

<b>Report To:</b>	<b>COUNCIL</b>	<b>Date:</b>	<b>26 JULY 2018</b>
<b>Heading:</b>	<b>PUBLIC SPACES PROTECTION ORDER (PSPO)</b>		
<b>Portfolio Holder:</b>	<b>COUNCILLOR CHRISTIAN CHAPMAN – CABINET MEMBER (JOINT FOCUS)</b>		
<b>Ward/s:</b>	<b>ALL</b>		
<b>Key Decision:</b>	<b>YES</b>		
<b>Subject to Call-In:</b>	<b>NO</b>		

## **Purpose of Report**

The Anti-social Behaviour, Crime and Policing Act 2014 created powers to introduce Public Spaces Protection Order(s) for a period of not more than 3 years unless formally extended. The Order enables Authorised Officers and the Police to take specific action within a defined area as set out within the PSPO.

Following a period of formal consultation, the purpose of the report is to seek approval from Council to extend and vary the existing PSPO relating to dog fouling, dog control, alcohol related street drinking, urinating in public places or be able to move people on as per the variation proposed. This PSPO came into effect 1 October 2015 and without formal extension will expire on 30 September 2018.

## **Recommendation(s)**

- 1) To approve the extension and variation of the existing Public Spaces Protection Order as set out in the drafted order following the period of consultation to commence from 1 October 2018.

## **Reasons for Recommendation(s)**

In line with Section 60, Anti-Social Behaviour, Crime and Policing Act 2014, a PSPO may not have effect for a period of more than 3 years unless extended. The existing PSPO enacted 1 October 2015, relating to a number of dog-related issues, alcohol and urinating will expire on 30 September 2018 unless the PSPO is formally extended following due process. Evidence has been gathered to support the continued need for the order and public consultation largely supports the Order.

Extending the PSPO ensures that the Council and Police can take suitable action including issuing Fixed Penalty Notices for these types of issues.

### **Alternative Options Considered**

That the Council does not extend (and vary) the existing PSPO which would cease on 30 September 2018. The PSPO would need to be formally discharged and published in accordance with regulations made by Secretary of State. This would mean that officers could not continue to take action and may lead to an operational gap in addressing dog fouling, dog control, alcohol related street drinking, urinating in public places or be able to move people on, as per this specific variation proposed. **Not recommended.**

### **Detailed Information**

#### **Background: Existing PSPO which came into effect 1 October 2015**

Public Spaces Protection Orders (PSPOs) are intended to deal with a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life. A PSPO works by imposing conditions on the use of that area which apply to everyone. They are designed to ensure that the law-abiding majority can use and enjoy public spaces without experiencing anti-social behaviour. A PSPO remains in place for a period of 3 years unless discharged by the Local Authority.

On 14 June 2018 Cabinet authorised the necessary consultation and notification for the extension and variation of the existing PSPO which came into effect 1 October 2015, expiring 30 September 2018.

This existing PSPO brought together and replaced powers the Council had previously introduced under Alcohol Designated Public Place Orders, Dog Control Orders and a previous by-law (urinating) after the introduction of the Anti-social Behaviour, Crime and Policing Act 2014.

This existing Public Spaces Protection Order enables the Council to take preventive or enforcement action in public places on:

- Alcohol consumption in a designated area
- Urinating/defecating within a designated area
- Dog fouling in specified areas
- Failing to produce device or other means of removing dog faeces on demand
- Dog exclusion in specified areas
- Dogs on lead in specified areas
- Dogs on lead by direction
- Dogs specified maximum amount

These are considered in more detail below and in the attachment, which contains the specifics of the new Order and relevant maps and lists of areas. In summary, the attachment contains the following Schedules:

**Schedule 1:** deals with alcohol consumption, urination/defecation, orders to move on (new provision), along with maps showing the relevant areas.

**Schedule 2:** deals with dog fouling, requirement to carry dog bags or other suitable receptacles, maximum number of dogs being exercised at one time and dogs on leads by direction. The area to be covered is the whole of Ashfield District, except for Forestry Commission land (unless permitted).

