



RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

CABINET

24th SEPTEMBER 2020

PROPOSED EXTENSION AND VARIATION TO RHONDDA CYNON TAF CBC'S DOG CONTROL PUBLIC SPACES PROTECTION ORDERS

**JOINT REPORT OF THE DIRECTOR OF PUBLIC HEALTH, PROTECTION AND
COMMUNITY SERVICES AND GROUP DIRECTOR PROSPERITY,
DEVELOPMENT AND FRONTLINE SERVICES IN DISCUSSIONS WITH THE
RELVANT PORTFOLIO HOLDERS, COUNCILLORS A. CRIMMINGS AND R.
LEWIS**

1. PURPOSE OF THE REPORT

- 1.1 The purpose of the report is to (i) inform Members of the outcomes of the public consultation exercise and (ii) seek authority to extend the two Public Spaces Protection Orders relating to dog controls in Rhondda Cynon Taf (the Dog Control PSPO's), subject to any amendments Members may wish to consider in response to the consultation.

2. RECOMMENDATIONS

It is recommended that Cabinet:

- 2.1 Notes the overwhelming public support for the extension of the Dog Control PSPO's relating to Dog Controls within Rhondda Cynon Taf for a further 3 year period from 1st October 2020;
- 2.2 Considers the responses to the public consultation, as detailed in Appendix 1, and determines whether any amendments are required to the existing prohibitions and requirements in relation to the PSPO's as detailed in Appendix 2 to the report;
- 2.3 Subject to 2.2 above, extends the Dog Control PSPOs as detailed in Appendix 2A and 2B to the report; and
- 2.4 Subject to 2.3 above, gives delegated authority to the Director of Public Health, Protection and Community Services, in consultation with the Group Director, Prosperity, Development and Frontline Services, to produce the final PSPOs relating to Dog Controls and ensure their publication on the Council's website.

3. REASONS FOR RECOMMENDATIONS

- 3.1 Dog fouling remains a significant concern for the Council and for those who live, work and visit the County Borough. Dog Fouling is unpleasant and is a serious risk to human health, particularly amongst children.
- 3.2 The Dog Control PSPO's have allowed the Council to introduce a range of reasonable and proportionate restrictions on the use of publicly accessible land across the County Borough and helped control the harmful activities of irresponsible dog owners whilst allowing responsible dog owners to continue to exercise their dogs without undue restrictions.
- 3.3 Despite the introduction of the Dog Control PSPO's in October 2017 however there remains a minority of dog owners who do not clean up after their dogs or keep them under control. Therefore officers consider it vital the orders, which would ordinarily expire on 30th September 2020, be renewed for a further 3 year period in order to maintain the significant benefits the orders have had in relation to dog fouling and ensure appropriate powers remain in place to deal with the minority who continue to flout the laws.

4. BACKGROUND

- 4.1 Dog fouling is unsightly, unpleasant and can lead to toxocariasis in humans. Toxocariasis causes serious illness and even blindness. It is caused by a parasite that lives in dogs' digestive systems. Eggs are present in the faeces of infected animals. If infected material is ingested, the eggs hatch into larvae and can cause toxocariasis. The disease can be controlled if dog faeces are disposed of immediately in a responsible manner.
- 4.2 The Anti-Social Behaviour, Crime & Policing Act 2014 (the 'Act') introduced provisions whereby a local authority can make Public Spaces Protection Orders. A PSPO is designed to deal with a particular nuisance or problem in an area. The behaviour must be having a detrimental effect on the quality of life of those in the community, it must be persistent or continuing and it must be unreasonable. PSPOs are designed to ensure that the law-abiding majority can enjoy public space, safe from anti-social behaviour.
- 4.3 The majority of dog owners are responsible, clean up after their dogs and keep them under control. However, a minority of irresponsible dog owners create significant problems. The Council receives many complaints each year about dog fouling in public places. In addition, despite the introduction of the Dog Control PSPO's some of the Council's playing fields need to be checked for dog fouling before they can be used; on occasion individuals wishing to use the playing fields for sport are doing this.

