

# CABINET

Agenda Item: 8

**Ward:** Cross-cutting

**Portfolio:** Community Health

**Report Author(s):** Judi Thompson

**Meeting Date:**  
11 October 2017

**SUBJECT:** Public Space Protection Orders

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	Seen by:	Name	Date
<b>Report Sign off</b>	Chief Executive/ Deputy Chief Executive(s)	Donna Nolan	27/09/17
	Legal	Lesley Dolan	29/08/17
	Finance	Paul Deal	25/08/17
	Group Manager	Claire Malcolmson	29/08/17
	Portfolio Holder	Nigel Taylor	20/08/17
	Ward Member(s)		
<b>Summary:</b>	<p>The purpose of this report is to seek formal agreement approval of the proposed draft Public Space Protection Orders as per within local authority powers under the Public Space Protection Orders (PSPOs) within the provisions of the Anti-Social Behaviour, Crime and Policing Act 2014.</p> <p>Therefore, the report seeks agreement regards adoption of the Public Space Protection Orders (PSPOs) as in Appendix 1 and 2.</p>		
<b>Recommendation:</b>	<p>Cabinet is asked to:</p> <ol style="list-style-type: none"><li>1. To note and consider the results of the feedback from the public and stakeholder consultation regards pre Public Space Protection Order as within Appendix 1 and 2.</li><li>2. To approve the formal making of a Public Space Protection Order for the whole of Mendip District in respect of;<ul style="list-style-type: none"><li>• Failure to remove dog faeces</li><li>• Failure to put dog on a lead as directed by an authorised officer</li><li>• Failure to stop consuming intoxicating substances when directed by an authorised officer (replace existing DPPOs)</li></ul></li></ol>		

	<ul style="list-style-type: none"> <li>• Failure to surrender intoxicating substance when directed by an authorised officer (replace existing DPPO).</li> </ul> <p>3. To approve the making of a formal Public Space Protection Order which relates to all council owned, under 5's, play areas namely;</p> <ul style="list-style-type: none"> <li>• Not to allow a dog within a play area for mainly under 5s</li> </ul> <p>4. To evaluate the impact of introducing Public Space Protection Orders when reviewing consideration of extending or varying order. In this regard a further report will be brought back to Cabinet for consideration.</p>
<b>Direct and/or indirect impact on service delivery to our customers and communities:</b>	<p>This work forms part of the 2017-18 Community Health business plan and will be reviewed every three years within plans.</p> <p>Once the Public Space Protection Orders are implemented it will enable the council and its partners to have authorised control, within the designated areas, over activities that are detrimental to quality of life and to ensure the law-abiding majority can use and enjoy public spaces, safe from particular nuisance and anti-social behaviour.</p>
<b>Contribution to Corporate Priorities:</b>	<p>This reports directly links to the previous corporate plan 2015-19 and one of the priorities to improve the health and wellbeing of the residents and Communities of Mendip and now links to the recently agreed corporate priority, T3, by enabling us to improve working with our full range of partners and integrate services focused on client groups to improve customers' experience and reduce duplication.</p>
<b>Legal Implications:</b>	<p>In order to implement the Public Space Protection Order the Council will have to comply with legislative requirements of the Anti-Social, Crime and Policing Act 2014 Act Part 4, Section 59 to legally formalise the Public Space Protection Orders and any associated guidance policies regards enforcement and appeal process.</p>
<b>Financial Implications:</b>	<p>The Public Space Protection Orders will incur a cost to formalise and legally seal the orders but the majority of the financial costs will be addressing signage for the required locations specified within the approved Public Space Protection Orders stating restrictions and offences.</p> <p><b><u>Signage</u></b></p> <p>In areas where there is existing signage, for example the current Designated Place Protection Orders (DPPOs), they will be replaced with the new signage. Where new signage is required the costs will be mainly borne from existing budget within community safety but opportunities will be sought from other services that require signage to minimise costs and overload street signage. It may be that due consideration of the Orders are required to address language interpretation where necessary.</p>

