



City of Westminster

Cabinet Member Report

Meeting or Decision Maker:	Cabinet Member for Communities, Children and Public Protection
Date:	31 May 2024
Classification:	General Release
Title:	Renewal of Borough-wide Street Drinking and Dog Control Public Space Protection Orders 2024
Wards Affected:	All
Policy Context:	Contributes to the delivery of the council's priorities under the Fairer Environment theme to encourage a cleaner, safer Westminster
Key Decision:	No
Financial Summary:	Less than £10,000
Report of:	Executive Director Environment & Communities

1. Executive Summary

- 1.1. On 16 March 2018 the Cabinet Member gave approval to create new controlled drinking and dog control Public Space Protection Orders (PSPO) for 3-years. On 24 June 2021 the PSPOs were renewed.
- 1.2. These orders expire on 24 June 2024 and this paper makes recommendations to renew and vary the orders for a 3-year period commencing on 25 June 2024 and expiring on 24 June 2027.

2. Recommendations

- 2.1. The Cabinet Member is asked to:
 - 2.1.1. Approve the renewal of the borough wide PSPO for the control of street drinking until 23:59hr on the 24 June 2027 on the same terms
 - 2.1.2. Approve a renewal of the borough wide PSPO for dog control until 23:59hr on the 24 June 2027, and to vary to extend this into 5 new geographical areas as set out in this report, on the same terms.

3. Reasons for Decision

- 3.1. Powers to create PSPOs came into force in October 2014. PSPO's replace Designated Public Place Orders (also known as Controlled Drinking Zones) and Dog Control Orders. The existing Designated Public Place Orders and Dog Control Orders automatically became PSPOs by automatic operation of law on 20 October 2017.
- 3.2. The Anti-Social Behaviour, Crime and Policing Act 2014 states that a local authority may establish a PSPO if satisfied on reasonable grounds that the activity or behaviour concerned, carried out, or likely to be carried out, in a public space:
 - a) has had, or is likely to have, a detrimental effect on the quality of life of those in the locality.
 - b) is, or is likely to be, persistent or continuing in nature.
 - c) is, or is likely to be, unreasonable; and
 - d) justifies the restrictions imposed.
- 3.3. These orders have been previously been renewed. On 9 April 2021, the Cabinet Member agreed to make new PSPOs commencing on 12 April and expiring on 21 June, while a public consultation process took place. The orders were further renewed on 24 June 2021 for 3-years and are due to expire on 24 June 2024.
- 3.4. As the previous orders are due to expire shortly, new orders have been drafted and put out to public consultation and the Cabinet Member must consider the outcome of that consultation and EQIA and agree whether to renew the orders for a further 3-years.

4. Alternative options considered

- 4.1. Take no action. The current Alcohol Control and Dog Control PSPOs will expire on 24 June 2024.
- 4.2. Not having valid PSPOs in place, will have a detrimental impact on Police and Council officers' ability to enforce drinking and dog-related nuisance across the borough. This may then lead to increased dog fouling, dogs causing a nuisance and not being adequately controlled, dogs entering children's play areas, sports areas and marked pitches and an increase in people drinking alcohol and engaging in behaviour likely to cause nuisance and annoyance to residents and other members of the public. The police have expressed specific concerns about not having powers in place to prevent alcohol related disorder during the summer's sporting events including the European Championships and the Olympics.

5. Background, including Policy Context

- 5.1. The powers associated with the PSPOs for street drinking (Designated Public Place Orders or DPPO) and dog control were first introduced in 2002 / 2004 and 2009 under the Criminal Justice and Police Act (2001) and Clean Neighbourhoods and Environment Act (2005) respectively.
- 5.2. PSPOs for alcohol and dog control came into effect as an automatic transition from the previous DPPO and Dog Control Orders (DCO) in October 2017, and have been in place since then but for a brief lapse during Covid.

Public Space Protection Orders (PSPO)

- 5.3. The Police and Council work together to tackle anti-social behaviour. PSPOs are an effective tool to deal with nuisance or problems in an area that is detrimental to the local community's quality of life.
- 5.4. A PSPO works by imposing conditions on the use of that area, which apply to everyone. A PSPO is designed to ensure that residents and visitors can use and enjoy public spaces without experiencing anti-social behaviour.
- 5.5. In accordance with s60 (2) of the Anti-Social Behaviour Crime and Policing Act 2014 (the Act), a PSPO cannot have effect for a period of more than 3 years, unless extended under s60 (2). This section permits a local authority to extend a PSPO where it is satisfied on reasonable grounds that doing so is necessary to prevent an occurrence or recurrence of the activities identified in the order, or an increase in the frequency or seriousness of those activities after that time.
- 5.6. The introduction of PSPOs for alcohol control has enabled the Police to remove alcohol from those that are engaging in or are likely to engage in anti-social behaviour.
- 5.7. The PSPO for Dog Control enables officers from the Police and Council to give direction regarding dogs off lead and dogs causing nuisance in a public place, this includes dog fouling and other related dog issues.

