

Overview and Scrutiny Committee



St Edmundsbury
BOROUGH COUNCIL

Title of Report:	Public Space Protection Orders (PSPOs) – Changes to Anti-Social Behaviour Legislation	
Report No:	OAS/SE/17/002	
Report to and date:	Overview and Scrutiny Committee	11 January 2017
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Purpose of report:	To provide an update to Councillors on legislation relating to Public Space Protection orders (PSPOs) and to propose changes prior to public consultation.	

<p>Recommendation:</p>	<p>It is <u>RECOMMENDED</u> that:</p> <p>(1) Members <u>note</u> that the Haverhill alcohol-related PSPO order remains in place, with no changes to the conditions or area covered.</p> <p>(2) Cabinet be <u>recommended</u> to approve the inclusion of street begging in the Bury St Edmunds alcohol-related PSPO, subject to public consultation.</p> <p>(3) Cabinet be <u>recommended</u> to approve the adoption of a PSPO relating to dog control across St Edmundsbury, subject to public consultation.</p>
<p>Key Decision:</p> <p><i>(Check the appropriate box and delete all those that do not apply.)</i></p>	<p><i>Is this a Key Decision and, if so, under which definition?</i></p> <p>Yes, it is a Key Decision - <input checked="" type="checkbox"/></p> <p>No, it is not a Key Decision - <input type="checkbox"/></p> <p>(a) A key decision means an executive decision which, pending any further guidance from the Secretary of State, is likely to:</p> <p>(i) be significant in terms of its effects on communities living or working in an area in the Borough/District.</p> <p>(b) A decision taker may only make a key decision in accordance with the requirements of the Executive procedure rules set out in Part 4 of this [the] Constitution.</p>

<p>Consultation:</p>	<ul style="list-style-type: none"> • Haverhill alcohol related PSPO – as there are no proposed changes to the location or the conditions in the current order, there is no requirement for formal public consultation. However the views of a number of key stakeholders in Haverhill have been sought, including Haverhill ward councillors, Police Safer Neighbourhood Team . • Bury St Edmunds alcohol related PSPO – Following early consultation with the Police, a proposal was made to add 'street begging' as an additional condition to the current order. No changes are proposed to the geographical area covered. A mandatory public consultation period will take place for a period of at least four weeks and be completed by mid March 2017, prior to Cabinet approval being sought. • Dog control PSPO – Prior to seeking Cabinet approval, a mandatory public consultation will take place.
<p>Alternative option(s):</p>	<ul style="list-style-type: none"> • Do nothing • The current DPPOs could be discharged and not replaced with any orders; however the Police and other stakeholders believe that the orders are necessary and that a further condition re street begging be added to the Bury St Edmunds order.
<p>Implications:</p>	
<p>Are there any financial implications? If yes, please give details</p>	<p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <ul style="list-style-type: none"> • Purchase and erection of replacement signage. • Alcohol PSPO areas will require approximately 30 signs in Bury St Edmunds and 20 signs in Haverhill. Working on an estimated cost of £30 per sign (including erection on public furniture), the total cost is estimated at £1500. • Funding has been identified from historic ASB Home Office funding within an existing Families and Communities team budget. • Dog exclusion sites will require approximately 100 signs across 50 sites in St Edmundsbury. Working on a cost of £25 per sign, the total cost will be £2500. • Funding has been identified from with existing Leisure and Culture budgets.

