

North Somerset Council

Report to the Executive

Date of Meeting: 6 September 2023

Subject of Report: Public Space Protection Orders

Town or Parish: ALL

Officer/Member Presenting: Councillor James Clayton, Executive Member for Safety in the community

Key Decision: Yes

Reason:

This is a key decision as it is significant in terms of its effects on communities living or working in an area comprising two or more wards of the Local Authority.

Recommendations

1. 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**.
2. To make amendments to the Area Wide Public Space Protection Orders as set out in Section 3 of this report.
3. To undertake further engagement with Town and Parish Council's and other stakeholders for the more localised area specific orders. Decisions on the localised Area Specific Orders will be made at a later date by the relevant portfolio holder for PSPOs in accordance with the report to the Council dated February 2023. These decisions relating to the Area Specific Orders will need to be made prior to 15 October 2023 which is when the current Area Specific Orders expire.

1. Summary of Report

Public Space Protection Orders (PSPOs) were introduced in North Somerset in October 2017 and are part of the Anti-Social Behaviour, Crime and Policing Act 2014. They are designed to deal with nuisances or problems in a public space that are detrimental to the local community's quality of life by introducing restrictions and/or requirements which apply to everyone.

The orders are reviewed every three years, with the last review taking place in 2020.

As part of this review, the council is seeking to renew all unchanged and existing Public Space Protection Orders as set out in **Appendix A**.

In addition, to make amendments to the Area Wide Public Space Protection Order as set out in Section 3 of this report.

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 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

The details of the proposed amendments to the NSC-01 Area Wide Public Space Protection Order are set out below

3.1 AREA WIDE ORDER that applies to any land to which the public is entitled or permitted to have access with or without payment

The following existing provisions of the AREA WIDE ORDER are not subject to change

- *No person in charge of a dog shall fail to remove dog faeces*
- *No person in charge of a dog shall fail to produce a receptacle (bag) for picking up dog faeces when requested to do so by an authorised officer*
- *No person in charge of a dog shall fail to put a dog on a lead when directed to do so by an authorised officer.*
- *No person shall deposit litter*
- *No person shall urinate or defecate*
- *No person shall trade goods on public property without permission*
- *No person shall fail to stop playing music or instruments when requested to do so by an Authorised Officer*
- *No person shall engage in aggressive begging*
- *No persons shall drive in an anti-social manner*
- *If a Police Constable or Authorised Person reasonably believes that a person has acted contrary to the restrictions placed upon them by a Public Space Protection Order, they must provide their name and address when required to do so.*

The following amendments to the AREA WIDE ORDER are to be considered for approval.

3.1.1 Walking more than six dogs at any one time

It is recommended that the following provision is included within the area wide order

- *No person shall walk more than six dogs at any one time*

When setting the maximum number of dogs able to be walked by one person, the most important factor for authorities to consider is the maximum number of dogs

which a person can control; The expert advice provided in the Practitioners Manual for dealing with Irresponsible Dog Ownership is that this should not exceed six. This is supported by the results of our consultation.

3.1.2 Expanding existing powers to tackle substance misuse

It is recommended that the existing provisions are amended to the following within the area wide order:

- No person shall fail to stop consuming, using or inhaling anything in their possession which an authorised officer reasonably believes to be an intoxicating substance defined for the purposes of this order as any substance with the capacity to stimulate or depress the central nervous system.

Exemptions shall apply in the following cases, which will not be considered to be “intoxicating substances” for the purposes of this order: Alcohol, caffeine, cases where the substances are used for a valid and demonstrable medicinal use, substances given to an animal as a medicinal remedy and cigarettes (tobacco).

- No person shall fail to surrender anything in their possession, which an authorised officer reasonably believes to be an intoxicating substance and associated paraphernalia, when required to do so. Drug paraphernalia includes cannabis grinders, hypodermic needles, crack pipes, bongs and items that have been adapted to be used for the consumption of drugs unless with an accompanying note provided by a doctor, registered social worker or drugs rehabilitation centre.

