



CABINET REPORT

Report Title	Review of Public Spaces Protection Order 2017
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AGENDA STATUS:

PUBLIC

Cabinet Meeting Date:	16 October 2019
Key Decision:	YES
Within Policy:	YES
Policy Document:	NO
Service Area:	Chief Executive
Accountable Cabinet Member:	Cllr Anna King
Ward(s)	All Wards

1. Purpose

- 1.1 To seek permission to commence a consultation process regarding the review of the current Public Spaces protection Order (PSPO) (2017) which will expire on 31 March 2020 within the Borough of Northampton pursuant to provisions of the Anti-Social Behaviour, Crime & Policing Act 2014. In addition, to seek the views of the general public on the additional behaviours of busking and cycling on pavements which have been the subject of complaints from members of the public.

2. Recommendations

- 2.1 Cabinet are recommended to
- 2.1.1 Authorise the Chief Executive to undertake a 12 week consultation period regarding whether the review of current PSPO 2017 under the Anti-Social Behaviour, Crime & Policing Act 2014 should be renewed for a further three years and whether any additional activities or behaviour ought to be included in it as detailed in Appendix 1.
- 2.1.2 In addition, authorise the consultation on additional behaviours which have been brought to our attention (busking, cycling on pavements).

- 2.1.3 Receive a further report, following completion of the statutory public consultation, which considers any representations received and, if appropriate, seek approval of the PSPO(s).

3. Issues and Choices

3.1 Report Background

- 3.1.1 On 20 October 2014 the Anti-Social Behaviour, Crime & Policing Act 2014 came into force. 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 PSPOs which are designed to stop all individuals or a specific class of persons committing anti-social behaviour in a public space.
- 3.1.3 The criteria that must be satisfied when considering whether to make a PSPO is whether a particular activity or activities has or is likely to have a detrimental effect on the quality of life of those in the locality and that the activity is or is likely to be persistent or continuing in nature or that the activity is unreasonable and any restriction is justified.
- 3.1.4 There is a requirement to undertake a statutory public consultation exercise. The Council must consult with the following for the proposed area to be restricted:-
- (a) the chief officer of police, and the local policing body for the area
 - (b) whatever community representatives the local authority thinks it appropriate to consult
 - (c) the owner or occupier of land within the area
 - (d) the parish council or community council (if any) for the area and
 - (e) the county council (if any) for the area.
- 3.1.5 PSPOs 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.
- 3.1.6 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.
- 3.1.7 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 or certain groups at certain times.
- 3.1.8 The legislation provides they can be extended at the end of the period, but only for a further maximum 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. Both variation and discharge of an Order are subject to statutory consultation requirements.

- 3.1.9 Enforcement may be shared between the Council and the Police. Breach of a PSPO 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, any person designated by a local authority for the purpose of issuing fines for breaches of a PSPO, and Police Officers.
- 3.1.10 Before making the Order, the local authority must notify potentially affected people of the proposed Order and notify them of how long they have to make representations. Officers will then consider any representations made with the intention of bringing a report back to Cabinet.
- 3.1.11 Consultation will last 12 weeks and will be carried out on Survey Monkey via the Council's website and promoted through Facebook and Twitter. Community groups, Parish Councils, Residents Associations, Park Management Committees and Friends of groups will all be notified.

3.2 Issues

- 3.2.1 The current PSPO allows for greater enforcement and control of certain behaviours seen to be anti-social behaviour and it would be beneficial to continue with a PSPO. However, we need to ensure the PSPO is relevant and up to date with current issues facing our residents and visitors to the town.
- 3.2.2 Cycling on pavements continues to be an issue in the Town Centre and along Kingsley front. This offence of committing nuisance by wilfully riding on a footpath is currently technically enforceable by the Police under Section 72 of the Highway Act 1835, but the Council would not be seeking to simply replicate this offence as a prohibition. The PSPO would also allow enforcement by way of issuing a fixed penalty notice by accredited Council Officers as well as Police Officers.
- 3.2.3 Busking can add to the good feel of the town. The PSPO proposed consultation will ask businesses, residents and users of the town centre whether they think the Council ought to have powers to manage buskers more effectively so that they do not stay in one place for too long with a suggested time of 2 hours. The consultation will also seek views on allowing a non-busking period on a particular day/time (yet to be determined) to allow Northampton to become an autism friendly town.
- 3.2.4 The general public will also be asked to consider the use of amplifiers by buskers following complaints.

3.3 Choices (Options)

- 3.3.1 Do nothing – the current PSPO will naturally expire on 31 March 2020. The conduct prohibited in the Order will be prohibited no longer.

3.3.2 Commence a consultation review on PSPO 2017 as set out in Appendix 1 and ask for views on 2 additional behaviours for possible inclusion in a new PSPO, namely busking in the town centre and cycling on pavements in certain specific areas with the intention of creating new themed PSPOs for the Borough as follows –

- Intoxicating substances
- Begging in the town centre and on Kingsley Front.
- Dogs
- Urinating and defecating in a public space
- Busking in the town centre
- Cycling on pavements
- Spitting

4. Implications (including financial implications)

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 Police and Council. The Council will be the agency to process the Fixed Penalty Notices (FPN's), regardless of which agency issues them as agreed for PSPO1.

4.2.2 There is a financial implication in that the PSPO areas will require signage to allow enforcement to take place. The cost is estimated at £9.50 a sign. How many signs required depends on results of consultation.

4.2.3 Any income generated by payment of FPN's must be directed back into the 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 A PSPO can be made by a Local Authority (Section 59) if satisfied on reasonable grounds that two conditions are met. Firstly that –

- (a) Activities carried out in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality; and
- (b) It is likely that activities will be carried on in a public place within that area and that they will have such an effect.

