

PUBLIC SPACES PROTECTION ORDER (PSPO) - CONSULTATION

Report of Assistant Chief Executive

1 Purpose of the Report

- 1.1 To seek the views of the Committee on proposals to introduce Public Spaces Protection Orders (PSPOs) across the City and the commencement of consultation for a City Centre PSPO.

2 Background

- 2.1 The Anti-Social Behaviour and Policing Act 2014 introduced a range of new tools and powers to tackle anti-social behaviour, including the provision for Councils to introduce Public Space Protection Orders. The orders are geographically defined and can contain locally agreed prohibitions.
- 2.2 On 21 September 2016, Cabinet agreed a report setting out proposals for the introduction of Public Spaces Orders across the city and the commencement of consultation for a City Centre PSPO. If successful, a similar approach will be considered for other areas of the City to replace the existing Designated Public Place Orders and Dog Control Orders that will end in October 2017.
- 2.3 The Cabinet agreed a staged approach involving:-

Stage 1 – prioritise the formal consultation on and (subject to such consultation) the implementation of a City Centre PSPO;

Stage 2 - evaluate the use and effectiveness of the City Centre PSPO and if proved successful move to Stage 3 and 4;

Stage 3 - commence work on a city-wide PSPO replacing current Designated Public Place Orders (DPPOs) and Dog Control Orders;

Stage 4 – (2017) commence discussion with Area Arrangements around locality based orders.

- 2.4 This report sets out details of the proposals agreed by Cabinet and seeks the views of the Scrutiny Committee.

3 Current Position

Public Space Protection Orders

- 3.1 Public Spaces Protection Orders (PSPOs) are a key element of the Anti-Social Behaviour, Crime and Policing Act 2014 which came into force in October 2014.
- 3.2 The orders 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 are to replace current controls on the drinking of alcohol in public places and matters such as dog fouling and the keeping of dogs on leads (as a result of the phasing out of existing Designated Public Places Orders (DPPOs) and Dog Control Orders but a range of other activities can also be addressed, depending upon particular local issues. By design the orders are planned to allow people to enjoy open public spaces free from nuisance and anti-social behaviour.

- 3.3 The responsibility for making a new PSPO rests with the City 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:-
- 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.
- 3.4 Before making a PSPO, the Council must also carry out consultation with the local Police Force, 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.
- 3.4 The making of a PSPO can be challenged in the High Court by any interested party on the grounds that the Council had no power to make the PSPO or include in it certain prohibitions/requirements or that one of the requirements for making the PSPO (e.g. the requirement for consultation) has not been complied with.
- 3.5 Where a PSPO is in force, a police officer, police community support officer or Council officer witnessing behaviour that breaches its conditions may challenge the individual(s) concerned and ask them to comply. If the individual does not comply with the request, an offence is committed.
- 3.6 An offence involving failure to comply with a PSPO is punishable by a fine of up to £1,000 (or £500 in the case of consumption of alcohol) or by a fixed penalty of up to £100.
- 3.7 In practice an offence is only committed if a person refuses to stop carrying out a prohibited activity when asked to do so by an authorised Council officer or police officer. If the person follows the instruction then no further action would be required. Any failure to comply with the instruction to desist from the prohibited activity would generally in the first instance lead to a fixed penalty notice being issued (current fine level for Sunderland is £75) rather than arrest or court appearance.
- 3.8 Any PSPO introduced would be for a 3 year period at which time it must be renewed or it would cease. The Council would have 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 then the Council can modify prohibitions.

- 3.9 Following consultation within the Council and key partners it has been recommended the City Centre PSPO be the first order to be piloted in Sunderland due to the complex issues within the City Centre and new emerging issues such as bin raking and begging being identified. The City Centre Order will be used as a test for procedures and communication phases going forward.
- 3.10 Current Dog Control Orders and Designated Public Place Orders which are currently in place in many locations in all areas of the City must be replaced with a PSPO in October 2017; these will transfer to a city wide order with the potential inclusion of other city wide issues. It is envisaged that following learning from the City Centre Order the agreement from Cabinet to consult on the city wide order will take place early 2017. Following the implementation of the city wide order discussions will commence with Area Arrangements around any locality issues.

