

## **Manchester City Council Report for Information**

**Report to:** Communities and Equalities Scrutiny Committee – 19 July 2022

**Subject:** Recommendation for the extension and variation of the Public Spaces Protection Orders relating to dog control

**Report of:** Head of Compliance, Enforcement and Community Safety

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### **Summary**

This report provides the Committee with the outcomes of the recent consultation exercise in respect of the Public Spaces Protection Orders relating to the control of dogs, which was undertaken between 19 May and 16 June 2022.

The consultation proposed the following:

1. 3 of the PSPOs relating to dog control, namely those relating to dog fouling / means to pick up, the maximum number of dogs taken into a public place (4) and dogs on lead by direction of an authorised officer be extended.
2. The dog exclusion PSPO be continued and varied to refresh arrangements within park areas and to remove cemeteries and crematoria.
3. The dogs on-lead PSPO be continued and varied to include all cemeteries and crematoria.

The responses to the consultation were in the main supportive of the proposals and it is therefore proposed to recommend to the Strategic Director Neighbourhoods, who is the officer named in the Council's Constitution as responsible for making Public Spaces Protection Orders (PSPO), to extend 3 of the current Public Spaces Protection Orders (PSPOs) relating to dog control and vary the remaining 2 of the orders in order to refresh and update the areas from which dogs are excluded or must be kept on a lead and to change the restrictions within cemeteries and crematoria.

### **Recommendations**

The Committee is asked to consider and comment on the contents of the report.

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**Wards Affected:** All

<b>Environmental Impact Assessment</b> - the impact of the issues addressed in this report on achieving the zero-carbon target for the city
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No impact
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**Equality, Diversity and Inclusion** - the impact of the issues addressed in this report in meeting our Public Sector Equality Duty and broader equality commitments

A comprehensive Equality Impact Assessment has been completed in relation to these recommendations.

The assessment concluded that, whilst the continuation / variation of the PSPOs could impact on protected characteristics such as age, disability, race and pregnancy / maternity, these are sufficiently mitigated by the City Council's enforcement arrangements / policies, the exemptions within the PSPOs and the statutory defence of "reasonable excuse".

<b>Manchester Strategy outcomes</b>	<b>Summary of how this report aligns to the OMS/Contribution to the Strategy</b>
A thriving and sustainable city: supporting a diverse and distinctive economy that creates jobs and opportunities	N/A
A highly skilled city: world class and home grown talent sustaining the city's economic success	N/A
A progressive and equitable city: making a positive contribution by unlocking the potential of our communities	The extension and variation of the PSPOs, will set clear expectations as to how dogs should be controlled when in public places and help create spaces that can be enjoyed by all residents and visitors to the city.
A liveable and low carbon city: a destination of choice to live, visit, work	Compliance with the requirements of the PSPOs relating to dog control will help to keep Manchester's public spaces safe and clean for residents and visitors to the city.
A connected city: world class infrastructure and connectivity to drive growth	N/A

Full details are in the body of the report, along with any implications for:

- Equal Opportunities Policy
- Risk Management
- Legal Considerations

### **Financial Consequences – Revenue**

Existing staffing structures and service providers will be utilised to monitor compliance and, where appropriate, enforce the PSPOs relating to dog control. Receipts from paid Fixed Penalty Notices will be used to help deliver the service,

promote the PSPOs and/or will contribute towards other environmental improvements.

### **Financial Consequences – Capital**

Should the recommendations be approved, a review of signage will be undertaken, which will result in some costs relating to the production of new or amended literature. These costs are not yet confirmed but are not anticipated to be significant in scale.

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### **Background documents (available for public inspection):**

The following documents disclose important facts on which the report is based and have been relied upon in preparing the report. Copies of the background documents are available up to 4 years after the date of the meeting. If you would like a copy, please contact one of the contact officers above.

- Current PSPOs relating to dog control (July 2019) x 5
- Consultation outcome summaries and responses
- Draft PSPOs for extension / variation x 5 (consultation versions)
- Final Draft PSPOs for extension / variation x 5 (post consultation versions)
- Manchester City Council Corporate Enforcement Policy
- Equality Impact Assessment

## 1.0 Introduction

This report provides details of the consultation on the proposed extension / variation of the 5 PSPOs Manchester City Council currently has in place relating to dog control.