4.3.2 The second condition is that the effect of the activities is, or is likely to be, of a persistent or continuing nature such as to make the activities unreasonable and therefore justifies the restrictions imposed by the notice.

- 4.3.3 There is a statutory requirement for a local authority to consult with the persons or public bodies identified in 3.1.4 above before considering whether it would be necessary to make a PSPO.
- 4.3.4 The statutory consultation and consideration of any representations received is important because, if a PSPO is eventually made, it can be challenged in the High Court by any interested person directly affected by the making of the Order within 6 weeks of the Order being made.
- 4.3.5 The text of the Order, if made, must be published.

4.4 Equality and Health

- 4.4.1 Incidents of ASB will continue to be dealt with in line with the Council's 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
Northamptonshire Police
Cabinet Member for Community Safety, NBC
Town Centre Manager, NBC
Direct Services Manager, NBC
Head of Service for Housing and Wellbeing, NBC

4.6 How the Proposals deliver Priority Outcomes

One of the Council's priorities is 'invest in safer, cleaner neighbourhoods' and the PSPO would contribute to this priority.

4.7 Other Implications

- 4.7.1 Information technology – The Council's website and social media channels will be utilised for the consultation process.

5. Background Papers

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

6. Next Steps

- 6.1 Following the consultation period and consideration of any representations received, Cabinet will be asked to approve PSPO.

George Candler
Chief Executive
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Appendices:-

- 1: PSPO 2017 – existing PSOP expiring in March 2020.



Public Spaces Protection Order Covering the Borough of Northampton

Northampton Borough Council ("the Council") makes the following Public Spaces Protection Order under section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 ("the Act"):

1. The land described by the appendices map(s) being land in the area of the Council is land to which the Anti-Social Behaviour, Crime and Policing Act 2014 applies and will be protected by this Order.
2. The Order may be cited as the Northampton Borough Council Public Spaces Protection Order for the Borough.

By this Order

3. The following conditions are imposed on the use of the land:
 - (a) In this area any person who continues to carry out activities from which they are prohibited commits an offence namely;
 - I. Persons within the area (Appendix 1) will not ingest, inject, smoke or otherwise use intoxicating substances. Intoxicating substances being defined as substances with the capacity to stimulate or depress the central nervous system (i.e. alcohol, illegal drugs or psychoactive substances). Psychoactive substances - commonly referred to previously as 'legal highs' - but does not include tobacco or prescription medication.
 - II. Persons within this area (Appendix 1) will not have in their possession any open containers of intoxicating substances as defined in paragraph 3(a)(I)
 - III. Persons within the area (Appendix 1) will not have any item that can be used to assist in the taking of intoxicating substances defined in paragraph 3(a)(I) above. This includes any device for smoking substances other than e-cigarettes, it also includes needles - save for those packaged and sealed by the manufacturer and stored in a hard case.
 - IV. No person shall urinate or defecate in any public place (Appendix 1); this does not include public toilets.
 - V. Persons within the town centre tennis racquet area (Appendix 1A) will not place themselves with the intention to make any verbal, non-verbal or

written request from a standing, sitting or lying-down position for money, donations or goods – including the placing of hats or containers for money.

- VI.** Persons within the Kingsley shopping area (Appendix 1B) will not place themselves with the intention to make any verbal, non-verbal or written request from a standing, sitting or lying-down position for money, donations or goods – including the placing of hats or containers for money
- VII.** Persons who are in charge of a dog must remove its faeces from the land (Appendix 1) forthwith unless:
- a. there is reasonable excuse for failing to do so (not being in possession of a bag to remove the faeces would not be acceptable); or
 - b. the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so
- VIII.** A person in charge of a dog on land detailed below must keep the dog on a lead in:
- a. all children's play areas in public parks
 - b. all cemeteries
 - c. Northampton town centre (tennis racquet area, Appendix 1A)

(b) In this area any person who fails to comply with any requirement within the Order commits an offence if they fail to adhere to the following;

- i. Persons within the area will, on the request of a Police Officer, Police Community Support Officer or an authorised Council Officer surrender any open containers of intoxicating substances in their possession.
- ii. Persons within the area will, on the request of a Police Officer, Police Community Support Officer or an authorised Council Officer surrender any item used to assist in the taking of intoxicating substances and comply immediately with the reasonable request of the requestor to secure safe disposal of any needles in their possession not sealed and stored as directed in Paragraph 3(a)(III)
- iii. Persons within the area will, on the request of a Police Officer, Police Community Support Officer or an authorised Council Officer cease drinking alcohol and will dispose of or surrender any containers of alcohol in their possession.

This Order is subject to the Exemptions at Appendix 2

- 4.** A person guilty of an offence of failing to comply with the Order under Section 67 of the Act, is liable on summary conviction to a fine not exceeding level 3 on the standard scale (currently £1,000.00) or if in receipt of a Fixed Penalty Notice to a penalty of a maximum £100.00.

- i. No proceedings may be taken for the offence before the end of the 14 day period following the date of notice; and
 - ii. The person may not be convicted of the offence if the person pays the fixed penalty before the end of that period.
- 5. Any person who without reasonable excuse continues consuming alcohol in breach of this Order in the Order area when asked to desist by a Police Officer, Police Community Support Officer or authorised person from the Council under Section 63, or fails to surrender any alcohol in his possession when asked to do so by a Police Officer, Police Community Support Officer or authorised person from the Council under Section 63 commits an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale (currently £500.00) or if in receipt of a Fixed Penalty Notice to a penalty of a maximum of £100.00.
- 6. In consulting regarding this Order before it was made the Council has had particular regard to the rights of freedom of expression and freedom of assembly set out in Articles 10 and 11 of the European Convention on Human Rights.

Dated

Signed

David Kennedy
Chief Executive
Northampton Borough Council