

Appendix 1 –Proposed Measures, justification and consultation response/feedback

1. Consideration was given to measures reviewed in 2020 and the current data, as set out in the Safer Maidstone Partnerships Strategic Assessment. The following table provides a breakdown of the service requests received by the community protection team since 2020 when the current PSPO was introduced. The percentage shows the relative percentage of requests receive in comparison with the Community Protections Teams other responsive work, including ASB and Noise which amounted to around 1800 service requests in 2022, which are investigated alongside the teams’ proactive and licensing work (animal welfare and caravans).

Complaint type	2020	2021	2022	2022 %
Dangerous and Nuisance dogs (Not strays)	47	52	65	4%
Dog Fouling	30	28	47	3%
Straying and lost dogs’ enquiries	261	212	252	17%

2. Overall, this area of work does not give rise to a significant number of service requests, but in some case the issues can be emotive and perceived as dangerous by the public. Allegations of Dangerous Dogs (31) and Dog attacks on animals (21) make up a significant proportion of the 65 complaints. Kent and National statistics which show an even greater increase, with the topic receiving national press coverage. Specialists believe that an influx of new dog owners, driven by the pandemic, are struggling to control their dog’s behaviour. This has led to some high-profile cases nationally, which themselves will raise awareness and give rise to more complaints due to greater levels of fear. Specific cases, with local interest, did create multiple cases for the same incident/dog(s).
3. There is though, an expectation that local authorities will ensure appropriate measures are in place to encourage more responsible dog ownership. Dog fouling or dogs being out of control can give rise to highly emotive and challenging responses from residents. Maidstone has ensured that its PSPOs and the Dog Control Orders that this legislation replaced are robust and enforceable.

4. The following are the measures put forward for the public consultation. Further detail as to why these measures were proposed measures were put forward, the public response and any mitigation is provided in section 5.

- Measure 1 - **Continuation** of the offence of dog fouling including a requirement for persons in charge of a dog on public land and **introduce** a requirement for those in charge of a dog to demonstrate means of removing faeces (a bag or equivalent)
- Measure 2 - **Continuation** of existing dog control powers to include exclusion of dogs from all children's play areas, whether they are fenced or open, play areas, and tennis courts
- Measure 3 - **Continuation** of the current requirement to keep dogs on leads at both the Sutton Road Cemetery and at the Vinters Park Crematorium and **extending** the requirement to the Town Centre
Continuation of the current offence of failing to keep a dog under proper control
- Measure 4 - **Continuation** of the requirement for a person in charge of a dog to comply with a request from an authorised officer to put a dog on a lead when the dog is causing danger or concern.
- Measure 5- **Continuation** of the offence of failing to keep a dog under proper control, such as harming other animals or straying.
- Measure 6 - **Introduce** a limit on the number of dogs walked by one person at any one time to either four or six.
- **Continuation** of the current requirement for a person to give their name and address to an authorised officer when requested to do so, and to provide ID at the given time of request.
- **Continuation** - That all offences will be subject to prosecution or a £100 fixed penalty, the maximum laid out in the legislation.

5. The table overleaf provides further details on the proposed measures in the consultation and how the consultation response has been considered.

