



Epping Forest & Commons Committee

Date: THURSDAY, 16 MARCH 2023

Time: 11.00 am

Venue: COMMITTEE ROOM - 2ND FLOOR WEST WING, GUILDHALL

Members:

Benjamin Murphy (Chairman)	Andrew McMurtrie (Ex-Officio Member)
Deputy Graeme Doshi-Smith (Deputy Chairman)	Deputy Philip Woodhouse
George Abrahams	Verderer Michael Chapman DL
Alderman Prem Goyal	Verderer H.H. William Kennedy
Deputy Madush Gupta	Verderer Paul Morris
Caroline Haines	Verderer Nicholas Munday
Jaspreet Hodgson	
Gregory Lawrence	
The Rt. Hon. The Lord Mayor, Nicholas Lyons	

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Blair.Stringman@cityoflondon.gov.uk

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Ian Thomas
Town Clerk and Chief Executive

AGENDA

Part 1 - Public Agenda

1. **APOLOGIES**

2. **MEMBERS' DECLARATIONS UNDER THE CODE OF CONDUCT IN RESPECT OF ITEMS ON THE AGENDA**

3. **MINUTES**

To agree the public and non-public summary of the minutes of the previous meeting held on 26 January 2023.

For Decision
(Pages 7 - 14)

4. **MATTERS ARISING**

a) Action Log

Report of the Town Clerk.

Epping Forest

5. **DIRECTOR'S REPORT**

Report of the Executive Director, Environment.

For Information

6. **ASSISTANT DIRECTOR'S UPDATE**

Report of the Executive Director, Environment.

For Information

7. **EPHING FOREST TRUSTEE'S ANNUAL REPORT AND FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2022**

Joint report of the Chamberlain and Executive Director, Environment.

For Information

8. **DRAFT HIGH-LEVEL BUSINESS PLAN 2023/24 - ENVIRONMENT DEPARTMENT**
Report of the Executive Director, Environment.

For Information

Burnham Beeches & The Commons

9. **ASSISTANT DIRECTOR'S UPDATE**
Report of the Executive Director, Environment.

For Information

10. **ASHTED COMMON TRUSTEE'S ANNUAL REPORT AND FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2022**
Joint report of the Chamberlain and Executive Director, Environment.

For Information

11. **BURNHAM BEECHES AND STOKE COMMON TRUSTEE'S ANNUAL REPORT AND FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2022**
Joint report of the Chamberlain and Executive Director, Environment.

For Information

12. **WEST WICKHAM COMMON AND SPRING PARK WOOD, COULSDON AND OTHER COMMONS TRUSTEE'S ANNUAL REPORT AND FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2022**
Joint report of the Chamberlain and Executive Director, Environment.

For Information

13. **EXTENSION OF EXISTING PSPOS AT BURNHAM BEECHES**
Report of the Executive Director, Environment.

For Decision
(Pages 15 - 80)

14. **EPHING FOREST AND THE COMMONS MEDIA COVERAGE**
Report of the Media Officer.

For Information

15. **QUESTIONS ON MATTERS RELATING TO THE WORK OF THE COMMITTEE**

16. **ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT**

Part 2 - Non-Public Agenda

17. **EXCLUSION OF THE PUBLIC**

MOTION: The following matters relate to business under the remit of the Court of Common Council acting for the City Corporation as charity Trustee, to which Part VA and Schedule 12A of the Local Government Act 1972 public access to meetings provisions do not apply. The following items contain sensitive information which it is not in the best interests of the charity to consider in a public meeting (engaging similar considerations as under paragraphs 3 and 5 of Schedule 12A of the 1972 Act) and will be considered in non-public session.

For Decision

18. **NON-PUBLIC MINUTES**

To agree the non-public minutes of the previous meeting held on 26 January 2023.

For Decision
(Pages 81 - 82)

19. **MATTERS ARISING**

- a) Action Log
- Report of the Town Clerk.

20. **NON PUBLIC QUESTIONS ON MATTERS RELATING TO THE WORK OF THE COMMITTEE**

21. **ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT AND WHICH THE COMMITTEE AGREE SHOULD BE CONSIDERED WHILST THE PUBLIC ARE EXCLUDED**

Part 3 - Confidential Items

22. MINUTES

To agree the confidential minutes of the meeting held on 26 January 2023.

For Decision

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EPHING FOREST & COMMONS COMMITTEE

Thursday, 26 January 2023

Minutes of the meeting of the Epping Forest & Commons Committee held at
Committee Room - 2nd Floor West Wing, Guildhall on Thursday, 26 January 2023 at
11.00 am

Present

Members:

Benjamin Murphy (Chairman)
Deputy Graeme Doshi-Smith (Deputy Chairman)
George Abrahams
Alderman Prem Goyal
Deputy Madush Gupta
Jaspreet Hodgson
Gregory Lawrence
Deputy Philip Woodhouse
Verderer Michael Chapman DL
Verderer William Kennedy
Verderer Nicholas Munday

Officers:

Sally Agass	- Natural Environment Department
Deborah Cluett	- Comptroller & City Solicitor
Jacqueline Eggleston	- Natural Environment Department
Elisabeth Hannah	- Natural Environment Department
Joanne Hill	- Natural Environment Department
Jo Hurst	- Natural Environment Department
Juliemma McLoughlin	- Natural Environment Department
Tim Munday	- Natural Environment Department
Simon Owen	- Chamberlain's Department
Geoff Sinclair	- Natural Environment Department
Blair Stringman	- Town Clerk's Department
Paul Thomson	- Natural Environment Department

1. APOLOGIES

Apologies were received from Andrew McMurtrie and Verderer Paul Morris.

2. MEMBERS' DECLARATIONS UNDER THE CODE OF CONDUCT IN RESPECT OF ITEMS ON THE AGENDA

There were no declarations.

3. MINUTES

3.1 **To agree the public minutes and non-public summary of the Epping Forest and Commons Committee meeting held on 13 October 2022**

RESOLVED – That, the public and non-public summary minutes of the meeting held on 13 October be agreed as a correct record.

3.2 To agree the public minutes and non-public summary of the Epping Forest and Commons Committee meeting held on 21 November 2022

RESOLVED – That, the public and non-public summary of the minutes of the meeting held on 21 November be agreed as a correct record.

4. *DIRECTOR'S REPORT

The Committee received a report of the Executive Director, Environment concerning an update on matters relating to the work of the Natural Environment Department since the last Committee in December 2022.

In response to questions raised by a Member, the Executive Director noted lower than expected car parking income in the Commons. The reason why income was lower than expected was due to local on street parking availability free of charge. Members were informed that Officers would investigate how the space could be used in the future to derive the best outcomes for the charity. Members were also informed that the department was open to potential commercial sponsorship options for reducing costs concerning dog faeces waste bags.

The Chairman noted the Committee's appreciation and recognised the work of volunteers, it was requested that Officers consider ways in which volunteers could be celebrated. The Executive Director confirmed there were many financial benefits to the Forest from volunteers that were currently not quantified, and this was a piece of work the department would consider moving forward.

In response to a question raised by a Member, the Executive Director provided a brief update on the Target Operating Model (TOM), confirming the TOM was originally agreed by the Court of Common Council in 2020, following Lord Lisvane's Governance Review. It was noted that the purpose of the TOM was not solely about delivering a savings programme. It was also noted that the TOM had been agreed and supported by the relevant Committees and following approval at Corporate Services Committee on 17 January, formal consultation with staff began on 25 January 2023.

RESOLVED – That, the report be noted.

5. *ASSISTANT DIRECTOR'S UPDATE (SEF 01/23)

The Committee received a report of the Executive Director, Environment concerning Epping Forest activities between October and November 2022.

In response to a question raised by a Member concerning avian influenza (bird flu), the Executive Director, Environment noted that due to ongoing pressures, the Department for Environment Food and Rural Affairs (DEFRA), were unable to confirm promptly that avian flu was in circulation. The Committee was informed that there were also issues about lab capacity for testing. Moving

forward, the Executive Director said lessons had been learned such as understanding the processes to identify these problems as soon as possible and better ways of understanding waste streams were needed. Members paid tribute to volunteers who assisted in helping with the outbreak of avian flu. It was agreed that a lesson learnt update to be brought back to a future Committee meeting for discussion.

In response to a question raised by the Chairman, the Executive Director noted concerns related to the sustained increase in fly-tipping, which significant financial implications for the Epping Forest charity in particular. The Executive Director confirmed that officers are looking to carry out further collaborative work with Local Authorities, which may include CCTV and tracking Automatic Number Plate Recognition (ANPR) data. A further report would be brought forward on this matter.

RESOLVED – That, the report be noted.

6. ***OPERATIONAL FINANCE PROGRESS REPORT (PERIOD 8 APRIL - NOVEMBER) 2022/23 - EPPING FOREST AND COMMONS**

The Committee received a report of the Chamberlain concerning an update on the operation finance position as of April-November 2022/23 for the Epping Forest and Commons Committee.

RESOLVED – That, the report be noted.

7. **RISK MANAGEMENT UPDATE REPORT**

The Committee considered a report of the Executive Director, Environment concerning risk management procedures in place within the Environment Department.

In response to a question raised by the Chairman, the Executive Director, Environment, noted that risks currently either reside on the corporate risk register, the departmental risk register, or the Committee risk register. Members were informed that the cross-divisional risk register is reviewed in detail by the Open Spaces & City Gardens Committee. The Chairman challenged this framework, as it resulted in the highest level of risk not being reported at charity level. The Executive Director Environment agreed to amend the framework to ensure that all risks related to each charity were included in charity level reporting for each committee going forward, with the higher departmental or corporate risks also appearing on the relevant registers.

In response to a question raised by a Member, the Executive Director, Environment noted that in Epping Forest, under the former dog control orders, there were fixed numbers of dogs that could be accompanying a single dog walker in each local authority area. It was noted that colleagues in Hampstead Heath were experimenting with a licencing scheme and colleagues would await the outcome of this pilot before considering implementations for Epping Forest. In the Commons, Public Space Protection Orders (PSPOs) were used.

RESOLVED – That Members,

- i) Agree on behalf of the City of London Corporation as a Trustee, that the registers appended to the report satisfactorily set out the key risks to the charities and the appropriate systems are in place to identify and mitigate risks.

8. LICENCES, SPORTS, WAYLEAVES AND PRODUCE FEES AND CHARGES FOR 2023/24 SEF 02/23

The Committee considered a report of the Executive Director, Environment concerning proposals for setting fees and charges for activities in Epping Forest for the forthcoming financial year 2023/24.

In response to a question raised by a Member, the Executive Director, Environment agreed to bring back the full operating cost relating to car parking charges in Epping forest, to include staff resources who have to open and close each gate daily.

In response to a question raised by a Member, the Chairman confirmed that ongoing conversations were taking place between the City of London Corporation and The Football Association regarding funding for the Parklife project, it was noted that this would also be considered by the Sports Strategy Group.

In response to a question raised by the Chairman, the Chamberlain agreed to confirm if the car parking income generated from 2021 and 2022 was more than the 12% cuts equivalent or less and if more, the Chamberlain would confirm how the income had been spent.

RESOLVED – That Members,

- i) Agree the proposed licence fees and sports charges for 2023/24 as itemised in Appendix 2.
- ii) Note the income generated in 2021/22 from charged activities in Epping Forest.

9. WANSTEAD PARK PONDS PROJECT UNIQUE PROJECT IDENTIFIER: 12058

The Committee considered a report of the Executive Director, Environment concerning solutions that fulfil both the City's statutory duties and other works in the Wanstead Parkland Plan contributing to the removal of the Heritage Risk status.

In response to a question raised by the Chairman, the City Surveyor noted that this project was to address the potential risk of a large raised reservoir overtopping, by strengthening the banks around ornamental waters at Wanstead Park. It was also noted that the water features formed an important part of the heritage features of the site. Members were informed that the City Surveyor is to reinstate the pump house beside ornamental water which would pump water from the River Roding into the ornamental water during the winter

months, should the Environment Agency approve the license. Members were additionally informed that the man-made, clay-lined ponds would continue to naturally leak and, in the event of another long warm summer, the ponds would dry out again resulting in wildlife concerns.

The Chairman requested that all key projects aligned to the Committee should have GAANT charts to allow Members to track key deadlines and progress. The Executive Director Environment agreed.

RESOLVED – That Members,

- i) Agree to shift the project pathway from complex to regular.
- ii) Agree that recommended Option 2 (to carry out panel engineer recommendations and reinstate and extend the up-cascade pumping station) is approved.
- iii) Agree that additional budget of £333 500 is approved to reach the next Gateway.
- iv) Agree that a Costed Risk Provision (CRP) of £40 000 is approved at Gateway 4, to be drawn down via delegation to Chief Officer for the fee/investigation items specifically identified in the appended Risk Register, funded by City Cash.
- v) Note the total estimated cost of the project at £1.15 million (excluding risk).
- vi) Agree that Gateway 5 is delegated to the Executive Director, Environment.

10. WANSTEAD PARK - SHONKS MILL FLOOD ALLEVIATION SCHEME

The Committee noted the request but resolved not to make a voluntary financial contribution at this stage.

11. THE COMMONS: LICENCES, SPORTS, WAYLEAVES AND PRODUCE FEES AND CHARGES FOR 2023/24

The Committee considered a report of the Executive Director, Environment concerning proposals for a price increase of 5% in 2023/24 on charges levied for licensed activities (excluding filming), produce sales and formal sports

RESOLVED – That Court Members,

- i) Note the income generated in 2021/22 from changed activities in The Commons.
- ii) Agree the proposed licence fees and sports charges for 2023/24 as itemised in Appendix 2.
- iii) Note that car park changes will be further reviewed in 2023/24.

12. **QUESTIONS ON MATTERS RELATING TO THE WORK OF THE COMMITTEE**

There were no questions.

13. **ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT**

There were no urgent business.

14. **EXCLUSION OF THE PUBLIC**

RESOLVED – That, the following matters relate to business under the remit of the Court of Common Council acting for the City Corporation as charity Trustee, to which Part VA and Schedule 12A of the Local Government Act 1972 public access to meetings provisions do not apply. The following items contain sensitive information which it is not in the best interests of the charity to consider in a public meeting (engaging similar considerations as under paragraphs 3 and 5 of Schedule 12A of the 1972 Act) and will be considered in non-public session.

15. **NON-PUBLIC MINUTES**

15.1 **To agree the non-public minutes of the Epping Forest and Commons Committee meeting held on 13 October 2022**

RESOLVED – That the non-public minutes of the meeting held on 13 October 2022 be agreed as a correct record.

15.2 **To agree the non-public minutes of the Epping Forest and Commons Committee meeting held on 21 November 2022**

RESOLVED – That the non-public minutes of the meeting held on 21 November 2022 be agreed as a correct record.

16. **GRANT OF EASEMENT**

The Committee considered a report of the Executive Director, Environment.

17. **TENANCY TENDER ARRANGEMENTS**

The Committee received a verbal update of the Executive Director, Environment.

18. **EPPING FOREST LAND AGENT**

The Committee received a verbal update of the Executive Director, Environment.

19. **NON PUBLIC QUESTIONS ON MATTERS RELATING TO THE WORK OF THE COMMITTEE**

There were no questions.

20. **ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT AND WHICH THE COMMITTEE AGREE SHOULD BE CONSIDERED WHILST THE PUBLIC ARE EXCLUDED**

There were no items of urgent business.

The meeting ended at 1.40 pm

Chairman

Contact Officer: Blair Stringman
Blair.Stringman@cityoflondon.gov.uk

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Committee(s): Epping Forest and Commons Committee	Dated: 16/03/2023
Subject: Extension of existing PSPOs at Burnham Beeches	Public
Which outcomes in the City Corporation's Corporate Plan does this proposal aim to impact directly?	2,11,12
Does this proposal require extra revenue and/or capital spending?	N
If so, how much?	NA
What is the source of Funding?	NA
Has this Funding Source been agreed with the Chamberlain's Department?	NA
Report of: Juliemma McLoughlin	For Decision
Report author: Geoff Sinclair, Assistant Director, The Commons /Martin Hartup Head Ranger The Commons	

Summary

Five Dog Control Orders (DCOs) were introduced by your Committee at Burnham Beeches Special Area of Conservation (SAC) and National Nature Reserve (NNR) on 1st December 2014. These subsequently became Public Spaces Protection Orders (PSPOs) and their effect was extended by your Committee for further three-year periods from 1st December 2017 and 1st December 2020. They concern themselves solely with the reduction of antisocial dog behaviour on Burnham Beeches.

Appendix 1 provides a review of the effectiveness of the DCOs/PSPOs for the period 1st April 2015 – 31st January 2023. It indicates that the PSPOs have maintained and in some instances further improved the very significant reduction of nuisance and serious incidents associated with irresponsible dog ownership first achieved by the introduction of DCOs in 2014.

PSPOs need to be renewed every three years and the existing PSPOs at Burnham Beeches must be extended by 30th November 2023 if they are to continue in force from 1st December 2023.

As a first step along the route to extending the PSPOs, the City Corporation is required to carry out the necessary consultation, publicity and notification. Useful guidance on the statutory requirements can be found in **Appendix 2**.

This report seeks authority to carry out that process. Any representations received will be brought back to the September meeting of this Committee for decision

Recommendation(s)

Members are asked to:

- Agree Option 3 i.e. Authorise the Assistant Director to carry out the necessary consultation, publicity and notification on the extension of the existing PSPOs at Burnham Beeches for a further three year period from 1st December 2023.

