

# Control of Dogs Orders Review

## Consultation Questionnaire

Please reply by Saturday 28 April 2018



## **Background to consultation**

In October 2014 the Anti-Social Behaviour, Crime and Policing Act 2014 (the Act) introduced new powers relevant to tackling Anti-Social Behaviour. In addition, the Act made changes to existing legislation and councils were required to review existing Orders (made under previous legislation) and replace them with Public Space Protection Orders (PSPOs). PSPOs can be used to regulate activities in particular public places that can have a detrimental effect on the local community. They can help by giving local councils and local police additional powers to tackle anti-social behaviour in specific locations.

On 20 October 2017 Cheshire West and Chester Council (the council) transferred the borough-wide Dog Fouling Order into a PSPO and decided that it should remain in force for a maximum of 3 years. Before the expiry of this 3 year period, the Order must be reviewed again. At the same, the borough's other Dog Control Orders were allowed to transfer into PSPOs for a period of 12 months, during which time a wide-ranging consultation and review must be carried out. Consequently, the Chester City Dog Control Orders were transferred into PSPOs for a period of 12 months. The former Vale Royal Council and Ellesmere Port and Neston Council areas are still covered by Byelaws which were not affected by the change in legislation detailed above, but it is appropriate that the council carries out a review of all Dog Control measures at the same time.

### **The current situation in each area is:**

#### **Chester**

Dog Exclusion Zones exist on named and mapped sites – all of which are enclosed children's play areas. Dogs on Leads Zones exist on named and mapped sites – which tend to be larger shared public space areas e.g. playing fields.

#### **Ellesmere Port and Neston**

An Ellesmere Port and Neston Byelaw is still in existence and creates two Dog Exclusion Zones –the enclosed children's play areas in Stanney Woods and Whitby Park. There are also a number of named sites where dogs must be under control and greyhounds must be muzzled and on a lead. The Byelaw in relation to dogs other than greyhounds needing to be under control is now irrelevant as the legislation has been superseded by the Dangerous Dogs Act and is primarily a police function.

#### **Vale Royal**

A Vale Royal Byelaw is in existence but is practically unenforceable as the original legislation is missing. The Byelaw created 11 named sites where dogs were banned – all of these being children's play areas. There are also 28 named sites where dogs were required to be on a lead and a further 7 sites where dogs should be on leads by request – presumably by the request of an authorised officer.

## **Reasons for change**

There have been many changes and improvements to our greenspaces since the original Chester City Council Dog Control Orders and the Vale Royal and Ellesmere Port & Neston Byelaws were introduced. There are now a number of new parks and play areas and many examples where the landscape of an area has changed and the old legislation provisions are no longer practically enforceable.

NOTE – For any proposals that are approved and where a location becomes the subject of a PSPO, signs will be clearly displayed in sufficient numbers in the immediate area describing the restrictions and the consequences if restrictions are ignored.

## **How your views will be used**

The outcome of the public consultation will be considered by Cabinet in Autumn 2018.

## **How to share your views**

The 12 week consultation period closes on 28 April 2018. There is a range of ways to express your views:

- Complete this survey form or go online
- Email: [DogOrders@cheshirewestandchester.gov.uk](mailto:DogOrders@cheshirewestandchester.gov.uk)
- Telephone: 0300 123 8 123
- Write to: Research and Intelligence Team, Cheshire West and Chester Council, 4 Civic Way, Ellesmere Port, CH65 0BE

## **How to complete this questionnaire**

- Please read the 'Background to consultation' information before answering the questions
- Please use a black or blue pen
- Please read the questions carefully as sometimes you are asked to cross (X) one box and sometimes you can choose more than one
- Some questions ask you to write your comments in a box
- Answer the next question unless asked otherwise
- If there are any questions that you do not wish to answer, please feel free to leave them blank

**Completing the questionnaire is voluntary and all the information you provide will be treated in the strictest of confidence. No information will be released that could identify an individual or organisation.**

