Strategic Lead Equity, Diversity and Inclusion, Yvonne.Okiyo@lbhf.gov.uk, 23/01/23.

Risk Management

15. As an authority, we must decide what's reasonable and what isn't, before we act. Everyone's perception of dog related behaviour is different and many residents are passionate about this topic. Consultation took place over what action should be taken and this is in accordance with meeting our residents and community needs and expectations. The proposed PSPO attempts to manage dog-related ASB, and risk of harm by dangerous or out of control dogs across the borough. During the consultation period a petition was raised which secured more than 250 signatures. As set out in the Legal implications section, the Cabinet Member must carefully consider the consultation responses when considering the decision report to approve a PSPO.

Implications verified by: David Hughes, Director of Audit, Fraud, Risk and Insurance, 20 January 2023

Climate and Ecological Emergency Implications

16. The proposed PSPO is intended to ensure our parks and open spaces remain a safe and pleasant place for visitors. The biodiversity of our parks and open spaces will be positively impacted as the PSPO seeks to protect wildlife conservation areas from harm and to reduce dog fouling.

Implications verified by: Hinesh Mehta, Head of Climate and Ecology, 20 January 2023.

Consultation:

17. Public consultation on the proposed PSPO took place for a period of 61 days, from the 16 November 2022 until 15 January 2023. The consultation was done through the council's 'Have Your Say' portal and was advertised online on the council's website, via community group such as Friends of Parks Groups, councillors, and ward panel meetings. Feedback and comments were also received via email which are being considered alongside the official consultation findings.

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18. The consultation received 856 responses.
19. It is specified within the legislation that before making a PSPO the council must consult with the chief of police for the area. The Community Safety Unit also consulted and worked closely with the Parks and Law Enforcement Team regarding the proposed PSPO.
20. The petition against the PSPO was submitted during the statutory consultation period and will therefore be considered as part of the statutory decision-making process.

LIST OF APPENDICES:

- 1. Appendix 1 - Map of Proposed areas and Restrictions**
- 2. Appendix 2 - Draft Order**
- 3. Appendix 3 – Consultation text**