

North Somerset Council

REPORT TO THE COMMUNITY AND CORPORATE ORGANISATION POLICY AND SCRUTINY PANEL

DATE OF MEETING: 5 NOVEMBER 2019

SUBJECT OF REPORT: REVIEW OF PUBLIC SPACE PROTECTION ORDERS

TOWN OR PARISH: ALL

OFFICER/MEMBER PRESENTING: DEE MAWN

KEY DECISION: NO

REASON:

This is not a key decision because it will not result in the authority incurring expenditure or making savings in excess of £500,000 and will not be significant in terms of its effect on communities living or working in more than one ward in the area.

RECOMMENDATIONS

To undertake a review of Public Space Protection Orders in accordance with section 60 of the Anti-social Behaviour Crime and Policing Act 2014.

1. SUMMARY OF REPORT

Public Space Protection Orders (PSPOs) were introduced across the district by North Somerset Council on the 20 October 2017 to deter individuals or groups of individuals committing anti-social behaviour in public places. The orders replaced dog control orders, designated public place orders that help the police tackle alcohol related anti-social behaviour and, where appropriate, local byelaws.

PSPOs can remain in force for a maximum of three years, which means that the current orders will need to be reviewed by the 20 October 2020 otherwise they will cease to have effect. Effective evaluation of the orders will be important when determining whether any extensions or variations would be appropriate. Any orders that are no longer required can also be formerly discharged.

Early engagement with panel members is crucial to the review process. Councillors provide officers with an understanding of the issues occurring in local communities and how best to respond to them. If an order is to be extended it will be helpful to know if there are any variations needed in the way it has been drafted. Similarly, there may be new issues that the orders don't currently address, which can then be added if necessary. It may be the case that some orders will need to be discharged as they are no longer appropriate. The process is likely to require involvement, and pooling of information, from a variety of sources, including officers from across council departments (for example, community safety, environmental health, parks, equalities, legal), police colleagues and external agencies. There is then a requirement to undertake formal statutory consultation on any proposed extension, variation and/or discharge of the orders. This process can be time

consuming to complete which is why it is recommended to commence the review process now.

A provisional timeline for the review process is set out below

Date	Activity
5 November 2019	<ul style="list-style-type: none">• CCO panel meeting
Nov 2019 to Jan 2020	<ul style="list-style-type: none">• Collation of amendments/new proposals
Feb to April 2020	<ul style="list-style-type: none">• Public Consultation Period
Date TBC 2020	<ul style="list-style-type: none">• CCO panel meeting
Date TBC 2020	<ul style="list-style-type: none">• Executive

2. POLICY

Attention is drawn to the following policy documents (full details of which can be found in the reference section of this report)

- The Anti-social Behaviour, Crime and Policing Act 2014: Statutory guidance for frontline professionals - provides guidance to local authorities on the steps it must take before introducing a PSPO.
- The council's policy relating to the issue of Fixed Penalty Notices - explains the process that officers must take when considering enforcement action.
- The Regulatory Services Enforcement Procedure – explains the council approach to enforcement in line with the Regulators Code.

Tackling anti-social behaviour supports the vision and ambition of the council to “build and sustain great places to live and visit that are vibrant, accessible and safe”.

3. DETAILS

In summary the following PSPOs need to be reviewed, further information on each of the orders can be found in the background document section of this report.

3.1 Eight orders that apply to **any land to which the public is entitled or permitted to have access with or without payment** so that officers can effectively take action on those who without reasonable excuse:

- Fail to remove dog faeces

- Fail to produce a receptacle for picking up dog faeces when asked to do so
 - Fail to put a dog on a lead when required to do so
 - Deposit litter
 - Urinate or defecate in any place other than a public convenience
 - Trade on public property without a pedlars licence or street trading consent
 - Fail to stop consuming intoxicating substances when asked to do so
 - Fail to surrender intoxicating substances when asked to do so
- 3.2 Two orders covering **all enclosed children's play areas** so that so that officers can effectively take action on those who without reasonable excuse:
- Allow a dog in a children's play area
 - Smoke in a children's play area
- 3.3 All the orders that cover **any public library, museum, council building or public convenience** so that officers can effectively take action on those who without reasonable excuse:
- Engage in behaviour as to cause annoyance and/or nuisance (as specified in the order)
- 3.4 All the orders that cover **any off-street council managed parking areas** imposing restrictions.:
- 3.5 Several orders relating to specific issues in the following locations:
- Weston-super-Mare Princess Royal Square – no skateboarding, scootering, roller blading or inline skating
 - Weston-super-Mare Town Centre – no charitable collections without permission
- 3.6 The orders relating to **dog control matters** in the following towns and parishes
- Banwell, Blagdon, Bleadon, Clevedon, Congresbury, Dundry, Hutton, Kewstoke, Locking, Long Ashton, Nailsea, Pill & Easton-in-Gordano, Portbury, Portishead, St Georges, Tickenham, Weston-super-Mare, Winford & Felton, Winscombe & Sandford, Wrington, Yatton & Claverham

The panel are also encouraged to propose any new requirements for consideration.