**Please note that you need to be aged 16 or over to take part in this survey.**

### **Accessing Cheshire West and Chester Council information and services.**

Council information is also available in audio, braille, large print or other formats. If you would like a copy in a different format, in another language or require a British Sign Language interpreter, please email us at: [equalities@cheshirewestandchester.gov.uk](mailto:equalities@cheshirewestandchester.gov.uk)

Telephone: **0300 123 8 123**

Textphone: **18001 01606 275 757**

Email: **[equalities@cheshirewestandchester.gov.uk](mailto:equalities@cheshirewestandchester.gov.uk)**

Web: **[www.cheshirewestandchester.gov.uk](http://www.cheshirewestandchester.gov.uk)**

## **Section A: Dog exclusion**

### **Issue 1 – Exclusion of dogs from defined Childrens’ Play areas**

In 2017 the council launched its Play Strategy with a key priority being that we recognise the role of outdoor play for health and wellbeing and that we make public spaces as child friendly as possible. We are proposing that dogs are excluded from any children’s play area that contains children’s play equipment such as slides, swings, climbing frames and similar apparatus and that is enclosed on all sides by fences, gates, walls or other structures that mark the boundary of the play area. These clear boundaries will make it easy for people to identify the extent of the area where dogs are not allowed. (Please note that there will be some exemptions to the exclusions, e.g. registered assistance dogs).

We believe that, by describing the areas where dogs are not allowed, rather than by using named and mapped areas, we will ensure that we do not miss out new or developing play areas and a common approach across the whole borough will give residents some certainty as to the intended usage of areas.

**Q1. It is proposed that a borough wide Public Space Protection Order is introduced that excludes dogs (apart from certain exemptions) from all outdoor fully enclosed children’s play areas that contain children’s play equipment.**

**Do you agree with the proposal to exclude dogs from these areas?**

Yes I agree       No I don’t agree       Don’t know

**If you do not agree, please tell us why in the box below**

## **Issue 2 – Exclusion of dogs from other defined recreation areas**

We propose that dogs are excluded from all marked and maintained sports areas such as football and rugby pitches and from partially or fully enclosed sports areas commonly known as multi-activity areas.

The usual manner in which areas are identified is with white markings. In order for the prohibition to apply, the markings must be sufficiently clear, bold and continuous to identify it as an area that is used for the purpose of sporting activities. The exclusion zone would only apply within the marked boundary of the pitches / areas or within the enclosed area, so spectators could still take their dogs.

**Q2a. Do you agree that dogs should be excluded from the playing areas of marked and maintained sports pitches?**

Yes I agree       No I don't agree       Don't know

**If you do not agree, please tell us why in the box below**

**Q2b. Do you agree that dogs should be excluded from partially or fully enclosed sports areas commonly known as multi-activity areas, and formal recreation areas including bowling greens, tennis courts and basketball courts?**

Yes I agree       No I don't agree       Don't know

**If you do not agree, please tell us why in the box below**

## **Section B: Dogs on leads**

### **Issue 3 – Dogs to be placed on leads if requested by an authorised officer – to apply across the whole borough**

The council recognises that the vast majority of dog owners are responsible and keep their dogs under control while they are out. However, if they are not properly supervised and kept under control, dogs that are allowed off a lead in public areas can cause nuisance or even injury to members of the public or other animals and may cause road traffic accidents.

Previously, there have been a significant number of areas where dogs have been required to be on a lead at all times. We believe that this has been of some value but that it can restrict dog owners and does not always effectively address potential problems. We believe that, for animal welfare reasons, it is advantageous for dog owners to be able to exercise their dogs off lead in open spaces. We do, however, recognise that on certain occasions or in certain circumstances, the option should exist for authorised officers to require a dog to be put on a lead. Dogs that are considered to be not under proper control will become subject to this part of the Order. The current maximum fine for a Fixed Penalty Notice is £100 and up to £1000 on prosecution.

The proposal is therefore that all public land in the borough, or land to which the public has access (except for land at the disposal of the Forestry Commissioners) will be subject to a Public Space Protection Order, which would require the person in control of a dog to put the dog on a lead if requested to do so by an authorised officer. Authorised officers will carry appropriate identification.