The report proposes the extension of the PSPOs which make it an offence to:

- Fail to pick up faeces from a dog or to be able to demonstrate possession of appropriate means to pick up faeces when in a public place.
- Take more than 4 dogs onto a public space.
- Fail to put a dog on a lead on the direction of an authorised officer.

The report proposes the continuation and variation of the PSPOs making it an offence to –

- Take a dog into an area from which dogs are excluded – *this PSPO will be varied to remove cemeteries and crematoria from the schedule of restricted areas and also to make very minor changes to refresh the areas to which these restrictions apply within parks / leisure areas.*
- Allow a dog off lead on all roads, footpaths and alleyways in the city and in identified areas such as specific parks, gardens and picnic areas – *this PSPO will be varied to include a requirement for dogs to be kept on-lead within the open spaces in all cemeteries and crematoria across the city and within the seating area of the Top Terrace at Fletcher Moss Gardens.*

## 2.0 Background

On 26 July 2019, Manchester City Council made 5 PSPOs relating to dog control in public open spaces across the city. These orders made it an offence to -

- Fail to pick up faeces from a dog or to be able to demonstrate possession of appropriate means to pick up faeces when in a public place.
- Take more than 4 dogs onto a public space.
- Fail to put a dog on a lead on the direction of an authorised officer.
- Take a dog into an area from which dogs are excluded.
- Allow a dog off lead on all roads, footpaths and alleyways in the city and to specified areas such as specific parks, gardens and picnic areas.

**Appendix 1** includes copies of the current PSPOs.

Under section 60 of the Anti-social Behaviour, Crime and Policing Act 2014 (“the Act”), PSPOs remain in place for a maximum of 3 years, unless they are extended or varied.

This legal requirement has therefore presented the need for the City Council to review its current PSPOs. The Compliance, Enforcement and Community Safety Team has reviewed the current arrangements with colleagues from

Bereavement Services and the Parks Team, both of whom play a key role in managing public spaces across the city. As part of this process, a minor refresh of the areas within parks / leisure areas has taken place to reflect the arrangements / infrastructure within these spaces. Furthermore, the service manager of Bereavement Services has requested that the requirements of the PSPOs are amended so that dogs are no longer excluded from cemeteries and crematoria but must instead be kept on a lead whilst in these spaces, for reasons cited later in this report.

Feedback received during the consultation exercise has also resulted in minor revisions to the PSPOs being varied.

### **3.0 Main issues**

#### **3.1 Introduction**

Whilst it is recognised that the vast majority of dog owners in Manchester are responsible, the control of dogs remains an important issue and one which attracts both local and national press on a regular basis. The evidence later in this report will demonstrate that the number of reports relating to stray dogs and dog fouling across Manchester is significant, showing that this remains an area of concern for the city's residents.

In considering the proposal, the City Council has had due regard to the Animal Welfare Act and the Code of Practice for the Welfare of Dogs. It is recognised that dogs require reasonable opportunities to exercise in public spaces in order to promote their mental and physical wellbeing. It is felt that the proposed extension / variation to the current orders provides a sufficient number of public spaces in which dogs can be exercised off-lead.

The legislation carries a Fixed Penalty Notice, which allows offenders to discharge their liability for an offence relating to a breach of an order. The amount of the fixed penalty has been set at £100. If the alleged offender fails to pay, then prosecution proceedings may be instituted. The maximum penalty is £1,000 upon conviction in the Magistrates' Court.

#### **3.2 Risks associated with poor dog control**

In addition to harming the amenity of neighbourhoods, dog fouling also poses a significant public health risk. Toxocariasis is a rare infection caused by roundworm parasites, which is spread from animals to humans through contact with infected faeces.

Roundworm parasites are most commonly found in dogs and usually affect young children. This is because children are more likely to come into contact with contaminated soil when they play and put their hands in their mouths, although cases have been reported in people of all ages.