Main Report

Background

1. DCOs were introduced by the Clean Neighbourhoods and Environment Act 2005, and the City was able to make DCOs outside of its local authority area by virtue of the Control of Dogs (Designation of the Common Council of the City of London as a Secondary Authority) Order 2012. Following extensive public consultation, five DCOs were approved by this Committee at Burnham Beeches with effect from 1st December 2014.
2. That legislation was repealed by the Anti-social Behaviour, Crime and Policing Act 2014, which introduced a new power to make PSPOs. That power was again granted to the City Corporation, in relation to open spaces outside of its local authority area, by the Anti-social Behaviour (Designation of the City of London Corporation) Order 2015.
3. PSPOs can be used to address a wider range of anti-social behaviour than DCOs but include all of those matters previously covered by DCOs. However, whereas DCOs had no fixed expiry date, PSPOs may not have effect for more than three years, unless extended. Any existing DCOs were automatically treated as PSPOs and following extensive public consultation your Committee resolved that the five PSPOs at Burnham Beeches should continue in force for a further three-year period from 1st December 2017 and subsequently again from 1st December 2020.
4. The aim of the PSPOs at Burnham Beeches is to deal effectively with dog-related issues, that were not improved by the adoption and promotion, over many years, of a voluntary dog walking code, that have had a detrimental effect on the quality of life for those visiting the site and have been of a persistent and unreasonable nature over many years and thereby:
 - a. Ensure a fair and proportionate balance between the needs of visitors so that all can enjoy the site
 - b. Minimise the number of dog related incidents and complaints recorded each year
 - c. Ensure the efficient use of local resources to minimise the impact of dog control management on the resources available to manage the site
 - d. Assist the City Corporation to meet its obligations under the Open Spaces Act 1878, Natural Environment and Rural Communities Act 2006, and other legislation.
 - e. Assist the City Corporation in its legal duty to protect and conserve the ecology and biodiversity of Burnham Beeches.

Current Position

5. The PSPOs currently operating at Burnham Beeches are as follows. **Map 1 (within Appendix 3). Also Appendix 5 - Sealed orders currently operating:**

Order 1. Failing to remove dog faeces. Applies to 100% of the site.

Order 2. Not keeping a dog on a lead (max length of lead 5m). Applies to the area **marked 2** on the map

Order 3. Not putting and keeping a dog on a lead when directed (told) to do so by an authorised officer. Applies in the area **marked 3** on the map.

Order 4. Permitting a dog to enter land from which dogs are excluded. This applies to the area **marked 4** on the map i.e. the immediate vicinity of the Burnham Beeches café.

Order 5. Taking more than the specified (allowed) number of dogs (which a person may take) onto the land. The specified number of dogs previously approved by this committee is a maximum of 4 and applies to 100% of the site.

6. Monitoring the effectiveness of PSPOs (and formerly DCOs) since their introduction in 2014 indicates that they have achieved a dramatic reduction in dog-related incidents. **Appendix 1.**
7. The existing PSPOs at Burnham Beeches are due to expire on 30th November 2023. If they are to be extended for a further three years the City Corporation is required to carry out the necessary consultation, publicity and notification as required by section 72 of the Anti-social Behaviour, Crime and Policing Act 2014. Useful guidance on the statutory requirements can be found in the Local Government Association guide at **Appendix 2.**
8. Statutory guidance on the Anti-social Behaviour, Crime and Policing Act 2014 has also been produced by the Home Office, and further guidance on dog control measures is also available from DEFRA. All of this guidance has been taken into account by officers in producing this report.
9. As part of the introduction of DCOs (and latterly PSPOs), officers developed a Dog Management Strategy (DMS). **Appendix 3.** The DMS describes in detail the background to the introduction of PSPOs, their aims, evidence of need, visitor access strategy, summary of all consultations up until the last PSPO review and a description of the powers to be used and to which parts of the site they apply.
10. Under section 67 of the Anti-social Behaviour, Crime and Policing Act 2014 it is an offence for a person without reasonable excuse to do anything that they are prohibited from doing by a PSPO, or to fail to comply with a requirement to which they are subject under a PSPO. A person guilty of an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale

(£1,000). Under section 68, a constable or authorised person may issue a fixed penalty notice to anyone that they have reason to believe has committed an offence, offering that person the opportunity to discharge any liability to conviction by payment of a fixed penalty. In September 2020 your Committee set the fixed penalty for breach of a PSPO at Burnham Beeches at £80 with a reduction to £50 if paid within 10 days. Your Committee also approved an Enforcement Protocol to ensure a fair and consistent approach to PSPO enforcement. **Appendix 4.**

Relevant Considerations

11. The test for making a PSPO is set out in section 59 of the Anti-social Behaviour, Crime and Policing Act 2014. The City Corporation may make a PSPO if satisfied on reasonable grounds that activities carried out in a public place are having, have had or will have a detrimental effect on the quality of life of those in the locality, and those activities are or are likely to be persistent, unreasonable and justify the restrictions imposed. The only prohibitions or requirements that may be imposed are ones that are reasonable to prevent or reduce the detrimental effect of the activity.
12. Under section 60 of the Anti-social Behaviour, Crime and Policing Act 2014, PSPOs must be reviewed every three years to ensure that they are still necessary. If the City Corporation is satisfied on reasonable grounds that a PSPO will continue to prevent the occurrence or recurrence of the detrimental activities identified in that order, or an increase in the frequency or seriousness of those activities, the PSPO can be extended for up to three years. There is no limit to the number of times that a PSPO can be reviewed or extended.
13. In deciding whether to extend the period for which a PSPO has effect, and if so for how long, the City Corporation 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 – although it is not considered that the PSPOs at Burnham Beeches infringe upon those rights in any significant way.
14. DEFRA guidance also states that local authorities should look to provide other suitable dog walking areas in the locality, where restrictions are in place. However, dog walkers are not banned from the ‘dogs on leads’ area, and are only excluded from a very for small area around the Café. In addition, the City Corporation still provides 220 acres at Burnham Beeches and a further 200 acres at Stoke Common where dogs can be walked ‘off lead’. This more than adequately meets both the guidance and animal welfare requirements.

Options

15. Members are asked to consider the following three options:

Option 1: Do nothing.

- a) If Members decide to do nothing, then the PSPOs will expire on 30th November 2023. The site would revert to the pre 2014 situation at Burnham Beeches whereby the Orders listed in paragraph 5 would no

longer apply and officers would have to rely upon local byelaws for enforcement at Magistrates Court. The current byelaws require only that a dog:

- i. Must have a collar and tag.
 - ii. Must be kept under effective control.
 - iii. Must not worry or chase birds or animals in and around the ponds.
- b) All other anti-social behaviour by dogs and their owners would be governed by a dog walker's voluntary code of conduct, which had, over many years proved ineffective and extremely difficult to enforce.
- c) As a result, it may be reasonably assumed that there would be a substantial increase in dog nuisance issues that the PSPOs have effectively helped to manage. This option is not recommended.

Option 2: Consider varying the existing PSPOs.

- a) There has been good support for and compliance with the existing PSPOs over the last three years. Monitoring results indicate that the existing PSPOs are effective at reducing antisocial dog behaviours. As such, there is no evidence to support the need to amend the existing PSPOs.
- b) The necessary consultation would have to be delayed to allow time to identify and incorporate any amendment to the existing PSPOs. All site signage would have to be reviewed and potentially replaced at additional cost. This option is not recommended.

Option 3: Consult on the extension of the existing PSPOs.

- a) If Members are minded to extend the effect of the PSPOs at Burnham Beeches for a further three years, then the Assistant Director should be authorised to commence the necessary consultation, publicity and notification as set out below. The results of the public consultation will be presented to your Committee in September, prior to a final decision being made.
- b) This option allows for the current PSPOs to be maintained and continue the marked improvement in dog-related behaviour at Burnham Beeches since 2014.
- c) Monitoring reports since 2015 indicate that PSPOs have maintained a significant reduction in the level of nuisance and serious incidents associated with irresponsible dog ownership when compared to the previous years where most antisocial dog behaviours were managed via the voluntary dog code.
- d) The only very minor amendment that is proposed is to change the references to "an authorised officer of the Authority" in Order 3 to "an authorised person", and to define this as "a person authorised by the Authority for the purpose of giving directions under this Order". This

would enable authorised agents, as well as City Corporation employees, to direct that a dog be put on a lead where reasonably necessary. The existing wording is a legacy from the original DCOs, in which the text was prescribed. However, the proposed amendment is consistent with the current legislation, in which an authorised person may take other enforcement action, such as issuing fixed penalty notices, and reflects the current arrangements on site whereby external contractors supplement the enforcement activity of the Rangers. **This option is recommended.**

Proposals

16. Before extending the period for which a PSPO has effect, section 72 of the Anti-social Behaviour, Crime and Policing Act 2014 requires that the City Corporation must first consult:
 - i. The Chief of Police, and the local policing body for the area
 - ii. The local authority for the area (Buckinghamshire Council)
 - iii. Whatever community representatives the City Corporation thinks it appropriate to consult
17. The relevant parish councils and the unitary council must also be notified of the proposed extension.
18. The full list of consultees, including community representatives was developed for the 2017 & 2020 PSPO consultation process. It is proposed to update the 2020 list of consultees and use it to guide the 2023 consultation process. The list includes a wide range of bodies, individuals and organisations such as the Dogs Trust, Kennel Club, Ramblers Association, Open Spaces Society, Cycling Clubs, local schools, Scout and Guide groups, the Burnham Beeches and Stoke Common Consultative Group and site visitors.
19. Any proposal to extend a PSPO must also be publicised. As best practice, the guidance states that order-making authorities should where possible seek to advertise details of a PSPO consultation in a local newspaper, or investigate a suitable alternative to reach those most affected.
20. The proposed consultation period commences 17th May 2023 and ends on 30th June 2023 providing a total of 45 days. The proposed consultation will be publicised using a variety of methods including adverts in the local press, direct contact, group meetings, social media, Burnham Beeches and Parish sign boards.
21. **Table 1** summarises the necessary consultation audience and indicates the timetable by which further decisions may be made by this committee concerning the extension of PSPOs beyond 30th November 2023.
22. Members are asked to consider **Step 2** and should the recommendation of this report be approved, the Assistant Director will follow **Steps 3-7** (Step 1 having been previously achieved in February 2023) prior to a further decision report concerning Steps 8-10.

Table 1

EFCC Approval to Consult		
Step 1.	BBSCCG. Inform of proposal to carry out the necessary consultation, publicity and notification in 2023 subject to EFCC approval	Completed at February 2023 meeting
Step 2.	EFCC report seeking approval to consult on extension of PSPOs - for Decision.	March 2023
Necessary Consultation.		
Step 3.	Visitor comments.	17 May – 30 June 2023
Step 4.	Other external audiences as recommended in the guidance. (For comment. See paragraph 18).	17 May – 30 June 2023
Step 5.	Formal Consultee representations (notification and comment - see paragraphs 16 and 17).	17 May – 30 June 2023
Step 6.	BBSCCG on site meeting	July 2023
Step 7.	EFCC to consider 'approval to extend' PSPOs for 3 years, Confirm FPN value. Decision report.	14 September 2023
Necessary Notification and Publicity - Extension of PSPO's		
Step 8.	Period and deadline to complete the <i>Necessary Notification and Publicity</i> , to extend the PSPO's for a further three years Review of Dog Management Strategy, Enforcement Protocol and necessary authorisation of enforcement officers as required	15 September - 30 November 2023
Step 9.	PSPO's extension (If approved)	1 December 2023 onwards
Step 10.	Deliver/ Monitor as approved	1 December 2023 onwards

Key Data

23. Since the introduction of DCOs/PSPOs, dog-related incidents have reduced, including a reduction in dog fouling of up to 96.9% in 'on lead' areas and 66.4% in the 'off lead' (on lead on request) area – **Appendix 1**.

24. A Summary of 2017 and 2020 consultation results is shown in **Table 2** – see also **Appendix 3**.

Table 2 – Summary of 2017 & 2020 consultation results - showing the levels of public support for the PSPOs

PSPO	2017	2020
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1. Fouling	95% (2%)	100%
2. On lead areas	57% (32%)	94%
3. On lead on Request area	91% (4%)	100%
4. Dog exclusion area	80% (9%)	100%
5. Maximum number	91% (2%)	100%

(2017 figures in brackets) =% against any proposal in 2017

Corporate & Strategic Implications –

Strategic implications

25. City of London Corporate plan 2018-2023: (2) people enjoy good health and well-being (11) We have clean air, land and water and a thriving and sustainable natural environment; (12) Our spaces are secure, resilient and well maintained.

26. The proposal meets the Natural Environment division's objectives of 'Open Spaces and historic sites are thriving and accessible'.

Financial & Resource implications

27. The cost of the PSPO consultation and enforcement process is estimated at £8,000 including officer time, consultation, advertising and notification costs. All costs will be met from local risk budgets as shown in **Table 3** below:

Table 3 – Estimate of delivery costs.

Activity	Cost
Advertising	£4,000
Management time (estimated based on 2020)	£2,500
Administration (set up, and notification based on 2020)	£1,500
Total estimated costs	£8000

Legal implications

28. Contained within the body of this report.

Risk implications

29. The introduction of Public Spaces Protection orders at Burnham Beeches is not universally popular and there is always a risk of adverse publicity.

Climate implications

30. None

Security Implications

31. None

Charity Implications

32. Burnham Beeches and Stoke Common is a registered charity (number 23987). Charity law obliges members to ensure that the decision's they take in relation to the charity must be taken in the best interests of the Charity.

Equalities implications

33. The existing PSPOs provide exemptions for people with disabilities and assistance dogs in appropriate circumstances and it is proposed that these arrangements will continue. The Enforcement Protocol also addresses these issues.

Conclusion

34. The PSPOs (and the previous DCOs) at Burnham Beeches have reduced dog fouling by up to 96.9% and significantly reduced the level of other dog nuisance issues over the last 8 years.

35. The existing PSPOs allow officers to enforce certain behaviours to the benefit of the majority of site visitors and wildlife within the NNR.

36. It is recommended that the Assistant Director be permitted to consult on extending the PSPOs applying to Burnham Beechers beyond 30 November 2023.

Appendices

- Appendix 1. Review of PSPO effectiveness 2015 - 2022
- Appendix 2. LGA Guidance
- Appendix 3. Burnham Beeches Dog Management Strategy 2020
- Appendix 4. Enforcement Protocol
- Appendix 5. Existing PSPOs

Background Papers

September 2020 - EFCC 'Decision Report'. Proposal to extend the use of Public Spaces Protection Orders at Burnham Beeches – Outcome of the public consultation process.

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Appendix 1

Public Spaces Protection Orders.

Activity at Burnham Beeches for the period 1 April 2015 to 31 January 2023

At the September 2020 meeting of the Epping Forest and Commons Committee, following all necessary public consultation, members resolved to extend the effect of the existing Public Spaces Protection Orders (PSPOs) at Burnham Beeches, for a further three years from 1 December 2020 and to authorise the Comptroller and City Solicitor to make replacement orders.

Public consultation responses in 2020 were as follows

Order 1 – 100% support to extend the PSPO for a further 3 years

Order 2 – 94% support to extend the PSPO for a further 3 years

Order 3 – 100% support to extend the PSPO for a further 3 years

Order 4 – 100% support to extend the PSPO for a further 3 years

Order 5 – 100% support to extend the PSPO for a further 3 years

The PSPOs currently operating at Burnham Beeches are as follows. **Map 1 (within Appendix 3).**

Order 1. Failing to remove dog faeces. Applies to 100% of the site.

Order 2. Not keeping a dog on a lead (max length of lead 5m). Applies to the area **marked 2** on the map

Order 3. Not putting and keeping a dog on a lead when directed (told) to do so by an authorised officer. Applies in the area **marked 3** on the map.

Order 4. Permitting a dog to enter land from which dogs are excluded. This applies to the area **marked 4** on the map i.e., the immediate vicinity of the Burnham Beeches café.

Order 5. Taking more than the specified (allowed) number of dogs (which a person may take) onto the land. The specified number of dogs previously approved by this committee is a maximum of 4 and applies to 100% of the site.

At the Epping Forest and Commons Committee on the 11 September 2017 Members requested that annualised Public Spaces Protection Orders (PSPOs) figures are presented to the Committee each year.

The information contained in this appendix is an amalgamation of those annual reports and summarises the enforcement activity undertaken at Burnham Beeches in relation to PSPOs in the 8-year period 01/04/2015 to 31/01/2023

During that period the number of recorded offences has declined by 55% since records commenced in 2015/16 (total for whole year 22/23 pro-rata estimate of 230*). Changes vary across the individual PSPOs

Current Position

The table 1 below shows annualised PSPO (and previous Dog Control Order) incidents dealt with at Burnham Beeches since April 2015 – January 31, 2023.

Table 1

Incidents detail	15/ 16	16/ 17	17/ 18	18/ 19	19/ 20	20/ 21	21/ 22	2022/23 To (31/01/23)
Order 1 - Fouling	11	11	7	7	3	7	7	3
Order 2 - Dogs off lead in the on-lead area	453	329	285	264	213	524	286	165
Order 3 - Dogs not under effective control in the off-lead area	46	30	27	16	19	27	16	22
Order 4 - Dogs taken into the dog free area	4	16	15	1	7	1	9	2
Order 5 - More than 4 dogs/person	3	0	0	2	1	1	0	0
Total DCO/PSPO incidents	517	386	334	290	243	560	318	192 (230*)
Number of incidents resulting in a formal report/investigation	8	15	15	16	14	16	8	12
Number of formal written warnings issued	2	8	9	10	10	7	3	3
Number of FPN issued	0	0	0	4	0	1	1	0
Number of prosecutions	0	0*	1*	0	1**	0	0	0

Incident occurred in 16/17 – prosecution through magistrate court 2017/18

** Incident occurred in 18/19 prosecution through magistrate court 2019/20

2019/20 visitor numbers estimate - approximately 488000 people visits/annum

2021/22 visitor numbers estimate – approximately 625000 (just 10 months)

1. The figures in Table 1 indicate that the overall number of incidents dealt with is reducing year on year – but this is not consistently the case for all areas covered by the PSPOs. In addition, figures undoubtedly reflect the unusual visitor numbers in 2020/21 as a result of the covid pandemic. At times visitors were not able to access the Beeches and at other times numbers were significantly higher than normal.
2. Following these high visitor levels in 2020/21, visitor numbers began to return to more normal levels from the end of April 2021 as covid restrictions were progressively eased. Though it should be noted they were still higher than average at times early in 2021/22.

