

<b>Meeting:</b>	Executive
<b>Meeting date:</b>	22/04/2025
<b>Report of:</b>	James Gilchrist, Director of Environment, Transport & Planning
<b>Portfolio of:</b>	Cllr M Pavlovic, Executive Member for Housing, Planning & Safer Communities

**Decision Report:** Introduction of a citywide Public Space Protection Order (PSPO) to cover Street Urination and Defecation, Dog Fouling and Dog Control.

## Subject of Report

1. To seek approval for adoption of the PSPO in full, based on the results of recent public consultation, which have demonstrated strong support for each of the proposed provisions.
2. The results of the consultation supplement the evidential basis for the PSPO's introduction as set out in a previous report (see Annex C).

## 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 dog fouling fine to a more appropriate level, given that it is currently less than that of littering and dog fouling is the more harmful offence.

- Support York's Purple Flag status to provide a safe, well-managed and vibrant Night-Time Economy, given that street urination contributes towards alcohol-related anti-social behaviour in the city centre.
- Enforcement of higher-volume offences such as dog fouling and street urination is challenging. However, council enforcement officers will continue to work with partners, including North Yorkshire Police and York BID Rangers who are able to provide evidence to support council enforcement action. In addition, council officers will take an intelligence-led approach to enforcement, targeting known hot-spot areas at key times.

## **Policy Basis for Decision**

4. The proposal directly responds to the council's vision to establish the conditions for the city to be a healthier city. It supports the Council Plan strategic priorities Health Generating City for All, and Cutting Carbon, Enhancing the Environment for all. It will positively contribute towards the City Centre vision, to be a family friendly and welcoming city and the Joint Health and Wellbeing Strategy 2022-2032.

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. In terms of Human Rights, the proposed PSPO aims to address the unreasonable behaviour of individuals rather than place unreasonable restrictions on the behaviour of entire sections of the community.

## **Financial Strategy Implications**

5. 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.
6. The proposal will increase the dog fouling fine.
7. 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.

8. 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**

9. To adopt the PSPO in full. The results of the public on-line consultation, to which there were 1026 respondents, demonstrate strong support for each provision as below:
  - Street urination & Defecation      83.07% for, 16.93% against
  - Dog Fouling                              96.8% for, 3.18% against
  - Dog Control                              91.62% for, 8.38% against.

## **Background**

10. At the Executive Member for Housing, Planning & Safer Communities Decision Session of the 13<sup>th</sup> of November 2024 approval was given to proceed to the public consultation stage of the process to introduce the PSPO. The report presented at that meeting set out the evidential basis for its proposed introduction (See Annex C).
11. 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). The maximum fine on summary conviction is £1000.
12. Councils 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

13. 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).

14. The proposed PSPO seeks to supersede 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.
15. The proposed PSPO contains an exception of 'reasonable excuse' which provides officers with a wide discretion for factors such as medical conditions to be considered upon receipt of evidence.
16. The fine for dog fouling is currently restricted under the Dogs (Fouling of Land) Act 1996 to £75. The local fine for Littering has been subject to annual inflationary increases and is currently higher than that of dog fouling. 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.

17. The introduction of a Dog Control requirement will increase responsiveness when dealing with these offences and aims to encourage owners to keep their dogs under proper control.
18. 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.
19. 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.
20. 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.
21. The introduction of the PSPO Dog Control requirement below will provide an intermediate and more timely response:
22. A person in charge of a dog on land to which this order applies, must ensure that the dog is kept under proper control.
23. 'Proper control' means that 'the person in charge of a dog should not allow it to cause fear, alarm, or distress to any person or animal in the vicinity. This includes being permitted to repeatedly behave aggressively towards or make unwanted physical contact with another person or animal'.
24. 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**

25. A public online survey, seeking views on each of the proposed PSPO provisions, ran on the council's website from Monday 2<sup>nd</sup> December 2024 until Friday 7<sup>th</sup> February 2025. Paper copies of the survey were available on request. The survey was promoted via social media, including Facebook, Twitter and Nextdoor. A media release generated articles in York Press and York Mix. See Annex B for survey results.

