


Cabinet	 TOWER HAMLETS
24 July 2024	
Report of: Simon Baxter, Corporate Director Communities	Classification: Open (Unrestricted)
Tackling Dog-related Anti-Social Behaviour	

Lead Members	Councillor Shafi Ahmed, Cabinet Member for Environment and the Climate Emergency; and Councillor Abu Choudhury, Cabinet Member for Safer Communities
Originating Officer(s)	Ashraf Ali, (Interim Director Public Realm) Richard Williams (Head of Operational Services, Public Realm) Vicky Allen (Strategy, Policy Officer)
Wards affected	(All Wards);
Key Decision?	No
Reason for Key Decision	N/A
Forward Plan Notice Published	04/06/2024
Exempt information	N/A
Strategic Plan Priority / Outcome	Priority 6: Empowering communities and fighting crime

Executive Summary

Following incidents involving out of control nuisance dogs and their owners, the council undertook a review to explore ways in which we can be more effective in tackling those dog owners who continue to behave in an anti-social irresponsible way in our public spaces. It concluded with the recommendation to introduce a Public Spaces Protection Order (PSPO).

This report presents our proposed approach to tackling dog related anti-social behaviour, seeking approval to go out to public consultation to establish a public spaces protection order as the control mechanism. The consultation results will inform the final approach of the council on this issue, which we intend to submit the Cabinet in August/Sept 2024.

Recommendations:

The Mayor in Cabinet is recommended to:

1. Agree the proposal to hold public consultation and engagement about establishing a PSPO as the control mechanism.
2. Agree on the specific public spaces protection order conditions recommended by officers to consult residents and other key stakeholders on, as set out below:

Order	Recommended proposal for consultation – Order applied to
Dog Fouling	<ul style="list-style-type: none">• All public spaces in the borough
Dogs on lead by direction	<ul style="list-style-type: none">• All public spaces in the borough
Dog exclusion areas	<ul style="list-style-type: none">• All gated play parks and sports areas managed by London Borough of Tower Hamlets• Option to include all ungated play parks and sports areas managed by London Borough of Tower Hamlets
Dogs on leads	<ul style="list-style-type: none">• All public spaces in the borough including on roads and in car parks and all communal areas on estates. <p>Excepting:</p> <ul style="list-style-type: none">• Dog exclusion areas• Defined areas of parks and open spaces managed by London Borough of Tower Hamlets
Maximum number of dogs	<ul style="list-style-type: none">• All public spaces in the borough.• One person can take out no more than four dogs at any one time.• Gauge opinion on introducing a professional dog walking license.

3. Agree the proposed consultation questions (Appendix 1)
 4. Agree the consultation and engagement plan (Appendix 2)
 5. Note the draft Equalities Impact Assessment, which will be finalised post consultation (Appendix 3).
 6. Note the alternative options analysis assessment (Appendix 4)
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1 REASONS FOR THE DECISIONS

- 1.1 In summer 2023 following a spate of dog attack incidents involving out of control, dangerous and nuisance dogs and their owners officers were asked to explore options on how the council could tackle those dog owners who behave in an anti-social irresponsible way in our public spaces.
- 1.2 A Task and Finish group was set up and concluded that the introduction of a Public Spaces Protection Order (PSPO) for controlling dogs could be the appropriate tool to support council officers to limit the number of incidents of anti-social behaviour relating to dog control.
- 1.3 A PSPO provides a legal power to the council to fine dog owners who do not adhere to the conditions of the PSPO. The introduction of a PSPO and the publicity and communications surrounding the introduction of it is expected to prompt good dog management. As a result of introducing a PSPO it would be expected that the number of future dog related ASB incidents would reduce, though this would be hard to quantify.
- 1.4 The PDSA Animal Wellbeing (PAW) Report is the UK's largest annual assessment of pet wellbeing. According to the Paw Report 2024¹, there has been an increase in dog bite cases in recent years (UK wide). The number of dog bite–related hospital admissions in England between 1998 and 2018 showed an increase in adult cases. In 2024 there has been significantly more dogs that have bitten a stranger in the home where professional medical care has been needed (1.2%) compared to 2022 (0.55%).
- 1.5 Data indicates that dog related ASB has been increasing. Over the past couple of years over 100 Members Enquiries or complaints have been dealt with, almost 400 enforcement cases, 182 reports of dog fouling via the council's Find It Fix It app and an increasing number of police issued Fixed Penalty Notices or arrests (see appendix for more information).
- 1.6 Tower Hamlets has a high and increasing population. The borough is densely populated and the majority of residents live in flats. Residents rely on public spaces such as parks for their exercise and enjoyment including the exercising of dogs. It is essential that residents can undertake these activities without risk or fear of harm.
- 1.7 We know that the vast majority of dogs are peaceful and dog owners are law abiding and respectful of others around them. It is therefore important to ensure we neither demonise all dogs nor penalise responsible dog owners, and that any action we take is proportionate. It is important that any action taken goes hand in hand with looking at how we tackle fear, misinformation and negative perception about dog behaviour and control.