The roundworm parasite responsible for toxocariasis (called *Toxocara*) lives in the digestive system of dogs. The worms produce eggs, which are released in the faeces of infected animals and contaminate soil.

Furthermore, a number of high-profile dog attacks across the United Kingdom, some resulting in fatalities, have brought the issue of dog control sharply into focus. Whilst these incidents are dealt with by the Police, the making of the proposed PSPOs is aimed to ensure owners keep their dogs under control, thereby minimising the risk of attack in public spaces. The orders are also intended to minimise road traffic accidents caused by stray dogs on the highway and to reduce the potential risk of harm to the animal.

The areas in which dogs must be kept on-lead or from which they are excluded have been identified and reviewed alongside colleagues within the Parks Team. These areas have been identified as being those where there is a risk to the public and/or to the dog itself should it be allowed to enter or to roam off-lead. For example, dogs are generally excluded from sports pitches / facilities due to the health risks associated with dog fouling and potential disturbance to sports activities and are excluded from children's' play areas to promote the safety of children when using these facilities. As a further example, dogs are required to be on-lead when on the public highway in order to reduce the chances of escape and potential road traffic collisions and to reduce inconvenience to pedestrians. Furthermore, the 'on-lead by direction' PSPO allows authorised officers to request that a dog is put on its lead should it be deemed to be causing a nuisance to members of the public or wildlife.

The intended effect of limiting the number of dogs to be taken onto a public place to 4 is to help minimise 'pack mentality', to reduce non-compliance with the other PSPOs relating to dog control and to reduce the impact on pedestrians and other dog walkers, whilst still affording those with multiple dogs and/or those who walk dogs on behalf of others the opportunity to exercise their dogs.

Taking the above into consideration, we are satisfied that the extension / variation of the PSPOs is justified. We are furthermore satisfied that the prohibitions and restrictions included in the Orders are reasonable and will prevent or reduce anti-social behaviour within the restricted areas.

### 3.3 Legal Issues

Section 59(1) of the Act empowers local authorities to make a PSPO if they are satisfied, on reasonable grounds, that any activity carried out, or which is likely to be carried out in a public space within their area:

- has had, or is likely to have, a detrimental effect on the quality of life of those in the locality;
- is, or is likely to be, persistent or continuing in nature;
- is, or is likely to be, unreasonable; and
- justifies the restrictions imposed

Section 59(5) of the Act provides that the only prohibitions or requirements that may be imposed are ones that are reasonable to impose in order-

1. To prevent the detrimental effect referred to above from continuing, occurring or reoccurring; or
2. To reduce the detrimental effect or to reduce the risk of its continuance, occurrence of reoccurrence

Section 59(8) of the Act requires that a PSPO must be published in accordance with regulations made by the Secretary of State.

Section 60 of the Act provides that a PSPO may not have an effect for a period of more than 3 years, unless extended.

Section 61(4) of the Act provides that a PSPO may be discharged by the local authority that made it.

Section 61(6) of the Act provides that where a PSPO is discharged, a notice identifying the PSPO and stating the date when it ceases to have effect must be published in accordance with regulations made by the Secretary of State.

### 3.4 Review of the on-lead / exclusion PSPOs

In reviewing the PSPOs relating to dog control, the City Council has assessed the areas from which dogs are excluded or must be kept on a lead, which has involved officers from Neighbourhood Compliance, Bereavement Services and Parks Team.

This has resulted in a small number of minor changes to the 'dog exclusion' PSPO to reflect the current arrangements / infrastructure within parks and leisure areas, such as the removal of facilities that are no longer in use and the addition of new facilities or areas / sites which were otherwise previously omitted.

Furthermore, as part of these discussions, the arrangements within cemeteries and crematoria were reviewed and a recommendation made those dogs should no longer be excluded but must instead be kept on a lead when in these locations for the reasons cited below.

Due to the sensitive nature of the cemetery environment, it can be difficult to fully enforce the current 'no dogs allowed' order. Often people attend to visit loved one's graves and bring well behaved dogs, which are controlled on leads. We have no desire to continue to prevent the public from doing this and to enforce the current 'no dogs allowed' order on those who bring in dogs who are not under control, would penalise those who are being respectful of the cemetery.