**Schedule 3:** deals with dog exclusion areas and maps are provided along with lists, showing the relevant areas.

**Schedule 4:** deals with dogs needing to be on leads in specific designated areas. Maps are provided along with lists, showing the relevant areas.

**Detailed information now follows:**

- **Alcohol consumption in a designated area.**

If a person who is drinking alcohol is behaving or likely to behave in a manner to cause nuisance and annoyance an officer can request the person surrender their alcohol or pour it away. Failing to do so allows an officer to take action by means of issuing a Fixed Penalty Notice or provide evidence for legal action through the Court. There are eight designated areas in Ashfield where this applies and are highlighted within the drafted PSPO 2015 (as extended and varied 2018) **Schedule 1**.

Proposed Variations: To incorporate additional locations as detailed and specified in the Order and Schedule 1. These are the same locations as urinating and direction to move on.

- **Urinating/defecating within a designated area.**

If a person urinates or defecates within the specified area an officer can take action by means of issuing a Fixed Penalty Notice or provide evidence for legal action through the Court. There are eight designated areas in Ashfield where this applies and are highlighted within the drafted PSPO 2015 (as extended and varied 2018) Schedule 1.

Proposed Variations: To incorporate additional locations as detailed and specified in the Order and **Schedule 1**. These are the same additions for alcohol/urinating and direction to move on.

- **Dog fouling in specified areas.**

If a person allows a dog they are responsible for at that time to foul and walks away without picking up an officer can take action by means of issuing a Fixed Penalty Notice or provide evidence for legal action through the Court. This relates to the entire district with the exception of forestry commission land as highlighted within **Schedule 2** and accompanying map as drafted.

- **Failing to produce device or other means of removing dog faeces on demand.**

If a person does not produce a device or other means for removing dog faeces upon request an officer can take action by means of issuing a Fixed Penalty Notice or provide evidence for legal action through the Court. This relates to the entire district with the exception of forestry commission land as highlighted within **Schedule 2** and accompanying map as drafted.

- **Dogs on lead by direction.**

If a person does not comply with placing their dog on a lead at the request of an authorised officer, the officer can take action by means of issuing a Fixed Penalty Notice or provide evidence for legal action through the Court. This relates to the entire district with the exception of forestry commission land as highlighted within **Schedule 2** and accompanying map as drafted.

- **Dogs specified maximum amount.**

No more than six dogs can be taken out at any one time by one person or an officer can take action by means of issuing a Fixed Penalty Notice or provide evidence for legal action through the Court. This relates to the entire district with the exception of Forestry Commission land as highlighted within **Schedule 2** and accompanying map as drafted.

- **Dog exclusion in specified areas**

Dogs are excluded from specific locations within Ashfield including enclosed children's play areas and enclosed sports facilities on parks i.e. tennis courts, bowling greens. An officer can take action by means of issuing a Fixed Penalty Notice or provide evidence for legal action through the Court if the person responsible for the dog allows it to enter the exclusion areas as highlighted within **Schedule 3** of the Order and accompanying map as drafted.

Proposed Variation: Additional dog exclusion areas have been included see **schedule 3**.

- **Dogs on leads in specified areas.**

If a person does not comply with placing their dog on a lead on: each and every length of road (including pavements, footways and verges) and the pedestrianised areas and cemeteries and churchyards (detailed as per **Schedule 4** and accompanying map) an officer can take action by means of issuing a Fixed Penalty Notice or provide evidence for legal action through the Court.

The renewal of an existing PSPO also allows for variation including adding a new prohibition. There is evidence from Council Officers and partners supporting the need for a "direction to move on" to be included into this PSPO. This enables the Council to take preventive or enforcement action as follows:

- **Direction to move on (new)–**

If a person is engaging in behaviour that is Anti-social or creating a nuisance or annoyance and fails to move on when asked to do so, an officer can take action by means of issuing a Fixed Penalty Notice or provide evidence for legal action through the Court. There are eight designated areas in Ashfield where this applies and are highlighted within the drafted PSPO 2015 (as extended and varied 2018) **Schedule 1**.

