

CABINET MEETING – 14 MARCH 2024

EXECUTIVE SUMMARY SHEET – PART I

Title of Report:

Review of City-Wide Public Spaces Protection Order

Author(s):

Executive Director of City Development

Purpose of Report:

To advise Cabinet of the outcome of the review of the current City-Wide Public Spaces Protection Order (PSPO) and seek approval for the implementation of a new PSPO for 3 years.

Description of Decision:

Cabinet is asked to:

- a) endorse the introduction of the prohibitions/requirements set out in paragraphs 5.9 - 5.26 and agree to omit the measures set out in 5.27 - 5.28 of the report in the making of a new 3-year City-Wide PSPO.
- b) agree to retain the fixed penalty amount at the current level for breaches of the PSPO, which is currently set at £100, reduced to £75 if paid within 10 days as set out in paragraph 6 of the report; and
- c) authorise the Executive Director of City Development, in consultation with the Deputy Leader of the Council and the Assistant Director of Law and Governance, to determine the final form of the PSPO and to take all steps in connection with the making of the PSPO.

Is the decision consistent with the Budget/Policy Framework?

Yes

Suggested reason(s) for Decision:

The suggested reason for decision will ensure the Council can continue to utilise all the powers available to them to address non-law-abiding behaviour and environmental crime in the city ensuring the area continues to be a pleasant one to visit, work and play. The proposed PSPO is based on complaints, service requests, intelligence, resident surveys and the outcomes of the PSPO consultation.

Alternative options to be considered and recommended to be rejected:

The recommended options are based on evidence and consultation. The only other option would be not to have a PSPO for the City, however the Council would therefore weaken its ability to tackle anti-social behaviour, protect the community and respond to a range of issues which residents have stated are important to them.

Impacts analysed;

Equality Y Privacy Y Sustainability Y Crime and Disorder Y

Is the Decision consistent with the Council's co-operative values?	Yes
Is this a "Key Decision" as defined in the Constitution?	Yes
Is it included in the 28-day Notice of Decisions?	Yes

REVIEW OF CITY-WIDE PUBLIC SPACES PROTECTION ORDER

REPORT OF THE EXECUTIVE DIRECTOR OF CITY DEVELOPMENT

1. Purpose of the Report

- 1.1 To advise Cabinet of the outcome of the review of the current City-Wide Public Spaces Protection Order (PSPO) and seek approval for the implementation of a new PSPO for 3 years.

2. Description of Decision

- 2.1 Cabinet is asked to:
- 1) endorse the introduction of the prohibitions/requirements set out in paragraphs 5.9 - 5.26 and agree to omit the measures set out in 5.27 - 5.28 of the report in the making of a new 3-year City-Wide PSPO
 - 2) agree to retain the fixed penalty amount at the current level for breaches of the PSPO, which is currently set at £100, reduced to £75 if paid within 10 days as set out in paragraph 6 of the report; and
 - 3) authorise the Executive Director of City Development, in consultation with the Deputy Leader of the Council and the Assistant Director of Law and Governance, to determine the final form of the PSPO and to take all steps in connection with the making of the PSPO.

3. Introduction / Background

- 3.1 As part of the citywide public consultation Let's Talk Sunderland exercise in 2020 residents identified that feeling safe and the need to address environmental issues and anti-social behaviour in their neighbourhood were important to them.
- 3.2 As a result, the Council and partners adopted a proactive approach to dealing with many of those issues by using a range of existing tools and powers available. In support of wider powers, the Anti-Social Behaviour, Crime and Policing Act 2014 ("the Act") provided a mechanism to introduce further enforcement powers, as a result, following appropriate consultation, a Sunderland City Centre PSPO, first came into force in October 2014 which was then replaced by a City-Wide PSPO in May 2021.
- 3.3 PSPOs are intended to limit and restrict activities which cause nuisance or lead to problems for a community, and as such allow councils to make restrictions on activities which are judged to have a detrimental effect on the quality of life in an area. They replace previous controls on the drinking of alcohol in public places and matters such as dog fouling and the keeping of dogs on leads, but a range of other activities can also be addressed, depending upon particular local issues. By design PSPOs are planned to

allow people to enjoy open public spaces free from nuisance and anti-social behaviour.