No.	Proposed Measure	%	Justification/mitigation
1	Remove dog faeces from land forthwith- Continuation of the offence of dog fouling	97.6 (905)	To reinforce the offence of fouling and to encourage more responsible dog ownership it was proposed to add a further requirement to prove, when challenged, that those people in charge of a dog have reasonable means to clean up any deposits.
2	Failure to prove, when challenged, the means to remove faeces forthwith - introduction of a requirement for those in charge of a dog to demonstrate means of removing faeces (a bag or equivalent)	83.2 (773)	Encouraging dog owners to carry more bags than they might need, as it's reasonable for dog owners to be prepared for any eventuality. It is not proposed or in the team's capacity to undertake random spot checks to catch out dog walkers and not having a bag is very unlikely to be deemed an offence without suspicion of fouling. However, it would be an additional factor for consideration, should enforcement action be taken for failing to remove faeces, and would create an additional offence for those who fail to clear their dog's faeces and without out reasonable excuse cannot demonstrate they had been equipped to do so. A standard operational procedure will be in place ensuring that officers understand how and when to use the additional element to the fouling offence. We will continue to promote the fact that litter bins can be used to dispose of bagged dog waste and educate people on responsible dog ownership through our animal welfare social media page, posters and local stencilling, which has proven both effective and popular when used previously. Fouling enforcement is undertaken through evidence led patrolling. Offences are enforced robustly when they are witnessed by an officer or when evidence is provided by a third party that meets the evidential threshold.
2	Exclusion of Dogs from Play Areas and Tennis Courts - Continuation of existing dog control powers to include exclusion of dogs from all children's play areas, whether they are fenced or open, play areas, and tennis courts	92.1 (855)	It was proposed a continuation of exclusions of dogs from children's play areas and tennis courts. Whether they are enclosed or not. Exclusion areas will be indicated in locations with signage and, where appropriate, a map. An interactive map showing the locations was provided with the consultation. Additional areas were considered based on complaints. Whilst some areas do have occasional issues there were none where it was deemed necessary to have an enforceable restriction that could be reasonably be patrolled/managed. Other playing surfaces and leisure areas, such as football pitches or parks vary significantly across the borough and have led to very emotive local responses. In most cases a voluntary scheme developed with local dog owners would be more appropriate, without creating an enforcement burden/expectation. Enforcement is evidence led and appropriate action will be taken on a case-by-case basis.

3	<p>Keep Dogs on Leads in the Town Centre, Vinters Park Crematorium and the Sutton Road Cemetery- Continuation of the current requirement to keep dogs on leads at both the Sutton Road Cemetery and at the Vinters Park Crematorium and extending the requirement to the Town Centre Continuation of the current offence of failing to keep a dog under proper control.</p>	<p>96.7 (893) Cemetery/ Crem</p>	<p>It is proposed continue the current requirement to keep dogs on leads at both the Sutton Road Cemetery and at the Vinters Park Crematorium. This will continue to protect visitors, staff and places of memorial. Encouraging dog owners to be responsible and keep dogs on a short lead, affords the owner greater control of their dog in these sensitive locations.</p>
		<p>88.9 (823) Town Centre</p>	<p>It is also proposed to extend this requirement to the Town Centre. The Town Centre Task Force, which includes representatives from One Maidstone and Kent Police identified growing concerns in regard to dogs being walked of lead in the Town Centre. The nature of the town, including but not limited to the volume of people (including children), food establishments (including those with "al fresco" dining), ornamental parks and gardens and larger vehicle creates an environment where greater control is needed. This includes residents in the town and their dogs who should choose to exercise their dogs off lead away from the areas outlined in the map. The consultation did however highlight that Whatman Park and Trinity Park offer residents of the High Street and other nearby wards with a space to exercise their dogs and they will therefore be excluded. Brenchley Gardens, as an ornamental garden, will not be excluded and dogs will be required to be exercised on a short lead. A short lead would be a fixed lead that is approximately 4ft (1.2m) in length. However, someone could have a longer or extending lead, but have it held or locked at an equivalent short length, so that the dog is under close control. Appropriate signage will be displayed in the town centre and education will be used in the first instance to obtain compliance, with enforcement used when individuals repeatedly or blatantly ignore the advice offered.</p>
5	<p>Dogs on Leads by Direction- Continuation of the requirement for a person in charge of a dog to comply with a request from an authorised officer to put a dog on a lead when the dog is causing danger or concern.</p>	<p>97.3 (903)</p>	<p>It was proposed to continue to authorise officers to be able to require an owner to put and keep a dog on a lead. This power is used where the officer believes it necessary to prevent or stop a dog from causing nuisance, injury or disturbance to any other person, a bird or another animal so as to cause distress to those in the vicinity. This instruction can be given verbally and will apply for as long as the officer deems it appropriate to reduce the immediate risk. Longer term requirements to keep a dog on a lead, or the use other behaviour control devices, such as muzzles, will be provided in writing using community protection powers.</p>

