

Public Document Pack

Date of meeting Thursday, 21st September, 2017
Time 7.00 pm
Venue Council Chamber, Civic Offices, Merrial Street, Newcastle-under-Lyme, Staffordshire, ST5 2AG
Contact Geoff Durham



**NEWCASTLE
UNDER LYME**
BOROUGH COUNCIL

Civic Offices
Merrial Street
Newcastle-under-Lyme
Staffordshire
ST5 2AG

Public Protection Committee

AGENDA

PART 1 – OPEN AGENDA

- 1 GUIDANCE NOTES (FOR INFORMATION)** (Pages 3 - 20)
 - Procedure to be followed by Public Protection Committee.
 - Natural Justice and Fairness.
 - Human Rights Act.
 - Guidelines Relating to the Relevance of Convictions.
- 2 DECLARATIONS OF INTEREST**

To receive declarations of interest from Members on items included in this agenda.
- 3 APOLOGIES**
- 4 PEST CONTROL ADVICE PROVISION** (Pages 21 - 24)
- 5 STRAY DOG FINES** (Pages 25 - 28)
- 6 FOOD HYGIENE RATING SCHEME RE-INSPECTION REQUESTS** (Pages 29 - 32)
- 7 PUBLIC SPACES PROTECTION ORDER - DOG CONTROL** (Pages 33 - 58)
- 8 URGENT BUSINESS**

To consider any business which is urgent within the meaning of Section 100(B)4 of the Local Government Act.

Members: Councillors Bloor, Burch, Dymond, L Hailstones, P Hailstones, S Hambleton



Working to be a co-operative council

Contacting the Council:

Switchboard 01782 717717 . Fax 01782 711032
Email webmaster@newcastle-staffs.gov.uk.

Text 07800 140048
www.newcastle-staffs.gov.uk

(Chair), Matthews, Olszewski, Spence, J Tagg, Walklate and G White (Vice-Chair)

PLEASE NOTE: The Council Chamber and Committee Room 1 are fitted with a loop system. In addition, there is a volume button on the base of the microphones. A portable loop system is available for all other rooms. Should you require this service, please contact Member Services during the afternoon prior to the meeting.

Members of the Council: If you identify any personal training/development requirements from any of the items included in this agenda or through issues raised during the meeting, please bring them to the attention of the Democratic Services Officer at the close of the meeting.

Meeting Quorums :- 16+= 5 Members; 10-15=4 Members; 5-9=3 Members; 5 or less = 2 Members.

FIELD_TITLE

Officers will be in attendance prior to the meeting for informal discussions on agenda items.

NOTE: THERE ARE NO FIRE DRILLS PLANNED FOR THIS EVENING SO IF THE FIRE ALARM DOES SOUND, PLEASE LEAVE THE BUILDING IMMEDIATELY FOLLOWING THE FIRE EXIT SIGNS. PLEASE **DO NOT** USE THE LIFTS.

COUNCIL CHAMBER: FIRE EXITS ARE AT THE REAR OF THE CHAMBER AT BOTH SIDES AND THIS IS THE SAME FOR OCCUPANTS OF THE PUBLIC GALLERY.

COMMITTEE ROOMS: EXIT VIA THE WAY YOU ARRIVED AT THE MEETING OR AT THE FAR END OF THE COUNCIL CHAMBER.

ON EXITING THE BUILDING, PLEASE ASSEMBLE AT THE REAR OF THE ASPITRE HOUSING OFFICE OPPOSITE THE CIVIC OFFICES. DO NOT REENTER THE BUILDING UNTIL ADVISED TO DO SO.

PROCEDURE TO BE FOLLOWED BY PUBLIC PROTECTION COMMITTEE IN DETERMINING HACKNEY CARRIAGE AND PRIVATE HIRE LICENCES

- The Chairman will open the proceedings by stating the nature of the matter which is to be considered (first application/renewal/suspension/revocation), whether the proceedings concern a vehicle, drivers' or operators' licence (in the case of Private Hire Cars) or a driver's or vehicle licence (in the case of Hackney Carriages) and the name of the applicant or licence holder.
- The Chairman will introduce him/herself and the members of the committee, the Clerk to the committee and any other officer present.
- The Chairman will ask the officers to confirm whether or not the formal requirements in respect of the matter to be considered have been complied with. In the case of a proposed suspension or revocation of a licence, refusal to renew or a new licence application, the Chairman will ask the Licensing Officer to confirm whether or not the requisite 14 days' prior notice has been served on the licence holder.
- If satisfied as to the formal requirements, the matter under consideration will then be outlined by the Licensing Officer.
- The committee will consider the merits of the application or proposed suspension/revocation and the report of the officers. The committee may ask the officers for clarification of any points in issue.
- The Chairman will then invite the applicant or licence holder to make any representations. The applicant or licence holder may make his/her representations personally or through a representative, who shall first identify him/herself.
- The Chairman and other members of the committee may ask the applicant or license holder questions and points of clarification.
- The applicant or licence holder, his/her representative (if any) and any officer present (with the exception of the Lawyer and the Clerk to the committee) shall withdraw.
- The members of the committee consider their decision. If any further clarification or information is required from the applicant or licence holder or any officer, all parties will be recalled.
- All parties will be recalled for the announcement by the Chairman of the committee's decision.
- The committee's decision will be confirmed in writing by the Proper Officer.
- At any point in this procedure, the committee may pass a resolution excluding the press and public from the meeting on the basis that, if they were to remain, there may be disclosure of exempt information (information relating to the private or business affairs of a particular person).

This page is intentionally left blank

GUIDANCE NOTES

NATURAL JUSTICE AND FAIRNESS

These are the principles used in the determination of just or fair processes and stem from the common law legal system.

According to Roman law, certain basic legal principles were so obvious that they should be applied universally without the need to be enacted into the law.

The rules of natural justice are now regularly applied by courts in both common law and civil law jurisdictions.

Natural justice operates on the principles that man is basically good, that a person of good intent should not be harmed and one should treat others as they would like to be treated.

Natural justice includes the notion of procedural fairness and may incorporate the following guidelines:-

- A person accused of a crime, or at risk of some form of loss, should be given adequate notice about the proceedings (including any charges);
- A person making a decision should declare any personal interest they may have in the proceedings;
- A person who makes a decision should be unbiased and act in good faith. He therefore cannot be one of the parties in the case, or have an interest in the outcome. This is expressed in the Latin maxim, *nemo iudex in causa sua*: “no man is permitted to be judge in his own cause”;
- Proceedings should be conducted so they are fair to all the parties – expressed in the Latin maxim, *audi alteram* : “let the other side be heard”;
- Each party to a proceeding is entitled to ask questions and contradict the evidence of the opposing party;
- A decision-maker should take into account relevant considerations and extenuating circumstances, and ignore irrelevant considerations;
- Justice should be seen to be done. If the community is satisfied that justice has been done they will continue to place their faith in the courts.

Where a person’s legal rights are concerned, the principles of natural justice are bolstered by Article 6 of the European Convention on Human Rights which is now incorporated into domestic law.

THE RULE AGAINST BIAS

It is elementary to the rules of natural justice that the deciding body is to be free from bias.

The rule is that the body must be and be seen to be impartial, independent and disinterested.

There are two broad categories of bias:

- (a) Actual Bias: when the decision-maker has an economic interest in the outcome of the case (also known as a material or pecuniary interest) subject to the De Minimum doctrine;

- (b) Reasonable Apprehension: unbiased appearance is an essential part of procedural fairness. The test is whether, having regard to the circumstances, a well informed person (“reasonably informed bystander”) would consider that the interest might have an influence on the exercise of the decision-maker’s duties.

GUIDANCE NOTES

HUMAN RIGHTS ACT 1998

In addition to the Rules of Natural Justice, you must also have regard to the provisions of the Human Rights Act 1998.

Rights and Freedoms to be considered when determining matters

ARTICLE 6: RIGHT TO A FAIR TRIAL

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgement shall be pronounced publicly, but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.
2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.
3. Everyone charged with a criminal offence has the following minimum rights:
 - (a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
 - (b) to have adequate time and facilities for the preparation of his defence;
 - (c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means, to pay for legal assistance, to be given it free when the interests of justice so require;
 - (d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
 - (e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

ARTICLE 8: RIGHT TO RESPECT FOR PRIVATE AND FAMILY LIFE

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

ARTICLE 10: FREEDOM OF EXPRESSION

1. Everyone has the right to freedom of expression. This rights shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

ARTICLE 14: PROHIBITION OF DISCRIMINATION

The enjoyment of the rights and freedoms set fourth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

NB This is not a substantive right, but comes into play if other rights are likely to have been infringed. The prohibition is wide, but not exhaustive

ARTICLE 1: OF THE FIRST PROTOCOL PROTECTION OF PROPERTY

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

NOTE Possessions, in this context, includes the right to apply for a licence, the right to hold and retain a licence, the goodwill of a business and liquor licences.



GUIDELINES RELATING TO THE RELEVANCE OF CONVICTIONS FOR APPLICANTS FOR THE GRANT AND RENEWAL OF LICENCES TO DRIVE HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES

GENERAL POLICY

1. Each case will be decided on its own merits
2. The Council will, as far as is possible, ensure that all persons holding a licence to drive Hackney Carriages or private hire vehicles are fit and proper persons. In doing so, the Council will take into account previous convictions including, where relevant, 'spent' convictions.
3. The Council will always put the protection of the public first when considering the relevance of convictions recorded against an applicant for a licence.
4. A person with a conviction for serious crime need not be permanently barred from obtaining a licence but will be expected to remain free of conviction for an appropriate period, before an application is considered. However, remaining free of conviction for a specified period may not be sufficient to show that a person is fit and proper and additional evidence may be required.
5. There may be occasions where it is appropriate to depart from the guidelines when making a decision on an application. For example, where the offence is a one-off and there are mitigating circumstances or alternately, where there are many or continuous offences which may show a pattern of offending and unfitness.
6. The following examples give a general guide as to the action that might be taken where convictions are recorded against an applicant.

(a) Dishonesty

Members of the public using Hackney Carriages and private hire vehicles expect the driver to be honest and trustworthy. It would be easy for a dishonest driver to take advantage of the public.

For these reasons, a serious view will be taken of any conviction involving dishonesty. In general, if an application is made within the first 3 to 5 years from the date of a conviction or from the date of release from jail where a custodial sentence has been imposed, it is likely that it will be refused.

Where an application is made within the first three years since the conviction or the date of release from jail, where a custodial sentence has been

imposed, for any of the following offences, the application will normally be refused:-

- Theft
- Burglary
- Fraud
- Benefit fraud (including offences under ss11A and 112 of the Social Security Administration Act 1992)
- Blackmail
- Handling or receiving stolen goods
- Forgery
- Conspiracy to defraud
- Obtaining money or property by deception
- Other deception
- Or similar offences to those above which may replace any of the above offences

When a period of three years from conviction or the date of release from jail, where a custodial sentence has been imposed has passed, consideration will be given to the circumstances of the offence and any evidence to show that an applicant is a fit and proper person to hold a licence.

(b) Violence

As Hackney Carriage and private hire vehicle drivers maintain close contact with the public, a firm line will be taken with applicants who have convictions for violence. Where the commission of an offence involves loss of life, a licence will normally be refused. In other cases, a period of three to ten years free of conviction from the date of conviction or the date of release from jail, where a custodial sentence has been imposed will generally be required before an application is likely to be considered favourably. The nature and seriousness of the offence(s) will be taken into consideration.