5.8. These PSPOs enable the Council and the Police to take preventative enforcement action in public places on:

- Dog Control Order
 - Dogs fouling on land.
 - Dog exclusion in specified areas.
 - Dogs on lead in specified areas.
 - Dogs on lead by direction.
- Alcohol consumption in a prohibited area.

Evidence for Dog Control Orders

5.9. The City Survey asks a representative sample of around 2,500 residents for their views on various issues in their local area, including two questions with respect to problems linked to dog ownership.

5.10. Between 2013 and 2018 residents were asked whether they felt dangerous / aggressive dogs were a problem, and although that question has not been asked since, concern was increasing with around 15% of residents describing this as a very or fairly big problem in their area.

Table 1 - Resident concern about dangerous / aggressive dogs in their local area

	2013	2014	2015	2016	2017	2018
All residents 16+	1,048	1,019	1,020	1,007	2,630	2,603
A very big problem	2%	1%	1%	5%	4%	3%
A fairly big problem	7%	5%	4%	9%	13%	10%
Not a very big problem	27%	35%	28%	45%	43%	40%
Not a problem at all	60%	55%	65%	40%	39%	45%
Don't know	3%	3%	2%	1%	1%	3%
Very / fairly big problem	9%	8%	5%	14%	17%	13%
Not very big / not a problem at all	87%	90%	93%	85%	82%	84%

5.11. In addition to dangerous dogs, the City Survey also asks residents how much of a problem dog fouling is in their local area. This question has been asked almost continuously since 2013, with a break in 2021 and a change in the question from “dog fouling” to “animal nuisance” in 2022.

5.12. Prior to the question being changed, 26% of people described dog fouling as being a very or fairly big problem in their area. The change in question significantly affected the response with the less specific “animal nuisance” eliciting a much lower level of concern at just 10% in 2023.

Table 2 - Resident concern about dog fouling / animal nuisance in their local area

	2013	2014	2015	2016	2017	2018	2019	2020	2022	2023
All residents 16+	1,048	1,019	1,020	1,007	2,630	2,603	2,596	1,038	2,436	2,412
A very big problem	7%	5%	4%	6%	6%	7%	6%	6%	1%	2%
A fairly big problem	15%	13%	11%	19%	20%	14%	19%	20%	2%	8%
Not a very big problem	33%	36%	37%	41%	45%	38%	34%	25%	16%	32%
Not a problem at all	42%	43%	46%	34%	28%	38%	39%	48%	78%	57%
Don't know	2%	2%	1%	0%	1%	2%	1%	0%	3%	1%
Very / fairly big problem	22%	18%	15%	25%	26%	21%	25%	26%	3%	10%
Not very big / not a problem at all	75%	79%	83%	75%	73%	77%	74%	74%	94%	89%

5.13. In 2019, residents made 433 reports requesting the removal of dog faeces, increasing to 612 in 2020, and coming out of the pandemic this had risen to 1,403 in 2022/23 and 1,336 in 2023/24.

5.14. Over the past four years, we have continued to issue a small number of FPNs and warnings to dog owners in breach of the requirements, but compliance has generally been good in the areas where there are orders already in place.

Notice	2017	2018	2019	2020	2021	2022	2023	2024
Dog FPN (PSPO)			2	1				
Dog Fouling FPN	11	9	6	6			1	
Dog Warning – Fouling		9	5	5				
Dog Warning – Dogs off Lead (PSPO)			1	6	1			
Dog Warning – Exclusion Areas								
Dog Warning – Nuisance								
Dog Welfare & Misc.				2		2	2	3
TOTAL	11	18	14	20	1	2	3	3

5.15. The Dog Control PSPO is not put in place to restrict the exercising or recreation of dogs across Westminster. The reason for making the Order is to address the detrimental effect on the quality of life of those in the locality caused by the irresponsible behaviour of a small minority of dog owners; and to set out a clear standard of behaviour to which all dog owners are required to adhere.

5.16. Fortunately, compliance with this order is good and we do not often have to use formal enforcement to ensure adherence to the requirements and

prohibitions; however, the order also supports informal interventions to persuade and advise residents of appropriate dog ownership.

