

## LONDON BOROUGH OF HAMMERSMITH & FULHAM

**Report to:** Councillor Rebecca Harvey – Cabinet Member for Social Inclusion and Community Safety

**Date:** 10/05/2023

**Subject:** Decision to introduce a Public Spaces Protection Order (PSPO) relating to responsible dog ownership

**Report author:** Charis Champness, Service Transformation Lead

**Responsible Director:** Bram Kainth, Strategic Director of Environment

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### SUMMARY

Public Spaces Protection Orders (PSPOs) are a tool that can be used by local authorities to address Anti-Social Behaviour (ASB) and the impact that this behaviour can have on individuals and communities (under the Anti-Social Behaviour, Crime and Policing Act 2014). An Order can be introduced in a public area where the local authority is satisfied on reasonable grounds that the effect, or likely effect, of such activities is, or is likely to be, of a persistent and continuing nature; is, or is likely to be, such as to make the activities unreasonable; and justifies the restrictions imposed by the Order. The PSPO gives 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.

This report recommends introducing a PSPO across the borough to reduce anti-social behaviour related to dogs. Public consultation and feedback from residents highlight the extent to which dog fouling is a disruption to daily life, as well as certain dog behaviours being a safety concern for some. It is proposed that this Order remains in force for a period of three years.

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### RECOMMENDATIONS

That the Cabinet Member for Social Inclusion and Community Safety:

1. Approves the introduction of a PSPO for responsible dog ownership for a period of 3 years (May 2023 to May 2026).
2. Delegates authority to sign the PSPO to the Assistant Director of Community Safety, Resilience and CCTV.

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**Wards Affected:** All

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Our Values	Summary of how this report aligns to the H&F Values
Building shared prosperity	PSPO's reduce anti-social behaviour and contributes to the council's commitment to tackling anti-social behaviour. Implementing this PSPO's will contribute to the council's commitment to designing out crime.
Creating a compassionate council	The PSPO enforcement plan will align with the Metropolitan Police 4 'E' model – Engage, Explain, Encourage and Enforce to address ASB and will prioritise safeguarding and support. Enforcement action will only be taken as a last resort.
Doing things with residents, not to them	The PSPO process must go through a consultation process in which residents have the opportunity to help shape and influence the order by expressing their views. The responses from the consultation form part of the evidence base informing thinking and decision making on how the final PSPO may be implemented. This decision was informed by an extensive public consultation exercise which received 856 responses.
Being ruthlessly financially efficient	The Police and the councils Law Enforcement Team have the ability and delegated authority to enforce PSPO's. This provides opportunities to stop offences which would cost the council money to address. The proposed PSPO could bring in financial income from the fixed penalty notices (FPN's) served to those that are in breach of the Order which will contribute towards the costs of enforcement action.
Taking pride in H&F	PSPO's aim to reduce anti-social behaviour in the borough. We know that ASB impacts negatively on perceptions of an area so, by addressing the ASB in a consistent and visible manner we will be able to deliver a safer borough for all.
Rising to the challenge of the climate and ecological emergency	PSPO's can work directly to improve the climate and ecological surroundings. This PSPO aims to improve the climate and immediate surroundings by limiting the amount of dog fouling and ensuring dogs are kept under control within parks and open spaces. There are also prohibitions proposed that will protect the wildlife conservation areas and encourage animals to nest. Increasing the biodiversity of the area and keeping safe spaces for protected species.

### Financial Impact

1. The cost of implementing the PSPO is limited to the cost of new signage, estimated at £4,000. This will be funded from existing Community Safety revenue budgets.
2. The PSPO will be enforced by the council's Law Enforcement Officers as part of their regular duties, meaning no additional resource will be required. The income from any

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Fixed Penalty Notices issued will contribute towards the cost of the enforcement activities.

3. Implications completed by Kellie Gooch – Head of Finance (Environment), 08/02/2023

### Legal Implications

4. Section 59 of the Anti-Social Behaviour Crime and Policing Act 2014 allows the Council to make a PSPO.
5. Before confirming the Order, the Council must be satisfied that certain dog related behaviours across the borough is having a detrimental effect on the quality of life. Also, that 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.
6. Anyone who lives in or regularly works 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 prohibitions or requirements, or that proper processes had not been followed as prescribed by the Act.
7. 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”) is attached as **Appendix 3** to this report. 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;
  - 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).
8. A consultation has been carried out and the Cabinet Members must carefully consider the consultation responses when approving the recommendations as this can will be used to help shape the final Order provisions.