	<p><b><u>Awareness training of Public Space Protection Orders</u></b> Key officers will need to be identified in accordance with the authorisation process for training and general awareness of the Public Space Protection Order and enforcement practices. This will be addressed through existing cross service working by existing staff resources and in partnership with the Police. The intention that this will become clearer within a forthcoming report regards enforcement and fixed penalty notices.</p> <p><b><u>Legal challenges</u></b> To note that in the event of appeals and /or judicial review which will be heard within the High Courts, costs may be incurred and may need to be addressed through existing legal service.</p>
<p><b>Impact on Service Plans:</b></p>	<p>The introduction of Public Space Protection Orders will support and enhance existing enforcement practices but will require cross service training and awareness raising of Public Space Protection Orders and procedures.</p> <p>To ensure that an evaluation process of the Public Space Protection orders are incorporated every three years within service plans.</p>
<p><b>Value for Money:</b></p>	<p>Public Space Protection Orders have the potential to reduce resources deployed by the council while creating opportunities for enhancing enforcement practices with regards to anti-social behaviour and environmental crime, and for the Police and other partners in tackling anti-social behaviour within the District.</p> <p>The new processes for introducing Public Space Protection Orders are simpler and less bureaucratic for example by having a lighter consultation without having to go through secretary of state for approval, thus enabling one order to impose a number of prohibitions may overall reduce the cost of officer time and lengthy consultation process to seek a swift response to Anti-Social Behaviour within the community.</p>
<p><b>Equalities Implications:</b></p>	<p>Equalities implications have been addressed in relation to introduction of Public Space Protection Orders as previous cabinet report tabled on 11<sup>th</sup> September 2017 within Appendix A and B.</p>

<p><b>Risk Assessment and Adverse Impact on Corporate Actions:</b></p>	<p>Public Space Protection Orders fall within the Anti-Social Behaviour, Crime and Policing Act 2014, and so before implementation of any orders the local authority should be satisfied on reasonable grounds that two conditions are met as referred to in summary.</p> <p>Nationally, there has been a considerable amount of interest regards the introduction of Public Space Protection Orders mainly on infringement of human rights, animal welfare and whether they truly met the conditions required.</p> <p><b><u>Consultation</u></b> The risks mainly revolve around our duty to consult in particular marginalised groups and regards human rights and animal welfare, therefore, this risk is mitigated by our robust consultation and engagement process.</p> <p><b><u>Legal Risk</u></b> Legal challenge to the validity of the Public Space Protection Order process leading to reputation damage to the Council and potential court costs via the High Courts.</p> <p><b><u>To not introduce Public Space Protection Orders.</u></b> If the council does not exercise the power to introduce Public Space Protection Orders as Part 4 section 59 of the Anti-Social, Behaviour, Crime and Policing Act 2014 there is a risk to the council in discharging its statutory requirements, being detrimental to partnership working and negative public perception regards addressing anti-social behaviour within Mendip.</p>
<p><b>Scrutiny Recommendation (if any)</b></p>	<p>N/A</p>

## INTRODUCTION

Members may recall they received a Cabinet report on 11<sup>th</sup> September 2017 regarding proposal's for consideration regard's a Public Space Protection order which outlined that Public Space Protection Orders were part of the Anti-social Behaviour Crime and Policing Act 2014 came into force which provided a new range of tools and powers for the local authorities and the Police to tackle anti-social behaviour. This Act aims to introduce wider discretionary powers to address any particular nuisance or problem that is detrimental to the local community's quality of life. One of these powers within the Act, is the authority to create Public Space Protection Orders (PSPOs).

The purpose of these orders are:

- 1) to control and/or support the reduction of anti-social behaviour in public spaces, whether or not it is owned by the local authority, but is within the boundaries of the District, or,
- 2) Address a problem within a particular area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area, which will apply to everyone.

They are designed to ensure the law abiding majority can use and enjoy public spaces, safe from antisocial behaviour. Mendip District Council can make a Public Space Protection Order if satisfied on reasonable grounds that the criteria within the summary of this report are met i.e.:

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

In order to satisfy itself that the above criteria are met local authorities are required under the legalisation to carry out a robust consultation exercise with partners, stakeholders and the public, seeking comments and evidential background to support any proposed Public Space Protection Orders and thereafter the making of formalisation of any Public Space Protection Orders as required under legalisation.

A Public Space Protection Order has a maximum term of 3 years and may be extended beyond this for a further 3 years where certain criteria are met. The proposed duration should reflect an appropriate and proportionate response to an issue. However, there are examples around the country where a shorter duration has been given to Pubic Space Protection Orders to address specific issues, where a 3 year order was not seen as necessary in the circumstances.

