

North Somerset Council

REPORT TO THE COMMUNITY AND CORPORATE ORGANISATION POLICY AND SCRUTINY PANEL

DATE OF MEETING: 16 JULY 2020

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

North Somerset Council in consultation with NSC staff, Councillors and neighbourhood teams within Avon & Somerset Constabulary has undertaken a review of Public Space Protection Orders and makes the following recommendations

- To renew all unchanged and existing Public Space Protection Orders in accordance with section 60 of the Anti-social Behaviour Crime and Policing Act 2014 as set out in **Appendix 1**.
- To undertake a public consultation on any new and amended Public Space Protection Orders in accordance with section 72 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. Every three years, legislation dictates that these orders must be reviewed. This review process began in October 2019 and consisted of the following steps;

- Community and Corporate Organisation (CCO) Panel meeting dated 9 November 2019
- An all member briefing dated 19 May 2020
- Consultation with NSC staff, police and other stakeholders
- CCO workshop dated 25 June 2020

Evaluation of the orders through these steps has been invaluable in determining whether any extensions or variations are appropriate. Early engagement with panel members has been crucial to the review process. Councillors, NSC staff and other stakeholders including the police have provided officers with an understanding of the issues occurring in local communities and how best to respond to them.

The review has identified the orders recommended for renewal (**Appendix 1**) and will provide an opportunity to put forward any amendments or new orders that are needed. Any amended or new orders that are recommended will be put forward for further public consultation in accordance with section 72 of the Anti-social Behaviour Crime and Policing Act 2014. All the orders recommended for renewal / adoption will then be subject to further levels of sign off as indicated in the following timetable.

Date	Activity
16 July 2020	CCO panel meeting Agree the list of unchanged orders for straight renewal – to be considered by the executive on 9 Sept.
July TBA	All Member CCO led engagement session (pre-public consultation) to agree the list of amended / new orders
Aug / Sept 2020	Public Consultation Period on amendments / new orders
9 Sept 2020	Executive – renew unchanged orders to meet the renewal deadline of 20 October 2020
21 Oct 2020	Executive – bring into force any new / amended orders

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 have been reviewed, further information on each of the orders can be found in **Appendix 1 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 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
- 3.6 Recommendations for all new orders and amendments will be discussed further at an all member CCO led engagement session pre-public consultation.

4. CONSULTATION

Before making or amending 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 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.

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.

Robust enforcement of the orders is important, a separate piece of work indicating the options for ongoing enforcement is currently being undertaken.

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

The recommendation is to

- To renew all unchanged and existing Public Space Protection Orders in accordance with section 60 of the Anti-social Behaviour Crime and Policing Act 2014 as set out in **Appendix 1**.
- To undertake a public consultation on any new and amended Public Space Protection Orders in accordance with section 72 of the Anti-social Behaviour Crime and Policing Act 2014.

Options considered would be

- To **not** renew all unchanged and existing Public Space Protection Orders in accordance with section 60 of the Anti-social Behaviour Crime and Policing Act 2014 as set out in **Appendix 1**. The consequences of such would mean that the orders will cease to have effect after the 20 October 2020.
- To **not** undertake a public consultation on any new and amended Public Space Protection Orders in accordance with section 72 of the Anti-social Behaviour Crime and Policing Act 2014. The consequences of such would mean that any new orders put forward to deter individuals or groups of individuals committing anti-social behaviour in public places could not be brought into force.

AUTHOR

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APPENDICES

Appendix 1 – unchanged and existing Public Space Protection Orders recommended for renewal

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/>

Report to the Community and Corporate Organisation Policy and Scrutiny Panel – Nov 2019

<https://apps.n-somerset.gov.uk/Meetings/document/report/NSCPM-117-144>

<https://apps.n-somerset.gov.uk/Meetings/document/report/NSCPM-117-143>