

# PUBLIC SPACES PROTECTION ORDER BRIEFING

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## REASON FOR ITEM

Cabinet, at its meeting on 23 October 2014, considered a report in relation to Public Spaces Protection Orders (PSPOs). As part of the consultation process, Committee Members are being asked to comment on the proposed PSPOs.

## OPTIONS OPEN TO THE COMMITTEE

To note and comment on the Public Spaces Protection Order Briefing report.

## INFORMATION

### Background

The provisions in the Anti Social Behaviour Policing and Crime Act 2014 relating to Public Spaces Protection Orders came into effect on 20 October 2014.

Cabinet, on 23 October 2014, authorised the Deputy Chief Executive and Corporate Director of Residents Services, in consultation with the Cabinet Member for Community, Commerce and Regeneration, to:

1. consult with the Borough Commander and Hillingdon Police and, if it is considered appropriate to do so, to also consult with those individuals specified in Part 4, Chapter 2 of the Anti-social Behaviour, Crime and Policing Act 2014; and
2. make a public spaces protection order if the statutory conditions are satisfied and to amend the Residents Services Enforcement Policy December 2013 accordingly.

It is proposed to make two Public Services Protection Orders (PSPOs) - one covering parks and open spaces specifically and one covering all land to which the public have access. The proposed orders are appended to this report.

A local authority must carry out the necessary consultation and the necessary publicity, and the necessary notification (if any), before making a public spaces protection order. The regulations published by the Government state that it is sufficient to publicise PSPOs with notices on the site in question and a message on the Council's website.

### Summary

<b>Act</b>	Anti Social Behaviour Policing and Crime Act 2014 s.59
<b>Purpose</b>	Designed to stop individuals or groups committing ASB in a public space.
<b>Definition</b>	“public place” means any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission.
<b>Used by</b>	Councils issue a public spaces protection order after consultation with the police and other relevant bodies.
<b>Test</b>	Behaviour being restricted has to:

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	<ul style="list-style-type: none"> <li>• Be having, or is likely to have, a detrimental effect on the quality of life of those in the locality;</li> <li>• Be persistent or continuing in nature; and</li> <li>• Be unreasonable.</li> </ul>
<b>General</b>	<ul style="list-style-type: none"> <li>• Restrictions and requirements set by the Council.</li> <li>• These can be blanket restrictions or requirements or can be targeted against certain behaviours by certain groups at certain times.</li> <li>• Can restrict access to public spaces (including certain types of highway) where that route is being used to commit ASB.</li> </ul>
<b>Penalty on breach</b>	<ul style="list-style-type: none"> <li>• Breach is a criminal offence.</li> <li>• A fine of up to level 3 on prosecution.</li> <li>• Enforcement officers can issue a Fixed Penalty Notice (FPN) of up to £100 if appropriate.</li> </ul>
<b>Enforcement</b>	<ul style="list-style-type: none"> <li>• Can be enforced by a police officer, PCSO and Council officers.</li> <li>• Can be enforced by persons designated by the Council, for example, the contractor NSL Ltd could issue FPNs on behalf of the Council.</li> </ul>
<b>Appeals</b>	<ul style="list-style-type: none"> <li>• Anyone who lives in, or regularly works in, or visits the area can appeal an order in the High Court within 6 weeks of issue.</li> <li>• Further appeal is available each time the order is varied by the Council.</li> </ul>
<b>Important changes/ differences</b>	<ul style="list-style-type: none"> <li>• More than one restriction can be added to the same PSPO, meaning that a single PSPO can deal with a wider range of behaviours that the orders it replaces.</li> </ul>
<b>Steps required</b>	<p>Before the PSPO is made:</p> <ul style="list-style-type: none"> <li>• Identify parks by name.</li> <li>• Identify open spaces as all land in the open air owned or managed by the Council.</li> <li>• Identify public land as any place in the Borough to which the public or any section of the public has access.</li> <li>• Consultation with the Police Borough Commander by letter.</li> <li>• Consultation with other relevant bodies like park user groups and residents associations.</li> <li>• Could be done through Hillingdon People with feedback on line.</li> </ul> <p>After the PSPO is made, the Council has to publish the draft order in accordance with regulations published by the Secretary of State, which include:</p> <ul style="list-style-type: none"> <li>• Order must be published on the Council's website.</li> <li>• Notices must be fixed near to the site in sufficient locations and numbers to draw attention to the Order and its effect.</li> </ul>
<b>Consultation</b>	<p>A local authority must carry out the necessary consultation and the necessary publicity, and the necessary notification (if any), before making a public spaces protection order:</p> <ul style="list-style-type: none"> <li>• “the necessary consultation” means consulting with the Borough Commander for the police area that includes the restricted area; whatever community representatives the local authority thinks it appropriate to consult; the owner or occupier of land within the restricted area.</li> <li>• “the necessary publicity” means publishing the text of it; in the case of a proposed extension or discharge, publicising the proposal.</li> </ul>

