



## **SCRUTINY COMMITTEE REPORT**

Date Written	7 <sup>th</sup> January 2021
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Service Area	Legal & Democratic
Committee Date	18 <sup>th</sup> January 2021

*To: Chair, Ladies and Gentlemen*

### **Dog Fouling Public Spaces Protection Order**

#### **1.0 SUMMARY OF THE REPORT**

1.1 To outline the proposal to introduce a borough wide Dog Fouling Public Spaces Protection Order (PSPO) The purpose of the order is to improve measures across the County Borough to combat dog fouling in public spaces.

#### **2.0 RECOMMENDATION(S)**

2.1 That the scrutiny committee notes the contents of the report.

#### **3.0 INTRODUCTION AND BACKGROUND**

3.1 In England and Wales, local authorities may introduce PSPOs, making it an offence not to clean up dog mess in areas covered by a PSPO. Under such orders, a person who fails to clean up after their dog has defecated may face a Fixed Penalty of up to £100. Breach of the PSPO also allows the Council to prosecute an offender at the Magistrates Court for the dog fouling offence where a person found guilty could be fined up to £1,000. PSPOs run for a period of three years but if evidence exists of a continuing problem they may be extended for longer periods.

3.2 The system of controlling dog fouling under PSPOs was introduced by the Anti-Social Behaviour, Crime and Policing Act 2014. It replaced the old system of dog control orders under the Clean Neighbourhoods and Environment Act 2005, which in turn replaced the previous dog fouling legislation namely the Dogs Fouling of Land Act 1996.

- 3.3 The Council currently has no specific dog fouling orders in place and as such dog fouling in the County Borough is to the greater extent unregulated.
- 3.4 PSPOs can be made where the Council is satisfied on reasonable grounds that the activities which are the subject of the PSPO (dog fouling) are carried out, or likely to be carried out, in a public place. A PSPO is designed to deal with a particular nuisance or problem in an area. The behaviour must also be having a detrimental effect on the quality of life of those in the community, it must be persistent or continuing and it must be unreasonable.
- 3.5 PSPOs are designed to ensure that the law-abiding majority can enjoy public spaces, safe from anti-social behaviour. Dog fouling is both unpleasant and a danger to health, and the Council is committed to tackling it in all public places across the County Borough. While the majority of dog owners behave responsibly and pick up after their dogs, there remains a minority of dog owners who do not and it is these people who the Council aims to target through enforcement and awareness initiatives.
- 3.6 Controls can only be imposed where there is evidence of a specific problem. They cannot be imposed simply on a precautionary basis. However the Council receives many complaints each year about dog fouling in public places. In the two years up to June 2020 the Council had 188 incidents of dog fouling logged on its Tascomi system. With the reports of dog fouling covering all 11 Council Wards. To demonstrate that this is a continuing persistent problem in the 6 months preceding June 2020 there were 58 reported incidents of dog fouling in the County Borough. Anecdotal evidence would however suggest that the majority of dog fouling instances go unreported.

#### **4.0 CURRENT POSITION REGARDING IMPLEMENTATION**

- 4.1 Before making a PSPO, the council must consult with the Police, the Police and Crime Commissioner, Community Councils, and community representatives they think appropriate. The council has also engaged in an open and public consultation giving users of the public spaces the opportunity to comment on whether the proposed restriction or restrictions are appropriate, proportionate or needed at all. The council also ensured that specific groups likely to have a particular interest were consulted e.g. the Dogs Trust, Kennel Club.
- 4.2 A public consultation exercise was undertaken using the Council's consultation hub. The consultation exercise was also widely publicised through social media and on the council's website. There was a significant response from the public with over 800 responses received. At the conclusion of the consultation period, responses will be considered, and a further report put to Cabinet to consider whether or not to impose a PSPO. This final report will address detailed issues such as the practical arrangement of implementation and enforcement.

4.3 The proposed Dog Fouling Public Spaces Protection Order that was put out for consultation included the following restrictions:

- a. It will be County Borough Wide (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);
- b. Persons in charge of a dog must have with them appropriate means to pick up dog faeces deposited by that dog; and
- c. Persons in charge of a dog must remove the faeces and for it to be disposed of in an appropriate receptacle.