## BACKGROUND

Following the recommendation from cabinet meeting on 11<sup>th</sup> September regards the proposed Public Space Protection Order following consultation process presented to Cabinet recommended that a further consultation took place on the draft proposed public space protection notice and that separately Berkley marsh Proposed Public Protection Order will have further consultation in particular with landowner's adjoining the loacation

## **Consultation**

Further consultation took place regards a draft proposed Public Space Protection order between September 19<sup>th</sup> to 3<sup>rd</sup> Oct 2017 regard's seeking public response along with town, parish councils, Police, Police Crime Commissioner, Chamber of Commerce, Kennel club and Dioceses of Bath and Wells and other key stakeholders. In conjunction consultation was also implemented on the Mendip webpage and within all five town newspapers in order to raise awareness and seek consideration of implementing Public Space Protection Orders within their townships and as a district.

Additional to raise awareness of this consultation exercise all the council owned under 5s play areas had laminated notice attached to the adjoining gate to the play areas and the Police assisted installing all the proposed district area wide Public Space protection notice in key foot fall areas including known areas of Anti-social behaviour regards alcohol behaviour's and nearby existing alcohol restriction signs.

## **Details of findings from the consultation**

At the time of compiling this report to note that we are still within the consultation deadline of 3<sup>rd</sup> October 2017 however, I have received some positive feedback from parish councils and stakeholders and the intention is that an additional supporting document on the finds from this consultation will be tabled as Appendix after 3<sup>rd</sup> October 2017.

In respect to the Control of Dogs in particular when assessing Mendip areas for any areas that were subject to a Dog control Order (DCO) it would appear that Frome town council has adopted a DCO for Victoria park and therefore, the area wide proposed Protection Space Protection Order will incorporate this order as all DCO will be superseded by the introduction of Public Space Order.

In respect to dog fouling this is currently enforced under the Dogs (fouling of land) Act 1996. And therefore, with the proposals of the Dog Fouling within the areas wide Public Space Protection Order will address dog fouling as it will rationalise the existing piecemeal coverage of the Dogs ( Fouling Of Land) Act and will ensure a clear and consistent approach on Dog fouling. Which will include a robust responsible dog ownership awareness campaign as stated within the response from Kennel club and Dog trust.

There has been some response's regarding how the council will enforce and raising public reassurance that the Council will enforce these orders where necessary however, we need to raise awareness and confidence on enforcement of these proposed orders as part of the forthcoming enforcement Policy and ensure we seek assistance from our town and parish councils as they have offered to assist.

## **OPTIONS CONSIDERED**

Given the existing Designated Public Protection Orders will expire Autumn 2017 and on the basis they should be renewed with Public Space Protection Order the council has some options;

**Option A** - do nothing, although not taking the required steps to review existing Designated Public Protection Orders and not exercising the authorities' power to use the

Public Space Protection Orders will leave the Council and our Police partners limited powers to tackle anti-social behaviour within our communities.

**Option B** – do nothing, but all the existing Designated Protection Orders automatically transfer to a Public Space Protection Order. However, the council will be required to replace all existing signage and notify the public and Police of the changes and will not improve the complicated area maps where enforcement is allowable.

## RECOMMENDATIONS

Based on the results of the two stage consultation exercise the Cabinet is asked to;

- 1) To approve the formal making of a Public Space Protection Order for the whole of Mendip District in respect of;
  - Failure to remove dog faeces
  - Failure to put dog on a lead as directed by an authorised officer
  - Failure to stop consuming intoxicating substances when directed by an authorised officer (replace existing DPPOs)
  - Failure to surrender intoxicating substance when directed by an authorised officer (replace existing DPPO).
1. To approve the formal making of a Public Space Protection Order which relates to all council owned, under 5's, play areas namely;
  - Not to allow a dog within a play area for mainly under 5s
2. To remove from the original cabinet proposals on 11<sup>th</sup> September as this will be addressed in a separate cabinet report the making of a Public Space Protection Order which relates to a specific areas with regard to environmental crime and disposal of any waste materials more colloquially known as "fly tipping".
  - Frome area relating to Berkley Lane, Dark Lane and Pot Lane only.
3. To evaluate the impact of introducing Public Space Protection Orders when reviewing consideration of extending or varying order. In this regard a further report will be brought back to Cabinet for consideration.

## REASONS FOR RECOMMENDATIONS

To enable the council to implement Public Space Protection Orders within Mendip to try to improve the quality of life of visitors and residents and to ensure the law-abiding majority can use and enjoy public spaces, safe from particular nuisance and anti-social behaviour.

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**List of background Papers (available from Community Health Service):**

<b>1. Draft proposed Area wide Public Space Protection Order</b>	
<b>2. Draft Proposed council play areas under 5s only Public Space Protection Order</b>	
<b>3. Summary of all PSPO Consultations ( awaiting as separate supporting paper)</b>	