In particular:-

- (i) An application will normally be refused where the applicant has a conviction for an offence of:-
 - Murder
 - Manslaughter
 - Manslaughter or culpable homicide while driving
 - Or similar offence or offences which replace the above offences

- (ii) An application will normally be refused for a period of five years from the date of the conviction or the date of release from jail, where a custodial sentence has been imposed if the applicant has a conviction for:-
 - Arson
 - Malicious wounding or grievous bodily harm which is racially aggravated
 - Assault occasioning actual bodily harm which is racially aggravated

- Assault with intent to cause grievous bodily harm
- Assaulting a police officer in the execution of his duties
- Malicious wounding
- Robbery
- Racially aggravated criminal damage
- Racially aggravated fear or provocation of violence
- Racially aggravated intentional harassment, alarm or distress
- Racially aggravated harassment
- Racially aggravated putting people in fear of violence
- Riot
- Possession of an offensive weapon
- Possession of a firearm
- Violent disorder
- Or any arrestable offence involving violence (an arrestable offence is defined as an offence committed by a person of age 21 years or over and on conviction for the first offence may be sentenced to a term of imprisonment of five years or where the penalty is fixed by law)

(iii) An application will normally be refused for a period of three years from the date of conviction or the date of release from jail, where a custodial sentence has been imposed, where the applicant has a conviction for:-

- Common assault
- Racially aggravated common assault
- Assault occasioning actual bodily harm
- Affray
- Racially aggravated harassment, alarm or distress
- Resisting arrest
- Obstructing a police officer in the execution of his duty
- Criminal damage
- Any similar offence or offences which replace the above offences

(c) Drugs

An application will normally be refused if an applicant has a conviction for an offence that relates to the supply or importation of drugs and the date of the conviction or the date of release from jail, where a custodial sentence has been imposed, is less than five to ten years before the date of the application. However, after five years from the date of such a conviction or the date of release from jail, where a custodial sentence has been imposed, the circumstances of the offence and any evidence which shows that a person is now a fit and proper person to hold a licence will be taken into consideration.

An application will normally be refused where the application is made within three to five years from the date of a conviction or the date of release from jail, where a custodial sentence has been imposed for an offence relating to the possession of drugs. However, after a period of three years from the date of such a conviction or the date of release from jail, where a custodial sentence has been imposed, consideration will be given to the circumstances

of the offence and any evidence to show that an applicant is a fit and proper person to hold a licence.

An application will normally be refused where an applicant has more than one conviction for offences related to the possession of drugs and the last conviction or the date of release from jail, where a custodial sentence has been imposed, is less than five years before the date of the application.

Where evidence is available that an applicant who has convictions for drug related offences has been addicted to drugs, they will have to produce evidence that shows that they have been free of drug taking for at least five years after successfully completing a drug treatment programme.

(d) Sexual and Indecency Offences

As the driver of Hackney Carriages and private hire vehicles often carry passengers who are alone, or may be vulnerable, applicants who have convictions for rape, indecent assault, any sexual offence involving children and any conviction for an offence under the Sexual Offences Act 2003 will normally be refused a licence.

Where an applicant has a conviction for a sexual offence such as indecent exposure, they will normally be refused a licence until they can show a substantial period usually between five and ten years free of any such convictions from the date of conviction or the date of release from jail where a custodial sentence has been imposed before an application is made.

After a period of five years from the date of a conviction or the date of release from jail, where a custodial sentence has been imposed, consideration will be given to the circumstances of the offence and any evidence to show that an applicant is a fit and proper person to hold a licence.

When considering applications, the Council may take into account any information of a sexual nature which does not amount to a criminal offence that is brought to its attention where that information may indicate that an applicant may not be a fit and proper person to hold a licence.

(e) Motoring Convictions

(i) Disqualification

Where an applicant had been disqualified from driving by the Courts for a serious traffic offence under Category 'A' of Annex (i), an application will generally be refused unless a period of five years free of conviction has passed since the return of the DVLA licence.

Where an applicant has been disqualified from driving by the Courts for a serious traffic offence under Category 'B' of Annex (i), an application will generally be refused unless a period of five years free of conviction has passed since the return of the DVLA licence unless the offence was an isolated one, in which case, a period of not less than 2 years shall have passed.

Where a disqualification is imposed by a court in a 'totting-up' case, i.e. where an applicant has been disqualified because of several

driving offences, an application will generally be refused unless a period of one year free of conviction has elapsed since the return of the DVLA driver licence.

In 'totting-up' cases where a court does not impose a disqualification because of exceptional circumstances, then because the Council apply different criteria to the courts, an application will generally be refused unless an applicant can show a period of 1 year free of conviction from the date of the last court appearance.

(ii) Serious Traffic Offences

Where an applicant has a conviction for a serious traffic offence in Category 'A' Annex (i) and a period of disqualification has not been imposed by the courts, an application will normally be refused where an application is made in the last five years following the date of the last conviction.

Where an applicant has a conviction for a serious traffic offence in Category 'B' Annex (i) and a period of disqualification has not been imposed by the courts, an application will normally be refused where an application is made in the last five years following the date of the last conviction unless the offence was an isolated one.

Where an applicant has had more than one conviction for a serious traffic offence in either Category 'A' or 'B' of Annex (i) and the courts have not imposed a period of disqualification, an application will normally be refused where an application is made in five years following the date of the last conviction.

(iii) Other Traffic Offences

Normally, isolated convictions for other traffic offences should not prevent someone obtaining a licence. However, the number, type and the frequency of these types of offence will be taken into account. If there are several convictions for these types of offence, an applicant will normally be expected not to have been convicted of an offence in the six months before an application is made.

A list of relevant offences is shown at Annex (ii). However, this is not an exhaustive list and there may be other offences which may be relevant.

(f) **Offences Under the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976 and any Hackney Carriage Byelaws (The Acts)**

One of the main purposes of the licensing regime set out in 'The Acts' is to ensure the protection of the public. For this reason, a serious view will be taken of convictions for offences under the legislation, particularly offences of illegal plying for hire, when deciding if a person is a fit and proper person to hold a licence.

In particular, an application will normally be refused where an applicant has more than one conviction for an offence under 'The Acts' in the two years preceding the date of the application.

(g) Drunkenness

(i) In a Motor Vehicle

The manner in which drunkenness in a motor vehicle will be dealt with is outlined in Motoring Offences at paragraph 'e' of these guidelines.

(ii) Not in a Motor Vehicle

Where an applicant has an isolated conviction for drunkenness, this need not stop an applicant from getting a licence. In some cases, a warning may be appropriate. However, where an applicant has a number of convictions for drunkenness, it could indicate a medical problem, which would require further investigation including a medical examination and the possible refusal of a licence.

(h) Spent Convictions

The Council will only take 'Spent Convictions' into consideration if it is considered they are relevant to the application.

(i) Formal Cautions and Fixed Penalty Notices

For the purposes of these guidelines, the Council will treat Formal Cautions issued in accordance with Home Office guidance and fixed penalty notices as though they were a conviction before the courts.

SERIOUS TRAFFIC OFFENCES

CATEGORY 'A'	
Offence Code	Offence
Careless Driving	
CD40	Causing death through careless driving when unfit through drink
CD50	Causing death through careless driving when unfit through drugs
CD60	Causing death through careless driving with alcohol level above the limit
CD70	Causing death through careless driving then failing to supply a specimen for analysis
Reckless/Dangerous Driving	
DD40	Dangerous driving
DD60	Manslaughter or culpable homicide while driving a vehicle
DD80	Causing death by dangerous driving
Miscellaneous Offences	
MS50	Motor racing on a highway
Theft and Unauthorised Taking	
UT50	Aggravated taking of a vehicle

PLEASE NOTE:

Any offence of aiding, abetting or procuring the above offences, the offence code will have the **0** replaced by a **2**.

Any offence of causing or permitting the above the offences, the offence code will have the **0** replaced by a **4**.

Inciting any of the above offences, the offence code will have the **0** replaced by a **6**.

CATEGORY 'B'	
Offence Code	Offence
Accident Offences	
AC10	Failing to stop after an accident
AC20	Failing to give particulars or report an accident within 24 hours
BA10	Driving whilst disqualified by order of the court
BA30	Attempting to drive whilst disqualified by order of the court
Careless Driving	
CD10	Driving without due care and attention
CD20	Driving without reasonable consideration for other road users
CD30	Driving without due care and attention or without reasonable consideration for other road users
Construction and Use Offences	
CU10	Using a vehicle with defective brakes
CU20	Causing or likely to cause danger by use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition
CU30	Using a vehicle with defective tyre(s)
CU40	Using a vehicle with defective steering
CU50	Causing or likely to cause danger by reason of load or passengers
Drink or Drugs	
DR10	Driving or attempting to drive with alcohol level above limit
DR20	Driving or attempting to drive while unfit through drink
DR30	Driving or attempting to drive then failing to supply a specimen for analysis
DR40	In charge of a vehicle while alcohol above limit
DR50	In charge of a vehicle while unfit through drink
DR60	Failure to provide specimen for analysis in circumstances other than driving or attempting to drive when unfit through drugs
DR70	Failing to provide a specimen for breath test
DR80	Driving or attempting to drive when unfit through drugs
DR90	In charge of a vehicle while unfit through drugs
Insurance Offences	
IN10	Using a vehicle uninsured against third party risks
Licence Offences	
LC30	Driving after making a false declaration about fitness when applying for a licence
LC40	Driving a vehicle after having failed to notify a disability
Miscellaneous Offences	
MS70	Driving with uncorrected defective eyesight

PLEASE NOTE:

Any offence of aiding, abetting or procuring the above offences, the offence code will have the **0** replaced by a **2**.

Any offence of causing or permitting the above the offences, the offence code will have the **0** replaced by a **4**.

Inciting any of the above offences, the offence code will have the **0** replaced by a **6**.

If any of the offences in **Category 'B'** involve a licensed Hackney Carriage or private hire vehicle, they will be treated as though they are a **Category 'A'** offence.

OTHER TRAFFIC OFFENCES

Offence Code	Offence
LC20	Driving otherwise than in accordance with a licence
LC50	Driving after a licence has been revoked or refused on medical grounds
MS10	Leaving a vehicle in a dangerous position
MS20	Unlawful pillion riding
MS30	Play street offences
MS60	Offences not covered by other codes
MS80	Refusing to submit to an eyesight test
MS90	Failure to give information as to identity of driver etc
MW10	Contravention of Special Road Regulations (excluding speed limits)
PC10	Undefined contravention of Pedestrian Crossing Regulations
PC20	Contravention of Pedestrian Crossing Regulations with a moving vehicle
PC30	Contravention of Pedestrian Crossing Regulations with a stationery vehicle
SP10	Exceeding goods vehicle speed limits
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
SP30	Exceeding statutory speed limit on a public road
SP40	Exceeding passenger vehicle speed limit
SP50	Exceeding speed limit on a motorway
SP60	Undefined speed limit offence
TS10	Failing to comply with traffic light signals
TS20	Failing to comply with double white lines
TS30	Failing to comply with 'stop' sign
TS40	Failing to comply with direction of a constable/warden
TS50	Failing to comply with traffic sign (excluding stop signs, traffic lights or double white lines)
TS60	Failing to comply with a school crossing patrol sign
TS70	Undefined failure to comply with a traffic direction sign

PLEASE NOTE:

Any offence of aiding, abetting or procuring the above offences, the offence code will have the **0** replaced by a **2**.

Any offence of causing or permitting the above the offences, the offence code will have the **0** replaced by a **4**.

Inciting any of the above offences, the offence code will have the **0** replaced by a **6**.

If any of the offences in **Category 'B'** involve a licensed Hackney Carriage or private hire vehicle, they will be treated as though they are a **Category 'B'** offence under Annex (ii).

This page is intentionally left blank

HEADING Pest Control Advice Provision

Submitted by: Head of Environmental Health Services

Portfolio: Operational

Ward(s) affected: All

Purpose of the Report

To seek Committees support to cease offering free pest control telephone advice

Recommendations

That Members agree:

- a. That pest control advice should only be available on a chargeable basis. If agreed, then Members to recommend to Cabinet
- b. The corresponding charge of £10 for 2018/19

Reasons

To align demands on the service with the team's capacity, and enable its focus to be upon 'doing' rather than 'discussing'.