3. Until 2020/21 there had been a steady decrease in the total number of PSPO incidents dealt with, year on year. In 2021/22 and 2022/23 that general pattern of decline has returned in most areas.
4. The exceptions in 2021/22 were that the number of incidents of dogs being walked off lead in the on-lead area and those taken into the small dog free area at the cafe were higher than pre pandemic levels – though in the latter numbers were still small.
5. This higher level of dogs off lead in 2020/21 and the early part of 2021/22 was undoubtedly caused by higher levels of new visitors not familiar with the National Nature Reserve.
6. The number of incidents requiring a more formal report/investigation has remained relatively low throughout the entire period – with 52 written warnings, 6 Fixed Penalty notices issued and 2 prosecutions to date.
7. The approved PSPO and preceding DCO enforcement protocols made it clear that when enforcing the Orders, the City of London Corporation will not take a zero-tolerance approach to DCO/PSPO breaches. This means that, in the majority of incidents, the person concerned is asked to put the matter right, clean up after their dog, put it on lead, remove it from the dog free area and if they comply no further action is taken beyond logging of the incident detail. As a result, the vast majority of incidents dealt with require no more than visitors being given information and or guidance by the Ranger team. However, where a breach is by someone who is well aware of the rules, a repeat offender, or where the person is unable or unwilling to put the matter right these will result in more formal investigation and action including final written warning and or FPN/prosecution.
8. The figures reflect that the majority of breaches of the PSPOs were not deliberate or repeat offences and were simply dealt with by the Ranger team through explanation and information.
9. In addition to this PSPO action monitoring, other dog related monitoring has also continued.
10. Regular, quarterly, dog foul transects walked in the PSPO 'on' and 'off-lead' areas show a reduction in fouling of 96.9% in on-lead area and 66.4% in the off-lead area from the 2014 pre DCO/PSO level recorded. These reductions indicate the positive impact of PSPOs on all fouling across the nature reserve but in

particular, the benefit of an on-lead area in reducing the levels of dog fouling at Burnham Beeches.

Table 2 below shows summarises these figures for each transect.

Table 2

Area	Pre - December 2014 average	End of 2022 average	% Difference 2014 - 2022
On Lead	53	1.63	96.9%
Off Lead	56.6	19	66.4%

Public Spaces Protection Orders

Guidance for councils

Foreword

Local authorities understand well how anti-social behaviour can blight the lives of people in their local communities, with those affected often feeling powerless to act. Councils have a key role to play in helping make local areas safe places to live, visit and work and tackling anti-social behaviour continues to be a high priority for local authorities and their partners across the country.

Councils know the issues that affect their localities the most and are well placed to identify how best to respond. Public Spaces Protection Orders (PSPOs), introduced in 2014, sit amongst a broad range of powers and tools to help tackle anti-social behaviour locally. PSPOs are aimed at ensuring public spaces can be enjoyed free from anti-social behaviour. They are not about stopping the responsible use of the night-time economy, or preventing young people from seeing their friends – but they do provide councils with another instrument to help deal with persistent issues that are damaging their communities.

PSPOs have not been welcomed by all, attracting some criticism over their introduction, or about how particular PSPOs have been implemented. As a result, in December 2017 the Home Office updated its statutory guidance on anti-social behaviour powers, according to the Anti-Social Behaviour, Crime and Policing Act 2014. The changes are reflected in this document. In light of the updated guidance, councils may find it useful to consider the current restrictions in their local area and whether the PSPO needs to be amended at the time of its renewal. It's important to note, that when used appropriately, proportionately and with local support, PSPOs can be a positive device that help to prevent anti-social behaviour, and can provide an effective response to some of the issues local residents and businesses face on a daily basis.

This guidance aims to set out the issues to consider where local areas are contemplating introducing a PSPO, and offers practical guidance on the steps to take if councils choose to do so. It should be read in conjunction with the Home Office's statutory guidance on the Anti-social Behaviour, Crime and Policing Act 2014.

Councillor Anita Lower

Deputy Chair and Anti-social Behaviour Champion
LGA Safer and Stronger Communities Board

Public Spaces Protection Orders

Legislative background

The Anti-social Behaviour, Crime and Policing Act 2014 introduced several new tools and powers for use by councils and their partners to address anti-social behaviour (ASB) in their local areas. These tools, which replaced and streamlined a number of previous measures, were brought in as part of a Government commitment to put victims at the centre of approaches to tackling ASB, focussing on the impact behaviour can have on both communities and individuals, particularly on the most vulnerable.

PSPOs are one of the tools available under the 2014 Act. These are wide-ranging and flexible powers for local authorities, which recognise that councils are often best placed to identify the broad and cumulative impact that ASB can have. The Act gives councils the authority to draft and implement PSPOs in response to the particular issues affecting their communities, provided certain criteria and legal tests are met.

Councils can use PSPOs to prohibit specified activities, and/or require certain things to be done by people engaged in particular activities, within a defined public area. PSPOs differ from other tools introduced under the Act as they are council-led, and rather than targeting specific individuals or properties, they focus on the identified problem behaviour in a specific location.

The legislation provides for restrictions to be placed on behaviour that apply to everyone in that locality (with the possible use of exemptions). Breach of a PSPO without a reasonable excuse is an offence.

Powers to create PSPOs came into force in October 2014. As well as enabling local authorities to address a range of different issues, the Orders replace Designated Public Place Orders (DPPOs), Gating Orders and Dog Control Orders.¹ Existing DPPOs, Gating Orders and Dog Control Orders which automatically become PSPOs (as of 20 October 2017).

Overview of Public Spaces Protection Orders

The Anti-social Behaviour, Crime and Policing Act 2014 provides a broad legal framework within which PSPOs can be implemented.

Orders can be introduced in a specific public area where the local authority² is satisfied on reasonable grounds that certain conditions have been met. The first test concerns the nature of the anti-social behaviour, requiring that:

- activities that have taken place have had a detrimental effect on the quality of life of those in the locality, or it is likely that activities will take place and that they will have a detrimental effect
- the effect or likely effect of these activities:
 - is, or is likely to be, persistent or continuing in nature
 - is, or is likely to be, unreasonable

¹ Replacing orders under The Criminal Justice and Police Act 2001, the Highways Act 1980 and the Clean Neighbourhoods and Environment Act 2005 respectively.

² This covers district councils, London Boroughs, county councils in an area where there is no district council in England (along with City of London and the Council of the Isles of Scilly) and county councils or a county borough councils in Wales.

- justifies the restrictions being imposed.

The Home Office statutory guidance re issued in December 2017 states that proposed restrictions should focus on specific behaviours and be proportionate to the detrimental effect that the behaviour is causing or can cause, and are necessary to prevent it from continuing, occurring or recurring.³

A single PSPO can be used to target a range of different ASB issues. Orders allow councils to introduce reasonable prohibitions and/or requirements regarding certain behaviours within the specified public area, and may also include prescribed exemptions.

As a minimum, each PSPO must set out:

- what the detrimental activities are
- what is being prohibited and/or required, including any exemptions
- the area covered
- the consequences for breach
- the period for which it has effect.

There are further specific provisions regarding some types of PSPO, which will be covered in detail below.

A PSPO can last for up to three years, after which it must be reviewed. If the review supports an extension and other requirements are satisfied, it may be extended for up to a further three years. There is no limit on the number of times an Order may be reviewed and renewed.

The legislation sets out a number of additional requirements for consultation and communication before an Order is introduced, once it is implemented and where it is extended, varied or discharged. PSPOs can be legally challenged under the 2014 Act on certain grounds.

Beyond this broad framework, detailed further below, councils can decide how best to implement PSPOs in their local areas. This guidance sets out some suggested

approaches based on good practice from around the country.

Using Public Spaces Protection Orders

Local partners have a vast range of tools and powers at their disposal to respond to concerns about anti-social behaviour in their locality, from measures aimed at tackling the causes of ASB, awareness-raising, through to enforcement.

Used proportionately and in the right circumstances, PSPOs allow local areas to counter unreasonable and persistent behaviour that affects the quality of life of its residents. They can send a clear message that certain behaviours will not be tolerated, and help reassure residents that unreasonable conduct is being addressed.

However, PSPOs will not be suitable or effective in all circumstances, and it is important to consider carefully the right approach for identifying and addressing the problem behaviour. This is especially important when the activities may also have positive benefits. Other options should actively be considered before a PSPO is pursued – and where a PSPO is used, it should be carefully framed and employed alongside other approaches as part of a broad and balanced anti-social behaviour strategy. Considering non-statutory solutions, perhaps delivered in partnership with community, civic or membership organisations may be equally valid in the right circumstances.

Choosing the right tool

Choosing the right approaches for responding to the ASB should start with identifying the specific issue or issues of concern, and considering what is likely to be the most targeted and effective response in the circumstances.

³ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/670180/2017-12-13_ASB_Revised_Statutory_Guidance_V2_0.pdf

Some issues may be adequately addressed using other tools. For instance, awareness-raising campaigns about the impact of certain activities on others, improved community engagement, or offering support to those exhibiting certain behaviours may be enough to address the ASB identified.

In some areas, codes of practice around certain practices such as busking⁴, or posters setting out ‘good behaviour’ associated with activities such as skateboarding, have provided effective solutions in responding to particular concerns.

Street fundraising for instance, is governed by an independently set Code of Fundraising Practice and the Institute of Fundraising provides a free service for councils to limit the location, number and frequency of fundraising visits. Around 125 councils have taken advantage of these voluntary agreements, rather than use PSPOs.

In other circumstances it may be more appropriate to use tools such as community protection notices (CPNs). CPNs are used against specific individuals responsible for causing harm, or for tackling particular problem premises, unlike PSPOs which create a broader ban covering a whole area. Similarly, in many cases existing legislation covering various forms of anti-social behaviour or public order may be adequate.

Feedback from councils suggests that effective consultation with partners, stakeholders and the wider community can help to identify the best way forward (see also support evidence and consultation, below).

“PSPOs aren’t the answer for everything – you need to start by looking at what the issue really is. Often there are easier and more effective tools for dealing with the problem.”

Cheshire West and Chester Council

Where local areas decide that introducing a PSPO may be appropriate, it should be noted that the most robust Orders directly address the detrimental behaviour, rather than activities which may not in themselves be detrimental or which target characteristics that might be shared by some of those responsible (or with the wider public). The Home Office’s statutory guidance reiterates that PSPOs should be used responsibly and proportionately, only in response to issues that cause anti-social behaviour, and only where necessary to protect the public.

There are also a number of practical considerations which should be borne in mind when choosing the right tool. PSPOs can be resource-intensive to introduce and enforce and there will need to be commitment from partners to ensure it can be implemented effectively.

Councils will need to be satisfied that where they choose to pursue introducing an Order as part of their strategy, they have met the requirements of the legislation. This is covered in detail in the following sections.

Introducing a PSPO

Where councils have identified that a PSPO may be a suitable response to a particular local issue, they will then need to consider how to ensure they meet the statutory criteria. This will include determining:

- the appropriate scope of the Order
- the area covered by the restrictions
- the potential impact of the proposals
- how each of the restrictions meets the legal test.

Councils will also need to consider how best the Order should be worded and establish an evidence base to support the proposals, incorporating a consultation process. Other issues, such as the practical implications around implementation and what is possible to enforce, will also need to be borne in mind.

⁴ See, for example, City of York Council: https://www.york.gov.uk/info/20081/arts_and_culture/1155/busking_in_york

Early engagement with partners and stakeholders can be useful in understanding the nature of the issue, how best to respond – and, if an Order is proposed, how it might be drafted. This is likely to require involvement, and pooling of information, from a variety of sources, including councillors and officers from across council departments (including, for example, community safety, environmental health, parks, equalities, legal), police colleagues and external agencies.

It is useful for local areas to seek early contact with interest groups when scoping their proposals, to help identify how best to approach a particular issue, before the formal statutory consultation takes place. For example, a local residents' association or regular users of a park or those involved in specific activities in the area, such as buskers or other street entertainers. An effective consultation process with a range of stakeholders will also help to assess the impact of the ASB and where an appropriate balance for restrictions on behaviour should lie (see supporting evidence and consultation, below).

“Engagement with representative groups early on was really constructive – they helped advise us on other legislation we needed to be mindful of, and helped us draft something that worked.”

Carmarthenshire County Council

Ongoing engagement with, and commitment from, partners will be crucial for introducing, implementing and enforcing a PSPO and ensuring there are resources available to support it.

Activity subject to an Order – overview

PSPOs can be used to restrict a broad range of activities. Under section 59 of the 2014 Act, local authorities must be satisfied on reasonable grounds that the activity subject to an Order:

- has a detrimental effect on the quality of life of those in the locality (or it is likely

that activities will take place and have such an effect)

- is (or is likely to be) persistent or continuing in nature
- is (or is likely to be) unreasonable
- justifies the restrictions being imposed.

PSPOs must set out clearly what the detrimental activities are. What may be regarded as ‘anti-social’ is a subjective concept, and similarly determining whether or not behaviour is detrimental and unreasonable can present some challenges and will require careful consideration.

Councils will need to assess how certain behaviours are perceived, and their impact – both on the community broadly, and on its most vulnerable individuals. Some areas have included an additional test locally that the behaviour needs to be severe enough to cause alarm, harassment or distress. Collating evidence that illustrates the detrimental impact of particular activities will be important (see supporting evidence and consultation, below).

When assessing what is ‘unreasonable’ activity, councils will need to balance the rights of the community to enjoy public spaces without ASB, with the civil liberties of individuals and groups who may be affected by any restrictions imposed. Further, some of those affected by possible restrictions may be vulnerable and councils need to look carefully at what impact the proposals might have on certain groups or individuals (see assessing potential impact and the Equality Act, below).

Appropriate restrictions

As set out above, the restrictions imposed by an Order must be reasonable, and either prevent or reduce the detrimental effect of the problem behaviour, or reduce the risk of that detrimental effect continuing, occurring or recurring. Ensuring that the prohibitions or requirements included in a PSPO are solid, easily understood and can withstand scrutiny is key.

Orders must state what restrictions are being imposed to either prohibit certain things, and/or require certain things to be done by those

engaged in specific activities. PSPOs are most effective and most robust to challenge where they are **tightly drafted and focus on the precise harmful behaviour identified**. Being clear on addressing the problem behaviour in an Order can help avoid the risk of unduly pursuing individuals who may not be causing any real harm.

Homeless people and rough sleepers

The Home Office guidance sets out that PSPOs should not be used to target people based solely on the fact that someone is homeless or rough sleeping, as this in itself is unlikely to mean that such behaviour is having an unreasonably detrimental effect on the community's quality of life which justifies the restrictions imposed. It suggests the council should consider whether the use of a PSPO is the appropriate response and if it will have a detrimental impact on homeless people and rough sleepers. Councils will find it useful to consult with national or local homeless charities on this issue, when councils are considering restrictions or requirements that could affect homeless people and rough sleepers.

Groups hanging around/standing in groups/playing games

It is important that any Orders put in place do not inadvertently restrict everyday sociability in public spaces. Restrictions that are too broad or general in nature may, for instance, force young people into out-of-the-way spaces and put them at risk. It is useful to consider whether there are alternative spaces that they can use. The Home Office guidance notes that people living in temporary accommodation may not be able to stay in their accommodation during the day and may find themselves spending extended time in public spaces. It's important to consider when putting in place any restrictions that public spaces are available for the use and enjoyment of a broad spectrum of the public, and that people of all ages are free to gather, talk and play games.

In the London Borough of Brent, residents and park users identified issues with public defecation, alcohol use, public disturbances and intimidation. The council introduced a PSPO targeting the cause of the ASB – groups congregating, attracted by offers of casual labour. The council was keen not to enforce against rough sleepers or job-seekers but instead outlaw the offering of employment within the area, and the running of an unlicensed transport service. The aim was to deter those seeking to exploit casual labourers and those profiting from bringing certain groups to the area.

Proposals should clearly define which specific behaviours are not permitted or are required, and any exemptions that might apply. Careful wording will help people to understand whether or not they are in breach once the Order has been implemented and give them an opportunity to modify their behaviour. It will also help to avoid any unintended consequences. Councils' legal teams should be able to advise on the precise wording to use.

Limitations

There are some limitations set out in the legislation regarding behaviours that can be restricted by PSPOs. Under the 2014 Act, local authorities must have regard to the freedoms permitted under articles 10 and 11 of the Human Rights Act 1998 when drafting, extending, varying or discharging an Order. These cover freedom of expression, and freedom of assembly and association respectively (although it is worth noting here that PSPOs might be considered appropriate for addressing aggravating behaviours such as the use of noise-enhancing equipment like amplifiers). Wherever proposals for an Order have the potential to impinge on the rights under articles 10 and 11, consideration must be given as to how to demonstrate that they satisfy the requirements of paragraph 2 in each of the articles.

Where a PSPO covers alcohol prohibition, section 62 of the 2014 Act lists a number of premises to which an Order cannot apply – such as licensed premises.

Further, there are some restrictions under section 63 on what action might be taken for a breach of an Order that prohibits consumption of alcohol (see enforcement and implementation, below).

Where Orders will restrict public rights of way, section 64 of the Act requires authorities to consider a number of issues, including the impact on those living nearby and the availability of alternative routes – and sets out some categories of highway where rights of way cannot be restricted. Councils may also conclude that PSPOs restricting access should only be introduced where the ASB is facilitated by the use of that right of way – otherwise it may be more appropriate to draft an Order focussed on the problem behaviour instead.

