

CABINET
3RD AUGUST 2021

PUBLIC SPACES PROTECTION ORDER - DOGS

Cabinet Member(s): Cllr Colin Slade, Cabinet Member for the Environment and Climate Change
Responsible Officer: Vicky Lowman, Environment & Enforcement Manager

Reason for Report and Recommendations: This Report sets out the key findings from the consultation on a Public Spaces Protection Order (PSPO) for the Mid Devon area which ran from 21st May to 18th June 2021, to update the Cabinet (and Environment PDG) - on the feedback received from the PSPO public consultation and to seek approval on a revised PSPO to be made in response to the consultation.

At the Environment PDG on 13th July 2021 recommendation 3 was added to allow for 2 areas in Hemyock Parish (which were missed due to an administration error) to be added to the PSPO (once made) as a variation to the PSPO. This would mean no further delay in having an enforceable PSPO in August 2021.

RECOMMENDATIONS: that Cabinet be asked:

- 1. To resolve to make and bring into force the draft PSPO at Appendix A**
- 2. To authorise the Monitoring Officer to take all necessary steps to make and bring it into force the draft PSPO at Appendix A**
- 3. To instruct Officers to bring to the Environment PDG a draft variation of the PSPO (once made) to include the land identified by Hemyock for consideration for consultation**

Financial Implications: Whilst a consequence of enforcement may be an increase in Fixed Penalty Notices, income generation is not the reason for introducing a new PSPO. New signage will need procuring to enable enforcement for all areas listed within the Schedules. Where possible we will recycle old signage to reduce costs.

Budget and Policy Framework: The Council had measures in place to control dogs under Dog Control Orders made under the Clean Neighbourhood and Environment Act 2005. These became PSPOs (under transitional provisions in the Anti-social Behaviour Crime and Policing Act 2014) but expired on the 19th of October 2020. The making of the revised PSPO is to ensure approved measures to control dogs.

Legal Implications: The revised PSPO is designed to curb anti-social behaviour arising from dog fouling and other matters which is to be set out in the revised PSPO. The Explanatory Notes for the Anti-social Behaviour, Crime and Policing Act 2014 explain that “the term “anti-social behaviour” describes the everyday nuisance, disorder and crime that has a huge impact on victims’ quality of life.” Further it states that “much of what is described as anti-social behaviour is criminal (for example, vandalism, graffiti, aggressive begging and people being drunk or rowdy in public), but current legislation also provides a range of civil powers, ... these offer an

alternative to criminal prosecution and give the police and other agencies the ability to deal with the cumulative impact of an individual's behaviour, rather than focus on a specific offence. Any PSPO approved by the Council is for a period of no more than 3 years.

Risk Assessment: While no PSPO is in place the Council is at risk of not being able to enforce infringements which could result in reputational damage for not taking appropriate action against offenders. The Council will also be at risk of not meeting statutory duties such as under Section 89 of the Environment Protection Act 1990 to ensure that land is clear of litter which includes dog waste

Equality Impact Assessment: An updated EIA can be found at Appendix D.

Relationship to Corporate Plan: The Street Scene Enforcement Service is a frontline service which works throughout the District ensuring cleanliness and attractiveness of our public realm through both education and enforcement.

Impact on Climate Change: A PSPO requires or prohibits certain activities from taking place in certain places (restricted areas) in order to prevent or reduce any detrimental effect caused by those activities to local surroundings and people. Further, reduced levels of dog related anti-social behaviour improve the desirability of our open spaces.