1. **Background**

- 1.1 The council continues to offer a popular in-house pest control service, providing a wide range of treatments to Newcastle residents and businesses.
- 1.2 In recent years the size of the team has been reduced. The service currently employs one permanent pest control officer and a further pest control officer on a temporary contract (until 31/3/18). Support is provided by an Environmental Health Manager (approx. 0.4FTE), and approx. 0.3 of a clerical assistant.
- 1.3 During 2016/17 Customer Services recorded 1441 requests for the teams help, corresponding to £64,000 of income

	2014-2015	2015-2016	2016-2017
Rats & Mice (treatments)	776	744	467
Insects treatments inc Wasps, ants, cockroaches, bedbugs, fleas	784	589	509
Advice requests/complaints	361 (18%)	330 (18%)	357 (25%)
Other including 'commercial services'	98	137	112
Total Pest Control Requests	2,019	1,800	1,441
<i>Pest Control Officers</i>	<i>2.5 FTE</i>	<i>2.5 FTE</i>	<i>2.0 FTE</i>

2. Issues

- 2.1 As charges have been introduced / increased for services, a growing number of people want to 'discuss' pest control problems – currently a free option - rather than simply commission chargeable council pest control services. Frequently asked questions include: How would council officers approach a problem? What equipment would they use? Can it be bought on the internet? What other options are there? What do I need to buy? Where can I get it from? How do I use it? Is this information from the internet true?etc.
- 2.2 Although comprehensive advice has been added on the council's web pages to encourage self-service, the team continue to receive high volumes of advice requests either with additional questions, or seeking confirmation that the published information is correct.
- 2.3 Whilst such conversations clearly meet our residents' expectations of the assistance their authority should be providing, the time taken to respond impacts on the services we deliver and has a corresponding cost.
- 2.4 Essentially providing free advice means that those who have paid for a treatment service wait longer for the officer to be able to respond.
- 2.5 Historically many advice calls became treatments, however as charges have increased this has reduced. Price for many residents is now key and having been told of charges they want alternatives.
- 2.6 The diverse nature of requests means they can generally not be fully answered at first point of contact by Customer Services.
- 2.7 A number of other commercial service providers compete to provide pest control services to our residents in a price and performance sensitive market. Free advice is not generally offered.
- 2.8 Nothing in these proposals restricts a resident's right to report a problem / make a complaint. It is anticipated that complaints and enforcement caseload will increase as uptake of chargeable services falls.

3. Options Considered

- 3.1 Three basic options are outlined below. It is accepted that this list is not exhaustive and officers would welcome Members suggestions

	Advantages	Disadvantages
OPTION ONE: Continue to provide telephone advice at no cost	<ul style="list-style-type: none"> Aligns with residents expectations that independent objective advice should be available from the authority About 1 in 4 advice requests translate to treatment. 	<ul style="list-style-type: none"> Impacts adversely on response times with those paying for treatments waiting longer
OPTION TWO: Do not provide telephone advice. Offer chargeable treatment services / visit only	<ul style="list-style-type: none"> Focusses officer resource on 'doing' rather than 'discussing' Advice given as part of a visit is likely to be more reliable to advice given when problems has not been seen first hand 	<ul style="list-style-type: none"> There is an expectation that advice will be available at no charge
OPTION THREE: Provide telephone advice, but only on a chargeable	<ul style="list-style-type: none"> Reducing the number of jobs 'in the queue' by only creating caseload where a payment has 	<ul style="list-style-type: none"> There is an expectation that advice will be available at no charge

basis (e.g. £10)	been received.	
------------------	----------------	--

4. **Proposal**

4.1 Option One is essentially a 'do nothing' option and makes no changes to current arrangements. Alternatives both involve some payment of some kind

4.2 Option Three is recommended.

5. **Reasons for Preferred Solution**

5.1 Option One is not sustainable. With current staffing levels the team does not have the capacity to respond within a reasonable timeframe to advice requests. Providing advice impacts on the delivery of treatment services.

5.2 Option Two limits the scope of the service to treatments and chargeable advice visits. Chargeable advice visits (currently £45) have been offered for several years with a very low uptake. The authority would not cover its staff time and transport costs if this charge was lowered.

5.3 Option Three still provides telephone advice (up to 20 mins conversation, with a next working day target), but requires a payment to cover the direct costs the authority incurs. If selecting this option Members are requested to propose a fee for telephone advice. £10 is recommended.

5.4 Charging for advice is increasing common across a range of local authority services including planning & development.

6. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

6.1 Charging for advice will potentially reduce the caseload for the pest control team, but ensure that their time can be focussed on providing treatments or where appropriate enforcement.

7. **Legal and Statutory Implications**

7.1 The authority has no obligation to offer either pest control advice or a treatment service.

7.2 The authority has a duty to investigate complaints of rats on land and to ensure that owners and occupiers control rodent numbers, using enforcement powers and arranging works in default where appropriate.

8. **Equality Impact Assessment**

8.1 No impact is identified.

9. **Financial and Resource Implications**

9.1 Charging for telephone advice creates an additional entry in the council's list of fees and charges, which will need to be considered by Cabinet.

9.2 No significant income generation is anticipated as a result of introducing a charge.

10. **Major Risks**

10.1 No significant risks have been identified

11. **Sustainability and Climate Change Implications**

11.1 No relevant considerations

12. **Key Decision Information**

12.1 This is not a key decision

13. **Earlier Cabinet/Committee Resolutions**

13.1 None

Agenda Item 5

HEADING Stray Dog Fines

Submitted by: Head of Environmental Health Services

Portfolio: Operational

Ward(s) affected: All

Purpose of the Report

To seek Committees support to cease offering a deferred payment option to residents of limited means seeking to reclaim their dog.

Recommendations

That Public Protection Committee agrees that dogs should not be returned until full payment of associated fines and fees has been made.

Reasons

To ensure robust enforcement and discourage straying whilst reducing 'bad debt' and the associated back office administration.

1. **Background**

- 1.1 The council has an obligation to deal with stray dogs found in the area of the authority. This duty stems from Section 149 of the Environmental Protection Act 1990.
- 1.2 Once a dog is seized its owner is notified, if current contact details are available. They are advised of the process they need to follow to reclaim their dog and any fees due.
- 1.3 Whilst legislation suggests that fees should be paid prior to the release of the dog, it has been the council's practice to consider applications from those facing financial hardship for the fees to be deferred – i.e. the dog released and a bill issued allowing further time to pay. This matched arrangements made by other councils locally.
- 1.4 Whilst the total number of strays seized per year is falling, partly through regulations such as microchipping, the number of cases where dog owners have successfully shown that they do not have the funds to immediately pay the charges has increased.

	2013-14	2014-15	2015-16	2016-17
Total Dogs Seized	203	171	129	108
Deferred Payments Approved	11 (5%)	30 (18%)	14 (11%)	16 (15%)

2. **Issues**

- 2.1 Offering deferred payments is at the authority's discretion and is a practical solution to ensure that dogs can be returned to their owners quickly. It minimises the kennelling and potentially disposal costs the authority may face if dogs remain unclaimed.
- 2.2 Whilst verifying a person's circumstances and issuing an invoice (giving the person 28 days to arrange payment) is relatively straight forward, a significant number of payees default.

The recovery process can be complex and resource intensive, and unless the person's circumstances have changed, simply creates financial difficulty further down the line.

3. **Options Considered**

3.1 Two options are outlined below. It is accepted that this list is not exhaustive and officers would be willing to investigate other suggestions from Members.

		Advantages	Disadvantages
<p>OPTION ONE: Continue to offer deferred payments [Current approach]</p>	<p>Subject to a financial circumstances check, allow the dog owner to collect their dog paying only any kennelling fees due (typically £10-£20) An invoice will subsequently be issued for the fine (£70) allowing 28 days to pay</p>	<ul style="list-style-type: none"> • Considers resident's financial circumstances • Reduces the number of unclaimed animals which is a cost to the authority • Attempts are made to recover a fine and resident reminded that allowing a dog to stray has a financial consequence 	<ul style="list-style-type: none"> • Additional back office administration verifying financial circumstances. • Staff time required to issue invoice. • Potential costs chasing payment and initiating recovery. • Possible bad debt
<p>OPTION TWO: Do not release a dog unless payment is cleared in full</p>	<p>Hold the dog at the kennels, for up to seven days, after which it would be rehomed or put to sleep if the owner has not made the required payments (£70 fine + £10 to £70 kennelling)</p>	<ul style="list-style-type: none"> • Treats all dog owners the same irrespective of financial circumstances • Eliminates bad debt 	<ul style="list-style-type: none"> • Will reduce the number of dogs reclaimed, resulting in higher boarding and disposal costs to the authority • May require those with limited finances to either take out loans or forfeit their pet.

4. **Proposal**

4.1 Option One is essentially a 'do nothing' option and makes no changes to current arrangements.

4.2 Option Two is recommended.

5. **Reasons for Preferred Solution**

5.1 Option Two sends a clear message that allowing a dog to stray is unacceptable and that where a dog warden seizes a dog a penalty must be paid in all cases. It treats all dog owners the same, irrespective of their financial circumstances. It streamlines the council's administration of seized dogs.

6. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

6.1 Robust enforcement of straying controls should provide an effective deterrent to straying.

7. **Legal and Statutory Implications**

7.1 Insisting on payment before a dog is returned aligns directly with the relevant section of the Environmental Protection Act.

149 Seizure of stray dogs.

(1) Every local authority shall appoint an officer (under whatever title the authority may determine) for the purpose of discharging the functions imposed or conferred by this section for dealing with stray dogs found in the area of the authority.

(2) The officer may delegate the discharge of his functions to another person but he shall remain responsible for securing that the functions are properly discharged.

(3) Where the officer has reason to believe that any dog found in a public place or on any other land or premises is a stray dog, he shall (if practicable) seize the dog and detain it, but, where he finds it on land or premises which is not a public place, only with the consent of the owner or occupier of the land or premises.

(4) Where any dog seized under this section wears a collar having inscribed thereon or attached thereto the address of any person, or the owner of the dog is known, the officer shall serve on the person whose address is given on the collar, or on the owner, a notice in writing stating that the dog has been seized and where it is being kept and stating that the dog will be liable to be disposed of if it is not claimed within seven clear days after the service of the notice and the amounts for which he would be liable under subsection (5) below are not paid.

(5) A person claiming to be the owner of a dog seized under this section **shall not be entitled to have the dog returned to him unless he pays all the expenses** incurred by reason of its detention and such further amount as is for the time being prescribed.

(6) Where any dog seized under this section has been detained for seven clear days after the seizure or, where a notice has been served under subsection (4) above, the service of the notice and the owner has not claimed the dog and paid the amounts due under subsection (5) above the officer may dispose of the dog

8. **Equality Impact Assessment**

- 8.1 Whilst not impacting differently on any group with a protected status, this policy may create further hardship for those with limited financial resources.

9. **Financial and Resource Implications**

- 9.1 Checking financial circumstances and issuing invoices requires back office staff resource. Each case typically takes 1-2hrs staff time
- 9.2 The authority can incur court costs if recovery is pursued, typically £25-£50 per case. Success at court will not necessarily result in payment receipt.
- 9.3 Where a dog remains unclaimed the authority incurs costs of £70 in kennelling fees to its contractor, and potentially further costs if the dog cannot be rehomed.

10. **Major Risks**

- 10.1 No significant risks have been identified

11. **Sustainability and Climate Change Implications**

11.1 No relevant considerations

12. **Key Decision Information**

12.1 This is not a key decision

13. **Earlier Cabinet/Committee Resolutions**

13.1 None

<u>HEADING</u>	Food Hygiene Rating Scheme re-inspection requests
<u>Submitted by:</u>	Head of Environmental Health Services
<u>Portfolio:</u>	Operational
<u>Ward(s) affected:</u>	All

Purpose of the Report

Following a trial of charging for requested Food Hygiene Rating Scheme (FHRS) re-inspections with a number of local authorities, the Food Standards Agency (FSA) have now confirmed a change in policy. This allows the use of powers in the Localism Act 2011 to introduce fees on a cost recovery basis for re-inspection/re-visits.

Recommendations

For committee to:

- a. note the change in the Food Standards Agency charging policy.
- b. to approve the proposal to introduce a cost recovery fee for FHRS re-inspections.
- c. to recommend to Cabinet the proposed charge of £160 for implementation on 1st April 2018

Reasons

Charging was previously specifically excluded by the FSA contract with Local authorities, but they have recently reconsidered this position and now advise that it is possible to charge for this service under the powers granted to local authorities by the Localism Act.

1. **Background**

- 1.1 The FSA has overall responsibility for the official control of food law enforcement in England. The FSA run the FHRS in England, Wales and Northern Ireland.
- 1.2 The Environmental Health Service is responsible for carrying out inspections of food businesses to check they meet requirements of food hygiene law. They give food businesses hygiene ratings based on the findings of inspections and then publish this information on the FSA website.
- 1.3 Ratings are given to places where the public can eat out such as restaurants, takeaways, pubs and hotels. The scheme also includes schools, hospitals, and residential homes or places where you shop, supermarkets, bakeries and delicatessens. A number of businesses are exempt from the scheme generally because they are a low risk in terms of food hygiene requirements for example Newsagents selling only wrapped sweets.
- 1.4 Once a food rating has been awarded, food businesses have the opportunity to request a revisit where they have scored below the maximum rating of 5 (Very Good). Currently they can only request one re-visit between the due periodic inspections; within the proposed fee paying scheme there is no limit on the number of requests a business may make.

