

Consideration of Additional Public Space Protection Order (PSPO) for Carmarthenshire Dog Orders



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DETAILED REPORT.

1. Background to the 2016 Order (baseline order).

- 1.1 Public Spaces Protection Orders (PSPOs) are to help deal with a particular nuisance or problem in a particular area that is damaging to the local community's quality of life. They are designed to ensure that Carmarthenshire residents and visitors can use and enjoy public spaces without experiencing anti-social behaviour.
- 1.2 People who fail to clean up after their dogs on publicly accessible land cause nuisance to others. The presence of dog faeces is a potential hazard to all members of the public alike. It causes risks to health, defaces land and has the potential to deface people and their property.
- 1.3 When not properly supervised and kept under control, dogs that are allowed off a lead in public areas can cause road traffic accidents and can cause nuisance or injury to members of the public and to other animals.
- 1.4 Dogs in Children's play areas can become aggressive if startled. They can also defecate in these areas, defacing and causing a health risk to the young children that use them.
- 1.5 In 2016, the Council made the Carmarthenshire County Council (Dog Control) Public Spaces Protection Order 2016 ("the Original Order") to address the above behaviour on the basis that it had and was likely to continue to have, a detrimental effect on the quality of life of people within Carmarthenshire.
- 1.6 The original order i.e. the baseline order, sought to prevent or reduce the detrimental effects referred to above, by imposing reasonable restrictions, the order required people: -
 - To clean up after their dogs on all public land in the county.
 - To put and keep their dog on a lead of not more than 2 Metres in length when directed to do so by an authorised officer of the council, where such restraint is reasonably necessary to prevent a nuisance, or behaviour by the dog that is likely to cause annoyance or disturbance to any other person, or the worrying or disturbance of any animal.
 - Not to take their dog onto or permit their dog to enter or remain on any enclosed children's play areas in the County.
- 1.7 The Carmarthenshire County Council (Dog Control) Public Spaces Protection Order 2016 came into force on the 1st July 2016. It was initially made for a period of 3 years. In 2019 and 2022 the order was extended for further three years respectively. The current baseline order relating to the specific dog controls/restrictions set out in the bullet points above will expire on the 30th June 2025.

1.8 Public Spaces Protection Orders can be extended for a further period of up to 3 years at a time, so the next extension would be from 2025 to 2028.

2. Legal test for further orders

2.1 Any additional dog restriction or control orders sought would have to be evidence based and reflect local circumstances and needs as prescribed in section 59 of the Anti-Social Behaviour Crime and Policing Act 2014.

2.2 The Authority must be satisfied on reasonable grounds that in introducing so is to prevent: -

- Occurrence or reoccurrence after that time of the activities identified in the order; or
- An increase in the frequency or seriousness of those activities after that time.

3. Evidence and reasons for review/consideration for further orders

3.1 Since the 2016 order came into force there have been 3354 Complaints in relation to Dog related Anti-Social Behaviour including Dog fouling. During the same period 108 fixed penalty notices have been issued and 6 prosecutions have been implemented for offenders who have failed to pay the fixed penalty notice.

3.2 There are challenges in enforcing these orders as it requires authorised officers to be “in the right place at the right time” to defuse incidents. We do continue to receive complaints about dog related nuisance on public land and remain of the view that this is useful power which enables officers to deal with any incidents which they may come across.

3.3 A small number of complaints have been received about dogs in enclosed play areas and enforcement action has been taken when this occurs.

4. Engagement Survey.

4.1 With the introduction of our Public Spaces Protection Orders in 2016, the Authority continued to receive complaints from members and organisations / groups with asset transfer agreements of on-going dog related anti-social behaviour within the community, it was agreed that an engagement survey would be conducted to capture the views on the current order, identify areas or issues being experienced that may require additional orders above the current baseline Public Spaces Protection Orders.

4.2 The Engagement Survey was conducted over an eight-week period between the 10th January to 11th March 2022.

4.3 A set of specific questions were sent out to all Members of Carmarthenshire County Council, all town & community councils and nine sports groups/ clubs that have an asset transfer agreement with Carmarthenshire County Council (see Appendix A) : Copy of Engagement Survey.