- 3.4 The responsibility for making a PSPO for Sunderland rests with the Council. The Council must, prior to making an order, be satisfied, on reasonable grounds, that activities 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 and that the effect, or likely effect of the activities, and:
- is, or is likely to be persistent or continuing;
 - is or is likely to be such as to make the activities unreasonable; and
 - justifies the restrictions imposed.
- 3.5 Before making a PSPO, the Council must carry out consultation with the Police, the Police and Crime Commissioner, the owners and occupiers of any land included in the PSPO which is not in Council ownership and wider consultation with representatives from the local community. It must also publish the draft PSPO in accordance with Statutory Regulations.
- 3.6 Where a PSPO is in force, an offence is committed by any person who, without reasonable excuse, does anything that they are prohibited from doing by the PSPO or fails to comply with a requirement to which they are subject under the PSPO. In the case of alcohol consumption, an offence is committed only when a person fails to comply with a direction issued by a Police Officer or other authorised officer to cease consuming the alcohol and/or to surrender any alcohol/container of alcohol.
- 3.7 In most of cases of a breach of PSPO, a fixed penalty notice will be issued in the first instance to anyone over the age of 18 years, who is witnessed breaching any restrictions within the PSPO by an authorised officer. In Sunderland the fixed penalty amount is currently set at £100, which is reduced to £75 if the payment is received within 10 days. Failure to pay the fixed penalty notice is a criminal offence, which can lead to prosecution, with a maximum fine of £1,000 at the Magistrates Court. The level of the fixed penalty is considered in paragraph 6 of this report. In some cases where offenders are already known or have already breached the PSPO these cases will be progressed straight to prosecution.
- 3.8 Littering and fly tipping offences are not proposed to be covered by the PSPO as these are already dealt with under the Environmental Protection Act 1990.
- 3.9 A PSPO can be introduced for a maximum of 3-years at which time it must then be renewed, or it would cease. The Council has the power to remove specific prohibitions or end a PSPO early, for example if an activity no longer existed. If significant new issues arose during the PSPO lifetime then the Council can also take steps to modify the requirements/prohibitions.
- 3.10 In March 2021, Cabinet agreed the implementation of a City-Wide PSPO for 3 years (**SEE APPENDIX A & B**). The current PSPO includes the following prohibitions/requirements:

- Consumption of alcohol in a public place, causing or likely to cause anti-social behaviour;
- The use of psychoactive substances in a public place;
- Anti-social/nuisance behaviour linked to street trading and peddling;
- Restrictions on unauthorised street events on adopted highways;
- Anti-social and or aggressive begging;
- Anti-social use of skateboards, bicycles and stunt bicycles causing damage to property and/or nuisance or annoyance to other persons;
- Anti-social riding of a motorcycle, moped or quad bike in an open public place including bridleways and footpaths;
- Feeding of gulls and pigeons;
- Waste on land;
- Bin raking activity;
- Removal of shopping trolleys (Washington Only)
- Urinating and defecating in public places
- Spitting and discarding chewing gum; and
- Dog fouling, dogs not kept under control and the presence of dogs in prohibited areas.

4. Current Position

- 4.1 The Council's current PSPO is due to end in April 2024. As part of the PSPO review process as explained in Section 3 of the report, any PSPO must be subject to consultation with statutory partners, residents and any other relevant parties.
- 4.2 The purpose of the review process is to determine with key partners if the restrictions in the current PSPO are still relevant and if there are any opportunities based on evidence to include additional measures. Public feedback must also be considered.
- 4.3 An online public consultation process commenced on the 27 November 2023 and concluded on the 7 January 2024 (**APPENDIX C**)
- 4.4 In addition to the online public consultation, the following have also been consulted:
- Northumbria Police
 - Tyne & Wear Fire and Rescue Service
 - Police and Crime Commissioner
 - Business Improvement District
 - Altogether Better
 - Gentoo
 - Public Health
 - Cemetery Improvement Board
 - Relevant internal departments
 - Bridges Sunderland
 - Kennel Club

- Trolley wise
- Collex

4.5 The online consultation with residents and businesses was promoted through the Sunderland Echo, Council Resident Newsletter, elected members and the Council website and social media.