*Implications verified/completed by: Grant Deg, Chief Solicitor, 15.02.2023*

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## Proposals and Analysis of Options

### History of Dog Control PSPO's in H&F

9. 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.
10. The 2017-2020 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

### Evidence for the PSPO

11. The LET respond to and report issues of problematic dogs in the borough for matters such as dogs not on leads, aggressive dogs with excessive barking and dog fouling. Other complaints include people walking more than 4 dogs per person multiple dogs. Multiple complaints come through to the Parks team in relation to irresponsible dog ownership with detailed accounts of residents not keeping their dogs on leads, and concerns of some dogs approaching children.
12. Below is a table of the Law Enforcement Team's reports on responsible dog ownership between January 2022 - December 2022.

<b>Report type:</b>	<b>Number reported:</b>
Requesting an owner to put a dog on a lead	47
Reports/sightings of dog fouling	100
Reports/sightings of dangerous dog behaviour	36
Reports/sightings of owners with too many dogs over the specified maximum (4 per person)	14
Reports/sightings of dogs in areas they are excluded from	20

### Proposal

13. A briefing note was presented to the Cabinet Member in November 2022, which considered the use of PSPO's to manage the dog related behaviours, as well as

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guidance on the use of the power. Following this briefing, the council began a public consultation to consider introducing a PSPO.

14. Before introducing a PSPO, the council must consult with the police and with any partners and stakeholders that they think appropriate. In addition, the owner or occupiers of any land affected should be consulted.
15. The public consultation took place for a period of 61 days, from the 16th November 2022 until 15th January 2023. The public consultation received 856 responses via the Have Your Say Platform. There were 6 phone calls and several emails that came through as additional responses that were taken into consideration.
16. If the decision is made to introduce a PSPO the new Order must be published in accordance with regulations made by the Secretary of State and must:
  - a. identify the activities having the detrimental effect
  - b. explain the potential sanctions available on breach and
  - c. specify the period for which the PSPO has effect.
17. A copy of the draft Order can be found in ***Appendix 2***.
18. The maximum duration of a PSPO is three years, but they can be made for shorter periods and then reviewed. It is proposed that this Order is implemented until May 2026 due to the financial impact and impact on officer time of renewing after a shorter period. At any point before the expiry of a PSPO it can be extended for a further period of up to three years. The terms can also be varied, subject to further consultation.
19. A Police Constable, Police Community Support Officer, Law Enforcement Officer, or other authorised person may issue a fixed penalty notice (FPN) of up to £100 to those who fail to comply with the Order. An FPN will only be issued if an individual continues to breach the Order after being asked to desist by an authorised person. Individuals will have 14 days to pay the fixed penalty of £100 (reduced to £60 if paid within 10 days). Regarding the Orders dog fouling and maximum dogs, an FPN will be issued on the spot. This is because the intention of ASB is deliberate and evident. However, for the other Orders, the LET will take the 4E's enforcement approach (Engage, Explain, Encourage, Enforce) as we understand that there can be confusion or human error in forgetfulness.
20. The cost of implementing the PSPO for the council is estimated at around £4000. This covers the cost of appropriate signage for the area to ensure those using the area are aware of the Order. An additional £580 has already been spent on creating key documents relating to the consultation such as Easy read version of the Order.

### **Options and analysis of options**

21. The following options have been considered:
22. **Option 1 – A PSPO is introduced with 6 prohibitions. This includes the 6 prohibitions contained within the draft/proposed order published as part of the consultation with four minor amends noted below (RECOMMENDED OPTION).**

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23. The recommended option proposes introducing a PSPO containing the following prohibitions:

1	A person in charge of a dog is prohibited from taking the dog onto or permitting the dog to enter or to remain on land within the restricted area referred to in <b>Schedule 1</b> .
2	A person in charge of a dog, at any time, must keep the dog on a lead in the restricted area detailed in <b>Schedule 2</b> of this Order.
3	A person in charge of a dog, at any time, must put and keep the dog on a lead when directed to do so in the restricted area detailed in <b>Schedule 3</b> of this Order.
4	<ol style="list-style-type: none"> <li>1) A person in charge of more than one dog, at any time, must not take more than 4 dogs in the restricted area detailed in <b>Schedule 4</b> of this Order.</li> <li>2) A person must not walk with other dog walkers when the combined number of dogs exceeds 4 in the restricted area detailed in <b>Schedule 4</b> of this Order.</li> </ol>
5	If a dog defecates at any time on land in the restricted area detailed in <b>Schedule 5</b> of this Order and the person who is in charge of the dog at the time fails to remove the faeces from the land forthwith, that person shall be guilty of an offence.
6	A person in charge of a dog, at any time, must be able to produce a poop scoop and/or disposable bags which would be used to remove the faeces from the land on the request of an authorised officer and do so in the restricted area detailed in <b>Schedule 6</b> of this Order.
	<p>Exemptions:</p> <p>Nothing in Schedule 1, 5 &amp; 6 applies to a Disabled person who uses a dog in which they rely upon for assistance.</p> <p>Dogs preferably should be trained by a member of Assistance Dogs UK or any other registered charity whose activities include the training of assistance dogs.</p> <p>Some member organisations can be found here: <a href="http://www.assistedogs.org.uk">Find an Assistance Dog Charity - ADUK (assistedogs.org.uk)</a></p>

