

To: Cabinet
Date: 11 November 2020
Report of: Head of Regulatory Services and Community Safety
Title of Report: Alcohol and Dog Control Public Spaces Protection Orders

Summary and recommendations	
Purpose of report:	Approve the implementation of the draft Dog Control Public Spaces Protection Order and the Alcohol Disorder Public Spaces Protection Order.
Key decision:	Yes
Cabinet Member:	Councillor Louise Upton, Cabinet Member for a Safer, Healthy Oxford
Corporate Priority:	Support flourishing communities.
Policy Framework:	Council Strategy 2020-24
Recommendations: That Cabinet resolves to:	
<ol style="list-style-type: none"> 1. Approve the implementation of a Dog Control Public Spaces Protection Order as set out in Appendix 1; and 2. Approve the implementation of an Alcohol Control Public Spaces Protection Order as set out in Appendix 2. 	

Appendices	
Appendix 1	Proposed Dog Control Public Spaces Protection Order
Appendix 2	Proposed Alcohol Disorder Public Spaces Protection Order
Appendix 3	Legal considerations when making an Order
Appendix 4	Questionnaire consultation results summary
Appendix 5	Data assessment summary
Appendix 6	Risk register
Appendix 7	Current Dog Control PSPO
Appendix 8	Current Alcohol Disorder PSPO
Appendix 9	ASB Tools and powers summary

Introduction and background

1. Public Spaces Protection Orders (PSPOs), as defined by the Anti-Social Behaviour, Crime and Policing Act 2014 (the Act), set out standards of acceptable behaviour in an area to deter those behaviours that have been, or are likely to be, detrimental, persistent and unreasonable to those in the area. Therefore, a PSPO's primary purpose, similar to a byelaw, is to prevent anti-social behaviour from occurring and reduce the detrimental effect on those living in the area.
2. Oxford City Council has two PSPOs that regulate dog control (Appendix 7) and alcohol consumption (Appendix 8), respectively. They expire on the 27 November 2020.
3. The Act repealed Dog Control Orders, and Designated Public Places Orders; the previous legislative provisions that regulated these two issues. The Council introduced these original Orders to all public land within the Oxford City Council local authority boundary. The Act allowed subsequent PSPOs to adopt the same restrictions for a maximum period of three years.
4. The three years have expired, therefore Cabinet must decide whether to extend the existing Orders based on evidence of need, introduce new Orders or let the Orders expire.

Overview of PSPOs

5. The Anti-Social Behaviour, Crime and Policing Act 2014 ('the Act') gained Royal Assent in April 2014 and gives the power to make an Order to local authorities, in consultation with the police and other relevant bodies who may be affected.
6. A local authority can make a PSPO in respect of any public space within its administrative boundary. The definition of public space is wide and includes 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.
7. A PSPO can be in force for any period up to a maximum of three years. The legal requirements of implementing a PSPO are described in Appendix 3.
8. Appeals against a draft PSPO can be made in the High Court within six weeks of issue by anyone who lives in, or regularly works in or visits the area.
9. The PSPOs are enforced by authorised officers within the Council or police officers. Oxford City Council is the prosecuting authority.
10. A breach of the Dog Control PSPO can be dealt with through the issuing of a Fixed Penalty Notice of up to £100, or a level 3 fine of up to £1000 on conviction following prosecution.
11. A breach of the Alcohol Disorder PSPO can be dealt with through the issuing of a Fixed Penalty Notice of up to £100, or a level 2 fine of up to £500 on conviction following prosecution.
12. The Council has a graduated approach to enforcement that is set out in the Anti-social Behaviour Enforcement Policy. This requires officers to operate the lowest possible level of intervention that is suitable to the case, most often involving a

process of engagement and words of advice. Other legal remedies are described in Appendix 9.

13. The Authority is also bound by the terms of the Human Rights Act 1998 and must not act in a way which is incompatible with a Convention right. Human rights are enforced through existing rights of review and may therefore be taken as points in any challenge to the validity of any Order made by the Authority.
14. The Cabinet must have regard to the public sector equality duty at s149 of the Equality Act 2010 as set out in the Equality Impact Assessments (Appendices 10 and 11).
15. The Oxford Safer Communities Partnership was presented with the draft PSPOs at its meeting on the 5 October 2020. The partnership was supportive of the draft Orders with adequate signage placed at strategic points in the city.