26. There were 1026 respondents in total to the online survey. There were no requests for paper copies.
27. The 40–55-year age group formed the highest group of respondents at 34.7% (201 respondents) followed by the 65+ age group at 25.4% (147 respondents).
28. There were more female respondents at 58.4% (337 respondents) than male at 37.4% (216 respondents). 0.87% of respondents identified as non-binary (5 respondents).
29. The highest number of respondents at 87.7% (507 respondents) identified themselves as White – English, Welsh, Scottish, Northern Irish, British.
30. 14.1% (81 respondents) identified as disabled.

31. The results of the online survey were as follows:

- Street Urination & Defecation 83.07% for, 16.93% against
- Dog Fouling 96.8% for, 3.18% against
- Dog Control 91.62% for, 8.38% against.

32. Online survey respondents were also able to leave a comment. The following trends have been identified from the comments made:

33. Street Urination and Defecation

In response to the Street Urination and Defecation condition, 162 out of 346 (47%) people who made a comment, mentioned the need for better toilet provision. A selection of the comments is below:

“Due to the lack of public toilets available in the city, I understand why people feel the need to urinate in a quite spot, publicly. If there were more available toilets for tourists and residents in the city, I would support the prohibition”.

“Unless adequate public toilets are provided, this remains a problem but with strongly mitigating circumstances”.

“Fully support this but feel we need more public toilets open 24/7 as there are few options late at night”.

“Urination and Defecation in the streets is disgusting but happens on a weekly and possibly daily basis but mainly in the city centre

where the lack of public toilets at certain times of the day lead to people taking desperate measures. If public toilets are not available”.

“Public toilets need improvement in the city”

“Whilst I agree with the issue, the reason why 'some' people do it also needs to be addressed i.e. lack of access to toilets beyond opening hours of shops, cafes and pubs etc; insistence from majority of establishments that their toilets are for customers use only”.

“I live in city centre and I have asked drunk persons not to urinate on or close to my building countless time. However, unless there are public toilets accessible 24h, this measure might disproportionately affect certain groups of individuals, potentially discriminating against those sleeping rough”.

34. The council has recently invested in £65k to upgrade toilet facilities, including the provision of accessible toilets, in Acomb Front Street and at Silver Street. As part of the Changing Places scheme, a further £254,000 investment has also been made to provide specially built spaces for people with severe disabilities which provide a toilet, changing and shower place all in one accessible space, enabling carers with severely disabled relatives or children/ adults to change and clean people often in motorised wheelchairs.
35. However, provision of public toilet facilities is an ongoing challenge and expensive. Anti-social behaviour creates further difficulties in upholding cleansing and maintenance standards.
36. The Executive Member for Environment is clear that access to clean toilets is an essential hallmark of public health, and the number, location and management of toilets is therefore currently under review in the City Centre Spatial Strategy. The Executive Member set up a toilets stakeholder group last year to address the same issues as raised in this consultation.
37. The collaboration between city businesses, Market Traders, contract provider Healthmatic, York Access Forum, Age Friendly York, Make It York and York BID has been constructive, and the number of complaints has reduced over the time it has been operating.
38. As part of this work, the council is now consulting with businesses and organisations to find out if they would be willing to offer public access to their facilities, including seating, accessible toilet facilities and baby changing facilities. If successful this scheme has potential to grow over time, extending to those businesses operating within the Night-Time Economy.

39. As part of the city centre '*Choose Respect, Not Regrets*' campaign, signage will also be provided for use in venues to prompt people to use the toilet before they leave the premises.
40. Dog Fouling

272 comments were left in relation to the dog fouling proposal.

20 (7%) comments related to full dog poo bags being discarded rather than disposed of responsibly. These included:

"People should be fined for leaving the poo bags around".