CURRENT DOG CONTROL PSPOs

- 5.1 In 2017 the Council introduced two Public Space Protection Orders in relation to dog controls which came into effect on 1st October 2017, namely:

[RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL \(DOG CONTROL\) PUBLIC SPACES PROTECTION ORDER 2017](#)

[RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL \(DOG CONTROL - ABERDARE PUBLIC PARK\) PUBLIC SPACES PROTECTION ORDER 2017](#)

- 5.2 The introduction of the Dog Control PSPOs, following a public consultation exercise, created transparency and consistency within Rhondda Cynon Taf and gave authorised officers the ability to issue fixed penalty notices for offences that were not able to be previously enforced.
- 5.3 The activities prohibited by the Dog Control PSPOs are:
- (i) The prohibition of Dog Fouling in all Public Places within Rhondda Cynon Taf;
 - (ii) A requirement for a person in charge of a dog to keep that dog on a lead at all times in Cemeteries owned and/or maintained by the Council;
 - (iii) A requirement for a person in charge of a dog at all times to carry bags or other suitable means for the disposal of dog faeces;
 - (iv) A requirement for a person in charge of a dog to follow a direction given by an Authorised Officer, if they deem reasonably necessary, that a dog be put and kept on a lead in a Public Place within Rhondda Cynon Taf for such period and/or in such circumstances as directed by the Authorised Officer; and
 - (v) A prohibition excluding dogs from all Schools, Playgrounds and Marked Sports Pitches owned and/or maintained by the Council.
- 5.4 In relation to the Dog Control PSPO covering Aberdare Park there is a specific requirement for a person in charge of a dog to keep that dog on a lead at all times in Aberdare Public Park. This requirement is consistent with existing provisions that have been in place since 1866 (local bye law) and with the expectations of many users of the park. Further detail in respect of this particular requirement can be found in the report presented to Cabinet in [September 2017](#) prior to the commencement of this PSPO.
- 5.5 The Dog Control PSPOs were not put forward as a means of unduly restricting the exercising or recreation of dogs across the County Borough. The reason for making the Dog Control PSPOs was to address the detrimental effect on the quality of life of those in the locality caused by the irresponsible behaviour of a small minority of dog owners; and to set out a clear standard of behaviour to which all dog owners were required to adhere.

5.6 The Council currently employs 20 officers who are authorised to enforce the Dog Control PSPOs in line with the Council's enforcement policy. The penalty for committing an offence of failing to comply with a PSPO without reasonable excuse is a maximum fine of level 3 on the standard scale (currently £1,000). Alternatively, the opportunity to pay a fixed penalty of £100 may be offered in place of prosecution. This is the maximum amount the Council can impose as a fixed penalty under the legislation.

6. EXTENSION AND VARIATION OF THE DOG CONTROL PSPOS

6.1 At any point before expiry of the Dog Control PSPOs the Council can extend them by up to three years if it considers it is necessary to prevent the original behaviour from occurring or recurring.

6.2 According to section 60(2) of the Act, before the time when a PSPO is due to expire, the local authority that made the PSPO may extend the period for which it has effect if satisfied on reasonable grounds that doing so is necessary to prevent-

1. Occurrence or recurrence after that time of the activities identified in the Order, or
2. An increase in the frequency or seriousness of those activities after that time.

6.3 Section 61 of the Act makes provision for the Order to be varied by increasing or reducing the affected area, or by altering or removing a prohibition or requirement included in the Order or by adding a new one. For an order to be able to be varied, the Council must be satisfied that, on reasonable grounds, the following two conditions are met.

The first condition is that:

- a. Activities carried on in a public place within the Council's area have had a detrimental effect on the quality of life of those in the locality; or,
- b. It is likely that activities will be carried on in a public place within that area and that they will have such an effect.