Some PSPOs have been introduced to address ASB linked with ingesting new psychoactive substances (NPS). The Psychoactive Substances Act 2016 introduces new legislation regarding the production and supply of NPS, but, unlike controlled drugs, does not criminalise the possession of substances alone.⁵ Effective implementation and enforcement of PSPOs that deal with the consumption of psychoactive or intoxicating substances will require particularly careful consideration. Wording of these Orders should be precise to avoid any unintended consequences, ensuring it is clear what substances are covered or exempted.⁶

Area subject to an Order

The Act and Home Office statutory guidance set out the types of land which can be subject to a PSPO, or where additional considerations or requirements apply (eg when undertaking the consultation process). The activity restricted by an Order must be carried out in a public place, which is defined in the legislation as ‘any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission’.

There may be some restrictions on the activities that can be prohibited on certain types of land (registered common land, registered town or village greens and open access land) which should also be considered. For instance, restrictions on access to registered common land may be subject to a separate consents process under The Commons Act 2006.⁷ Further, for Orders that restrict public rights of way, section 65 of the 2014 Act sets out certain categories of highway to which such an Order cannot apply.

For addressing behaviour on privately-owned open spaces, other approaches may be more effective and appropriate. Private landowners are responsible for behaviours which occur upon their land and where landowners can be identified and traced, councils should work with them to address problem behaviour. Where landowners do not engage, councils may utilise other tools and powers available to them, such as Community Protection Notices or Civil Injunctions.

In Oldham, the council has successfully worked with a group of landowners and residents to enable them to find their own solutions to improve security and reduce ASB.

Determining the extent of the geographical area covered by an Order will mean identifying what is proportionate in the circumstances and restricting activities only where necessary – ie only where the legal test is met. It may be difficult to demonstrate that the statutory criteria under section 59 have been met across an entire broad geographical area; evidence about the extent of the anti-social behaviour within a locality should be used to inform appropriate boundaries (see supporting evidence and consultation, below).

⁵ Unless in a custodial institution.

⁶ It may be useful to refer to The Psychoactive Substances Act 2016, which includes a list of substances that might be deemed to produce a psychoactive effect when consumed but which are exempt from the scope of the 2016 Act – for instance medicinal products, nicotine or caffeine.

⁷ Further information and links to additional guidance: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/364851/Public_and_open_spaces_information_note.pdf

In some cases of course it will not be appropriate to introduce broad-scale restrictions. When drafting an Order placing restrictions on dogs for instance, it should be considered that owners have a duty under the Animal Welfare Act 2006, to provide for their animal's welfare, which includes exercising them. In determining the area covered by restrictions, councils should therefore consider how to accommodate the need for owners to exercise their animals.

The area which the PSPO will cover must be clearly defined. Mapping out areas where certain behaviours **are** permitted may also be helpful; for instance identifying specific park areas where dogs can be let off a lead without breaching the PSPO.

Controlling the presence of dogs

The Home Office guidance encourages councils to publish a list of alternative sites which dog walkers can use to exercise their dogs without restrictions. Councils should also consult dog law and welfare experts, for example, vets or animal welfare officers and organisations affected by restrictions before seeking to a PSPO. It may be useful to consult the Kennel Club on these issues.

The Department for Environment, Food and Rural Affairs has produced guidance in the form of a practitioner's guide on a range of tools available to deal with irresponsible dog ownership, for example, the use of a Community Protection Notice.

Where parish and town councils wish to deal with dog control issues, they are advised to approach the relevant authority, including whether a PSPO would provide the means to address the issues being experiencing by the local community. If the principal authority is satisfied that the legal tests for the use of the power are met and that it is a proportionate response to the level of harm and nuisance being caused it should consider consulting on putting in place a PSPO.

Practical issues, such as effective enforcement and erecting signs in (or near) an area subject to an Order – as required by the legislation – should also be borne in mind when determining how large an area the Order proposals might cover.

Displacing behaviour

Notwithstanding the requirements outlined above, when defining the area restrictions should cover, consideration should be given as to whether prohibitions in one area will displace the problem behaviour elsewhere, or into a neighbouring authority. It is worth noting here that the legislation allows for Orders to address activity that 'is likely to' occur in that public place. Local areas can therefore consider whether there are any legitimate concerns that introducing an Order in one area, and not another, could simply move issues somewhere else – and thus whether it would be appropriate to extend into a larger area or adjacent street. Councils will however need to ensure that a proportionate approach is taken overall, and that there is evidence to support using a broader approach.

Where there are concerns that activity may be displaced into other areas, authorities should contact neighbouring councils to discuss managing any unintended consequences.

Order exemptions

The legislation allows for Orders to apply only in particular circumstances and may include certain exemptions. Restricting behaviours only at certain times of day, or on a seasonal basis, can help to balance the needs of different groups and may be easier to enforce. Orders might only cover times of day when the issue is particularly acute, or when the problem behaviour will have more of an impact on others. Similarly, some types of ASB can be seasonal in their nature, for example relating to school holidays or summer weather. It may be the case that only at certain times will the behaviour be regarded as sufficiently 'detrimental' to satisfy the legislative test.

Exemptions for particular groups may be appropriate. For instance, for PSPOs controlling the use of dogs, it is likely that

assistance dogs should be exempt; this will need to be explicitly stated in the wording of the Order.⁸ Exemptions might also cover particular circumstances where restrictions may or may not apply. Undertaking an effective impact assessment (see assessing potential impact and the Equality Act, below) should help to identify the consequences of a proposed Order on specific groups and therefore whether certain exemptions would be appropriate.

Assessing potential impact and the Equality Act 2010

It is important for councils to consider carefully the potential impact of a PSPO on different sections of their communities. In introducing an Order, councils must take care to ensure that they comply with the requirements of the public sector equality duty under the Equality Act 2010. The Equality Act requires public authorities to have due regard to a number of equality considerations when exercising their functions. Proposals for a PSPO should therefore be reviewed to determine how they might target or impact on certain groups.

Although it is not a specific requirement of the legislation, it is recommended that areas undertake an Equality Impact Assessment (EIA) to assess whether the proposed PSPO will have disparate impact on groups with protected characteristics.⁹ This process will help councils to establish any potential negative impacts and consider how to mitigate against these. This exercise will also help to ensure transparency.

Areas that have undertaken an EIA before introducing a PSPO have reported how useful this was¹⁰, providing an opportunity to give full and separate consideration to the effect that each of the prohibitions or requirements might have on those in particular groups, and

enabling areas to consider how they could minimise any negative consequences – both in terms of the scope of the proposals and in how they might be implemented. Undertaking an EIA before introducing a PSPO can help to inform how best to balance the interests of different parts of the community, and provide evidence as to whether or not the restrictions being proposed are justified – as required by section 59 of the 2014 Act.

Duration of PSPOs

Orders can be introduced for a maximum of three years, and may be extended beyond this for further three-year period(s) where certain criteria are met (see extension, variation and discharge, below). The proposed length should reflect the need for an appropriate and proportionate response to the problem issue. Some areas have introduced shorter Orders to address very specific issues, where it is felt that a longer-term approach is unnecessary.

Supporting evidence and consultation

Local areas will, of course, need to satisfy themselves that the legislative requirements are met before an Order can be introduced, and obtaining clear evidence to support this is important. Collating information about the nature and impact of the ASB subject to the PSPO are core elements of the evidence-gathering and consultation process and will help inform the council's view as to whether the requirements under section 59 of the Act have been fulfilled.

The evidence will need to be weighed up before authorities can determine whether or not it is appropriate and proportionate to introduce a PSPO at all, and if so, whether the draft proposals are suitable. It can be used to help shape the scope of the Order, including any exemptions – such as times of day when a behaviour might be prohibited – and can also help to determine what area the Order should cover and how long it should last. The most robust Orders will be supported by a solid evidence base and rationale that sets out how

⁸ This differs from some Dog Control Orders, which automatically excluded assistance dogs from restrictions.

⁹ The Equality Duty covers: age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief and sexual orientation. Marriage and civil partnership are also covered in some circumstances.

¹⁰ See example from Oxford City Council: <http://mycouncil.oxford.gov.uk/ieDecisionDetails.aspx?AllId=10095>

the statutory criteria for each of the proposed restrictions have been met, and demonstrates a direct link between the anti-social behaviour and the PSPO being proposed in response.

The nature of this evidence, and how it should be weighted, is largely down to councils to determine, although obtaining a range of data from different sources as part of this process will be particularly useful in informing decision-making, and may help to avoid challenge further down the line (see further evidence, below, for specific examples). The Act does however require that there is a consultation process before an Order can be made (and held again when an Order is extended, varied or discharged).

Statutory consultation – who to contact?

Before introducing, extending, varying or discharging a PSPO, there are requirements under the Act regarding consultation, publicity and notification (see also publication and communication, below).

Local authorities are obliged to consult with the local chief officer of police; the police and crime commissioner; owners or occupiers of land within the affected area where reasonably practicable, and appropriate community representatives. Any county councils (where the Order is being made by a district), parish or community councils that are in the proposed area covered by the PSPO must be notified.

There are additional requirements under the Act regarding Orders that restrict public rights of way over a highway (see below), but beyond this, and the broad requirements above, local authorities can determine for themselves what an appropriate consultation process might entail. However, this does provide an important opportunity to seek a broad range of views on the issue and can be invaluable in determining ways forward, establishing the final scope of the proposals and ascertaining their impact.

Encouraging open discussion as part of the consultation process can help to identify how best to balance the interests of different groups – both those affected by the anti-social

behaviour and those who will be restricted by the terms of an Order – and a chance to explore whether there may be any unintended consequences from the proposals; in particular, any adverse impacts on vulnerable people.

‘Community representatives’ are defined broadly in the Act as ‘any individual or body appearing to the authority to represent the views of people who live in, work in or visit the restricted area’. This gives councils the freedom to determine who best to contact given local circumstances and the scope of the proposals. Those who will be directly affected by the Order, or groups representing their interests, should be directly approached. Further, several areas have reported that they found it useful to actively seek out stakeholders who might oppose the proposals during their consultation.

In several areas early discussions with stakeholders who might be affected by a PSPO have proven very useful. This engagement, often before a more formal consultation process, not only provides an opportunity to discuss the anti-social behaviour and its impact on others, but also gives the council an in-depth understanding of stakeholders’ key concerns, and tests the impact that any restrictions on behaviour might have. This has helped scope the proposals and in some cases identified alternative ways of tackling the problem behaviour.

Identifying appropriate stakeholders to approach will obviously depend on the nature and scope of the PSPO in question. Alongside residents, users of the public space, and those likely to be directly affected by the restrictions, this might include residents’ associations, local businesses, commissioned service providers, charities and relevant interest groups.

The Kennel Club (via KC Dog) has been contacted by several councils looking to introduce PSPOs affecting dogs and their owners. Where an Order will restrict access over land, utility service providers should be included within the consultation process.

Consultation approaches

Councils should use a range of means to reach out to potential respondents, some of whom may be unable to feed back in certain ways, eg online. Local demographics and the characteristics of those who may be most affected by the ASB or the Order can also help to identify the best mechanisms for ensuring a comprehensive consultation process (for instance, using social media where young people may be particularly affected). Similarly, different tools may be utilised in various ways to enrich the information gathered – for instance, a survey of park users which is repeated at various times of day to cover a range of people using the public space.

Existing meetings such as ward panels may provide opportunities to discuss the issue and encourage more formal consultation responses. Securing written statements from those particularly affected, such as landowners, can be particularly useful in building the evidence base for supporting the introduction of a PSPO.

In Cheshire West and Chester their PSPO consultation not only asked respondents whether or not they found particular activities problematic, but also whether or not that behaviour should be addressed via a PSPO. By asking open questions that allowed for free comments, it provided an opportunity for respondents to give their views on what they felt should be a proportionate response to each specific issue identified.

An effective consultation should provide an overview of what the local issues are, set out why a PSPO is being proposed, and what its impact would be. Publishing details of the extent of the problem behaviour can assist respondents to understand why a PSPO is being considered and help inform views on whether it would therefore be an appropriate response.

The consultation should also provide sufficient means for respondents to oppose the proposals and may also be used to elicit

views on alternative approaches. Achieving a healthy response rate, with considered responses, will help to support the evidence base for introducing an Order and refuting challenge.

“The open consultation format was actually really useful in identifying new issues. We haven’t lost anything from the process; all these things have gone into action plans to try and sort out.”

Cheshire West and Chester

Examples of consultation methods from local areas include:

- online questionnaires
- postal surveys
- face-to-face interviews
- contact with residents’ associations
- focus groups with stakeholders and interest groups representing those who will be affected
- discussions with service providers working directly with affected groups
- discussions at ward panel meetings
- publicity via local press or social media
- publications in libraries and other public buildings
- on-street surveys
- drop-in sessions in the area subject to the PSPO.

Surveys or questionnaires have been an integral part of councils’ consultation processes for PSPOs and provide a chance to test the extent to which the proposals satisfy the statutory requirements under section 59. The questions might explore:

- what effect the activities in question have on residents, businesses and visitors – and whether this is detrimental

- how safe respondents feel and what impacts on this
- how often problem behaviours are personally encountered by individuals
- when and where problems occur
- whether the behaviour is so unreasonable that it should be banned.

Feedback from some areas suggests that seeking expert advice on drafting questions and undertaking consultations can help ensure that questions are appropriately phrased, clear and objective.

There are no statutory requirements about the length of the consultation process. However it should be ensured that its duration allows sufficient time to meaningfully engage with all those who may be impacted by the Order, taking into account for instance any holiday periods that may affect response rates – this may take several weeks or even months. Some issues may require time to fully explore and understand – councils should not be reluctant to extend the initial consultation period if it is clear that this would be beneficial in the longer-term.

Additional requirements for PSPOs restricting public rights of way

In the case of Orders restricting access over public highways (eg through the installation of gates), the Act sets out specific additional requirements for the consultation process. The council must notify those who may be potentially affected by the Order, let them know how they can see a copy of the PSPO proposals and when they need to submit any responses, and is required to consider any representations made. Councils must also consider the effect of the restrictions on occupiers of premises adjacent to or adjoining the highway, on other people in the locality and, where this is a through route, whether a reasonably convenient alternative is available. These considerations should include, for example, access for emergency services or utility companies.

Achieving support from the local community for these types of Orders is particularly

important for ensuring their success; if gates are regularly left open by residents then it is unlikely that the ASB will be addressed.

In Oldham, a two-stage process is used for consultation for PSPOs that restrict access over public highways.

After local discussions it was found that often directly-affected properties were occupied by transient residents who were less likely to respond to a consultation process. This negatively impacted upon settled residents as non-responses were not counted towards the approval rate for schemes and failure to reach the agreed approval rate resulted in proposals not being progressed any further.

Working with residents and councillors, the policy was amended and now states that if, after two contacts, there is no response from a household directly affected by the proposal, and in the absence of a clear objection, the default position becomes support for the proposed Order, thus achieving a much higher level of support for the proposals. In order to achieve a balance the approval rate required to move to the next step of broader consultation was increased to 90 per cent.

Consultation outcomes

Consultation responses will clearly require some analysis once they are collected. Councils might consider examining the demography of respondents to the consultation. This can help to gauge whether they are, for example, residents or visitors, and can be useful in determining who is likely to be impacted most by either the problem behaviour or restrictions on behaviour. This can be useful in helping to shape the final Order provisions.

“The consultation allowed us to measure the fear of crime – often things are not reported and the statistics don’t show this.”

Cheshire West and Chester Council

Councils may wish to publish the outcomes of their consultation process, and other supporting evidence, in the interests of transparency (subject to data protection requirements).

Further evidence

As noted above the 2014 Act requires local authorities to formally consult with the police and the police and crime commissioner (PCC) – and there should be further engagement with relevant lead officers from the police to help build the evidence base and identify the potential impact of an Order. Early engagement with and support from police partners is likely to be key in introducing an Order. As well as assisting with identifying the problem behaviour and therefore the scope of any responses, this can also help to draw out some of the more practical implications of introducing an Order, such as how it will be enforced – which may shape how the PSPO is drafted.

Alongside eliciting views from the police and PCC, there may be a number of additional sources of information that help to inform decision-making and support (or oppose) the introduction of an Order or specific prohibitions. These might include:

- the community safety partnership's strategic assessment
- police data on crime and anti-social behaviour incidents (including the impact of some problem behaviours, such as excessive drinking)
- hospital data on ingesting new psychoactive substances
- calls to 101
- calls to council services reporting incidents
- residents' logs and photographs of anti-social behaviour
- mapping of problem areas
- data on the effectiveness of previous Gating Orders or Dog Control Orders
- CCTV footage of incidents
- reports from council staff such as park wardens and cleaners.

Collecting data covering a prolonged period may help to satisfy the legislative requirement that the activities subject to the draft Order are persistent. Some areas have collated evidence covering a two year period in order to demonstrate this.

Political accountability, scrutiny and sign-off

Within the confines of the framework outlined above (and subject to legal challenge), councils have the freedom to determine their own procedures for introducing a PSPO, ensuring that the statutory requirements have been met and giving final approval for an Order to go ahead.

Close involvement of councillors and ensuring political buy-in throughout the implementation process are key. This provides political accountability for decisions taken – which is particularly important if the proposals may attract some opposition, and where insufficient member involvement may lead to challenge. Political support is also important to ensure that sufficient resources will be made available to implement and enforce the PSPO throughout its duration. Many areas have agreed that final approval and sign-off of PSPOs should be undertaken at cabinet/ executive or Full Council level.

In ensuring that the requirements under section 59 of the 2014 Act have been satisfied, councillors will have a significant role to play in unpicking what might be regarded as unreasonable and detrimental behaviour in the locality and what would constitute reasonable restrictions or requirements.

Discussions at senior political level by those who understand their local areas best, will help to ensure that the views of all parts of the community are reflected, and find an appropriate balance between the interests of those affected by the ASB and those likely to be affected by the proposed restrictions.