4.6 The consultation requested views on the existing PSPO measures but also a range of additional reported anti-social behaviours with some new and amended prohibitions/requirements.

5. Summary of Consultation Results Evidence and Proportionality

5.1 In total, the Council received 174 responses to the online consultation which ran for 6 weeks. **Appendix C** captures the questions asked and responses provided as part of this consultation.

5.2 Robust evidence is essential when considering whether a city wide PSPO is appropriate. The Council needs to be satisfied that the evidence demonstrates the need for any proposed prohibitions.

5.3 All proposed prohibitions are based on: -

- 1) number of complaints and service requests reported to the Council and partners e.g. Northumbria Police, Public Health, Gentoo
- 2) intelligence received from elected members, MP's, residents a businesses
- 3) Council Resident Survey results; and
- 4) Northumbria Police Public Insight Reports.

5.4 The proposed PSPO is seeking to address issues which the public have told us impact on their quality of life and feelings of safety. It's therefore envisaged that the proposed restrictions will have a significant impact on improving community cohesion and wellbeing.

5.5 The Council's Resident Survey results in 2022, and most recently 2023, told us that anti-social behaviour remains a top priority for residents and one that needs improvement on how the Council deal with issues.

5.6 The most recent Safer Communities Survey (December 2022 - 2023) carried out by Northumbria Police has highlighted a significant increase in residents who said that crime and ASB is a problem in their neighbourhood. The top ten priorities residents highlighted as the biggest issues for Southern Area Command (Sunderland & South Tyneside) are:

- Mini moto's/off road bikes
- young people being rowdy in public places
- Car crime
- People using or dealing drugs
- Dangerous driving
- Nuisance Neighbours

- Rubbish or litter lying around
- vandalism/graffiti
- dog fouling
- inconsiderate parking

5.7 It is anticipated that the measures set out in paragraphs 5.9 to 5.26 will assist the Council and relevant partners to address and alleviate the main concerns of residents.

5.8 There were several respondents who left additional feedback when completing the PSPO consultation, it is considered that this further strengthens, and evidences the requirement for the measures below.

5.9 **Measure 1** (in current PSPO) which relates to a Police Constable or authorised officer having the powers to confiscate alcohol was supported by **93%** of those who responded,

Drunk and rowdy behaviour is highlighted as an issue in the Northumbria Police Safer Communities Survey. It is evident from reports that our open spaces such as parks and our beaches suffer from these issues throughout the year.

There is a direct causal link between the behaviour of street drinkers and unlawful or anti-social behaviour which is characterised by drinking in the street, parks, vacant land or private land in groups or singly, littering the streets etc., fighting, aggressive behaviour, urinating and on occasions defecating.

5.10 **Measure 2** (in current PSPO) relates to the use of Psychoactive Substances which makes it an offence for any person to use or consume any intoxicating substances and was supported by **95%** of those who responded.

Psychoactive substances are designed to replicate the effects of other illegal drugs and have the capacity to stimulate or depress the central nervous system. This is due to one or more chemical substances used in the manufacturing process, and the effects of taking them can cause erratic behaviour which can be anti-social as well as lead to physical and mental health issues.

Similar to the consumption of alcohol, it is often the effects of individuals 'using', that members of the public are negatively impacted by.

The inclusion of clear prohibitions relating to alcohol and psychoactive substances demonstrates a firm commitment that public spaces will remain free from anti-social behaviour, ensuring that people who live, work and visit the city feel safe.

5.11 **Measure 4** (in current PSPO) restricts unauthorised events being held on adopted highways by non-charitable, non-educational or profit-making organisations and was supported by **83%** of those who responded.

Sunderland is a vibrant, dynamic, future-forward city which holds hundreds authorised events each year.

This restriction is required to ensure that the city and streets are managed effectively to encourage economic growth, while still protecting the rights of residents and visitors from fraud and nuisance.

There are other issues that can be attributed to unauthorised events which can include littering, obstruction of the highway, harassment, food hygiene issues with no running water, odour nuisance and a lack of reprisal when the goods and services are of a sub-standard quality.

- 5.12 **Measure 5** (in current PSPO) prevents the use of a skateboard, scooter, bicycle, self-propelled vehicle or use skates in such a manner that would cause damage to property or cause annoyance to other people in the area and was supported by **87%** of those who responded.