4.4 The engagement survey was not a full public consultation. It was a targeted survey, undertaken with key stakeholders affected by dog related anti-social behaviour. It is clear that a number of responses have been received from individuals and organisations who we did not invite to respond. It is likely that the groups / organisations invited to participate in the survey have distributed the survey documents to other people and organisations who have then replied to it.

In addition, some respondents have not identified who they are. Therefore, we do not know whether these responses are from consultees who are invited to respond to the survey, or from other people or organisations.

4.5 We consulted with the following: -

- County Councillors.
- The Town and Community Councils.
- Organisation / Groups with Asset transfer leasing agreements with Carmarthenshire County Council.

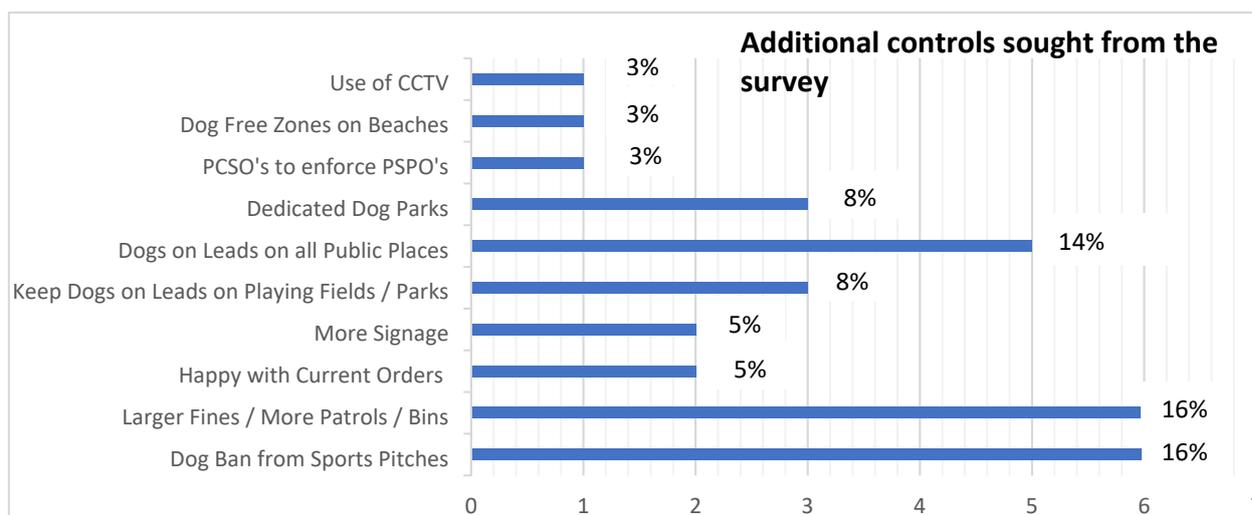
4.6 A summary of Responses is Provided below: -

- 38 Responses were received (these are as follows): -
- 6 County Councillors
- 17 Town & Community Councils
- 13 Other Organisations or Groups.
- 2 Anonymous

4.7 On the question do the current orders, in their view are current orders sufficient to deal with dog related anti-social behaviour?

- 54% Responded with No (20)
- 46% Responded with yes (17)

4.8 Graph showing the key responses.



Full Summary and Detailed Responses are available in Appendix B Summary of Survey responses & Appendix C Engagement Survey Results (Excel).

5. Options & Considerations.

The result of the survey shows there is support for increasing our powers by means of additional PSPOs to deal with dog related anti-social behaviour. Increased controls will have to be balanced against the ability to enforce, the scale of the issue and the benefit from implementation. The options available are presented below for consideration.