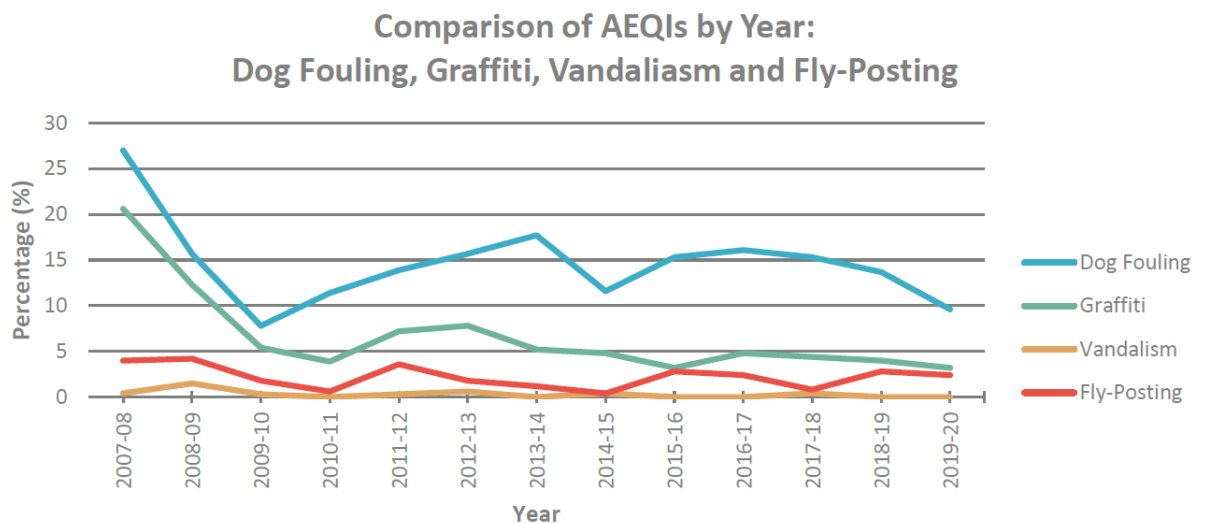
The second condition is that the effect or likely effect, of the activities:

- a. Is or is likely to be, of a persistent or continuing nature;
- b. Is, or is likely to be, such as to make the activities unreasonable; and,
- c. Justifies the restrictions imposed by the notice.

6.4 Any such variations need to be subject to public consultation.

6.5 If the Dog Control PSPOs are to be extended this must be done before the time the Orders are due to expire, on 30th September 2020. In the event of the orders not being extended, they would lapse on 1st October 2020 at which point there would be no restrictions on dogs in Rhondda Cynon Taf (save for any enforceable local byelaws).

- 6.6 Officers consider it reasonable to assume that anti-social behaviour in regards to dog controls in the restricted areas would reoccur, and/or increase in the frequency and/or seriousness if the Orders are not extended. There would continue to be a positive effect on local environmental quality with the proposed extended and varied orders and continued enforcement against dog fouling and irresponsible dog owners.
- 6.7 [Consultation feedback](#) received prior to the introduction of the Dog Control PSPOs in 2017 highlighted that there was overwhelming public support for the introduction of the orders and prohibitions and requirements in relation to the control of dogs. Over 90% of respondents supported the Council’s proposed approach to dealing with dog fouling and that dog fouling should be prohibited.
- 6.8 A report published by Keep Wales Tidy entitled ‘An Analysis of Local Environmental Quality in RCT 2019/2020’ showed that the cleanliness indicator for RCT was the highest recorded level to date. It further showed a decreased presence of dog fouling. For only the second time since 2007-2008 dog fouling was found on fewer than 10% of streets across the County Borough. From the table below it is possible to conclude the reduction correlates with the introduction of the Dog Control PSPOs in 2017-2018 with a clear downward trajectory in the instances of recorded levels of dog fouling (AEQIs – Adverse Environmental Quality Indicators):



- 6.9 Therefore factoring in the above it is therefore proposed to extend and vary the Dog Control PSPOs, for a further period of three years from 1st October 2020, in the form set out at Appendix 2A and 2B to this report.
- 6.10 At its meeting on 25th June 2020 Cabinet agreed to initiate a 4-week public consultation on a proposal to extend the Dog Control PSPO’s for a further 3 year period from 1st October 2020.

6.11 This report now presents the results of the public consultation and seeks Cabinet approval to extend the PSPOs subject to any amendments the Cabinet may consider necessary in response to the consultation.