24. This is the recommended option on the basis that 55.8% of respondents were in favour of the proposed prohibitions, 26.5% of these were against (with the remaining responses being 13.0% maybe, 4.7% unsure). Those that left comments and voted 'maybe' were overall also in support but noted queries on how we are going to enforce and suggestions for specific areas to be included or excluded. We would address this by creating a Q&A page for residents. It was strongly noted that the PSPO should not be aimed at general dog owners who do not cause the majority of issues but should note the presence of professional dog walkers throughout.
25. Following the consultation, four main changes have been made to the draft/proposed order. These are:
1. To remove Hurlingham Park Rose Garden from the proposed exclusion areas (Order 1) and add this to the 'dogs on leads' areas (Order 2).

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- a. During the consultation period x19 responses were received requesting this amendment. Residents expressed their concerns about this area being used by irresponsible dog walkers and the damage some dogs cause to the rose garden. Discussions with the LET and the Parks team highlighted that this would be difficult to enforce and cause great inconvenience to residents if it was kept an exclusion area.
2. To add Gwendwr Gardens to the proposed exclusion areas (Order 1).
  - a. In the draft/proposed order “All fenced war memorials” were listed as a proposed exclusion area (Order 1). However, 7 emails, 6 phone calls, and 35 consultation responses were received asking for clarity on whether Gwendwr Gardens Memorial Garden would fall under this definition and expressing a wish for this to be explicitly listed as a ‘dog exclusion’ area.
3. To state the specified maximum number of dogs that can be walked at one time as four within Order 4.
  - a. In the original draft/proposed order we did not propose the specified maximum number of dogs that any one person could walk at a time, but within the consultation respondents were asked to express their view on the appropriate specified maximum of number of dogs which can be walked safely at one time.
  - b. Following the consultation, the proposal is that 4 should be the decided amount. This is because 32.5% voted for a maximum of 4 which was the highest voted option and 80.9% of participants voted for 4 dogs or less. This is also in line with other London Boroughs restrictions such as [Richmond](#), [Enfield](#), and others. and what most Dog related charities recommend, such as the [RSPCA](#) and [NARPS](#).
4. To amend Order 4 to clarify that no more than 4 dogs should be walking at any one time (by any one individual) or within any one group the number of dogs should not exceed 4.
  - a. This additional amendment has been proposed following consultation which is set out below.
26. 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**. These have been updated to reflect the four amendments above.
27. More detailed analysis of the consultation findings can be found in **Appendix 4**.
28. **Option 2 – A PSPO is introduced containing some of the proposed prohibitions but not all (NOT RECOMMENDED).**
29. The council could choose not to introduce all the proposed/draft prohibitions included within the public consultation. For example, some of the proposed prohibitions received more support via the public consultation than others (a more detailed analysis of the consultation findings can be found in Appendix 4). However, this is not the recommended option as all the proposed prohibitions were supported by more

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than 50% of respondents and amendments have been proposed under Option 1 in response to key consultation findings.

### 30. **Option 3 – Not to introduce a PSPO (NOT RECOMMENDED).**

31. The council could choose not to introduce a dog control PSPO, However, this is not the recommended option because the majority of responses to the proposed PSPO were in favour of the proposed prohibitions and without a PSPO the council will continue to have limited powers to address dog control issues and anti-social behaviour.

### **Reasons for decision**

32. Of the 856 consultation responses received, 55.8% were in favour and 26.5% of these were against the proposed/draft order (13.0% voted maybe and 4.7% unsure). Those who left comments and voted 'maybe' were overall also in support of the Order and the majority of comments/queries have been incorporated within the final proposed PSPO.
33. The recent tragedy in Surrey regarding a dog walker who was mauled to death has raised large concerns in our residents. This PSPO would introduce prohibitions that would reduce the risk of this type of incident occurring in this borough. The amendment to order 4 will prevent large groups of dogs been walked simultaneously and therefore ensure that preventative measures are effective.
34. The consultation findings further demonstrate that there is sufficient public support for the proposed PSPO, and this is necessary and proportionate to prevent and address dog control issues and dog-related ASB (such as dog fouling).