This will enable officers to confiscate intoxicating substances and associated paraphernalia, helping to tackle substance misuse in public spaces.

It is important to note however that the authority will not confiscate any substances or paraphernalia if the person has an accompanying note provided by a doctor, registered social worker or drugs rehabilitation centre.

4. Consultation

The council undertook a public consultation between 05 June 2023 and 30 July 2023. The consultation was hosted on the council’s consultation system e-Consult.

A dedicated email inbox was set up and was monitored daily and paper copies were sent out on request.

The consultation was further promoted through press releases and social media coverage and through the councils own internal publication methods.

The council also consulted with Avon & Somerset Constabulary, including the Police and Crime Commissioner. The police and the council have shared information about the issues raised by our communities and will be working together through a Memorandum of Understanding (MoU) to enforce the PSPOs.

The full details of the results are retained by the Safer Communities Enforcement Manager and Environmental Protection Service Leader.

5. Financial Implications

There is an ongoing requirement to maintain adequate signage at the locations affected by the orders.

Costs

The costs of signage will be met through existing budget provision.

Funding

N/A

6. Legal Powers and Implications

PSPOs were brought in under the Anti-Social Behaviour, Crime and Policing Act in 2014. They were first introduced in North Somerset in 2017 and then renewed for a further three years in 2020. The next full review is due by October 2023. Any new PSPOs can be challenged in the high court within a period of six weeks following introduction.

North Somerset Council has not been challenged on any of the orders that have been introduced to date. However, these 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 scrutiny.

Revised guidance issued in March 2023 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.

Concerns were raised around the use of the orders against the homeless, buskers, dog walkers and, in some cases, people simply gathering 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.

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.

Any proposals considered for approval will be subject to legal review and approval before coming into force, any changes to wording which substantially alters the meaning of a provision will be subject to further consultation.

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 by tackling low level environmental crime

8. Risk Management

According to the risk scoring matrix as set out in the council's Risk Management Strategy, the risk is considered to be high if the recommendations set out in this decision notice are not implemented. This is because there will be a high possibility of adverse impact to residents in one or more wards due to the prevalence of Anti-social Behaviour without adequate measures in place to control it. The recommendations if approved will mitigate this risk by maintaining our ability to effectively deal with Anti-social Behaviour across North Somerset. Therefore if recommendations are approved, the residual risk is considered to be low/medium.

9. Equality Implications

A full equality impact assessment has been carried out and is contained in **Appendix B** of this report.

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 recommendations of this report are as follows:

1. 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**.
2. To make amendments to the Area Wide Public Space Protection Orders as set out in Section 3 of this report.
3. To undertake more engagement with Town and Parish Council's and other stakeholders for the more localised area specific orders. Decisions on the localised Area Specific Orders will be made at a later date by the relevant portfolio holder for PSPOs in accordance with the report to the Executive dated January 2023.

Other options considered would be to:

Not renew the existing PSPOs – PSPOs must be reviewed and renewed every three years. Failure to do so would result in the orders expiring which will limit our ability to effectively deal anti-social behaviour in our public spaces.

Not introduce any new or amended PSPOs and just renew what we already have – We have been working with councillors and officers from across council departments (including, for example, community safety, environmental health, parks, equalities, legal), police colleagues, external agencies and other key stakeholders to help draft the Public

Space Protection Orders (PSPOs) based on first-hand experience of having to handle antisocial behaviour issues within our communities. Failure to introduce the changes in line with the recommendations will limit our ability to effectively deal with the issues.