Police and Council surveys have consistently highlighted vehicle related disorder as a prominent issue for residents. The Safer Communities Survey (SCS) is a telephone survey conducted by Northumbria Police where residents are asked about their perceptions of their local areas and the services provided by the Police and Council. During the 12 months through to September 2023, 'Mini-motos / Scramblers / Off-road motorbikes' was the problem residents identified most frequently when they were asked which problem they wanted to see tackled first, (selected by 18% of residents that identified a problem in their local neighbourhood).

The Council carries out a resident survey annually led by Ipsos which is a postal survey to a random address sample. Results from 2022 & 2023 show that tackling anti-social behaviour remains a top priority for residents, and that feelings of safety both in the city centre and local area had decreased since 2021. In addition, the survey asks residents to explain in their own words why they feel unsafe. Although these have not been coded and quantified, they provide a sense of some of the issues that are concerning residents. In addition to the similar concerns listed from 2021, in 2022 there was a noted increase in mentions of joy riding/bikes on roads in the responses. that tackling anti-social behaviour remains a top priority for residents, and those feelings of safety both in the city centre and local area had decreased since 2021. In addition, the survey asks residents to explain in their own words why they feel unsafe. Although these have not been coded and quantified, they provide a sense of some of the issues that are concerning residents. In addition to the similar concerns listed from 2021, in 2022 there was a noted increase in mentions of joy riding / bikes on roads in the responses.

It is also noted that the Police's Southern Area Command have experienced a 55% increase in motorcycle disorder in this current 12-month period when compared to the same period in 2021/22 with a rise from 1238 to 1917 incidents.

In response to this, a joint pilot taskforce has been established to address vehicle disorder across Northumbria Police Southern Area Command. A team comprising 1 Police Sergeant, 5 Police Constables, 1 Police Community Support Officers and 2 Anti-Social Behaviour Officers (1 from Sunderland Council and 1 from South Tyneside Council) are co-located in Washington Police Station and provide a dedicated response to any anti-social behaviour or criminal use of motorcycles or e-bikes. All 5 Area Committees have contributed funding for Sunderland's Anti-Social Behaviour Officer. The inclusion of these measures in the PSPO will ensure the taskforce can utilise all powers available to them will also and contribute to pedestrian safety and the preservation of public spaces.

- 5.13 **Measure 6** (in current PSPO) makes it an offence for any person to deposit food to feed or attract seagulls and pigeons in a public place and was supported by **79%** those who responded.

Food left uneaten attracts vermin, who come to rely on it and remain in the area – such as rats which are dangerous for children. The Council have issued 7 fixed penalty notices in relation to this issue and officers feel this should remain in the new PSPO as reports continue and without it, no enforceable action can be taken under existing legislation. It is also likely that this will lead to and exacerbate the increase of vermin in the Council's parks, open spaces, destination sites etc. which will also have adverse consequences for the proper upkeep of these areas and discourage the use of said areas.

- 5.14 **Measure 7** (in current PSPO) requires that all household waste is correctly presented for refuse collection, was supported by **81%** of those who responded.

In June 2022, the Council introduced a no side waste policy. The policy supported the effective and efficient management and collection of household waste, whilst also providing other environmental benefits. This measure will assist with the no side waste policy, which will ensure that household waste is only presented for collection, in a manner prescribed by the Council. Additionally, it should help reduce the amount of household waste, which is incorrectly being put out for collection, encouraging residents to present their waste in an appropriate and timely way. It is hoped that this will also increase recycling rates.

- 5.15 **Measure 8** (in current PSPO) makes it an offence if any person(s) engage in 'bin raking', which is the searching of and/or taking any items from rubbish bins, which was supported by **85%** of those who responded.

Bin raking has a detrimental effect on the amenity of our neighbourhoods and city centre. Often bags removed from waste receptacles are opened with their contents being strewn in the immediate area, which not only impacts on council resources in terms of clearing and cleaning the area but also, if the waste is putrescible and not removed in a timely fashion, can build up and become a risk to human health as well as attracting vermin to the area. Bin

rakers are often looking for semi valuable items from household and business bins to clean up and sell on, or to get personal details. This restriction will enable us to deal with these issues which can often lead to identity fraud.