1.0 INTRODUCTION/BACKGROUND

- 1.1 The Council made Dog Control Orders under the Clean Neighbourhood and Environment Act 2005. These became PSPOs under transitional provisions in the Anti-social Behaviour Crime and Policing Act 2014, but these PSPOs automatically expired on the 19th October 2020.
- 1.2 A previous draft PSPO in relation to dogs, with the approval of the Cabinet and on the recommendation of the Environment PDG, went out for public consultation from 12th May 2020 to 17th July 2020
- 1.3 After the consultation ended a Special meeting of the Environment PDG, was held on the 19th October 2020. Members raised a number of concerns about the draft PSPO including that the plans submitted with the draft PSPO contained errors. It recommended to the Cabinet that the draft PSPO be redrafted to take account of the public consultation responses and on additional areas proposed before it went out again for further public consultation. The Cabinet on the 29th October 2020 endorsed this recommendation.
- 1.4 A revised PSPO was sent to a Special meeting of the Environment PDG on 13th April 2021 and then to Cabinet on the 13th May 2021. Authority was granted to consult with members of the public and other relevant stakeholders to introduce the revised PSPO, with the fixed penalty for breach of the PSPO to be set at the maximum level permitted of £100. A copy of the revised PSPO can be found at Appendix A.
- 1.5 The revised PSPO went out to public consultation from 21st May 2021 to 18th June 2021

- 1.6 This Report sets out a summary of the provisions of the revised PSPO that went out for consultation, a review of the relevant considerations involved in deciding whether to bring the revised PSPO into force and a review of the responses to the consultation.

2.0 SUMMARY OF THE PROVISIONS OF THE REVISED PSPO (APPENDIX A)

2.1 Prohibiting dog fouling

The revised PSPO prohibits dog fouling in all areas within the District of Mid Devon defined as “Public Spaces”. The term “Public Spaces” is defined at clause 1.1 of the revised PSPO to mean land within the District of Mid Devon, which is open to the air including covered land which is open on at least one side and to which the public are entitled and permitted to have access, with or without payment, with the exception of Forestry Commission Land

Clause 5.1.1 of the revised PSPO provides that in any Public Space if a dog defecates at any time the person in charge of the dog must remove the faeces from the land forthwith

Clause 5.1.2 of the revised PSPO provides that a person in charge of a dog must have the appropriate means to pick up the faeces and must produce this if required to do so by an authorised officer or a police constable.

The local authority provides bins in parks and many other public areas which may be used by dog owners. If there is not a bin around, it should be taken home for disposal.

2.2 Dog on Leads

Clause 6 of the revised PSPO deals with the requirement of dogs on leads.

Dogs must be on leads if any of the following apply:

- (a) In any public cemeteries or churchyards which are listed in Schedule B to the revised PSPO and shown on the relevant plans to the revised PSPO.
- (b) In any public parks which are listed in Schedule C to the revised PSPO and shown on the relevant plans to the revised PSPO.
- (c) If requested by an authorised officer or a police constable where reasonably necessary to prevent a nuisance or behaviour by the dog likely to cause alarm, distress or disturbance to any other person or animal or bird on the land.

2.3 Excluding Dogs from enclosed play areas

Clause 7 of the revised PSPO excludes dogs from enclosed play areas, which are listed in Schedule D and shown on the relevant plans to the revised PSPO.

2.4 Limit on the number of dogs

Clause 8 of the revised PSPO limits the number of dogs a person can be in control of in a Public Space to 6 dogs.

2.5 Exemptions

Clause 10 sets out certain exemptions. These cover those needing assistance dogs or with some form of disability which might prevent them from complying with the revised PSPO. There are also exemptions for certain working dogs i.e. those involved in law enforcement, military duties, statutory emergency services and search/rescue and those using a working dog for agricultural activities or exempt hunting as set out in Schedule 1 of the Hunting Act 2004.

2.6 Offences

Clause 9 sets out that breach of any of the requirements or prohibitions listed above would constitute a criminal offence which could be prosecuted. Instead of prosecution the Council can issue a FPN as an alternative. The proposed fixed penalty of £100 is designed to maximise the deterrent. If payment of the fixed penalty is made within 14 days from the date of the FPN the penalty is reduced to £50. If there is a refusal to pay the fixed penalty, the case may be taken to court, and on conviction a fine of up to £1000 could be imposed.