¹ [PAW Report - PDSA](#)

- 1.8 This report seeks approval to go out to public consultation to establish a public spaces protection order as the control mechanism for tackling this issue. Following consultation, the proposal will be finalised and is expected to be presented to Cabinet for ratification later in 2024.

2 ALTERNATIVE OPTIONS

- 2.1 “Do nothing” option. The council could choose not to introduce a PSPO. The council’s current powers for controlling dogs are limited. This would mean a continuation of the status quo, which is has not been seen as providing adequate protection to residents.
- 2.2 An alternative to the introduction of a PSPO could be considered. Alternatives include: use of community protection notices, injunctions, and other methods of tackling anti-social behaviour. These are all options for dealing with specific individuals and would not be appropriate for addressing a wider problem. The consensus from the task and finish group (made up of representatives from community safety, THEOs, parks, animal warden, THEOs, THH and the Met Police), was that a public space protection order was the best way forward to tackle this issue.

3 DETAILS OF THE REPORT

- 3.1 A task and finish group was set up in June 2023 following concern about a number of recent incidents in the borough involving dangerous dog and owner behaviour that resulted in injury. The purpose of the task and finish group was to identify how we can protect our residents without penalising responsible dog ownership. Looking at the following areas:
- What powers we already have.
 - What powers could we adopt to tackle the issue.
 - Which elements of the PSPO we could implement and to what extent in the borough.
 - What non-enforcement actions we can take to foster greater understanding from residents who may be naturally nervous around dogs, and that supports responsible dog ownership without disproportionately affecting already responsible owners.
 - How we can ensure there are adequate safe spaces for dog exercise in the borough.
 - Practicalities such as route to implementation, who will administer, the level of fine for breaches, and the cost to administer.

XL Bully Ban

- 3.2 The Government banned XL bully-type dogs from 1st February 2024 under the Dangerous Dogs Act 1991. This ban has targeted the very large, powerful, wide-jawed dogs which have become fashionable to own across the UK. Tower Hamlets has its share of these dogs and the Council recognises the fear in the community triggered by their presence. The expectation of this ban is that there will be a reduced risk of serious harm incidents.
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- 3.3 In late 2023, the animal warden service dealt with six incidents of dealing with stray, lost or abandoned XL bully-type dogs, a lower number than they had feared.
- 3.4 Since 1st February, XL bully-type dogs must be registered directly with DEFRA. No notification to the local authority is required to councils or to the police and we are not aware of any lists of the number of exemption certificates have been issued.

Current powers

- 3.5 As a local authority the council currently has the following powers:
- 3.6 **Animal Warden Powers** – statutory responsibility to deal with stray dogs. Includes power to seize and treat as stray a dog without owner identification on collar and powers to enforce microchipping of dogs.
- 3.7 **Dog fouling fixed penalty notices** – THEOs have the power to issue a FPN for failing to clean up after a dog has fouled and improper disposal of dog waste.
- 3.8 **Animal activity licences** – for dog breeders a licence is needed for anyone breeding three or more litters in a 12-month period and selling one or more puppies. Must meet a series of welfare standards. Licences are not required for ‘hobby breeders’. Failure to comply i.e. breeding with no licence or breaching licence conditions can lead to an unlimited fine or prison for up to 6 months. There are no registered breeders in Tower Hamlets, but ‘backyard’ breeding (below the licence threshold) of large status type dogs has been prolific in recent years.
- 3.9 **Council housing tenancy conditions** – written permission is required to keep pets, including dogs. If the home is unsuitable, permission may not be granted. No more than two dogs per household is usually permitted. Dogs must be kept on a lead in all areas of the estate. Consequence of not adhering to terms of the permission include the withdrawal of permission requiring the resident to part with their pet. Steps to enforce a breach of tenancy and pursue an eviction may also be considered if breaches have a significant ASB impact or is an arrestable offence.
- 3.10 **Registered housing providers tenancy conditions** – animal controls and responsible ownership expectations are placed on tenants via tenancy agreements by many registered providers (RPs). Different rules apply depending on the RP. Some need to sign a responsible pet ownership agreement. Consequence of not adhering to the terms of lease include ending tenancy if tenant has a pet without permission. It’s unclear whether responsible dog ownership is routinely monitored and enforced by all RPs.
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3.11 Other types of dog related ASB such as fighting, will be dealt with as part of our normal approach of tackling crime and anti-social behaviour using resources from the police and THEOs. We have existing processes to record and target regular reoccurring types of anti-social behaviour.

