



Notice of a public meeting of

Decision Session - Executive Member for Housing, Planning and Safer Communities

To: Councillor Pavlovic (Executive Member)

Date: Wednesday, 13 November 2024

Time: 10.00 am

Venue: West Offices - Station Rise, York YO1 6GA

AGENDA

Notice to Members – Post Decision Calling In:

Members are reminded that, should they wish to call in any item* on this agenda, notice must be given to Democratic Services by **4:00 pm on 20 November 2024**.

*With the exception of matters that have been the subject of a previous call in, require Full Council approval or are urgent, which are not subject to the call-in provisions. Any called in items will be considered by the Corporate Services, Climate Change and Scrutiny Management Committee.

Written representations in respect of items on this agenda should be submitted to Democratic Services by **5.00 pm on Monday, 11 November 2024**.

1. Declarations of Interest (Pages 1 - 2)

At this point in the meeting, the Executive Member is asked to declare any disclosable pecuniary interest, or other registerable interest, they might have in respect of business on this agenda, if they have not already done so in advance on the Register of Interests. The disclosure must include the nature of the interest.

An interest must also be disclosed in the meeting when it becomes apparent to the member during the meeting.

[Please see attached sheet for further guidance for Members].

2. Minutes (Pages 3 - 6)

To approve and sign the minutes of the Decision Session held on 23 September 2024.

3. Public Participation

At this point in the meeting members of the public who have registered to speak can do so. Members of the public may speak on agenda items or on matters within the remit of the committee.

Please note that our registration deadlines have changed to 2 working days before the meeting. The deadline for registering at this meeting is at **5.00pm on Monday, 11 November 2024.**

To register to speak please visit www.york.gov.uk/AttendCouncilMeetings to fill out an online registration form. If you have any questions about the registration form or the meeting please contact the Democracy Officer for the meeting whose details can be found at the foot of the agenda.

Webcasting of Public Meetings

Please note that, subject to available resources, this public meeting will be webcast including any registered public speakers who have given their permission. The public meeting can be viewed on demand at www.york.gov.uk/webcasts.

4. Proposal to Introduce a Citywide Public Space Protection Order (PSPO) to cover: Street Urination and Defecation, Dog Fouling and Control (Pages 7 - 20)

This report seeks approval to progress to the statutory consultation stage of the process to introduce a citywide PSPO to cover: Street urination and defecation, dog fouling and dog control.

A follow-up report, presenting the results of the consultation and data relating to the number of reports/council activity around these offences (cleansing etc) will be presented at a future meeting for an evidence-based decision to be made in respect to the introduction of the PSPO.

5. Urgent Business

Any other business which the Executive Member considers urgent under the Local Government Act 1972.

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For more information about any of the following please contact the Democratic Services Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

Contact details are set out above.

Alternative formats

If you require this document in an alternative language or format (e.g. large print, braille, Audio, BSL or Easy Read) you can:



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We can also translate into the following languages:

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim własnym języku. (Polish)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (ہولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

Declarations of Interest – guidance for Members

- (1) Members must consider their interests, and act according to the following:

Type of Interest	You must
Disclosable Pecuniary Interests	Disclose the interest, not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.
Other Registrable Interests (Directly Related) OR Non-Registrable Interests (Directly Related)	Disclose the interest; speak on the item <u>only if</u> the public are also allowed to speak, but otherwise not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.
Other Registrable Interests (Affects) OR Non-Registrable Interests (Affects)	Disclose the interest; remain in the meeting, participate and vote <u>unless</u> the matter affects the financial interest or well-being: (a) to a greater extent than it affects the financial interest or well-being of a majority of inhabitants of the affected ward; and (b) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest. In which case, speak on the item <u>only if</u> the public are also allowed to speak, but otherwise do not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.

- (2) Disclosable pecuniary interests relate to the Member concerned or their spouse/partner.
- (3) Members in arrears of Council Tax by more than two months must not vote in decisions on, or which might affect, budget calculations,

and must disclose at the meeting that this restriction applies to them. A failure to comply with these requirements is a criminal offence under section 106 of the Local Government Finance Act 1992.

