



Review of Public Space Protection Orders

Report by the Director for Communities

1.0 Summary

- 1.1 There are currently five public space protection orders in place; four in Worthing and one in Adur. Public Space Protection Orders allow for the restriction and/or prohibition of certain activities in specified locations. Breach of the conditions set out in an order can lead to a fixed penalty notice. This report is a review of the use of the orders.

2.0 Background

- 2.1 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

- 2.2 Two further PSPOs for Dog Control were implemented on December 19th 2016:

PSPO Dog Control - Adur

PSPO Dog Control - Worthing

The orders restrict the following activities:

- Dog Fouling - failure to remove dog faeces
- Dogs on leads by direction- failure to comply with a request to place a dog on a lead in designated areas.
- Dogs on leads - Failure to keep a dog on a lead in the designated areas
- Dogs Exclusion - Taking a dog onto land where such an activity is restricted

- Dogs- specified Maximum - Taking more than one dog into the areas restricted by the order.

2.3 **Enforcement of PSPO 1: Public Place Drinking**

This order allows an authorised officer to remove alcohol where there is reason to believe that the consumption of the alcohol will lead to anti social behaviour. An authorised officer refers to a constable or PCSO, or a council officer with the appropriate delegated powers. Following a risk assessment, it was agreed that Council Officers would not enforce the confiscation of alcohol as outlined in previous reports.

- 2.3 Sussex Police continue to use the powers contained within the order, to ask individuals to desist from drinking alcohol in a public place. This power is predominantly exercised in relation to members of the street community who have congregated in prominent locations within Worthing Town Centre and on the seafront.
- 2.4 Sussex Police do not collate numbers of requests to cease drinking and or the confiscation of alcohol, or share the details of these interventions with council officers. Therefore, it is not possible to provide information regarding the frequency of use of this provision.
- 2.5 An offence is committed if an individual fails to comply with the order at which point they can be served with a Fixed Penalty Notice (FPN). Sussex Police have not issued any Fixed Penalty Notices for breach of PSPO 1. The provision however, continues to be an integral tool to address alcohol related nuisance and disorder, and proves to be a valuable method of disrupting place based anti social behaviour.

2.6 **Enforcement of PSPO 2: Begging in Worthing Town Centre**

This order prohibits the following activities:

- Approaching another person either verbally or through action in order to beg from another person.
- Sitting or loitering in a public place for an unreasonable time or being in possession of a receptacle used to obtain monies for the purposes of begging.

- 2.7 Worthing Borough Council acknowledges that individuals who beg may be suffering multiple disadvantage including financial hardship, homelessness and/or poor

mental health. Hence, the priority has been to promote activity that focuses initially on support for individuals identified as begging, over enforcement. The protocol sets out a staged approach to enforcing breaches of this order, starting with verbal advice, followed by a written warning and culminating in enforcement action.

- 2.8 Since the beginning of 2017, there has been an increase in the number of people who appear to be begging in Worthing Town Centre. All of these individuals are known to services and to be of no fixed abode. As previously outlined, our current processes do not facilitate issuing Fixed Penalty Notices to individuals of no fixed abode. It is also worth noting that the order was designed to address “aggressive” begging, of which there has been little evidence, despite the observed increase in activity in the town.
- 2.9 One prolific individual has been witnessed using intimidating language and behaviour whilst begging within the PSPO restriction zone. After consultation with partners and with Adur and Worthing Councils’ Legal services, it was agreed that Sussex Police were the agency best placed to address the offences through Public Order legislation.
- 2.10 Adur and Worthing Councils Legal Services provided further advice regarding enforcement of PSPO 3 in April 2017. Once again this highlighted the lack of options for pursuing enforcement without an address to send a Fixed Penalty Notice.
- 2.11 As outlined above, support and engagement has continued to be the primary focus when engaging with individuals potentially in breach of PSPO 2. The Early Help and Wellbeing Lead has also been working with local PCSOs to undertake joint visits to individuals in breach of PSPO 3 and to issue initial verbal warnings. This has resulted in 5 individuals receiving verbal warnings for breach of PSPO 2.

2.12 **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. It was however acknowledged that rough sleepers might also be at risk of breaching PSPO 3. To clarify, a breach occurs if an individual fails to comply with a request to remove a temporary shelter or associated paraphernalia.

- 2.13 Communities and Wellbeing, Housing Solutions and Parks and Foreshore teams have collaborated to develop an approach to identify rough sleepers who could be

in breach of PSPO 3. It remains a priority to identify vulnerable individuals and offer support and signposting to services. Details of tents and inhabitants that are located on all council green spaces, are passed to Communities and Wellbeing and Housing Solutions colleagues before any enforcement action is progressed. Further action is not considered until it has been confirmed that a member of the rough sleepers' team has visited the site and made contact.

2.14 Since January 2017, there have been five tents located in PSPO 3 locations. Of these, one tent was removed by the occupant, and two were removed by Adur and Worthing Council Officers as they were deemed unoccupied (following notice being given that they would be removed).

2.15 To clarify, a breach occurs if an individual fails to comply with a request to remove a temporary shelter or associated paraphernalia and as such, there have been no breaches of PSPO 3.

2.16 **Enforcement of PSPO - Dog Control Orders**

The PSPOs replaced the existing dog control orders so as such, do not represent a new approach to dog related nuisance. However there has been a marked increase in the number of fixed penalty notices that have been issued. This is attributable to a larger number of staff trained to issue them.. Since implementation, 30 fixed penalty notices have been issued. 22 in Worthing and 8 in Adur. All notices were issued for failure to remove dog faeces. This compares to a similar period under Dog Control Orders whereby 13 notices were issued in Worthing and 4 issued in Adur. Fines are for the sum of £50.00.

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 summons for the offender to appear before the Magistrates Court.

Section 68 of the 2014 Act defines a fixed penalty notice as a '*notice offering the person to whom it is issued the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty*'. Whilst this is an acceptable and appropriate mechanism to enforce breach of a PSPO serving FPN's on persons of no fixed abode, whilst possible, presents practical difficulties in the onward recovery of the sums due under the FPN. This is especially so where the offender fails to make payment, and or locating the offender is required at a later date to enable onward enforcement action by summons to the Magistrates Court.

5.0 Financial implications

5.1 [Insert any costs or other financial implications – to be checked with finance]

6.0 Recommendation

6.1 To continue monitoring of the Public Space Protection Orders

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-MVpPoI7K4zm07UKF7XIkU/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

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.