- 1.5 The business must complete an application form and provide evidence to the satisfaction of the Lead Food Safety Officer that improvements have been made before a request for revisit will be undertaken.
- 1.6 It is proposed that the Environmental Health Service introduce a cost recovery fee for requested re-visits only. No fee is allowed to be charged for the initial inspection of the business which is carried out as part of the council's statutory duties.
- 1.7 There is no prescribed fee for this work and the guidance from FSA indicates each local authority must set a fee having regard to HM Treasury 'managing public money ' and other relevant guidance.
- 1.8 All requested re-visits would be carried out within three months of the fee being paid.

2. **Issues**

- 2.1 The service will need to be adequately resourced to deliver the re-visits. There is no accurate means of predicting demand, however it is not anticipated to increase significantly from the current demand.
- 2.2 Failure to deliver a service in accordance with the 'brand standard' FSA guidance may result in complaints against the service

3. **Proposal**

- 3.1 That Committee agrees to:
 - a. note the change in the Food Standards Agency charging policy
 - b. to approve the proposal to introduce a cost recovery fee for FHRS re-inspections
 - c. to recommend to Cabinet the proposed charge of £160 for implementation on 1st April 2018

4. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

- 4.1 The proposals relate to the delivery of environmental health services which would contribute to the following:
 - A clean, safe and sustainable borough
 - The negative impacts that the Council, residents and local businesses have on the environment will have reduced.
 - A borough of opportunity
 - Fair, proportionate and consistent regulation and enforcement creates an equal opportunity for business to thrive.
 - A healthy and active community
 - Fair, proportionate and consistent enforcement creates an environment for prevention, maintenance or improvement in health and wellbeing.
 - A co-operative Council delivering high quality, community driven, services.
 - High performing services will be delivered for all residents, businesses and customers.

5. **Legal and Statutory Implications**

- 5.1 Section one of the Localism Act 2011 gives local authorities the power to charge for a service which is not a statutory function. Re-inspections at the request of the food business operator to re-asses the food hygiene rating are not covered by the statutory duties i.e.

planned interventions that the Borough is required to undertake in accordance with the food law code of practice.

6. **Equality Impact Assessment**

6.1 No issues have been identified.

7. **Financial and Resource Implications**

7.1 Currently this service is delivered free of charge, so approval of the report would contribute towards the cost of re-inspections. The proposed charge would be set using the time taken for an average re-rating request at the appropriate hourly rates.

8. **Major Risks**

8.1 None identified

9. **Background Papers**

9.1 FSA Charging for Food Hygiene Rating Scheme re-inspection requests

This page is intentionally left blank

<u>HEADING</u>	Public Spaces Protection Order: Dog Control
<u>Submitted by:</u>	Head of Environmental Health Services
<u>Portfolio:</u>	Operational
<u>Ward(s) affected:</u>	All

Purpose of the Report

To obtain members approval to adopt a Public Spaces Protection Order (PSPO) in respect of dog controls, as detailed in the report.

Recommendations

Members are asked to:

- **Note the results of a public consultation, showing broad support for proposed PSPO, as per responses detailed in Appendix One**
- **Accept the a fixed penalty value previously set of £100 (reduced to £70 if paid within 10 days) should apply**
- **Note and endorse current officer authorisations to enforce controls**
- **Agree that borough wide signage e.g. in respect of fouling should cease**
- **Agree the making of a Public Spaces Protection Order, for a three year period, in respect of Dog Controls as detailed in Appendix Two**

Reasons

To ensure that appropriate dog controls remain in place across Newcastle-under-Lyme and enable appropriate enforcement.

1. Background

- 1.1. On 14th March 2017, Public Protection Committee received a report explaining that current Dog Control Orders needed to be reviewed, and updated controls adopted if they were still required.
- 1.2. Members agreed that consultation be started on a proposed Public Spaces Protection Order (PSPO) in respect of dog controls as detailed in the appendix of that report
- 1.3. A public consultation concluded on 3rd September 2017 and officers are now able to offer details of responses and seek approval to adopt a Public Spaces Protection Order in respect of dog controls.

2. Issues

- 2.1. To adopt a Public Spaces Protection Order in respect of dog controls, committee must be satisfied that: restrictions are appropriate; appropriate research and consultation has occurred; the necessary procedural stages in its drafting have been correctly completed; and that sufficient resources are available to implement it. There is an expectation that clear signage will be maintained.

Appropriate Restrictions & Penalties

- 2.2. Controls can apply to '*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*'. Officers have reviewed existing Dog Control Orders and propose new

- controls which meet these criteria. A notable change is that school grounds are not listed in the PSPO as, in many cases, there is no public right to access these sites.
- 2.3. Controls cannot prevent a person taking their dog along a public right of way. Whilst in certain locations it is proposed dogs are required to be on a lead, nothing in the PSPO excludes dogs from any right of way. This restriction is therefore met.
 - 2.4. The Anti-social Behaviour, Crime and Policing Act 2014 (s59). limits the geographical area which may be covered by an Order. The proposals meet these criteria.
 - 2.5. Dog owners have a duty under the Animal Welfare Act 2006, to provide for their animal's welfare, which includes exercising them. The authority has considered their needs when determining the area covered by restrictions. Whilst the obligation to remove fouling / have bags available is proposed to apply in all public places, dog exclusions or the requirement of dogs to be on leads apply in only a small number of sites.
 - 2.6. The authority must ensure that the area which the PSPO will cover must be clearly defined. By applying fouling controls across the whole of the borough officers believe that this provides the simplest message to dog owners that they are obliged to remove their dogs fouling if it defecates in any public place. Our research has suggested that there are no public areas where our residents would accept fouling being left. Borough boundaries are clearly marked by existing highway signs at major roads.
 - 2.7. Controls such as dog exclusions and where dogs must be on a lead apply in smaller areas. We have chosen areas which we believe residents will recognise – e.g. church yards and children's play areas, which are generally surrounded by a fence/ gated. We plan to promote details of these locations via our website and social media. Where practical we will also ensure that signs are displayed.
 - 2.8. Where exceptions apply we will make sure that these are prominently signed – for example if dogs are allowed into a disused tennis court (where exclusion would otherwise apply) we will place an appropriate sign confirming there is an exemption to the normal rule.
 - 2.9. As PSPOs are designed to address antisocial behaviour, the authority must be mindful of setting controls which could displace unacceptable behaviour elsewhere. Examples could include setting a maximum of six dogs in some country parks (which may impact on professional dog walkers) could result in those exercising seven or more dogs using other areas. Authorised Officers will retain the option to require dogs to be placed on a lead on request and will use this provision to tackle problems if walking multiple dogs causes problems elsewhere.
 - 2.10. Whilst a PSPO can be limited to certain times of day / months of the year, it is considered that setting operational periods would make the controls over complex, requiring further signage and ongoing publicity with associated costs.
 - 2.11. The authority is obliged to consider if the controls will impact disproportionately on any specific group, and in particular if it will adversely affect those reliant upon a dog. Exemptions are cited in the PSPO for those: registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948; or a deaf person with a dog trained by Hearing Dogs for Deaf People (registered charity number 293358) and upon which he relies for assistance; or a person who has a disability which affects his mobility, manual dexterity, physical coordination 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.

- 2.12. The authority may set a duration for the PSPO of up to three years from its adoption. It is recommended that a full three year term is set, with a further review being scheduled within its final six months.
- 2.13. The council must agree a penalty value of up to £100 in respect of fixed penalties. Members have previously agreed the maximum of £100 will be applied, but that £70 will be accepted if payment is made within 10 days. Whilst Public Protection Committee has the option to revise these figures, members are requested to receive a further briefing from officers before altering these values. Offices recommend the currently penalty values be accepted.

Research & Consultation

- 2.14. From the outset the council has reviewed its records of complaint about dogs and comments in respect of its existing controls – details have been provided in the March 2017 report. Our evidence is that current Dog Control Orders are generally accepted as correctly balancing the needs of dog owners and others who use public places. Revisions proposed directly reflect where representations / complaints have been received – for example that dogs off the lead were becoming entangled in anglers lines when being walked alongside fishing pools and that those using country parks found meeting walkers with more than six dogs intimidating.
- 2.15. The authority has widely promoted its review of dog controls, publishing its draft proposals in March 2017 and more recently detailing its plans on its website and social media. It has contacted parish council clerks, libraries and vet practices by email. Staffordshire County Council and Groundwork – who manage Apedale and Silverdale Country Parks respectively, have been contacted. We've also asked Staffordshire Police, and the Crime and Policing Commissioner to share their views. In the last few weeks we've placed 350 laminated notices – in the same way a planning application would be advertised in key dog walking areas, and handed out leaflets to the dog walkers which Dog Wardens have met.
- 2.16. We've used QR codes on notices and leaflets to encourage feedback via an on-line survey. We've published our proposal in the Sentinel on two occasions. A summary of the feedback received is attached as **Appendix One**. Members are asked to note residents' comments. Feedback confirms broad support for the planned controls.
- 2.17. Dogs Trust, The Kennel Club and RSPCA have been offered details of the proposed PSPO and their comments invited.
- 2.18. We have also been in touch with local libraries, vet practices, licenced kennels and home boarders.
- 2.19. We've looked at how other local authorities set controls, the evidence they consider and the measures they have adopted. Proposals by Newcastle-under-Lyme are broadly in line with a number of other authorities large and small, urban and rural. Examples of authorities which have either made, or are in the processes of making orders matching those proposed by this council include: Wyre Forest District Council; Ribble Valley Borough Council; Manchester City Council; Teignbridge Borough Council; Wyre Council

Procedural Stages

- 2.20. A PSPO can be made by the council if they are satisfied on reasonable grounds that the activities carried out, or likely to be carried out, in a public space: have had, or are 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. Officers believe that the dog related controls proposed are appropriate

- 2.21. Officers consider that sufficient time has been given for representations.
- 2.22. No response has yet been received from either Staffordshire Police or the Policing & Crime Commissioner
- 2.23. This report now gives elected members the opportunity to finally review proposals and decide whether they are supported or should be revised with further consultation undertaken.
- 2.24. If Members now wish a PSPO to be made, the council is obliged to follow The Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014. It must
 - (a) publish the order as made, extended or varied (as the case may be) on its website; and
 - (b) cause to be erected on or adjacent to the public place to which the order relates such notice (or notices) as it considers sufficient to draw the attention of any member of the public using that place to—
 - (i) the fact that the order has been made, extended or varied (as the case may be); and
 - (ii) the effect of that order being made, extended or varied (as the case may be).

Enforcement & Implementation

- 2.25. The proposed controls align directly with the council's stated priorities to deliver a clean, safe and sustainable borough and to encourage a healthy and active community
- 2.26. It is envisaged that residents will continue to report their concerns to the council enabling it to optimally target its enforcement resources.
- 2.27. The authority need not issue a warning before offering a fixed penalty, and for practical reasons proposes to issue a penalty whenever an offence is witnessed by an authorised officer, following the councils enforcement protocol and national guidance as appropriate
- 2.28. To enforce a PSPO officers need to be authorised in writing to do so. The current process to achieve this is via the council's scheme of delegation, with relevant documents being signed by the Executive Director Regeneration and Development. Committee is asked to note that officer delegations are already in place in respect of Public Space Protection Orders. The current scheme is believed to delegate the power to issue fixed penalty notices for failure to comply with an order (Anti-social Behaviour Crime & Policing Act 2014, Part 4 Chapter 2 section 68) to Environmental Health Officers, Technical Assistants and Enforcement Officers authorised in writing. This group of staff includes the council's Dog Wardens.

Signage

- 2.29. There are in the region of 3,500 dog related signs currently posted across the borough. Many of these are now in poor condition as they have been in place from more than 10 years. At current prices replacing these signs could cost more than £40,000
- 2.30. Signage falls into two categories: Signs relating to controls which apply in all public places *borough wide* – e.g. relating to fouling controls (and potentially the obligation to have a means to pick up) and; signs which relate to their *immediate area* – e.g. the requirement for dogs to be on a lead in a church yard.
- 2.31. Officers propose that 'borough wide' signage is discontinued, principally because it is currently unaffordable. This type of signage would previously have appeared on lampposts and other street signs which are Staffs County Highway assets. The County Council has indicated they will need to approve any signs planned to be added to their assets on an individual basis, and reserve the right to charge for consent. They are minded to only approve nylon tie-wrap fixings – which would substantially reduce the

likely life of any signs placed. Our experience indicates that the signs, placed as reminders, confuse residents who may mistakenly believe the control only applies in the immediate vicinity of the sign – e.g. by this lamppost. Members are requested to endorse this recommendation.

