

## COMMUNITIES SCRUTINY PANEL

<b>DATE</b>	23 <sup>rd</sup> July 2020
<b>REPORT OF</b>	Joanne Hewson, Deputy Chief Executive and Director for Children's Services
<b>SUBJECT</b>	Review Public Space Protection Orders
<b>STATUS</b>	Open

### CONTRIBUTION TO OUR AIMS

This report contributes to the Council's strategic aims; in particular four outcomes which benefit the people in North East Lincolnshire, namely

- Feel Safe and are Safe
- Enjoy Good Health and Well-being
- Benefit from Sustainable Communities
- Enjoy and benefit from a Strong Economy

The Council as a *responsible authority* has duties under the Crime and Disorder Act 1998 to take an active role in reducing crime and disorder in the local area as part of the statutory Community Safety Partnership (CSP) arrangements.

Having effective and robust arrangements in place to tackle all aspects of crime and anti-social behaviour is paramount to create an environment where residents '*Feel safe and are safe*' and '*enjoy good health and well-being*'.

### EXECUTIVE SUMMARY

In October 2014, Cabinet introduced 7 ward based "controlled drinking zone" Public Space Protection Orders (PSPO) in North East Lincolnshire. The Anti-social Behaviour, Crime & Policing Act 2014, requires that any PSPO must be reviewed every three years (or earlier) to enable them to be extended, varied, providing the order remains necessary in order to prevent:

- further activities identified in the order from taking place, or
- the frequency or seriousness of those activities increasing after that time.

After a consultation with relevant stakeholders, the local community and the Scrutiny Panel these orders were reviewed and extended for a further three years in October 2017. Since that time a further 7 place based PSPO's were introduced in 2019 and these will be reviewed in 2021.

The PSPO's in North East Lincolnshire enable the consumption of alcohol to be restricted in public places in the wards of West Marsh, East Marsh, Park, Hainton and Heneage, Sidney Sussex, Croft Baker and South where ASB is likely to occur.

## MATTER(S) FOR CONSIDERATION

Communities Scrutiny Panel members are asked to note the report.

The Panel are invited to make any recommendations that can be forwarded to the Portfolio Holder for Safer & Stronger Communities and Cabinet for consideration in their decision.

### 1. BACKGROUND AND ISSUES

**Ward-wide PSPOs** – At present, PSPOs cover seven wards in their entirety: West Marsh, East Marsh, Park, Hainton and Heneage, Sidney Sussex, Croft Baker and South.

**PSPO Requirements** - As set out in Section 63 of the Anti-Social Behaviour, Crime & Police 2014, the scope of the PSPO states that whilst it is not an offence to consume alcohol within a “designated” area, a Police Constable or authorised person do have powers to control the consumption of alcohol within that place where they reasonably believe that a person:-

- is or has been consuming alcohol in breach of the prohibition in a Public Spaces Protection Order, or
- intends to consume alcohol in circumstances in which doing so would be a breach of such a prohibition where anti-social behaviour is likely to occur.

The constable or authorised person may require a person: -

- not to consume alcohol in breach of the Order, or anything which the constable, or authorised person, reasonably believes to be alcohol
- to surrender anything which is, or which the constable, or authorised person, reasonably believes to be, alcohol, or a container for alcohol and may require that person to leave the area for up to 24 hours.

If someone, without a reasonable excuse, fails to comply with the constable’s, or authorised persons request, then they are committing an offence and are liable to a £100 fixed penalty fine (FPN) to be paid within 14 days of issue and currently £75 if paid in full within the first 8 days, or on summary conviction receive a fine up to £1,000.

**Proposed Amendment** – The PSPO’s provide an early discount of £25 if paid in full within 8 days. The 7 place based PSPO’s introduced in 2019 do not offer any early discount and it is suggested that this discount is removed from the alcohol controlled PSPOs to provide consistency across all ASB PSPO’s.

**Local Enforcement** – Alcohol Controlled PSPOs within North East Lincolnshire are enforced exclusively by Police Constables and Police Community Support Officers with the exception of Grimsby Town Centre where this has been extended to “Local Authority Support Officers”. Whilst no Penalty Charge Notices (Fixed Penalty Fines) have been issued since the introduction of the PSPOs, feedback indicates that in cases where Police

Officers have approached individuals and requested they cease to drink, they have been compliant to Police requests and ceased their actions.

