



ADUR & WORTHING  
COUNCILS

Joint Overview and Scrutiny Committee  
26 July 2018  
Agenda Item 8

Key Decision [~~Yes~~/No]

Ward(s) Affected: N/A

## **Review of Public Space Protection Orders**

### **Report by the Director for Communities**

#### **Executive Summary**

##### **1. Purpose**

- The purpose of this report is to provide a review of the use and enforcement of the current Public Space Protection Orders

##### **2. Recommendations**

###### **2.1 Recommendation One**

- The committee is asked to note the contents of the report, in particular the requirement to begin the consultation process for continuation of the orders beyond August 2019

### **3. Context**

- 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 provides a review of the use of the orders to the Joint Overview and Scrutiny Committee as agreed when implemented.
- At the Joint Overview and Scrutiny Committee in February 2018, it was agreed that the use of the PSPOs would move to six monthly monitoring therefore this report will cover the use of the PSPOs from January 1st 2018 to July 1st 2018.

### **4. Issues for consideration**

#### **4.1 Enforcement of Public Space Protection Order 1: Public Place Drinking**

Sussex Police continue to use the powers to ask people to desist from drinking in a public place where the officer believes it could lead to anti-social behaviour.

Historically, as part of “Operation Reform”, Sussex Police contributed dedicated officers to enforce the power to remove alcohol. Due to the policing model that prioritises risk, harm and threat, police resources are directed at high risk crimes and incidents. Therefore, whilst this power is not being used on a daily basis, it remains an important tool to prevent alcohol related anti social behaviour in public places.

Sussex Police do not collate figures for the use of this power only the number of Fixed Penalty Notices where a person has refused to comply with the request. There have been 0 FPNs issued in this reporting period.

There continues to be a street community presence in the seafront shelters. Where there has been nuisance and disorder, partners are using a variety of tools and powers to tackle alcohol related disorder. This includes targeted action against prolific individuals and increased police presence.

Following several reports of groups involved in alcohol related anti social behaviour, Sussex police implemented a Section 35 Dispersal Order on June 22nd-24th in Worthing town centre and on the sea-front. Such orders provide police with the power to ask people to leave

the area if they are causing or are believed to be causing anti social behaviour and is used when there are a high number of reports, following a serious incident, or if it is believed that there could be serious disorder. No arrests were made under the order.

#### **4.2 Enforcement of Public Space Protection Order 2: Begging in Worthing Town Centre**

Adur and Worthing Councils prioritise support for individuals who are homeless and or facing financial hardship. A key part of the outreach provided by Adur and Worthing Councils, focuses on engaging with those who are begging.

Across the Councils we are leading on ensuring that we respond proactively to the needs of vulnerable individuals who may be experiencing financial hardship and maybe finding it difficult to access benefits and resources as changes are implemented by the Department for Work and Pensions (DWP). Also, council officers continue to form positive relationships and develop referral routes with partners such as DWP, Citizens Advice, WCHP and others, who can assist. Consequently outreach efforts now include signposting to the appropriate support to open bank accounts and access digital systems through the Councils' IT Junctions in order to support residents to access the new benefits system and reduce their reliance on begging.

None the less, the number of individuals begging remains consistent, at approximately 3-5 in Worthing Town Centre town centre. All have been offered support and are either engaged with services or have been made aware of services but chosen to not to engage at this time.

The Ministry for Housing, Communities and Local Government (MHCLG) recently awarded Worthing Council approximately £276,000 to tackle rough sleeping, with an understanding that this would also extend to those rough sleeping in Adur. A multi agency plan has been developed that will allow us to significantly increase the support and options available to rough sleepers, including increasing the councils' outreach from 1 to 3 full time (or equivalent) members of staff. This will enable more intensive work with this group and a more flexible pathway into an increased range of accommodation.

PSPO 2 was introduced to tackle aggressive begging in Worthing town centre. This was introduced due to a large number of complaints from the community and the local businesses, including begging around cash points and obstructing access to shops and businesses. It was not designed for and has never been used to target the homeless community.

There is no evidence that there is aggressive begging taking place and therefore the priority remains to provide support. No warnings or FPNs have been issued for aggressive begging in this reporting period.

#### **4.4 Enforcement of Public Space Protection Order 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 and was implemented following reports of visitors to Worthing using these spaces as opposed to designated campsites.

As with PSPO 2, this was not designed to target homeless individuals but those using public sites, instead of designated campsites. A breach of this order occurs if someone does not comply with a request to remove the structure.

Since January 1st 2018, Parks and Foreshore officers have responded to 5 reports of unauthorised camping. All reports have been passed to the Street Outreach Team to visit and establish whether any vulnerabilities exist and to offer support to individuals, some of which is described above.

Where Parks and Foreshore officers come across an unoccupied tent , they will leave a notice on that tent that it will be removed if it is found unoccupied again after 24 hours. We have recently agreed with Worthing Churches Homeless Projects, that the councils' will notify them when this notice is issued so that they can try to identify whose property it is.

There have been no Fixed Penalty Notices served for breach of PSPO 3 in this reporting period as individuals have either complied with a verbal request to move or have been supported by our outreach workers to access available services.

Where there is an unauthorised encampment on council land and supportive interventions have not been successful, Adur and Worthing Councils have pursued eviction through court proceedings. In the reporting period, this approach has been used once in Worthing. During this period, the outreach team were visiting the encampment regularly to sign post and offer support to individuals.

