

BARNSELY METROPOLITAN BOROUGH COUNCIL

This matter is a Key Decision within the Council's definition and has been included in the relevant Forward Plan

REPORT OF THE EXECUTIVE DIRECTOR OF COMMUNITIES TO CABINET ON 20 MARCH 2019

Proposal to establish a new Public Space Protection Order (PSPO) for Barnsley Town Centre

1. PURPOSE OF REPORT

- 1.1 To seek agreement from Cabinet on the replacement of the current Town Centre Public Space Protection Order and the relevant conditions applicable to the new order. This is required due to the current order expiring on 1 March 2019.

2. RECOMMENDATIONS

- 2.1 **That Cabinet agree to the conditions of the new PSPO being those outlined in the report at section 4.6.**
- 2.2 **That Cabinet agree with the introduction of the begging related condition at section 4.8 within this report with the understanding that the condition will be utilised as a last resort after other support interventions have been utilised first.**
- 2.3 **That the Public Space Protection Order will be confined to a new designated area to cover the town centre only, following consideration of the alternative approaches identified in section 5 of this report.**
- 2.4 **That Cabinet note the intention to further develop the "Help us Help Them" campaign in relation to begging, building upon the success of this scheme to date and through the campaign continue to raise awareness within the general public.**

3. INTRODUCTION

- 3.1 Following the implementation of the Anti-Social Behaviour, Crime and Policing Act 2014, the council made a PSPO in 2016 for Barnsley town centre and some surrounding residential areas where evidence existed at that time to justify making such an order, and with overwhelming support from partners and the public.
- 3.2 The PSPO came into effect in March 2016 for the maximum permitted duration of three years; therefore it will expire in March 2019. The legislation in relation to PSPO's requires those that have been in place for three years to be reviewed, removed or renewed.

- 3.3 The current PSPO has been successful in reducing anti-social behaviour throughout the Town Centre with many of those breaching the order and issued with warnings or dispersals taking notice and not receiving a fixed penalty notice.
- 3.4 Leading up to the expiration of the current order further evidence gathering has been undertaken in order to justify its continuation and although the original PSPO is deemed to have been effective, it is believed that the evidence remains, as does support from partners and the public, to continue to have such an order in place. The evidence gathering included a public consultation both on-line and face to face collating the results into a single platform.
- 3.5 The evidence to suggest a PSPO works is as follows:
- Year 1: 307 dispersal notices were issued and 30 breaches.
 - Year 2: 171 dispersal notices were issued and 20 breaches.
 - Year 3: From March to December 2018 40 dispersals were issued and 3 breaches.
- 3.6 The evidence in 3.5 above demonstrates that a PSPO provides a suitable mechanism to deal with low-level, high volume related concerns. There are limited breaches occurring as a result of dispersal notices being issued which demonstrates compliance by most, without the need for further escalation by the issuing of relevant fixed penalty notices. It is important to note within this report that there are less dispersal notices being issued due to there being less problems and a gradual behaviour change is taking place within the Town Centre based on the current terms of the PSPO.
- 3.7 As part of the evidence gathering process the Safer Neighbourhood Service were requested to explore the inclusion of additional conditions to the current PSPO, these being begging related issues and pedlars/unauthorised street traders.

4. PROPOSAL AND JUSTIFICATION.

- 4.1 A PSPO can only be granted if there is sufficient evidence to support the problems that the conditions are intended to deal with. For the purpose of this report, the evidence has been collated from the outcome of the public consultation and information available from partnership agencies.
- 4.2 Evidence was provided that supported the original conditions of the PSPO to be continued, these being:
- Behaving in a way that causes or is likely to cause harassment, alarm or distress to another person.
 - Using, possessing or supplying to another person any intoxicating substance defined for the purposes of this order as any substance with the capacity to stimulate or depress the central nervous system. Exempt from this are alcohol, caffeine, substances used for a valid and demonstrable medicinal purpose, substances given to an animal as a medicinal remedy and cigarettes (tobacco).
 - Continuing to consume alcohol when required to stop doing so by any authorised officer

- To leave the restricted area and not return within 48 hours of the request to leave
- To immediately surrender any alcohol in his or her possession upon request

4.3 The additional consultation questions in relation to begging received a varied response during the public consultation which consisted of the following elements:

- 7.51% of those consulted would not like to see begging included
- 23.97% of those consulted would like to see aggressive begging included
- 30.05% of those consulted would like to see active and aggressive begging included
- 38.46% of those consulted would like to see passive, active and aggressive begging included.

Within the consultation documents the above definitions for passive, active and aggressive begging were included so respondents could familiarise themselves with the difference.

