



## CABINET REPORT

<b>Report Title</b>	<b>Public Spaces Protection Orders</b>
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**AGENDA STATUS: PUBLIC**

<b>Cabinet Meeting Date:</b>	<b>21 October 2015</b>
<b>Key Decision:</b>	<b>Yes</b>
<b>Within Policy:</b>	<b>Yes</b>
<b>Policy Document:</b>	<b>No</b>
<b>Directorate:</b>	<b>Customers &amp; Communities</b>
<b>Accountable Cabinet Member:</b>	<b>Cllrs Anna King</b>
<b>Ward(s)</b>	<b>All</b>

### **1. Purpose**

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- 1.1 To seek Cabinet authorisation to commence a consultation process regarding the introduction of Public Spaces Protection Orders (PSPOs) within the Borough of Northampton, pursuant to provisions of the Anti-Social Behaviour, Crime and Policing Act 2014.

### **2. Recommendations**

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- 2.1 Cabinet are recommended to:
- 2.1.1 authorise the undertaking of consultation on the introduction of Public Spaces Protection Orders under the Anti-Social Behaviour, Crime and Policing Act 2014, as detailed in **Appendix 1**; and
  - 2.1.2 delegate authority to the Chief Executive and the Director of Customers and Communities to take all actions necessary to undertake the consultation.

### **3. Issues and Choices**

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#### **3.1 Report Background**

- 3.1.1 On 20<sup>th</sup> October 2014 the Government implemented the Anti-Social Behaviour, Crime and Policing Act 2014. The purpose of the Act is to give local authorities and the Police more effective powers to tackle anti-social behaviour (ASB), providing better protection for victims.
- 3.1.2 Amongst these new tools and powers are Public Spaces Protection Orders (PSPOs), which are designed to stop individuals or groups of people committing anti-social behaviour in a public space. It is for each individual Council to determine what behaviour(s) they want to make the subject of a Public Spaces Protection Order however the overarching consideration when considering a Public Spaces Protection Order is whether the activity will have detrimental effect on the quality of life of those in the locality
- 3.1.3 There is a requirement to undertake a public consultation exercise. The statutory requirement is to consult with the chief officer of police, and the local policing body, for the area that includes the restricted area, whatever community representatives the local authority thinks it appropriate to consult and the owner or occupier of land within the restricted area.
- 3.1.4 PSPOs will provide Councils with a flexible power to implement local restrictions to address a range of anti-social behaviour issues in public places in order to prevent future problems.
- 3.1.5 Restrictions and requirements can be placed on an area where activities have, or are likely to have a detrimental effect on the quality of life of local people, is persistent or continuing in nature and is unreasonable. These can be blanket restrictions or requirements, or can be targeted against certain behaviours by certain groups at certain times.

The PSPO can:

- Prohibit specified things being done in the area
- Require specified things to be done in the area

The prohibitions or requirements can be framed so that they:

- Apply to all persons, or only persons in specified categories, or to all persons except those in specified categories
- Apply at all times, or only at specified times, or at all times except those specified
- Apply in all circumstances, or only in specified circumstances, or in all circumstances except those specified

The following conditions must be met before making the order:

- Activities carried out in a public place within the local authority's area have a detrimental effect on the quality of life of those living in the locality OR
- It is likely that activities will be carried out in a public place within the area that will have such an effect

The effect, or likely effect of the activities:

- Is, or is likely to be, of a persistent or continuing nature OR
- Is, or is likely to be, such as to make the activities unreasonable

