

Report of The Head of Finance

PUBLIC SPACES PROTECTION ORDER (PSPO)

1 Purpose of report

To seek approval to consult on the terms of a potential public spaces protection order (PSPO).

2 Executive summary

The council has used Dog Orders and Designated Public Protection Orders as statutory provisions to reduce antisocial behaviour. These provisions cease to be enforceable in October 2017 and have been superseded by PSPOs. If the council now wishes to replace the existing orders it will need to consult on the extent of any intended PSPO prior to implementation.

3 Appendices

Appendix 1: Proposed provisions of the PSPO

4 Proposed action:

The committee is invited to:

- 4.1 **RESOLVE that a consultation be carried out by officers regarding the introduction of a Public Spaces Protection Order as outlined in the report.**
- 4.2 **RESOLVE to receive a further report later in the year to consider whether to implement a Public Spaces Protection Order and, if so, what particular provisions any proposed order should include, taking into account the responses to the consultation.**

5 Background

- 5.1 In October 2014 the government implemented the Anti-Social Behaviour, Crime and Policing Act 2014 which gives local authorities and the police more effective powers to deal with antisocial behaviour.
- 5.2 There is now a need for the council to consider the future of the Designated Public Protection Order (DPPO) introduced in 2009 to cover the town centre and adjacent streets. This is the order that allows for the confiscation of alcohol by a police officer if anti-social behaviour (ASB) is being caused by the effects of alcohol consumption. This will automatically lapse in October 2017 as a result of the 2014 Act.
- 5.3 The 2014 Act gives the power to replace the DPPO with a Public Spaces Protection Order (PSPO). Such orders are designed to stop individuals or groups of people committing ASB in a public place. Restrictions 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; if the activity is persistent or continuing in nature and is unreasonable.

5.4 At the meeting of the Services Committee on 26 September 2016, members noted the new powers in the 2014 Act, the timescales for the lapse of current orders, and delegated authority to implement certain provisions of the Act to reduce antisocial behaviour. The provisions of a PSPO however, would need to be consulted upon and ultimately agreed by full council.

5.5 The potential for a PSPO is very 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 such activities as the drinking of alcohol and not keeping dogs on a lead. The order can cover any publicly accessible space within the council's area, including areas in private ownership to which the public have access.

5.6 The PSPO can:

- prohibit specified things being done in the area
- require specified things to be done in the area

The prohibitions 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 for those specified
- apply in all circumstances, or only in specified circumstances, or in all circumstances except for those specified

However, before making an order the following conditions must be met:

- 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 area
- 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.

5.7 Breach of a requirement to desist in a particular activity covered as part of the order is a criminal offence which can result in the issuing of a fixed penalty notice (FPN) or prosecution resulting in a fine of up to £1,000 on conviction. Enforcement can be undertaken by council officers and other groups the council may designate, but principally police officers and police community support officers.

5.8 The dog control orders currently in place in the borough will also lapse at this time but will automatically convert to PSPOs. The scope of these may also need reviewing, and so it is suggested that consultation takes place concurrently to review behavioural aspects relating to the management of dogs.

6 Discussion

- 6.1 The potential for a PSPO to tackle a number of existing antisocial behaviours, especially in the town centre, has been discussed initially through the Wellingborough Community Safety Partnership Board, including Northamptonshire Police, Wellingborough Norse, Wellingborough Homes and organisations representing businesses and support services in the town.
- 6.2 Community safety partners will continue to work in a preventative, positively engaging way to reduce and prevent ASB, but where this is not in itself effective, a PSPO would enable an authorised officer to issue a warning to any individual breaching the provisions of the order. If that warning or resulting instruction was ignored, then a fixed penalty notice could be issued. It is possible to include behavioural conditions as well as fines.
- 6.3 In selecting an area, consideration must be given to enforceability and the geographical concentration of anti-social behaviour. Whilst a PSPO would be an extra tool to tackle ASB, the council does not have a team of community wardens but Wellingborough Norse carries out a limited enforcement role on its behalf and this, along with changing police priorities, means that the proposed areas and provisions of any order must be in proportion to the enforcement resource available for it to be effective. Any consideration to enhance the current enforcement capacity would need to be considered as part of a new budget growth proposal.
- 6.4 The area initially under consideration mirrors the current town centre DPPO boundaries. This area has been chosen because:
- in mirroring the current DPPO area, the order would cover the area with the highest enforcement level for on-street consumption of alcohol
 - there is a concentration of anti-social behaviour issues in the town centre, during the day and night time
 - it would support policies for the management of the town centre, regeneration and attracting inward investment
- 6.5 In addition it is proposed to consult on provisions relating to the management of dogs. Current provisions require owners or those in charge of dogs to
- clean up after a dog has fouled in an open air area to which the public have access, anywhere in the borough
 - not permit the dog to enter or remain in any enclosed children's play area, multicourt games area or cemetery as defined within the order
 - keep a dog on a lead on highways, footways cycleways or footpaths, grass verges adjacent to a road; certain town centre car parks; and cemeteries and certain nature reserves
 - put a dog on a lead in any other public area when asked to do so by an authorised officer, if such restraint is needed to prevent nuisance, or the behaviour of the dog is likely to cause annoyance or disturbance to any other person, animal or bird