Current Dog Control PSPO

16. The current Dog Control PSPO (Appendix 7) makes it an offence for persons in charge of a dog to breach, without a reasonable excuse, four restrictions or requirements within the Oxford City Council local authority boundary. These are:
 - a. An authorised officer has the power to require a dog to be put on a lead.
 - b. A person may not be in charge of any more than four dogs in a public place.
 - c. A person in charge of a dog must pick up their dogs faeces.
 - d. A person in charge of a dog must not let it enter a children's play park.
17. There are exemptions for people who need the help of assistance dogs.
18. There is a separate Dog Control PSPO for Saint Mary and Saint John Churchyard, Cowley Road. A single restriction requires dogs to be on a lead at all times, as opposed to when requested by an authorised officer. It is not proposed to renew this PSPO but to include the area in the new Dog Control PSPO.
19. Evidence relating to dog control can be found in more detail in Appendix 5. Dog fouling data illustrates a wide spread of reports across the local authority area. Data on dogs in children's play parks, out of control, off a lead, or owners responsible for more than 4 dogs is very limited. This could be a result of the impact of the Order, under-reporting of actual incidents or permanent behaviour change.
20. Consultation responses can be found in Appendix 4. In summary:
 - 78% of respondents disagree with allowing dogs into children's play parks. 13% were neutral.
 - 94% of respondents felt that owners should pick up their dog mess anywhere in the city.
 - 63% of respondents disagreed or strongly disagreed with the statement that dog owners should not be restricted on the number of dogs under their control at any one time.
 - 94% of respondents said that owners should put their dog on a lead if asked by a Council or Police Officer.
 - 60% of respondents agreed that dogs should be kept on leads at all times in the city centre.

Current Alcohol Disorder PSPO

21. The current Alcohol Disorder PSPO (Appendix 8) makes it an offence for any person to refuse to stop drinking alcohol or hand over any containers (sealed or unsealed) which are believed to contain alcohol, when required to do so by a police officer or authorised officer in order to prevent public nuisance or disorder.
22. This restriction does not apply within the curtilage of a licensed premise.
23. Evidence relating to alcohol disorder can be found in more detail in Appendix 5. In summary, public space alcohol-related disorder occurs primarily in retail and entertainment areas. Incidents within neighbourhoods tend to relate to residential properties, therefore the data does not support the continuation of a citywide Alcohol Disorder PSPO. However, displacement is a significant issue in regards to street drinking and therefore the proposed PSPO area includes some neighbouring areas.
24. Consultation responses can be found in Appendix 4. There is widespread support for the power to restrict alcohol consumption where it causes anti-social behaviour. Just under 300 respondents identified specific localities associated with alcohol-related disorder. In summary:
 - Over half the respondents said seeing people drinking in public worries them and would avoid places where people are drinking in public.
 - A quarter of respondents did not feel concerned about seeing people drinking in public.
 - Over half of respondents agreed that people have a right to drink in public if they are behaving considerately. Less than a quarter disagreed or strongly disagreed.
 - The majority of the respondents stated that alcohol-related disorder concerns them.
 - When asked if there should be a complete ban on drinking alcohol in any area of Oxford two-fifths were in favour, and two-fifths were against and the remainder had no opinion.
25. The top four locations of concern were Bonn Square, Cornmarket Street, George Street and Cowley Road.

Financial implications

26. Signage and enforcement costs are covered by existing budgets.

Legal implications

27. The Council relies upon Section 59 of the 2014 Act. This gives the Council the power to draft and implement PSPOs in response to the issues which are affecting the community as long as the legal criteria and test are met. Section 59 of the Act is set out in Appendix 3. The Council must be satisfied on reasonable grounds that activities that have taken place have had a detrimental effect on the quality of life of those in the locality, or that it is likely that activities that will take place will have a detrimental effect. The Council must also be satisfied that the detrimental effect is persistent or continuing and is, or is likely to be, unreasonable. The detrimental effect must justify the restrictions being imposed. Statutory guidance states

restrictions should focus on specific behaviours and be proportionate to the detrimental effect and necessary to prevent it.

28. Level of risk

29. Risks and mitigations are contained in the Risk Register, Appendix 9

Equalities impact

30. Equalities Impact Assessments are at Appendix 10 and 11.

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