

# FAREHAM

## BOROUGH COUNCIL

### Report to the Executive for Decision 7 March 2016

<b>Portfolio:</b>	Public Protection
<b>Subject:</b>	<b>Dog Fouling Public Space Protection Order</b>
<b>Report of:</b>	Director of Operations
<b>Strategy/Policy:</b>	
<b>Corporate Objective:</b>	A Safe and Healthy Place to Live and Work

**Purpose:**

To seek Executive authorisation to make a Public Space Protection Order (PSPO), relating to dog fouling, in accordance with the Anti-Social Behaviour, Crime and Policing Act 2014.

**Executive summary:**

The Executive authorised the commencement of necessary consultation on a Public Space Protection Order (PSPO) relating to dog fouling in the Borough at its meeting on 2<sup>nd</sup> November 2015. This consultation has now finished, It is therefore proposed that if the order is authorised, that a campaign be undertaken to raise awareness of the issue and encourage residents to report dog fouling.

Fareham Borough Council currently relies upon a byelaw to prosecute people who do not clear up after their dog has fouled. Prosecution is however intended to be “last resort” enforcement measure, is expensive and not always in the public interest. Authorised officers were previously able to issue Fixed Penalty Notices (FPNs) for this offence under the Dogs (Fouling of Land) Act 1996. The Act has now been repealed, along with the ability to introduce Dog Control Orders, and this means FPNs can no longer be issued without a Public Spaces Protection Order (PSPO) being in place.

The Council consulted with residents on the proposed PSPO and the majority expressed their support. A number of dog fouling hot spots were also identified by respondents. This information will help to target both enforcement resources and the ‘take the oops out of poops’ anti dog fouling promotional material. The Executive approved a budget of £2,780 for the awareness campaign.

**Recommendation:**

That the Executive:

- (a) authorises the making of the proposed Public Spaces Protection Order (Fareham Borough Council) 2016; and
- (b) delegates authority to the Head of Parking and Enforcement to carry out all necessary publicity required by virtue of the Anti-Social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations.

**Reason:**

To enable enforcement of dog fouling by way of a Fixed Penalty Notice throughout the Borough.

**Cost of proposals:**

The cost of proposals can be met from existing budgets

**Appendices:**

**A:** [Public Space Protection Order \(Dog Fouling\)](#)

**B:** [PSPO Consultation Responses](#)

**Background papers:**

Report to Executive 2<sup>nd</sup> November 2015, Dog Fouling Strategy and Public Space Protection Order Consultation

**Reference papers:**

None

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### Executive Briefing Paper

<b>Date:</b>	7 March 2016
<b>Subject:</b>	Public Space Protection Order (Dog Fouling)
<b>Briefing by:</b>	Director of Operations
<b>Portfolio:</b>	Public Protection

#### INTRODUCTION

1. On 2<sup>nd</sup> November 2015 the Executive authorised the commencement of necessary consultation on a Public Space Protection Order (PSPO) relating to dog fouling within the Borough. This consultation was carried out in accordance with Section 72 of the Anti-Social Behaviour Crime and Policing Act 2014. The consultation ran from 16th November 2015 to 11<sup>th</sup> January 2016.
2. Comments received have been taken into consideration and approval is now sought to authorise the PSPO for Dog Fouling and bring it into force from 1<sup>st</sup> April 2016.

#### BACKGROUND

3. The Dogs (Fouling of Land) Act 1996 made it an offence for a dog walker not to remove faeces from land to which the public have access and permitted FPNs to be issued for this offence. This Act has now been repealed and officers can only prosecute people for failing to clear up dog fouling under the Council's local dog fouling byelaw if they actually witness it.
4. This change reduced the ability of the Council's enforcement officers to take action and, since the act was repealed, FPNs can no longer be issued for people failing to pick up after their dog has fouled.
5. Section 59 of the Anti-Social Behaviour Crime and Policing Act 2014 provides local authorities with powers to make PSPOs. These orders are intended to address activities carried out in public spaces which have a detrimental effect on the quality of life for those in the locality.
6. 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;
  - are, or are likely to be, persistent or continuing in nature;
  - are, or are likely to be, unreasonable; and
  - justifies the restrictions imposed.
7. Unless specified, the PSPO will cover “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”. This definition is provided by section 74(1) of the Act.
  8. Whilst the PSPO is in force any local byelaws and orders applying to the same activity will cease to have an effect. A PSPO may not have an effect for a period of more than 3 years; however, that period can be extended for a further 3 years if it continues to be necessary.
  9. The current FPN for littering is £75.00, this will increase to £80.00 on 1<sup>st</sup> April 2016 as agreed by the Executive at its meeting on 11<sup>th</sup> January 2016. It was also agreed by the Executive on 2<sup>nd</sup> November 2015 that the FPN for dog fouling under the PSPO would be set at £100.00. Alternatively, and in cases of non-payment, the matter can be taken to court where the maximum fine on summary conviction is level 3 on the standard scale, currently £1000.

## **RESULTS OF CONSULTATION**

10. A consultation was carried out using social media, FBC website and e-panel between 16 November 2015 and 11 January 2016. Respondents were asked a number of questions relating to their perceptions of dog fouling and what could be done to tackle the issue locally. 256 people took part, with 91% saying that the Council should have greater powers dealing with fouling. The majority of respondents (61%) wanted the fixed penalty notice for not clearing up dog fouling to be set at £100, whilst 24% wanted it to be £75; 15% wanted other penalties including FPNs of £1000.
11. A number of dog fouling hotspots were also identified by residents (see Appendix B). This information will help to target both enforcement resources and the ‘take the oops out of poops’ anti dog fouling promotional material.

## **CONCLUSION**

12. Following the consultation and to give Enforcement Officers the authority to issue FPNs for dog fouling it is recommended that the Public Space Protection Order (Dog Fouling 2016) be introduced in the Borough.

### **Enquiries:**

For further information on this report please contact Kevin Wright (Ext 4359)