

Explanatory Notes

Dog Control Public Space Protection Order (PSPO)

Flintshire County Council is launching a consultation on plans to extend a Public Space Protection Order (PSPO) relating to dog control measures on public land.

FCC intends to bring in the Public Space Protection Order under powers introduced by the Anti-Social Behaviour and Policing Act 2014. The order will extend the existing dog control order relating to dog fouling.

Why have a Public Space Protection Order (PSPO)?

A minority of dog owners do not always behave responsibly when walking their dogs in the community and complaints have been made on the issue and dog fouling and nuisance behaviour that are not under proper control.

The order will bring a number of benefits to help achieve cleaner and tidier communities in Flintshire leading to a more pleasant environment, ensure cleaner sporting and play areas for children and adults and reduce the likelihood of serious health problems associated with dog faeces. The order will actively pursue the promotion of responsible dog ownership through reasonable and proportionate compliance.

The PSPO intends to,

- Require dog owners to remove dog faeces from all public land.
- **Exclude** dogs from:
 - Marked sports pitches
 - Designated sports areas, (bowling greens, tennis courts, Multi Use Games Areas etc)
 - Fenced children's play areas
 - School Grounds
- Require dogs to be kept on a lead in Cemeteries
- Ensure owners have on their person a means to collect dog waste from the ground.

What will the proposed order require?

The Order will require the person in charge of a dog to clean up after it immediately, if their dog defecates on any public land where the order applies. The person in charge of a dog must also have means to collect any faeces its dog may deposit if asked to produce it by an enforcement officer.

What land will this apply to?

The requirement to clean up after your dog will apply to all public places in Flintshire. A public place means any place open to the air 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.

Does this apply to land that is not owned by Flintshire County Council?

Flintshire County Council shall be consulting with all community councils and schools within the county for permission to be granted for enforcement of the final PSPO to take place on land that they control.

Enforcement will not take place on private land but may in the future if there are sufficient complaints and following consultation with the relevant land owner.

Are Rights of Way Covered?

Yes, public rights of way qualify as land which is open to the air and to which the public are entitled or permitted to have access.

What steps can I take to make sure that I comply with the Order?

When you are out walking your dog it will be your responsibility to watch your dog at all times and to ensure you clean up after it. Being unaware of the defecation, or not having a suitable means of removing the faeces, is not a reasonable excuse for failing to comply with the order.

We would advise you to take a sufficient supply of the means to clear any mess made by your dog.

Where should I dispose of dog waste?

If your dog defecates on public land, the bagged dog waste can be placed in any Flintshire County Council litter bin or dog waste only bin.

Will there be any exemptions for persons with protected characteristics?

Flintshire County Council will ensure the Public Space Protection Order is compliant with the Equalities Act, and will complete an Equalities Impact Assessment before any order is enforced. Any exemptions for persons with protected characteristics would be included within the final order.

Dog Exclusion

Fenced Children's Play Areas

The proposed order would exclude dogs from all outdoor, enclosed children's play areas within Flintshire to prevent dog mess and dogs from being out of control or frightening children. Such areas would have signage erected to inform that dogs are prohibited.

What is a Children's play area?

A children's play area, is an enclosed area that is set aside for children to play in and contains play equipment such as swings, slides, climbing frames and similar apparatus.

Where does the order apply?

The order would only apply to children's play areas that are enclosed on all sides by fences, gates, walls or other structures that mark the boundary of the play area. This will make it easy for people to identify the extent of the area where dogs are not allowed.

If there is a children's play area within your local park that is fenced off from the rest of the park, dogs would not be allowed into the fenced off play area, but would not prevent you from taking your dog into the rest of the park.

Why Does the Council want to exclude dogs from Enclosed Children's play areas?

The council believes that children should be free to play on the equipment provided in these areas without the fear of treading in or coming in contact with dog faeces or dog urine. Dogs taken in to children's play areas may also become aggressive if startled. Some children may be frightened of dogs whatever breed or size.

School Grounds

Why should dogs be excluded from all property and land belonging to the Education authority of Flintshire County Council?

School grounds are required to be safe areas for children and students to frequent. The locations always provide grassed areas for the children to play on and participate in sports activities. Inconsiderate owners do allow their dogs to foul on school grounds that can expose humans to disease.

Consultation will take place with each school and locations where the PSPO would be in force would be appropriately signed.

What happens if there is a public footpath running through the School ground?

It would be permissible to walk your dog under control on a public footpath that runs through educational property. The dog must remain under control on the footpath at all times.

Must the Path be a Public Footpath or can it be any path?

The path must be a public footpath with a public right of way.

Can dogs be taken onto school grounds when children are not in school?

No, the prohibition will apply at all times.