"Please ensure this also covers the proper disposal of the poo-bag once picked up, e.g. so it's not left hanging on a tree branch"

"Dog owners should be held responsible for picking up their dog poo & taking home or putting in the street bin, not leaving or leaving the poo bags hanging in bushes or trees".

"Again, if there is no public campaign or signage next to/on bins (avoiding extra signage blighting areas) then we are not re-educating people. Dropping PLASTIC bags of dog faeces is as bad for the environment as the faeces. I've seen this next to the school on Camplashon Road! That really is a super offence with children around".

"As a household who suffer from dog walkers who feel they can throw their bags in our tree or simply let their dogs mess on our verge or driveway without cleaning it up I certainly want something done about it".

41. Dog Control

240 comments were made about the Dog Control proposal. These included:

"Much wider understanding of the nature of "control" is required. The authority and NYP should be proactive about this. It is an increasing problem. As a wheelchair user it seems to be normal for dogs to act aggressively to me".

"I am increasingly concerned about lack of control by some owners over their dogs and on occasion have been frightened".

"URGENTLY NEEDED"

"It may result in an expectation for the Council to investigate every loose dog that someone takes a dislike to, so might be hard to enforce. A lot of dog owners/people are scared of big dogs, when smaller dogs can be equally nasty and threatening. Will this



become prejudice to larger dogs who are doing nothing wrong but other walkers are scared regardless?”

- 42. A number of comments were also left on the council’s Facebook page and NextDoor. Views expressed reflected those of the online survey.
- 43. The proposal is also supported by the North Yorkshire Police Chief Constable and the Deputy Mayor for Policing, Fire and Crime who are both statutory consultees.
- 44. Ward and Parish Councillors were also notified of the consultation and sign-posted to the online survey. No additional comments were received.

## **Options Analysis and Evidential Basis**

- 45. Option 1: to implement the PSPO to include all 3 proposed conditions of Street Urination & Defecation, Dog Fouling and Dog Control. This option is based on the strong public support indicated by the online consultation results.
- 46. Option 2: Not to implement the PSPO.

## **Organisational Impact and Implications**

- 47. **Financial.** Should the PSPO be introduced there will be one off costs in producing and installing signs, which is estimated to be less than £1,000. This can be accommodated within the OPFCC funding to Safer York Partnership. 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 FPNs to be issued and revenue to be increased.

**Human Resources (HR).** There are no HR implications contained within this report. However, any impact on the Councils resources and / or structure that might arise should this citywide Public space Protection Order be implemented would need to be identified, assessed and implemented in line with Council policy.

**Legal.** The Council has power to make a PSPO where the statutory conditions set out in Section 59 of the Anti-social Behaviour, Crime and Policing Act 2014 are met. In summary there must be evidence that anti-social behaviour of the types addressed within the proposed order has occurred and that implementation of the order is proportionate to the detrimental effect that the behaviour is causing and is necessary to prevent it from continuing, occurring or recurring

The consultation exercise contained has been carried out in accordance with statute. There appears to be strong public support for implementing all elements of the PSPO.

Consultation responses in relation to public urination/defecation raise valid points regarding access to public toilets in the city centre, however this is beyond the remit of the PSPO and is a wider Council policy issue.

The proposed PSPO already contains an exception of “reasonable excuse” which offers officers a wide discretion for factors such as medical conditions to be considered, upon receipt of evidence. To amend the proposed PSPO to introduce further exceptions could potentially dilute the effectiveness of the Order and it is felt that the current wording is sufficient to cover most eventualities.

Concerns raised by consultees in relation to dog fouling and proper disposal appear to already have been addressed in the wording of the proposed PSPO, which states that dog waste must also be “deposited in an appropriate waste receptacle”. The wording of the PSPO is therefore considered adequate to address both the picking-up and disposal of dog waste. Failure to comply with either element would constitute a breach of the Order and result in an FPN and no amendments are proposed.