2.7 Defences to offences under clauses 5, 6, 7 and 8

Offences under these clauses will not be committed if:

- (a) A person has a reasonable excuse
- (b) A person has permission from the owner of the land
- (c) A person is exempt under clause 10

SCHEDULE A of the Revised PSPO refers to a Map of District shown on Plan 1 to the PSPO

SCHEDULE B of the Revised PSPO has the following list of the Cemeteries and Churchyards shown on the respective plans attached to the Revised PSPO

- Plan 2 – All Saints Church Cemetery, Culmstock
- Plan 3 – Cemetery, Black Dog
- Plan 4 – Burial Ground, Cheriton Fitzpaine
- Plan 5 – St Matthew’s Church, Cheriton Fitzpaine

Plan 6 – Methodist Cemetery, Coppleshone
Plan 7 – St John the Baptist Church, Cove, Tiverton
Plan 8 – Cemetery, Crediton
Plan 9 - Cemetery, Cullompton
Plan 10 – Cemetery, Culmstock
Plan 11 – Cemetery, Halberton
Plan 12 – Cemetery, Hemyock
Plan 13 – St Andrew’s Church Cemetery, Colebrooke
Plan 14 – St Andrew’s Church Cemetery, Cullompton
Plan 15 – St George’s Church, Tiverton
Plan 16 – St Mary’s Church Cemetery, Hemyock
Plan 17 – St Mary’s Church Cemetery, Uffculme
Plan 18 – St Mary’s Church, Willand
Plan 19 – Cemetery, Tiverton
Plan 20 – Cemetery, Uffculme
Plan 21 – Cemetery, Wembworthy
Plan 22 – Cemetery, Willand

SCHEDULE C of the Revised PSPO has the following list of Public Parks shown on the respective plans attached to the Revised PSPO

Plan 23 – Skate park, Lords Meadow, Crediton
Plan 24 – Newcombes Meadow, Crediton
Plan 25 – Skate park, Meadow Lane, Cullompton
Plan 26 – Ploudal Road Play Area, Cullompton
Plan 27 – Logan Way, Hemyock
Plan 28 – Amory Park, Tiverton
Plan 29 – Skate park, Bolham Road, Tiverton
Plan 30 – Marley Close, Tiverton
Plan 31 – People’s Park, Tiverton
Plan 32 – Priory Road, Tiverton
Plan 33 - Westexe Recreation Ground, Tiverton
Plan 34 – Play Area, Westleigh
Plan 35 - Recreation Ground (Jubilee Field), Gables Road, Willand
Plan 36 – Victoria Close, Willand

SCHEDULE D of the Revised PSPO has the following list of Enclosed Play Areas shown on the respective plans attached to the Revised PSPO

Plan 37 – Recreation Ground, Morebath Road, Bampton
Plan 38 - Play Area, Station Road, Bampton
Plan 39 - Play Area, Godfrey Gardens, Bow
Plan 40 - Play Area, Iter Park, Bow
Plan 41 - Play Area, St Martins Close, Bow
Plan 42 - Play Area, Village Hall, Bow
Plan 43 - Play Area, Barnes Close, Bradninch
Plan 44 - Play Area, Townlands, Bradninch
Plan 45 - Play Area, Bray Close, Burlescombe
Plan 46 - Play Area, Chawleigh
Plan 47 - Recreation Ground, Chawleigh