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Appendices:

Appendix 1 - Existing and unchanged North Somerset wide PSPOs to be amended / renewed

Appendix B – PSPO Equality Impact Assessment

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/1146322/2023_Update_ASB_Statutory_Guidance_-_FINAL_1_.pdf

Anti-Social Behaviour Action Plan 2023
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1157028/Anti-social_Behaviour_Action_Plan_March_2023.pdf

Government Public Space Protection Orders Guidance for Councils
https://www.local.gov.uk/sites/default/files/documents/10.21%20PSPO%20guidance_06_1.pdf

Dealing with Irresponsible Dog Ownership – A Practitioners Manual
<https://www.gov.uk/government/publications/dealing-with-irresponsible-dog-ownership-practitioners-manual>

Report to the Partnerships, Corporate Organisation and Overview Management Policy and Scrutiny Panel - Date of Meeting: 02 March 2023
<https://n-somerset.moderngov.co.uk/documents/s4436/10%20Review%20of%20Public%20Space%20Protection%20Orders%202023.pdf>

Report to the Council - Date of Meeting: 21 February 2023
<https://n-somerset.moderngov.co.uk/documents/s4327/09%20Public%20Space%20Protection%20Orders%20-%20Delegated%20Authority.pdf>

North Somerset Council's Public Space Protection Orders
www.n-somerset.gov.uk/PSPO

Full Consultation Response Document
Available from Harry Mills Safer Communities Enforcement Manager or Dee Mawn,
Environmental Protection Service Leader

Appendix 1 - Existing North Somerset Wide PSPOs to be amended / renewed

Unique ID	Year introduced	Order Name	Notes	Proposal
NSC-01	2017	Area Wide Order	An area wide order for public places dealing with dog fouling & general dog control, including having a means to pick up. As well as littering, urination & defecation, illegal trading and the consumption/surrender of alcohol and other substances.	Amend as set out in section 3.1 of the report
NSC-02	2017	Children's play area and skate parks	An order for all children's play areas and skate parks prohibiting dogs and smoking	Renew
NSC-03	2017	Public Conveniences	Deals with antisocial behaviour in public conveniences	Renew
NSC-05	2017	Any Public Museum	Prohibiting certain behaviours at The Museum	Renew
NSC-06	2017	Public Libraries, Childrens Centres and Council Offices	This PSPO prohibits certain behaviours within the public building	Renew
NSC-07	2017	Car Parks	This PSPO deals with a number of antisocial acts within council owned off-street car parks	Renew
NSC-08	2022	Town Centre & Retail Areas	Deals with a number of antisocial acts within defined areas of town centres and retail areas across the district	Renew
NSC-09	2022	Managed Parks and Open Spaces	Deals with a number of antisocial acts within specified managed parks and open spaces	Renew

Appendix B - Equality Impact Assessment

Service area:	Public Space Protection Orders
Does the topic of this assessment link to a budget reduction proposal:	No
Equality impact assessment owner:	Dee Mawn & Harry Mills
Assistant Director/Director sign off:	Matt Lenny
Review date:	Oct 2024

1. Equality Impacts

Please make High, Medium or Low bold as appropriate

Service User Impact

Before mitigating actions	High	Medium	Low
After mitigating actions	High	Medium	Low

Staff Impact

Before mitigating actions	High	Medium	Low
After mitigating actions	High	Medium	Low

2. The Proposal

2.1 Background to proposal

PSPOs were first introduced by the council in 2017 to deter individuals or groups of individuals committing anti-social behaviour in public places.

We have been working with councillors, officers from across council departments (including, for example, community safety, environmental health, parks, equalities, legal), police colleagues, external agencies and other key stakeholders to identify changes to North Somerset's Public Space Protection Orders (PSPOs) based on first-hand experience of having to handle ASB issues within our communities.

The review process has identified some additional PSPO requirements which are as follows.

North Somerset Wide

In addition to the requirements already in the existing area wide PSPO, the new area wide order includes a number of new provisions:

- impose a limit on how many dogs can be walked at any one time
- expand its powers in order to be able to confiscate intoxicating substances and associated paraphernalia.