Proposed Variations: To incorporate 'direction to move on' into the Order in the specified areas.

Proposed Extension: The proposed PSPO (as above) will remain in place for a period of 3 years.

Exemptions are in place, which are detailed within the Order.

## **Evidence**

The Council has the power to make a PSPO in accordance with sections 59 to 65 of the Anti Social Behaviour Crime and Policing Act 2014. The PSPO can be made if the local authority is satisfied on reasonable grounds that two conditions are met;

1. Activities being carried on, or that are likely to be carried on, in a public place within the authority's area have a detrimental effect on the quality of life of those in the locality and;
2. The effect, or likely effect of such activities are of a persistent or continuing nature, such as to make the activities unreasonable and justifies the restrictions with the order.

From the initial evidence gathered from Nottinghamshire Police, there were 882 alcohol related incidents or crimes recorded on the Police system between July 2015 and June 2017 within Ashfield. There were also 894 ASB incidents that were flagged as alcohol related. Until the Police's Niche intelligence system was introduced, alcohol related incidents were not recorded consistently and search of the system took place under a number of alcohol related terms i.e. drunk, vodka, wine, ale, lager, liquor etc. Therefore, the 882 incidents and 894 incidents may include a duplication so cannot be confirmed as totalling 1776. However the data confirms that there was in excess of 894 alcohol related ASB incidents that took place during this period. At present this is not broken down by age or beyond June 2017.

Community Protection Officers have regularly made use of the powers contained within the existing PSPO and confiscate alcohol from adults within the 8 areas, for instance during May 2018 CPOs made confiscations on two separate evenings. Evidence of all confiscations are contained with CPOs pocketbooks.

Alcohol related street drinking can result in public urination which has been highlighted as an issue by a Police Sergeant in Ashfield. A Community Protection Officer issued a fixed penalty notice on Saturday 7 July for public urination in Hucknall Town Centre. Evidence of alcohol related ASB supports the requirement to incorporate a power to appropriately respond to urinating/defecating in the street.

Unlike the Police, Community Protection Officers are unable to disperse groups drinking or causing Anti-social Behaviour that has a detrimental effect on the quality of life of those in the locality. Community Protection Officers provide daily debriefs which evidences the need for this power particularly in town centres and known hot spot areas.

Dog fouling and dog control issues continue to be a public concern and are reported to the Council regularly. During 2017, 251 reports of dog fouling were received, and patrolling officers regularly receive reports which are not included within the figures. Additional dog exclusion areas have been included as a result of new enclosed areas being developed and the reports of dog control issues and dog fouling near to parks and play areas.

### **Public Consultation.**

In accordance with statutory guidelines and detailed in Section 72, Anti-Social Behaviour, Crime and Policing Act 2014 the Council must undertake public consultation. The period of consultation covered 28 days from 15 June 2018 to 14 July 2018.

The Council has consulted directly with the statutory consultees including the Chief Constable, Nottinghamshire Police, the Police and Crime Commissioner, Nottinghamshire County Council, Annesley Parish Council and Selston Parish Council. The information was sent to all District Councillors, a housing developer relating to an un-adopted park and a dedicated e-mail was set up for consultation responses.

Additional interested parties identified and issued consultation packs included four separate vets within the district, information in cafes in parks across the district, the RSCPA for Nottinghamshire and the Kennel Club.

Information was sent to community and voluntary community groups: 14 x Hucknall, 11 x Sutton, 4 x Kirkby, 3 x Rural, 1 x Nottinghamshire County Council, 1 x Mansfield District Council, 2 x Ashfield Wide and 49 x Community Development Worker contacts and organisations across Ashfield / Nottinghamshire provided by the Council’s Community Engagement Officer. Internal key stakeholders were consulted including the Council’s Town Centre Manager and the Environmental Services Manager as well as some of the integrated services hub partners.

