



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.