Are there any staffing implications? If yes, please give details		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> <ul style="list-style-type: none"> PSPOs can be enforced by Police Officers, Police staff (PCSOs) and West Suffolk councils' enforcement officers. There are no plans to increase the number of council enforcement officers. 	
Are there any ICT implications? If yes, please give details		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> <ul style="list-style-type: none"> 	
Are there any legal and/or policy implications? If yes, please give details		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> <ul style="list-style-type: none"> Proposed orders have been drafted by the councils' legal team. 	
Are there any equality implications? If yes, please give details		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> <ul style="list-style-type: none"> 	
Risk/opportunity assessment: <i>(potential hazards or opportunities affecting corporate, service or project objectives)</i>			
Risk area	Inherent level of risk (before controls)	Controls	Residual risk (after controls)
	Low/Medium/ High*		Low/Medium/ High*
Public perception-negative perception of the impact of the PSPO	High	Information provided. Consultation process.	Medium
Reputation – no enforcement activity taken	High	Work with community. Encourage information and evidence to be provided.	Medium
Ward(s) affected:		<p>Alcohol-related PSPO Haverhill: Haverhill East, Haverhill South, Haverhill West and Haverhill North.</p> <p>Alcohol/street begging PSPO – Bury St Edmunds: Risbygate, Abbeigate, Eastgate and Westgate.</p> <p>Dog control PSPO: Dog fouling condition – all wards in St Edmundsbury.</p> <p>Dog exclusion condition – those wards detailed in the proposed order.</p>	
Background papers: <i>(all background papers are to be published on the website and a link included)</i>		<p>Dog Fouling report July 2015 Ref no OAS/SE/15/011</p> <p>Dog Fouling report July 2016 Ref no OAS/SE/16/018</p>	
Documents attached:		<p>Appendix A - Draft Alcohol/street Begging Orders</p> <p>Appendix B - Draft Dog fouling PSPO Orders</p>	

Key issues and reasons for recommendation

1. Background

- 1.1 The Anti-Social Behaviour Crime and Policing Act 2014 tidied up, amalgamated and redefined a number of anti-social behaviour (ASB) powers. This included replacing Designated Public Space orders (DPPOs) and Dog Control Orders with Public Space Protection Orders (PSPOs). The PSPO is designed to deal with particular nuisance or problems in an area that are detrimental to the local community's quality of life by imposing conditions on use of that area which apply to everyone. District /Borough councils are responsible for making a PSPO.
- 1.2 PSPOs replace the following powers:
- Dog Control Order
 - Gating Order
 - Designated Public Place Order (DPPO)
- 1.3 A PSPO can be used to deal with both existing problems and problems that are likely to arise in the future. The orders are intended to make public spaces more welcoming to the majority of law-abiding people and communities.
- 1.4 A PSPO can only be made if the council is satisfied, on reasonable grounds, that two conditions are met.

First condition

- Activities carried out in a public place have a detrimental effect on the quality of life of those in the locality. Or
- It is likely that the activities will be carried out in a public place within the area that will have such an effect.

Second condition

The effect or likely effect of the activities:

- is, or is likely to be, of a persistent or continuing nature;
- is, or is likely to be, such as to make the activities unreasonable; and
- justifies the conditions imposed.

2. Transition arrangements from Designated Public Place Orders (DPPOs) to Public Space Protection Orders

- 2.1 Where a DPPO is currently in force, as in the case in Haverhill and Bury St Edmunds, it will continue to be valid until October 2017, which is three years following the introduction of the new legislation. At this point the DPPO would be treated as a PSPO and remain in place for a further period of up to three years unless varied or discharged. Only if there is a variation or discharge of the order, does the change from DPPO to PSPO need to be subject to a period of consultation and be considered by the council's democratic process.

- 2.2 The two current DPPOs (in Haverhill and Bury St Edmunds) were put in place to combat alcohol-related anti-social behaviour. The orders state that it is a criminal offence for an adult to refuse to stop drinking alcohol, or refuse to hand over unopened or open containers of alcohol, within the area covered by the order when asked to do so by a Police Officer. In order for a Police Officer to use this power there has to be, or likely to be, alcohol-related anti-social behaviour which will cause, or is likely to cause, alarm, harassment or distress to persons not of the same household.
- 2.3 Given the significant role the Police have played in enforcing these orders, council officers have liaised with the local Police teams to review the effectiveness of the current schemes. In light of past experience, the Police have been asked for their views in terms of whether or not the orders should remain in place unchanged, apart from a change of name from a DPPO to a PSPO, or:
- remain in place but have conditions and/or locations changed; or
 - be discharged, i.e. there is no evidence to suggest the tests in paragraph 1.4 can be met, therefore no requirement for an order to be in place.
- 2.4 Suffolk Police have been approached to provide data regarding the number of times the current DPPO powers have been used in Bury St Edmunds and Haverhill; however this data is not specifically collected. This is because it is normally enforced by requesting compliance and therefore no offence is committed, so does not feature in recorded crime statistics.