- 3.1.6 The Guidance is not specific on what can be included in a PSPO. The potential for their use is broad and flexible to allow a Council to cover individual circumstances in its area. A PSPO can cover multiple restrictions so one order could prohibit or promote such activities as the drinking of alcohol and keeping dogs on a lead. The PSPO can cover any publicly accessible space within the Council's area, including areas in private ownership to which the public have access.
- 3.1.7 Any prohibition or requirement must be reasonable in order to prevent the detrimental effect from occurring or reoccurring, or must reduce the detrimental effect or reduce the risk of its occurrence, reoccurrence or continuance.
- 3.1.8 It is important that PSPOs are used proportionately and that they are not seen to be targeting behaviour of the children/young people where there is a lack of tolerance and understanding by local people.
- 3.1.9 A prohibition or requirement may be framed so that it applies to all persons, persons fitting specified criteria, or to all persons except those in specified categories. It can be applicable at all times, or only at specified times, or at all times except those specified.
- 3.1.10 A PSPO replaces existing provisions such as Designated Public Place Orders (DPPOs), which give powers to stop the drinking of alcohol in public places, and Dog Control Orders. Under the new Act, if not reviewed earlier, these will continue to be valid for a period of three years from the commencement of the new provisions.
- 3.1.11 A Public Spaces Protection Order can be made for a maximum of three years. The legislation provides they can be extended at the end of the period, but only for a further period of up to three years. However, orders can be extended more than once. Local authorities can increase or reduce the restricted area of an existing order, amend or remove a prohibition or requirement, or add a new prohibition or requirement. They can also discharge an order but further consultation must take place for varying or discharging orders.
- 3.1.12 Enforcement will be shared between the Council and the police. Breach of a requirement to desist in a particular activity is a criminal offence which can result in the issuing of a Fixed Penalty Notice (FPN) or a prosecution resulting in a fine of up to £1,000 on conviction. Enforcement can be undertaken by Council Officers, Police and other designated groups, including officers under the Community Safety Accreditation Scheme.
- 3.1.13 The opportunity to utilise the powers of a PSPO to tackle a number of anti-social behaviours has been discussed with the police and within the wider Community Safety Partnership (CSP). It is proposed that the first PSPOs be created in order to tackle existing ASB issues and before the Council's existing DPPO and its Borough-wide Dog Control Order expire in 2017 (see Appendix 1).

- 3.1.14 In selecting restrictions, consideration has been given to enforceability and the geographical concentration of anti-social behaviour. The area is as large as it is possible to be without compromising enforceability and it may need to be reviewed should the policing presence change significantly before 2017.
- 3.1.15 Consideration of a Public Spaces Protection Order will take place where there is material evidence of anti-social behaviour.
- 3.1.16 Before making the order the local authority must notify potentially affected people of the proposed order, inform those persons of how they can see a copy of the proposed order, notify them of how long they have to make representation, and consider any representations made.

### **3.2 Choices (Options)**

- 3.2.1 Do nothing – continue to enforce anti-social street drinking under the Designated Public Places Order and Dog Control Orders under the existing powers. These powers are time limited and can only be enforced under the powers they were agreed under
- 3.2.2 Commence a consultation on the introduction of PSPOs as set out in Appendix 1. The proposed PSPOs would provide officers with broader powers to deal with a wide range of anti-social issues in a more effective manner.

## **4. Implications (including financial implications)**

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### **4.1 Policy**

- 4.1.1 This approach supports the multi-agency Countywide Anti-Social Behaviour Policy that Northampton Borough Council is signed up to.

### **4.2 Resources and Risk**

- 4.2.1 A PSPO can be enforced by both the Police and Council. The Council will be the agency to process the Fixed Penalty Notices (FPN's), regardless of which agency issues them. The approach to this will be agreed with the Police.
- 4.2.2 There is a financial implication in that the PSPO areas will require signage to allow enforcement to take place - cost is estimated at £12k at this stage.
- 4.2.3 Any income generated by payment of FPN's must be directed back into management of the PSPO process.
- 4.2.4 Any additional costs will be met from existing community safety budgets already in place for activity of this nature.

### **4.3 Legal**

- 4.3.1 The implementation of the PSPO can be challenged by any interested person within 6 weeks of the making of the Order, the challenge is made at the High Court. Anyone who is directly affected by the making of the PSPO can challenge the order. A challenge can be made on the basis that the Council

does not have the power to make the order, or that the particular prohibitions or requirements are unnecessary or that procedurally the order is defective.

4.3.2 When making a PSPO, a Council must have particular regard to the rights of freedom of expression and freedom of assembly set out in the European Convention on Human Rights.

4.3.3 The authority will need to have due regard to the results of public consultation exercises in considering whether the Public Spaces Protection Orders prohibiting the anti-social behaviour as detailed in **Appendix 1** are made .

4.3.4 The text of the Order if made must be published

4.3.5 The Order must be notified to

(a) The parish council or community council (if any) for the area that includes the restricted area

(b) In the case of a Public Spaces Protection Order made or to be made by a district council in England, the county council (if any) for the area that includes the restricted area

#### **4.4 Equality**

4.4.1 Incidents of ASB will continue to be dealt with in line with our equalities framework.

4.4.2 These legislative changes are designed to have a significant community impact in preventing and limiting anti-social behaviour.