Plan 48 - Play Area, Glebelands, Cheriton Bishop
Plan 49 - Play Area, Landboat View, Cheriton Fitzpaine
Plan 50 - Play Area, Coleford
Plan 51 - Play Area, Fernworthy Park, Coplestone
Plan 52 - Play Area, Sunnymead, Coplestone
Plan 53 - Play Area, Barnfield, Crediton
Plan 54 - Play Area, Beacon Park, Crediton
Plan 55 - Play Area, Beech Park, Crediton
Plan 56 - Play Area, Cromwells Meadow, Crediton
Plan 57 - Play Area, Fulda Crescent, Crediton
Plan 58 - Play Area, Kirton Drive, Crediton
Plan 59 - Play Area, Lords Meadow, Crediton
Plan 60 - Play Area, Monks Close, Crediton
Plan 61 - Play Area, Newcombes Meadow, Crediton
Plan 62 - Play Area, Queen Elizabeth Drive, Crediton
Plan 63 - Play Area, Spinning Path Gardens, Crediton
Plan 64 - Play Area, Tuckers Meadow, Crediton
Plan 65 - Play Area, Walnut Drive, Crediton
Plan 66 - Play Area, Ash Drive, Cullompton
Plan 67 - Play Area, Bockland Close, Cullompton
Plan 68 - Play Area, Bullfinch Close, Cullompton
Plan 69 - Play Area, Chaffinch Drive, Cullompton
Plan 70 - Play Area, Conifer Close, Cullompton
Plan 71 - Play Area, Crossparks, Cullompton
Plan 72 - Play Area, Dove Close, Cullompton
Plan 73 - Play Area, Hanover Gardens, Cullompton
Plan 74 - Play Area, Haymans Close, Cullompton
Plan 75 - Play Area, Haymans Green, Cullompton
Plan 76 - Play Area, Headweir Road, Cullompton
Plan 77 - Play Area, Knightswood, Cullompton
Plan 78 - Play Area, Linden Road, Cullompton
Plan 79 - Play Area, Linear Park, Cullompton
Plan 80 - Play Area, Rivermead, Cullompton
Plan 81 - Play Area, Saxon Close, Cullompton
Plan 82 - Play Area, Siskin Chase, Cullompton
Plan 83 - Play Area, Spindlebury, Cullompton
Plan 84 - Play Area, Starlings Roost, Cullompton
Plan 85 - Play Area, Stoneyford, Cullompton
Plan 86 - Play Area, Tufty Park, Cullompton
Plan 87 - Play Area, Water Meadow, Cullompton
Plan 88 - Play Area, Windsor Close, Cullompton
Plan 89 - Play Area, Hunter's Hill, Culmstock
Plan 90 - Play Area, Lower Town Halberton
Plan 91 - Play Area, Hollingarth Way, Hemyock
Plan 92 - Play Area, Logan Way, Hemyock
Plan 93 - Play Area, Longmead, Hemyock
Plan 94 - Play Area, Millhayes, Hemyock
Plan 95 - Play Area, Holcombe Rogus
Plan 96 - Play Area, Church Close, Lapford
Plan 97 - Play Area, Greenaway, Morchard Bishop
Plan 98 - Play Area, Wood Lane, Morchard Bishop
Plan 99 - Recreation Ground, Oakford

Plan 100 - Play Area, Puddington
Plan 101 - Play Area, Cornlands, Sampford Peverell
Plan 102 - Play Area, Mill Lane, Sandford
Plan 103 – Play Area, Newbuildings Sandford
Plan 104 - Play Area, Town Barton, Sandford
Plan 105 - Recreation Ground, School Close, Shobrooke
Plan 106 - Play Area, Silverton
Plan 107 - Skate park, Silverton
Plan 108 - Play Area, Ellerhayes, Silverton
Plan 109 - Play Area, Amory Park, Tiverton
Plan 110 - Play Area, Ashley Rise, Tiverton
Plan 111 - Play Area, Banskia Close, Tiverton
Plan 112 - Play Area, Coles Mead, Tiverton
Plan 113 - Play Area, Everett Place, Tiverton
Plan 114 - Play Area, Grand Western Canal, Canal Hill, Tiverton
Plan 115 - Play Area, Hawthorne Road, Tiverton
Plan 116 - Play Area, Orchard Leigh, Tiverton
Plan 117 - Play Area, Palmerston Park, Tiverton
Plan 118 - Play Area, Popham Close, Tiverton
Plan 119 - Play Area, Spencer Drive, Tiverton
Plan 120 - Play Area, Starkey Close, Tiverton
Plan 121 - Play Area, Trickey Close, Tiverton
Plan 122 - Play Area, Waylands Road, Tiverton
Plan 123 - Play Area, Westexe Recreation Ground, Tiverton
Plan 124 - Play Area, Wilcombe, Tiverton
Plan 125 - Play Area, Culm Valley Way, Uffculme
Plan 126 - Play Area, Recreation Ground, Highland Terrace, Uffculme
Plan 127 - Play Area, Pathfields, Uffculme
Plan 128 - Play Area, Pippins Field, Uffculme
Plan 129 - Play Area, Wembworthy
Plan 130 - Play Area, Buttercup Road, Willand
Plan 131 - Play Area, Chestnut Drive, Willand
Plan 132 - Play Area, Gables Lea, Willand
Plan 133 - Play Area, Harpitt Close, Willand
Plan 134 - Play Area, Mallow Court, Willand
Plan 135 - Play Area, South View, Willand
Plan 136 - Play Area, The Orchards, Willand
Plan 137 - Play Area, Worcester Crescent, Willand