This means we can deal with any behaviour by a dog that is likely to cause annoyance or disturbance without introducing overly restrictive measures on all dogs and dog owners at all times. This flexible approach will also allow officers to address issues that arise in any area at any time during the lifetime of the Order. (Please note that there is likely to be a small number of specific sites where dogs must be kept on a lead at all times - see issue 4).

#### **Q3. Do you agree with the proposed requirement that dogs must be placed on a lead if requested by an authorised officer?**

Yes I agree       No I don't agree       Don't know

**If you do not agree, please tell us why in the box below**

#### **Issue 4 – Dogs to always be on a lead in a small number of specific sites**

The second proposal in relation to dogs being on a lead is that dogs must always be placed on a lead on some specified sites. The sites identified will be those where it is agreed that there are specific issues in allowing dogs to run free at any time.

Over the last few years, we have regularly received complaints about dog owners taking dogs into council maintained cemeteries and the crematorium gardens and allowing them to wander freely. The consequences are that dogs may defecate and urinate on graves and in memorial gardens causing an unpleasant environment in an area meant for peace and respect. There have also been instances of dogs digging inappropriately if left to roam free. We realise that people may wish to take their pets into cemeteries and the crematorium gardens but it can be distressing for other visitors if dogs are allowed to run free.

**Q4a. Do you agree that dogs should always be on a lead in council maintained cemeteries and the crematorium gardens?**

Yes I agree       No I don't agree       Don't know

**If you do not agree, please tell us why in the box below**

**Q4b. There may be other areas where dogs should be on leads at all times. For example, Grosvenor Park in Chester has previously been an area where dogs must be on a lead at all times because of the formal planted areas.**

**Do you agree that dogs should always be on a lead in Grosvenor Park in Chester?**

Yes I agree       No I don't agree       Don't know

**If you do not agree, please tell us why in the box below**



**Q4c. Are there any other specific areas where you feel that dogs should always be required to be on a lead? If so, please identify any sites as accurately as possible by name, address and postcode and give reasons for your suggestion(s).**

**Issue 5 – Length of lead to be specified in the Order**

The Countryside and Rights of Way Act 2000 (Schedule 2) requires a short lead to be used in certain circumstances. A short lead is defined as less than 2m and of fixed length. The proposal is that when there is a requirement in the Order for a dog to be on a lead, a lead shall be defined as being of fixed length and of not more than 2 m. We believe that the use of extendable leads in excess of 2m does not represent effective control in relation to proposals made above.

**Q5. Do you agree with this proposal to define the length and type of lead to be used when there is a requirement for a dog to be on a lead?**

Yes I agree       No I don't agree       Don't know

**If you do not agree, please tell us why in the box below**

## **Section C: Dog fouling**

### **Issue 6 – Dog walkers to carry with them the means to pick up foul**

It is already an offence to fail to pick up dog foul, subject to limited exemptions relating to registered assistance dogs, but complaints about dog fouling remain high across many areas. All dog owners know the importance of carrying sufficient means to clear up any foul and the council supply free biodegradable dog poo bags from a number of council offices and community locations. We also patrol areas where we have received complaints and engage with local dog walkers and hand out supplies of bags.

Although some dogs are trained to foul on command or in specific locations, no dog is completely predictable and there are occasions when an upset stomach may result in them following their instincts. Carrying multiple poo bags is an easy way to ensure that all emergencies can be dealt with.

The proposal is to introduce a borough wide requirement that, where there is a requirement for dog foul to be cleared, any person in control of a dog in that area must carry with them an appropriate means of collecting foul. Evidence of this means would need to be provided to an authorised officer on request.

**Q6. Do you agree with this proposal to require dog walkers to carry a means to collect dog foul?**

Yes I agree       No I don't agree       Don't know

**If you do not agree, please tell us why in the box below**

## **Section D: Restriction on number of dogs walked at a time**

### **Issue 7 – Restriction on the number of dogs to be walked at any one time**

Where we license businesses to provide care for dogs we impose a restriction on the dog to staff ratio based on the layout of the premises and our confidence in the management of the business. Dog walkers do not require a licence and are not subject to any restriction on numbers to be walked at any one time.