#### **4.5 Consultees (Internal and External)**

Director of Customers & Communities, NBC

Legal Services, LGSS

Finance, LGSS

Environmental Health & Licensing Manager, NBC

Northants Police

Cabinet Member for Community Safety, NBC

Town Centre Manager, NBC

Highways, KIER WSP

#### **4.6 How the Proposals deliver Priority Outcomes**

4.6.1 One of the Council's priorities is "invest in safer, cleaner neighbourhoods" and the PSPO has the potential to contribute towards this priority.

#### **4.7 Other Implications**

4.7.1 Information technology - use of the Council's website and social media channels to undertake part of the consultation.

## **5. Background Papers**

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5.1.1 Anti-Social Crime & Policing Act 2014

5.1.2 Anti-Social Behaviour, Crime and Policing Act 2014: Reform of anti-social behaviour powers statutory guidance for frontline professionals

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Public Spaces Protection Order Proposals

Anti-Social Behaviour activity to be addressed	Why?	Why is it deemed detrimental as per Section 59	Class of persons affected	Timings	Location
<p>Consumption of alcohol and other intoxicating substances. If someone is drinking or consuming intoxicating substances and/or carrying open vessel of alcohol and designated person (Police Officer, PCSO, Council worker) feel this drinking will lead to ASB, the designated person can confiscate the intoxicating substance and dispose of it.</p>	<p>To replace the existing Designated Public Places Order (DPPO) across the Borough, but also include the use of other intoxicating substances such as Psychoactive Substances (aka 'legal highs'). There is a misconception that legal highs are safe as they are legal - this is far from true. As the substances are legal it is very hard to police.</p> <p>Consideration to also be given to a complete ban in specific hotspot locations.</p>	<p>Drinking or taking intoxicating substances is likely to have a detrimental effect on those in the locality and be unreasonable</p>	<p>All Persons</p>	<p>All times</p>	<p>Borough wide, as per existing DPPO</p> <p>No consumption of alcohol or other intoxicating substance at the following locations:</p>

Anti-Social Behaviour activity to be addressed	Why?	Why is it deemed detrimental as per Section 59	Class of persons affected	Timings	Location
					Fountain area on Market Square; Holy Sepulchre churchyard; St Giles churchyard; St Katherine's Garden of Rest
Urinating/defecating in public place	Indecent behaviour likely to cause offence. More prominent in the town centre, but there are reports from across the town	The activity is likely to have a detrimental effect on those in the locality and be unreasonable	All Persons	All times	Borough wide
Begging	Begging is an ongoing issue in the town centre and along the Wellingborough Road. There are currently 5 persistent beggars.	The activity is likely to have a detrimental effect on those in the locality and be unreasonable	All Beggars	All times	Town centre tennis racquet (inner ring-road and Wellingborough Road up to Christchurch Road/Manfield Road junction)  Kingsley Park Shopping front
Busking	Buskers to sign up to protocol and only busk in designated areas. Restrictions on amplified music/singing.	The activity is likely to have a detrimental effect on those in the locality and be unreasonable	All Buskers	All Times	Town Centre tennis racquet (inner ring-road and Wellingborough Road up to Christchurch Road/Manfield Road junction)
Dog fouling	Offence to not clean up after dog has fouled	The activity is likely to to have a detrimental effect on	All owners of dogs or those in charge of	All times	Borough wide



Anti-Social Behaviour activity to be addressed	Why?	Why is it deemed detrimental as per Section 59	Class of persons affected	Timings	Location
		those in the locality and be unreasonable	a dog		
Dogs on leads	All dogs to be under control and on leads in designated areas	The activity unless directed by an order will be carried out in a public place and be of a persistent or continuing nature	All owners of dogs or those in charge of a dog	All Times	Town Centre tennis racquet (inner ring-road and Wellingborough Road up to Christchurch Road/Manfield Road junction)  All children's play areas, cemeteries.
Illegal Car Sales	To prevent the many cars that are parked and advertised for sale on public land/highway around the town.	The activity is likely to have a detrimental effect on those in the locality and be unreasonable	All Persons	All times	Borough wide - Any Public Highway or Council land (inc Northamptonshire County Council land)
Fly posting (responsibility placed on promoter and venue for event)	Many posters and banners are put up around the town advertising events without permission. Will underpin and support the 'signage de-cluttering' exercise being undertaken countywide.	The activity is likely to have a detrimental effect on those in the locality and be unreasonable	All Persons	All times	Borough wide