- 2.32. In respect of ‘immediate area’ signage (parks, pitches, formal gardens etc.) it is aimed to update signage as resources permit, focussing on priority areas where the authority receives complaints, and aims to target its enforcement resources. Many of these locations will already have other borough signage or notice boards (such as the notices in children’s play areas) and it is proposed to review whether it may be better value to place a new sign detailing a variety of controls which apply – e.g. litter, alcohol, dogs, to prevent sign proliferation.

3. Proposal and Reasons for Preferred Solution

- 3.1. Members are asked to agree the making of a Public Spaces Protection Order in respect of Dog Controls as details in **Appendix Two**
- 3.2. A review of current controls and comments on the planned controls suggest that the proposals are broadly supported.

4. Alternative Options Considered

- 4.1. Should Members wish to consider an alternative course of action the following options are available:
- 4.1.1. Take No Action.
- Allow the current Dog Control orders to cease in October 2017 and not be replaced. Remove all current dog restrictions and cease all dog related enforcement activity – e.g. fouling patrols, exclusions from children’s playgrounds, requirements for dogs to be on leads in cemeteries.
 - Removing controls would eliminate the need for complaint investigation and enforcement, with potential savings, however, removing the risk of enforcement may result in the standards of some public places reducing, increase conflict between dog owners and those not owning a dog, and potentially require more ‘clean-up’ resources.
- 4.1.2. Seek amendment to the proposed PSPO.
- Members may wish to change the proposed scope of the controls – for example omit specific controls such as requirement to carry bags, or limits to the number of dogs which may be walked in specific areas
 - Members may wish to consider if the types of locations where the controls apply should be amended.
 - Changes to the controls proposed would require a consultation exercise to be repeated, with associated costs and delays. Current controls would cease with redrafted controls unlikely to be available for adoption before January 2018

5. Outcomes Linked to Sustainable Community Strategy and Corporate Priorities

- 5.1. The proposed PSPO sets ‘rules’ so that all residents can see what the Council expects
- 5.2. Controls of this nature are necessary if the Authority wishes to maintain the safety and cleanliness of its public places

6. Legal and Statutory Implications

- 6.1. The Authority is not obliged to adopt a PSPO in respect of dog controls. If it chooses to do so it has full control over their scope. The Authority is obliged to consult on any proposals and needs to be able to defend its controls if challenged.
- 6.2. 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.

7. Equality Impact Assessment

- 7.1. The recommendations in this report do not adversely affect any protected groups.
- 7.2. Those needing an assistance dog are defined in the Antisocial Behaviour, Crime and Policing Act 2014 and exempted from the PSPO requirements.
- 7.3. Officers have also been minded of those with reduce mobility who may have a reduced number of accessible locations to exercise their dog. It is not felt the planned controls impact disproportionately on this group, with an abundance of suitable sites remaining not subject to dog exclusions or requirements for dogs to be on leads.

8. Financial and Resource Implications

- 8.1. Costs for printing and publication of public notices have incurred a direct cost of approximately £850 to date
- 8.2. Officer time to review, draft proposals consult and report is estimated to be 120 hours
- 8.3. The Authority is obliged to publicise controls and to ensure that appropriate signs are displayed.
- 8.4. Temporary signage explaining the controls which have been made, when they take effect and are likely to end, where they apply, the penalties for breach and where further details can be obtained are likely to cost approximately £300 to produce plus staff time and travel to install.
- 8.5. The typical cost of placing an A5 sized permanent sign would cost £15-£20 (excluding installation)¹. Adding new signs purely relating to dog controls at each entrance to the key locations listed (i.e. 'immediate area' signs) for exclusions or dogs on leads controls is likely to cost £6,750 - £9,000. There is scope for this information to be contained on other signage at these locations e.g. park notice boards, and officers will look if there is a more cost effective way to promote controls at these locations.
- 8.6. There are no current plans to replace 'borough wide' fouling signs, or place signs reminding residents they are obliged to have with them appropriate bags when walking their dogs. As these controls apply across the whole of the borough such a signage programme is impractical. Refreshing 3,000 signs, removing worn and defaced signs, seeking County Council consent could potentially cost £40,000 and take a staff member in excess of one year, with associated travel costs.

¹ Price based on composite signs attached with metal clips. Price benchmarked with FOI request to similar authorities

- 8.7. There will be an on-going cost of approximately £1,000 per year for publicity of controls in year 2 (2018), with the need to restart a review / consultation exercise in year 3 (2019).
- 8.8. The annual cost of sign replacement will depend on the resilience of signs initially placed and the level of vandalism. Recent experience with different controls on Wolstanton Marsh would suggest some signs will need to be replaced several times during the year.
- 8.9. There is currently no provision within the 2017-18 Dog Warden Service budget for consultation, publicity or signage replacement.
- 8.10. There is an expectation that enhanced enforcement would follow the implementation of revised controls. The authority does not have the capacity to increase its enforcement, unless other elements of its work are discontinued, or partnerships developed.

9. Major Risks

- 9.1. There is a risk of legal challenge if the Authority does not follow the correct process to devise, consult and adopt a PSPO, with associated reputational damage.
- 9.2. Whilst the majority of residents are likely to support pragmatic and practical controls, there is a risk that some may choose to disregard controls if they feel they are unfair.

10. Key Decision Information

- 10.1. This report can be considered key in the following ways:
- It requires the Council to commit existing and additional resources for the function to which the decision relates and;
 - It impacts on communities living or working in an area comprising two or more electoral wards in the Borough.

11. Earlier Cabinet/Committee Resolutions

- 11.1. Public Protection Committee received a draft of a proposed PSPO in respect of dog controls and approved the start of a public consultation on 14th March 2017
- 11.2. Cabinet agreed amendment to the Council's scheme of delegation adding provisions in respect of the Anti-Social Behaviour, Crime & Policing Act 2014 on 15th October 2014. This decision delegated the power to make, extend, vary and discharge public space protection orders to Public Protection Committee
- 11.3. At the same meeting Cabinet set the following Fixed Penalty amounts:
- Payment of FPN within 10 days of issue £70
 - Payment of FPN between 10 and 14 days of issue £100

12. List of Appendices

- 12.1. Appendix One: Summary of feedback from public consultation / review exercise
- 12.2. Appendix Two: Proposed PSPO

13. Background Papers

- 13.1. Antisocial Behaviour Crime & Policing Act 2014
<http://www.legislation.gov.uk/ukpga/2014/12/part/4/chapter/2/enacted>

- 13.2. Guidance in respect of PSPOs
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/352562/ASB_Guidance_v8_July2014_final_2_.pdf

<https://www.local.gov.uk/public-spaces-protection-orders-guidance-councils> (June 2017)
- 13.3. Further details on proposals and frequently asked questions
www.newcastle-staffs.gov.uk/dogcontrols
- 13.4. Requirements in respect of publicising public space protection orders
http://www.legislation.gov.uk/uksi/2014/2591/pdfs/uksi_20142591_en.pdf
- 13.5. Amendment to scheme of delegation granting Public Protection Committee power to make public space protection orders. (October 2014)
<http://moderngov.newcastle-staffs.gov.uk/documents/s13554/Cabinet%20Report%20-%20ASB%20Legislative%20changes%20-%20Oct%202014%20v18%20021014.pdf>
- 13.6. Previous Public Protection Committee decision – approval to undertake public consultation (March 2017)
<http://moderngov.newcastle-staffs.gov.uk/ieListDocuments.aspx?CId=123&MId=2872>
- 13.7. Report supplied by The Kennel Club accompanying its response
https://www.thekennelclub.org.uk/media/1057526/kc_dog_report_out_of_order_the_impact_of_access_restrictions_on_dogs_and_their_owners.pdf

Public Spaces Protection Order: Dog Control

Appendix One

Public Consultation Responses

The Borough Council published its proposal within The Sentinel on two occasions. Residents were also alerted to plans via 350 laminated signs placed during August in popular dog walking locations and the council's social media. Responses to the on-line questionnaire are attached.

Proposals were discussed by readers in the newspapers letters and on-line comments sections. It is not clear if those commenting chose to respond formally to the council's survey. Newspaper coverage included: <http://www.stokesentinel.co.uk/news/plans-revealed-introduce-maximum-six-352671> (24th August 2017). The newspaper ran its own poll, but has not shared / published the results.

Separately, a number of other bodies were contacted for their views.

Police & Crime Commissioner (PCC) – No reply

The Staffordshire PCC was contacted on 21st August 2017. At time of writing no response has been received. If a reply is received prior to Members considering this item it will be presented verbally.

Staffordshire Police No reply

Chief Inspector Peter Owen, along with the force's Dog Legislation Officers were invited to comment on 7th August 2017. At time of writing no response has been received. If a reply is received prior to Members considering this item it will be presented verbally.

Staffordshire County Council - Supported

In respect of Apedale Stephen Williams, Head Ranger (North), replied "I think that the 'six dog rule' will be a welcome introduction at Apedale which as you say is well used by dog walking businesses and does occasionally cause issues for the Rangers managing the site. Other site users and dog walkers often complain of feeling intimidated by the large numbers of dogs in some groups and we often come across handlers struggling to control the numbers they have even when they are on leads so I think the addition of the rule is very appropriate."

Groundwork & The Land Trust - Supported

Andrew Hunt, Ranger Silverdale Country Park & Hassall Green Nature Reserve, advised: "We would like to see the existing controls continue please and the 2 new further controls you propose would also be most welcome."

Parish Councils - Supported

Parish Councils were contacted on 3rd August. Silverdale Parish Council confirmed their support for the proposals as drafted on 23rd August. Madeley Parish Council met on 24th August and fully supported the changes. Likewise Keele Parish Council confirmed they had no objections to the additional controls proposed on 1st September. Loggerheads and Audley parish council members have indicated support.

Dog related Charities / organisations – Mixed Response – see attached papers

The Kennel Club has submitted a detailed response, including a copy of their report entitled *Out of Order – The impact of Dog restrictions on dogs and their owners* (see background papers for link). They raise the following points:

- More fouling bins should be provided and the use of litterbins encouraged. Responsible ownership campaigns and training events should encourage owners to pick up
- The 'Means to pick up' proposals are not supported
- Children and dogs should be able to socialise.
- Requirement for dog owners to place either dog on a lead as they approach unfenced children's play equipment is questioned
- Dogs may only need to be on a lead if being walked across sports pitches which are in use

- Clear information is required as to which footpaths have requirements for dogs to be on leads
- Reservations about dogs needing to be on leads by fishing ponds were expressed
- The authority needs to provide restriction free areas
- Dogs on leads by direction controls are welcomed
- Setting a maximum number of dogs which can be walked in certain areas is opposed.
- Council should consider an accreditation scheme for dog walkers
- Council needs to ensure that other restriction free sites are accessible for those with limited mobility
- Advice is given in respect of signage suggesting that all entrance / exit points should be clearly signed to indicate where a controls applies / ends
- Signs indicating the need to have means to pick up should be in place in any location where the control is to be enforced.

The Kennel Club also supplied a report produced by Cornwall Council to its Members <https://democracy.cornwall.gov.uk/documents/s88743/Dog%20Fouling%20motion%20Means%20to%20pick%20up-2.pdf> which suggested that council officers considered that requiring dog walkers to have a means to pick up was an unreasonable requirement.

Note: Newcastle Borough Council is not bound by Cornwall Council's decisions. Cornwall Council's minutes, published at <https://democracy.cornwall.gov.uk/mgAi.aspx?ID=58763> indicate that whilst a decision was made "That a requirement for a person in charge of a dog, in areas accessible to the public, to be able to prove they have the means to pick up dog foul after that dog has fouled is not included in any new Public Spaces Protection Order for the immediate future" members felt the proposal had merit and noted its successful implementation elsewhere, seeking a further report from officers in due course. .

The full Response from the Kennel Club is attached.

RSPCA and Dogs Trust did not respond.

