

## Report to Place Scrutiny Committee

Date of meeting: **19<sup>th</sup> September 2023**



**Portfolio:** Regulatory & Technical Services – Cllr K Williamson

**Subject:** Public Space Protection Order (Dog Control) (Antisocial Behaviour, Crime & Policing Act 2014)

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### Recommendations/Decisions Required:

To consider the Cabinet Report: Public Space Protection Order (Dog Control) (Antisocial Behaviour, Crime & Policing Act 2014) and comment as required.

### Cabinet Recommendations/Decisions Required:

1. Cabinet agrees a 28-day public consultation on the proposed Public Space Protection Order (PSPO).
2. Cabinet agrees that where no objections are made or a majority of 60% of responses are positive that the proposed PSPO be implemented on the date specified in the public notice.
3. Cabinet agrees that where more than 40% objections are made, it will reconsider the proposal in light of those objections within 2 months of the date specified in the public notice.

### Executive Summary:

EFDC tries to encourage responsible dog ownership, for the benefit of all residents and visitors to the district. The Anti-Social Behaviour, Crime and Policing Act 2014 introduced a variety of powers for local authorities to deal with anti-social behaviour including Public Spaces Protection Orders. PSPO's are intended to deal with a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone.

Responsible ownership will be supported by the proposed conditions in that it will:

- Allow swift action to be taken against those who do not pick up after their dog.
- Limiting the number of dogs an individual can walk at one time will assist in managing issues caused by professional dog walkers when they are walking more dogs than they can control and manage.
- Allow for reasonable checks to be carried out with dog walkers to ensure they have a suitable receptacle to pick up dog faeces.
- If any dog is found to be roaming away from its walker, causing legitimate concerns for others then officers can direct the walker to place the dog on a lead.
- Allow safe environments for children to play.

## **Reasons for Proposed Decision:**

In October 2017, following public consultation the Councils Dog Control Order under the Clean Neighbourhoods and Environment Act 2005 was repealed by the Anti-Social Behaviour Crime and Policing Act 2014 and a Public Space Protection Order (PSPO) was adopted.

The PSPO has now expired and the current method of enforcement is the use of Community Protection Warning / Notices issued under the Anti-Social Behaviour Crime and Policing Act 2014, this extends the process of taking enforcement action by way of gathering evidence issue of a Community Protection Warning (CPW), if the behaviour continues then a Community Protection Notice (CPN) is issued, subsequently a Fixed Penalty Notice (FPN) is issued for repeat offending.

As a Local Authority we want to continue to promote responsible dog ownership and to provide authorised Officers with the tools and powers to educate and enforce where necessary. The proposed PSPO would enable officers to take swift and direct action when it is required.

## **Other Options for Action:**

To continue with the current process and not introduce a district wide PSPO.

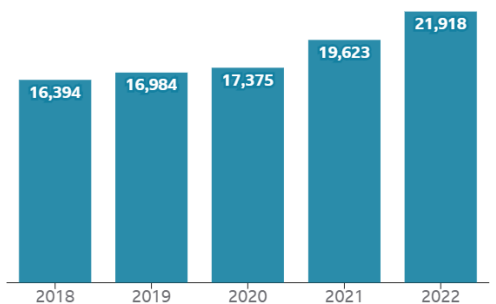
## **Report:**

1. Dog Fouling and dog control has always been a concern for residents of the district and indeed the nation; however, a lot of incidents go unreported.
2. Dog fouling is not only unpleasant and inconvenient to anyone that encounters it, but it can also be dangerous, although rare, contact with excrement can cause toxocariasis an infection that can lead to dizziness, nausea, asthma, blindness, or seizures.
3. Keep Britain Tidy has estimated there to be more than 8 million dogs in the UK which produce more than 1000 tonnes of mess every day and unfortunately not all dog owners are responsible and pick up after their animals, that results in a large amount of excrement is left on our streets and within our parks which the Council and other landowners must clear up.
4. In 2022 EFDC received 22 complaints of frequent dog fouling, each complaint related to a different area and build-up of fouling in the district. At the time of writing this report 19 complaints of frequent dog fouling have been received.
5. In September 2022, the Corporation of London made EFDC aware of issues they were having with a professional dog walker who was regularly walking 6 dogs some were not kept on leads. 3 incidents occurred, two were a dog on dog attack the third being 2 dogs attacking a deer. Following these incidents, they had received reports that the dog walker has started to walk the dogs in a different area of EFDC.
6. Agencies such as the Dogs Trust, Pet Industry Federation, The Canine & Feline Sector Group and RSPCA have endorsed a document entitled "Professional Dog Walkers' Guidelines" that recommends that no more than 4 dogs are to be walked simultaneously, and that dog walkers should avoid areas that are heavily populated with children such as playgrounds.
7. Over the last few years media outlets have reported on several incidents relating to out-of-control dogs, these reports range from dog-on-dog attacks or dog on human attacks. On 8th March 2023 the BBC reported that dog attacks are on the increase in England and Wales. Stating that the number of offences of out-of-control dogs

causing injury over the last 5 years has increased by 34%. The graph below is taken from the report and shows the year-on-year increase.