2.2 Please detail below how this proposal may impact on any other organisation and their customers

The introduction of these changes to PSPOs will support the council's priorities to be

- A great place for people to live, work and visit.
- Welcoming, safe and clean

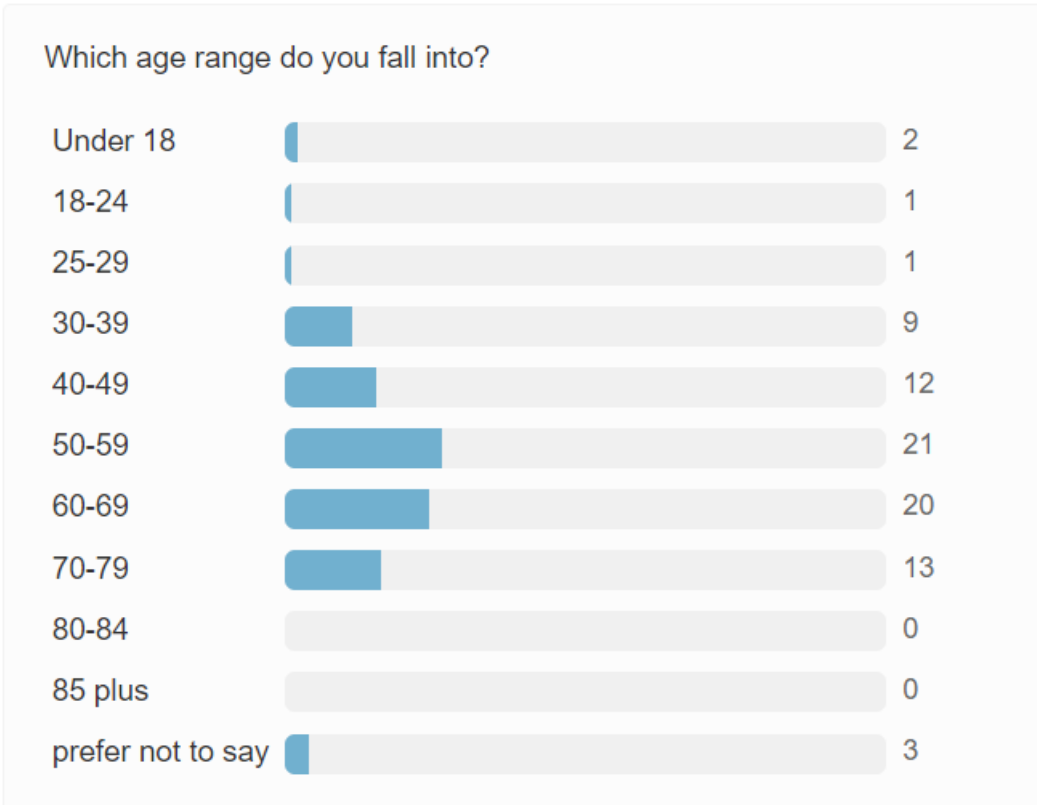
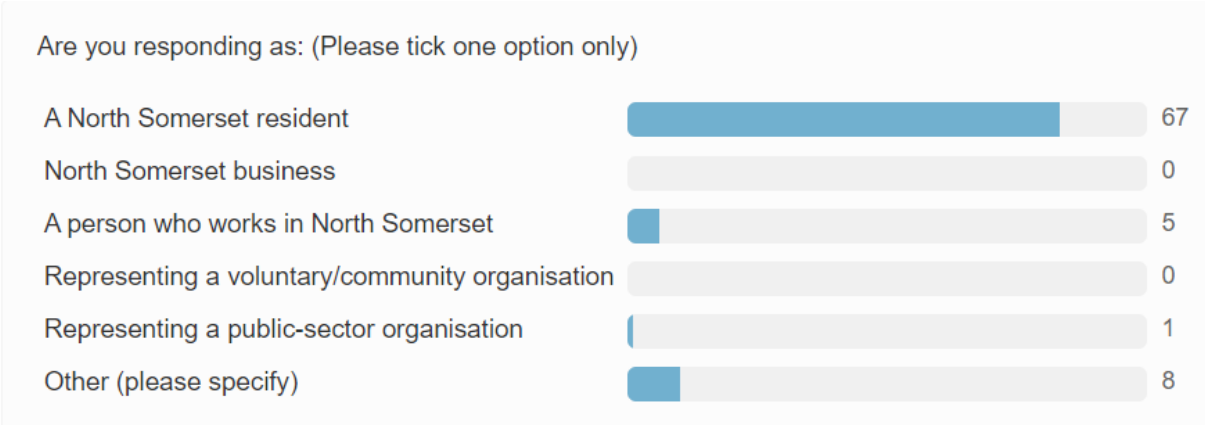
We have worked jointly with the police and other organisations to identify types of anti-social behaviour that frequently takes place within our North Somerset towns and villages that reduces our ability to achieve these priorities.