#### **4.5 Enforcement of Public Space Protection Orders for Dog Control Worthing**

There has been no FPNs issued in Worthing in relation to dog control. However it should be noted that enforcement is only part of the regulatory continuum; dog wardens carry out education and give advice to dog owners as well as enforcing observed infringements.

#### **4.6 Enforcement of Public Space Protection order for Dog Control - Adur**

There has been one FPN issued for dog fouling and one FPN issued for a dog being in an excluded area in this reporting period.

- 4.7** Members are asked to note that the PSPOs for Public Drinking, Unauthorised Camping and Begging are valid until August 22nd 2019. Consultation and decision making timeframes will mean that members will need to be consulted in early 2019, regarding the continuation of the orders.

### **5. Engagement and Communication**

- Sussex Police Prevention Team and Worthing Churches Homeless Project have been consulted in relation to this report.

### **6. Financial Implications**

- 6.1** There are no unbudgeted financial implications arising from this report.

### **7. Legal Implications**

**7.1** Public Space protection orders (PSPO) were introduced by Section 59 of the Anti-Social behaviour crime and Policing Act 2014. PSPO's require or prohibit certain activities from taking place in certain places (restricted areas) in order to prevent or reduce any detrimental effect caused by those activities to local people. PSPOs are intended to:

- (a) Tackle a wide range of behaviour similar to the "good rule and government" byelaws under the Local Government Act 1972 but with the option of a fixed penalty notice on breach and more flexibility.
- (b) Reduce bureaucracy by no longer requiring local authorities to produce information for reports for central government.
- (c) Cut down on existing consultation requirements by only requiring local authorities to comply with "light-touch" consultation requirements in order to save costs.
- (d) Allow local authorities to deal with both existing and future problems by using a single order to combat a variety of different issues.
- (e) Replace designated public place orders, gating orders and dog control orders.

7.2 Local authorities that can make PSPOs include, a district council, a county council for an area for which there is no district council, a London borough council, the Common Council of the City of London (in its capacity as a local authority) or the Council of the Isles of Scilly.

7.3 Section 1 of the Localism Act 2011 grants Local Authorities the general power of competence, which in simple terms means that Local Authorities now have the power to do anything that an individual may do. This could include instructing external bodies to undertake legal duties on their behalf or in a different parlance; "outsourcing". Section 135 of the Local Government Act 1972 also empowers local authorities to outsource provision of services to third sector or private organisations.

7.4 Before the Council can outsource this function, procurement rules must be complied with. Local Government Act 1998 requires competitive tendering and Local Government Act 1999 requires that any provider chosen must provide best value. A local consultation may be required before the contract is entered into. However, if the external body only exists to provide services to the local authority (ies) that control it, it will be exempt from a competitive tendering process.

7.5 Once the above rules are complied with, the Council may engage a private enforcement company to enforce the provision of the PSPO for dog

control, litter and fly posting and the issuing of FPN's. However, in accordance with law, all payments received for the FPN's must be made directly to the Council. The law also specified that monies collected from FPN's for dog fouling can only be used for specific functions which are dog fouling, littering and fly-posting.

7.6 There are some legal implications that may arise from entering into contract with a third party. As the external body will be performing duties on our behalf ( as our agents), we could potentially be brought into any claim issued against them. If the claim is won by the other side, the Councils would potentially be liable for costs and suffer reputational damage. However, this can be prevented with a watertight contract that requires that the third party company meet certain/specified/ codes of conduct in addition to indemnifying the Councils for any losses that occur as a result of their conduct.

7.7 FPN's are issued to the offender to discharge any liability to prosecution, i.e, as an alternative to prosecution. When an FPN is issued, the Council should only prosecute if the offender refuses to pay. In limited/exceptional circumstances , the Council may bring prosecution without offering an FPN, when dealing with a repeat offender.

7.8 In order to reduce costs, the Single Justice Procedure (SJP) should be considered for instituting prosecution. The SJP does not require physical attendance at court unless the Defendant request for it e.g, by pleading not guilty. Usually, the matter is dealt with administratively, thereby saving costs for the Council. However, there will be associated costs, which would include costs of preparing the relevant legal documents for issuing at court.

7.9 If the Council wishes to deal with littering under PSPO's as opposed to S 87 of the EPA 1990, it must be aware that the fine level that can be imposed by the magistrate's court will be reduced. S 87 fines can go up to level 4, while PSPO's can only go up to level 3

**Background Papers**

- Anti Social Behaviour, Crime and Policing Act Statutory Guidance  
<https://www.gov.uk/government/publications/anti-social-behaviour-crime-and-policing-bill-anti-social-behaviour>

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## **Sustainability & Risk Assessment**

### **1. Economic**

Ensuring that the appropriate tools and powers are used to keep communities safe, contributes to thriving towns that are attractive to businesses and Individuals.

### **2. Social**

#### **2.1 Social Value**

Monitoring the use of PSPOs ensures that Adur and Worthing Councils are using all available resources to increase safety for all members of the Community and ensure that those who are more vulnerable are identified and supported to access help.

#### **2.2 Equality Issues**

An equalities impact assessment was conducted during the consultation for the orders. Consultation with partners

#### **2.3 Community Safety Issues (Section 17)**

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

#### **2.4 Human Rights Issues**

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

### **3. Environmental**

None identified

### **4. Governance**

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