Councillors will also have an important role in examining the processes used in drafting the proposals. This will include analysing the outcomes of the consultation process and other supporting evidence offered to satisfy the statutory criteria, and determining whether, on balance this provides sufficient grounds to proceed (it should be noted here the need to ensure compliance with data protection legislation when sharing this information).

Several areas have used overview and scrutiny committees to examine draft Orders and challenge proposed ways forward. This adds a further element of democratic accountability and helps to ensure that decisions made are sound and transparent. In several cases, involvement from scrutiny committees has helped to focus the scope of Orders proposed.

Committees provide a useful mechanism to test the proposals and their potential impact, and the evidence base for introducing them; front-line councillors can provide different perspectives and may also offer suggestions for alternative approaches.

Suggested questions for overview and scrutiny committees

What evidence is there that the anti-social behaviour is or is likely to be persistent, detrimental and unreasonable?

Why is a PSPO being proposed to address this issue or issues?

Is the proposed restriction proportionate to the specific harm or nuisance that is being caused?

What alternative approaches are available and why is a PSPO appropriate in these circumstances?

Will the proposals alleviate each of the problem behaviours?

Have exemptions been considered?

What might be the unintended consequences for each aspect of the

PSPO?

What will be the impact on different groups? Has an equalities impact assessment been undertaken and what were its findings? What can be done to mitigate against any negative consequences?

How have the consultation outcomes and other evidence collated been taken into account?

How will the PSPO be enforced for each restriction/requirement? Are there sufficient resources to do this effectively?

Enforcement and implementation

Enforcement protocols

As noted earlier, issues regarding some of the more practical aspects of implementation and enforcement of PSPOs should be borne in mind from the beginning of the planning process – and may help shape the scope and wording of the Order itself. Further, effective implementation of a PSPO is likely to be part of a broader strategic approach that includes a number of different initiatives to tackle the problem issues.

Beyond this, local areas will want to develop specific protocols regarding enforcement action, before the Order is implemented. These protocols should incorporate expert input on the issues related to the ASB in question, and, recognising that there may be other options available to address a particular ASB incident, provide guidance on what might be the most appropriate legislative (or other) tool to use in different circumstances. Some areas have developed a process map to provide a step-by-step diagram to agreed enforcement procedures.

Protocols should also cover what should be done in the event of a breach. It is an offence under section 67 of the 2014 Act to breach an Order without a reasonable excuse. In the case of Orders that prohibit alcohol

consumption, where it is reasonably believed that a person has been or intends to consume alcohol, it is an offence under section 63 either to fail to comply with a request not to consume or to surrender alcohol (or what is reasonably believed to be alcohol or a container for alcohol).

Procedures should therefore consider circumstances where there may be a 'reasonable excuse' for breaching the Order, for instance a medical reason for public urination (such circumstances may be covered explicitly as exemptions in the wording of the Order). Protocols also provide a further opportunity to recognise that some of those responsible for the behaviour covered in the Order may themselves be vulnerable and in need of support; they should therefore include referral pathways where there are any safeguarding concerns, and signpost to other services.

In the London Borough of Brent enforcement of the PSPO is shared between the police and the council with joint visits from UK Border Agency and Brent's employment and skills team, who seek to offer routes into legitimate employment for jobseekers.

Who is responsible for enforcement will vary across areas. In some, enforcement will be undertaken by council officers – this may include ASB officers, housing officers, park wardens, etc – and in others this may be undertaken in partnership with police officers and/or police community support officers. Protocols may therefore require agreement regarding patrolling activity and reporting arrangements – some of which will be informed by the specific behaviour in question. Some authorities have also encouraged local people to report incidents of possible breaches, which can help shape enforcement responses going forward, particularly around timetabling patrols.

“Local communities have helped to identify the peak periods for problems in the park – patrol times can then be planned accordingly.”

Coventry City Council

As well as developing protocols, training will help delegated officers to understand how the Order should be enforced in practice. In Cheshire West and Chester, this included training from the ambulance service to reinforce that the safety of individuals was paramount and help officers understand, for instance, the possible dangers of ingesting psychoactive substances.

Some areas have used a 'soft-launch' period as the Order becomes live. This provides an opportunity to test protocols with officers before full implementation. It also gives councils the chance to raise awareness of the new pending prohibitions – and demonstrate that some behaviours have been causing concern. However areas should consider how to manage any risks if implementation is delayed.

Fixed penalty notices

As noted above, it is an offence under section 67 to breach an Order without reasonable excuse, and where Orders prohibit alcohol consumption, it is an offence under section 63 to fail to comply with a request not to consume or to surrender alcohol (or what is reasonably believed to be alcohol/a container for alcohol).

Under the Act, authorised officers have the power to issue fixed penalty notices (FPNs) to anyone they reasonably believe is in breach. Section 68 sets out a framework for issuing FPNs but councils will also have their own broader protocols around issuing fines to which they should also refer – this might cover, for instance, whether or not fines are issued to those aged under 18. Protocols should also cover when it would be appropriate to pursue an individual further where an FPN is issued but remains unpaid after the prescribed period. In addition, there will be a need to plan for practical elements before implementation, such as developing

specific FPN templates for dealing with PSPO breaches.

“There was some concern that a £100 FPN might not be an adequate deterrent and that a broader financial range for FPNs, up to £400, would be preferred. However, the current arrangements do allow for a summons to court to be issued for persistent offenders where multiple FPNs have been issued.”

Royal Borough of Kensington and Chelsea

It will not always be appropriate to issue FPNs. Warnings may often be sufficient, and in many areas this is the initial preferred response. In some, advice sheets are handed out in the majority of cases, informing recipients that their behaviour breaches an Order, giving them the chance to comply or providing an opportunity for them to be moved on. Councils have reported that in most cases this has been sufficient to address the behaviour and there has been no need to take further action.

Publication and communication

Using an effective communication strategy to raise awareness about a PSPO is important throughout the implementation process, and should incorporate contact with partners and stakeholders as well as members of the public. Successful communications can help with informing the appropriate scope of an Order, engaging members of the community and others during the consultation process, and ensuring effective enforcement.

The legislation also sets out a number of requirements. Draft proposals for a PSPO must be published as part of the consultation process. For new or varied Orders the text must be published; for extended or discharged Orders the proposal must be publicised.

Home Office guidance suggests the close or direct involvement of elected members will help to ensure openness and accountability. The guidance suggests this can be achieved, for example, where the decision is put to the Cabinet or full council.

The area covered by the proposals must be well defined; publishing maps of the affected area will help to clarify where behaviours are controlled. There are requirements in the legislation for notifying any parish or community councils in the affected area, and for notifying the county council where the Order is being made by a district council. There are further requirements for formal notifications regarding Orders that restrict access to public highways (see also supporting evidence and consultation, above).

Regulations set out additional requirements regarding the publication of PSPOs¹¹ that have been made, varied or extended, stipulating that these must be:

- published on the local authority’s website
- erected on or adjacent to the place the Order relates to, and is sufficient to draw attention, setting out the effect of the Order and whether it has been made, varied or extended.

The same requirements apply where an Order has been discharged, and must also include the date at which it ceases to have effect.

Signs publishing the Order in the affected locality do not necessarily need to set out all the provisions of the Order, but rather state where this information can be found. Multiple signs are likely to be required, particularly where the Order covers a large area.

These requirements should be regarded as a minimum and a range of options should be explored; in practice it is helpful to use a variety of means to help publicise the Order to raise awareness, avoid confusion and give people the opportunity to comply.

¹¹ Statutory Instruments 2014 no. 2591 The Anti-social Behaviour Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders)

Effective communication helps people understand what behaviours are expected in particular areas, and reduces the need to rely on enforcement measures.

In some areas leaflets have been printed detailing the new prohibitions in different languages, for distribution by officers. Similarly the nature of the Order itself may suggest some communication channels may be more effective than others. For instance, an Order covering the ingestion of legal highs at a music festival in Chelmsford was promoted via a social media campaign to reflect the demographics of those most likely to be attending the festival and who are likely to be reached via these means.

Effective communication with residents and partners throughout can also help manage expectations about the impact of introducing an Order. Putting a PSPO in place can be a lengthy process and it is important to maintain communication about when it will come into effect and/or be enforced and if other measures are being utilised in the interim. In addition this can help residents to understand that simply having an Order in place is unlikely to resolve an issue overnight – which may be even more important where there has been media interest in the proposals.

Legal challenge

PSPOs can be challenged under the Act on the grounds that the local authority did not have the power either to make the Order or include particular prohibitions or requirements, or that proper processes had not been followed as prescribed by the legislation. Challenges must be made to the High Court within six weeks of the Order being made, and by an individual who lives in, regularly works in or visits the restricted area. The High Court can uphold, quash or vary the PSPO and may decide to suspend the operation of the PSPO pending the verdict. As with all orders and powers, the making of a PSPO can be challenged by judicial review on public law grounds within three months of the decision or action subject to challenge.

Extension, variation and discharge

A PSPO can be made for a maximum duration of up to three years, after which it may be extended if certain criteria under section 60 of the Act are met. This includes that an extension is necessary to prevent activity recurring, or there has been an increase in frequency or seriousness of the activity. Extensions can be repeated, with each lasting for a maximum of three years. Effective evaluation of Orders will be important when determining whether any extensions or variations would be appropriate.

Councils should consider carefully what length of time would be reasonable and proportionate given the nature of behaviour in question and the impact of the restrictions being posed – byelaws, which are permanent, may be more appropriate if the issue concerned is unlikely to be transient. The impact of the original Order should be evaluated before any extensions are approved – where ASB has been completely eradicated as a result of a PSPO, it is proportionate and appropriate to consider the likelihood of recurrence of problems if the Order is not extended.

Orders can also be varied under the Act, by altering the area to which it applies, or changing the requirements of the Order. The same legislative tests of detrimental impact, proportionality and reasonableness need to be satisfied, as set out earlier in this guidance. Similarly, PSPOs can be discharged before their original end date.

Where PSPOs are varied, extended or discharged, there are statutory requirements regarding publishing or publicising this and councils are required to undertake a further consultation process (see publication and communication, above). Similarly, under section 72 councils are required at all of these stages to have particular regard to articles 10 and 11 of the Human Rights Act 1998 (see limitations, above).

In light of the updated statutory guidance from the Home Office on anti-social behaviour powers, published in December 2017, councils should review their PSPOs

when they are up for renewal and take into account these recent changes to the statutory guidance.

protocols are being used and whether practices are appropriate and consistent.

Existing Designated Public Place Orders, Gating Orders and Dog Control Orders

Any DPPOs, Gating Orders or DCOs are automatically treated as if they were provisions of a PSPO. The transitioned Order will then remain in force up to a maximum of three years (2020) from the point of transition.

There is no requirement in the legislation for councils to undertake a new consultation process where existing DPPOs, Gating Orders or DCOs automatically transition, although local areas may consider reviewing these current Orders ahead of this time to ensure their provisions meet the legal tests for PSPOs. It is recommended that councils publicise any PSPOs that replace existing DPPOs, Gating Orders or DCOs to help raise public awareness.

Local councils have the discretion to consider what changes to signage are needed to notify members of the public. Any extension, variation or discharge of a transitioned PSPO would mean the local councils should carry out the necessary consultation and publication of the proposed Order.

Evaluating impact

As noted above, evaluating the impact of a PSPO will be important when considering extending or varying an Order, however assessing the effects, and effectiveness of the Order, should form part of ongoing performance management. Several areas have introduced procedures to monitor the impact of an Order at regular intervals.

A thorough evaluation will help to determine if the PSPO has addressed each aspect of the problem behaviour, whether discharging or varying the Order would be appropriate – and why – and what any variations might look like. Crucially it will also help measure the impact on people, including identifying any unintended consequences of the provisions. It should consider whether there has been any displacement of the issue to other areas and might also look at how enforcement

Resources

Anti-social Behaviour, Crime and Policing Act 2014: Reform of anti-social behaviour powers – Statutory guidance for frontline professionals

Home Office, December 2017

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/670180/2017-12-13_ASB_Revised_Statutory_Guidance_V2_0.pdf

A councillors' guide to tackling new psychoactive substances

LGA 2016

<http://www.local.gov.uk/councillors-guide-tackling-new-psychoactive-substances>

A guide to community engagement for those contemplating management on common land

Natural England, 2012

www.historicengland.org.uk/images-books/publications/common-purpose/

Dealing with irresponsible dog ownership: Practitioner's manual

Defra, 2014

www.gov.uk/government/uploads/system/uploads/attachment_data/file/373429/dog-ownership-practitioners-manual-201411.pdf

Ending rough sleeping by 2012:

A self-assessment health check

Department for Communities and Local Government, 2009

<http://webarchive.nationalarchives.gov.uk/20120919132719/http://www.communities.gov.uk/documents/housing/pdf/endroughsleeping.pdf>

Reform of anti-social behaviour powers: Public and open spaces

Home Office information note, Home Office, 2014

www.gov.uk/government/uploads/system/uploads/attachment_data/file/364851/Public_and_open_spaces_information_note.pdf

Legislation

Anti-social Behaviour, Crime and Policing Act 2014

www.legislation.gov.uk/ukpga/2014/12/part/4/chapter/2

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

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

Human Rights Act 1998

www.legislation.gov.uk/ukpga/1998/42/contents

Psychoactive Substances Act 2016

www.legislation.gov.uk/ukpga/2016/2/contents



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A Dog Management Strategy for Burnham Beeches.

Achieving a balance for all site visitors.

Section 1. Statement of intent.

The City of London's Epping Forest and Commons Committee approved the introduction of Dog Control Orders (DCOs) at Burnham Beeches National Nature Reserve (NNR) in 2014. Under the Anti-social Behaviour, Crime and Policing Act 2014 these DCOs have effect as if they were Public Spaces Protection Orders (PSPOs) from 20 October 2017. In 2017 & 2020 The Epping Forest and Commons Committee resolved to extend their effect for a further three years from 1 December 2017 and 1 December 2020. This document sets out the reasons for maintaining the PSPOs and how the City of London will enforce them.

Section 2. Aim.

The aim of the PSPOs at Burnham Beeches is to deal effectively with dog related issues that have had a detrimental effect on the quality of life for those visiting the site and have been of a persistent and unreasonable nature over many years. The PSPOs aim to encourage responsible dog ownership and thereby:

- i. Ensure a fair and proportionate balance between the needs of visitors so that all can enjoy the site
- ii. Minimise the number of dog related incidents and complaints recorded each year
- iii. Ensure the efficient use of local resources to minimise the impact of dog control management on the resources available to manage the site
- iv. Assist the City of London to meet its obligation under the Open Spaces Acts 1878 and 2018, Natural Environment and Rural Communities Act 2006, and other legislation.
- v. Assist the City of London in its legal duty to protect and conserve the ecology and biodiversity of Burnham Beeches.

Section 3. Background.

The 540 acres known as Burnham Beeches was acquired 'in perpetuity' by the City of London between 1880 and 1990 under the City of London Open Spaces Act 1878. The site is highly valued and protected both as a public open space and for the extraordinary range of rare habitats and species found within its boundaries. The Beeches was declared a **Site of Special Scientific Interest** in 1951, a **National Nature Reserve** in 1993 and a **Special Area of Conservation** (EU Habitats Directive, 1992) in 2005.

For the last two decades, the principle aim of the management of Burnham Beeches has been to protect the site from the growing impact of urbanisation at its fringes. In this manner it has helped to protect and enhance the quality of life of those who visit the site or live in its locality.

The City of London Corporation is required to maintain a balance between the needs of the various site users. Burnham Beeches welcomes around 551400 visits a year (2015/16), an increase of 1.9% from the previous estimate of 2012/13. In 2020/21 visits are expected to exceed this figure due to the impact of the coronavirus pandemic. Visits to the site are currently increasing by around 4,000 visits per annum and are likely to continue to do so for the foreseeable future due to the considerable development taking place and planned in the local area. As such, pressure on the site will only increase over the next 20 years. Dog

walking is a popular activity at the Beeches with around 150000 dog visits to the site each year. This equates to approximately 681 dog visits for every hectare of the Reserve.

The City of London recognises the benefits of dog walking, particularly as a healthy activity that encourages physical and mental wellbeing. Dog walkers also contribute to the site via income generated through car park charges and site donations.

To help balance the needs of dog walkers with those of other visitors and the demands of site management the City of London to date has:

- Consulted upon and introduced a local dog walking code including agreement on the definition of ‘effective control’
- Consulted upon and produced an overarching Open Spaces ‘Dog Walking Policy’
- Enforced the site’s byelaws when dog walking has led to serious incidents such as harm to people, other dogs, wildlife and livestock
- Conducted site surveys to investigate the impact of dog walking on the site and its users
- Determined an accurate measure of the number of dog visits to the site each year
- Recorded the number of dog related complaints and incidents each year
- Consulted upon and introduced DCOs on 1 December 2014
- Actively monitored and publicly reported on the impact of DCOs on dog-related incidents at Burnham Beeches
- Conducted a survey to establish visitor attitudes to the continuation of measures introduced under DCO’s in 2014 at Burnham Beeches for a further three years as a Public Spaces Protection Order from 1 December 2017
- Conducted a wide-ranging public consultation on the continuation of the PSPOs, confirmed in 2017, for a further 3 years from 1st December 2020

Section 4. The current situation and evidence of need.

Surveys indicate between 35% and 40% of visits to Burnham Beeches include a dog. It is important to note that many dog walkers visit the site several times per week / day; when viewed in terms of numbers of individual visitors to the site, dog walkers represent a small minority of the annual total of individual visitors. However, due to their higher visit frequency this relatively small group of regular site users has the potential to have a disproportionate impact on other site users.