5.16 **Measure 9** (in current PSPO) will not allow any person to remove shopping trollies from designated retail areas within Washington which may cause a nuisance or danger to pedestrians or other highway users, which was supported by **84%** of those who responded.

5.17 **Measure 9a** (new proposed measure) asked if measure 9 should be extended city wide, which was supported by **93%** of those who responded.

Measure 9 was introduced to tackle issues associated with shopping trolleys being removed from retailer's premises, which were then being left abandoned in the Washington area. Dumped trolleys not only create an eyesore but also pose safety risks to pedestrians, obstruct public spaces, and contribute to environmental degradation. Abandoned trolleys additionally attract anti-social behaviour such as arson and fly-tipping.

Since the introduction of the measure 9 in April 2021, 22 Fixed Penalty Notices have been issued and 1 successful prosecution. Throughout this time, officers have liaised with retailers at the Galleries Shopping Centre and Peel Retail Park, along with Trolley Wise and Collex, who provide an abandoned trolley retrieval service to some of the retailers who have stated this issue has improved. The actions have received positive feedback from Councillors and residents.

The retailers at the Galleries Shopping Centre and Peel Retail Park have said that they would welcome this restriction being introduced in other parts of the city where they have stores. These proposals are detailed in measure **9a**.

The retailers, who provided feedback are listed below:

- Asda Local store, The Galleries, Washington NE38 7NF
- M&S simply food local store, The Galleries, Chapel Park, Washington NE38 7SD
- Sainsburys, The Galleries, Washington centre, Washington, NE38 7RU
- B&M, Peel Retail Park Unit 10 Peel Centre, Peel Retail Park, Washington, NE37 2PA
- The Food Warehouse, Peel Retail Park, Washington, NE37 2PA
- Lidl, The Peel Centre, Peel Retail Park, Washington NE37 2PA
- Aldi, Galleries Retail Park, Washington, NE38 7RW
- Wilkinsons, Unit 65-68 The Galleries, Washington, NE38 7RU
- Home Bargains, The Galleries, Parkway, Washington, NE38 7SD

Prohibited locations across the city will be determined in advance of making the legal order.

- 5.18 **Measure 10** (in current PSPO) makes it an offence for person to urinate or defecate in any place that is not a toilet, which was supported by **89%** of those who responded.
- 5.19 **Measure 11** (in current PSPO) makes it an offence if any person spits or discards chewing gum in an open public space, which was supported by **93%** of those who responded.

The inclusion of these restrictions highlights the Council's commitment to maintaining cleanliness and hygiene standards across the City. They are also essential for preserving the well-being and comfort of all residents and visitors.

- 5.20 **Measure 12** (in current PSPO) excludes dogs from play areas, sports pitches, resort areas, and requires dogs to be on a lead, or placed on a lead under direction. It also requires that dog walkers must have in their possession a suitable means to pick up after their dog has fouled. All restrictions were supported by **91%** of those who responded.
- 5.21 **Measure 13** (in current PSPO) aims to address dog fouling and faeces being left on any land, which is open to the air and to which the public have access to with or without payment, which was supported by **79%** of those who responded. This measure will allow authorised officers to take action against individuals who do not pick up after their dogs have fouled. Please note that this does not apply to private gardens, yards, or drives. **[This amends the restrictions contained within the current PSPO, where it only applies to Council maintained land].**

Dog fouling remains an issue of significant concern to residents, generating **2,777** reports, complaints, and enquiries in the past 3 years.

Currently, the requirement to clean up after a dog only applies to all public land, it is proposed to extend these restrictions to include areas of land in private ownership that are used by the public, predominately at this moment in time, Gentoo land. Consultation has been undertaken with the Executive Director of Gentoo, who is fully supportive of these proposed changes.

- 5.22 **Measure 14** (new proposed measure) requires that dog walkers should reduce the length of a lead to a suitable length, to ensure that the dog is under control and at heel when requested by an authorised officer, which was supported by **86%** of those who responded.