We also encourage the public to use the cemeteries as green spaces to enjoy exercise and explore the nature and biodiversity aspect of the cemeteries. This often goes hand in hand with dog walkers. The Cemeteries

have Green Flag awards and the judges recently commented on the presence of dogs in the cemeteries contravening the current 'no dogs allowed' order.

Benchmarking with other Greater Manchester Authorities has shown that many other cemeteries in GM operate a 'dogs on lead' order. Changing the order within our own cemeteries to 'dogs on lead' will make the issue more manageable and allow us to enforce the order on those who are bringing in dogs and causing a nuisance to the cemeteries.

It should also be noted that other dog control PSPOs (e.g. fouling / means to pick up, maximum number of dogs and on-lead by direction) would apply to cemeteries and crematoria and could be enforced where necessary.

Following this review, updated PSPOs for extension / variation were drafted, which can be viewed at **Appendix 2**.

### 3.5 Supporting Evidence

In reviewing the PSPOs, it is considered prudent to review service demand in the following areas:

- Dog fouling
- Stray dogs (secured and roaming)
- Enforcement

#### 3.5.1 Dog fouling

The table below shows the volume of reports for date ranges across the duration of the current PSPOs. The data predominantly consists of requests for street cleansing where the waste type is dog fouling, although the figures also include request for investigation.

Date range	Volume of reports
01/08/19 to 31/07/20	1015
01/08/20 to 31/07/21	1124
01/08/21 to 31/03/22	690*

*\* The data to 31/03/22 does not provide a full 12 month period however, if the current reporting levels were to continue, this would project 1,183 reports over a 12 month period, which is broadly comparable to previous years.*

The reports also show that the issue of dog fouling affects all wards, to a varying degree, across the city. See **Appendix 3** for a breakdown by ward.

#### 3.5.2 Stray dogs (secured and roaming)

Again, the table below shows the volume of reports for date ranges across the duration of the current PSPOs. The data consists of reports / enquiries received relating to secured or roaming stray dogs across the city for the stated periods.



Date range	Volume of reports
01/08/19 to 31/07/20	299
01/08/20 to 31/07/21	295
01/08/21 to 31/03/22	212**

*\*\* The data to 31/03/22 does not provide a full 12 month period however, if the current reporting levels were to continue, this would project 318 reports over a 12 month period. This is broadly comparable to previous years, with a slight upturn, which could be attributed to the relaxing of COVID-19 restrictions.*

The data also show that stray dog reports have originated from all wards across the city. See **Appendix 4** for a breakdown by ward.

### 3.5.3 Enforcement

A range of City Council Officers and service providers are authorised to monitor and enforce the dog control PSPOs in Manchester, including –

- Neighbourhood Compliance Officers
- The Council's on-street enforcement provider (3GS (UK) Ltd)
- Park Security (Mitie Ltd)

Whilst enforcement of the current dog control PSPOs has been relatively conservative, there are a number of factors which may have impacted on this including –

- Changes to the way the City Council delivers its dog warden service
- A change in the Park Security service provider
- The global COVID-19 pandemic, which limited the operations of service providers and Council Officers.

It should also be noted that, in extending / varying its PSPOs relating to dog control, the City Council's intention is to set clear expectations regarding the control of dogs in its open spaces and to achieve compliance, in line with the Corporate Enforcement Policy. There are also examples across the city where the PSPOs have been utilised to address issues within neighbourhoods but where a Fixed Penalty Notice was not issued (for example, the use of warning letters to address reports of dogs being allowed to roam in an alleyway and causing a nuisance). Furthermore, as part of the Keep Manchester Tidy Project, the City Council has undertaken engagement work to address issues such as dog fouling (e.g. the 'We're Watching You' and 'do it for your dog' campaigns).