5.1 Exclusion of dogs from Sports Pitches.

- 5.1.1 A number of requests have been made for the Authority to consider a dog ban from playing fields / sports pitches.
- 5.1.2 Whilst there is support for a dog exclusion from sports groups and users of the playing fields on health grounds, there are other factors that the Authority has to take into account when considering whether or not it is reasonable to impose such controls.
- 5.1.3 The Authority takes the view that any request for such an order should be taken on a site-by-site approach, when considering the controls that are proportionate at each site- and site-specific evidence will strengthen the Authority's position if proportionality is an issue. Excluding dogs from sports pitches which form part of a much larger site, where there is still room left for dogs to be exercised off lead for welfare reasons would be considered a proportionate response to the problem. However, proportionality becomes more problematic where exclusions leave insufficient space for dogs to be safely exercised off lead. In those cases, we would need to consider whether there are alternative sites in the vicinity where residents can exercise their dogs off-lead, and whether alternative provisions can be made for local dog walkers (including disabled people).
- 5.1.4 Another factor to consider is whether enclosed dog walking areas within these sites are created which allows dogs to be walked off lead. We will also

need to consider the issue the position of pitches moving from one season to the next, people not knowing where the exclusion areas are, as some sports pitches have no defined boundary and some sports pitches are not marked up during the summer months and are formed as an open field out of season. This has the potential risk of dogs straying into the exclusion area. The authorities that have already introduced such exclusion orders have also included exemptions on the exclusion of dogs from sports fields. The exemptions are applied to people who are: -

- Registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948 or
- Deaf, in respect of a dog trained by hearing Dogs for Deaf People (registered charity Number 293358) and upon which that person relies for assistance (dogs must clearly marked as assistants) or;
- Classed as having a disability which affects that person's 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 that person relies for assistance (dogs must be clearly marked assistants).

5.1.5 A number of local authorities who introduced dog exclusion orders on sports pitches have indicated that sports pitches are regularly affected by dog mess, despite a PSPO being in place.

5.2 Dogs to be kept on Leads in all public spaces.

5.2.1 The Council will need to ensure that residents and visitors have the ability to exercise their dogs off-lead for animal welfare reasons. When introducing dog controls on public spaces, we must have regard to the need for public land where people can safely exercise their dogs off-lead for this animal welfare reason. We also need to carefully consider the impact that any controls could have and on elderly and disabled dog owners - who may have difficulty travelling to other areas of public land where they can do so.

5.2.2 The Authority already has the PSPO "Dogs on leads by direction" power that can be used to deal with on-going incidents of dog nuisance. We also have the Community Protection Notice (CPN) Powers that can be used to deal with any individuals persistently cause other problems (details on the use of CPN's is explained further in the report).

5.3 Means to pick up dog faeces.

5.3.1 No such representation was received to introduce an offence of not carrying a receptacle as means to pick up dog faeces during the engagement survey, however subsequently several members have requested that the Authority consider introducing such offence through a fixed penalty notice (FPN).

- 5.3.2 The Authority did consult with other authorities who have already introduced the offence of not carrying a bag or receptacles to remove dog faeces. Feedback from these authorities have indicated that the number of FPN's have been low.
- 5.3.3 One of the difficulties with imposing a requirement to carry "poo bags" etc is that it is difficult to clearly define precisely what is required, and what is and isn't considered acceptable for the purposes of the order. Different authorities word their requirements in different ways. Most of these orders require dog walkers to have "appropriate means" or "suitable means" to clean up after their dog. Others refer to "devices", "articles" or "receptacles" for removal.
- 5.3.4 An important issue to highlight is that local authority officers do not have powers to stop and search members of public, this may explain why the number of fixed penalty notices issued by local authorities that have introduced this offence is low. But the perceived benefit of such powers may increase the level of responsible behaviour within the County.