Voluntary Dog Code (2003-2014)

A voluntary dog code, providing guidance for visitors bringing a dog to the site, was introduced following a detailed visitor consultation in 2003. The code asks visitors with a dog to do a few simple things: to always clear up after their pet when it fouls; to ensure their dog always wears a collar with an ID/contacts tag on it; to ensure their dog is always kept under effective control; and to ensure their dog is not allowed to disturb or chase other visitors, wildlife or livestock. The consultation also defined what site visitors viewed as being under effective control i.e. *a dog that is either kept in its owners sight at all times and returns immediately when called or is kept on a lead.*

In 2007 a new café, toilet block and information centre were provided for visitors. Small voluntary dog exclusion and dogs on-lead zones were introduced around these buildings where so many different users were focused into a small area and where food was being bought and consumed.

Despite the introduction of the code, poor dog behaviour continued to head the list of formal complaints from site users. Generally, these related to a visit that had been spoilt in some way. In addition the site’s Rangers recorded and dealt with between 175 – 250 dog related incidents each year: many were of a nuisance nature but some were more serious in their impact on visitors or wildlife. It is important to note that this data does not provide an absolute number of incidents occurring on the site each year, simply a

standardised, measurable and repeatable sample that can be compared over the years. Incidents fall into the following categories:

- Dog faeces found on site (bagged or un-bagged and despite the availability of bins)
- Dogs seen running loose around the site without the owner in sight
- Dogs approaching visitors and causing nuisance
- Dogs being seen to chase (and sometimes kill) wildlife and livestock
- Physical harm caused to people such as bites or broken limbs
- Harm caused to private property such as clothing and personal equipment
- Dogs attacking other dogs and causing harm
- Excessive barking
- Dogs stealing food from picnics
- Poor control of dogs by their owners
- Dogs being killed or injured on the public roads that run through the site
- Aggressive responses from dog owners when their pet's behavior is challenged
- Large groups of dogs being walked by a small number of owners (this includes professional dog walkers using the site for business purposes)

The City of London is aware that many dog walkers strive to meet the standards required by the site's dog walking code and respected the voluntary on-lead/exclusion zones around the cafe. However, this evidence suggests that a significant minority struggle to meet these standards without the use of more formalised rules to support them.

Existing bylaws.

Burnham Beeches has its own bylaws and these are enforced under the Local Government Act 1972. As far as dog walking is concerned the site's bylaws are limited, requiring only that:

- Dogs wear a collar and ID tag
- Dogs are kept under 'effective control'
- Dogs do not worry or chase birds or animals around the ponds

Dog Control Orders (2014-2017)

In December 2014, five DCOs were introduced at Burnham Beeches covering the same issues and geographical areas as the PSPOs. The DCOs were introduced to reinforce and support the site's bylaws and the voluntary dog code on fouling, confirm the voluntary dogs on-lead and exclusion zones directly around the café, and support the need for dogs brought to the site to be under effective control. The DCOs created a dogs on-lead area where all visitors, non-dog walker and dog walker alike, can be certain how a dog will behave and in the rest of the site (where dogs can be off lead), provide a method of enforcing the need to put a dog on a lead if it cannot otherwise be kept under effective control.

Since the DCOs were introduced, there has been a dramatic reduction in dog mess found on the site. The effect is most marked in the areas where dogs are required to be on a lead at all times. That having a dog on a lead improves the owner's awareness of when the dogs foul and therefore likelihood of the foul being cleared is perhaps no surprise. It is interesting to note that there is some indication that more dog mess is left in the off-lead area in the winter period when daylight hours are shorter. This effect may be due to the relative difficulty of monitoring dog behavior in darker conditions, perhaps indicating a further benefit concerning the use of leads under these conditions.

There has been a sharp decline in the number of both nuisance and serious dog issues dealt with and reported each year. This decline is reflected across the whole site.

There has also been a sharp decline in serious dog related incidents on site with no serious ‘dog not under effective control’ incidents in the dogs on-lead area. All that have occurred have done so in the dogs off-lead areas.

The number of lost dogs reported or dealt with by staff has also decreased.

The use of DCOs at Burnham Beeches resulted in reductions in ‘nuisance’ and serious ‘dogs out of control’ incidents in a way that was never achieved through the voluntary code and use of site bylaws. Those reductions have continued with the adoption of PSPOs and indicates that the continuation of the controls initially introduced by DCOs is necessary through the use of PSPOs.

The Burnham Beeches Ranger Service continues to proactively encourage good behaviour by visitors, be it dog walking or any other of the wide range of activities that occur.

To support dog walkers, The Beeches:

- provides a dog waste removal service, including dog waste bins and bags, at no cost to visitors
- provides and maintains a specific dog-friendly seating area at the Beeches Café
- provides a free ‘walking your dog at Burnham Beeches fact sheet’ so that dog walkers understand the dog controls
- advertises the local dog walking code via its website, in newsletters and on public notice boards
- organises a number of dog-friendly events

Visitor Access Strategy

Burnham Beeches has the highest density of visitors per hectare of any site of high nature conservation value in England and Wales.

1: Burnham Beeches (6.9 visitors/Ha/day)
2: Richmond Park (6.3/Ha/day)
3: Sherwood Forest (5.3/Ha/day)

Given the City’s permanent and dual role to ensure the enjoyment of the site by visitors *and* to protect its natural aspect, it is necessary to do all that is reasonably possible to reduce the risk of long-term harm to the Reserve. In recent years the site’s Access Strategy has mitigated these impacts as far as possible by concentrating visitor activity to the most robust parts of the site thereby providing an area elsewhere on the Beeches for people and wildlife to co-exist. This has been achieved by closing two miles of internal roads (once used during daylight as part of the public road network) and repositioning and improving facilities such as car parks, site café, toilets and information point near the Main Common. The PSPO zones (see map on page 6) to control where dogs may and may not be on a lead built on this extensive body of work.

The impact of ‘urban effects’ (housing development etc.) and potential links to the decline in quality of several habitats at Burnham Beeches also remains a concern with particular reference to dog fouling and the levels of phosphorous and nitrogen deposited on to otherwise nutrient poor soils. Other issues also have an impact when considered in combination with the aforementioned, such as the background stress of climate change, increased drought, changes to air quality, disruptions to site hydrology, trampling and soil compaction. All of these factors give added relevance to having an effective visitor access strategy.

Section 5. Summary of consultations with the community to date.

Dog Control Order Survey 2013.

The purpose of the 2013 visitor survey was to inform the final delivery of DCO’s across the site and ensure that they were demonstrably proportionate to need

Visitor Numbers Site Survey 2015/ 16

This survey indicated that:

- 551 400 visits to the Beeches take place each year.
- 150 000 dog visits to the Beeches occur each year (over 400 dog visits each day).
- 162 000 visits were made by children each year (as opposed to around 96 000 visits /year in 2010/11 pre DCO and car park charges).
- The vast majority of visitors, including dog walkers, arrive at the site in the dogs off lead area and have a choice as to whether they wish to stay there or proceed into the dogs on lead area.

Public Spaces Protection Orders Survey & Consultation 2017

The purpose of the 2017 visitor survey was to inform the delivery of PSPOs across the site and ensure that visitors and the local community supported the need for such orders to deal with the problems caused by the activities of dogs and those in charge of them whilst achieving the aims set out in Section 2 of this document. See section 16 for summary of survey results.

Public Spaces Protection Orders consultation 2020

A public consultation exercise was carried out to meet the Statutory requirements set out in Section 72 of the Anti-social Behaviour, Crime and Policing act 2014 to inform the Epping Forest and Commons Committee decision as to whether to extend the PSPOs for a further three years in December 2020. See section 16 for a summary of the consultation process and response.

Section 6. Description of powers to be used.

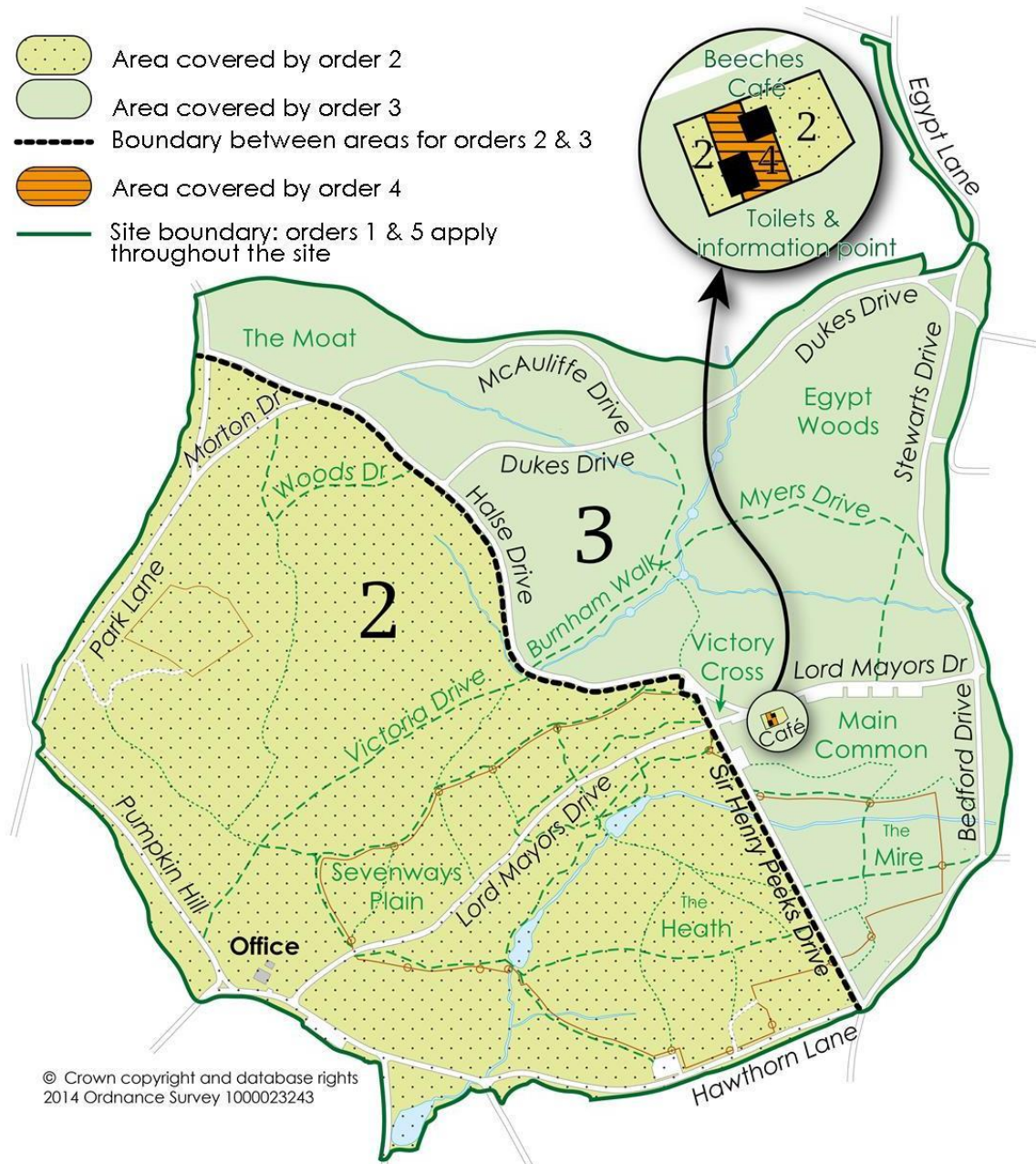
The Anti-social Behaviour, Crime and Policing Act, 2014 provides powers to tackle a range of antisocial-behavior issues including those relating specifically to dogs. The Public Spaces Protection Orders made by the City cover a wide range of common dog walking related issues and offer an offender the opportunity to avoid an appearance at magistrates' court by the acceptance of a Fixed Penalty Notice (FPN). Should that opportunity be declined by the offender (either at the time of the offence or by failure to pay the fixed penalty notice) then the matter will be taken to magistrates' court where a fine of up to £1000 is possible plus costs.

Section 7. Areas covered by the Public Spaces Protection Orders at Burnham Beeches.

- Order 1.** Failing to remove dog faeces. Applies to 100% of the site.
- Order 2.** Not keeping a dog on a lead (max length of lead 5m). Applies in the areas marked **2** on the map
- Order 3.** Not putting and keeping a dog on a lead when directed (told) to do so by an authorised officer. Applies in the area marked **3** on the map. Maximum lead length of 5m.
- Order 4.** Permitting a dog to enter land from which dogs are excluded. This applies in the area marked **4** on the map i.e. the immediate vicinity of Burnham Beeches café.
- Order 5.** Take more than the specified (allowed) number of dogs (which a person may take) onto land. The specified number of dogs is a maximum of 4 and applies to 100% of the site.

The areas where these apply are shown on **Map 1** (Burnham-Beeches-PSPO-Map) and are identical to those covered by the 2014 – 17 DCOs.

Map 1 (Burnham-Beeches-PSPO-Map)



Section 8. When the powers will be used.

The City of London intends that the Public Spaces Protection Orders described above will apply every day throughout the year. The Act allows the City of London to prosecute in the magistrates' court, those that are suspected of an offence against a Public Spaces Protection Order. The Act also gives the power to the City of London to authorise staff to issue fixed penalty notices (FPNs) to alleged offenders as an alternative to prosecution in the magistrates' court.

Section 9. Setting the levels of fixed penalty and payment options.

The City of London may specify the amount of a Fixed Penalty for orders it has made. It may also decide to provide a discount for early payment. This Dog Management Strategy defines those amounts as follows:

1. The amount for each offence will be £80.
2. The amount payable shall be reduced to £40 if paid within 10 days of the offence.

Section 10. Ensuring equality.

When considering where the PSPOs will apply, and the form they will take, the City of London will ensure powers are used in a fair, even handed and consistent manner. It will use, as a minimum standard, the guidance provided by DEFRA. (**Appendix 1:** DEFRA - Dealing with irresponsible dog ownership - Practitioner's manual and the Local Government Association Public Spaces Protection Orders guidance for councils)

Information

The City will continue to inform visitors of the importance and legal status/requirements of the site in terms of recreation and nature conservation and the need to improve and then maintain the balance between all visitor activity and wildlife. The City will actively promote the existence of the PSPOs, the behaviours it covers and areas it applies to. It will also continue to provide a Burnham Beeches Dog Control Fact Sheet to provide a clear definition of the expected standards of behavior when walking dogs on the nature reserve. (**Appendix 2:** PSPO-fact-sheet)

Alternative Provision

DEFRA/LGA guidance states that where restrictions are in place, authorities should look to provide other suitable dog walking areas in the locality. The City provides 220 acres at Burnham Beeches and a further 200 acres at Stoke Common where dogs can be walked off-lead; this provision meets DEFRA guidance and also animal welfare requirements.

Staff and training

The staff of Burnham Beeches are professional, highly trained individuals with a high degree of experience in dealing with members of the public and the challenges that occur when promoting difficult messages e.g. byelaw enforcement, Parking Charge Notices & Dog Control Orders. The City will continue to provide regular training of staff whose role it will be to enforce FPNs.

Enforcement Protocol

The site will also adopt and publish a standard enforcement protocol to ensure appropriate use of FPNs. (**Appendix 3:** PSPOs-enforcement-protocol)

Visitors with disabilities and Assistance Dogs

Dog owners who are registered disabled and those with assistance dogs trained by a prescribed charity* will, in appropriate circumstances, be exempted from the Public Spaces Protection Orders for Burnham Beeches. There are exceptions - a FPN may still be issued if the disability does not preclude the person from abiding by a PSPO (e.g. being deaf would not prevent an owner from clearing up after their dog has fouled). **Each of the following is a prescribed charity - Dogs for the Disabled (registered charity number 700454), Support Dogs (registered charity number 1088281, Canine Partners for Independence (registered charity number 803680).*

Juveniles

The City of London will also have due regard to its obligations when the offence is committed by a juvenile i.e. under the age of 17.

Site signage

DEFRA guidance states that *'it is good practice for signs to be erected on the perimeter explaining the restrictions or requirements that are in place and the area to which they apply. Where a PSPO applies to dog fouling signs warning the public that it is an offence not to clear up and properly dispose of dog faeces should be placed at regular intervals'*.

Appropriate information will be permanently presented to the public at all gated site entrances. Due to the nature of the site, signage will also be erected at appropriate intervals where practicable. Signage locations at

Burnham Beeches for the previous Dog Control Orders (2014-17) satisfies this guidance and was updated to reflect the change to PSPOs on 20th October 2017.

Other methods of presenting PSPOs information to the public

The Public Spaces Protection Orders and other relevant information such as this Dog Management Strategy, the site's Enforcement Protocol and PSPO map will be made available to all site users via the Burnham Beeches web site and by other local means such as site fact sheets, newsletter and public notice boards. The site's Ranger Service will raise awareness of the PSPOs as part of their normal duties.

Section 11. Monitoring the effectiveness of Public Spaces Protection Orders.

To ensure the effectiveness of the PSPOs it will be necessary to identify and monitor suitable indicators. This may include:

1. The number of FPN's/formal warnings issued each year.
2. The degree of compliance (payment).
3. The number of dog related incidents each year that do not receive FPN's.
4. The number of dog related complaints each year.
5. The number of dogs being brought to the site.
6. The number of cases that reach magistrates' court each year.

Section 12. Enforcing through the magistrates' court.

There are several reasons why offences under the Public Spaces Protection Orders may be taken to magistrates' court. These include:

1. The incident is deemed to be of a serious enough nature (including first offences) that the City of London may choose not to issue an FPN but take the matter straight to magistrates' court.
2. An individual refuses to give their personal details (name, address etc.) to an authorised officer thereby preventing the issuing of an FPN.
3. An individual refuses to pay an FPN or otherwise elects to challenge the PSPO offence for which the FPN was issued.
4. Repeat breaches of a Public Spaces Protection Order by an individual.
5. An individual refuses to accept an FPN and/or disputes the offence.

Under such circumstances, the City Solicitor will provide guidance and expert advice to the Superintendent and Ranger Service to ensure the proper presentation of evidence at magistrates' court (attending as required).

Section 13. Use of receipts.