The council receives a number of complaints about large numbers of dogs being walked or exercised using public spaces. We believe that it is difficult for any single person to be able to keep control of numerous dogs at the same time. This lack of control could result in nuisance or disturbance to other users of shared public space and increase the likelihood of dog foul going unnoticed

The council believes that it is appropriate to introduce a maximum number of dogs that can be walked by one person at any one time in an area to which the public have access. Although we recognise that different dogs may present different challenges in large numbers due to training, breed and other factors, we believe that if we try to regulate this using more subjective measures, it will be impractical and cause confusion.

The proposal is to introduce a borough wide restriction on the number of dogs that can be walked by one person at any one time, whether on behalf of a business or themselves. Guidance from the Department for Environment, Food and Rural Affairs published in October 2014 suggests that the maximum number of dogs which a person could control should not exceed six.

**Q7a. Do you agree with this proposal to restrict the number of dogs that can be walked by one person at any one time, whether on behalf of a business or themselves? (Q7b asks you what the maximum number should be).**

Yes I agree       No I don't agree       Don't know

**If you do not agree, please tell us why in the box below**

**Q7b. If you agree with the proposal, what do you think the maximum number of dogs per person should be?**

1 – 3       4 – 6       7 - 8       9– 10       Over 10

## **Section E: Smoking**

### **Issue 8 – Prohibition of smoking from defined children’s play areas**

Although it is not directly related to dog control, it is proposed that a borough wide Public Space Protection Order is introduced that prohibits smoking from all outdoor fully enclosed children’s play areas that contain children’s play equipment (such as slides, swings, climbing frames and similar apparatus) and that is enclosed on all sides by fences, gates, walls or other structures that mark the boundary of the play area. This proposal along with the dog exclusion proposals in Q1, will help to make our children’s play areas as child-friendly as possible and show how we are working across service areas to meet the priorities identified in the council’s 2017 Play Strategy.

Many of the play areas which would be covered by the proposed Order already carry signs that request people do not smoke and this proposal would make these requests enforceable.

**Q8. Do you agree with the proposal to prohibit smoking in some play areas, as described above?**

Yes I agree       No I don’t agree       Don’t know

**If you do not agree, please tell us why in the box below**

## Section F: DNA testing

### Issue 9 – DNA Testing

The first proposal is that where people are caught not collecting their dog's foul, they will be offered either a Fixed Penalty Notice (FPN) or a much lower cost alternative of their dog being DNA tested and registered on a DNA database. This would offer offenders an alternative to a FPN (current maximum fine £100) or prosecution (current maximum fine £1000) and the database could be used to monitor repeat offenders and serve as a deterrent.

**Q9a. Do you agree with the proposal to offer DNA testing and registration as an alternative to a Fixed Penalty Notice?**

Yes I agree       No I don't agree       Don't know

**If you do not agree, please tell us why in the box below**

The second proposal is that if we identify a specific area of land where there is persistent dog fouling, we will require anyone entering the land with a dog to have had their dog DNA tested and registered, at their own expense of about £35 per dog. This would be subject to an assessment of alternative exercise areas within the same community. This would allow us control of specific areas and restrict their use to those responsible dog owners who are willing to help ensure that everyone can use shared greenspace effectively.

**Q9b. Do you agree with the proposal to have DNA restricted areas of public space?**

Yes I agree       No I don't agree       Don't know

**If you do not agree, please tell us why in the box below**

## Section G: Enforcement

### Issue 10 – Delegation of Enforcement Powers to Town and Parish Councils

Despite a range of measures introduced by the council designed to encourage responsible dog ownership and to deter dog fouling, we still receive a large number of complaints about individuals who are failing to clear up after their dog.

A small number of irresponsible owners continue to ignore the legal requirements and place others at risk of exposure to both the unpleasant nature of dog foul and the associated illnesses that can result.

The council's Regulatory Services Officers and the Community Safety Wardens work hard to try and enforce the legislation as well as many officers engaging with both individual owners and with local Parish and Town Councils and schools.