The opportunity to introduce these changes to PSPOs enables us to deal with anti-social behaviour effectively and will therefore benefit not only our residents but our businesses and their customers as well by making North Somerset a desirable place to live, visit and work. It is equally important however to ensure that our proposals are reasonable and that we enforce the orders in a proportionate, fair and consistent manner.

Section 3 – What Do We Know?

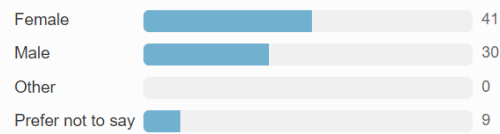
3.1 Customer profile details – what data or evidence is there which tells us who is, or could be, affected?

Our data gives us the following profile details of the people surveyed.

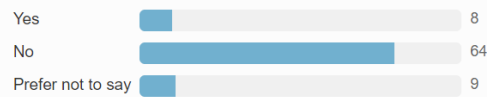


What is your gender?

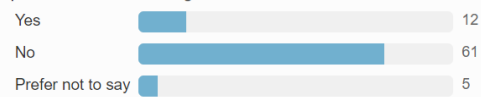
If your gender is not the same as the sex recorded on your birth certificate when you were born (for example, if you are non-binary or intersex), tick "Other".



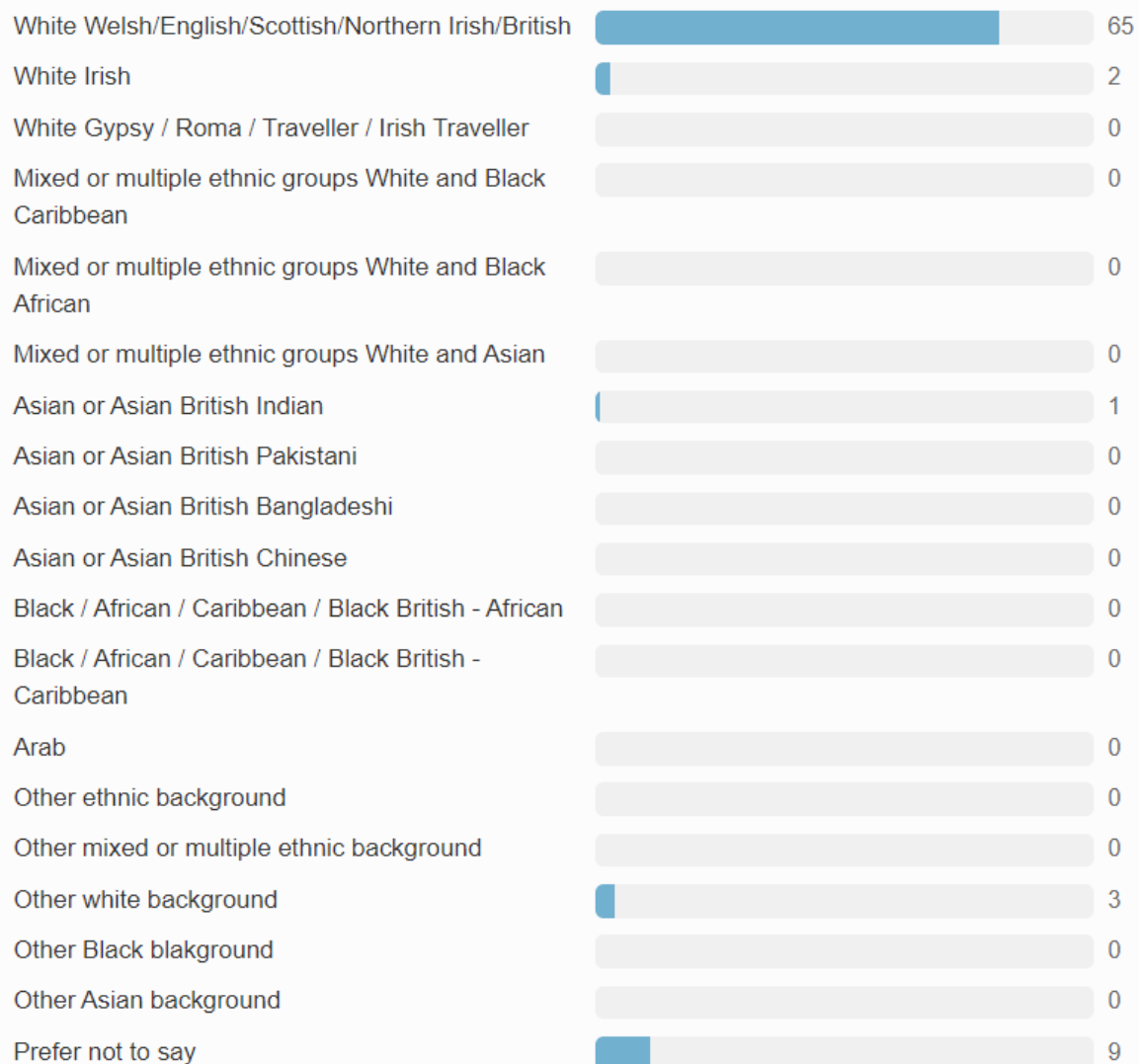
Do you have a long-term health problem or disability that limits your day-to-day activities, and has lasted, or is expected to last, at least 12 months?



Do you provide unpaid care by looking after or giving help or support to family members, friends, neighbours or others because of a long-term illness or disability, or problems related to old age?



Which of these ethnic groups do you consider you belong to?



3.2 What does the data or evidence tell us about the potential impact on diverse groups, and how is this supported by historic experience/data?

Consultation respondents asked if they thought the area wide PSPOs will have a positive impact or negative impact in North Somerset. Here is the breakdown of their responses