#### Police record 34% rise in dog attacks over 5 years

Number of offences of out-of-control dogs causing injury



Source: Freedom of Information requests • Based on data from 37 forces in England and Wales



8. The Guardian published an article on 4th June 2023, stating “that typically, about 3 people a year die from dog related incidents in England and Wales, but 10 people were killed in 2022. So far in 2023 four people have been killed”.

### Scrutiny Comments

*To be added following Place Scrutiny 19<sup>th</sup> September 2023*

*Please insert where its relevant to the report a paragraph entitled, e.g. “Scrutiny Comments” as above. Any pre-scrutiny and/or consultation undertaken can be included here. It can also be summarised below under “Resource Implications” in the “Consultation / Scrutiny Undertaken” section.*

### Resource Implications:

None, enforcement is within BAU

### Legal and Governance Implications:

A local authority may make a Public Spaces Protection Order if satisfied on reasonable grounds that two conditions are met:

- I. That 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 it is likely that activities will be carried on in a public place within that area and that they will have such an effect, and
- II. that 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 the activities unreasonable, and justifies the restrictions imposed by the notice.

There is no prescribed consultation period, it is proposed that the consultation period is for a minimum of 28 days, to allow for the proposal to be properly considered and sufficient time for responses to be made.

A person who fails to comply with any obligation imposed by this order is guilty of a criminal offence by virtue of section 67(1) of the Anti-Social Behaviour, Crime and Policing Act 2014 and liable to fine on summary conviction not exceeding level 3 of the standard Scale. Local Authorities are the designated enforcement agency.

The PSPO lasts for 3 years, but at any point before it expires the PSPO can be extended for a further 3 years. A PSPO can be varied at any point, variations are most likely to be made to close any legal loopholes which offenders may be exploiting to avoid enforcement action.

The penalty for breaching a PSPO is a £100 fixed penalty notice or prosecution in the Magistrates Court, although in line with good practice informal and formal warnings will also be used when enforcing the PSPO.

Proposed implementation 8<sup>th</sup> January 2024

### **Safer, Cleaner and Greener Implications:**

The proposed conditions will enable residents and visitors of EFDC to enjoy a cleaner and safer district while allowing authorised officers to support reasonable dog ownership across the district and to help tackle the minority who are not responsible pet owners/ dog walkers.

### **Consultation / Scrutiny Undertaken:**

Public consultation will take place as required under the ASB, Crime and Policing Act 2014 for a period of 28 days between 16<sup>th</sup> October to 17<sup>th</sup> November. The consultation will be published on the EFDC website as well as direct consultation with all stakeholders, including Town and Parish Councils, PFCC, The Kennel Club and Housing Providers.

The proposed conditions are as follows:

- (i) Fail to remove dog faeces deposited on any publicly accessible land within the district.
- (ii) Fail to put a dog on a lead when directed to do so by an authorised officer, on any publicly accessible land within the district.
- (iii) Fail to limit the number of dogs which a person may take onto publicly accessible land within the district to four dogs.
- (iv) Fail to produce a receptacle for picking up dog faeces when requested to do so by an authorized officer, while walking a dog on any publicly accessible land within the district.
- (v) Fail to exclude a dog from specified fenced areas within the district.

A notice must be published in at least one local newspaper and at the Council Offices, setting out the proposed PSPO conditions and the date on which the PSPO will come into force. The notice must also specify the period and manner in which objections can be made.

**Background Papers:** [LGA Public Space Protection Orders: Guidance for Councils.](#)

### **Risk Management:**

There is no minimum statutory consultation period, it is proposed that we consult for period to 28 days, to allow for the proposal to be properly considered and sufficient time for responses to be made.

Where objections are received Cabinet will consider concerns raised and determine whether to agree the proposal or modify the proposal.

### **Equality:**

An Equality Impact Assessment was carried out and there was no significant impact, there is a positive impact.