Alcohol consumption linked to ASB is an entrenched factor within the seven wards. A culture behaviour change can't be achieved in the short term and a longer period of time is required to enable this to happen. The challenge to change behaviour is not restricted to just one agency and cuts across all agencies including family hubs, mental and public health, drug and alcohol services etc. Although the Police regularly seize alcohol and give warnings to individuals about their behaviour (in particular young people) this data is not collated.

Repeat incidents of anti-social behaviour determines a priority patrol matrix which the Police patrol on a regular basis. This information is also used by the street based team who also visit the locations in a preventative capacity, engage with young people in an effort to change cultural behaviour issues. Data is not held on the number of identified locations within North East Lincolnshire although data does show that the seven wards create the most demand for all agencies. Daily patrols by the Police to the hotspot locations have been made with the same areas visited by the street based team when capacity allowed.

**Review Process** – In considering the options moving forward, the Council has applied the published Home Office guidance on *Public Space Protection Orders (PSPOs): For Local Authorities in England and Wales*. The guidance indicates that a PSPO must be reviewed by the local authority that made the order within three years to determine whether an extension is valid and reasonable, or whether the PSPO should be varied or discharged.

**Continuance** – For a PSPO to be extended in its current format, evidence must be obtained, and consultation undertaken showing the necessity and need. The Home Office guidance for a PSPO to be introduced, varied or extended is very broad. The Council has to be satisfied on reasonable grounds that the activities that are being carried out, or likely to be carried out across all of the public space

- Has had or is likely to have a detrimental effect on the quality of life of those in the locality
- Is, or is likely to be, persistent or continuing in nature
- Is or is likely to be unreasonable and
- Justifies the restrictions

During 2019/2020 alcohol related ASB amongst adults across North East Lincolnshire rose by 23.4% from 239 incidents in 2018/19 to 296 incidents in 2019/20.

The seven PSPO areas account for 81.4% of all alcohol related ASB in the borough. The seven wards saw incidents increase from 194 in 2018/19 to 241 in 2019/20 a 24.2% rise.

With the recent restrictions imposed due to Covid 19 and the unlikelihood that pubs and restaurants will be able to operate as they previously did for some considerable time, it is expected that alcohol related ASB will rise in

our public open spaces. This is evidenced with recent gatherings in the parks and beach area with alcohol waste/litter being left behind. The Government is allowing off sales from pubs in open containers for consumption anywhere and this again is likely to cause alcohol ASB in the public open space.

## 2 **STAKEHOLDER CONSULTATION**

Following best practice, the Council designated a consultation period where a range of stakeholders were contacted with the following responses received.

**Humberside Police Response** – Feedback confirmed that the Police are responding to alcohol related ASB as a result of public place drinking in the 7 PSPO areas. Evidence indicates that those approached have been compliant without the need to issue fines. Anecdotal evidence indicates that there is likely to be an increase in this kind of behaviour should the orders be discharged. This is now, even more likely with the current restrictions that are in place to combat Covid 19 and residents utilising public space more often to socialise. This has been evidenced throughout our public open spaces.

Humberside Police's commitment to proportionately enforce the PSPO areas remains in place with resources deployed based on threat risk and harm. Alternative national legislation is in place to seize alcohol and PSPO compliments this legislation by allowing the Police to compel an individual to leave the area for 24 hours if they deem this necessary. Days of action are planned over the forthcoming year which will allow an increased presence in areas of concern and for targeted operational activity to take place when and where appropriate.

The Chief Superintendent for North East Lincolnshire supports the retention of the existing PSPOs. They are also supported by the two neighbourhood Policing Inspectors who have operational responsibility for the seven areas.

**Office of the Police and Crime Commissioner** – Feedback from the Office of the Police & Crime Commissioner indicates support for the retention of the PSPOs in their current format with further support for *Placed Based* PSPO's utilising wider conditions where capacity to enforce allows.

**Ward Councillors** – Elected members in the designated wards were invited to offer their views on the future of the PSPOs. Seven responses were received from the ward councillors with only one supporting the removal of the PSPO's. The remaining respondents wanting them to remain in their current format. Observations were raised around effective and consistent enforcement.

Lia Nici MP also supported the continuation of the PSPO's as an additional supporting tool for the Police.

**Licensed premises** – Licensees across North East Lincolnshire were unable to be consulted with due to Covid 19 restrictions. The previous consultation with them in 2017 showed there was broad support for the continuation with a request for more effective and consistent enforcement.