Overall, do you think that the introduction of these area wide PSPOs will have a positive impact or negative impact in North Somerset?

	Positive Impact	No Impact	Negative Impact	Don't know / not sure
Area Wide PSPO	47	10	8	14

Consultation respondents were prompted to include comments about whether the orders had a negative impact on them, including any impacts due to age, sex, ethnicity, disability, other protected characteristic as defined in the Equality Act 2010, or indeed any aspect of their lifestyle or identity.

The comments that were made around negative impact can be grouped as follows:

- Concerns that officers could abuse their powers
- Spoiling enjoyment and fun, limits freedom, civil liberties and rights
- Concerns about professional dog walkers
- Unfairly targets dog owners
- Weak enforcement

3.3 Are there any gaps in the data, for example across protected characteristics where information is limited or not available

Yes, there are gaps in our data, we have only sampled a small proportion of the overall population.

3.4 How have we involved or considered the views of the people that could be affected?

Consultation respondents were prompted to tell us about their opinions in relation to the positive and negative effects of the proposals on protected characteristics.

3.5 What has this told us?

That the PSPOs have positive and negative impacts on the following protected characteristics

- Disabled people
- People from different ethnic groups
- People on a low income
- People in particular age groups
- Other characteristics

3.6 Are there any gaps in our consultation, what are our plans for the future?

Further community engagement and consultation will be necessary on some of the orders if it is felt that opinion is too divided to make a decision.