4.4 The inclusion of a begging related question within the consultation attracted a challenge against the inclusion of such conditions from Liberty (The National Council for Civil Liberties).

4.5 In relation to pedlar related concerns it is felt that a Street Trading Policy should be implemented prior to the inclusion of any condition relating to such behaviour within the order. This policy is current under development and will be discussed separately in due course.

4.6 It is proposed that the new order continues with the previous conditions, these being:

- Behaving in a way that causes or is likely to cause harassment, alarm or distress to another person.
- Using, possessing or supplying to another person any intoxicating substance defined for the purposes of this order as any substance with the capacity to stimulate or depress the central nervous system. Exempt from this are alcohol, caffeine, substances used for a valid and demonstrable medicinal purpose, substances given to an animal as a medicinal remedy and cigarettes (tobacco).
- Continuing to consume alcohol when required to stop doing so by any authorised officer
- To leave the restricted area and not return within 48 hours of the request to leave
- To immediately surrender any alcohol in his or her possession upon request

4.7 Based on the public consultation feedback there is the option for a condition relating to begging to be included, however the condition will be used on a case by case basis taking into account the support mechanisms provided for the individual carrying out such behaviour.

Each case would be subject to a partnership discussion and an appropriate decision regarding a breach would be agreed at such discussions and breaches issued afterwards.

It is important to note that the enforcement of any begging related offence would be taken following a selective and judicious approach to ensure suitability.

- 4.8 If Cabinet agree to include a condition in relation to begging, it is proposed the condition is applied utilising the following prohibition:

“Persistent and repeated or aggressive begging”

- 4.9 Those involved in this activity often have complex lives and backgrounds and we would suggest that we should ensure that all efforts to engage with the individual have been exhausted and that enforcement would be a last resort in dealing with this behaviour. Balancing the needs of people leading complex lives and the rights of the general public whilst in the Town Centre is challenging to balance in the context of Human Rights legislation.
- 4.10 The enforcement of the PSPO can be delegated by the Council to a relevant partner to allow for a range of suitable resources to be deployed in the management of the order. The enforcement of the order will therefore be contained within existing resources and/or an alternative enforcement provider.
- 4.11 South Yorkshire Police are a key partner of Barnsley Council and will provide support in relation to the enforcement of the PSPO however the focus of their enforcement will be around the anti-social behaviour elements of the order and not in relation to begging related issues.
- 4.12 It is recognised that alternative approaches must be considered and implemented in conjunction with a PSPO in order to comprehensively tackle safety, security and anti-social behaviour concerns impacting the town centre and surrounding residential areas.

The PSPO can only be effective when implemented as part of a range of tools and interventions dependent upon the dynamics of the problem in question. For this reason it is not proposed that the PSPO should be regarded as the panacea for more entrenched and persistent behaviours, nor should it be regarded as a solution to “rough sleeping” and persistent offending.

The PSPO is effective as an intervention to quickly address lower level voluminous anti-social behaviour involving those who would respond to the requirements of the intervention and enforcement agents or be deterred by the sanction attached to breaching the PSPO which can carry a fine of up to £1,000.

- 4.13 Evidence to support the making of the PSPO is attached in the following Appendices:

Appendix 1 – Summary of analysis of South Yorkshire Police ASB data.
Appendix 2 – Results of online public consultation.

- 4.14 A draft Public Space Protection Order is attached at Appendix 3.

- 4.15 A copy of a map showing the existing PSPO area and the proposed new area is attached at Appendix 4.

5. CONSIDERATION OF ALTERNATIVE APPROACHES

5.1 Designation Options

Option 1 - Do nothing and cease to have a PSPO in place after the current one expires in March 2019

This is not a recommended option because evidence suggests there is still an ongoing problem which a PSPO would provide support for. Failure to continue with a PSPO may result in a rise of anti-social behavior.

Option 2 – Make a new PSPO for a further three years with the same conditions as the 2016 order.

It is recommended that this option is given consideration which excludes the inclusion of any begging related conditions due to the complexities surrounding any enforcement activity of such offences.

Option 3 - Make a new PSPO for a further three years with the addition of ‘Persistent and repeated or aggressive begging’ as a clause.

It is recommended that this option is given consideration which includes begging as an option where other mechanisms to engage and change behavior have failed.

5.2 Boundary Change Approach (See Appendix 4):

Option 1 - Retain the original PSPO area

The conditions in which the PSPO focusses on are no longer occurring in the original area and as such there is limited supporting information to continue with the original boundary. Additionally, 60% of the respondents to the public consultation were in favour of adopting a new boundary.

Option 2 – Amend the order to the new Town Centre boundary

This is the recommended option as the weight of evidence supports this designation.