## 5.0 RESPONSES TO CONSULTATION

5.1 Responses to the consultation came from the whole County Borough. There were 817 responses broken down into the following areas

Merthyr Vale	10	Aberfan	30	Heolgerrig	28
Merthyr Tydfil	270	Edwardsville	20	Outside County Borough	4
Bedlinog	39	Dowlais	21	Pentrebach	13
Treharris	76	Pant	18	Llwyn on	1
Quakers Yard	77	Pontsticill	3	Thomastown	2
Trelewis	33	Penydarren	22	Gellideg	4
Troedyrhiw	37	Trefechan	8	Georgetown	3
Swansea Rd	3	Beacon Heights	2	Cefn Coed	12
Abercanaid	28	Gurnos	5	Town	1
Penywern	2	Cyfarthfa	4	Bradley Gardens	2
Ynysfach	5	Castle Park	8	Park Ward	2
Mardy	2	Twynyrodyn	12	Winchfawr	1
Quar	7	Tudor Terrace	1	Caepantyyll	1

5.2 Out of those responses **96%** felt that dog fouling had had a detrimental effect on their community and the people around them, whilst **73%** said it had a direct impact on their day-to-day life.

5.3 There were **604** comments received from the responders detailing the problems they had experienced with dog fouling and these include the following –

<ul style="list-style-type: none"> <li>• There's dog mess everywhere</li> </ul>	<ul style="list-style-type: none"> <li>• Enforcement needed</li> </ul>
<ul style="list-style-type: none"> <li>• If trod on you bring it into your house</li> </ul>	<ul style="list-style-type: none"> <li>• More cameras needed</li> </ul>
<ul style="list-style-type: none"> <li>• It spoils my walks</li> </ul>	<ul style="list-style-type: none"> <li>• Law abiding dog owners are tarred with the same brush as irresponsible ones</li> </ul>
<ul style="list-style-type: none"> <li>• I am worried for my children's health</li> </ul>	<ul style="list-style-type: none"> <li>• The problem is getting worse</li> </ul>
<ul style="list-style-type: none"> <li>• It smells</li> </ul>	<ul style="list-style-type: none"> <li>• Bags of dog poo are left in bushes and trees</li> </ul>
<ul style="list-style-type: none"> <li>• Pavements and grassed areas are equally bad</li> </ul>	<ul style="list-style-type: none"> <li>• It gets into pram, wheelchair and bike wheels and onto Zimmers</li> </ul>
<ul style="list-style-type: none"> <li>• People use back lanes as dog toilets and do not clean up after the dog</li> </ul>	<ul style="list-style-type: none"> <li>• I walk on roads to avoid pavements</li> </ul>

<ul style="list-style-type: none"> <li>• It causes diseases</li> </ul>	<ul style="list-style-type: none"> <li>• Sports pitches are used as dog toilets</li> </ul>
<ul style="list-style-type: none"> <li>• More dog bins needed</li> </ul>	<ul style="list-style-type: none"> <li>• It is a source of community tension</li> </ul>
<ul style="list-style-type: none"> <li>• Taff trail, Cyfarthfa Park are particularly bad</li> </ul>	<ul style="list-style-type: none"> <li>• I have inadvertently walked it into my car</li> </ul>
<ul style="list-style-type: none"> <li>• A simple walk becomes an obstacle course</li> </ul>	<ul style="list-style-type: none"> <li>• It is worse for those who are visually impaired</li> </ul>
<ul style="list-style-type: none"> <li>• I moved to a new house because of it</li> </ul>	<ul style="list-style-type: none"> <li>• It's a major health risk</li> </ul>
<ul style="list-style-type: none"> <li>• I feel it is better for my well-being walking in a clean environment</li> </ul>	<ul style="list-style-type: none"> <li>• Dogs often rub themselves in it</li> </ul>
<ul style="list-style-type: none"> <li>• It is difficult for deaf child to be warned</li> </ul>	<ul style="list-style-type: none"> <li>• We want this town to be tidy and clean for visitors</li> </ul>
<ul style="list-style-type: none"> <li>• I am constantly having to dodge it when out for a walk</li> </ul>	<ul style="list-style-type: none"> <li>• My 4-year-old child is unable to play outside house because of it</li> </ul>
<ul style="list-style-type: none"> <li>• It makes me ashamed of my local area</li> </ul>	<ul style="list-style-type: none"> <li>• It is difficult for parent of child with autism</li> </ul>
<ul style="list-style-type: none"> <li>• I would be happy to volunteer as a warden</li> </ul>	<ul style="list-style-type: none"> <li>• It attracts flies and rats and spreads diseases.</li> </ul>

5.4 Of the **817** people who responded to the consultation **11%** felt there should be exemptions to the PSPO or that there should be instances where dog fouling should be tolerated. The responses included the following suggested exemptions -