Residents' Views. Results of on-line survey

Summary / headline findings

- 109 responses
- Generally high levels of support for most suggestions, in particular those regarding...
 - Requirement for people to clean up dogs' faeces in a public place (100 per cent)
 - Requirement for dogs to be kept on leads in churchyards etc (95 per cent)
- Lower levels of support for controls regarding
 - Fishing pools (56 per cent)
 - Open spaces owned by parish councils (43 per cent- the only control that got lower than 50 per cent support)
 - Bathpool Park and surrounding area (57 per cent)

Background

The survey was available for eight weeks from 7 July to 3 September 2017, and was hosted on the Have Your Say page of the council's website. Members of the council's e-panel were notified of the survey and it was advertised via social media.

Analysis

Note that, in the following tables, totals might not add up to exactly 100 per cent due to rounding.

	Agree	Don't know	Disagree
Question 1. We would like to know if you agree with the following dog fouling control.			
Continue to require a person in charge of a dog to clean	100%	0%	0%

	Agree	Don't know	Disagree
up its faeces if their dog fouls in any public place.			
Introduce a new requirement for dog owners to have the means to pick up dog fouling, such as a bag with them whenever they walk their dog.	84%	3%	13%
Question 2. Continue to require a dog to be on the lead at...			
Borough Council Crematorium, churchyards and cemeteries, and closed churchyards	95%	2%	4%
Formal gardens (such as Queens Gardens, Queen Elizabeth Park)	85%	6%	9%
Marked out sports pitches	70%	7%	23%
Unfenced children's play equipment and a portion of the surrounding area, extending 20 metres in all directions from it.	72%	7%	21%
Fenced / enclosed portions of Apedale Country Park which are designated for wildlife conservation	84%	6%	10%
Parts of Bathpool park from the car park, across the reservoir dam, and along the side of the reservoir next to the railway line [UPDATED]	57%	16%	27%
Fishing Pools managed by angling clubs as per their signs [NEW]	65%	10%	25%
Open space owned by parish and town councils as per their signs	51%	11%	38%
Question 3. Do you agree that we should.....			
Continue to require owners to place their dog(s) on a lead(s) when directed	90%	1%	9%
Question 4. Do you agree that we should continue to require dogs to be excluded from:			
Fenced or enclosed children's play areas which are designated and marked for children's play	86%	2%	13%
Fenced or enclosed games areas, such as tennis and ball courts, multisport areas, skate parks	79%	3%	19%
The grassed portion of all bowling greens	88%	3%	9%
Fenced or enclosed portions of Apedale Country Park which are designated for wildlife conservation	80%	7%	13%
Fishing Pools managed by angling clubs as per their signs [NEW]	56%	9%	35%
Open space owned by parish and town councils – as per their signs	43%	14%	43%
Question 5. Do you agree that we should introduce a new requirement that no more than six dogs can be taken by any one person, into the following locations:			
Apedale Country Park	68%	4%	28%
Bateswood Country Park	68%	6%	27%
Bathpool Park	70%	6%	25%
Clough Hall Park	69%	6%	25%
Silverdale Community Park	68%	6%	27%
Lyme Valley Parkway	69%	4%	28%
Birchenwood Country Park	66%	7%	27%

Question 6. Are there any additional controls you think are required, or any other locations where specific controls need to be set

The majority of respondents did add further comments and they are listed in full here (with only spelling mistakes corrected – everything is else included word for word).

- Is the requirement for just one dog bag enough? Surely responsible owners carry more than one.
- You should make it three dogs as opposed to six.
- Newcastle town centre
- Number of dogs walked by 1 person should be 4. you cannot possibly control 6 dogs and clean up after them when off leads. find it very intimidating.
- Number of dogs should be reduced
- Need separate areas for dogs to be exercised safely, as most areas do not allow dogs to be exercised off leads and dogs need to run and interact with others. if controls were in place for angling clubs then would boycott Bathpool park as only leaves rough ground other side of pools leading to Peacocks Haye.
- Silverdale country park has designated wildlife areas can we have controls there as well
- Control the behaviour of young people & adults in these areas first! Littering, antisocial behaviour, drinking, foul language (footballers in Clough Hall Park) urinating (Rugby players in Bathpool Park)
- Would that also affect registered dog walkers? So two dog walkers can walk 12 dogs? Could there be a specific dog park area that dogs could be let off a lead, it would have to be fenced so the dog couldn't escape, as much as I believe dogs should be on a lead in public places, it would be nice to let them off lead at times.
- London Road in Chesterton has a major problem with dog fouling, every single day there is fresh mess and it's obviously the same people. More needs to be done to catch these people. Children walk along this road to school and back.
- Caring dog toilet bags when walking on the pavement
- On Wolstanton Marsh
- Dogs should be on a lead at all times when outside their own home premises. Dogs should be licenced, chipped and collared. Dogs should be registered no matter the type. Dogs should not be allowed to roam on their own. Owners should be held personally responsible if none of the above, including those Laws already in situ, are not adhered to.
- HOPE STREET, BIGNALL END. There's a new kid on the block. Over past 3 weeks a small dog is pooping long the right hand side pavement, mess is from Ravens Lane end of Hope Street, outsides number 8/10 and down . I while ago I asked for metal warning signs to be put on lamp posts (as in Bridge Close) but was told I could print off signs, cover in plastic and attach to wherever. Not good enough.
- Dogs should be banned from school grounds (or at least kept on a lead). School playing fields are for children not dogs.
- Totally disagree with allowing people to have six dogs. I have actually witnessed people with just four dogs not being able to control them or pick up any dog faeces especially at the Apedale Park and our local park the Iccy Piccy.
- There is no need to even discuss a requirement that no more than six dogs can be taken by any one person.
- You should have enclosed areas for dogs to run lose in. All dogs need good exercise,
- Feral children on motorbikes, children on scooters who charge at you on paths and obviously do not have brakes but think it's their right of way. Dog owners who think its ok to have loose dogs approaching you when you have a dog on a lead. Wardens for children who I constantly see throwing cans/bottles/chip wrappers, smashing glass on the park floor and also the same children who leave food on the floor. Let's not discriminate on whether it is animal or human!!!!!! And please don't just read this and ignore as we are being constantly challenged by rules for one and not another and also the discrimination issues. Our park is littered daily by children and make it dangerous for dogs at times especially with the broken glass. It's all too easy to pick on the dog owners isn't it? Do you think we could have these rules in place after 5pm when our dogs and children are offending the most? Let's have a litter and dog poo warden who can dish out the fines on the spot. Law abiding dog owners challenge the other ignorant owners and you get told to F*** Off at times. On a final note I have witnessed that segregation of dogs has caused problems with families with children when they want to enter play areas especially if parents are on their own so I don't think for the sake of everyone that there needs to be anymore segregation although I do agree with no dogs in fenced play areas.
- You need to have notices on all entrances to all parks. You also need to ensure officers are around at all time as I regularly walk my dog, who is blind and therefore fearful, and loads of dogs are off the

lead in all areas of Clayton. It has got that bad I now walk him very early morning and late at night which in itself has its own dangers.

- I personally am close to a fenced play area which is used only outside of school hours and in the daytime. It seems unreasonable to me that when no children are present, as a person who pays my taxes, has no children and therefore takes very little out of the system I pay into, I'm not allowed to use those facilities for my family when it's not in use by anybody else
- I do not believe there should be a need for dogs to be excluded from fenced play areas when there are not children present
- Anglers should be made more aware when casting their lines. Whilst it is understandable in part, responsible dog owners are being penalized. There are very few places available for dogs to be off lead and all responsible owners know when to let their dog off the lead and when not to, in my case Bathpool Park. More bins need to be provided. More needs to be done about cleaning up after people, especially following football matches in public places and parks. Don't know how you are going to prove whether or not a person has cleaned up after their dog when it has been disposed of in one of the rare bins. There have been rare occasions when I have not had a bag with me, but I would ask another dog owner for one if possible, it would be unfair to automatically assume a person is not trying to clear up after their dog. What about the mess horses leave and making horse riders and cyclists more aware of other users - they just expect to have right of way all the time.
- Dogs to be on a lead in town centres and when being walked on a pavement.
- All dogs should be on a lead at all times, if someone is going to take out 6 dogs they should be fully under control, it seems the only way this happens if they are on lead. Other people and other dog walkers shouldn't have to put up with being harassed by out or control dogs running loose. Off lead also seems to be a great excuse to allow your dog to foul out of sight so then owners don't clean up.
- The other obvious thing needed is someone to implement these controls. Not much use having the order at all if nothing is going to be done about problem dog owners. Another problem area - the old railway line from Hempstalls to Liverpool road and on to Silverdale; lack of bins for either litter or dog waste. Enforce use of poo bins
- Wolstanton marsh this is far more urban than some of the mentioned areas and more likely to cause issue if owners/walkers of this number of dogs is driven away from these more rural locations.
- Can one person control six dogs and clean up after them? Perhaps more information could be given out on the health hazard caused by dog fouling.
- Think it should be far less than 6. People struggle to control just two dogs, even one at times.
- Dogs should only be out walking with responsible adults
- I think it should be a maximum of 4 dogs. I have dogs and know a huge number of other responsible dog owners. My dogs go to training classes and are always put on lead where necessary whereas many people have one dog they can't control. It's always those that are responsible that are unfortunately punished as those disregarding any correct dog care will still continue to do so.
- I feel like it is still potentially a dangerous situation allowing people to walk 6 dogs at any one time. I think the size of the dog should be taken into account. One person could easily lose control of three dogs never mind 6. I personally have been in an situation at Silverdale community park where I have been circled by 4 Irish wolf hounds and the lady walking them had no control. I myself have 2 dogs and would definitely not be able to control any more, either on or off lead.
- Be sure that you target the irresponsible dog owners who have no intention of picking up their dog mess or keeping their dogs on leads. Ban extendable leads they are dangerous!!!!
- If dogs are under control I do not see the issue. Rather introducing limits on dogs, I think more should be done to enforce the current control orders we already have.
- The old high lane at Alsagers bank which is where you turn left at the top of black bank up to the country park which overlooks the void. Dog owners often have their dogs off the lead on that road where they park their cars. They just either let them out of the car without a lead on allowing them to run out of control on the road and when returning from their walk they are still off the lead running back to the car with their owner following miles behind and out of site. As a dog walker and owner I am fed up of telling people that this is unacceptable and also that their dogs should be on a lead here and that they should also have a collar on with an identity disc. There needs big signs put up stating these rules. After all this is part of the highway.
- There should be allocated dog walking areas for dogs to run free safely. There needs to be a lot more bins to put filled poo bags into and emptied regularly.
- Young people under sixteen years of age should not be in charge/control of a dog in a public place.