3. Haverhill

- 3.1 The existing DPPO has been in place since 2008. The order was made to address alcohol-related anti-social behaviour in the town centre and at the skate park in Howe Road which involved both the users and non users of the park. Whilst the nature of the night time economy has changed recently, alcohol-related ASB can still arise in the town centre areas and public green spaces, especially in relation to street drinkers. Having reviewed the order, both the Police and Families and Communities officer propose that the Haverhill order should remain with no changes to the conditions or area covered until October 2017 and then become a PSPO with a review date set for a further two-year period.
- 3.2 With the above in mind, it is recommended that the condition remains as follows, with the area covered as per the map which can be found at **Appendix A.**
- No person shall, within the restricted area, refuse to stop drinking alcohol or hand over containers (sealed or unsealed) which are believed to contain alcohol when required to do so by an authorised officers, to prevent public nuisance, anti-social behaviour or disorder.**
- 3.3 Whilst there is no requirement to carry out a full public consultation where no changes are to be made, the views of Haverhill Borough Councillors and other key stakeholders in the town were sought. Feedback suggests that elected

members and other community leaders are supportive of the order remaining in place with the current conditions and boundaries. Concerns were raised in relation to enforcement capability by the Police in view of recent staff reductions. The Police are fully supportive of the PSPO in Haverhill and will enforce as and when appropriate. In comparison with the previous order, PSPOs can also be enforced by West Suffolk enforcement officers, which is a positive outcome of the new legislation.

4. Bury St Edmunds

4.1 The DPPO has been in place since 2006. Having reviewed the order, both the Police and Families and Communities officers propose that the Bury St Edmunds order should remain with no changes to the geographical area covered. However, it has been requested by Suffolk Police that a further condition should be added in relation to street begging. Street begging has become a particular and persistent problem over the summer and autumn period and has generated a number of complaints from members of the public and the business community.

4.2 As highlighted in paragraph 2.4 above, Suffolk Police enforce the order by requesting compliance and therefore no offence is committed so does not feature in recorded crime statistics.

4.3 In relation to street begging in Bury St Edmunds, the following statistics have been supplied Suffolk Police. In the past 12 months the following have been issued in Bury St Edmunds:

Community Protection Notice (CPN) warning letters	10 people
Community Protection Notice CPN notices	8 people
Community Protection Notice CPN breaches	17 people
Criminal Behaviour Order issued	3 people

4.4 Of the breaches above, 16 were committed by the three people who went on to be issued Criminal behaviour Orders by the court. There have been 17 people arrested for breaches of criminal behaviour order in Bury St Edmunds in the previous 12 months. The Police believe that this legislation, and the amendment to the order, will support them further to address some of the issues in the town relating to begging.

4.5 In addition to enforcement, Suffolk Police have been working with partners from St Edmundsbury Borough Council, Ourburystedmunds and the business community to help dissuade members of the public from giving money to street beggars by asking them to divert their help by donating the money to organisations who can provide help and support to meet the needs of those on the streets. This was done through a media campaign including posters in shops and businesses throughout the town centre.

4.6 Importantly, Police and partners work together to share information in order to signpost individuals to support services which are available in the town, for example the twice-weekly Bury Drop-In service at the Elven Centre near the town centre. There individuals can get breakfast, simple hot lunch, access to both statutory and voluntary services and befriending.

4.7 With the above in mind, it is proposed that the conditions for the Bury St Edmunds PSPO are as follows.

- a) **No person shall, within the restricted area, refuse to stop drinking alcohol or hand over containers (sealed or unsealed) which are believed to contain alcohol when required to do so by an authorised officer, to prevent public nuisance, anti-social behaviour or disorder.**
- b) **Persons within a restricted area will not approach another person, either in person or verbally, in order to beg from the other person.**
- c) **Persons within the restricted area will not sit or loiter in a public space with any receptacle used to contain monies for the purpose of begging.**

4.8 The proposal to amend the conditions of the order in Bury St Edmunds will be subject to public consultation and final approval by Cabinet. See paragraph 6 for further information. Draft order can be found at **Appendix A**.