6. IMPLICATIONS FOR LOCAL PEOPLE/SERVICE USERS

- 6.1 It is intended that the new PSPO, combined with other measures to assure the safety and security of Barnsley, will positively impact the majority of people using our town centre for work, business or leisure and those residents living close to the town centre.

It is also anticipated that by identifying those most responsible for wider “public concerns” the council and its partners will be in a better position to provide support and assistance where possible to address some of the underlying causes of behaviour which negatively impact others.

The overall aim is to ensure Barnsley has a town centre and surrounding locations that support the corporate ambition to boost and rejuvenate our local economy.

7. FINANCIAL IMPLICATIONS

7.1 No direct implications associated with this report.

8. EMPLOYEE IMPLICATIONS

8.1 There are no anticipated employee implications in relation to the PSPO other than those employees given authority to enforce the order will require appropriate training.

9. LEGAL IMPLICATIONS

9.1 The public consultation and the proposal to include begging into the new PSPO resulted in a challenge from an organisation called Liberty.

9.2 Should a begging condition be adopted there will be complex implications in relation to the prosecution of those committing the offences which will need to be understood in detail with relevant processes put in place to ensure effectiveness and that support has been offered or provided in the first instance.

9.3 Each case where prosecution for non-payment is applicable will be evaluated fully prior to processing.

10. CUSTOMER AND DIGITAL IMPLICATIONS

10.1 The positive message that Barnsley Council is continuing to work with stakeholders to develop a safer town centre will be key during the re-launch of the PSPO.

11. COMMUNICATIONS IMPLICATIONS

11.1 Town centre safety and security continues to command intense public interest and as such there are significant communications implications associated with any measures designed to address current and emerging problems.

Very often, singular incidents can receive significant media interest and perceptions of safety are influenced by the way things are reported in the local media. It is therefore crucial that joint messages continue to be produced in terms of reassuring the public that safety and security remains a primary concern for the council and its partners but also to demonstrate a balanced and proportionate approach to the needs of the most vulnerable and isolated in our town.

For this reason, interventions associated with our approach to anti-social behaviour in Barnsley are proactively communicated and approaches to specific problems associated with specific times of year such as the mischief period and Christmas command bespoke communications plans.

11.2 Upon the making of a PSPO both relevant and required information will be made publicly available on the council's website and the PSPO will be publicised via

social media, posters, meetings and forums, etc.

11.3 Home Office guidance requires councils to consult whatever community representatives they think appropriate and that before a Public Space Protection Order is made, the council must publish the draft order in accordance with regulations published by the Secretary of State.

11.4 In respect of the begging clause proposed in this report, the Barnsley Homeless Alliance launched in October 2018 with an accompanying communications strategy to raise awareness and educate our residents, partners and business about:

- the services and support provided by the Homeless Alliance
- alternative ways of giving in order to reduce homelessness and begging
- donations / volunteering time to charity services

This campaign was titled the 'Help Us Help Them' campaign and has already seen significant positive press coverage and public engagement. Over the next 12 months we will look to further develop the communications strategy to particularly target the different audiences affected by the issue of begging and to further the enhance these messages.

12. CONSULTATIONS

12.1 Consultation has been undertaken with the following;

- South Yorkshire Police
- South Yorkshire Police and Crime Commissioner
- Communities Directorate
- Local Member of Parliament
- BMBC Legal Services
- Town Centre Board
- Town Centre Retail & Business Forum
- Barnsley Homeless Alliance
- The general public (by means of an online consultation and by officers going out into the town centre surveying members of the public and businesses)

13. THE CORPORATE PLAN AND THE COUNCIL'S PERFORMANCE MANAGEMENT FRAMEWORK

13.1 The PSPO supports the delivery of the following strategic priorities;

Thriving and Vibrant Economy

- Develop a vibrant town centre

People Achieving Their Potential

- Children and adults are safe from harm
- Early targeted support for those that need it

Strong and Resilient Communities

- Protecting the borough for future generations

- 13.2 Performance is actively monitored through a stratified risk and performance framework with a town centre safety and security action plan monitored through the Town Centre Board and Anti-social Behaviour Delivery Partnership.

14. PROMOTING EQUALITY, DIVERSITY AND SOCIAL INCLUSION

- 14.1 An Equality Impact Assessment was done at the start of the initial PSPO and this has been revised and updated. (Available as a background paper).

The order is designed to contribute towards a safe and peaceful environment for all residents of the borough and therefore should be supportive of those most affected by the fear of crime and those most fearful of using the town centre. Behaviours prescribed in the PSPO, however, may be more likely to be displayed by individuals with underlying complex and multiple needs and it is therefore essential that the PSPO is regarded as one measure within a range of interventions designed to address both the causes and effects of anti-social behaviour in the town centre and surrounding residential areas.