6	Keep Dogs Under Proper Control- Continuation of the offence of failing to keep a dog under proper control.	97.0% (89)	<p>It is proposed to continue the offence of failing to keep a dog under proper control. This power to challenge those who allow their dogs to cause harm. Dogs that are not under control can have a significant impact on an individual, or the community. Witnessing or dealing with the aftermath of an out-of-control dog can be very upsetting, particularly if that involves dogs or other animals. This provision is not proposed to protect animals directly, as that is not in keeping with the purpose of the legislation, but we are able to evidence the impact dogs that are not under control have. This is not limited to where they are involved in attacking or being attacked by other animals. Straying dogs can impact communities by defecating and causing alarm and distress whilst loose, particularly when near children or older people. They also become the burden of those who find them until they are able to pass them on to the local authority or back to the owner. They can also cause road traffic accidents, harm other animals or can be injured themselves, which can be distressing to those people that find or cause the injury.</p> <p>There are other powers linked to dog control, for example where dogs that are not under proper control cause fear, harm or distress to people, this can also be considered under the Dangerous Dogs Act 1989. Whilst dogs that are not under control can also injure animals, including other dogs, it is only an offence, under DDA 1989, when it involves an assistance dog. But this can give rise fear and distress, particularly when witnessed and is therefore in scope of the legislation. It should also be noted that dogs and other pets are considered a thing or article in law. Damage to them, unless they are an assistance dog, is a civil matter costs incurred as a result of an attack are outside the scope of the local authority's powers.</p> <p>This element of the PSPO can be used alongside similar offences on the statute and strengthens the local authority's ability to promote and require responsible dog ownership. The officers will assess the evidence provided and use the appropriate legislation, either in isolation or not, to ensure the appropriate and proportionate steps are taken to address irresponsible dog ownership.</p>
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7	Maximum number of dogs to be walked at any time- Introduces a limit of four dogs for private individuals, extending to six for professional dog walkers and licensed dog boarders.	78.2 (726)	<p>It was proposed to introduce of a new measure which would limit the number of dogs which can be reasonably walked by one person at any one time. Although very much breed dependant, it can be possible to walk more than two dogs at any one time, whether that is socially or as part of a business. However, the more dogs, the less control a walker has over the behaviour of individual dogs. This can create challenges when removing faeces or when meeting other dogs. In January, a dog walker from Surrey was tragically killed by the dogs she was walking. 8 dogs were seized following the incident.</p> <p>With growing incidents of dog attacks and increasing reports of irresponsible dog ownership, the consultation asked owners to consider whether it is now appropriate to limit the number of dogs being walked by one person to either 4 or 6. This measure does not restrict people from owning or caring for more than 4 or 6 dogs, but would ask that they do not exercise more than 4 or 6 of them at a time.</p> <p>Taken into consideration the responses provided, particularly that of the Kennel Club it is proposed to restrict the number of dogs walked by a private individual to 4. To protect dog related businesses, like boarding kennels, breeders and dog walkers, we have an established professional dog walking scheme. This allows us to verify the qualifications, processes and insurances are in place to protect the dogs in their charge and the community at large. Businesses registered as a professional dog walker or as a licensed boarder (inc. home boarding or day-care) can walk up to 6, which for licensees is the maximum stipulated by DEFRA in their licence conditions.</p> <p>Enforcement will be evidence led and advice will be given in order to educate those who are reported in the first instance as part of a gradated approach.</p>
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N/A	<p>Continuation of the current requirement for a person to give their name and address to an authorised officer when requested to do so, and to provide ID at the given time of request.</p>		<p>It was proposed the continue of the current requirement for a person to give their name and address to an authorised officer when requested to do so in relation to any of the measures outlined in the Public Space Protection Order. There is no specific mechanism in the Anti-social Behaviour Crime and Policing Act 2014 to require any person accused of an offence made by a PSPO, to provide their details. This creates a barrier to enforcement and whilst not a measure in its own right, it allows us to include under each measure the following statement:</p> <p style="text-align: center;">“It is an offence to fail to provide, when asked by an authorised officer, a name and address in relation to [inset measure details]</p> <p>This supports us in our investigations and will allow us to use police support to obtain true identity at the time or retrospectively where necessary.</p>
N/A	<p>Continuation - That all offences will be subject to prosecution or a £100 fixed penalty, the maximum laid out in the legislation.</p>		<p>It was proposed to continue to set the fixed penalty notice level at £100. As with many offences, the legislation allows the local authority the opportunity to offer someone they believe to be guilty of an offence the opportunity to discharge their liability (avoid prosecution and a criminal record) by paying a fixed penalty. The relevant legislation states that the maximum level for a PSPO fixed penalty is £100. Keeping this level is in line with other anti-social and environmental crimes. We withhold the right to not offer a fixed penalty where the offence or behaviour is such that a criminal outcome is deemed proportionate and necessary.</p>