The adoption of these restrictions will make it easier for the Council to deal quickly and efficiently with the small minority of dog owners who behave irresponsibly, while at the same time encouraging a culture of responsible dog ownership. This order, will bring several benefits, including the creation of a cleaner environment, reduction of health problems associated with dog faeces and the promotion of responsible dog ownership. It represents a modern and

effective way of enforcement when required and provide a common-sense method of dealing with an issue of constant concern for our residents.

- 5.23 **Measure 15** (extended current measure to include motorised bikes or scooters) will not allow any person(s) to ride any motor propelled vehicle, examples of include but are not limited to quad bikes, motorcycles, scooters, motorised bike or vehicle in an anti-social manner, which is required to ensure public safety to pedestrians and other highway users. This was overwhelmingly supported by **98%** of those who responded. Additional comments from the consultation to support this measure included: *“Stopping the use of scrambler bikes/ unlicensed motor bikes in public spaces”* *“Apropos quad bikes etc. Where they are unlicenced & uninsured the police & council should be empowered to confiscate the machines for crushing”*

See section 5.12 for further detail.

- 5.24 **Measure 16** (proposed new measure) requires a person to provide their personal details, including their name, address and DOB to an authorised officer upon request, which was supported by **74%** of those who responded.

Whilst carrying out enforcement of the PSPO restrictions, officers often operate under difficult circumstances and in some cases, individuals refuse to provide their personal details. This measure is required to ensure that if a person(s) fails to cooperate with an authorised officer, they are held to account for their actions, where further sanctions can be imposed. The threat of these sanctions can often result in positive outcomes, without the need to contact the Police for assistance. It has been found that existing provisions contained within littering legislation, have proved very effective. It is hoped that this will act as a deterrent to hopefully prevent the breach of PSPO offences from re-occurring and encourage compliance with authorised officers.

- 5.25 **Measure 17** (proposed new measure) prohibits any person from smoking or vaping in all designated play areas as outlined in measure 12, which was supported by **92%** of those who responded.

A comment from the consultation stated *“Under 18s vaping in public spaces. This is a real problem on school run in the morning you see groups of kids on the way to school vaping around smaller kids”*. The introduction of this measure will also go some way to prevent the ‘normalising’ of smoking and vaping to young children particularly if it is no longer happening in areas where they are playing.

Smoking is the single biggest preventable cause of premature death in the UK Today. Every year, over 100,000 people die from smoking related causes, killing 1 in every 2 long term users. It is estimated that over 35,000 Sunderland residents smoke and levels of smoking amongst children are higher than England as a whole. Smoking has been illegal in enclosed

public places such as bars, nightclubs, and restaurants, as well as public transport and work vehicles, across the UK since 2007.

Public Health have seen an increase in people smoking, vaping by adults and youths in children's play areas, therefore prohibiting any person from smoking or vaping in all designated play areas through the inclusion of the restriction will contribute to creating a smoke free generation and help tackle youth vaping as well as protect children from second-hand smoke.

- 5.26 **Measure 18** (new proposed measure) covers activities associated with car cruising, which will ensure public safety to pedestrians and other highway users, was overwhelmingly supported by **95%** of those who responded. This measure will allow the Council to prohibit activities associated with car cruising, causing danger or risk of injury to road users (including pedestrians), causing damage or risk of damage to property, speeding or racing, performing stunts, sounding horns or playing music, so as to cause a nuisance or annoyance, using foul or abusive language, using threatening or intimidating behaviour; or causing obstruction (whether moving or stationary).

A number of residents commented on car cruising when completing the consultation: *“People parking cars on public footpaths.....especially on housing estates” “The cars are always revving the engines up and constantly driving about on the night time. The driving in Sunderland is so terrible it's dangerous the amount of times I have nearly been hit by other cars and people on electric motorbikes” “Loud exhausts on cars which constantly drive around the streets especially late at night” “The roads around Washington Galleries always attract racers with very loud exhausts and also cars are doing doughnuts in the car park yet this is a regular occurrence and nothing is done” “Parking across footpaths.”.*

See section 5.12 for further detail.