3.0 REVIEW OF CONSIDERATIONS INVOLVED IN DECIDING WHETHER TO BRING THE REVISED PSPO INTO FORCE

3.1 Under the Anti-social Behaviour, Crime and Policing Act 2014 (Section 59) a local authority may make a PSPO if satisfied on reasonable grounds that the following two conditions have been met:

- The 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

- The effect or likely effect of the activities are to be of a persistent or continuing nature, such as to make the activities unreasonable and justifying any restrictions imposed in the PSPO.
- 3.2 Between 1 April 2019 and 31 March 2020 the Council received 70 correctly completed reports of antisocial behaviour relating to dogs:
- 51 dog fouling reports
 - 18 dog on dog/person reports
 - 1 nuisance behaviour report
- 3.3 Responsible dog ownership enforcement via a PSPO will aid the reduction of risk to the general public of diseases such as toxocariasis from dog faeces; freedom from potential animal attacks and safeguarding the public and wildlife via the 'dogs on a lead' elements.
- 3.4 Any requirements or prohibitions that are to be imposed must be both reasonable to impose and aimed at preventing or reducing the risk of the detrimental effect from continuing, occurring or recurring.
- 3.5 The decision to make a PSPO is discretionary but the consequence of not having a PSPO may lead to a small percentage of irresponsible dog owners allowing their dogs to run out of control and not picking up after them. This is likely to have an effect on the quality of life of others using the public spaces.
- 3.6 One of the advantages to having a PSPO in place is that if there is an offence of failing to comply with a requirement or prohibition then the offender may be given a Fixed Penalty Notice (FPN); if the FPN is not paid then the offender may be prosecuted.
- 3.7 This can be contrasted with the alternative of using a Community Protection Notice ("CPN"). The purpose of a CPN is similar to a PSPO, which is to stop a person aged 16 or over, business or organisation committing anti-social behaviour which spoils the community's quality of life, however the use of a CPN is considered problematic in the context of dog control.
- 3.8 Prior to the issue of a CPN a written warning must be issued to the individual concerned that if they do not stop the anti-social behaviour i.e. their dog fouling, they could be issued with a CPN. Only if the dog fouling happens again on a separate occasion can a CPN be issued. If the dog fouling then happens again on another separate occasion, in breach of the CPN, an offence is committed and a FPN can be issued. It is submitted that the public would be concerned if a FPN could only be issued on the third occasion of the dog fouling.
- 3.9 Similar issues apply in using the Dogs Act 1871 in relation to dangerous dogs. Civil proceedings that a dog is dangerous, and not kept under proper control can be brought at a Magistrates' Court and this can be done by the police, local authorities, or individual members of the public. If the Magistrates are satisfied that the complaint is justified they can make any order they feel appropriate to require the owner to ensure that the dog is kept under proper control or in extreme cases destroyed. This type of action is usually only

appropriate for serious cases and is time consuming involving court hearings which can take considerable time to arrange.

3.10 There are other criminal offences that can be prosecuted under the Town Police Clauses Act 1847 and the Dangerous Dogs Act 1991 (as amended) in relation to dogs out of control and dangerous dogs. Such prosecutions would be time consuming and expensive.

3.11 A check of the websites of Devon district councils as well as the unitary council Plymouth, reveal the following:

- 6 of the 8 district councils report on their website they have a dog control PSPO.
- Plymouth Council reports on its website it has a dog control PSPO.

