



Ward: All Worthing

Review of Public Space Protection Orders

Report by the Director for Communities

1.0 Summary

- 1.1 On August 22nd 2016, Worthing Borough Council implemented the following three Public Space Protection Orders (PSPOs), using the powers contained within the Anti Social Behaviour, Crime and Policing Act 2014.

PSPO 1: Public Drinking in Worthing

PSPO 2: Begging in Worthing Town Centre

PSPO 3: Unauthorised Camping in 8 locations in Worthing

- 1.2 It was agreed by Worthing Full Council, that enforcement of the PSPOs would be monitored via the Joint Overview and Scrutiny Committee.

2.0 Background

- 2.1 Public Space Protection Orders enable local authorities to restrict or prohibit certain activities or behaviours in specified locations. Adur and Worthing Councils have a comprehensive programme of work to tackle anti social behaviour and ensure that Adur and Worthing are safe places to live, work and visit. Implementing the PSPOs strengthened this programme of work by proactively challenging nuisance behaviours that impact on the community.
- 2.2 PSPOs can be enforced by a Police Officer, a Police Community Support Officer or a designated local authority officer. Discussions with Sussex Police confirmed that they would support the enforcement of the orders if appropriate within the framework of threat, harm and risk but will not carry out enforcement as part of core business.
- 2.3 To date, 7 Adur and Worthing Council officers have been delegated the power to issue a fixed penalty notice for breaches of the PSPOs. This includes 2 officers from

the Communities and Wellbeing Team and the remaining officers are within the Parks and Foreshore service. In June, these officers completed training in enforcing the PSPOs to ensure that vulnerable individuals are identified and are given the opportunity to access the support that would prevent a breach of the PSPO.

- 2.4 **Enforcement of PSPO 1; Public Place Drinking;** Due to the risk associated with approaching individuals who are consuming alcohol, at this present time, local authority officers will not be enforcing PSPO 1. Under this power, Sussex Police continue to ask individuals to desist from consuming alcohol where they believe it might lead to anti social behaviour. Sussex Police have not issued any fixed penalty notices for failing to comply with this direction.
- 2.5 **Enforcement of PSPO 2; Begging in Worthing Town Centre;** It is a requirement of the ASB, Crime and Policing Act 2014, that in order to enforce a breach of a PSPO, there must be adequate signage in the location subject to the order. Due to the significant delay in obtaining the relevant Highways permissions, the signage for this order was not in situ until October 14th 2016. During the summer of 2015, there was a significant number of complaints regarding aggressive begging within the town centre. These numbers were not replicated throughout the summer of 2016 and also the delayed implementation means it is not possible to assess the impact of this PSPO at this time
- 2.6 **Enforcement of PSPO 3; Unauthorised Camping;** The purpose of PSPO 3 was to enable the removal of temporary structures and associated paraphernalia from eight specified green spaces in Worthing. It was envisaged that this would enable officers to challenge those visitors to Worthing who choose not to use authorised camping facilities. However, it has also been recognised that rough sleepers could be subject to enforcement of this order. Worthing Churches Homeless Project participated in the training provided to officers to raise awareness of services available and it was agreed that vulnerable individuals would be flagged to Adur and Worthing Street Outreach worker and AWC Housing Solutions Team.
- 2.7 From the date of implementation there have been 15 reports of individuals sleeping in tents within the restricted areas outlined in the PSPO. On each occasion, the Park and Foreshore Community Engagement Manager has notified the Lead for Early Help and Wellbeing, the Street Outreach Worker and the Single Homelessness Co-ordinator. The Street Outreach worker has been deployed to each reported encampment to ensure that the individuals concerned are aware of support available and are able to access the support.
- 2.8 Where there is an identified breach of a PSPO, a fixed penalty notice (FPN) can be issued. However, it is not practical to issue an FPN where the individual concerned is of no fixed abode. Agency consultation confirmed that all breaches of PSPO 3 involved individuals who are of no fixed abode. Individuals of no fixed abode, who

are camping without authorisation are currently subject to Civil Procedure Rules Section 55.6. Discussions with legal services are on-going to consider different approaches to addressing breaches of PSPO 3.

- 2.9 On November 11th, partners from relevant councils services, Parks and Foreshore, Housing Solutions, Communities and Wellbeing and Legal Services are meeting to discuss the issues presented by tent dwellers. The purpose of this meeting is to develop a co-ordinated response to tent dwellers and to ensure that agencies are working together to ensure the appropriate mix of enforcement and support for individuals who are sleeping in tents.