City of York Council

Committee Minutes

Meeting	Decision Session - Executive Member for Housing, Planning and Safer Communities
Date	23 September 2024
Present	Councillor Pavlovic
Officers in Attendance	Claire Foale – Director of City Development Becky Eades – Head of Planning and Development Services Alison Stockdale – Principal Strategic Planning Policy Officer

6. Declarations of Interest

No disclosable pecuniary interests, or other registerable interests in the respect of business on the agenda, not already declared on the Register of Interests were declared by the Executive Member.

7. Minutes (3:01pm)

Resolved: That the minutes of the previous meeting held on 18 July 2024 be approved and then signed as a correct record by the Executive Member.

8. Public Participation (3:01pm)

It was reported that there had been one registration to speak at the meeting under the Council's Public Participation Scheme.

Flick Williams spoke on item 4, regarding accessible and adaptable housing. Further to her public participation to Council on Thursday 19 September, Ms Williams discussed the ways in which the current housing crisis was impacting people not known to social services or not eligible for social housing. She said that state intervention was required via planning enforcement to make housing accessible and commended the council's commissioning of housing which incorporated accessible properties, though she encouraged further action and discussion regarding this issue.

9. Response to consultation on the National Planning Policy Framework (3:06pm)

The Executive Member considered a report introduced by the Director of City Development and presented by the Head of Planning and Development Services and the Principal Strategic Planning Policy Officer.

Officers explained that this guidance concerned the National Planning and Policy Framework, and that the consultation for this was to close at 11:45am the next day (24 September) driving the need for a response.

The Executive Member stated that the York draft Local Plan was now in examination; the final consultations had taken place and it would be adopted in the near future. When adopted, the Local Plan would set the green belt boundary, strategic development and local development objectives for the plan period.

In response to a request from the Executive Member, officers explained how this new Framework would impact the Local Plan, noting that it could potentially trigger a review.

The Executive Member asked officers to seek further clarification regarding the likelihood and impact of a review. On this point, officers noted that additional funding may be available for the authority, should a review take place.

Officers also noted that should a review take place, the authority may find itself potentially transitioning to a new Local Plan while still trying to embed a recently adopted local plan, and this should be accounted for in terms of resources and costs.

The Executive Member addressed public participation stating that it was easier to stipulate M4(2) and M4(3) compliance with regard to affordable housing stock, but the authority would need the national government to provide further assistance to ensure those ineligible for support who wish to buy or modify a property are catered for.

The Executive Member then

Resolved:

- i. To note the discussion and recommendations arising from Local Plan Working Group;
- ii. To agree to submit a comprehensive response to the consultation;

- iii. To delegate authority to the Director for City Development, in conjunction with the Executive Member for Housing, Planning and Safer Neighbourhoods, for any changes and approval the final response for submission.

Reason: To allow a Council response to the Government's consultation on Proposed Modifications to the National Planning Policy Framework by the deadline of 24 September 2024.

Cllr M. Pavlovic, Executive Member

[The meeting started at 3.00 pm and finished at 3.32 pm].

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Meeting:	Executive Member Decision Session Housing, Planning & Safer Communities
Meeting date:	13/11/2024
Report of:	James Gilchrist
Portfolio of:	Cllr Michael Pavlovic, Executive Member for Housing, Planning & Safer Communities

Decision Report: Proposal to Introduce a Citywide Public Space Protection Order (PSPO) to cover: Street Urination & Defecation, Dog Fouling & Control.

Subject of Report

1. To seek approval to progress to the statutory consultation stage of the process to introduce a citywide PSPO to cover: Street urination and defecation, dog fouling and dog control.
2. A follow-up report, presenting the results of the consultation and data relating to the number of reports/council activity around these offences (cleansing etc) will be presented at a future meeting for an evidence-based decision to be made in respect to the introduction of the PSPO.

Benefits and Challenges

3. Introduction of the PSPO will allow for the following benefits:
 - a reasonable, proportionate, and staged enforcement approach to be taken in respect of these offences, consistent with the council's Corporate Enforcement Policy
 - A more cost effective and efficient way of working, by reducing the number of prosecution case files needed to be prepared, reviewed, and presented at court.