### **Equality Implications**

35. The Council has given due regard to its responsibilities under Section 149 of the Equality Act 2010, and it is anticipated that there will be potential negative on disability and age protected characteristics from the adoption of this PSPO because of how it affects those with mobility impairments and those with speech and hearing impediments. There will also be an overall positive impact.
36. An Equalities Impact Assessment can be found in **Appendix 3**.

*Implications verified/completed by: Yvonne Okiyo, Strategic Lead Equity, Diversity and Inclusion, [Yvonne.Okiyo@lbhf.gov.uk](mailto:Yvonne.Okiyo@lbhf.gov.uk), 08/02/2023.*

### **Risk Management**

37. 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 proposals in this report contribute to the management of dog related ASB across the whole borough.



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*Implications verified by: David Hughes, Director of Audit, Fraud, Risk and Insurance, 9 February 2023*

### **Climate and Ecological Emergency Implications**

38. The PSPO will ensure our open spaces continue to thrive and stay a pleasant place for residents and businesses to visit. The biodiversity of the whole borough will be positively impacted with less dog fouling occurring. This order will also ensure dogs are kept under control and on leads in wildlife conservation areas.

*Implications verified by Hinesh Mehta, Head of Climate and Ecology, 08/02/2023.*

### **Consultation**

39. Public consultation took place for a period of 61 days, from the 16<sup>th</sup> November 2022 until 15<sup>th</sup> January 2023. The consultation was through the online 'Have Your Say' consultation platform and was advertised online on the council's website, advertised through community groups, councillors, and ward panel meetings. An 'easy-read' version of the consultation documents was also published.
40. The consultation received 856 responses via the online portal, and of these; 55.8% were in favour of the proposed PSPO, 26.5% were against, 13.0% voted 'maybe' and 4.7% 'unsure'. The council also received 10 additional comments and feedback on the proposal email, which have been incorporated into the qualitative analysis presented below.
41. Support for each prohibition can be broken down as:
- 'Dog exclusion' areas: 52.5% said yes, 32.2% said no, 11.7% maybe, 3.6% unsure.
  - 'Dogs on leads only' areas: 53.2% said yes, 33.4% said no, 10.3% maybe, 3.2% unsure.
  - 'Dogs on leads by direction': 70.6% said yes, 17.5% said no, 10.5% maybe, 1.4% unsure.
  - 'Specified maximum of dogs': 68.3% said yes, 16.1% said no, 12.3% maybe, 3.3% unsure.
  - 'Dog fouling': 86.1% said yes, 7.7% said no, 5.5% maybe, 0.7% unsure.
  - 'Poop scoop and/or disposable bags': 59.1% said yes, 28.9% said no, 9.0% maybe, 3.0% unsure.
42. Throughout the consultation there were concerns expressed about large groups of dogs being walked together. Over 20 comments via have Your Say expressed concerns about groups of dog walkers each walking multiple dogs which can be intimidating and present dog control issues. After the tragedy of the Surrey dog walker's death there was an influx of responses via the Have Your Say, via phone and via email expressing their concerns on the issue of dogs in large packs. An example of a comment is: "Professional dog walker should NOT be allowed to walk together. It means 3 dog walkers could have 12 dogs in the pack (if 4 is hopefully the

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limit per person) and that's insane and very dangerous as they cannot control that amount at all. It's incredibly intimidating for someone walking their single dog".

43. A sample of comments received as part of the public consultation from those both for and against the proposed PSPO are included in **Appendix 4**.
44. A petition titled "Ensuring responsible dog ownership and ensuring dogs' essential needs are met" was submitted after the statutory consultation period. It was heard at Cabinet on the 6 February 2023. Due to it falling outside the consultation period its receipt was noted but was not considered as the Council seeks to make decision on the introduction of a Dogs PSPO at this time. However, as part of our due diligence and our continued work in this area we will, of course, continue to monitor any changes in behaviour and, should there be requirement, we may seek to review the PSPO at some point.
45. It is specified within the legislation that before making a PSPO the council must consult with the chief of police for the area. This consultation has taken place and police have confirmed they are in support of the proposed Order. Furthermore, an effort was made to consult any private landowners affected to ensure they were fully sighted and able to contribute to the consultation. We also contact all of the "friends of" parks groups. The Community Safety Unit also consulted and worked closely with the Parks and Law Enforcement Team regarding the proposed PSPO.

### LIST OF APPENDICES:

- Appendix 1 – Map of Proposed areas and Restrictions**
- Appendix 2 – Draft Order**
- Appendix 3 – Equality Impact Assessment**
- Appendix 4 – Consultation Findings**
- Appendix 5 – Easy Read version of draft Order**