The City of London intends to use any income (receipts) generated by the enforcement of the Public Spaces Protection Orders to support the overall cost of dog management at Burnham Beeches.

Section 14. Reporting

The City of London will maintain and make available records concerning the administration of the PSPO including:

- The number of FPNs issued
- The number of FPNs pursued through the courts and the costs awarded.
- Receipts and their use

This information will also be made available via public reports to the Epping Forest and Commons Committee and the Burnham Beeches Consultation Group and may also be publicised on site.

Section 15. The review process

Members of the Epping Forest and Commons Committee will be provided with a summary report on the effectiveness of the PSPOs each year in May and as part of any review process.

Section 16. Who has been consulted on these proposals 2017 and 2020

(See also section five for other consultation details).

2017 - Consultation Phase 1 - face to face survey of site users (April 2017).

This survey assessed the views of a representative sample of all visitor types who use the site, including dog walkers. The survey collected information concerning visitors' views of the site, the type and duration of their activities and provided an opportunity for visitors to either agree or disagree with the existing DCOs and the proposal to extend them as PSPOs until 2020.

Findings are summarised in table 1 and Charts 1 and 2 below and show that there was good to very high public support for the continuation of all five DCOs as PSPOs until 30 November 2020.

Table 1 – response on whether to extend the duration of the existing DCOs as PSPOs

Proposal to extend duration of <u>existing</u> powers relating to....	Agree	No Strong opinion/Don't know/No answer	Disagree	Total
Dogs fouling	352 (95%)	9 (2%)	8 (2%)	369 (100%)
Dogs on leads	212 (57%)	38 (10%)	119 (32%)	369 (100%)
Dogs on leads by direction	336 (91%)	17 (5%)	16 (4%)	369 (100%)
Dog exclusion area	295 (80%)	40 (11%)	34 (9%)	369 (100%)
Maximum number of dogs	337 (91%)	23 (6%)	9 (2%)	369 (100%)

Chart 1

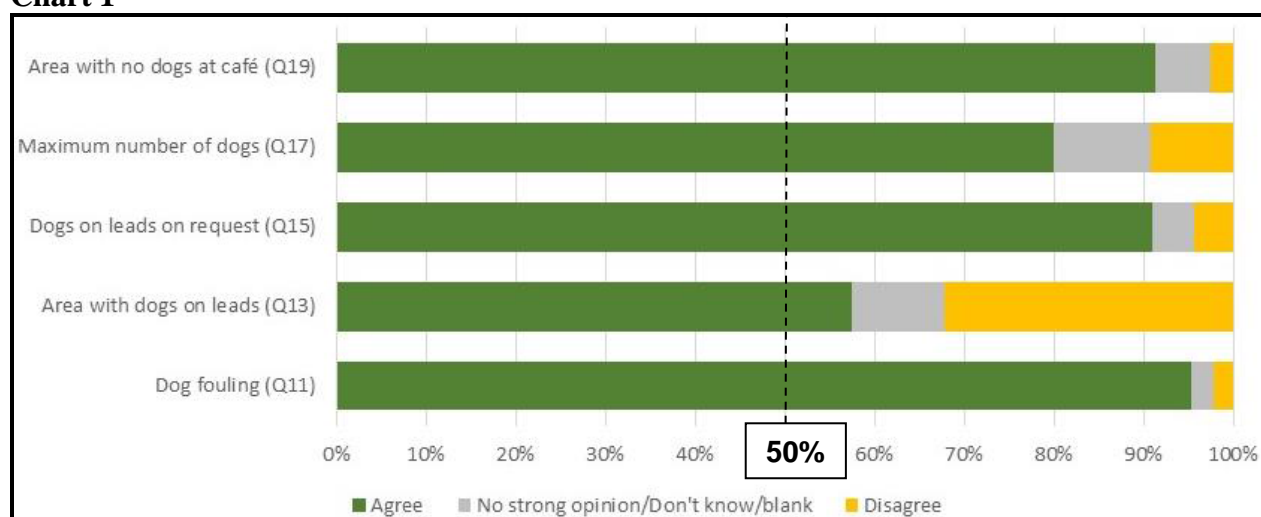
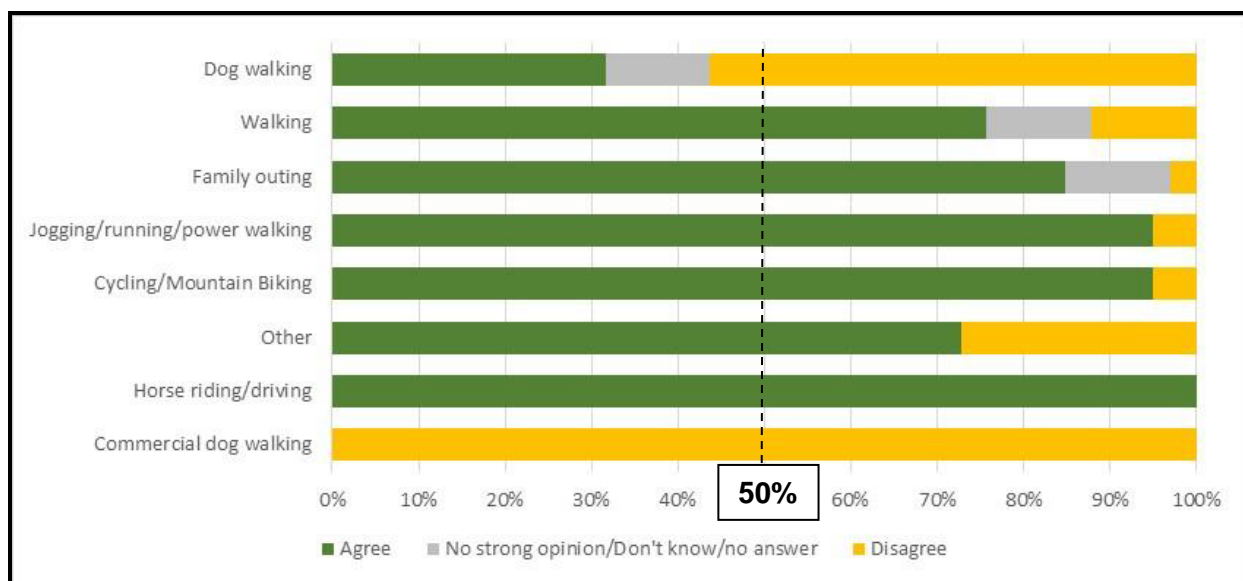


Chart 2 shows that 81% of non-dog walkers agreed that the existing 'dogs on leads at all times' area should be maintained for a further three years as did 32% of dog walkers. This data defines the gulf in opinion between non dog walkers, who form the vast majority of site visitors, and those of some dog walkers, who form the minority of site visitors.

Chart 2 – Dogs on leads at all times area – outcome - by user group



2017 Consultation Phase 2 – public notices, statutory and non-statutory consultees.

During this phase a wide variety of statutory and non-statutory organisations were consulted and this also included a further opportunity for public comment. The phase two consultation followed and exceeded the statutory requirements and the guidance provided by DEFRA. It commenced on 1 May 2017 and ended at midnight on 15 June 2017. Public notices were published in the local press, local sign boards, and local village notice boards and on the Burnham Beeches website.

Those consulted were either legally required to be consulted, or were generally recognised as using the site and it was therefore considered appropriate to include them in the consultation. There was 100 percent support from all statutory consultees and the large majority of non-statutory consultees that responded.

The following organisations supported the proposals to convert and extend the existing DCOs as PSPOs.

- i. South Bucks District Council - **Statutory**
- ii. The Chief Constable – Thames Valley Police – **Statutory**
- iii. The Police and Crime Commissioner – **Statutory**
- iv. The National Trust – A neighbouring open space that manages a visiting audience that is at least in part shared with Burnham Beeches.
- v. The Dogs Trust - who provided clear guidance as to their opinion of the best use of PSPOs and had previously supported the introduction of DCOs.
- vi. Farnham's Parish Council

The following organisation did not support the conversion and extension of the existing DCOs as PSPOs:

- i. The Kennel Club (KC) acknowledges that the DCOs have been effective since their introduction but continues to be of the opinion that the Dogs on Leads by Direction Order is sufficient to maintain the reduction in dog related issues across the entire site. The KC also submits that the use of the Dogs on Leads Order is overly restrictive and cannot be justified within the PSPO framework.

The Open Spaces Society (OSS) put the matter to their membership. No Society members responded so the response from the OSS was 'no comment to make' on the proposals.

Phase two responses were also received from 34 members of the public. Twenty-four respondents were against some or all of the proposed PSPOs; of those 24, 83% were dog walkers and 71% had previously signed an iPetition (see below). Ten respondents gave their support for the proposals and provided a range of reasons for their views; of those 10, 30% were dog walkers and none had signed the iPetition. The unusually high proportion of dog walkers responding to phase two shows the value of gaining a balanced

view via random sampling as adopted by the phase one site survey, to ensure that information was available from a wide range of site users.

iPetition.

An iPetition proposing an alternative PSPO set up was organised by a local dog walker. The petitioner presented supporting evidence at the meeting of the Burnham Beeches Consultation Group in January 2017 and subsequently met with the Chairman and the Director of Open Spaces and Heritage. At the time of the decision to extend PSPO in July 2017, the iPetition had accumulated 340 supporters since going live on 8 March. Many also responded to the Phase 2 consultation and had provided the large majority of comments received from individuals. The iPetition was included with all other consultation responses in the report to the City's Epping Forest and Common Committee (EFCC) meeting 3 July 2017.

2020 - Public Consultation exercise.

A public consultation exercise was carried out to meet the statutory requirement set out in Section 72 of the Anti-social Behaviour, Crime and Policing Act, 2014 to carry out the necessary consultation, publicity and notification prior to making a decision. The consultation followed and exceeded the statutory requirements and the guidance provided by DEFRA. It commenced on 7 July 2020 and ended at midnight on 18 August 2020.

There were five elements to the public consultation exercise:

- i. Farnham Royal Parish Council, Burnham Parish Council and Buckinghamshire Council were formally notified of the proposal and their opinions sought.
- ii. The Chief of Police for Thames Valley and the Police and Crime Commissioner were actively engaged and their opinions sought.
- iii. The Burnham Beeches and Stoke Common Consultative group were actively engaged and their opinions sought as to the proposal.
- iv. A wide range of statutory and non- statutory organisations, social activity groups, animal welfare specialist, local schools and businesses were actively engaged and their opinions sought as to the proposal.
- v. The general public, local communities and visitors were actively engaged and their opinions sought.

Methods of engagement included:

- vi. Public notices in the local press (four newspapers),
- vii. Emails to relevant individuals and organisations setting out the proposal and appropriate background information
- viii. Posters advertising the consultation exercise on site-based notice boards and in surrounding villages and libraries
- ix. Web site links to all documentation
- x. Active promotion on social media including Facebook and Twitter

Consultation results.

i: Thirty four individual or organisational responses to the consultation exercise were received. A breakdown of those 34 responses is shown below.

- Order 1 - 100% support to extend the PSPO for a further three years
- Order 2 – 100% support to extend the PSPO for a further three years
- Order 3 – 94% support to extend the PSPO for a further three years
- Order 4 - 100% support to extend the PSPO for a further three years
- Order 5 – 100% support to extend the PSPO for a further three years

ii: The following organisations supported the proposals to extend all five current PSPOS for a further three years:

- i. Farnham Royal Parish Council
- ii. Burnham Parish Council
- iii. Police and Crime Commissioner
- iv. The National Trust – owner of neighbouring open spaces that manages a shared audience with Burnham Beeches
- v. The Burnham Beeches and Stoke Common Consultative Group

Individual members of the BBSC Consultative Group were consulted on the proposal and a meeting was held with the Group on 18 August where the outcome was discussed. The collated responses from Consultative Group members showed 100% support for all five Orders to be extended for a further three years.

The following organisation supported the extension of Orders 1,3,4,5 but not Order 2 (Dogs on leads at all times) for a further three years:

- i. Buckinghamshire Council (BC)

BC asked that consideration be given to reversing the areas covered by Orders two and three. Your committee has previously considered this request (2017) when the Superintendent advised that the suggestion would cause more problems than it solves. As an example, dogs would have to be kept on leads as soon as they arrived on site or when let out of the car. This that would require close monitoring and present challenging enforcement issues.

Section 17. Conclusion.

Public Spaces Protection Orders are a tool the City of London will use to help ensure the enjoyment of Burnham Beeches by visitors and to protect its natural aspect. Correctly delivered and as part of the wider visitor access strategy, the use of PSPOs will help to minimise the occurrence of nuisance/antisocial dog related incidents, improve the visitor experience and reduce any negative impacts of the high volume of dog visits.

In deciding whether to extend PSPOs at Burnham Beeches the Epping Forest and Commons Committee (EFCC) members carefully considered all of the representations received during the consultation processes. The decision to extend the effect of the existing DCOs at Burnham Beeches as PSPOs until 30 November 2020 and 2023 were made at the EFCC meetings on 3 July 2017 and 7 September 2020.

Appendix 1 : LGA Public Spaces Protection orders Guidance for councils

Appendix 2 : PSPO - Fact-sheet

Appendix 3 : PSPO-enforcement-protocol.

Please use the following link for further information:

<https://www.cityoflondon.gov.uk/things-to-do/green-spaces/burnham-beeches-and-stoke-common>

Burnham Beeches

Enforcement Protocol for Public Spaces Protection Orders

("PSPOs")

The purpose of this protocol is to establish and promote a standardised approach to PSPO enforcement at Burnham Beeches including the procedure to be followed by those with powers to issue fixed penalties, with guidance as to the circumstances in which they should be issued.

All officers will ensure they defer to this protocol when making enforcement decisions. Application of this protocol should be in conjunction with the Dog Management Strategy (DMS) for Burnham Beeches.

In carrying out any enforcement activity the City of London will abide by, and be informed by, the principles of:

- **Enforcement** - based around firm and fair regulation
- **Proportionality** - degree of the risk of harm caused (precautionary principal)
- **Consistency** - a similar approach in similar cases to achieve similar outcomes within which a degree of discretion is available
- **Transparency** - helping people to comprehend what is required of them to include details of any rights of appeal
- **Targeting** - directing regulatory effort effectively using a risk based approach

Under section 75 of the Anti-social Behaviour, Crime and Policing Act 2014 (ABCPA) the existing PSPOs at Burnham Beeches were extended by The City of London for a further three years from 1st December 2020. It is an offence under section 67 of the ABCPA not to abide by the requirements of the PSPOs. At Burnham Beeches each of the PSPOs shown below can be enforced by constables and authorised officers – i.e. trained and authorised City Of London Staff (in this case site Rangers), authorised external agents (for orders 1,2,3 & 5 only) and Police Community Support Officers accredited under Police Reform Act 2002. **The maximum fine on conviction of any breach of the PSPOs in the Magistrates' Court is level three on the standard scale (currently up to £1000) per offence.**

Description of offences under the PSPOs for Burnham Beeches are:

- **Order 1** - Failure to remove dog faeces from anywhere at Burnham Beeches.
- **Order 2** - Not keeping a dog on lead (max length 5m) in specified areas.

- **Order 3** - Not putting, and keeping, a dog on a lead (max length 5m) when directed to do so by an authorised officer of the City of London (Ranger) in a specified area.
- **Order 4** - Permitting a dog to enter land from which dogs are excluded. Small specified area around the café.
- **Order 5** - Taking more than four dogs onto land. Applies anywhere on Burnham Beeches.

Under sec. 68 of the ABCPA Fixed penalty notices (referred to as FPNs) can be issued by authorised officers, site Rangers, at Burnham Beeches in relation to the offences listed above. FPNs can also be issued by authorised external agents (for orders 1,2,3 & 5 only). These notices provide a quick, visible and effective way of dealing with the offence under ABCPA and an alternative to prosecution.

A fixed penalty is not a fine. Payment of the penalty by the recipients discharges their liability to prosecution for the offence for which the FPN was issued. It does not constitute an admission of guilt but removes the possibility of the creation of a criminal conviction.

When the powers will be used?

The Anti-social Behaviour, Crime and Policing Act (ABCPA) 2014 empowers the City of London to prosecute in the Magistrates' court, those that are suspected of an offence against a Public Space Protection Order. As an alternative to prosecution in the Magistrates' Court, the Act gives the power to the City of London to authorise staff to issue fixed penalty notices (FPN's) to alleged offenders as an alternative to prosecution. The collection of FPN payments will be undertaken by District Enforcement Limited on behalf of the City of London. All prosecutions in the Magistrates' Court will be undertaken by the City of London's own Solicitors.

When do the powers apply?

The Public Space Protection Order at Burnham Beeches applies throughout the year, 24 hours a day.

Levels of fixed penalty and payment options

The City of London has set the amount of a Fixed Penalty for each offence against the order it has made at £80. The amount payable shall be reduced to £50 in each instance if paid within ten days of the date of issue of the FPN.

Guidance on enforcing all five of the PSPOs at Burnham Beeches including for issuing an FPN

The City of London will not immediately seek to prosecute/issue a FPN for any PSPO offence witnessed by authorised enforcement officers i.e. it will not adopt a zero tolerance approach to enforcing the PSPOs at Burnham

Beeches; all breaches will be considered on their individual merits. Anyone seen contravening any PSPO at Burnham Beeches will be approached and, where reasonably practicable, given the opportunity to put the matter right, **unless:** the infringement is so serious that formal enforcement is merited; or the individual has persistently infringed the PSPO in the past; or the matter simply cannot be put right (e.g. offender has no bag to clear up when a dog fouls); or they have received a formal warning before; or are very regular visitors and clearly aware of the PSPOs.

1: Offence - a person in charge of a dog is seen to fail to remove faeces anywhere on Burnham Beeches.