PSPO enforcement option

3.12 As a local authority the council can instigate a number of enforcement tools to help tackle anti-social behaviour relating to dogs. These options were considered by the task and finish group for both the ability to be effective in tackling the issue and in the ease of implementation.

3.13 The Anti-Social Behaviour, Crime and Policing Act 2014 introduced PSPOs as a tool available for tackling anti-social behaviour. PSPOs can prohibit specified activities, and/or require certain things to be done by people engaged in particular activities within a defined space. PSPOs can be introduced when behaviour is affecting or likely to affect the quality of life for people in the area, is persistent, is unreasonable and the restrictions can be justified.

3.14 Through undertaking an options analysis, the PSPO has been identified as the most appropriate legislation to adopt for this issue. This is because:

- it has been designed to control lower-level persistent ASB issues;
- focuses on an identified problem;
- a breach of a PSPO without a reasonable excuse is an offence and a Fixed Penalty Notice (FPN) of £100 can be issued. If not paid, the recipient may be prosecuted, for which the maximum penalty is a fine of £1,000 ;
- Must be renewed on a three yearly basis, providing flexibility for changes; and
- is relatively straightforward for the council to set up – following consultation and ratification at Cabinet.

3.15 This is in contrast to a byelaw for example, which is time consuming to set up, must be approved by the Secretary of State, and is inflexible because it is a permanent piece of legislation which cannot be changed or deleted unless the council applies to the Secretary of State for this change. The council has adopted byelaws for our parks. The parks byelaws cover a number of anti-social behaviours but do not reference dogs. There is no plan to repeal or amend the byelaws and if a PSPO is introduced, the powers on both will be complementary. The existing of the byelaw will not affect the any PSPO powers introduced.

3.16 The council currently has three PSPOs in place – responsible drinking, ASB related to NOx and one in Ropemakers Fields to tackle ASB. There is no provision in any of the current PSPOs to address dog-related ASB.

Benchmarking

- 3.17 The majority of local authorities in London use PSPOs to varying degrees as the tool for tackling anti-social behaviour relating to dogs. As part of our benchmarking exercise, we contacted several local authorities about the effective implementation of the PSPO. Almost all local authorities had PSPOs in place since 2017 and previous to those powers under the Criminal Justice and Police Act 2001, the Highways Act 1980 and the Clean Neighbourhoods and Environment Act 2005. Due to the length of time that some form of dog control arrangements had been in place, local authorities reported that they had received relatively little resistance from residents as the PSPO conditions had become embedded and normalized.
- 3.18 Having said this, local authorities did admit that as with any offence, the lack of enforcement officers meant that PSPO offences could never be totally policed.

4 PSPO scope for controlling dogs in public spaces

- 4.1 There are five areas relating to dog control PSPOs:
- dog fouling;
 - dog on lead;
 - dog exclusion areas;
 - dog on lead by direction;
 - dog handling maximum number of dogs allowed to be handled at one time.
- 4.2 All local authorities looked at as part of the benchmarking process made use of the dog fouling and dog on lead by direction orders.
- 4.3 In Tower Hamlets the dog fouling and dog on lead by direction orders could be applied as follows:

Dog fouling

The council already has the power to fine for littering for dog fouling under the Dogs (Fouling of Land) Act 1996. There is provision within the PSPO to issue FPNs for dog fouling. All boroughs with dog-related PSPOs include dog fouling as one of their orders. It is proposed that this power be included as part of the PSPO because it will cover land not covered by the existing designation under the 1996 Act. The FPN would be raised to £100, as permitted for a PSPO.

Dog on lead by direction

Dog walkers must comply if asked by an Authorised Officer to put and keep the dog on a lead for a period of time and/or under particular circumstances such as a dog not being under proper control of its walker. It is proposed that this power apply to the whole borough.