3.12 It should be noted that in the revised PSPO, the number of areas subject to the requirement of dogs on leads has been reduced from 50 as per the previous draft PSPO to 14. This means that there are more areas available where dogs will be allowed to be off their leads.

3.13 This change is to reflect the first public consultation response in relation to the question of whether the public agree that dogs should be kept on leads in the named public parks. The response was 50.22% against the question. Officers recognise that under the Animal Welfare Act 2006 dog owners are required to provide for the welfare needs of their dogs and that in most cases this will include off-lead exercise

3.14 This reduction in areas subject to dogs on leads control has resulted in more localities being available in the District for dogs to be exercised freely. These areas do not require dogs to be on leads unless requested by an authorised officer or a police constable where reasonably necessary to prevent a nuisance or behaviour by the dog likely to cause alarm, distress or disturbance to any other person or animal or bird on the land.

3.15 There are also some dog runs in the District for example:

- Beacon Park, Crediton
- Bluebell Avenue, Tiverton
- Cottey Brook, Tiverton
- Crow Bridge, Cullompton
- Glebelands Road, Tiverton
- The land at Moorhayes adjacent to Lea Road, Tiverton
- Mountbatten Road, Tiverton
- People's Park, Crediton
- Railway Walk Tiverton
- River Exe Recreation Ground, Tiverton
- The Oval, Tiverton
- Knighthayes, Tiverton
- CCA Fields, Cullompton

3.16 As summarised above Clause 8 of the revised PSPO limits the number of dogs a person can be in control of in a Public Space to 6 dogs.

- 3.17 The previous draft PSPO provided that only 4 dogs could be walked by any one person. The revised PSPO allows for 6 dogs to be walked at any one time. This figure takes into account the feedback given by Members at both the Environment PDG and Cabinet meetings, and in some of the responses to the first public consultation, about professional dog walkers being prejudiced by a lower number.

DEFRA has stated in its official guidance (“Dealing with irresponsible dog ownership Practitioner’s manual”) that “[w]hen setting the maximum number of dogs able to be walked by one person, the most important factor for authorities to consider is the maximum number of dogs which a person can control; expert advice is that this should not exceed six”.

The Dogs Trust “Professional Dog Walkers’ Guidelines” states that the maximum number of dogs that can be walked at any one time should not exceed the number stated in the walker’s insurance policy and comply with local authority requirements regarding the number of dogs. It is recommended that no more than 4 dogs are walked at any one time. All dogs under a dog walker’s care should be reliably under control at all times and transported in accordance with the guidance in this document.

- 3.18 As summarised above the revised PSPO protects enclosed play areas by prohibiting dogs. Officers consider that this approach is justified as children are more susceptible to diseases from exposure to faeces and urine from dogs. Similarly it is felt that young children are more at risk of injury from dogs. This is because young children will naturally be excited whilst playing which may provoke a reaction from dogs in the area. The consequences of a dog attack on a young child is likely to be more severe than on an adult.

4.0 HUMAN RIGHTS

- 4.1 In deciding whether to make a PSPO, the Act says councils must have particular regard to the rights of freedom of expression and freedom of assembly set out in Articles 10 and 11 of the European Convention on Human Rights. The need to “have particular regard” to Articles 10 and 11 suggests that Parliament, in passing the Act, has sought to give these rights an elevated status in relation to deciding whether to make a PSPO.
- 4.2 PSPOs are a powerful remedy because they affect the behaviour of every person within a specified area rather than being targeted at individuals. For this reason the Council will need to ensure that they balance the need to tackle anti-social behaviour, crime and disorder against the desire and entitlement of the public to use a public space.

Article 10: freedom of expression

1. *Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.*

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary

Article 11: freedom of assembly and association

1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State

- 4.3 Officers submit that making the revised PSPO will not unnecessarily interfere with what would otherwise be legitimate and lawful activity and that the revised PSPO does balance the need to tackle anti-social behaviour associated with dogs against the desire and entitlement of the public to use a public space.

5.0 2021 CONSULTATION

- 5.1 The consultation revised PSPO went out to public consultation from 21st May 2021 to 18th June 2021.