Evidence for Controlled Drinking Order

- 5.17. Around 40% of violent crimes are alcohol related and Westminster continues to have the highest volume of London Ambulance Service (LAS) alcohol related call outs across London, at 2,128 accounting for 6% of calls.
- 5.18. Although most of the alcohol related disorder reported to police is concentrated in the West End and associated with the night-time economy, the City Survey shows that people being drunk in their area is a cause for concern in the more residential areas of the City. 26% of residents rate this as a fairly or very big problem, increasing to over 40% among residents in St James and Pimlico North. On average, drunk and rowdy behaviour is the third biggest community safety concern for residents behind drugs, and begging.

6. Proposals

- 6.1. A briefing was presented to the Cabinet Member in February 2024, which considered the use of PSPOs to manage dog related behaviour, and anti-social street drinking.
- 6.2. The briefing proposed renewing the Controlled Drinking Zone Order as currently defined and renewing the Dog Control Order while also adding 5 new areas based on emerging concerns and complaints received from local residents and ward Cllrs, and highlighted by Westminster Housing Services, Neighbourhood Coordinators and Animal Warden Services.
- 6.3. Before introducing a PSPO, the council must consult with the police and with any partners and stakeholders that they think appropriate. In addition, the owner or occupiers of any land affected should be consulted.
- 6.4. The public consultation took place for a period of 8-weeks from 18 March to 19 May 2024. The consultation received 31 responses via the CommonPlace platform, and one written response. Respondents were generally positive about the impact the Orders would have on their quality of life. A summary of consultation responses can be found in Appendix 4 and a copy of the written response from the Kennel Club in Appendix 5.
- 6.5. It is proposed that both the Controlled Drinking Zone Order, and the Dog Control Order, are implemented until June 2027, the maximum duration that a PSPO can be applied for (3-years), and that the new Dog Control Order includes 5-new areas with requirements for dogs to be on leads or be excluded from playground and sports areas. At any point before the expiry of a PSPO it can be extended for a further period of up to three years, and the terms can also be varied, subject to further consultation. Maps of the affected areas can be found in the Orders in Appendices 1 and 2.

- 6.6. To introduce a PSPO the new Order must be published in accordance with regulations made by the Secretary of State and must: identify the activities having the detrimental effect, explain the potential sanctions available, and specify the period for which the PSPO has effect. Copies of the proposed Orders can be found in Appendices 1 and 2.
- 6.7. A Police Constable, Police Community Support Officer, Law Enforcement Officer, or other authorised person may issue a fixed penalty notice (FPN) of up to £100 to those who fail to comply with the Order. An FPN will only be issued if an individual continues to breach the Order after being asked to desist by an authorised person. Individuals will have 14 days to pay the fixed penalty of £100 (reduced to £70 if paid within 10 days). Officers will generally take the 4E's enforcement approach (Engage, Explain, Encourage, Enforce).

7. Consultation

- 7.1. Launching on 18 March, a public consultation has been running on the Council's CommonPlace platform and is due to end on 19 May, a period of 8-weeks and well in excess of the minimum statutory requirement of 2-weeks Local Authorities and the [Cabinet Office's Consultation Principles 2018](#).
- 7.2. The consultation was promoted by email to 758 people registered on CommonPlace, with 719 successfully delivered. The consultation was also promoted in the members' Weekly Information Bulletin after the Pre-Election Period. 270 people visited the site with 31 people responding, resulting in 25 responses to the Dog Control and 21 to the Street Drinking Order.
- 7.3. Respondents to the consultation rated the impact of the proposals on their quality of life as:

Order	Positive Impact	Negative Impact	Net Impact
'Dog Exclusion' areas	+52%	-8%	+44%
'Dogs on lead by Direction' areas	+68%	-4%	+62%
'Dogs on leads only' areas	+64%	-8%	+56%
'Dog fouling'	+60%	-2%	+58%
Street Drinking	+67%	-10%	+57%

- 7.4. The full results are available in Appendix 4.
- 7.5. In line with recommendations in the statutory guidance, we also consulted directly with the Kennel Club, who made a few recommendations including to the definition of assistance dogs within the exemptions applied to Dog Control Orders (Appendix 5).

- 7.6. It is specified within the legislation that before making a PSPO the council must consult with the chief of police for the area. This consultation has taken place and police have confirmed they are in support of the proposed Orders.

8. Financial Implications

- 8.1. The cost of implementing the PSPOs is limited to the cost of new signage, estimated to be less than £10,000. This will be funded from existing revenue budgets
- 8.2. The orders will be enforced by the Metropolitan Police and the council's City Inspectors and animal warden service as part of their regular duties and planned operations, meaning no additional resource will be required. The income from any Fixed Penalty Notices issued will contribute towards these costs.