Dog exclusion areas.

Most local authorities use the dog exclusion order to ban dogs from entering spaces designed for children and young people, and spaces designed for sport and exercise. Dog exclusion areas must be clearly signposted. Excluding dogs from these gated spaces is assessed as a straightforward and simple communications message.

Some local authorities exclude dogs from all spaces designated for structured play and sport/exercise regardless of whether those spaces are gated i.e.. separated from the rest of the park. Some local authorities also exclude dogs from being in bushes, water features and flower beds in parks.

The ability to both police and effectively communicate this message is likely to be more difficult and therefore non-compliance is likely to be more of a risk in where there are no physical barriers.

Dogs on lead in specified areas.

Some local authorities specify where dogs must be on leads at all times. Under the Highways Act 1980, dogs are required to be on a lead on pavements and public highways. However, Tower Hamlets did not adopt this legislation.

Some local authorities prescribe dogs must be on a lead in all open to the air public spaces managed by the local authority. There is already a requirement that all dogs must be on leads on Tower Hamlets Council housing estates.

Tower Hamlets has a significant number of housing estates that are not managed by the local authority. We will consult with registered providers with the aim of obtaining buy-in to apply this order to all public communal areas on estates in the borough.

If the council made a PSPO order to put dogs on leads in public spaces in the borough including on roads, in car parks and all communal areas on estates, this would mean dog off lead spaces would be restricted to certain areas of parks and open spaces, but excluding play, sport and exercise areas.

Dog handling (maximum number of dogs allowed).

During the pandemic there was an increase in dog ownership, and since people have returned to the workplace, there has been a national increase in the number of dog walkers, both professional walkers and local dog owners.

The purpose of the maximum number of dogs allowed limit is to support the safety of both the walker and others around them. Four dogs is deemed as a reasonable number that a competent dog walking adult should be able to reliably keep under control at all times on a lead. A benchmarking exercise

undertaken indicates that where a maximum number of dogs allowed PSPO order is in place, local authorities have prescribed the maximum number to be between 3-6 on a lead.

Opinion of animal warden officers in Tower Hamlets is that a maximum number of dogs that can be walked at a time should be limited to four. A professional dog walkers' best practice guidance² document has been issued by the RSPCA and endorsed by Canine and Feline Sector Group, the Dogs Trust and the Pet Industry Federation. It recommends that, in the best interests of animal welfare, no more than four dog should be walked by one person at any one time.

In addition, the council will look at introducing fees and charges for licensing professional dog walkers which may entitle them to walk more than the maximum number allowed under the PSPO order. There is an expectation that professional dog walkers are trained and experienced in handling multiple dogs safely and securely. All professional dog walkers would be expected to have adequate third-party liability insurance. Dog walkers must only walk up to the number of dogs covered by their insurance policy and allowed by the local council authority.

Within the maximum number of dogs allowed PSPO order, the council could make provision for professional dog walkers, subject to limits and conditions of their insurance, to walk more than four dogs at a time.

Exemptions

- 4.4 People who are registered blind, and/or have a disability which requires an assistance dog are exempt from a dog control PSPO. People who are registered deaf would also be made exempt, except for picking up dog mess.

Encouraging responsible dog ownership

- 4.5 The council also encourages responsible dog ownership by promoting responsible dog ownership events. These events provide free microchipping, muzzles, dog waste bags and advice on responsible dog ownership (discounted training and behaviour advice via Dogs Trust).
- 4.6 The Blue cross charity offers a responsible dog ownership course (akin to a speed awareness course) for dog owners, that Local Authorities and Police can refer people to attend it. They can be accessed by adults who have committed suitable low-level dog related offences. Some local authorities use them in conjunction with or as an alternative to issuing formal enforcement action.
- 4.7 The council website now includes more information about responsible dog ownership [You, your dog and the law \(towerhamlets.gov.uk\)](http://towerhamlets.gov.uk), outlining the law

² [Dog walking guide online \(rspca.org.uk\)](http://rspca.org.uk)

with regards to dogs and owner responsibilities. It also provides tips on dog ownership good practice.

- 4.8 There are six dog exclusive exercise areas in the borough where dog owners can safely let their dogs off the lead for free exercising. If a dog on lead PSPO was introduced, this would not apply in dog exercise areas. Typically, these are fenced areas within larger parks to enable dog owners to let their dogs off lead and/or include dog exercise equipment.
- 4.9 The council will undertake publicity should the PSPO be introduced and will use education and information campaigns to ensure dog owners are aware of the new requirement. To give them the opportunity to change their behaviour before formal action is necessary.

