

Options analysis assessment

Dealing with dog related anti-social behaviour. Public Spaces Protection Order options analysis

Issue	Option	Analysis	Outcome
All elements	<p>Public Spaces Protection Order (PSPO)</p> <p>PSPO for Dog Control was previously called Dog Control Orders (DCOs) introduced by Section 55 of the Clean Neighbourhood and Environment Act 2005 (CNEA). CNEA was repealed and DCO were replaced by PSPO. The council did not adopt/create a DCO, therefore in relation to Dog Fouling enforcement we had to continue to use The Dogs (Fouling of Land) Act 1996. This was repealed in March 2007 by the CNEA. While any local authority that did not adopt DCOs can carry on using The Dogs (Fouling of Land) Act 1996 for dog fouling enforcement, it may prove difficult to explain to a court why the current legislation was not adopted should someone choose not to pay their fine.</p>	<ul style="list-style-type: none"> • Primary legislation for dog control which most LAs with dog control measures are now using. • Has gravitas as failure to comply with a PSPO is a criminal offence. <p>In addition:</p> <ul style="list-style-type: none"> • A significant number of local authorities have successfully implemented PSPOs since they were introduced. • Controlled by local authorities, relatively straight forward to introduce. Can be reviewed, updated or repealed. • Dog faeces can be dangerous to human health. Toxocariasis is a rare but serious infection caused by small worm eggs found in the faeces of some dogs, cats and foxes. Human and animals can become infected if faeces, soil or sand containing eggs is ingested. • courts prefer use of most up to date legislation • higher FPN fee (DFOLA limited to £50) • ability to apply it to more areas (rather than limited to already designated land) • more streamlined to have all dog controls under one Order • all staff authorised to enforce PSPOs can enforce it without separate authorisations 	<p>Recommended option in conjunction with education and advice</p>
All elements	<p>Education and advice</p>	<ul style="list-style-type: none"> • Will save council money where most people will adhere to these measures alone. • Without ability to enforce education and advice alone doesn't have an impact on anti-social behaviour. • Signage advising where dogs are allowed and not allowed included. 	<p>Recommended in conjunction with Dog PSPO</p>

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All elements	Tenancy agreements & RP enforcement	<ul style="list-style-type: none"> Only applies to certain residents in RP accommodation. Does not apply to residents and private tenants, freeholders or people who do not live in the borough. Does not cover all areas of the borough and does not apply to residents who do not live on RP estates with dog specific tenancy agreements. Different rules will apply depending on the RP which is not equitable. Outcome for persistent ASB unlikely to result in eviction, particularly if there are children in the household because of the duty to accommodate. 	Not appropriate on its own. RPs should be encouraged to enforce along with support from council wide comms and engagement

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Dog fouling	Use of existing dog fouling legislation. <i>Dogs (Fouling of Land) Act 1996, Section 4 DI.</i> Retained as a power enforceable in LBTH via the <i>Clean Neighbourhoods and Environment Act 2005 (Commencement No.1 Transitional Savings Provisions) (England) order 2006.</i> <i>Act repealed.</i>	<ul style="list-style-type: none"> Act repealed in majority of local authorities. This is because those Councils that introduced dog control orders under the CNEA effected the repeal of the Dogs (Fouling of Land Act). LBTH did not introduce dog control orders, and THEOs apply this legislation when issuing fines for dog fouling. Brings council in line with what other local authorities use to control this issue. 	Adequate for dog fouling but cannot be applied to other areas covered by PSPO.
Dogs on lead by direction	No other practical option identified		
Dog exclusion areas	No other practical option identified		
Dogs on leads	No other practical option identified		
Maximum number of dogs	No other practical option identified		
For all elements	Community Protection Notices and Injunctions	<ul style="list-style-type: none"> A Community Protection Notice can only be used where behaviour is detrimental to the quality of life of the people in the locality AND is persistent AND is unreasonable. The first part of the test might be proven in specific cases of any of the conditions but it is unlikely that the other elements would be with arguments about reasonableness in particular being problematic and the behaviour needing to be persistent and so not a one-off matter. 	Not appropriate

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		<ul style="list-style-type: none"> Injunctions are “To stop or prevent <i>individuals</i> engaging in antisocial behaviour”. Names and addresses of individuals causing ASB would be needed, very significant officer time per case would need to be expended and each case might take a number of months to reach a conclusion – and the argument of a person with 5 dogs properly under control for example not being ASB can also be made, means that use of the injunction is not practicable. 	
For all elements	Byelaws	<ul style="list-style-type: none"> Byelaws cannot be made under this section if provision for the purpose in question is made, or may be made, under any other enactment. Byelaws should not therefore be made under section 235 where general or local legislation addresses the problem or in respect of any area where another byelaw-making power is available. 	Not appropriate
Dogs on Leads	Road Traffic Act 1988 Section 27 dogs on leads on designated roads	<ul style="list-style-type: none"> Council has no powers on TfL or Estate highways. 	Not appropriate
For all elements	Criminal Behaviour Order Part 2 of the ASB act	<ul style="list-style-type: none"> Not a tool for the council. Council can apply for a CBO which is issued by court. Related to criminal activities. Applies to the individual not the whole. 	Not appropriate
For all elements	Civil Injunction	<ul style="list-style-type: none"> Not a tool for the council. Applies to the individual not the whole. Council can apply to the court to obtain a civil injunction. To keep people away from an area or person. Deals with serious ASB issues only. Can be an arrestable offence. Involves courts which is time consuming and resource intensive to administer. 	Not appropriate
For all / any elements	Do nothing	<ul style="list-style-type: none"> Could save council budget relating to the initial signs set up. Most dog owners are responsible and their dogs are well behaved. However, this option does not take into consideration the fear of the local community regarding dog related ASB / poor dog management. There is a risk that people, particularly more vulnerable residents such as children, could be injured or harmed when steps could be put in place to reduce that risk. 	Not recommended

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Dog fouling	Environmental Protection Act 1990	<ul style="list-style-type: none"> • Councils are legally responsible for keeping land which is under their control, and to which the public has access, clear of litter and refuse. • Dog fouling is considered litter and the council has a legal duty to ensure the streets are clear of litter. However, the council cannot use the environmental protection act 1990 which it uses for issuing FPNs for littering because of the presence of other legislation covering dog fouling (PSPO). 	Not appropriate