Enforcement of the PSPOs relating to dog control for their duration can be summarised as below –

Date range	Fixed Penalty Notices issued	Prosecutions
01/08/19 to 31/07/20	42	3
01/08/20 to 31/07/21	55	0
01/08/21 to 31/03/22	2	1

### 3.6 Consultation

Section 72 of the Act requires that, in extending or varying a PSPO, the local authority must consult with –

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

In line with this requirement, the City Council has directly contacted the following parties in order to give them the opportunity to comment upon the proposal to extend / vary the PSPOs relating to dog control –

- Mr Andy Burnham (GM Mayor / Police and Crime Commissioner)
- Chief Constable, Greater Manchester Police
- PDSA
- Blue Cross
- Manchester Dogs' Home
- Assistance Dogs UK
- Dogs Trust
- The RSPCA
- The Kennel Club
- Elected Members (Manchester City Council)
- Elected Members (Ringway Parish Council)
- Key contacts for Friends of the Parks groups across the city (where held)
- Key contacts for Friends of the Cemeteries groups across the city (where held)

In addition, a 28-day public consultation was carried out between 19 May 2022 and 16 June 2022, which was publicised via the City Council's social media channels and via materials displayed at key sites where appropriate. The survey was completed 395 times (with an additional 35 'partial' completions).

The results of the public consultation, included at **Appendix 5**, showed broad support for the proposals, with most respondents either strongly agreeing or agreeing to continue / vary the PSPO in question.

The consultation also provided an opportunity for respondents to make any additional comments in respect of the proposals. A broad exercise has taken place to identify the issues raised in the comments, which can be viewed at **Appendix 6**. It should be noted that some respondents made several points within their comments, whilst some chose not to make any further comment on the proposals. The comments / themes are separated into general comments in respect of the proposals and those which relate to specific sites (e.g. specific parks). Whilst a significant number of the comments were in support of the proposals, the City Council has given due consideration to any concerns

raised. A document responding to the issues in turn is attached as **Appendix 7** (again, these are separated into 'general' and 'site specific' concerns).

In addition to the public consultation, direct responses were received from the following parties (the notes below provide a summary overview only) –

#### Ward members

- Request for the children's play areas in Piccadilly Gardens and Cathedral Gardens to be included in the exclusion PSPO.
- Concerns regarding the 'means to pick up' provision within the dog fouling PSPO.
- Concerns regarding the maximum number of dogs PSPO
- General support for the proposals
- Clarification sought regarding specific sites

#### PDSA

- Overall support for the proposals

#### Kennel Club

- Concerns regarding the 'means to pick up' requirement within the dog fouling PSPO
- Concerns regarding the maximum number of dogs PSPO
- Some suggestions regarding the approach to enforcing / promoting the orders
- Otherwise general support for the proposals

#### Dogs Trust (received via the online survey)

- General support for the proposal
- Questions regarding the effectiveness of the 'means to pick up' requirement within the dog fouling PSPO
- Suggestions regarding the implementation of PSPOs such as the exclusion order and on-lead to ensure that dogs are given sufficient opportunity to exercise

#### Chief Constable, Greater Manchester Police

- Overall support for the proposals

#### 'Friends of the Parks' contacts

- 2 x direct responses supporting the proposals
- 1 x acknowledgement only

#### 'Friends of the Cemeteries' contacts

- 1 x direct response supporting the proposals, as long as dogs are effectively controlled when in cemeteries and crematoria

All feedback regarding the proposals to extend / vary the PSPOs has been fully considered in the context of the overall responses received.

### 3.7 Changes to the proposed PSPOs arising from the consultation

As a result of the consultation exercise, the following changes to the 'dog exclusion' PSPOs are proposed -

- The children's play area at Cathedral Gardens is to be added to the areas from which dogs are to be excluded at all times
- The children's play area at Piccadilly Gardens is to be added to the areas from which dogs are to be excluded at all times
- Dogs will no longer be excluded from the bowling green at Chorlton Park since this is no longer in use.

Furthermore, the following change to the 'dogs on-lead' PSPO is proposed -

- The seating area at the top terrace at Fletcher Moss Gardens will be added to the areas in which dogs must be kept on a lead.

The play areas at Cathedral Gardens and Piccadilly Gardens are not fenced off however, site visits have confirmed that there is a clear distinction / boundary between these play areas and other open spaces in their vicinity. Furthermore, the exclusion of dogs from these sites is consistent with the approach in other play areas across the city. Signage will be affixed notifying members of the public of these restrictions.