Consultation and engagement

- 4.10 It is essential that we undertake rigorous consultation and engagement for a proposal that has potential to affect a significant proportion of the community across the whole of the borough, so we can ensure that our proposals are in tune with the priorities and wishes of our residents, partners and other stakeholders.
- 4.11 A PSPO cannot be introduced, varied, discharged or extended without consultation. Statutory consultation includes publicity and notification. Local authorities are obliged to consult with the local chief officer of police; the police and crime commissioner; owners or occupiers of land within the affected area where reasonably practicable, and appropriate community representatives.
- 4.12 Feedback from consultation and engagement will help us ensure that we consider the needs of the dog-owning community. It will enable to identify where we may need to amend proposals or take mitigating actions that are fair, equitable and proportionate.
- 4.13 It's recognised that a significant proportion of small parks and open space is on land not controlled by the council. Via Tower Hamlets Housing Forum, we have made initial engagement with Registered Providers.
- 4.14 We will follow guidance laid out in the council's consultation and engagement strategy which mirrors best practice standards. A consultation plan for this work will be produced. Consultation will follow the Gunning principles of:
- Ensuring the consultation takes place when proposals are at a formative stage;
 - Providing sufficient reasons for the proposal to allow for intelligent consideration and response;
 - Provide adequate time for consideration of the response (usually 8-12 weeks); and
 - Using the results of the consultation when making the final proposal for consideration at Cabinet.
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Areas of consideration

- 4.15 A number of risks for consideration have been identified by officers:
- 4.16 **Ungated children's play areas and sports areas.** Experience shows that restrictions are more likely to be successfully implemented where they are simple and clearly understood by everyone. While it is not proportionate to use a dogs on lead or dog exclusion areas for all parks, residents may expect dogs to be excluded from all children's play areas and from all sports areas. Where these areas are ungated, identification of where a dog on lead / exclusion area starts and stops and then enforcing this could be difficult for enforcement officers to manage.
- 4.17 **Enforcement.** All enforcement undertaken complies with the council's enforcement policy³, developed in accordance with the general principles of the Regulators Code, Hampton Report and Enforcement Concordat. The enforcement policy helps promote efficient and effective approaches to inspection and enforcement and help the community and other members of the public to understand why the Council approaches enforcement in a particular way in individual cases.
- 4.18 All enforcement action is based upon an assessment of the nature of the offence and the risk, nuisance, harm or disadvantage being caused. The council's adheres to the following principles of fair regulation:
- Raising awareness of the law and its requirements and providing advice and guidance to assist those regulated
 - Proportionality in applying the law and securing compliance
 - Consistency of approach
 - Transparency and accountability about the actions of the council and its officers
 - Targeting of enforcement action and basing regulatory activities on risk
 - Accountability
- 4.19 At present, we expect enforcement to be carried out by THEOs, Environmental Service Officers and Animal Wardens within Communities directorate. However, we will be reviewing the wider use of other enforcement / engagement officers across Communities to support enforcement of these and other powers. These Officers have powers to issue FPNs (under the Anti-Social Crime and Policing Act 2014 c.12) as indicated in the council's constitution part D⁴. Officers must present their warrant card when issuing an FPN.
- 4.20 Should the council introduce licensing for professional dog walking, officers would enforce by make frequent ad-hoc checks to ensure that walkers have the appropriate licence and that they are observing the terms and conditions of that licence. Officers would follow up reports of unlicensed operators using

³ [LBTH enforcement policy](#)

⁴ [Tower Hamlets Constitution Part D August 2020](#)

the parks and open spaces and licensed operators who fail to comply with the terms and conditions of their Licence.