- 6.6 The Act requires the council to consider whether an activity already causes harm or could do so in the future. The council will need to consider whether a PSPO offers the most appropriate solution, or whether an existing law already provides an adequate remedy.
- 6.7 Before making an Order the council must consult with the local police through the chief officer of police and the police and crime commissioner. The owner of the land should also be consulted, including, for example, the county council. It is proposed to consult more widely than this, including through the public, voluntary and support service providers and town centre businesses.
- 6.8 After initial discussion with close community safety partners, it is proposed that the council consults on a PSPO to include the provisions as set out in Appendix 1.
- 6.9 A formal consultation period of 6 weeks, starting at the beginning of February and running until the middle of March is proposed. A report on the consultation and next steps would be submitted to the April meeting of the Services Committee.

7 Legal powers

- 7.1 Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 states that a local authority may make a public spaces protection order if satisfied on reasonable grounds that two conditions are met.

The first condition is that:

- (a) activities carried on in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality, or
- (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.

The second condition is that the effect, or likely effect, of the activities:

- (a) is, or is likely to be, of a persistent or continuing nature,
- (b) is, or is likely to be, such as to make the activities unreasonable, and
- (c) justifies the restrictions imposed by the notice.

- 7.2 The council will need to have due regard to the results of the public consultation exercises in considering whether to implement a Public Spaces Protection Order and what particular provisions any proposed order should include.

8 Financial and value for money implications

The cost of the consultation can be met from existing community safety budgets. Any extra enforcement provision would need to be considered as a supplementary budget estimate.

9 Risk analysis

Nature of risk	Consequences if realised	Likelihood of occurrence	Control measures
The current orders lapse with no replacements in place	Antisocial behaviour likely to increase	High	Investigate the implementation of a PSPO in the town centre
The council is challenged on implementing a PSPO	The order would not be valid. The council would incur court costs and reputational damage. ASB would not be controlled in the most effective way	Medium - high	Consultation with a wider public and stakeholders to ensure the correct prohibitions are put in place

10 Implications for resources

The scope of any agreed order will have to be proportionate to the ability to enforce such an order. However, use of council and police resources to tackle ASB at an early stage should prove less resource intensive over time.

11 Implications for stronger and safer communities

Use of the powers will support the council to tackle anti-social behaviour and crime, improve the environment and support the creation of safer and stronger town centres and neighbourhoods.

12 Implications for equalities

Use of the powers will help to give better protection to the public against becoming victims of crime. The consultation will give people a greater say in how agencies respond to anti-social behaviour.

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

13 Author and contact officer

Gill Chapman, Principal Community Support Manager

14 Consultees

Senior Management Team
Solicitor, District Law
Community Safety Officer

15 Background papers

None

Appendix 1

The following provisions have been considered by CSP partners and are recommended for consulting upon for possible inclusion in a PSPO.

Antisocial behaviour activity to be addressed	Why	Solution	Where
Rowdy and abusive behaviour due to consumption of alcohol and other intoxicating substances, especially in the town centre	ASB stemming from drinking or taking intoxicating detrimental effect on those in the locality and be unreasonable.	Powers to confiscate the intoxicating substance and dispose of it, discouraging and reducing such behaviours	As per existing town centre DPPO
Begging – verbal, non-verbal or written request for money, donations or goods	Such behaviour is likely to have a detrimental effect on those in the locality and be unreasonable.	Ability to issue warnings and notices to discourage and reduce such behaviour	As per existing town centre DPPO
Urinating/defecating in a public place	Such behaviour is likely to have a detrimental effect on those in the locality and be unreasonable.	Ability to issue warnings and notices to discourage and reduce such behaviour	Borough -wide
Unauthorised distribution of printed material/leaflets	Leads to littering and undermines efforts to keep the town clean and tidy. It is likely to have a detrimental effect on those in the locality and be unreasonable.	Ability to issue warnings and notices to discourage and reduce such behaviour	In a council carpark without being in possession of an authorisation from the council.
Fly posting - putting up posters and banner without correct permissions	Fly posting looks untidy and undermines efforts to keep the town clean and tidy. It is likely to have a detrimental effect on those in the locality and be unreasonable.	Ability to issue warnings and notices to discourage and reduce such behaviour	Borough-wide
Dog fouling	Without such an order, dog fouling is likely to increase, causing a detrimental effect on those in the locality and be unreasonable.	Dog owners or those in charge of a dog must clean up after a dog has fouled	Borough-wide on land to which the public have access
Dogs being off the lead and out of control in designated areas	Out of control dogs are likely to have a detrimental effect on those in the locality and be unreasonable.	All dogs to be under control and on a lead in a designated area	All children's enclosed play areas, cemeteries. Town centre
Behaviour by a dog likely to be a nuisance or cause annoyance to any person or disturbance to any other person, animal or bird	Out of control dogs are likely to have a detrimental effect on those in the locality and be unreasonable	Power to give a direction to keep a dog on a lead, to discourage and reduce such behaviour or nuisance	Borough wide on land to which the public have access