Sunderland City Centre Public Spaces Protection Order Proposals

- 3.11 The intention is to introduce a City Centre PSPO for 3 years in accordance with powers contained within the Act for bin raking, consumption of alcohol and new psychoactive substances in a public place, dog control, aggressive behaviour in connection with begging, street trading and unlicensed pedlars and the anti-social use of skateboard and stunt cycles.
- 3.12 The area to be covered by the Order can be seen in Appendix 1 of the report (area shaded yellow highlighted by black boundary).
- 3.13 Year on year the Police and Council have seen increases in crime and anti-social behaviour in the proposed area. Problems range from violent and sexual offences to low level disorder and the gathering of groups of adults and youths engaging in general anti-social behaviour.
- 3.14 In 2015 following a detailed policy review Scrutiny Committee recommended that the Council take a strong stance against psychoactive substances. Specific recommendations included to “explore the options for an enforcement strategy including the use of new Anti-Social Behaviour powers”. This recommendation was agreed by the Safer Sunderland Board and Council Cabinet. The use of psychoactive substances has become a growing concern for both agencies and the general community. Increased admissions to A & E for use of these substances are also evident. The proposed order will help the Council and Police deal with these behaviours more efficiently whilst giving the wider community a strong message that behaviours of this kind will be taken seriously.
- 3.15 Bin raking is a new and emerging issue within the city centre. It is a problem that occurs frequently and is attracting organised groups from out of the city come and rake the bins. Participants are littering the city and making the general area look untidy. Work is underway both from an educational and enforcement point of view with the businesses identified around waste management. The mess and damage caused by these individuals is costing the City Council substantive resource to correct and is also demand intensive for the Police due to the court process involved. The inclusion of this issue within the PSPO will give the Police and Council officers more swift and effective powers to deal with persistent bin rakers within the city.
- 3.16 Begging within the city centre has increased within the last 12 months. Whilst we recognise that some beggars often need long term help and support and referrals are made, they can be intimidating to the public and detrimental to businesses by putting

shoppers off entering shops where they congregate. It has been found that beggars within the city are from out of the area and seem to have been displaced from other Local Authority areas where action has been taken against them. Police have taken action against a few individuals who have been persistent and aggressive to visitors within the city centre after numerous warnings.

- 3.17 Begging is an offence under the Vagrancy Act 1824 and can be enforced by the Police by way of arrest. The inclusion of controls on aggressive/pestering behaviour by beggars within the Order would provide the Police and other staff with an additional tool to regulate this behaviour and would provide an updated legal remedy, including the use of fixed penalty notices. This is likely to prove a more cost effective and proportionate approach to controlling this activity but will also allow the partnership to ensure action is taken against those persistent offenders but also support necessary referrals to be made for any genuine vulnerable individuals identified.
- 3.18 The issue of canvassing and illegal peddling has recently been raised by members of the public and businesses as a concern. Visitors to the city have suggested they are increasingly being stopped and harassed by sellers within the city centre. The inclusion of controls over unwanted aggressive/harassing behaviour by street traders and pedlars in the proposed Order will raise the profile of the problem and will give the Council enhanced powers to take action against any street traders or pedlars, whether authorised or not, who engage in nuisance behaviour towards members of the public.
- 3.19 The proposed area is currently covered by a city wide Dog Control Order. There are 4 elements to the current order; dog fouling, dogs on lead, exclusion of dogs to play areas and dogs on lead by direction. It is proposed that these elements of the old order would be transferred to the new PSPO in line with the legislation.

