

GWYNEDD COUNCIL CABINET



Report to a meeting of Gwynedd Council Cabinet

Date of Meeting:	18 May 2021
Cabinet Member:	Councillor Catrin Wager
Contact Officer:	Steffan Jones, Head of Highways and Municipal
Contact Telephone Number:	32402
Title of Item:	Public Spaces Protection Order (PSPO): Dog Control

1. THE DECISION SOUGHT

The Cabinet is requested to:

- Approve the undertaking of the process of considering the introduction of a new Public Spaces Protection Order (PSPO) in relation to dog control throughout the county, in accordance with the draft Proposed Order appended (appendix 1).
- To authorise the Head of Highways and Municipal Department to undertake a consultation process for a period of 28 days, starting on 24 May 2021, with the matter to return to Cabinet for decision as to whether a dog control PSPO should be introduced, as well as any associated delegations.

The reason for the decision:

- The making of a PSPO is a function held by Local Authorities only. In accordance with the Constitution of the Local Authority, the making of such an order is an executive function the responsibility for which lies with the Cabinet.

2. INTRODUCTION

The Anti-social Behaviour, Crime and Policing Act 2014 (the "2014 Act") provides a framework of powers for individuals and organisations to tackle anti-social behaviour in public spaces. The Act provides the powers for Local Authorities to introduce a Public Spaces Protection Order ("PSPO") to deal with particular nuisance(s) or problem(s) in a specific area. These problematic behaviours are behaviours determined to have a detrimental impact on the quality of life of local communities. Such orders can last for up to three years.

Such behaviours can encompass, among other matters, behaviours in relation to dog control.

Before making such an order, the Local Authority must be satisfied -

- that there is reasonable ground for believing that these behaviours in a public space has had, or is likely to have, a detrimental impact on the quality of life of people in the neighbourhood;
- that these activities are, or likely to be frequent and persistent in nature;
- that these activities are, or likely to be unreasonable; and
- that they justify the restrictions outlined.

In addition, before making an order, the Local Authority must consult with the Police and the wider community.

The PSPO works by allowing behaviours to be challenged and to give the individual an opportunity to end the activity in most circumstances. If this is not possible, enforcement steps can be taken, including the introduction of a fixed penalty notice and/or prosecuting for the offence of failure to comply with a requirement or prohibition in a PSPO.

3. THE REASON FOR THE NEED FOR A DECISION

It is recommended that a new dog control PSPO is introduced to enable to Authority to use the wider flexibility to tackle anti-social behaviour under the 2014 Act to its full potential in relation to dog control.

Before the provisions of the 2014 Act came into force, the Local Authority's powers to tackle problems involving dog control stemmed from the Clean Neighbourhoods and Environment Act 2005 (the "2005 Act") and the Dog Control Orders (Miscellaneous Provisions) (Wales) Regulations 2007/702. In accordance with these pieces of legislation, on 13 March 2013, the Authority made the following Dog Control Orders:

- Dogs Exclusion (Gwynedd Council) Order 2013
- The Fouling of Land by Dogs (Gwynedd Council) Order 2013
- The Dogs on Lead by Direction (Gwynedd Council) Order 2013

Under these Dog Control Orders, various restrictions and requirements have been introduced throughout the county in relation to dog control. These included excluding dogs from specific areas at specific times of the year, the prohibition of fouling of land by dogs throughout the year, and making it mandatory to keep dogs on a lead in specific areas throughout the year. Failure to comply with these requirements has been enforced by introducing a fixed penalty notice and prosecuting for the offence of failure to comply with the order.

It is recommended that a PSPO is needed as the old Dog Control Orders do not now reach the standards of the latest legislation. Specifically, the content of the 2013 dog control orders are restricted to controlling the specific behaviors prescribed in SI 2007/702. In Gwynedd's case, the behaviors in question were to allow a dog to enter a particular area of land, to allow a dog to foul and to leave a dog to walk without a lead when instructed otherwise.

A new PSPO will give the Authority an opportunity to redefine and manage the dog control behaviours in accordance with what is genuinely causing anti-social problems in the County.