3.0 Proposals

- 3.1 It is proposed that the use of Public Space Protection Orders continues to be monitored.

4.0 Legal

- 4.1 Public Space Protection Orders were introduced by the Anti-Social Behaviour, Crime and Policing Act 2014, to replace existing legislative rules in relation to some bye-laws, and to place controls on the use of a space and everyone within it. Breach of a PSPO carries criminal sanction either through the issue of a Fixed Penalty Notice, or through proceedings in the Magistrates Court. The stated purpose of PSPOs is to deal with particular nuisance or problem in an area that is detrimental to the local community's quality of life.

PSPOs may only be made by a local authority (s74(1) of the Act) and in circumstances that two conditions are met (s59 of the Act). Those conditions are that:

1. The activities carried on in a public place have had a detrimental effect on the quality of life of those in the locality, or it is likely that those activities will have such an effect; and
2. The effect, or likely effect is, or is likely to be persistent or continuing in nature such as to make the activities unreasonable to justify the restrictions imposed by notice.

In deciding to whether to make a PSPO, local authorities must have regard to the rights set out in the European Convention on Human Rights, carry out consultation, carry out necessary notification, and carry out necessary publicity (s72 of the Act). These steps and considerations were undertaken by the Authority prior to the

PSPOs specified above becoming operable, although please note comments above regarding notification provisions in relation to PSPO 2.

Section 68 of the Act allows an Authorised Officer to issue a Fixed Penalty Notice where that Officer has reason to believe that an offence has been committed in breach of a PSPO. However, the use of such notices is limited in circumstances where an individual is of no fixed abode, and the only remedy may be to summons the offender to appear before the Magistrates Court.

5.0 Financial implications

5.1 N/A

6.0 Recommendation

6.1 It is recommended that Members note the report and continue to monitor the use of the PSPOs on a quarterly basis.

Local Government Act 1972

Background Papers:

Anti Social Behaviour Crime and Policing Act 2014

Strengthening our Anti-Social Behaviour Programme: a proposal to consult communities about Public Space Protection Orders (February 7th 2016)

https://docs.google.com/document/d/1_9a7xjqjLxFUTWwop1fih-MVpPol7K4zm07UKF7XIkU/edit

Strengthening our work on Anti-Social Behaviour: A proposal to consider Public Space Protection Orders - Report to JSC April 2016 (consultation results, April 5th 2016)

<https://docs.google.com/document/d/1FSYTwQ9eCBqD4ByvFyMzoEF7UVdYLOEAv1mvG3mN9gw/edit>

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Schedule of Other Matters

[To be completed on all reports. If no issues are identified under a heading then it should read "Matter considered and no issues identified."]

1.0 Council Priority

1.1 Cultivating Enterprising Communities

2.0 Specific Action Plans

2.1 (A) [Set out the specific outcomes from the Corporate Plan the proposal is aimed at achieving and how]

(B) [Set out any specific government target the proposal is aimed to achieve]

3.0 Sustainability Issues

3.1 Matter considered and no issues identified

4.0 Equality Issues

4.1 Continued scrutiny of the Public Space Protection Orders is necessary to identify equality issues.

5.0 Community Safety Issues (Section 17)

5.1 Use of Public Space Protection Orders contribute to the reduction of crime and disorder in Adur and Worthing.

6.0 Human Rights Issues

6.1 Continued scrutiny of the use of Public Space Protection Orders will ensure adherence to the Human Rights Act.

7.0 Reputation

7.1 Both enforcement and non- enforcement of the orders could impact on the reputation of the council. Therefore continuous review of the enforcement process is necessary.

8.0 Consultations

8.1 Sussex Police representatives have been consulted for the purposes of this report.

9.0 Risk Assessment

- 9.1 There is a risk that crime and disorder issues will escalate if the councils do not utilise all available powers to address anti social behaviour

10.0 Health & Safety Issues

- 10.1 Health and Safety implications for officers enforcing the orders have been considered and addressed via training.

11.0 Procurement Strategy

- 11.1 Matter considered and no issues identified

12.0 Partnership Working

- 12.1 Partnership working is embedded in the delivery of this work programme, both across council departments and with external agencies including Sussex Police and Worthing Churches Homeless Project.