Sunderland City Centre Public Spaces Protection Order Proposed Prohibitions

- 3.20 It is recommended subject to public consultation that the following prohibitions are applied to the PSPO in the proposed area:

Alcohol control – Police and authorised officers have the power to confiscate alcohol in a public space excluding licensed premises where they believe it is causing or is likely to cause anti-social behaviour.

Begging – restricts any person engaging in anti-social/nuisance behaviour whilst begging. Begging includes any passive and active methods, including but not limited to, non-verbal signs, hand held out, written notice, or verbal attempts to exhort, press, pressure, urge the giving of material help, assistance, food or money.

Bin Raking – restricts any person engaging in bin raking. Bin raking is the searching and taking of any items whatsoever from rubbish bins, bags or items clearly left to be disposed of or belonging to another.

Street Trading and Peddling – restricts any person engaging in anti-social/nuisance behaviour whilst street trading.

Dog Control – prohibit dog fouling, exclusion of dogs to play areas and dogs on lead by direction.

Skateboard and Cycles – prevent the anti-social use of skateboards, cycles and stunt cycles causing damage to property, or nuisance or annoyance to one or more persons.

Psychoactive Substances –The existing law under the Misuse of Drugs Act 1971 lists illegal controlled drugs but could not keep pace with the ability to produce new psychoactive substances which were often misleadingly referred to as “legal highs” and were introduced to mimic the effects of controlled drugs. Some council’s have tried to deal with the problem by introducing restrictions within PSPOs. However, on the 26th May 2016 a new Act, The Psychoactive Substances Act 2016 came into force immediately having the effect of closing down those outlets which previously took advantage of the loophole in the previous legislation. It may be that the new Act has solved the problems with its Criminal and Civil sanctions including up to 12 months imprisonment for some offences. The full impact has yet to be evaluated which is why it is still included as an option for consultation as possibly being still included in a PSPO.

Consultation Process

- 3.21 An 8 week consultation process on the proposed City Centre PSPO would commence subject to Cabinet approval with Police, local residents and businesses and any other relevant parties through a variety of communication channels. Findings from the consultation and final endorsement of the Order will be brought to a future Cabinet meeting. An initial Equalities Impact scoping has indicated that the PSPO would have no negative likely impacts on any group with protected characteristics as defined in the 2010 Equality Act, though it is planned that specific elements of the consultation will focus on these groups to ensure there are no unforeseen negative impacts.

Financial Implications

- 3.22 There will be a small cost associated with the replacement of signs within the order area and staffing costs associated with the consultation and implementation of the Order will be met within existing resources supported by the Safer Communities Problem Solving budget. Revenue generated by the use of fixed penalty notices will be paid directly to the Council and be administered in the same way as existing fixed penalty notices. The Council does not have a dedicated Enforcement Team however will seek enforcement of this order through existing resources and partnership working with Northumbria Police.

4 Conclusion

- 4.1 The Anti-Social Behaviour and Policing Act 2014 introduced a range of new tools and powers to tackle anti-social behaviour including the provision for Councils to introduce Public Space Protection Orders. The orders are geographically defined and can contain locally agreed prohibitions.
- 4.2 The report sets out the proposals of Cabinet for the introduction of Public Spaces Protection Orders in the city. If successful then a similar approach would be considered for other areas of the City to replace the existing Designated Public Place Orders and Dog Control Orders that will end in October 2017.

5 Recommendations

- 5.1 The Committee is asked to consider and comment on the proposals for the introduction of Public Spaces Orders across the city as part of the consultation process.

6 Glossary

PSPO - Public Spaces Protection Orders

7 Background Papers

Home Office - Anti-social Behaviour, Crime and Policing Act 2014:

Reform of anti-social behaviour powers

Statutory guidance for frontline professionals

July 2014 PUBLIC HEALTH, WELLNESS AND CULTURE SCRUTINY PANEL

Policy Review 2014/15 Final report – Tackling New Psychoactive Substances

APPENDIX ONE – PROPOSED RESTRICTED AREA (yellow shaded area marked with black boundary)