- The areas around Waterhays village are always full of dog mess and nothing happens to the people who do not clean up after their dogs. When i clean up after my four dogs others seem to blatantly ignore the signs, it's really annoying. Often its children walking tube dogs who are the main offenders of not cleaning up after their dogs. However, i don't see how introducing a rule of dog owners having to carry poo bags when there are not enough dog wardens to 'police' such a rule! Putting dogs on leads isn't the answer to ensuring responsible dog ownership dog owners should be challenged about where the nearest bin for disposal is located multiple dog walkers should be required to have them on 'choke' chains - otherwise they are not really under control.
- It's a shame how the few ruin things for the responsible dog owner! It should really be down to individuals when walking their dogs...I personally mainly keep my dogs on their leads at all times, but I've walked other people's dogs who are so well behaved off lead the don't require it. I understand rules have to be set as individuals being careless & not responsible dog owners have ruined this for the rest of us. We have just come back from France with our 2 dogs where we could pretty much take our dogs anywhere as members of our family it was refreshing & a welcomed change! I don't think dogs & dog owners should be alienated in Newcastle & with some of these controls its certainly getting that way!
- The dog warden needs to be more prominent in order to see the dog owners who don't pick up and issue a spot fine, instead of fining if not carrying a pick up bag as they could have already used one and disposed of it.
- Fouling is a problem in the country parks - owners seem to think this are exists purely as a dog toilet. London boroughs have introduced charges for dogs to use parks, Charges should apply to anyone taking more than two dogs into these parks.
- I personally think that 6 dogs for one person to control , particularly when they are let off their leads, is just too many and a little worrying with those of us with one or 2 dogs. The issue of dog fouling , particularly on the Heritage Park Housing Estate, and the surrounding Country Park is particularly bad at the moment on pathways, grassed areas and pavements. I think that dog fouling notices are required on the Housing Estate itself before it gets any worse.
- Perhaps bring in harsher penalties for the owners who are not keeping their dogs under control as opposed to punishing all dog owners, the majority of whom are responsible and in complete control of their animals. The idea that areas need 'protecting' from dogs is absolutely ridiculous. Is it possible to have areas that are protected from people? As I think that would help a lot more than your proposed new restrictions! Upsetting, disproportionate and offensive.
- If restricting areas where dogs can exercise on or off lead. Then the council should provide exercise areas which are only for the use of dogs. I would be very interested in this, even if there was a small charge for the rental of using the area. Please consider this, in order to help dog owners to remain responsible and accountable for their dogs. Banning all areas where dogs can safely exercise (on or off lead) without providing any alternative is irresponsible of the council.
- I think the limit should be lower at 3 dogs per person in open public space. to take 6 dogs should require minimum of 2 persons. Dogs are pack animals, and I feel 6 would be too many for 1 person to handle. I am a dog owner of 6 dogs, and would not dream of taking all 6 out together.
- If restricting areas where dogs can exercise on or off lead. Then the council should provide exercise areas which are only for the use of dogs. I would be very interested in this, even if there was a small charge for the rental of using the area. Please consider this, in order to help dog owners to remain responsible and accountable for their dogs. Banning all areas where dogs can safely exercise (on or off lead) without providing any alternative is irresponsible of the council.
- Perhaps bring in harsher penalties for the owners who are not keeping their dogs under control as opposed to punishing all dog owners, the majority of whom are responsible and in complete control of their animals. The idea that areas need 'protecting' from dogs is absolutely ridiculous. Is it possible to have areas that are protected from people? As I think that would help a lot more than your proposed new restrictions! Upsetting, disproportionate and offensive.
- Responsible dog owners already pick up after their dogs, and only let off lead when there aren't any games going on on sports pitches, and no children about. Lots of puppy/dog play off lead in good fenced off community field - good wellbeing for people and canines. Restrictions to keep dogs on leads should be kept to when a sports match or training is taking place. Faeces on the ground are from cats and foxes and dogs off lead do the cleaning up of this waste (unfortunately).
- I personally think that 6 dogs for one person to control , particularly when they are let off their leads, is just too many and a little worrying with those of us with one or 2 dogs. The issue of dog fouling, particularly on the Heritage Park Housing Estate, and the surrounding Country Park is particularly

bad at the moment on pathways, grassed areas and pavements. I think that dog fouling notices are required on the Housing Estate itself before it gets any worse.

Respondents living, working or visiting the borough

Question 7 asked respondents if they lived or worked in the borough of Newcastle-under-Lyme or visited it regularly. The vast majority of respondents said that they both lived in the borough (78 per cent) and visited it regularly (93 per cent), with a little over half (51 per cent) saying that they worked here.

	Live	Work	Regularly visit
Yes	78%	51%	93%
No	22%	49%	7%

Further analysis on the residence of respondents.

Respondents were asked to provide their postcode – 100 did submit something, with nine avoiding this question. A further eight simply put ST5 or ST7 and three put postcodes which were invalid.

However, looking at the 89 valid postcodes that were submitted shows where respondents came from – in terms of Newcastle-under-Lyme Borough ward or other areas. Something to note here is that there were some submissions from areas that may be surprising.

- One survey was completed from someone with a Newcastle-upon-Tyne postcode, so this could have been submitted by someone thinking it affected their Newcastle
- The Weymouth submission has a postcode beginning DT4 – it seemed at first that this may have been a typing error and should have been ST4, but on closer inspection this was not the case as changing it to ST4 did not match with a valid postcode. Generally speaking, this respondent agreed with the proposals in the first half of the survey and disagreed with those in the second half.
- The submission from Reading disagreed with almost all of the proposals, and was not made on behalf of any organisation
- The submission from Newton Abbot, Devon, agreed with around half of the proposals and was not made on behalf of any organisation.

The postcodes that were valid show us which ward or area respondents live in, as follows.

N-u-L BC Ward	Respondents	Non N-u-L BC area	Respondents
Audley / Bignall End	7	Stoke-on-Trent	16
Chesterton	5	Alsager	2
Halmer End	5	Biddulph / Knypersley	1
Madeley	4	Blythe Bridge	1
May Bank	4	Congleton	1
Newchapel	4	Crewe	1
Town	4	Eccleshall	1
Clayton	3	Leek	1
Cross Heath	3	Newton Abbott (Devon)	1
Kidsgrove	3	Reading (Berkshire)	1
Porthill	3	Sandbach	1
Ravenscliffe	3	Newcastle-upon-Tyne	1
Silverdale / Parksite	3	Weymouth (Dorset)	1
Bradwell	2		
Butt Lane	1		
Keele	1		
Knutton / Silverdale	1		
Seabridge	1		
Talke	1		
Thistleberry	1		
Westlands	1		

Unidentified	
Unknown ST5	5
Unknown ST7 (could be NulBC, Stoke-on-Trent or Cheshire East)	3
Invalid	3

Contact details and representation

Respondents were asked for their contact details and they have been provided separately. They were also asked if they were representing an organisation or residents group and responses were as follows:

- Madeley Parish councillor (one)
- Newcastle-under-Lyme Borough councillor (two)
- Keele Parish Councillor (one)
- Staffordshire Police (one)

Residents' Views. - Emails sent direct to the council

The following email was sent to the councils Customer Services Team:

- Objection to the proposed new dog control orders I have recently seen your public notice in relation to your proposed plans in regards to public spaces protection order in respect of dog control. I agree with the controls in place in relation to dog fouling and dogs on leads however I strongly disagree with the proposed restriction of the number of dogs that a person can walk in certain areas. I am a responsible owner of 9 dogs which I spend a great deal of time walking in your proposed restricted areas. All of my dogs are fully wormed, fleed and receive full vaccinations on a regular basis. They are also all kennel club registered and I am in fact an assured breeder with the kennel club. All of my dogs have attended dog training classes from a puppy to ensure that they are trained to a high standard. I walk 9 dogs on a regular basis mainly in the Birchenwood Country park and believe that there are a minimal amount of people with a large number of dogs which they walk all together. I therefore see that I am being penalised personally with the new rule for simply having a large number of well behaved dogs. Both myself and the dogs enjoy our walks a great deal and we cause no problems to the public. My dogs are kept on leads and I always clean up if necessary. They cause no issues with other walkers with or without dogs. I object strongly that the proposed new rules are unfair to responsible dog owners and you should concentrate your time on irresponsible dog owners who you see walking one or two dogs and have no control of them, you should be imposing fines on them and not me who is respectful to all other walkers and I have my dogs fully under control even though I walk in excess of your 6 limit. Could you please log my objection to your proposed plans and keep me updated on the progress of your proposed new ruling. Could you also please confirm that you have received this objection and that it will be taken into account when making your decision I very unhappy dog owner [Mr GM 1/9/2017, Harriseahead]

Public Spaces Protection Order: Dog Control

Appendix Two

Recommended wording to Public Spaces Protection Order in respect of Dog Controls

The Anti-Social Behaviour, Crime and Policing Act 2014

Public Spaces Protection Order (The Borough Council of Newcastle-under-Lyme) No. xx of 2017 – Dog Controls

The Borough Council of Newcastle-under-Lyme (in this order called “the Authority”) in exercise of its powers under Section 59, 64 and 72 of the Anti-social Behaviour, Crime and Policing Act 2014 (“the Act”) hereby makes the following Order:-

This Order comes into force on xxxxxxxxxx 2017 for a period of 3 years.

Offences

1. Fouling-failure to remove dog faeces

If within the administrative area of the Authority a dog defecates at any time on land 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 and a person who is in charge of the dog at the time fails to remove the faeces from the land forthwith, that person shall be guilty of an offence unless

(a) he has reasonable excuse for failing to do so;

or

(a) 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. Dogs on Leads by Order

A person in charge of a dog shall be guilty of an offence if, at any time, within the administrative area of the Authority he does not comply with a direction given to him by an authorised officer of the authority to put and keep the dog on a lead unless

(b) he has reasonable excuse for failing to do so;

or

(c) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

An authorised officer may only give a direction under this order if 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 to a bird or another animal.

3. Dogs on Leads Requirements

A person in charge of a dog shall be guilty of an offence if, at any time, (during the period specified in the schedule if stated), on land detailed in **Schedule 1** below he does not keep the dog on a lead unless

(a) he has 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.

4. Dog Exclusions

A person in charge of a dog shall be guilty of an offence if, at any time, (during the period specified in the schedule if stated), he takes the dog onto, or permits the dog to enter or to remain on, any land detailed in **Schedule 2** below unless

- (a) he has 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.

5. Maximum of Six Dogs

A person in charge of a dog shall be guilty of an offence if, at any time, (during the period specified in the schedule if stated), he takes more than six dogs onto, or permits more than six dogs to enter or to remain on, any land detailed in **Schedule 3** below unless

- (a) he has 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.

6. Means to Pick Up Dog Fouling

A person in charge of a dog shall be guilty of an offence if, at any time, within the administrative area of the Authority he does not have with him an appropriate means to pick up dog faeces deposited by that dog unless:

- (a) he has 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.

The person shall not be guilty of an offence if after on request from an authorised officer, the person in charge of the dog produces an appropriate means to pick up dog faeces.

Exemptions & Definitions

- i) Nothing in part 1 or part 4 of this order shall apply 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 coordination 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.
- ii) For the purpose of this order –

- (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 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) "an authorised officer of the Authority" means an employee, partnership agency or contractor of Newcastle-under-Lyme Borough Council who is authorised in writing by Newcastle-under-Lyme Borough Council for the purposes of giving directions under the Order.
- (e) Each of the following is a "prescribed charity" -
 - Dogs for the Disabled (registered charity number 700454)
 - Support Dogs Limited (registered charity number 1088281)
 - Canine Partners for Independence (registered charity number (803680)
 - Dog A.I.D (Registered Charity Number 1124533)
 - Medical Detection Dogs (Registered Charity 1124533)

Restrictions & Penalty

- i) The Council is satisfied that the conditions set out in Sections 59, 64 and 72 of the Act have been satisfied and that it is in all the circumstances expedient to make this Order for the purposes of prohibiting the above activities. The effect or likely effect of this is, or is likely to be, of a persistent or continuing nature, such as to make this unreasonable, and justifies the restrictions imposed by this Order.
- ii) It is an offence for a person without reasonable excuse to engage in activity which is prohibited by this Order.
- iii) A person found to be in breach of this Order shall be liable on summary conviction to a maximum penalty of level 3 on the standard scale or a Fixed Penalty Notice of £100.

By resolution of The Borough Council of Newcastle-under-Lyme dated xxxxxxxx 2017

The Common Seal of the
Borough of Newcastle-under-Lyme
hereunto affixed this....day of2017
in the presence of

Councillor

Official Signatory

SCHEDULE 1

This order applies to all:

- Borough Council Crematorium, churchyards and cemeteries, and closed church yards
- Formal gardens
- Marked out sports pitches
- Unfenced children's play equipment and a portion of the surrounding area, extending 20 metres in all directions from it.
- Fenced / enclosed portions of Apedale Country Park which are designated for wildlife conservation
- The northern portion of Bathpool Park, from its entrance and car park at Boathorse Road, along the main access path which runs from the car park at Boathorse Road, adjacent to the children's play area - and rugby pitches to its junction with footpath 146 which crosses the dam wall.
- Paths which adjoin Bathpool Reservoir Main Fishing Pool and continues on along the eastern side of Bathpool reservoir.
- Public Rights of Way: Kidsgrove 130 to the reservoir embankment 144, 146 & 182
- Fishing Pools managed by angling clubs as per their signs
- Open space owned by parish and town councils as per their signs

SCHEDULE 2

This order applies to:

- Fenced or enclosed children's play areas which are designated and marked for children's play
- Fenced or enclosed games areas, such as. tennis and ball courts, multisport areas, skate parks
- The grassed portion of all bowling greens
- Fenced or enclosed portions of Apedale Country Park which are designated for wildlife conservation
- Fishing Pools managed by angling clubs as per their signs
- Open space owned by parish and town councils – as per their signs.