- Raise the level of the dog fouling fine to a more appropriate level. The fine for dog fouling, the more harmful offence, is currently less than that of Littering.
4. Challenges may arise from concerns raised during the consultation process. The proposed restrictions seek to allay concerns by targeting unreasonable behaviour, rather than impose disproportionate blanket restrictions on the public's day to day activities. However, the results of the consultation will ultimately shape the PSPO's final provisions.

Policy Basis for Decision

5. The proposal contributes to Council Plan commitments of Health & Well-Being and Cutting Carbon, Enhancing the Environment for Our Future. In addition, it contributes to the Health and Well-Being Strategy. Having access to safe, green and clean spaces has been found to reduce stress, improve mood, and enhance overall psychological well-being.
6. Ensuring that a Fixed Penalty Notice (to discharge liability for prosecution) option is available for these offences significantly reduces the likelihood of cases progressing to court, where higher fines and costs would be imposed, therefore contributing to Affordability. The PSPO will contribute to a safer and cleaner environment across the city, impacting on peoples' feelings of safety and improving health and well-being. In terms of Human Rights, the proposed PSPO aims to address unreasonable behaviour, rather than imposing blanket restrictions on people's activities and introduces exemptions for Assistance Dogs.

Financial Strategy Implications

7. The proposal will introduce a more efficient way of working. It will reduce the officer time required to prepare, review and present cases to court across both the Neighbourhood Enforcement and Legal Services teams.

The proposal will increase the dog fouling fine.

It is possible that the number of Fixed Penalty Notices for Street Urination and Defecation will increase as enforcement agencies,

including North Yorkshire Police, feel the ability to discharge liability for prosecution is more proportionate for non-aggravated offences.

There will be cost implications for signage which will need to be sited along main arterial routes into the city and in public spaces. It is proposed to use lamp-post stickers where possible.

Recommendation and Reasons

8. The recommendation is for approval to proceed to the consultation stage of the process. This will allow for a full evidence-base to be developed, providing a robust basis for a decision to be made in respect to adoption of the PSPO.

Background

9. PSPOs were introduced under the Anti-Social Behaviour, Crime & Policing Act 2014. They can prohibit activities and/or require certain things to be done by people engaged in specified activities in a defined public area. Restrictions are placed on the behaviour of everyone in that locality, allowing for some exemptions. Breach of a PSPO is an offence, enforced by Fixed Penalty Notice in the first instance. The FPN for breach of PSPO is currently £100 (£75 early repayment within 10 days).
10. Council's must be satisfied that there is an evidence base to justify the introduction of PSPO requirements. The local authority should be satisfied on reasonable grounds that the anti-social behaviour in question is of an unreasonable, persistent, and continuing nature and has a detrimental impact on the quality of life of those in the locality
11. Before introducing a PSPO, there are requirements under S.72 (4) of the Anti-Social Behaviour Crime and Policing Act 2014 to consult with:
 - (a) the chief officer of police, and the local policing body, for the police area that includes the restricted area;
 - (b) whatever community representatives the local authority thinks it appropriate to consult;
 - (c) the owner or occupier of land within the restricted area (unless the land is owned by the LA, or it is not reasonably practicable to do so)

Ward and Parish councils only need to be notified, not necessarily consulted (though there is a wide discretion as to who the Council thinks it is appropriate to consult). It is proposed that councillors are included in the consultation.

12. In addition, we propose to consult with groups who represent the elderly, the disabled and the Armed Forces/Veteran community and those that have an interest in dog welfare and represent dog owners.
13. The proposed PSPO seeks to replace the existing 1998 Street Urination and Defecation byelaw in that while the PSPO is in effect, the byelaw has no effect for the duration of the PSPO in the area to which it relates. Once the PSPO expires/is revoked/fails to be renewed, the position reverts to that in the existing byelaw. The byelaw allows for prosecution route only for these offences. Introduction of a Fixed Penalty option will allow for the offences to be treated more proportionately and for a staged approach to enforcement to be taken as advocated by the council's Corporate Enforcement policy. However, a summary conviction will still be sought for repeat offenders and/or aggravating circumstances.
14. The fine for dog fouling is currently restricted under the Dogs (Fouling of Land) Act 1996 to £75. The fine for Littering has been subject to annual inflationary increases and is currently £120. The £100 FPN for breach of PSPO will bring the dog fouling fine to a more appropriate level, comparable to that of Littering, given that dog fouling is arguably the more harmful offence.
15. The introduction of a Dog Control requirement will increase flexibility and proportionality when dealing with Dog Control Offences.
16. At present the council has two enforcement options when dealing with Dog Control offences. Option 1 is to apply the court for a civil Dog Control Order. Option 2 is to issue a Community Protection Warning (CPW) followed by a Community Protection Notice (CPN) if offences continue. An FPN is issued on breach of CPN.
17. Option 1 should only be taken for the most serious of offences. It requires the enforcement officer to submit a case file, to be presented at court by Legal Services, incurring Court Hearing charges.