- 5.27 The current PSPO includes the following 2 measures:
- 1.) Measure 3 - prohibit anti-social/nuisance behaviour linked to street trading and peddling
 - 2). Measure 19 - will not allow any person(s) to sit or loiter on the highway or in any pedestrian area for the purpose of demanding money, whether by placing any item before them for receipt of money or otherwise (e.g., giving food and drink as alternatives to money)
- 5.28 It is proposed to omit these 2 measures due to more appropriate legislation contained under Part 4 of the Anti-social Behaviour, Crime and Policing Act 2014 and the Local Government Miscellaneous Provisions Act 1982 for dealing with these issues.
- 5.29 Overall, the above proposals demonstrate the City of Sunderland's commitment to creating safe, welcoming, and well-maintained public spaces for the benefit of all residents and visitors. The provisions address a range of issues and

provide a solid framework for promoting community well-being and reducing anti-social behaviour.

- 5.30 Having a PSPO in place, which is well communicated in terms of for e.g. social media or signage, acts as a strong deterrent to preventing anti-social behaviour in the first instance. If over time, the PSPO influences a cultural change just by its mere presence, the PSPO in itself can be justified as a success from the Council's perspective. The PSPO will be well publicised on the Council's website, social media pages and appropriate signage installed across the city.
- 5.31 Additional comments from those who completed the Consultation, can be found in **APPENDIX C**. The consensus from those who responded, was that they wanted a greater Police presence in our communities, along with more stringent enforcement action taken against those who committed criminal acts of anti-social behaviour.

6. Penalties for Non-compliance

- 6.1 Notices of opportunity to pay a fixed penalty will be used for low-level and first-time offending. They provide an effective way of dealing with minor offences and provide an opportunity to avoid prosecution and the related consequences. As noted in section 3.6 of the report, the Council has set the levels of its Fixed Penalty Notices at £100, which is reduced to £75 if the payment is received within 10 days. Fixed penalties afford the recipient the opportunity to discharge their liability to prosecution, however when payment is not received legal proceedings will be commenced. A person found guilty of an offence under the PSPO is liable on summary conviction to a fine not exceeding £1,000, which is level 3 on the standard scale.

7.0 Considerations in relation to the making of the PSPO

- 7.1 Section 72 of the 2014 Act provides that a local authority, in deciding whether to make a PSPO under section 59 of the Act and, if so, what to include, must have particular regard to the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the Convention on Human Rights.
- 7.2 Under article 10 of the Convention, everyone has the right to freedom of expression, including freedom to hold opinions and receive and impart information and ideas without interference by public authority. It is not considered that any of the restrictions in the proposed PSPO prevent views and ideas being expressed. The only prohibitions that could potentially touch on the expression of views and information are the measures to prevent of use of activities associated with car cruising and the failure to provide details as detailed in section 5 of the report.
- 7.3 Under article 11 of the Convention, everyone has the right to freedom of peaceful assembly and to freedom of association with others. Only the exclusion of dogs (and, by implication, persons with dogs) from certain enclosed play areas and sports areas, measures associated with car cruising

and the prohibition of no smoking and vaping in designated play areas has the potential to restrict this freedom and, if so, it is considered that this is, at most, a minor interference which can be justified as a reasonable restriction that is necessary in order to protect the health of the users of such facilities and their right to use and enjoy those places to the fullest extent.

- 7.4 Home Office Guidance also recommends that consideration should be given to any risks associated with displacement, including to where people may be dispersed. The Council will through Local Multi Agency Partnership meetings regularly review any displacement issues and ensure action with partners is taken.

8.0 Formal Enforcement of current PSPO Measures

- 8.1 The measures included in the PSPO are enforceable by the police and by officers of the Council who are duly authorised in this regard. Opportunities to increase enforcement have been considered specifically with police, with shared meetings to understand the range of powers available to both the Council and police and to ensure the most effective powers are used in each circumstance.

- 8.2 From a Council perspective, since March 2021 to date, **505** fixed penalty notices have been issued under the current PSPO. Where fixed penalties have not been paid, 25 individuals have been successfully prosecuted at the Magistrates Court. A breakdown of the specific current PSPO restrictions and actions taken can be found in **APPENDIX D**.

9.0. Reasons for the Decision

- 9.1. The recommendations will ensure the Council can continue to utilise all the powers available to them to address non-law-abiding behaviour and environmental crime in the city ensuring the area continues to be a pleasant one to visit, work and play
The proposed PSPO is based on complaints, service requests, intelligence, resident surveys and the outcomes of the PSPO consultation.