5. Transition from Dogs Fouling of Land Act 1996 to PSPO – Dog Control Orders

5.1 The current legislation for dealing with the offence of dog fouling has been replaced and enhanced by powers contained within the Anti-Social Behaviour, Crime and Policing Act 2014 through the application of PSPOs.

5.2 Members of the Committee will recall the previous information on this which was provided as part of the discussion regarding the prevention of dog fouling.

5.3 At present, orders are in places that require certain behaviours of dog walkers in particular locations. These are:

- across St Edmundsbury, there is a requirement for dog walkers to clear up after their dog; and
- at Haverhill Recreation Ground, there is a requirement to keep dogs on a lead.

5.4 Supporting this are rules excluding dogs from specific locations such as play areas in order to prevent dog fouling. These specific rules are currently advisory only, but by adopting the new legislation it will be an offence and offenders will be liable to incur a fixed penalty fine.

5.5 As part of the development of the PSPO for dog fouling, the recommended conditions are:

- a) **all public space in St Edmundsbury to require those in charge of a dog to clear up after their dog. Failure to do so will incur a fixed penalty (maximum permitted fine is £100. The level agreed across Suffolk is £80).**

- b) to exclude dogs from the locations listed in Appendix A. This is intended to prevent dogs from entering and fouling within specific children's play areas and, during football season, certain fenced football pitch areas. These locations have been identified as those in which children and other members of the public have the greatest risk of contracting Toxocara Canis, an infection which is a cause of blindness and may provoke rheumatic, neurologic, or asthmatic symptoms.**

Draft orders can be found in **Appendix B**

6. Consultation requirements

- 6.1 In accordance with the legislation, where there are already orders in place and no alterations are being proposed to either the conditions or areas, consultation is not required. However, key partners have been informed and comments invited in the case of the Haverhill alcohol-related PSPO.
- 6.2 Changes to current orders or new PSPOs require public consultation before final consideration and approval by Cabinet. Following this meeting, information will be published in order to encourage public and stakeholder feedback on the proposed change to the orders in St Edmundsbury. Following public consultation, recommendations will be made to Cabinet at a meeting later this year.

7. Publication and signage

- 7.1 Following the period of consultation and democratic approval, the order should be published and displayed by appropriate signage. This will be on or adjacent to the area of the PSPO.
- 7.2 Where there is signage relating to a current order, this will need to be reviewed to ensure it meets the new requirements and, if not, replaced with new signage. There will be a cost implication to purchase new signage (and erection of the signs, if not on land belonging to the authority, for example, street furniture).
- 7.3 Alcohol PSPO areas will require approximately 30 signs in Bury St Edmunds and 20 signs in Haverhill. Working on a cost of £30 per sign, including erection on public furniture, the total cost is estimated at £1500. Funding has been identified from an existing ASB budget.
- 7.4 Dog exclusion PSPO areas will require approximately 100 signs across 50 sites in St Edmundsbury. Working on a cost of £25 per sign the total cost will be £2500. This will be covered from existing budgets.

8. Enforcement

- 8.1 A PSPO can be enforced by council enforcement officers, Police Officers or Police Community Support Officers.
- 8.2 It is an offence for a person without reasonable excuse to:

- do anything that the person is prohibited from doing by a PSPO;
- or
- fail to comply with a requirement to which a person is subject under a PSPO.

8.3 A breach of a PSPO is an offence. This will be disposed of by way of a fixed penalty notice (up to £100) or by prosecution. On conviction a level 3 summary fine can be applied by a magistrate.

9. Review of PSPOs

9.1 A review date will be set for each PSPO. This cannot exceed three years and is likely to be set at two years, so that time can be allocated to carrying out a robust review before the order expires at the end of the three year period. The review will be carried out by the lead officer in the appropriate service, in consultation with relevant elected members and key community stakeholders.

9.2 A review can be called at any time during the life of the PSPO if circumstances change.