- 5.2 The following were stakeholders were consulted:

- All Parish & Town Councils in Mid Devon
- Chief Constable of Devon & Cornwall Police
- The Police & Crime Commissioner
- All neighbouring Local Authorities
- Operational Managers of all Council departments within Mid Devon District Council
- Community Centres
- Members of Parliament whose constituencies include part of the Mid Devon District
- All Councillors
- Ramblers & Walking Groups
- Animal Welfare Groups
- The Kennel Club
- Boarding Kennels within the Mid Devon District
- Sports Clubs

- Members of the public

5.3 The consultation included the opening and closing dates of when consultees could respond to the consultee, via:

- Letter
- Mid Devon District Council’s website
- Newspaper Advert
- Email

For those who could not access the internet, other options were advertised, such as the option to send a letter. Officers also undertook direct consultation in the areas listed within the Schedules during the consultation period to ensure views from users were captured by providing a QR code to enable direct access to the consultation page on the Council website and a phone number for the customer services call centre. A hard copy of the revised PSPO and maps was also available at the front desk of Phoenix House which could be viewed by appointment.

5.4 The purpose of the consultation was to seek views on the Council’s intention to implement a PSPO in relation to dog controls within the Mid Devon District Council boundary. A breakdown of the responses is set out below in section 6 of this Report, but specific comments from the responses are to be found in the spreadsheet accompanying this Report at Appendix B.

5.5 A summary of the stakeholders’ responses can be found at Appendix C.

6.0 CONSULTATION RESULTS

6.1 Part A – Dog fouling

In respect of the proposed controls in the revised PSPO

- You must pick up your dog’s faeces, and
- You must always have something to pick up the faeces with, e.g. bags, and produce evidence of this if asked by an Enforcement Officer or the police.

The responses can be broken down as follows:-

Q1	Do you agree that those in charge of a dog (owners and walkers), should pick up their dog’s faeces in Public Places (as defined)?		
		Number	Percentage
	YES	187	99%
	NO	2	1%

Q2	Do you agree that every person in charge of a dog (owners and walkers) should carry sufficient appropriate means e.g. bags to pick up after the dog?		
		Number	Percentage
	YES	185	98%
	NO	3	2%

6.2 Part B – Dogs on leads

In respect of the proposed controls in the revised PSPO:

- Dogs to be on leads In public cemeteries which are listed in Schedule B to the revised PSPO
- Dogs to be leads in public parks which are listed in Schedule C to the revised PSPO
- Dogs to be on leads if requested by an authorised officer or a police constable

The responses can be broken down as follows:-

Q3a	Do you agree that dogs should be kept on leads In the named public cemeteries?		
		Number	Percentage
	YES	125	80%
Q3b	Do you agree that dogs should be kept on leads? In the named public parks		
		Number	Percentage
	YES	106	69%

Q3c	Do you agree that dogs should be kept on leads If requested by an Enforcement Officer or the Police??		
		Number	Percentage
	YES	102	73%

6.3 Part C – Excluding dogs from children’s play areas

In respect of the proposed control in the revised PSPO that dogs should be excluded from the enclosed play areas listed in Schedule D to the revised PSPO the response can be broken down as follows:

Q4	Do you agree that dogs should be excluded from the enclosed play areas identified at Schedule D to the Order?		
		Number	Percentage
	YES	169	90%
	NO	19	10%

6.4 Part D – Limit on the number of dogs

In respect of the proposed control in the revised PSPO that a limit should be set on the number of dogs under the control of the owner/walker the responses are broken down as follows:-

Q5	Do you agree that a limit should be set on the number of dogs under the control of the owner/walker when in Public Spaces?		
		Number	Percentage
	YES	161	86%
	NO	27	14%

Q6	Do you agree that the limit should be set at 6 dogs?		
		Number	Percentage
	YES	79	42%
	NO	107	58%

In relation to the Q6 specific comments in Appendix B Members will note that the public disagree quite strongly with the limit being set at 6 dogs.