SCHEDULE 3

- This order applies to: Apedale Country Park, Bateswood Country Park, Bathpool Park, Clough Hall Park, Silverdale Community Park, Lyme Valley Parkway, Birchenwood Country Park

Explanatory Note

Further information in respect of this order is published at www.newcastle-staffs.gov.uk/dogcontrols



THE KENNEL CLUB

Making a difference for dogs

Kennel Club Response to Newcastle under Lyme Borough Council Public Spaces Protection Order Consultation

Submitted on 1st September 2017 by: The Kennel Club, Clarges Street, Piccadilly, London W1J 8AB, tel: 020 7518 1020, email: kcdog@thekennelclub.org.uk

The Kennel Club is the largest organisation in the UK devoted to dog health, welfare and training, whose main objective is to ensure that dogs live healthy, happy lives with responsible owners. As part of its External Affairs activities the Kennel Club runs a dog owners group KC Dog with approximately 5,000 members, which was established to monitor and keep dog owners up to date about dog related issues, including Public Spaces Protection Orders (PSPOs) being introduced across the country.

As a general principle we would like to highlight the importance for all PSPOs to be necessary and proportionate responses to problems caused by dogs and irresponsible owners. It is also important that authorities balance the interests of dog owners with the interests of other access users.

Response to proposed measures

Dog fouling

The Kennel Club strongly promotes responsible dog ownership, and believes that dog owners should always pick up after their dogs wherever they are, including fields and woods in the wider countryside, and especially where farm animals graze to reduce the risk of passing Neospora and Sarcocystosis to cattle and sheep respectively.

We would like to take this opportunity to encourage the local authority to employ further proactive measures to help promote responsible dog ownership throughout the local area in addition to introducing Orders in this respect.

These proactive measures can include: increasing the number of bins available for dog owners to use; communicating to local dog owners that bagged dog poo can be disposed of in normal litter bins; running responsible ownership and training events; or using poster campaigns to encourage dog owners to pick up after their dog.

Dog fouling - requirement to be in possession of means to pick up

Whilst the Kennel Club supports proactive efforts on behalf of local authorities to encourage responsible dog ownership and to ensure that those who are not picking up after their dogs are brought to book, this has to be fair and proportionate and we would not like to see responsible dog owners penalised unfairly.

The Kennel Club has concerns over proposals to introduce an offence of not having the means to pick up. Responsible owners will usually have dog waste bags or other means to clear up

after their pets but we do have some concerns, for example if dog owners are approached at the end of a walk and have already used the bags that they have taken out for their own dog, or given a spare bag to someone who has run out, a behaviour that is encouraged by Green Dog Walker schemes.

Furthermore it is perfectly plausible that these proposals in certain circumstances would perversely incentivise dog walkers not to pick up after their dog. Should a dog walker on witnessing their dog fouling realise they are down to their final poo bag (or other receptacle), they will be forced into a decision of whether to use the bag and risk being caught without means to pick up, or risk not picking up in order to retain a means to pick up should they be stopped later on their walk. It is perfectly reasonable to assume that a proportion of dog walkers would choose the second option if they thought this was the least likely route to being caught. Especially if the penalty for not picking up was the same as not having means to pick up. Local authorities may wish to consider introducing a clause which provides an exemption for dog walkers who have run out of bags, but can prove that they were in possession of and made use of bags (or other suitable receptacle) during their walk.

If such a measure is introduced it is essential that an effective communication campaign is launched in the local area to ensure that people are aware of the plans and have an excess supply of dog waste bags with them, so that it is the right people who are getting caught. Additionally, appropriate signage should be erected to inform those who are not familiar with the local rules are not unfairly caught out.

We are also concerned how easily local authorities could enforce this law when trying to define whether or not dog owners have 'a means' of picking up after the dogs, without risking the expense of legal challenge. In the absence of poo bags owners trying to flout the law could theoretically point to any number of items on their person that they intend to use, so we think that the most effective spot checks you can carry out are those that catch offenders in the act of not picking up, rather than second guessing behaviours on the basis of what they are or are not carrying with them.

Alternatively, to avoid a fine an irresponsible owner could simply tie one bag to his or her dog's lead or collar but never actually use it.

Cornwall council considered introducing a means to pick up order but subsequently decided against it as they deemed it to be disproportionate and concluded that the requirement would be 'toothless', as it would be highly unlikely to be enforceable in a magistrates court. Please see the attached Cornwall Council report for more details.

If the Council proceeds to introduce such a measure it is essential it provides greater clarity to dog walkers on how to comply with the Order.

Dog access

The Kennel Club does not normally oppose dog exclusion or dog on lead orders in playgrounds, or enclosed recreational facilities such as tennis courts or skate parks, as long as alternative provisions are made for dog walkers in the vicinity. We would also point out that children and dogs should be able to socialise together quite safely under adult supervision, and that having a child in the home is the biggest predictor for a family owning a dog.

The Kennel Club can support reasonable "dogs on lead" orders, which can - when used in a proportionate and evidence-based way – include areas such as picnic areas or on pavements in proximity to cars and other road traffic. We question whether the proposal to require dog walkers to place their dog on a lead within 20 metres of a playground is a reasonable measure to include in a PSPO. As it will be very difficult for dog walkers to assess at what point they enter a restricted area.

With regards to sports pitches, we ask local authorities to consider whether or not access restrictions are absolutely necessary. If they are deemed to be needed, whether 'in use', restrictions would be more appropriate than an outright ban. We are aware in many areas, dog walkers do allow their dogs to exercise on playing fields when they are not in use. If of course they are in use we understand the safety reasons behind restrictions.

It appears from the Council's website that it is intending to require dogs to be kept on a lead on 'some public footpaths', however, this proposal has not been included in the consultation document. In the absence of a definitive list of footpaths this restriction would apply to we are unable to comment on the appropriateness of the proposal. In general, we would question how a dog being off lead on a public footpath would meet the legal test for the introduction of a PSPO. We note reference to farmland in connection to this proposal, the Dogs (Protection of Livestock) Act 1953 already places legal requirements on dog owners in respect of livestock.

We are somewhat confused and concerned with regard to the consultation question on potential dog on lead and exclusion Orders for 'open space owned by parish and town councils – as per their signs'. As worded it could be interpreted that the Borough Council intends to provide a blanket right for town and parish councils to introduce PSPO restrictions on open spaces they own, as they see fit by erecting signage. We do not believe that this would be appropriate, we strongly believe that the Borough Council should provide the opportunity for interested parties to provide their views on any proposed restriction to dog walking, prior to any legal restriction being implemented. Additionally, to this the legislation is clear that parish councils are not entitled to make their own PSPOs. However, we do note that the Borough Council's website includes a list of areas for which these type of restrictions would apply under the PSPO, which does include sites which are owned by parish councils. We can therefore see it may be the Borough Council is in fact seeking approval to impose restrictions specifically on the listed parish council owned open spaces.

We have similar concerns regarding the question of introducing restrictions on fishing ponds managed by angling clubs. It is the Borough Council's legal obligation to ensure any PSPO restrictions are appropriate and reasonable.

The council should be aware that dog owners are required, under the Animal Welfare Act 2006, to provide for the welfare needs of their animals and this includes providing the necessary amount of exercise each day. Their ability to meet this requirement is greatly affected by the amount of publicly accessible parks and other public places in their area where dogs can exercise without restrictions. This section of the Animal Welfare Act was included in the statutory guidance produced for local authorities by the Home Office on the use of PSPOs.

The Government provided clear instructions to local authorities that they must provide restriction free sites for dog walkers to exercise their dogs. This message was contained in the guidance document for DCOs, and has been retained in both the Defra/Welsh Government and Home Office PSPO guidance documents, with the Defra guidance for PSPOs stating 'local authorities should ensure there are suitable alternatives for dogs to be exercised without restrictions'.

A common unintended consequence of restrictions is displacement onto other pieces of land, resulting in new conflict being created. It can be difficult to predict the effects of displacement, and so the council should consider whether alternative sites for dog walkers are suitable and can support an increase in the number of dog walkers using them.

To be compliant with the Public Sector Equality Duty we submit the council should consider the accessibility of restriction free alternatives for those with reduced mobility (including but

not limited to those with a disability or elderly persons for instance). Alongside considering any direct impact as a result of the PSPO upon those with protected characteristics.

We welcome the inclusion of “dog on lead by direction” provisions, which should allow a more targeted approach to tackle the individuals who allow their dogs to run out of control. We would also recommend local authorities make use of the other more flexible and targeted measures at their disposal such as Acceptable Behavioural Contracts and Community Protection Notices. Kennel Club Good Citizen Training Clubs and our accredited trainers can also help those people whose dogs run out of control due to them not having the ability to train a reliable recall.

Maximum number of dogs a person can walk

The Kennel Club feel that an arbitrary maximum number of dogs a person can walk is an inappropriate approach to dog control that will often simply displace and intensify problems in other areas. The maximum number of dogs a person can walk in a controlled manner depends on a number of factors relating to the dog walker, the dogs being walked, whether leads are used and the location where the walking is taking place.

An arbitrary maximum number can also legitimise and encourage people to walk dogs up to the specified limit, even if at a given time or circumstance, they cannot control that number of dogs.

We thus suggest that defined outcomes are used instead to influence people walking more than one dog, be that domestically or commercially, such as dogs always being under control, or not running up to people uninvited, on lead in certain areas etc.

For example, an experienced dog walker may be able to keep a large number of dogs under control during a walk, whereas an inexperienced private dog owner may struggle to keep a single dog under control. Equally the size and training of the dogs are key factors; this is why an arbitrary maximum number is inappropriate. The Kennel Club would recommend the local authority instead uses “dogs on lead by direction” orders and targeted measures such as Acceptable Behaviour Contracts and Community Protection Orders to address people who don’t have control of the dogs they are walking.

A further limitation of a maximum number of dogs per person is that it does not stop people with multiple dogs walking together at a given time, while not exceeding the maximum number of dogs per person. Limits can also encourage some commercial dog walkers to leave excess dogs in their vehicles, which can give rise to welfare concerns.

If a maximum number of dogs is being considered due to issues arising from commercial dog walkers, we suggest councils look instead at accreditation schemes that have worked very successfully in places like the East Lothian council area. These can be far more effective than numerical limits, as they can promote wanted good practice, rather than just curb the excesses of just one aspect of dog walking. Accreditation can also ensure dog walkers are properly insured and act as advocates for good behaviour by other dog owners. The Kennel Club is currently developing a national Code of Practice for Commercial Dog Walking for launch in 2017, alongside a national accreditation and training scheme that councils can work with us to apply and promote in their areas.

Equality considerations

When introducing a dog control PSPO local authorities should consider the potential negative impacts on vulnerable groups and their requirements under the Equality Act 2010. The most obvious potential adverse impact is upon those who rely on assistance dogs and registered blind people, who may either be unable to comply with conditions contained within the Order, or the effect of the Order would be to exclude them from accessing public spaces. Appropriate

exemptions from dog fouling and dog exclusion Orders should be included in PSPOs, for registered blind people and those who rely on assistance dogs.

Assistance Dogs UK currently have eight member organisations which can be viewed here - <http://www.assistancedogs.org.uk/>. However, the membership of Assistance Dogs UK is not a definitive list of all UK assistance dog organisations, and may indeed change during the currency of the PSPO. We would therefore encourage the Council to allow some flexibility when considering whether a disabled person's dog is acting as an assistance dog.

If the local authority is introducing dog on lead restrictions, consideration should be made of the accessibility of alternative restriction free exercise areas for those with limited mobility, be that due to disability, age etc.

Appropriate signage

It is important to note that in relation to PSPOs the The Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014 make it a legal requirement for local authorities to –

“cause to be erected on or adjacent to the public place to which the order relates such notice (or notices) as it considers sufficient to draw the attention of any member of the public using that place to –

- (i) the fact that the order has been made, extended or varied (as the case may be);
and
- (ii) the effect of that order being made, extended or varied (as the case may be).”

With relation to dog access restrictions such as a “Dogs on Leads Order”, on-site signage should make clear where such restrictions start and finish. This can often be achieved by signs that on one side say, for example, “You are entering [type of area]” and “You are leaving [type of area]” on the reverse of the sign.

While all dog walkers should be aware of the requirement to pick up after their dog, signage should be erected for the PSPO to be compliant with the legislation.

With specific regard to the proposed means to pick up measure this type of law will be unfamiliar to dog walkers and prominent signage explaining the exact requirements expected of dog walkers, not all of whom will be local residents, should be erected in any area where the measure is to be enforced.

This page is intentionally left blank