

DRINKING BANNING ORDERS

REPORT OF THE DEPUTY CHIEF EXECUTIVE

STRATEGIC PRIORITIES: SP3 SAFE CITY

**CORPORATE PRIORITIES: CIO1: Delivering Customer Focused Services,
CIO4: Improving Partnership Working to Deliver 'One City'.**

1. Purpose of Report

- 1.1 The purpose of this report is to provide members with information about Drinking Banning Orders (DBOs) which were introduced via the Violent Crime Reduction Act, 2006.

2. Background

- 2.1 DBOs are civil orders that can be sought by various authorities such as the Police, Transport Police and local authorities in England and Wales. They are a power that can be used to target those who abuse alcohol to the extent that it leads to alcohol related crime or disorder.
- 2.2 Orders can be made against individuals aged 16 or over if they have engaged in criminal or disorderly conduct while under the influence of alcohol. Orders can last between 2 months and 2 years. The aim is to protect the person from further conduct of that kind by prohibiting the individual from doing things prescribed in the order.
- 2.3 DBOs can result in an individual being banned from pubs, clubs and bars in defined areas. This means their details and photograph could be circulated to licensed premises within that area and they could be refused entry for the duration of the ban. They can also restrict the individual from drinking in a public place and entering any premises which sells alcohol; for example supermarkets.
- 2.4 The court can specify an approved course in the DBO if the individual consents. Approved courses are taken on a voluntary basis as a means to addressing behaviour involving alcohol misuse.
- 2.5 DBOs can be pursued within the following category of offences:
- Public Order Offences
 - Criminal Damage
 - Minor and Serious Assaults
 - Violent Offences; and
 - Traffic Offences

3. Current Position

DBOs on Application

- 3.1 The Chief Officer of a Police Force, Chief Constable for British Transport Police or a local authority can make an application for a DBO (DBO on application).

DBOs on Conviction

- 3.2 The Court can impose a DBO when a person is convicted of an offence which relates to the person being under the influence of alcohol when the offence was committed. This is known as a DBO on conviction.
- 3.3 DBOs on conviction do not require the local authority to make an application to the Court. The Police will instruct the Crown Prosecution Service in those cases where there is merit to a DBO being attached to the offence being pursued in court.
- 3.4 The court will determine whether the offence was committed by the person under the influence of alcohol based on the circumstances of each individual case. If the court decides not to impose a DBO it must give its reason in open court.
- 3.5 The DBO on conviction comes into effect on the day in which it is made, or if the person is in custody at that time on which the person is released from custody.
- 3.6 Whilst DBOs on application have been introduced nationally, DBOs on conviction have been introduced in 25 local justice areas across the country. Sunderland is not included in the 25 areas at this stage.

Prohibitions

- 3.7 The purpose of prohibitions subject the individual from doing certain things described in the order. Prohibitions must be necessary to protect others from the individual's criminal or disorderly conduct while under the influence of alcohol.
- 3.8 It is the Court's role to decide what prohibitions are necessary. Prohibitions should:
- Be realistic and practical
 - Be clear, concise and easy to understand
 - Be specific when referring to matters relating to times and named sets of premises
 - Cover the range of criminal or disorderly conduct committed by the subject.

Exemptions

- 3.9 DBOs are designed to protect individuals and their property from a specific type of behaviour that occurs as a result of alcohol misuse and is often associated with binge drinking.

They are **not** appropriate if:

- A ban of longer than 2 years is needed (An ASBO may be more suitable).
- The behaviour is alcohol related but has clear links to attending a football match, whereby a Football Banning Order may be more appropriate.
- The person is subject to proceedings relating to domestic violence or non-molestation proceedings.
- It is not appropriate to seek a DBO on an individual who is vulnerable, particularly if they have drug or alcohol dependency or mental health problems.

Breaches

- 3.10 A person commits an offence if, without reasonable excuse, s/he does, anything that s/he is prohibited from doing by the order
- 3.11 There is no custodial penalty for breach of an order. Offenders who breach an order can be liable to a fine not over £2,500.

The Application Process Procedure

- 3.12 The City Council's Safer Communities Officer – Violent Crime Reduction (SCO) will coordinate all DBOs.

3.13 Collating Evidence

Police – The Police will collate all relevant information in relation to the subject. This will include details of arrests, statements and relevant information such as Pubwatch bans. The Police will check that the subject's detail are correct.

Local Authority – The local authority will collate all information including prohibitions and make the application to Court.

3.14 Potential DBO Subject identified at LMAPS

Subjects may be identified via LMAPS and with approval of the Chair the details will be forwarded to the SCO to liaise with the Council's City Solicitor to consider if the subject meets criteria and investigate merit of pursuing a DBO. The information should also include information relating to prohibitions.

The SCO will feedback to the LMAPS Chair throughout the process.

Drinking Banning Orders Warning Letter

- 3.15 A Drinking Banning Order warning letter can be sent to those people who have been arrested by Northumbria Police for certain offences relating to criminal or disorderly conduct whilst under the influence of alcohol.
- 3.16 The offences are within the categories listed below which enable Police and local authorities to pursue a Drinking Banning Order on subjects. This means that if the person is arrested for any of the listed offences within 6 months Northumbria Police and Sunderland City Council can initiate proceedings against them.
- Public Order Offences
 - Criminal Damage
 - Minor and Serious Assaults
 - Violent Offences; and
 - Traffic Offences
- 3.17 The City Centre Sergeant will liaise with the SCO on a weekly basis to establish those subjects who are suitable for a warning letter.

4 Recommendation

- 4.1 Members are requested to note the report.

5. Background Papers

<http://www.homeoffice.gov.uk/drugs/alcohol/drinking-banning-orders>

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