The Department has been consulting internally on the intention to introduce a PSPO which is in line with the arrangements contained in the Dog Control Orders. Initial input has been received from the Highways and Municipal, Education, Environment, Economy and Community (Maritime) Departments and from Byw'n Iach Cyf. On the whole, many of the departments are happy with the nature of the previous Orders and require the same conditions to be included in the PSPO. However, applications have been received requesting some different arrangements to those contained in the Dog Control Orders, namely:

Location	Arrangements under the Dog Control Orders	Proposed Arrangements
Tywyn Beach	Seasonal dog exclusion on the beach between a point west of Warwick Place Road and point west of the northern end of Plas Edwards	Seasonal dog exclusion on the beach between point west of Warwick Place Road and point west of Pier Road
Fairbourne	Seasonal dog exclusion on the beach between the pillbox on the southern end of the beach and point west of the golf course	Seasonal dog exclusion on the beach between point south of the pillbox on the southern end of the beach and point west of Beach Road junction
Criccieth – Marine	Seasonal dog exclusion on the entire beach	No seasonal dog exclusion on the beach
Abersoch	Seasonal dog exclusion on the beach between the harbour and point east of Lôn Golff	Seasonal dog exclusion on the beach between Pen Bennar and point east of Lôn Golff
Porthor	Seasonal dog exclusion on the entirety of Porthor Beach	Seasonal dog exclusion on Porthor Beach east of Porthor Café

The Draft Order incorporates the proposed arrangements in the table above; otherwise the content is based on the contents of the old Dog Control Orders. Maps showing the proposed dog exclusion areas are included with the Draft Order in appendix 1.

In accordance with the Equality Act 2010, an initial impact assessment has been prepared (appendix 2). The assessment will be updated following a statutory consultation and before returning to the Cabinet for a final decision.

In accordance with the recommendations of the Well-being of Future Generations (Wales) Act 2015, this report has considered the principles of the legislation, and specifically the concept of the five ways of working as shown below:

Long term: The PSPO will remain in place for three years, with the intention of changing people's attitudes towards their behaviour in public places in terms of dog control. In the longer term, it is hoped that this will contribute to more responsible attitudes and respect towards safeguarding our communities and an understanding of the need to consider the effect on others.

Prevention: The PSPO will help to reduce the number of antisocial behaviour incidents in terms of dog control, and will help to prevent a deterioration in the situation in the future.

Integration: The PSPO will address the characteristics of a number of organisations (Highways Department, Education Department, community councils). It will also contribute towards the objectives of the Police, namely to reduce offences and make the streets and public spaces safer for residents and visitors and towards the Authority's ambition of seeing communities succeeding and thriving.

Collaboration: This development would be a part of collaboration by consultation with members of the Authority, departments of the Authority, the Police, community councils and community groups.

Inclusion: Various departments within the Authority have been a part of the initial discussions, and a public consultation will be held before a final decision is made on the application.

The impact of the new orders on the Enforcement Team's capacity will need to be considered and may involve the employment of an additional permanent Warden. The Department will consider this further and report back to Cabinet for a decision.

The draft Proposed Order currently reflects the exact measures that have been in place under the old Dog Control Orders. However, the draft is a live document and will be reviewed (and if so advised, be revised) following the consultation and before returning to Cabinet for final decision.

4. NEXT STEPS AND TIMETABLE

The Cabinet to approve in principle continuing with the process of considering the introduction of a dog control PSPO for the county, in accordance with the Proposed Order.

If the above is approved, the Local Authority must undertake a consultation.

The Local Authority must undertake a public consultation regarding the Proposed Order, and this must be in place for 28 days. This consultation is conducted through a variety of means, including but not limited to direct correspondence with key stakeholders (e.g. Police, community councils), and through the Authority's website.

After the consultation, Local Authority officers will present the findings of the consultation to the Cabinet, recommending any amendments to the draft order based on that consultation, and will advise whether they are still recommending the Proposed Order.

All signage will have to be replaced to reflect the new order and a one off cost of £15k - £20k is anticipated. However, the consultation may highlight further additional requirements and may involve the cost of employing another permanent officer to implement these. We will be able to confirm and comment further in the report that follows this work.

If they are still recommending the Proposed Order, the Local Authority will proceed to make the Proposed Order and erect signage.

5. ANY CONSULTATIONS UNDERTAKEN BEFORE MAKING THE DECISION

The consultations to date are in accordance with what is noted in the report. A further statutory public consultation will be needed before returning to the Cabinet for a final decision.

Appendices

Appendix 1 - Draft Proposed Order

Appendix 2 - Equality Assessment

6. VIEWS OF THE STATUTORY OFFICERS

The Monitoring Officer:

The Legal Service has assisted with the preparation of this report, no observations to add from a propriety perspective.

Head of Finance:

The decision sought is to launch a public consultation on how the Council should exercise its power to impose restrictions in accordance with legislation. As such, I have no comments on financial propriety, in the expectation that any costs associated with the consultation will be funded from existing budgets.

Following the consultation, if Cabinet considers the matter further in order to reach a decision on implementing orders, full consideration will need to be given to the additional operating costs at that time.