10.0 Alternative Options

- 10.1 The recommended options are based on evidence and consultation. The only other option would be not to have a PSPO for the City from May 2024 onwards, however the Council would therefore weaken its ability to tackle anti-social behaviour, protect the community and respond to a range of issues which residents have stated are important to them.

11.0 Impact Analysis

a) **Equalities** –

- i. It is considered the proposed PSPO is proportionate to the needs of the area, as identified through the analysis and consultation and we have considered the rights of individuals who live, work and visit the area,
- ii. As detailed in section c below, in deciding whether to make the proposed PSPO and, if so for how long, the Council is required to have regard to the Convention and Articles 10 and 11 in particular,
- iii. Members must also consider the Public Sector Equality Duty under section 149 of the Equality Act 2010 (2010 Act). This requires the Council when exercising its functions, have due regard to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited by the 2010 Act and to advance equality of opportunity and foster good relations between those who share a 'protected characteristic' under the 2010 Act and those who do not share a protected characteristic. A 'protected characteristic' is defined in the 2010 Act as age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Marriage and civil partnership are also protected characteristics for the purposes of the duty to eliminate discrimination.
- iv. Members must consider how the decision will contribute to meeting these duties in light of other relevant circumstances such as economic and practical considerations.
- v. In order to have proper regard to the Public Sector Equality Duty (PSED) an Integrated Impact Assessment (**APPENDIX E**) has been carried out and should be considered alongside this Report.
- vi. Having carefully considered the Integrated Impact Assessment it is considered the impact of the proposed PSPO is consistent with the Council's PSED and does not disproportionately affect any part of the community. The Integrated Impact Assessment will be monitored to ensure that future intelligence and information which better informs our understanding and impact of the PSPO is considered.

b) **Financial Implications** – The implementation of the revised PSPO will require the replacement of the existing statutory city wide PSPO signage. The cost of which is estimated at £60,000 and will be funded from the allocation for Regulatory Services Infrastructure within the Capital Programme.

(c). **Legal Implications**

The conditions for making a PSPO and other relevant considerations under the legislation are fully set out in this Report. Cabinet Members must be satisfied that the conditions have been met before agreeing to the PSPO proposals. If made, the PSPO will be publicised in accordance with the provisions of the 2014 Act. If there is any challenge to the PSPO once made, that challenge must be made to the High Court within 6 weeks of the Order being made.

(d) **Reduction of Crime and Disorder – Community Cohesion / Social Inclusion**

Section 17 of the Crime and Disorder Act 1998 places a duty on all local authorities to have due regard to the likely effect its exercising of functions will have on crime and disorder in its area, including anti-social behaviour and other behaviour adversely affecting the local environment. The new proposed PSPO will allow officers and practitioners to deal with quality-of-life issues and improve community safety across the city.

12.0. Other Relevant Considerations / Consultations

Risk Analysis

If Cabinet do not agree the implementation of a new PSPO it will weaken the Council's ability to utilise all the powers available to them to address anti-social behaviour and environmental crime across the city ensuring the area continues to be a pleasant one to visit, work and play

- (a) **The Public / External Bodies** – relevant consultation has been carried out as outlined in Section 5 of the report
- (b) **Children's Services** – The PSPO is not enforceable to anyone under the age of 18 years.
- (c) **Procurement** – There are no procurement implications. The removal and installation of new signage will be carried out by Balfour Beatty who are contracted by the Council for this work.

13. List of Appendices

Appendix A – Current PSPO
Appendix B – Map of PSPO area
Appendix C – Consultation Outcomes Document
Appendix D – FPN Enforcement of Current PSPO
Appendix E – Integrated Impact Assessment

14. Background Papers

- The Antisocial Behaviour, Crime & Policing Act 2014 - Anti-social Behaviour, Crime and Policing Act 2014 (legislation.gov.uk)
- Home Office Guidance for Frontline Professionals – Anti-social Behaviour Powers June 2022 available online at:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1088750/2022_Updated_ASB_Statutory_Guidance-_FINAL.pdf

- Local Government Association PSPO Guidance for Councils available online at:
https://www.local.gov.uk/sites/default/files/documents/10.21%20PSPO%20guidance_06_1.pdf