It has been confirmed that the bowling green at Chorlton Park is no longer in use and so it is appropriate that dogs should no longer be excluded. This position may be reviewed should a formal alternative use for the site be identified and implemented.

The inclusion of the seating area of the Top Terrace at Fletcher Moss Gardens in the 'on-lead' PSPO is consistent with the arrangements within a number of other parks across the city and is intended to minimise disturbance or inconvenience to diners / visitors.

Finally, separately to the consultation exercise, an internal review confirmed that, in error, a 'Skate Park Area' at Damhead Park had been included within the areas from which dogs will be excluded on the list displayed on the consultation webpage. This will not be reflected in the final, varied PSPO.

## **4.0 Equality Impact Assessment and the European Convention on Human Rights**

### **4.1 Equality Impact Assessment**

An Equality Impact Assessment (EIA) has been completed considering each of the protected characteristics and vulnerable groups. Officers have worked together with the Council's Equalities, Diversity and Inclusion Team to undertake the assessment. The EIA can be found at **Appendix 8**.

### **4.2. European Convention on Human Rights**

The Council is a public authority and the Human Rights Act 1998 requires it to act compatibly with the European Convention on Human Rights.

In addition to this general position s.72(1) of the 2014 Act requires the Council to have particular regard to the rights protected by Article 10 (Freedom of Expression) and Article 11 (Freedom of Assembly and Association) when deciding whether to make a PSPO.

Article 10 of the European Convention on Human Rights protects everyone's right to freedom of expression. This includes freedom to hold opinions and to receive and impart information and ideas without interference by public authority. The proposed PSPO does not interfere with this right.

Article 11 of the European Convention on Human Rights protects everyone's right to freedom of peaceful assembly and to freedom of association with others. The proposed PSPO does not interfere with this right.

## **5.0 Final proposed PSPOs**

Having carefully considered feedback from the statutory consultation responses, the outcomes of the Equality Impact Assessment, Articles 10 (Freedom of Assembly) and 11 (Freedom of Expression) of the European Convention on Human Rights and the legal threshold it is proposed that –

1. The 3 PSPOs relating to dog control, namely those relating to dog fouling / means to pick up, the maximum number of dogs taken into a public place (4) and dogs on lead by direction of an authorised officer be extended.
2. The dog exclusion PSPO be varied to refresh arrangements within park areas and to remove cemeteries and crematoria. Furthermore, following feedback from the consultation exercise, the bowling green at Chorlton Park is to be removed from the dog exclusion PSPO and the children's play areas at Cathedral Gardens and Piccadilly Gardens are to be added to the locations from which dogs are excluded.
3. The dogs on-lead PSPO be varied to now include the seating area of the Top Terrace at Fletcher Moss Gardens and all cemeteries and crematoria.
4. The extension and variation of the PSPOs, as outlined above, take effect for a maximum period of 3 years, commencing 26 July 2022.

The final proposed PSPOs Officers are recommending be varied / extended can be found at **Appendix 9**.

## **6.0 Next Steps**

- 6.1 Before a final decision is made, any feedback from the committee will be considered.
- 6.2 The decision to extend or vary a PSPO is a key decision in the constitution delegated to the Strategic Director Neighbourhoods. If the Order is varied there follows a period of six weeks in which an appeal can be made to the High Court by an interested person to challenge the decision.

## **7.0 Recommendations**

- 7.1 The Committee is asked to consider and comment on the contents of the report.

## **Appendices**

- **Appendix 1** – current PSPOs
- **Appendix 2** – updated PSPOs for extension / variation (consultation versions)
- **Appendix 3** – dog fouling reports (ward breakdown)
- **Appendix 4** – stray dog reports (ward breakdown)
- **Appendix 5** – public consultation question results
- **Appendix 6** – broad breakdown of issues raised from public consultation
- **Appendix 7** – document outlining the City Council's response to the issues raised
- **Appendix 8** – Equality Impact Assessment
- **Appendix 9** – final versions of PSPOs to be extended / varied.