7. CONSULTATION

7.1 Given the current situation in relation to COVID-19 the Council's Consultation and Engagement Officer developed a revised approach to consultation and how the Council could best engage with the public and key stakeholders during these times, in particular with those who would have ordinarily attended 'face to face' engagement events given legislative restrictions and administrative/safety issues identified at the time the consultation took place.

7.2 The consultation ran for a four week period from 6th July to 3rd August 2020. The full consultation report is at Appendix 1.

7.3 The methodology adopted included an online questionnaire and a webpage outlining the proposal to extend the Dog Control PSPO's. Promotion was via posters in key Council facilities (including parks), social media and the press. A short video was also produced and placed on the website and social media. Two virtual consultation events for the public were held via Zoom. There was also engagement with key stakeholders and the Public Service Delivery, Communities and Prosperity Scrutiny Committee. Overall, more than 300 people were engaged in the consultation process.

7.4 Key Findings

- 93.8% of respondents to the online survey said they supported the Council's approach to dealing with dog fouling.
- There was wide scale support, with **over 90%** of respondents agreeing with each of the elements of the Dog Control PSPOs and that they should be continued over the next 3 years.

	Agreed
• The main messages identified from the	A.)Dog owners MUST clean up their dogs' mess immediately and dispose of it properly. 99.6%
	B.)Dog owners MUST carry a means to pick up dog mess (i.e. bags) at all times. 98.2%
	C.)Dog owners MUST follow a direction from an authorised officer to put a dog on a lead. 92.9%
	D.)Dogs are BANNED from all schools, children's play areas and marked sports pitches maintained by the Council. 91.4%
	E.)Dogs MUST be kept on a lead at all times in Council maintained cemeteries 97.9%

comments were:

Themes
Increase Fines
More Enforcement/more Officers
More Bins needed/emptied more often
In favour of continuing the PSPO
Suggestions/Ideas
Dogs should be on leads everywhere
Improve Signage to explain the rules
Raising Awareness/Promotion/Communication

- 76.3% of respondents agreed that the maximum permitted fixed fine of £100 should remain in place.
- 63.6% of respondents agreed that dogs should continue to be kept on leads at all times in Aberdare Park. 23.9% stated “don’t know”, mainly as they were not familiar with the area or the park, if the data is analysed without the “don’t know” answers, 83.6% of respondents were in agreement.
- An independent report was undertaken on the local environmental quality across Rhondda Cynon Taf CBC for 2019-20. The data from Keep Wales Tidy’s Local Environmental Audit and Management System showed that dog fouling has dropped below 10% for the first time since 2009. The Council was keen to see if residents agreed with the reduction in dog fouling that has occurred. In contrast to the results in the report, 59.4% of residents suggested that the dog fouling levels had not decreased in the last 3 years.
- However, some of the comments received through the survey suggest that there has been an improvement in places;
“Since this rule has been in I have seen a lot less dog mess and owners being a lot more responsible”
“Since the introduction of the powers there has been a significant improvement within our communities”
“It has clearly improved the situation but bigger fines could help”
- The feedback received from the virtual public meetings and forums mirrored the comments and themes in the online survey, including the need for clear signage, better communication, more enforcement and an increase in fines.

- A number of responses were received from stakeholders and these are summarised in Section 6 of the report. The full responses of the emails and letters have been made available for Cabinet Members to consider ahead of the meeting.
- 7.5 There is clearly still overwhelming public support for the prohibitions and requirements included in the Dog Control PSPOs and for their extension for a further three year period.
- 7.6 Members will receive an oral update at the meeting outlining the feedback received from the Public Services Delivery, Communities and Prosperity Scrutiny Committee who will be considering the consultation feedback ahead of the Cabinet meeting.
- 7.7 As outlined in Appendix 1 both Pontylcun Community Council and Llanharry Community Council have, through the consultation process, made a request to extend the Dog Control PSPO's to specific sites they have responsibility for. This would be an amendment to the existing orders but is possible, should Members agree.