- 4.21 The council intends to carry out training and ensure effective tasking mechanisms to ensure enforcement with the roll out of these powers. Training would support officers to be comfortable and confident in dealing with dog-related enforcement, such as learning body language for safe interaction.
- 4.22 **Coverage.** A PSPO can only be imposed in respect of a public place, which is defined in the legislation as ‘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’..
- 4.23 Several London boroughs state that their dog PSPO will apply to all highways and footways in the area and on housing estates that they manage. In Tower Hamlets a significant proportion of residents live in social housing managed by RPs as opposed to in council housing. The intention is for this PSPO to provide borough-wide coverage.
- 4.24 RPs and other private landlords are a key consultation group. We will work with them to understand their response to the proposals and gain agreement to adopt these PSPOs on their land too, including working in partnership with regards to resourcing and enforcement practicalities.
- 4.25 **Resourcing.** Staff resourcing will come from existing budgets. The council will use data and intelligence gathering from sources such as complaints and reporting apps such as “Find It Fix It” to identify hot spot areas targeting enforcement officers in an efficient way.
- 4.26 Signage and demarcation of dog exclusion areas will be a significant expense. Sufficient signs must be put up to ensure residents are clear what order applies and where. This is particularly the case when it comes to gated play areas and sports areas. In addition, signs for demarcation of ungated play areas and sports areas would be needed if dogs are excluded from ungated play areas and sports areas as well. We intend to apply for capital funding to cover the cost of signage.
- 4.27 There are around 120 council managed parks and open spaces and around 100 smaller parks on council housing estates. As a benchmark, the cost of the signs for NOX PSPO were £55 each including installation (2022 price). There is an expectation that enforcement will be staffed from existing resources which may put a strain on the service.
- 4.28 **Buy-in from dog owners & tackling negative perceptions about dogs.** To owners, dogs are part of their family and can play a huge role in improving mental health through exercising and interaction. Dog owners may see a dog control PSPO as limiting their freedoms to exercise their dogs because of a small number of irresponsible dog owners. Consultation and communications will emphasise that the majority of dogs are safe and the majority of dog
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owners are responsible, and our communications will include how PSPOs can protect dogs and owners from potential attack.

- 4.29 **Enforcing order restrictions and expectation management** - Experience has showed that some dog owners will still use their local parks irrespective of prohibiting signage. Creating fenced off areas on larger sites may be unsuccessful as people may not be inclined to use the provision. In addition, with limited staff resources, not all offences will be witnessed by enforcement officers. Experience of other local authorities tells us that changes will take some time to bed in. The council will undertake a widespread communications campaign about the changes. Using data and insight on hotspot areas in order to deploy enforcement officers to specific hotspots will help make best use of staff resources.
- 4.30 **Proportionality** - The council is obliged to consider whether introducing a PSPO is necessary and proportionate, particularly if there are existing or alternative measures that can be used to tackle the issue. There may be objections from dog owners and other members of the public. Consultees will be asked their opinions on how proportionate they consider of each of the PSPO orders. This information will inform the final decision.

Next Steps

- 4.43 Implementing a PSPO is a lengthy process and will involve input from legal, the police, housing providers and other consultees and stakeholders. Implementation will include purchasing and putting up signs and training for authorised officers. Recommended consultation and engagement is for 10-12 weeks. A report to Cabinet on the outcome of the consultation and recommendation on the introduction of a dog control PSPO would likely be presented to Cabinet in Autumn 2024, with full implementation following this.

5. EQUALITIES IMPLICATIONS

- 5.1 A draft equalities analysis is attached (Appendix 4). The PSPO aims to reduce harm and fear of harm caused by anti-social behaviour of a small number of dog owners and their dogs.
- 5.2 It is a well-established fact that dogs can play a huge role in improving mental health of their owners, higher rates of exercise and social interaction can be a positive outcome of dog ownership. It is important that a PSPO does not unduly limit dog owners rights to exercise their dog because of a small number of irresponsible dog owners. Conversely, controls introduced by the PSPO may have a positive impact on dog owners who are concerned about dog-on-dog attacks, especially those with smaller dogs.
- 5.3 Consideration of the need for an equitable geographical spread of parks and open spaces that are suitable as off-lead and dog exercise areas will be taken as part of the review of the PSPO conditions proposed for each park and open space. This will be consulted on.
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7. OTHER STATUTORY IMPLICATIONS