**Significant others** – A range of other stakeholders were also contacted directly and offered the opportunity to take part in the consultation. Stakeholders included the Community Safety Partnership the Clinical Commissioning Group, Voluntary Sector, Housing Associations and Community and Neighbourhood Watch Groups. Of responses received, all were in support of retaining the PSPO in the current format. Public Health requested at the time of engagement that information is given out in the form of a handout highlighting help that is available for individuals.

**Public consultation** – A Public consultation is being undertaken through social media and via the NELC website, “*have your say*” section. The results of the public consultation are not known at this time but will be included in the forthcoming Cabinet paper.

**Conclusion** – It is evident from the wide range of stakeholder and community consultation that there is broad support for the continuation of the 7 ward based PSPOs across North East Lincolnshire. Continuing with the current PSPOs assists the Council and Police to deal with alcohol influenced ASB within the areas of highest concern

### 3 **Other Options Considered**

**The creation of new PSPO areas to correspond with existing Cumulative Impact Zone (CIZ) areas** – This option was considered which would significantly reduce the geographical coverage of PSPOs across the borough with a focus on the high demand areas which have a larger concentration of licensed premises. This would incur costs of removing existing signage across the existing PSPO areas but could allow for more targeted enforcement around alcohol.

This option was discounted as it was felt that as part of an intelligence led *Placed Based* approach, it would make more sense where evidence supports it to introduce new PSPO areas that considered wider prohibitions and appropriate conditions based on the issues faced by that area.

**Discharging existing PSPOs** – Whilst this option was considered, it was felt prudent to continue with existing ward based PSPO areas. Feedback shows that when approached individuals have been compliant and stopped drinking and the Police would lose the option to compel an individual to leave the area for 24 hours. To discharge the order is likely to see an increase in alcohol related ASB in our busiest wards in particular with the Covid 19 restrictions being in place and more people utilising public open space to meet and socialise with family and friends.

### 4 **RISKS AND OPPORTUNITIES**

The main risk associated with continuing or introducing new PSPOs is the management of expectations and the physical ability to enforce the conditions effectively. Budget pressures still remain and the capacity to enforce will remain challenging due to other competing demands which need to be managed carefully.

The global pandemic of Covid 19 has seen restrictions being imposed on everyday life to stop the spread of the disease. The easing of restrictions has seen a greater use of public open space to socialise with the consumption of alcohol taking place. To discharge the PSPO will remove the ability of the Police to compel an individual or group to leave a specific area.

## **5 REPUTATION AND COMMUNICATIONS CONSIDERATIONS**

Ongoing Communications are essential to ensure that the public understand the nature of the PSPOs and their conditions. This in turn will help to manage expectations around enforcement so as communities are realistic around the response and understand it in the context of wider demands placed on the Police which are assessed based threat risk and harm.

## **6 FINANCIAL CONSIDERATIONS**

If changes are made to the existing PSPO's there will be a one off charge for the removal of signage, should they remain in their current format there are no other financial considerations.

## **7 CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS**

There is no direct climate change or environmental implications arising from this report.

## **8 FINANCIAL IMPLICATIONS**

The report is for noting in the first instance and requesting any suggestions be forwarded to the appropriate Portfolio Holder. Depending on the suggestions and if they are implemented then the financial implications will either be of no cost or incur a cost in changing signage for example. Any costs will need to be contained within the services existing budget envelope.

## **9 LEGAL IMPLICATIONS**

Under the Anti-Social Behaviour, Crime and Policing Act 2014 a PSPO can be in effect for a period of not more than 3 years.

The Act states that before the time when it is due to expire the Local Authority that made the Order may extend the period for which it has effect if satisfied on reasonable grounds that doing so is necessary to prevent:

- a) occurrence or recurrence after that time of the activities identified in the Order, or;
- b) an increase in the frequency or seriousness of those activities after that time.

## **10 HUMAN RESOURCES IMPLICATIONS**

There are no direct HR implications

**11. WARD IMPLICATIONS**

Affects West Marsh, East Marsh, Park, Heneage, Sidney Sussex, Croft Baker and South

**12 BACKGROUND PAPERS**

Cabinet Report 29<sup>th</sup> October 2015 - Council Motion for a Borough Wide “Controlled Drinking Zone” Public Space Protection Order (PSPO) Formerly Designated Public Place Order (DPPO)

Cabinet Report 25<sup>th</sup> October 2017 - Review Public Space Protection Orders

**13 CONTACT OFFICER(S)**

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