8. EQUALITY AND DIVERSITY IMPLICATIONS

- 8.1 The Council must be able to demonstrate that a PSPO is a necessary and proportionate response to the problems caused by the activities of dogs and those in charge of them. The Council is required to balance the interests of those in charge of dogs against the interests of those affected by the activities of dogs. This must take into consideration the need for people, particularly children, to have access to dog-free areas and areas where dogs are kept under strict control, and the need for those in charge of dogs to have access to areas where they can exercise their dogs without undue restrictions.
- 8.2 In developing the original PSPO an Equality Impact Assessment was undertaken to ensure that:
- The Council meets the requirements of the Public Sector Equality Duties, and
 - Due regard has been taken of the likely impact of the decision in terms of equality and discrimination.
- 8.3 This exercise has been refreshed and it is considered the impact on residents, visitors and businesses is expected to continue to be positive, as these proposals should continue to act as a deterrent to irresponsible dog ownership. Taking into account the exemptions set out in 8.4 and 8.5 below there is no adverse impact on any other Protected Grounds from its adoption through to its potential variation and extension.
- 8.4 The provisions of the proposed Dog Control Orders would not apply to a person who:

(i) is registered as partially sighted or blind, in a register compiled under section 29 of the National Assistance Act 1948;

(ii) is registered as “sight-impaired”, “severely sight impaired” or as “having sight and hearing impairments which, in combination, have a significant effect on their day to day lives”, in a register compiled under section 18 of the Social Services and Well-Being (Wales) Act 2014;

(iii) has a disability which affects their mobility, manual dexterity, physical coordination, or ability to lift, carry, or otherwise move everyday objects, such that he cannot reasonably be expected to remove the faeces; or (iv) has some other disability, such that he reasonably cannot be expected to remove the faeces.

8.5 The provisions of the orders would not apply to a dog trained by a registered charity to assist a person with a disability and upon which a disabled person relies for assistance.

8.6 For the purposes of the orders, a ‘disability’ means a condition that qualifies as a disability for the purposes of the Equality Act 2010 and upon which a disabled person relies for assistance.

8.7 Nothing in the Order shall apply to the normal activities of a working dog whilst the dog is working. This includes dogs that are being used for work in connection with emergency search and rescue, law enforcement and the work of HM Armed Forces and farm dogs that are being used to herd or drive animals.

9. FINANCIAL IMPLICATIONS

9.1 Should the proposed orders be extended there would be a need to amend existing signage to reflect this however any associated costs would be met from existing budgets.

10. LEGAL IMPLICATIONS AND LEGISLATION CONSIDERED

10.1 Section 60(2) of the Act states that before the time when a public spaces protection order is due to expire, the local authority that made the order may extend the period for which it has effect if satisfied on reasonable grounds that doing so is necessary to prevent—

(a) occurrence or recurrence after that time of the activities identified in the order, or

(b) an increase in the frequency or seriousness of those activities after that time.

10.2 An extension under this section—

(a) may not be for a period of more than 3 years;

(b) must be published in accordance with regulations made by the Secretary of State.

- 10.3 A public spaces protection order may be extended more than once.
- 10.4 Section 61 states that where a public spaces protection order is in force, the local authority that made the order may vary it—
- (a) by increasing or reducing the restricted area;
 - (b) by altering or removing a prohibition or requirement included in the order, or adding a new one.
- 10.5 A local authority may make a variation that results in the order applying to an area to which it did not previously apply only if the conditions in section 59(2) and (3) are met as regards activities in that area.

These are:

The first condition is that—

- (a) activities carried on in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality, or
- (b) it is likely that activities will be carried on in a public place within that area and that they will have such an effect.

The second condition is that the effect, or likely effect, of the activities—

- (a) is, or is likely to be, of a persistent or continuing nature,
- (b) is, or is likely to be, such as to make the activities unreasonable, and
- (c) justifies the restrictions imposed by the notice.

- 10.6 A local authority may make a variation that makes a prohibition or requirement more extensive, or adds a new one, only if the prohibitions and requirements imposed by the order as varied are ones that section 59(5) allows to be imposed.

The only prohibitions or requirements that may be imposed are ones that are reasonable to impose in order—

- (a) to prevent the detrimental effect from continuing, occurring or recurring, or
- (b) to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.