Comments arising from the consultation in relation to dog control were more varied. The term “proper control”, as used in the PSPO, is a term found in the Dangerous Dogs Act 1991. Whilst the term is not specifically defined in legislation, the Act makes clear that an order under section 2 of the Dogs Act 1871 (order on complaint that dog is dangerous and not kept under proper control) may be made whether or not the dog is shown to have injured any person. There is therefore an element of discretion as to what is considered “proper control”.

A PSPO can last for up to 3 years after which it must be reviewed.

**Procurement.** There are no Procurement implications.

**Health and Wellbeing.** There are serious health risks associated with dog fouling, and urination and defecation, and prevention of these in public spaces is essential so people have access to safe and clean outdoor spaces. Prevention of dog bites is an increasingly important public health concern due to the number of dog related injuries rising nationally and related costs to the NHS. Some evidence suggests that control measures, including the use of PSPOs, can contribute to a reduction in the number of dog related injuries. For these reasons public health support this proposal.

**Environment and Climate action.** A PSPO which reduces anti-social behaviour which impacts on the Environment is a positive step forward and will improve the environment for everyone.

**Affordability.** There are no affordability implications arising from this report

**Equalities and Human Rights,** A full EIA is attached at Annex A. Mitigations have been considered where the policy could have an impact on those with relevant protected characteristics.

**Data Protection and Privacy.** Data protection impact assessments (DPIAs) are an essential part of our accountability obligations and is a legal requirement for any type of processing under UK data protection and privacy legislation. Failure to carry out a DPIA when required may leave the council open to enforcement action, including monetary penalties or fines.

DPIAs helps us to assess and demonstrate how we comply with all our data protection obligations. It does not have to eradicate all risks but should help to minimise and determine whether the level of risk is acceptable in the circumstances, considering the benefits of what the council wants to achieve.

The relevant data protection work was carried out for the consultation which identified the data protections risks as well as the mitigations either in place or that needed to be put in place, to minimise these identified risks. However, this will be reviewed following the approved recommendations and options from this report and a further DPIA completed if required.

**Communications.** Communications acknowledges the outcome of the consultation and the content of the report. Communications will support the initial implementation of the scheme with a robust communications and stakeholder engagement plan. Communications is also prepared for any reactive statements that will be needed as part of this process.'

**Economy.** Introducing the PSPO and Fixed term notice will have a positive impact on how the city is experienced. It will help act as a deterrent to reduce unreasonable behaviour, helping the city be a more welcoming place for residents and visitors which continues to support the city's vibrant economy.

## Risks and Mitigations

48. No known risks.

## Wards Impacted

49. All wards.

## Contact details

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

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## Background papers

Report to Executive Member Decision Session. Housing, Planning & Safer Communities. 13<sup>th</sup> November, 2024.

City of York Council Corporate Enforcement Policy

[https://www.york.gov.uk/downloads/file/12341/cyc\\_public\\_protection\\_ho\\_using\\_and\\_community\\_safety\\_enforcement\\_policy](https://www.york.gov.uk/downloads/file/12341/cyc_public_protection_ho_using_and_community_safety_enforcement_policy)

Anti-social Behaviour, Crime and Policing Act 2014: Anti-social behaviour powers Statutory Guidance for Frontline Professionals. Home Office.

[https://assets.publishing.service.gov.uk/media/6422a19b60a35e00120cae63/2023\\_Update\\_ASB\\_Statutory\\_Guidance\\_-\\_FINAL\\_1\\_.pdf](https://assets.publishing.service.gov.uk/media/6422a19b60a35e00120cae63/2023_Update_ASB_Statutory_Guidance_-_FINAL_1_.pdf)

Local Government Association. Public Space Protection Orders. Guidance for Councils.

[https://www.local.gov.uk/sites/default/files/documents/10.21%20PSPO%20guidance\\_06\\_1.pdf](https://www.local.gov.uk/sites/default/files/documents/10.21%20PSPO%20guidance_06_1.pdf)

## Annexes

- Annex A: Equalities Impact Assessment (EIA)
- Annex B: Analysis of online public survey results
- Annex C: Evidential Basis
- Annex D: Draft Order