6.5 Part E – Additional questions

Q7	Are there any adverse impacts to the proposals which you wish highlight		
		Number	Percentage
	YES	87	46%
	Skipped question	103	54%

Q8	<p>The draft Order says dogs should be kept on leads in public parks identified in the Order at Schedule C. Do you think that this restriction should apply only during specific times or periods for the parks identified in the Order at Schedule C?</p> <p>For example: (1) the restriction of dogs on lead in the park only applies during the period 1 April to 30 September inclusive or (2) the restriction that dogs must be on lead applies only between the hours of 10:00</p>		
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	to 18:00 hours		
		Number	Percentage
	YES	50	27%
	Skipped	136	73%

Q9	Following on from Q8 which restriction would you consider to be more appropriate? SEASONAL RESTRICTION/TIME RESTRICTION.		
		Number	Percentage
	YES	18	22%
	Skipped	63	78%

Q10	Feedback from the first consultation suggested that increased education would reduce dog fouling with the District. Do you agree with this view? If YES, can you give details of the sort of education you think would be effective?		
		Number	Percentage
	YES	95	51%
	NO	92	49%

Q11	Do you own or walk dogs?		
		Number	Percentage
	YES	113	61%
	NO	72	39%

Q12	Do you walk dogs in Mid Devon?		
		Number	Percentage
	YES	116	63%
	NO	69	37%

7.0 ENFORCEMENT

- 7.1 If the revised PSPO is made, consideration will also need to be given to enforcement as there will be raised expectations from the public which will need to be managed. A stepped and proportionate approach to sanctions will need to be developed. The Council's enforcement policy must be followed in all instances.
- 7.2 If the amount of time spent on statutory and mandatory duties remains unchanged a total of 300 discretionary annual hours will be allocated to discretionary duties such as litter enforcement, compulsory recycling, Cleansing inspections and dog fouling patrols.

Duties	Allocation of Time
Compulsory Recycling	40%
Cleansing Inspections	10%
Litter Patrols	40%
Dog Fouling Patrols	10%

7.3 Although the PSPO is made by the Council, enforcement should be the responsibility of a wider group. Council officers will be able to enforce the restrictions and requirements. In addition, police officers and PCSOs will have the ability to enforce the PSPO.

8.0 CONCLUSION

8.1 Officers submit that the revised PSPO, if made, will introduce a range of reasonable and proportionate prohibitions and requirements on the use of publicly accessible land that would better control the activities of irresponsible dog owners whilst enabling responsible dog owners to continue to exercise their dogs without undue restrictions. The consultation exercise has revealed widespread support for the measures.

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Circulation of the Report: Cllr Colin Slade, Cabinet, Leadership Team

Appendix A - Revised PSPO and Schedules

Appendix B - 2021 Consultation specific responses summary

Appendix C - 2021 Consultation summary of the Stakeholder responses

Appendix D - Equality Impact Assessment

List of relevant documents:

Maps for schedules

<https://www.middevon.gov.uk/your-council/consultation-involvement/past-consultations/>

Anti-social Behaviour, Crime and Policing Act 2014

<https://www.legislation.gov.uk/ukpga/2014/12/contents/enacted>

Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014

<https://www.legislation.gov.uk/uksi/2014/2591/contents/made>

NHS information on Toxocariasis

<https://www.nhs.uk/conditions/toxocariasis/>

Keep Britain Tidy information on Dog Fouling Issues

https://www.keepbritaintidy.org/sites/default/files/resource/Keep%20Britain%20Tidy%20Policy%20Position_Dog%20Fouling.pdf

Local Government Association - Public Spaces Protection Orders – Guidance for Councils

https://www.local.gov.uk/sites/default/files/documents/10.21%20PSPO%20guidance_06_1.pdf

DEFRA Dealing with irresponsible dog ownership Practitioner's manual (Oct 2014)

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/373429/dog-ownership-practitioners-manual-201411.pdf

Dogs Trust Professional Dog Walkers' Guidelines

<https://www.dogstrust.org.uk/news-events/news/dog%20walking%20guide%20online.pdf>