Marked Sports Pitches

The order proposes to exclude dogs from the playing areas of Marked Sports Pitches. The areas are used by sports teams who frequently have to check the pitches for dog faeces before playing a match due to inconsiderate dog owners.

Am I allowed to take my dog to the playing field which contains a marked sports pitch?

Yes, in the areas surrounding the boundary of the marked sports pitch dogs would be permitted to be exercised, dogs will solely be excluded from entering the playing area.

What Land does this apply to?

This part of the order will apply to all public sports pitches in the County of Flintshire. Following Consultation with the relevant land owner this may also include those sites controlled by Community Council's and within School Grounds too. Signs would be present on all sites where exclusions apply.

Designated Sports Areas

The same issues for prohibiting dogs must apply. The prohibition of dogs from playing surfaces of bowling greens and tennis courts speaks for itself. Dogs would be permitted in the surrounding areas.

Multi Use Gaming Areas (MUGA's)

Why should dogs be prohibited from these areas?

The areas are solely for individuals to participate in sporting activities where dogs would be without purpose.

Dogs on a Lead by Direction

What Does This Mean?

This part of the order would allow authorised enforcement officers of FCC or contracted enforcement officers to issue a direction requiring a person in charge of a dog to place it on a lead.

When can I be asked to put my dog on a lead?

A request to put a dog on a lead would **only** be made where an authorised officer believes that such restraint is reasonably necessary to prevent a nuisance, or the behaviour by a dog that is likely to cause annoyance or disturbance to any other person, or likely to endanger the safety of any person or road user.

You will not be required to place your dog on a lead if it is not causing or likely to cause a nuisance or annoyance to others.

Why does the Council want to be able to do this?

The Council recognises that the vast majority of dog owners are responsible and keep their dogs under control whilst taking them on public land. However those that are not properly supervised and kept under control can cause nuisance and at times injury to members of the public and to other animals.

Having the power to require someone to place their dog on a lead when it is causing a nuisance will give Flintshire County Council an effective tool to prevent any such problems.

What land will this apply to?

This part of the order will apply to all public places in Flintshire. For these purposes a 'public place' means any place in the open air 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.

Dogs on a Lead

Cemeteries

The expectation shall be that dogs *will* be required to be kept on leads in a cemetery. The consequences of dogs being allowed to roam free could lead to dogs urinating or defecating on graves causing an unpleasant environment in a very sensitive area. Responsible dog ownership is encouraged in cemeteries as many people wish to take their dog when visiting the graves of loved ones.

Enforcement

What happens if I fail to comply with any part of the Order?

If the person in charge of a dog fails to comply with the requirements of the order, they would be committing a criminal offence unless they have the consent from the owner, or occupier or person in charge of the land not to comply with the order, or they have a reasonable excuse for failing to comply or they fall within any exemptions within the order, such as any exemptions under the Equalities Act.

There must be sufficient evidence submitted to show that an offence occurred beyond a reasonable doubt before action can be taken.

Can I be issued with a Fixed Penalty Notice?

Yes, a fixed penalty notice may be issued to a person who breaches this order, offering them an opportunity to avoid prosecution by making a one off payment of £75.

When does the fixed penalty have to be paid?

It must be paid within 28 days from the date of the issuing of the ticket.

What happens if I don't pay my fixed penalty?

If you fail to pay the fixed penalty notice within the permitted period, it is likely that you will be prosecuted in the magistrate's court.

What is the maximum penalty for breaching the order?

A person who is found guilty of an offence in the magistrate's court is liable on summary conviction to a fine not exceeding level 3 on the Court's standard scale of fines (currently £1000).

The circumstances must pass the full evidential code and be in the public interest before a Fixed Penalty Notice (FPN) is issued or a prosecution follows.

Who is considered in charge of the dog?

The person who has a dog in their possession is deemed to be in charge of the dog at the time when the offence occurs. That person does not have to be the owner of the dog.

This means that if your dog defecates in a public place, enters into a equipped child's play area, the boundary of a marked sports pitch or designated sporting area or breaches the order in any way it is the person who is in control of the dog at that particular time that is responsible. If you have allowed someone else to take your dog out for a walk, they will be in charge of it for the duration of the walk.

Who will enforce the PSPO?

The enforcement of the orders will be carried out any person authorised by Flintshire County Council, including contracted enforcement companies.

How will the public know that an order is in place in a specific location.

There will be sufficient, clearly marked signs positioned in locations where the order is in force.

How long will the order last for?

The order will last for a period of 3 years, but it may be extended by the Council if considered necessary. If the order is varied or extended in any way a period of consultation will be undertaken to seek the views of the public and any relevant stakeholders.

Why is the Order in Force?

It is believed that the proposed Public Protection Order is a fair response to deal in a measured way with the current problems that are experienced within the County. Such an order is necessary and proportionate in terms of the controls that it imposes and is not designed to be discriminatory against dogs or dog owners.