18. Due to the delay between issuing a CPW and CPN, Option 2 doesn't always provide a sufficiently timely, responsive way to deal with dogs whose behaviour is less serious, e.g. repeatedly escaping from a garden and jumping up, growling or aggressively barking at members of the public, causing fear, alarm, or distress.
19. The introduction of the PSPO Dog Control requirement below will provide an intermediate option:
20. *A person in charge of a dog on land to which this order applies, must ensure that the dog is kept under proper control.*

'Proper control' means that the person in charge of a dog should not allow it to cause fear, alarm, or distress to any person in the vicinity. This would include being permitted to repeatedly behave aggressively towards or make unrestrained physical contact with another person or animal.
21. The proposed PSPO introduces exemptions for Assistance Dogs, anyone training an Assistance Dog and where the dog is being used by police or other agencies permitted by the council, for official purposes.

Consultation Analysis

22. Initial discussions have taken place with the council's Legal Services and Neighbourhood Enforcement teams and with North Yorkshire Police who are supportive of the proposal.

Options Analysis and Evidential Basis

23. Option 1: Proceed to the consultation stage. The results of the consultation will contribute to an evidence base upon which to make a final decision in respect to the proposed PSPO. This will include whether to adopt the PSPO and/or if amendments to its conditions should be made.
24. Option 2: Not to proceed with the proposal to introduce the PSPO and continue with existing arrangements in dealing with the offences prescribed.

Organisational Impact and Implications

25. The report has the following impacts and implications:

- **Financial**

The recommendation in the report is to enter consultation as to whether to introduce a citywide PCSO. This can be done within current budgets in the Community Safety Team. Should the PCSO be introduced there will be one off costs in producing and installing signs and a budget will need to be identified to fund this.

The amount of income raised from Street Urination & Defecation, Dog Fouling & Control isn't significant (<£10,000) but the new process may allow for additional PCN's issues and revenue.

- **Health and Wellbeing**

There is strong evidence that greenspaces and have positive physical and mental health outcomes, to enable individuals access these spaces they should be free from possible health hazards, i.e dog fouling, street urination and defecation. Therefore, Public Health support the proposal to proceed to the consultation stage explained in this paper. As the report outlines this would be an appropriate approach to ensure a sound evidence base is established to adopt the changes in the PSPO across the city.

- **Environment and Climate action.**

Discouraging Street Urination & Defecation and Dog Fouling will improve the environment of our public spaces making them more enjoyable for all.

- **Affordability. No known implications.**

- **Equalities and Human Rights**

The Equalities Impact Assessment will be completed when the results of the consultation are known.

- **Data Protection and Privacy**

The data protection impact assessment (DPIAs) screening questions were completed for the recommendations and options in this report and as there is no personal, special categories or criminal offence data being processed to set these out, there is no requirement to complete a DPIA at this time. However, this will be reviewed following the approved recommendations and options from this report and a DPIA completed if required.

- **Legal**

The Council has power to introduce a PSPO subject to a) compliance with consultation requirements, and b) being satisfied

that the order is a proportionate response to the harm targeted and is consistent with the Public Sector Equality Duty.

The introduction of a PSPO is generally a quicker method of introducing measures to tackle anti-social behaviour, and multiple issues can be dealt with in a single PSPO. This is therefore the preferred method of introducing these measures rather than revoking and introducing individual byelaws which deal with these behaviours, which can be a lengthy process.