Section 4 – Assessment of Impact

Will the proposal have a disproportionate impact on any of these groups?

Insert X into one box per row, for impact level and type.

H = High, M = Medium, L = Low, N = None | + = Positive, = = Neutral, - = Negative

Impact Level

Impact type

Summary of Impact

	H	M	L	N	+	=	-	
Disabled people		x			x		x	<p>If the person has a disability which affects their ability to comply with an order there may be a disproportionate impact unless mitigating measures are applied.</p> <p>The impact of the orders on mental health can be seen as both negative and positive</p> <p>Respondents have also said that the orders will have a positive impact on people with disabilities as they feel that areas will be more accessible and safe</p>
People from different ethnic groups			x				x	<p>The consultation has indicated that there is some concern that the enforcement of the orders may negatively impact ethnic groups</p>
Men or women (including pregnant women or those on maternity leave)		x			x			<p>The proposals are considered to have a positive effect reducing health risks that dog fouling poses and will also reduce the likelihood of babies and toddlers coming into contact with dog faeces and the unpleasantness of having it on shoes, clothing and prams</p>
Lesbian, gay or bisexual people				x		=		
People on a low income		x					x	<p>Offenders may well be residents on low incomes and may be served with a Fixed Penalty Notice</p>

People in particular age groups	x		x		x	<p>Young people - Officers are mindful that these orders are focused on addressing anti-social-behaviour in many places where young people congregate. On the other hand the consultation has indicated that the orders may also have positive impact on young people in accessing outdoor play areas / sports facilities free from dogs and dog fouling.</p> <p>Older people - The consultation also suggests the orders have both a positive and a negative effect. On the one hand pr people feel that areas will be more accessible and safe but on the other they feel that heir age makes them an easy target.</p>
People in particular faith groups		x		=		
People who are married or in a civil partnership		x		=		
Transgender people		x		=		

Impact Level					Impact type			Summary of Impact
	H	M	L	N	+	=	-	
<p>Other specific impacts, for example: carers, parents, impact on health and wellbeing, Armed Forces Community etc.</p> <p>Please specify:</p>		x			x		x	<p>In most cases the PSPOs will generally have a positive impact on residents and communities of North Somerset and have a positive impact on health and wellbeing. But there are also some negative impacts on certain groups to consider such as dog walkers and windsurfers.</p>

Does this proposal have any potential Human Rights implications? **No**

Consultation responses have indicated concern around some of the orders , particularly around the requirement of name and address. The authority will in all cases follow the principles of the Regulators Code which applies to all enforcement action carried out by local authorities, this ensures that our regulatory activities are be carried out in a way which is transparent, accountable, proportionate and consistent; and fully compliant with Human Rights legislation

Could this proposal have a Cumulative Impact with any other budget savings? **No**

This is an impact that appears when you consider services or activities together; a change or activity in one area may create an additional impact somewhere else

If 'yes', please describe?

Section 5 – Action Plan

Where you have listed that there will potentially be negative outcomes, you are required to mitigate the impact of these. Please detail below the actions that you intend to take.

Action taken/to be taken

Exemptions will be included in the orders to protect disabled people from being disproportionately impacted

We will allow for extended payment methods for those on low income

We will ensure that as part of the officer training that attention is drawn to the exemptions in the orders, the requirements of our enforcement procedures and our duties under the Equalities Act

We will follow our procedures in relation to enforcement action against young people.

We will seek restorative justice as an alternative to formal action on with particularly vulnerable groups such as the homeless

How will it be monitored?

We will review enforcement action taken after 6 months and look to build in methods to collect customer feedback and equality data

We will review the arrangements with the council's equalities groups on a periodic basis



We will review the orders to ensure that as far as possible plain English is used.

We will ensure that enforcement is carried out in a way which is transparent, accountable, proportionate and consistent.

If negative impacts remain, please provide an explanation below.