5.4 Any requests for enhanced orders will be subject to a formal public consultation.

6 Community Protection Notices (CPN's)

- 6.1 A Community Protection Notice (CPN), is a legal notice that imposes conditions on an individual who is causing anti-social behaviour. The Community Protection Notice (CPN) is intended to deal with particular, ongoing problems or nuisances which negatively affect the community's quality of life, by targeting the individual who is responsible for it.
- 6.2 Community Protection Notices can be issued by the local authority, by police officers or by Police Community Support Officers.
- 6.3 A CPN can be issued against someone, if we are satisfied on reasonable grounds that the conduct of the individual, business or organisation:
- is having a detrimental effect on the quality of life of those in the locality;
 - is persistent or continuing in nature; and
 - is unreasonable.
- 6.4 Before a CPN can be issued, a written warning must be issued to the person committing the anti-social behaviour. If they fail to modify their behaviour and the problem continues, they can then be issued with the CPN imposing conditions on them.
- 6.5 Breach of the CPN is then a criminal offence, unless the person has a reasonable excuse for doing so. The maximum penalty on conviction is a fine of £2,500 for an

individual, or £20,000, in the case of a business or organisation. Alternatively, the offender can be issued with a fixed penalty notice, enabling them to discharge any liability to conviction for the offence by paying a fixed penalty. The maximum fixed penalty that can be demanded is £100

- 6.6 One of the advantages of using CPN's to deal with a dog control issue, is that they only impose restrictions of the individual(s) causing the problem. They can be used to impose conditions on the behaviour of an irresponsible dog owner, without affecting other dog owners who behave responsibly.
- 6.7 Where problems are being caused by a small minority irresponsible dog owners of people, CPN's can provide a fairer and more proportionate way of dealing with those problems, rather than imposing restrictions that will affect all dog owners. They provide a flexible means of addressing issues, as the requirements imposed by the CPN can be tailored to address the problem which each person is causing.
- 6.8 The downside of using CPN's is that it can be difficult to identify and target the irresponsible dog owners. Due to the staged approach that must be taken (Warning Letter; Issue CPN, Enforcement Action for Breach of CPN), at least 3 incidents need to occur before a Fixed Penalty Notice can be issued or an individual can be prosecuted.
- 6.9 There is also a need to consider whether the behaviour which we are seeking to address can be adequately addressed in other ways that might be considered more proportionate - for example through increased enforcement of the current PSPO, and/or using CPN's to deal with the irresponsible individuals rather than imposing additional restrictions which will apply to everyone, including responsible dog owners.

7 Enforcement capacity

- 7.1 For any increase in PSPO's to be successful there would need to be enforcement activity undertaken to act as a deterrent. At present we have a team of 8 Enforcement Officers to cover the county. This team have enforcement functions across the county to enforce breaches of Environmental Law (litter and fly-tipping), Public Space Protection Orders, Abandoned vehicles and Anti-Social behaviour.
- 7.2 If the suite of PSPO's were to be expanded in Carmarthenshire this would have an impact on the availability and capacity of officers to tackle the other priority functions. There would need to be a review of the priorities of this team and whether current resources were sufficient to manage increased expectations relating to enforcement of any new PSPOs.

8 Community Action

- 8.1 Given the level of enforcement capacity to tackle this problem it is recommended that we undertake the development of a community toolkit to support local activities in the tackling of dog related anti-social behaviour.

- 8.2 We would seek to develop several progressive stages for communities to follow in the process of reducing dog fouling and these could be followed in order, or by selecting those that are most appropriate to the particular local situation.
- 8.3 These actions can be undertaken while evidence is gathered to support the rationale for additional controls to be put in place and that the Authority act as a community enabler in this regard to support local community action.

9 Recommendations

It is RECOMMENDED that:

- CMT consider and review the responses received from the engagement survey undertaken in early 2022.
- Approve the approach that additional Orders are considered on a site-specific basis, with detailed evidence gathered to support any additional controls that may be necessary.
- The Authority to draft a standard proforma and toolkit for sports groups / town and community councils etc for information and support for community action in relation to dog fouling and provide an evidence template to capture the nature and extent of the problem to support any additional orders that may be appropriate.
- Progress report to be completed to evaluate the evidence to support any additional orders

Appendices: -

- Appendix A Copy of Engagement Survey
- Appendix B Summary of Survey Responses.
- Appendix C Translated Welsh Responses.