The option to issue an FPN under the PSPO would result in a reduced administrative burden on the Council as well as a more proportionate approach from the offender perspective.

Per s.70 of the Anti-Social Behaviour, Crime and Policing Act 2014, where a byelaw prohibits an activity which is also regulated by a PSPO, the PSPO provision prevails and the byelaw is of no effect for the duration of the PSPO in the area to which it relates. As this proposed PSPO is city-wide and at all times, the existing byelaw would have no effect, and no prosecution could be brought under it. It is therefore recommended that the PSPO contain an option to both issue an FPN and/or seek a summary conviction, which could be reserved for the more serious offences or persistent offenders.

The recommendation at this stage is to approve commencement of consultation. Legal advice has been provided in relation to the requirements of statutory consultation, and this advice is summarised at paragraph 11 of this report.

- **Communications**

Introducing a citywide PSPO to address street urination, defecation, dog fouling, and dog control requires clear communication to emphasise the benefits to the city. It's important to focus on the key messages as part of the proposed consultation, while being transparent about the legal process and how residents can provide input. A proactive comms plan will enable targeted communications for key stakeholders.

- **Economy**

An important factor of maintaining a successful economy is to make sure the conditions that build York's reputation as a welcoming city for business growth and visitors alike is to make sure it is clean and safe. The introduction of PSPO will help deliver this.

Risks and Mitigations

26. No known risks.

Wards Impacted

27. All wards.

Contact details

For further information please contact the authors of this Decision Report.

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Report approved:	Yes/No
Date:	25/10/2024

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Report approved:	Yes/No
Date:	25/10/2024

Background papers

Anti-social Behaviour, Crime and Policing Act 2014: Anti-social behaviour powers Statutory Guidance for Frontline Professionals
https://assets.publishing.service.gov.uk/media/6422a19b60a35e00120cae63/2023_Update_ASB_Statutory_Guidance_-_FINAL__1_.pdf

LGA Guidance for Councils on PSPOs

https://www.local.gov.uk/sites/default/files/documents/10.21%20PSPO%20guidance_06_1.pdf

Annexes

Annex A: Supporting Data

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SUPPORTING DATA

STREET URINATION/DEFECATION**Enforcement**

2021/2 – 8 simple cautions. 4 prosecutions

2022/3 – 20 prosecutions

2023/4 – 3 prosecutions

2024/5 (to date) - 1 prosecution

Cleansing – CYC

Number of Street Cleaning incidents reported by members of the public where the category assigned is 'Faeces'. NB: Dog faeces also included within this category

Year	Month												Total	Average per month
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec		
2019	NR	NR	NR	19	32	32	30	25	41	49	46	35	309	34
2020	77	55	36	22	18	30	20	29	71	32	39	30	459	38
2021	45	35	42	37	54	30	23	16	45	56	55	34	472	39
2022	65	53	43	34	41	28	27	27	42	26	23	27	436	36
2023	37	52	58	30	24	34	16	27	26	32	27	40	403	34
2024	41	70	42	41	26	27	17	16					280***	35

*** Total to Date NR Not recorded

Cleansing – York BID (city centre)

YORK BID CLEANSING REPORTS		
April 2023 - March 2024		
Month	Urination instances reported	Human Biohazard Fluid reported
April 2023	298	122
May 2023	362	211
June 2023	205	179
July 2023	226	152
August 2023	499	163
September 2023	252	134
October 2023	436	211
November 2023	310	157
December 2023	353	202
January 2024	247	144
February 2024	444	155
March 2024	562	228
TOTAL	4194	2058

DOG FOULING**Enforcement**

Dog Fouling FPNs issued:

- 2021/2 – 4
- 2022/3 – 3
- 2023/4 – 1

Cleansing

CYC Cleansing data included in the general 'Faeces' table above.

DOG CONTROL

Dog Control Orders issued

2021/2 – 1

2022/3 – 0

2023/4 – 2

Community Protection Warnings (CPW) issued for Dangerous Dogs/Dog Attacks:

2021/2 19

2022/3 12

2023/4 19

Community Protection Notices (CPN) issued for Dangerous Dogs/Dog Attack

2021/2 3

2022/3 2

2023/4 2

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