- 6.1 This section of the report is used to highlight further specific statutory implications that are either not covered in the main body of the report or are required to be highlighted to ensure decision makers give them proper consideration. Examples of other implications may be:
- Best Value Implications,
 - Consultations,
 - Environmental (including air quality),
 - Risk Management,
 - Crime Reduction,
 - Safeguarding.
 - Data Protection / Privacy Impact Assessment.
- 6.2 **Best Value:** The council considered the economy, efficiency and effectiveness of this proposal to fulfil the best value duty. We have set up a working group across the council services and external stakeholders to develop the proposal and identify risks and mitigations. This demonstrates good governance to deliver best value. The group identified the options available relating to tackling dog-related anti-social behaviour and undertook an options analysis. This looked at all powers available to the council (and partners) and assessed them for suitability for each of the PSPO conditions. This analysis has found that while the council can issue a Fixed Penalty Notice for fouling, there are no viable alternative legislative options to deal with dog exclusion areas, dogs on lead, dog on lead by direction, and maximum number of dogs. Byelaws were recently introduced in Victoria Park however no provision was put in place for dog control. Due to the length of time it takes to introduce a byelaw and its inflexibility, a byelaw has been discounted as a suitable alternative to a PSPO.
- 6.3 We also undertook a benchmarking exercise, identifying what controls neighbouring and other London local authorities have introduced, if any. This informed the group of ways that the council can tackle the issue efficiently and effectively. This benchmarking found that the majority of boroughs around Tower Hamlets have PSPOs covering dog control including where dogs must be on a lead, where dogs are prohibited and some include maximum number of dogs one person can walk. Boroughs with a PSPO for dog-related ASB include: Newham, Hackney, Islington, Redbridge, Enfield, Haringey, Camden, Westminster, Wandsworth, Southwark, Lewisham and Greenwich.
- 6.4 There is an initial cost of providing signage around dog exclusion areas and dog on lead areas, and introducing a communications campaign to raise awareness. Implementation will be through existing council enforcement officers. This will minimise the cost to implement this proposal. Overall, the PSPO is considered an effective way to introduce dog controls and reduce the negative impact, risk and costs associated with dealing with dog related antisocial behaviour.
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- 6.5 **Consultation:** A PSPO cannot be introduced, varied, discharged or extended without consultation. Statutory consultation includes publicity and notification. Local authorities are obliged to consult with the local chief officer of police; the police and crime commissioner; owners or occupiers of land within the affected area where reasonably practicable, and appropriate community representatives. A consultation plan is appended.
- 6.6 **Crime reduction:** The introduction of a PSPO could reduce low level anti-social behaviour incidents involving individuals who allow their dogs to cause nuisance to the general public and/or use their dogs as a means of intimidation.

7 COMMENTS OF THE CHIEF FINANCE OFFICER

- 7.1 This report seeks approval to go out to public consultation to establish a public spaces protection order as an approach to tackling dog related anti-social behaviour. Any costs associated with this consultation process should the PSPO be implemented will be contained within existing budget provision.
- 7.2 The main costs of delivering the PSPO will be for signage across the borough and staff enforcing it. There is no budget provision to meet the cost of signage and capital funding will be sought through the capital governance process. Enforcement of the PSPO will be undertaken by the existing THEO resource and contained within current budget provision.

8 COMMENTS OF LEGAL SERVICES

- 8.1 A local authority may make a PSPO under the Anti-social Behaviour, Crime & Policing Act 2014 ("the 2014 Act") if it has reasonable grounds to be satisfied that two statutory conditions are met. The first is that activities carried on in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality or that it is likely that activities carried on in a public place will have such an effect. The second is that the effect, or likely effect, is persistent or continuing, that it is or is likely to be so as to make the activities unreasonable, and that the restrictions imposed by the PSPO are therefore justified.
- 8.2 The public place in question may be the entire area or the authority or may apply only in respect of a part or parts of the borough. The PSPO may prohibit specified things from being done in the area(s) to which it applies, or may require specified things to be done by persons carrying on activities in the area, or both. The prohibitions or impositions imposed must be reasonable to prevent or reduce the continuance, occurrence or recurrence of the detrimental effect.
- 8.3 The PSPO may be expressed to apply to all persons, or to those in specified categories, or to all persons except those in specified categories. It may apply at all times, only at certain times, or at all times except those specified.
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Similarly, it may apply in all circumstances, only in certain circumstances, or in all circumstances with the exception of any specified.