A press release and information including the full draft order featured on the Council’s website, a formal notice was published in the local papers Chad (June 20<sup>th</sup>) and Dispatch (June 22<sup>nd</sup>) and hard copy documents of the Order were made available for inspection at Hucknall, Kirkby and Sutton Council offices throughout the consultation period. Officers also undertook surveys to gage public perception.

### Consultation Responses

From the consultation undertaken the Council has received 30 public responses to the survey and 4 direct response from a member of the public via the PSPO email address (please see attached questionnaire).

Question	Yes Responses	No Responses	Comments
1	30	0	
2	27	2	1 not prepared to say
3	29	1	
4	29	1	
5	27	3	
6	30	0	
7	28	2	
8	30	0	
9	30	0	

The resident who e-mailed the Council stated they “support this PSPO order being put in place” and offered accurate examples of problems which could be supported through the variation of the PSPO for the direction to move on.

Superintendent Ian Roberts, of Nottinghamshire Police and Philip Gilbert on behalf of the Police Crime Commissioner have given full support to the proposals.

### Enforcement

The Council’s Community Protection Officers will be authorised to take appropriate and proportionate action in relation to this Public Spaces Protection Order if approved. This will ensure key issues can be responded to and enable officers to ensure public spaces are clean and nuisance free.

### Communications

The drafted Order is attached to the report and upon Council approval will enable the extension (with variation) of the current PSPO as detailed. Whilst this is an extension of an existing PSPO if approved the Council will undertake a period of publicity and ensure awareness is raised particularly in relation to the direction to move on. Suitable publicity and communications will take place in the lead up to the 1 October 2018 including formal publication.

Appropriate signage and other materials will be purchased and erected across the district to publicise the Order.

Publicity through the Communications Team will then be ongoing in terms of actions taken.

**Implications**

**Corporate Plan:**

The PSPO will help support the Council’s Place aspirations and improve the quality of life for residents affected by these issues. This will help to ensure an effective response by working with our partners to ensure people feel safe and are safe by reducing levels of crime and disorder and tackling public nuisance. As per the Corporate Plan we work with our partners to design services around the needs of individuals and places, rather than institutions; ensuring our financial resources are used in the most effective way.

**Legal:**

Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 9 (“the Act”) provides the Council with the power to make a PSPO if satisfied on reasonable grounds that two conditions are met. Section 60 of the Act provides that a PSPO shall not have effect for longer than 3 years unless extended under this section. Section 61 provides a power to vary a PSPO by increasing or reducing the restricted area; or by altering or removing a prohibition or requirement included in the order, or adding a new one. Section 72 details the requirements for convention rights, consultation, publicity and notification. The authority must have taken into account articles 10 and 11 of the Convention, carried out the necessary consultation and publicity and notification before making, extending or varying or discharging a PSPO.

**Finance:**

Budget Area	Implication
General Fund – Revenue Budget	A one-off budget approval of £12,000 may be required to meet the costs identified, if they cannot be contained within the Directorate Budget. This will be needed for such things as additional signage, publicity materials.
General Fund – Capital Programme	N/A
Housing Revenue Account – Revenue Budget	N/A
Housing Revenue Account – Capital Programme	N/A

**Risk:**

<b>Risk</b>	<b>Mitigation</b>
The main risk is in not extending the PSPO, which will not permit officers to address anti social behaviour issues as specified in this report	Approval of this report permits the work covered by the PSPO to be continued and extended as necessary.

**Human Resources:**

No implications.

**Equalities:**

There is no adverse impact upon persons with protected characteristics and an equalities impact assessment has been undertaken. Exemptions are in place which are detailed within the Order.

**Other Implications:**

The PSPO is seeking to address issues which affect quality of life and public safety. These issues can affect both the physical and mental well-being of residents and therefore these proposals would have a significant impact on community well-being.

**Report Author and Contact Officer**

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