9. Legal and Governance Implications

- 9.1. PSPO's took effect from 20 October 2014 under the Anti-Social Behaviour, Crime and Policing Act 2014 ("the 2014 Act") enabling the Council to follow prescribed procedures to seek to declare a PSPO.

- 9.2. PSPO's are intended to deal with a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone.

- 9.3. The Statutory Guidance issued in July 2014 gives guidance on the applicable test for the making of a PSPO, the Guidance provides that:

"The test is designed to be broad and focus on the impact anti-social behaviour is having on victims and communities. 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;
- is, or is likely to be, persistent or continuing in nature;
- is, or is likely to be, unreasonable; and
- justifies the restrictions imposed".

- 9.4. It is an offence for a person, without reasonable excuse, to:

- (i) do anything that the person is prohibited from doing by a PSPO.
- (ii) fail to comply with a requirement to which the person is subject under a PSPO.

A person guilty of an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

9.5. The validity of a PSPO can be challenged on two grounds:

- (i) that the Council did not have the power to make the PSPO, or to include particular prohibitions or requirements; or
- (ii) that one of the requirements, for instance consultation, had not been complied with.

The High Court can suspend the operation of the PSPO in part or in whole as well as uphold the PSPO, quash it, or vary it.

9.6. The maximum duration of a PSPO is 3 years unless extended. A PSPO can be extended more than once. Any extension may not be for a period of more than 3 years.

10. Climate Impact

10.1. The PSPO will ensure our open spaces continue to thrive and stay a pleasant place for residents and businesses to visit. The biodiversity of the whole borough will be positively impacted with less dog fouling occurring.

11. Equalities Implications

11.1. Overall, groups with protected characteristics will be positively impacted by the proposal which aims to assist the council in tackling anti-social behaviour and to improve cleanliness.

11.2. The local authority recognises that people who are registered blind, have a mobility issue, those with assistance dogs would struggle to comply with the requirements of the Dog Control aspects of the PSPOs. Therefore, these groups have been and will continue to be exempt from prosecution if found to be in breach of the dog control provisions of the PSPOs.

11.3. The council also recognises that street drinking is prominent amongst the street homeless population, who statistically more likely to be men, and who often have mental health problems. Extensive support and intervention are initially undertaken to address alcohol and other related issues through referrals to outreach services; providing individuals with the opportunity to engage in support and rehabilitation, prior to any decision to take enforcement action.

11.4. Given the low level of responses overall, and specifically the lack of engagement from marginalised groups, it is proposed that a gradual approach is taken in new Dog Control Order areas, ensuring that maximise awareness of the new requirements before beginning to implement enforcement.

11.5. A full Equalities Impact Assessment is provided in Appendix 3

If you have any queries about this Report or wish to inspect any of the Background Papers, please contact:

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APPROVED BY

Name and Title	Date sent	Date approved
Frances Martin, Executive Director for Environment & Communities	30/05/2024	31/05/2024
Chris Dawson, Finance	23/05/2024	29/05/2024
Noelle Fitzgerald, Legal	23/05/2024	30/05/2024
XYZ, Governance		

APPENDICES

- Appendix 1 – Draft Dog Control Order PSPO
- Appendix 2 – Draft Controlled Drinking Zone PSPO
- Appendix 3 – Equality Impact Assessment
- Appendix 4 – Summary of Public Consultation Results
- Appendix 5 – The Kennel Club Formal Response to City of Westminster Council PSPO

BACKGROUND PAPERS

- *Cabinet Member Briefing - proposals for renewing PSPOs in 2024*

For completion by the **Cabinet Member** for *Cabinet Member for Communities, Children and Public Protection*

Declaration of Interest

I have <no interest to declare / to declare an interest> in respect of this report

Signed: _____ Date: _____
NAME: **Cllr Aicha Less**

State nature of interest if any:

(N.B: If you have an interest, you should seek advice as to whether it is appropriate to make a decision in relation to this matter)

For the reasons set out above, I agree the recommendation(s) in the report entitled

Renewal of Borough-wide Street Drinking and Dog Control Public Space Protection Orders 2024 and reject any alternative options which are referred to but not recommended.

Signed: _____

Cabinet Member for Communities, Children & Public Protection

Date: _____

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comment:

If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Monitoring Officer and Section 151 Officer (or their representatives) so that (1) you can be made aware of any further relevant considerations that you should take into account before making the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Member: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed

from publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.