Exceptions – a person will not be guilty of an offence if that person:

- Is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948 or
- Has a disability which affects his mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects, **in respect of a dog trained by a prescribed charity* and upon which he relies for assistance, or**
- Has a reasonable excuse for failing to clear up – all breaches will be considered on their individual merits, if in any doubt as to validity of any reasonable excuse, officers will issue an FPN and advise recipients of the appeal process if they feel they may have a reasonable excuse, or
- Has permission of the City of London, as landowner, in writing from the Assistant Director of The Commons, not to clear up the dog faeces.

Examples of things that are not considered to constitute a “reasonable excuse”:

- Unaware dog had fouled
- Having no means to clear up the foul (i.e. no bag)
- Being unaware the PSPO is in place
- Not being the owner of the dog but simply walking it on behalf of another person

2: Offence - A person in charge of a dog allows it to be off lead in the dogs on lead areas or on a lead longer than 5m in length.

Exceptions – a person is not guilty of an offence if that person:

- has a reasonable excuse for not having the dog on a lead – if in any doubt as to validity of any reasonable excuse, officers will issue an FPN and advise recipients of the appeal process if they feel they have a reasonable excuse, or

- has permission of City of London, as landowner, in writing from the Assistant Director of The Commons, not to have a dog on a lead.

Examples of things that are not considered to constitute a “reasonable excuse”:

- Not having a lead with them to put the dog on
- Being unaware the PSPO is in place
- Not being the owner of the dog but simply walking it on behalf of another person

3: Offence - a person in charge of a dog does not comply with a direction given to him by a Ranger to put his dog on a lead of not more than 5m in length if reasonably necessary to prevent nuisance or behaviour by the dog to cause annoyance or disturbance to any other person or the worrying or disturbance of any animal or bird.

In effect we will ask for dogs to be put on a lead if they are not under effective control as defined by the current dog code – i.e. when off a lead, a dog must be in the owner’s sight at all times, return when called and not be allowed to disturb/chase/worry any other visitors, wildlife or livestock.

Exceptions – a person is not guilty of an offence if that person:

- has a reasonable excuse for not having the dog on a lead – if in any doubt as to validity of any reasonable excuse, officers will issue an FPN and advise recipients of the appeal process if they feel they have a reasonable excuse, or
- has permission of City of London, as landowner, in writing from the Assistant Director of The Commons, not to have a dog on a lead.

Examples of things that are not considered to constitute a “reasonable excuse”:

- Not having a lead with them to put the dog on
- Being unaware the PSPO is in place
- Not being the owner of the dog but simply walking it for another person

4: Offence - a dog is taken into the small dog exclusion zone at the café (i.e. the area where dogs are excluded).

Exceptions – a person is not guilty of an offence if that person:

- is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948: or

- is deaf, in respect of a dog trained by Hearing Dogs for Deaf People (registered charity number 293358) and upon which he relies for assistance; or
- has a disability which affects their mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects, **in respect of a dog trained by a prescribed charity* and upon which he relies for assistance, or**
- has a reasonable excuse for bringing the dog into the exclusion zone – if in any doubt as to validity of any reasonable excuse, officers will issue an FPN and advise recipients of the appeal process if they feel they have a reasonable excuse, or
- has permission of City of London, as landowner, in writing from the Assistant Director of The Commons, to bring the dog into the exclusion zone.

Examples of things that are not considered to constitute a “reasonable excuse”:

- Unaware that dogs are not allowed in this area – (the only way into this area is through gates which have all signs on them).
- Being unaware the PSPO is in place
- Having no lead to tie it up outside
- Only popping in for a coffee/food etc.
- Not being the owner of the dog but simply walking it for another person

5: Offence - an individual is walking five or more dogs anywhere at Burnham Beeches.

Exceptions – a person is not guilty of an offence if that person:

- has a reasonable excuse for walking five or more dogs – if in any doubt as to validity of any reasonable excuse, officers will issue an FPN and advise recipients of the appeal process if they feel they have a reasonable excuse, or
- has permission of City of London, as landowner, in writing from the Assistant Director of The Commons, to walk five or more dogs at Burnham Beeches.

Examples of things that are not considered to constitute a “reasonable excuse”:

- Not being aware the PSPO is in place
- Not being the owner of the dogs but simply walking them on behalf of another person

Visitors with disabilities and Assistance Dogs

** In relation to the PSPOs at Burnham Beeches each of the following is a prescribed charity - Dogs for the Disabled (registered charity number 700454), Support Dogs (registered charity number 1088281, Canine Partners for Independence (registered charity number 803680)*

In addition to the prescribed charity provision above, Rangers/authorised officers will not normally seek to take formal action against anyone who has a disability which prevents that individual from being able to physically comply with the requirements of a PSPO. All breaches of PSPO will be considered on their individual merits and advice on how to comply, will be given where appropriate.

Working dogs

Working dogs may be exempt from a PSPO but this will only apply to those such as Police dogs & Search and Rescue dogs actively working on site. The exemption does not apply to dogs that may be of a working breed or classified as working when away from Burnham Beeches, for example a Sheepdog, gundog (retriever pointer etc.) at any time, or Police and search and rescue dogs when such dogs are simply being exercised at the site.

How will the powers will be used?

The City will not operate a zero tolerance to PSPO infringement at Burnham Beeches, all breaches will be considered on their individual merits. Where a visitor is clearly unfamiliar with the site and complies with a Ranger's request to carry out an action, pick up/remove faeces, put dog on lead etc. no further action will be taken.

If a request for an individual to comply with the PSPO is recorded two times, or they are known to be a regular visitor, and as such very familiar with the PSPOs requirements, they will be subject to more formal action i.e. receive a formal written warning or FPN where they can't put matters right. Should they commit an offence in the future they will no longer be given the opportunity to put matters right and an FPN will be issued or the /matter prosecuted if an FPN is not accepted or the matter is so serious so as to merit prosecution.

Rangers will record details of all instances where someone is approached and asked to comply with the PSPOs.

Where a visitor refuses or is unable to comply with any request to abide by any PSPO, an FPN will normally be issued, or evidence recorded for formal warning/prosecution where an FPN is not an appropriate way forward.

Where a Ranger deals with an incident where an FPN would normally be issued but where they don't have an FPN with them at the time, they will collect all evidence/information they would need to issue an FPN and then issue by post.

An FPN will not be an appropriate way forward where the matter is so serious so as to merit prosecution and/or where the offender has been issued a number of FPNs previously.

The City of London will also have due regard to its obligations when the offence is committed by a juvenile i.e. under the age of 17.

'Appeals' Process

Though not a statutory requirement, the enforcement procedures for the PSPOs at Burnham Beeches will include a process to allow the opportunity for anyone issued an FPN, who believes that they meet one of the exceptions, to make representations as to why they should not have been issued an FPN.

Should anyone wish to 'appeal' against the issuing of an FPN, they must make representations in writing or by email within 14 days of issue to PSPO appeals, PO Box 3487, Stafford, ST16 9PR or appeals@district-enforcement.co.uk. Appeals will be granted where there is evidence of an exemption applicable to the offence committed. Appeals based on a 'reasonable excuse' will be dealt with on a case-by-case basis but will not include:

- Not knowing the PSPO is in place was in force
- Not my dog
- Was going to come back to remove faeces
- Didn't have any bags
- Didn't have a lead with me

Appeals will also be allowed where appellant has permission of the City of London, in writing from the Assistant Director of The Commons.

Where any appeal is refused the appellant will be notified, and of the reasons for refusal, in writing/or by email and given a further 14 days to pay the FPN from the date of refusal and including being able to pay the reduced rate within 10 days. The appellant will also be notified in writing/by email where an appeal is upheld. All adjudications will be made and notified within 28 days of receipt.

The decision to allow or refuse an appeal will ultimately be determined by the Assistant Director of The Commons.

What is a serious incident?

There could be many examples, but generally it is where, as a result of not abiding by a PSPO, there has been a more serious incident that would otherwise have been avoided by the dog walker complying with the PSPO. For example: in an area where dogs must be kept on a lead by failing to keep their dog on lead an owner allows their dog to attack another dog/wildlife/livestock or even another visitor. In such a case it would not be appropriate to issue an FPN but to deal with all such matters by prosecution – and gather evidence accordingly.

Collection of personal Data

Burnham Beeches – Public Space Protection Order Retention Policy

Name address and Additional details will be requested by the authorised officer when issuing an FPN. Under the Burnham Beeches byelaws a person can be guilty of obstructing an officer by failing to provide their name and address.

The enforcement of Public Space Protection Orders at Burnham Beeches requires authorised officers to collect and process personal information about identified individuals found to be in breach of these orders.

In accordance with the principles of The General Data Protection Regulations, in particular their right to the protection of personal data, this information will only be retained as long as necessary in relation to the enforcement of Public Space Protection Orders.

Active Review

This document will be reviewed and updated annually – to reflect as required any further site-specific guidance required as enforcement action is carried out at Burnham Beeches.

The Anti-social Behaviour, Crime and Policing Act 2014

The Dogs (Specified Maximum) (Burnham Beeches) Order 2020

The Common Council of the City of London hereby makes the following Public Spaces Protection Order

- 1 This Order comes into force on 1 December 2020. It supersedes and extends the effect of The Dogs (Specified Maximum) (Burnham Beeches) Order 2017 for a further three years.
- 2 This Order applies to the land specified in the Schedule.
- 3 On land to which this Order applies, the maximum number of dogs which a person may take onto that land is four.

Offence

- 4 (1) A person in charge of more than one dog shall be guilty of an offence if, at any time, he takes onto any land in respect of which this Order applies more than the maximum number of dogs specified in article 3 of this Order, unless-
 - (a) he has a reasonable excuse for doing so; or
 - (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his doing so.
- (2) For the purposes of this article a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog.

Penalty

- 5 A person who is guilty of an offence under article 4 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

19 November 2020

THE COMMON SEAL of THE MAYOR AND
COMMONALTY AND CITIZENS OF THE CITY
OF LONDON was hereunto affixed in the presence of:-



A Bennetts
Assistant City Solicitor

SCHEDULE

This Order applies to the whole of Burnham Beeches.

References to Burnham Beeches are to that area of land known as Burnham Beeches in the Parishes of Farnham Royal and Burnham owned by the Mayor and Commonalty and Citizens of the City of London which is open to the air (including land that is covered but open to the air on at least one side) and to which the public are entitled or permitted to have access with or without payment and including all roads, highways and other rights of way over that land.

The Anti-social Behaviour, Crime and Policing Act 2014

The Dogs Exclusion (Burnham Beeches) Order 2020

The Common Council of the City of London hereby makes the following Public Spaces Protection Order:

1 This Order comes into force on 1 December 2020. It supersedes and extends the effect of The Dogs Exclusion (Burnham Beeches) Order 2017 for a further three years.

2 **This Order applies to the land specified In the Schedule.**

Offence

3 (1) A person in charge of a dog shall be guilty of an offence if, at any time, he takes the dog onto, or permits the dog to enter or to remain on, any land to which this Order applies unless

- (a) he has a reasonable excuse for doing so; or
- (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his doing so.

(2) Nothing In this article applies to a person who-

- (a) is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948; or
- (b) Is deaf, in respect of a dog trained by Hearing Dogs for Deaf People (registered charity number 293358) and upon which he relies for assistance; or
- (c) has a disability which affects his mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a prescribed charity and upon which he relies for assistance.

(3) For the purposes of this article-

- (a) a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is In charge of the dog; and
- (b) each of the following is a "prescribed charity"-
 - (i) Dogs for the Disabled (registered charity number 700454);
 - (II) Support Dogs (registered charity number 1088281);
 - (iii) Canine Partners for Independence (registered charity number 803680).

Penalty

4 A person who is guilty of an offence under article 3 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

19 November 2020

THE COMMON SEAL of THE MAYOR AND
COMMONALTY AND CITIZENS OF THE CITY
OF LONDON was hereunto affixed in the presence of:-



A Bennetts
Assistant City Solicitor

SCHEDULE

This Order applies to the cafe enclosure of approximately 245 square metres at Burnham Beeches.

References to Burnham Beeches are to that area of land known as Burnham Beeches in the Parishes of Farnham Royal and Burnham owned by the Mayor and Commonalty and Citizens of the City of London which is open to the air (including land that is covered but open to the air on at least one side) and to which the public are entitled or permitted to have access with or without payment.

The Anti-social Behaviour, Crime and Policing Act 2014

The Dogs on Leads (Burnham Beeches) Order 2020

The Common Council of the City of London hereby makes the following Public Spaces Protection Order:

- 1 This Order comes into force on 1 December 2020. It supersedes and extends the effect of The Dogs on Leads (Burnham Beeches) Order 2017 for a further three years.
- 2 This Order applies to the land specified In the Schedule.

Offence

- 3 (1) A person in charge of a dog shall be guilty of an offence if, at any time, on any land to which this Order applies he does not keep the dog on a lead of not more than five metres in length, unless
 - (a) he has a reasonable excuse for failing to do so; or
 - (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.
- (2) For the purposes of this article a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog.

Penalty

- 4 A person who is guilty of an offence under article 3 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

19 November 2020

**THE COMMON SEAL of THE MAYOR AND
COMMONALTY AND CITIZENS OF THE CITY
OF LONDON was hereunto affixed in the presence of:-**



**A Bennetts
Assistant City Solicitor**

SCHEDULE

This Order applies to that part of Burnham Beeches to the west of Sir Henry Peeks Drive and Halse Drive and to the two enclosed areas of approximately 319 square metres and 221 square metres adjoining the cafe enclosure at Burnham Beeches.

References to Burnham Beeches are to that area of land known as Burnham Beeches in the Parishes of Farnham Royal and Burnham owned by the Mayor and Commonalty and Citizens of the City of London which is open to the air (including land that is covered but open to the air on at least one side) and to which the public are entitled or permitted to have access with or without payment and Including all roads, highways and other rights of way over that land.

The Anti-social Behaviour, Crime and Policing Act 2014

The Dogs on Leads by Direction (Burnham Beeches) Order 2020

The Common Council of the City of London (in this Order called "the Authority") hereby makes the following Public Spaces Protection Order:

- 1 This Order comes into force on 1 December 2020. It supersedes and extends the effect of The Dogs on Leads by Direction (Burnham Beeches) Order 2017 for a further three years.
- 2 This Order applies to the land specified in the Schedule.
- 3 In this Order "an authorised officer of the Authority" means an employee of the Authority who is authorised in writing by the Authority for the purpose of giving directions under this Order.

Offence

- 4 (1) A person In charge of a dog shall be guilty of an offence if, at any time, on any land to which this Order applies, he does not comply with a direction given him by an authorised officer of the Authority to put and keep the dog on a lead of not more than five metres in length, unless-
 - (a) he has a reasonable excuse for failing to do so; or
 - (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.
- (2) For the purposes of this article-
 - (a) a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog;
 - (b) an authorised officer of the Authority may only give a direction under this Order to put and keep a dog on a lead if such restraint is reasonably necessary to prevent a nuisance or behaviour by the dog likely to cause annoyance or disturbance to any other person on any land to which this Order applies or the worrying or disturbance of any animal or bird.

Penalty

- 5 A person who is guilty of an offence under article 4 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

19 November 2020

THE COMMON SEAL of THE MAYOR AND
COMMONALTY AND CITIZENS OF THE CITY
OF LONDON was hereunto affixed *m* the presence of>

A Bennetts
Assistant City Solicitor



SCHEDULE

This Order applies to that part of Burnham Beeches to the east of and including Sir Henry Peeks Drive and Halse Drive but excluding those enclosed areas to which The Dogs on Leads (Burnham Beeches) Order 2020 and The Dogs Exclusion (Burnham Beeches) Order 2020 apply.

References to Burnham Beeches are to that area of land known as Burnham Beeches in the Parishes of Farnham Royal and Burnham owned by the Mayor and Commonalty and Citizens of the City of London which is open to the air (including land that is covered but open to the air on at least one side) and to which the public are entitled or permitted to have access with or without payment and including all roads, highways and other rights of way over that land.

The Anti-social Behaviour, Crime and Policing Act 2014

The Fouling of Land by Dogs (Burnham Beeches) Order 2020

The Common Council of the City of London hereby makes the following Public Spaces Protection Order:

- 1 This Order comes into force on 1 December 2020. It supersedes and extends the effect of The Fouling of Land by Dogs (Burnham Beeches) Order 2017 for a further three years.
- 2 This Order applies to the land specified In the Schedule.

Offence

- 3 (1) If a dog defecates at any time on land to which this Order applies and a person who is in charge of the dog at that time fails to remove the faeces from the land forthwith, that person shall be guilty of an offence unless-
 - (a) he has a reasonable excuse for failing to do so; or
 - (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.
- (2) Nothing in this article applies to a person who-
 - (a) is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1946; or
 - (b) has a disability which affects his mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a prescribed charity and upon which he relies for assistance.
- (3) For the purposes of this article-
 - (a) a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog;
 - (b) placing the faeces in a receptacle on the land which is provided for the purpose, or for the disposal of waste, shall be a sufficient removal from the land;
 - (c) being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having a device for or other suitable means of removing the faeces shall not be a reasonable excuse for failing to remove the faeces;
 - (d) each of the following is a "prescribed charity"-
 - (i) Dogs for the Disabled (registered charity number 700454);
 - (ii) Support Dogs (registered charity number 1088281);
 - (iii) Canine Partners for Independence (registered charity number 803680).

Penalty

- 4 A person who is guilty of an offence under article 3 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

19 November 2020

THE COMMON SEAL of THE MAYOR AND
COMMONALTY AND CITIZENS OF THE CITY
OF LONDON was hereunto affixed in the presence of:



A Bennetts

Assistant City Solicitor

SCHEDULE

This Order applies to the whole of Burnham Beeches.

References to Burnham Beeches are to that area of land known as Burnham Beeches in the Parishes of Farnham Royal and Burnham owned by the Mayor and Commonalty and Citizens of the City of London which is open to the air (Including land that is covered but open to the air on at least one side) and to which the public are entitled or permitted to have access with or without payment and including all roads, highways and other rights of way over that land.

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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