To enable us to have more opportunity of successfully enforcing the requirements of the Dog Fouling PSPO and any new PSPO made following this consultation, we are proposing that we supplement the council's resources by authorising appropriate individuals from Town and Parish Councils. Any authorisation would include training and authorised individuals would carry identification and follow our published enforcement policy and any guidelines provided. If this proposal is supported and subsequently approved by Cabinet, we would need to introduce it on a pilot basis and review it before extending it to other Parish Council areas.

We believe that Town and Parish Council members would be better placed to enforce the requirements of the Order on land that they own or manage. We believe this would complement the work they already undertake in managing and maintaining their local areas

**Q10a. Do you agree that we should consider authorising members of other organisations, such as Town and Parish Councils, to be able to issue Fixed Penalty Notices for dog fouling and the matters which may be covered in the Public Space Protection Order mentioned above?**

Yes I agree       No I don't agree       Don't know

**If you do not agree, please tell us why in the box below**

**Q10b. If you agree with the proposal in Q10a, do you agree that this authorisation should only apply on land owned and / or managed by the specific Parish or Town Council on which the individual serves?**

Yes I agree       No I don't agree       Don't know

**If you do not agree, please tell us why in the box below**

**Landowners and land managers should be aware that where any PSPO is introduced, unless a specific exemption applies, the order will apply on any public land and any land to which the public have access. The only current specific exemption would be land at the disposal of the forestry commissioners.**

**If you are a Town or Parish Council and/or own or manage land to which the Forestry Commission exemption does not apply, please answer Section H, otherwise, go to the About You section.**

**Section H: For Town and Parish Councils and other owners or managers of land that the public have access to**

There are a number of issues raised above where the role of the Parish or Town Council has been mentioned and we would like to incorporate the views of these councils into the consultation. We also need the views of other land owners or land managers.

**Any of the previous proposals which are incorporated in the final Public Space Protection Order will, subject to specific exemptions, apply to all land to which the public have access in the borough, regardless of the current ownership or management status of the land.**

**Q11a. Is there any land which you believe should not be the subject of any of the provisions above? (Please give details and location of land and reasons why it should be excluded from the provisions above).**

In order for us to understand your opinions above, on land to which the public has access, but which is owned or managed by you or a Town or Parish Council, it would be helpful if you could provide sufficient details for us to contact you, so that we can discuss your views in detail.

If you are a member of a Town or Parish Council, please name it and provide your contact details below:

or

If you are the owner of land to which the public has access, please provide your name and contact details below:



or

If you are the manager of land to which the public has access, please provide your name and contact details below:

**Q11b. For Town and Parish Councils only (please ensure you have given us your contact details after Q11a).**

**If it was decided that we would train and authorise Town and Parish Council members to enforce the Order and to issue Fixed Penalty Notices if appropriate (on land they own or manage), would your Council be interested in taking part in a pilot exercise to determine the viability of this method of working?**

Yes

No

## About you

Completing this section is voluntary and all the information you provide will be treated in the strictest of confidence. No information will be released that could identify an individual or organisation.

**Q12. Are you.....?**

Male

Female

Prefer not to say

**Q13. Which age group do you belong to?**

16 - 29

30 - 59

60+

Prefer not to say

**Q14. In what respect are you completing this questionnaire?** Please select all that apply.

- I am a resident of Cheshire West and Chester
- I am an elected Member of Cheshire West and Chester Council
- I am a local Town or Parish Councillor
- I own/manage land to which the public has access
- I am a representative of a voluntary or community organisation – please state below
- Other – please state below

**Q15. Please tell us your postcode**

**Q16. Thinking about the last 12 months, which of the following, if any, applies to you in Cheshire West and Chester?** Please select all that apply.

- I regularly walk dogs
- I regularly visit parks or play areas with children
- I've experienced a problem with dog fouling
- I've experienced a problem with dogs in public spaces or play areas
- I smoke

**Thank you for completing this questionnaire. Please return this form to the following address in the pre-paid envelope provided (you do not need a stamp) or post it to: Research and Intelligence Team, Cheshire West and Chester Council, 4 Civic Way, Ellesmere Port, CH65 0BE.**

**Please ensure we receive your response no later than 28 April 2018**