<ul style="list-style-type: none"> <li>• Guide dogs for the blind</li> </ul>	<ul style="list-style-type: none"> <li>• Where the owner uses the "stick &amp; flick"</li> </ul>
<ul style="list-style-type: none"> <li>• The elderly or infirm who cannot pick up the dog mess</li> </ul>	<ul style="list-style-type: none"> <li>• There should be dedicated dog fouling areas.</li> </ul>
<ul style="list-style-type: none"> <li>• Blind people</li> </ul>	<ul style="list-style-type: none"> <li>• Where the dog has an upset stomach, and the dog waste cannot be picked up.</li> </ul>
<ul style="list-style-type: none"> <li>• Defecation that occurs off path or road</li> </ul>	<ul style="list-style-type: none"> <li>• Where a child is in charge of a dog</li> </ul>
<ul style="list-style-type: none"> <li>• Defecation that occurs in woodland</li> </ul>	<ul style="list-style-type: none"> <li>• Where there are no bins or where they are full</li> </ul>
<ul style="list-style-type: none"> <li>• Service dogs</li> </ul>	<ul style="list-style-type: none"> <li>• When someone intends to return to the defecation with a bag</li> </ul>
<ul style="list-style-type: none"> <li>• People with dementia, learning difficulties and young people under 10 years old</li> </ul>	<ul style="list-style-type: none"> <li>• When dog bags are forgotten</li> </ul>

5.5 **93%** of those who responded stated that they had witnessed the effects of dog fouling in their community and the same percentage stated that they felt dog fouling was an ongoing problem.

5.6 There were also **415** other comments made and these included the following –

More dog bins needed and regularly emptied	Discarded dog faeces in bags is worse than faeces on the ground
Hotspot regular checks	Use CCTV to prosecute
Who is going to enforce this?	Signage needed Edwardsville

Dogs need to be properly supervised and not let out alone	Enforce against those who fail to dispose of dog bags
Concentrate on matters where enforcement will be effective – parking on pavements	Cats defecating is also a problem
Horse manure is a bigger problem	Continued breach should result in removal of the dog
Enforcement officers should be allowed to do spot checks on whether dog walkers have bags	No warnings should be issued Harsher penalties for dog owners whose dogs foul on sports pitches
There should be warnings in some instances	Education is important as well
Enforcement will be ineffective	There should be no exemptions
DNA testing should be done to stop false allegations	It should be a condition that all dog owners have a dog bag with them when out with a dog
Bring back the dog licence -revoke if found guilty of dog fouling	A dog warden is needed
£100 fine is too low	Tax dog owners to pay for the costs of clean up

## 6 NEXT STEPS

6.1 The next steps requiring to be undertaken are as follows:

- (a) Finalise the review of the consultation responses
- (b) Draft the proposed PSPO.
- (c) Report to Cabinet on 3<sup>rd</sup> February 2020 to determine whether to make the PSPO.
- (d) If Cabinet determines to make the PSPO the Anti-Social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations must then be complied with which states that the Council must publish a PSPO on its website and cause to be erected on or adjacent to the public place to which the order relates such notices as it considers sufficient to draw the attention of any member of the public using that place to the fact that a PSPO has been made and the effect of the PSPO having been made. To allow sufficient time for the PSPO(s) to be publicised and for the signage to be put up it is proposed that the PSPO(s) would not come into force until the 10<sup>th</sup> March 2021.
- (e) When in force legislation states that a person has six weeks to challenge a PSPO which in this instance is the 21<sup>st</sup> April 2021.

## 7 CONTRIBUTION TO WELLBEING OBJECTIVES

7.1 Our contribution to the Environmental Wellbeing objectives are as follows:

**Environmental damage is minimised by preventing pollution.** This objective is supported by the reduction dog fouling in the county borough; and

**Merthyr Tydfil has good quality biodiverse and connected green infrastructure and open spaces.** A reduction in dog waste on paths, pavements lanes, roads and in the countryside will make people use the open spaces without fear of treading on dog waste thereby enhancing the environment.

**CARYS KENNEDY  
HEAD OF LEGAL SERVICES**

**COUNCILLOR ANDREW BARRY  
CABINET MEMBER FOR GOVERNANCE,  
PERFORMANCE, BUSINESS CHANGE &  
CORPORATE SERVICE**

<b>BACKGROUND PAPERS</b>		
<b>Title of Document(s)</b>	<b>Document(s) Date</b>	<b>Document Location</b>
Consultation documentation	December 2020	Legal department file
<b>Does the report contain any issue that may impact the Council's Constitution?</b>		