- 8.4 The PSPO must identify the activities to which it relates and explain the consequences of failing to comply with the Order.
 - 8.5 A PSPO is valid for a maximum of three years. It may be extended in accordance with the provisions of the 2014 Act. Equally, PSPOs may be varied or discharged in accordance with the provisions of the 2014 Act.
 - 8.6 Prior to making a PSPO, the Council is under a statutory obligation to consult with the chief office of police, any community representatives the Council thinks fit, and the owners or occupiers of any land within the area to be covered by the PSPO. The duty to consult with owners and occupiers of land does not apply in respect of land owned and occupied by the authority and it applies only to the extent that it is reasonably practicable to consult the owner or occupier of the land.
 - 8.7 The legal principles that apply to Consultation were established in the case of *R (ex parte Gunning) -v- London Borough of Brent*. These are that: (1) the consultation exercise must be undertaken at a time when proposals are still at a formative stage; (2) the proposer has to give sufficient reasons for any proposal to permit an intelligent consideration and response; (3) adequate time has to be given for consideration and response, and (4) the product of consultation must be conscientiously taken into account in reaching a decision. With respect to the reasons for the proposal, this may require the consultees to be informed of other options considered but discarded and not simply the proposed option. The proposed consultation, including the length of the exercise, would appear to satisfy the requisite criteria.
 - 8.8 The Council is also obliged to have particular regard to articles 10 (freedom of expression) and 11 (freedom of assembly) of the Human Rights Act 1998. However, these are qualified rights and can lawfully be restricted or limited where this is a necessary and proportionate means of achieving a legitimate aim, including public safety and the prevention of crime and disorder. It is a question of balancing rights and freedoms of individuals against the needs of the wider community. The proposed PSPO does not appear to infringe on these rights. Therefore, the Council has to take a balanced decision regarding the need for a PSPO and their impact on the freedoms and rights of dog owners. Dog owners have a duty to provide for their dogs' welfare, including exercise. To achieve this aim, the Home Office (and DEFRA) guidance states that where restrictions are in place, local authorities should publish a list of alternative sites which dog walkers can use to exercise their dogs without restrictions in the locality. Therefore, the Council should try to ensure that there are sufficient areas where dog owners can exercise their dogs freely, without breaching the PSPO. This can be explored within the consultation exercise.
 - 8.9 Both before and on making a PSPO, it must be publicised in accordance with the statutory requirements. This requires that the text is published on the
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Council's website and that it is sufficiently signposted around the borough so as to be reasonably likely to come to the attention of the public.

- 8.10 The validity of a PSPO can be challenged by an application to the High Court by an 'interested person' living in, working in or regularly visiting the area. The grounds for such a challenge can be: (a) that the local authority did not have power to make the order, or to include particular prohibitions or requirements imposed by the order; or (b) that a requirement under the statute was not complied. Any such challenge must be brought within six weeks beginning with the date on which the order is made.
- 8.11 The PSPO may be enforced by the issue of a fixed penalty notice (FPNs) to a person breaching it. This is an alternative to prosecution in the magistrates' court. Currently, the authority to use the enforcement powers under the Act are delegated to officers under the Council's scheme of delegation. The Council may specify the amount of a Fixed Penalty and also provide a discount for early payment. The PSPO may also be enforced by way of commencing a prosecution, either instead of the issue of an FPN or where an FPN has been issued but not paid.
- 8.12 The Council, in 2004, designated certain land within the borough under the provisions of the Dogs (Fouling of Land) Act 1996. Although since repealed, the designation remains in force. However, there are certain pieces of land it does not apply to. It will therefore remain in force alongside any PSPO which may be made.
- 8.13 Section 149 of the Equality Act 2010 places the public sector equality duty (PSED) on local authorities. This requires them, in the exercise of their functions, to have due regard to:
- (1) eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act;
 - (2) advance equality of opportunity between people who share those protected characteristics and people who do not;
 - (3) foster good relations between people who share those characteristics and people who do not.
- 8.14 The duty applies to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. It is not a duty to achieve a specified result and the duty must be complied with at the time that the decision is made. Issues that may arise in this context, for example, are the potential impact of the PSPO upon those who require assistance dogs. However, some religions view dogs as unclean and may therefore avoid areas where no dog controls exist in order to avoid coming into contact with dogs. It is noted that the proposed PSPO does appear to balance these competing interests and will be further addressed in a full EQIA.
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Linked Reports, Appendices and Background Documents

Linked Report

- NONE.

Appendices

- Draft consultation questions (Appendix 1)
- Draft consultation and engagement plan (Appendix 2)
- Draft Equalities Impact Assessment (Appendix 3)
- Draft options analysis (Appendix 4)

Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012

- NONE.

Officer contact details for documents:

Simon Baxter, Corporate Director Communities

Ashraf Ali, Interim Director Public Realm

Vicky Allen, Strategy, Policy and Improvement, Communities

Richard Williams, Head of Operational Services, Public Realm