- 14.2 The European Convention of Human Rights will be considered during any discharge of powers under the Public Space Protection Order and due regard to any requirements of this will be applied.

15. TACKLING THE IMPACT OF POVERTY

- 15.1 The PSPO and associated measures to address safety concerns in Barnsley are designed to contribute towards the corporate ambition to transform the economy of our town and create an environment for a sustainable and vibrant economy to grow. Ultimately the benefits of stimulating investment and growth should benefit all residents of the borough and help address issues associated with poverty.

16. TACKLING HEALTH INEQUALITIES

- 16.1 All safety and security measures of which the PSPO forms contribute towards building a more informed picture of the needs of our residents including those with underlying health needs. It is hoped that by contributing towards a greater understanding of the health needs of some of our more excluded and isolated residents proactive engagement will enable the identification of support and treatment needs and opportunities which should contribute towards improving the longer term health prospects of these individuals. Specifically, experience suggests that the PSPO and other proactive measures to support safety and security in the town centre may help in the identification of those with issues relating to substance misuse, mental health, exploitation and victimisation.

- 16.2 A Substance Misuse Overview & Scrutiny Committee already exists which focuses separately on substance misuse in Barnsley.

17. REDUCTION OF CRIME AND DISORDER

- 17.1 The PSPO is one of a number of interventions specifically designed to reduce crime and disorder in Barnsley. The results so far suggest that improvements have been made and the current approach is endorsed by the Safer Barnsley Partnership.

18. RISK MANAGEMENT ISSUES

- 18.1 **Expectations** – There is a danger that public expectations will be unrealistic in terms of the effectiveness of the PSPO to resolve all safety and security concerns relating to the town centre. From its introduction in March 2016 clear messages have been communicated that the PSPO is only one intervention tool of many to help address these issues. A comprehensive town centre safety and security plan has been devised to provide a broader range of prevention, intervention, enforcement and engagement approaches and targeted action plans to more comprehensively address issues relating to the safety of our town centre.
- 18.2 **Stigmatisation** – Initial concerns that the PSPO would automatically stigmatise the location have not materialised. The PSPO is designed to provide additional powers to tackle specific issues peculiar to a locality with the intention of improving that location for the benefit of all. There is no evidence to suggest perceptions of Barnsley have in anyway been damaged by the introduction of the PSPO.
- 18.3 **Displacement of problems elsewhere** – South Yorkshire Police have undertaken analysis of anti-social behaviour demand after the implementation of the PSPO to establish any evident correlation to the displacement of problems out of the boundary of the PSPO. The evidence suggests there is nothing to substantiate that any discernible displacement has occurred analysing a 0.5 mile perimeter abutting the entire boundary of the current PSPO. Some temporary peaks have been identified in certain locations such as Asda and McDonald’s car park, however, there are no clear trends and those peaks have tended to occur on singular months/dates and are not sustained.
- 18.4 **Criminalisation** – As the PSPO criminalises certain types of behaviour there is a risk that certain individuals found to have breached the PSPO will be unnecessarily criminalised. In reality those found to be persistently breaching the terms of the PSPO typically already have offending histories and for these individuals the PSPO alone has not proved an effective intervention to achieve sustained behaviour change.

19. COMPATIBILITY WITH THE EUROPEAN CONVENTION ON HUMAN RIGHTS

- 19.1 Articles 10 – “Right to freedom of expression” and Article 11 “right to assembly” were relevant considerations when the first PSPO was introduced in March 2016. It was deemed at the time that by proscribing and requiring behaviours in the Order (outlined above) it was a proportionate and necessary measure to assure other elements of the convention notably Article 8 which entitles the “right to peaceful enjoyment.”
- 19.2 All enforcement taking place as part of the PSPO will be compliant with the European Convention on Human Rights and all fines issued or prosecutions for non-payment will be evaluated fully prior.

20. GLOSSARY

ASB – Anti-Social Behaviour
PSPO – Public Space Protection Order

21. LIST OF APPENDICES

- Appendix 1 – Summary of analysis of South Yorkshire Police ASB data.
- Appendix 2 – Results of online public consultation.
- Appendix 3 – Draft Public Space Protection Order.
- Appendix 4 – Map showing existing PSPO area and proposed new area.

22. BACKGROUND PAPERS

If you would like to inspect background papers for this report, please email governance@barnsley.gov.uk so that appropriate arrangements can be made

Report author: Mark Giles

Financial Implications/Consultation



Joshua Amahwe

.....
*(To be signed by senior Financial Services officer
where no financial implications)*