4. CONSULTATION

Before making, extending, varying or discharging a PSPO, the council must consult with the local police. This should be done formally through the chief officer of police and the Police and Crime Commissioner, but details could be agreed by working level leads. This is an opportunity for the police and council to share information about the area and the problems being caused as well as discuss the practicalities of enforcement. In addition, the owner or occupier of the land should be consulted.

The council must also consult whatever community representatives they think appropriate. This could relate to a specific group, for instance the resident's association, or an individual or group of individuals, for instance, regular users of a park. The creation, extension, variation or discharge of a PSPO must be published in accordance with regulations made by the Secretary of State.

5. FINANCIAL IMPLICATIONS

None to be considered at this stage

Costs

N/A

Funding

N/A

6. LEGAL POWERS AND IMPLICATIONS

PSPOs were brought in under the Anti-Social Behaviour, Crime and Policing Act in 2014, which came in to force on 20 October 2017. PSPOs can be challenged in the high court within a period of six weeks following introduction.

North Somerset Council has not been challenged on the orders that were introduced on the 20 October 2017. Any new, varied or amended PSPOs that the council propose to introduce will be open to challenge within the first six weeks of adoption. Any district wide controls will come under particular scrutiny.

Revised guidance issued in August 2019 helps police and councils to continue to take appropriate action against nuisance behaviours while ensuring the most vulnerable, including the homeless, are not disproportionately targeted.

This guidance follows feedback from charities and other groups who raised concerns nationally that the orders were being used in some cases to disproportionately target certain groups in some areas rather than focusing on behaviour that is genuinely anti-social and causing others distress or alarm.

Particular concerns were raised around the use of the orders against the homeless, buskers, dog walkers and, in some cases, people simply gathering together in small groups in town centres who were not engaged in anti-social behaviour.

The guidance puts greater emphasis on the need to ensure the powers are used to target specific nuisance behaviours and are not applied in a blanket way against specific groups or behaviour that is not in itself anti-social. It reminds councils that powers should not, for example, target normal everyday behaviour that is not having a detrimental effect on the community's quality of life, such as skateboarding.

Where young people are concerned, councils should think carefully about restricting activities that they are most likely to engage in. Restrictions that are too broad or general in nature may force the young people into out-of-the-way spaces and put them at risk. In such circumstances, councils should consider whether there are alternative spaces that they can use.

Since our orders came into force there have been 199 reported breaches, 87 warnings issued, 27 fines issued and 5 successful prosecutions. There are a further 3 prosecutions in the pipeline.

There have been some challenges particularly in relation to staff turnover, training, organisational change, information technology and resources. However, these are being largely overcome by working in collaboration with other teams and agencies.

7. CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

The orders, whilst introduced mainly to tackle Anti-social Behaviour issues in our communities, they do also offer considerable benefit to the environment, i.e tackling litter and dog fouling.

8. RISK MANAGEMENT

There has been a lot of interest nationally over the introduction of Public Space Protection Orders. Our previous consultation generated interest from the local and national media.

The timeline for implementation (October 2020) allows scope for reviewing the wording of the orders to ensure that they have sound legal basis to protect them from challenge. Any new orders or any significant changes to the wording of the old orders will be publicised in accordance with the regulations issued by the Secretary of State before being brought into force.

9. EQUALITY IMPLICATIONS

Have you undertaken an Equality Impact Assessment? No

A full Equality Impact Assessment will be carried out as part of the consultation process on any new, extended, varied or discharged PSPOs.

10. CORPORATE IMPLICATIONS

The wide scope of this PSPO review is an example of a one council approach to tackling anti-social behaviour in North Somerset.

11. OPTIONS CONSIDERED

To not undertake a review – Not undertaking a review will mean that the orders will cease to have effect after the 20 October 2020. Failure to formally discharge orders that cease to have effect could also be a breach of our statutory requirements.

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APPENDICES

Appendix A – Presentation to Councillors

BACKGROUND PAPERS

Anti-Social Behaviour Crime and Policing Act 2014

<http://www.legislation.gov.uk/ukpga/2014/12/contents/enacted>

Revised Statutory Guidance for frontline professionals

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/823316/2019-08-05_ASB_Revised_Statutory_Guidance_V2.2.pdf

Local Government Public Space Protection Orders Guidance for Councils

https://www.local.gov.uk/sites/default/files/documents/10.21%20PSPO%20guidance_06_1.pdf

Information Note on Public Space Protection Orders

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/364851/Public_and_open_spaces_information_note.pdf

Report to the Community and Corporate Organisation Policy and Scrutiny Panel – Nov 2016 <http://apps.n-somerset.gov.uk/cairo/docs/doc27670.pdf>

Report to Full Executive – June 2017

<http://apps.n-somerset.gov.uk/cairo/docs/doc28128.pdf>

FPN Policy and Associated Papers

<http://apps.n-somerset.gov.uk/cairo/committees/comidx219-2017.asp>

The Regulatory Services Enforcement Procedure

<https://www.n-somerset.gov.uk/wp-content/uploads/2015/11/regulatory-services-enforcement-procedure-pdf.pdf>

North Somerset Council's Public Space Protection Orders

<https://www.n-somerset.gov.uk/my-services/community-safety-crime/public-space-protection-orders/public-space-protection-orders/>