- 10.7 Where an order is varied, the order as varied must be published in accordance with regulations made by the Secretary of State.
- 10.8 A local authority, in deciding whether to extend the period for which a public spaces protection order has effect (under section 60) and if so for how long and whether to vary a public spaces protection order (under section 61) and if so how must have particular regard to the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the Convention.
- 10.9 A local authority must carry out the necessary consultation and the necessary publicity, and the necessary notification (if any), before extending the period for which a public spaces protection order has effect or varying it.

“the necessary consultation” means consulting with—

- (a) the chief officer of police, and the local policing body, for the police area that includes the restricted area;
- (b) whatever community representatives the local authority thinks it appropriate to consult;
- (c) the owner or occupier of land within the restricted area;

“the necessary publicity” means—

- (a) in the case of a proposed order or variation, publishing the text of it;
- (b) in the case of a proposed extension or discharge, publicising the proposal;

“the necessary notification” means notifying the following authorities of the proposed order, extension, variation or discharge—

- (a) the community council (if any) for the area that includes the restricted area.

The requirement to consult with the owner or occupier of land within the restricted area—

- (a) does not apply to land that is owned and occupied by the local authority;
- (b) applies only if, or to the extent that, it is reasonably practicable to consult the owner or occupier of the land.

In relation to a variation of a public spaces protection order that would increase the restricted area, the restricted area for the purposes of this section is the increased area.

11. LINKS TO THE COUNCILS CORPORATE PLAN AND FUTURE GENERATIONS – SUSTAINABLE DEVELOPMENT

11.1 The proposals in this report are consistent with the priorities of the Council’s Corporate Plan, in particular *“Place – creating neighbourhoods where people are proud to live and work”*:

11.2 These proposals are also consistent with the Well-being Goals under the Wellbeing of Future Generations (Wales) Act 2015:

- *A healthier Wales – a society in which people’s physical and mental wellbeing is maximised and in which choices and behaviours that benefit future health are understood.*
- *A Wales of cohesive communities – attractive, viable, safe and well connected communities.*

12. CONCLUSION

- 12.1 Dog fouling remains a significant concern for the Council and for those who live, work and visit the County Borough and is a serious risk to human health, particularly amongst children.
- 12.2 The Public Spaces Protection Orders in relation to dog controls has allowed the Council to introduce a range of reasonable and proportionate restrictions on the use of publicly accessible land across the County Borough and helped control the harmful activities of irresponsible dog owners whilst allowing responsible dog owners to continue to exercise their dogs without undue restrictions.
- 12.3 Despite the introduction of the orders in October 2017 however there remains a minority of dog owners who do not clean up after their dogs or keep them under control. Therefore officers consider it vital the orders, which would ordinarily expire on 30th September 2020, are renewed for a further period in order to maintain the significant benefits the orders have had in relation to dog fouling and ensure appropriate powers remain in place to deal with the minority who continue to flout the laws.
- 12.4 Cabinet is now asked to consider the responses to the public consultation and extend the Dog Control PSPOs for a further three year period from 1st October 2020 as detailed in Appendix 2A and 2B (accounting for any amendments required by it following consideration of the consultation response).

Relevant Scrutiny Committee

Public Service Delivery, Communities & Prosperity Scrutiny Committee

**THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL**

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Background Papers

- a) Public Spaces Protection Orders (Dog Controls) – Joint Report of Director of Highways & Streetcare Services & Service Director of Public Health & Protection in discussion with the relevant Portfolio Holders, Councillor A Crimmings and Councillor J Rosse -: 22nd June 2017
- b) Public Spaces Protection Orders (Dog Controls) – Aberdare Park - Joint Report of Director of Highways & Streetcare Services & Service Director of Public Health & Protection in discussion with the relevant Portfolio Holders, Councillor A Crimmings and Councillor J Rosser - 28th September 2017
- c) Anti-social Behaviour, Crime and Policing Act 2014 – Chapter 12
- d) Anti-social Behaviour, Crime and Policing Act 2014: Reform of anti-social behaviour powers: statutory guidance; and
- e) Proposed extension and variation to RCT CBC's Dog Control Public Spaces Protection Orders – Joint report of the Director of Public Health, Protection and Community Services and Group Director Prosperity, Development and Frontline Services in discussions with the relevant portfolio holders, Councillors A Crimmings and R. Lewis- 25th June 2020

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