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	The requirement to consult with the owner or occupier of land within the restricted area does not apply to land that is owned and occupied by the local authority; and applies only to the extent that it is reasonably practicable to consult the owner or occupier of the land.
<b>Definition</b>	“community representative”, in relation to a public spaces protection order that a local authority proposes to make or has made, means any individual or body appearing to the authority to represent the views of people who live in, work in or visit the restricted area.
<b>Effect on bye laws</b>	A byelaw that prohibits, by the creation of an offence, an activity regulated by a public spaces protection order is of no effect in relation to the restricted area during the currency of the order.
<b>Civil liberties</b>	Local Authority must have particular regard to the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the Convention.
<b>Delegated authority</b>	Cabinet, on 23 October 2014, authorised the Deputy Chief Executive and Corporate Director of Resident Services, in consultation with the Cabinet Member for Community, Commerce and Regeneration, to: <ol style="list-style-type: none"> <li>1. Consult with the Borough Commander and Hillingdon Police and, if it is considered appropriate to do so, to also consult with those individuals specified in Part 4, Chapter 2 of the Anti-Social Behaviour, Crime and Policing Act 2014; and</li> <li>2. Make a public spaces protection order if the statutory conditions are satisfied and to amend the Residents Services Enforcement Policy December 2013 accordingly.</li> </ol>
<b>Proposal</b>	To make two PSPOs - one covering parks and open spaces specifically and one covering all land to which the public have access - the proposed orders have been appended to this report.

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**PART I – MEMBERS, PUBLIC AND PRESS**



# HILLINGDON

LONDON

## Public Spaces Protection Order

### Anti Social Behaviour Policing and Crime Act 2014 s.59

Notice is hereby given that London Borough of Hillingdon ("the Council") has made the following Public Spaces Protection Order under section 59 of the Anti-Social Behaviour Policing and Crime Act 2014 ("the Act"):

1. The land described in the schedule below being land in the area of the Council is land to which the Anti-Social Behaviour Policing and Crime Act 2014 applies and will be protected by the making of this Order ("the restricted areas").

2. The Order may be cited as the (Parks and Open Spaces) Public Spaces Protection Order and came into force on \*\*\*\* for a duration of 3 years.

3. The effect of the Order is to impose the following conditions on the use of the land:

(a) In this area any person who continues to carry out activities from which they are prohibited commits an offence namely;

**Consuming alcohol (in a place other than a premises licensed for the sale of alcohol) in a manner causing or likely to cause harassment, alarm and distress**

**Use of powered vehicles such as motor-cycles without the express consent of the Council**

**The use of radio controlled model vehicles and aircraft in a manner likely to cause nuisance from noise, without the express consent of the Council**

**Camping (with or without a vehicle) without the express consent of the Council**

**Lighting fires or barbecues without the express consent of the Council**

**Feeding pigeons in a manner which causes or is likely to cause nuisance from the presence of pigeons**

**Having more than four dogs in the person's sole charge**

(b) In this area any person who fails to comply with any activity that they are required to undertake commits an offence namely;

**Removal forthwith of dog faeces left by any dog of which at the time the person was in charge or responsible for**

**Placing a lead on a dog when required to do so by an authorised officer**

**Ensuring that any dog (of which at the time the person is in charge or responsible for) which enters a childrens' play area leaves that play area forthwith**

**Leaving a park at the designated closing time or when required to do so by an authorised officer**

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A person guilty of an offence under conditions (a) or (b) above, under section 67 of the Act is liable on summary conviction to a fine not exceeding level 3 on the standard scale or fixed penalty notice of a maximum £100.

In this area any person who continues drinking intoxicating liquor in the Order area when asked to desist by a Police Officer, Police Community Support Officer or authorised person from the Council under section 63 or fails to surrender any intoxicating liquor in his possession when asked to do so by a Police Officer, Police Community Support Officer or authorised person from the Council under section 63 commits an offence as follows:

Any person who fails without reasonable excuse to comply with this requirement is liable on summary conviction to a fine not exceeding level 2 on the standard scale or fixed penalty notice of a maximum £100.

**Schedule of the restricted areas**

To be inserted



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## Public Spaces Protection Order

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1. The land described by the map(s) below being land in the area of the Council is land to which the Anti-Social Behaviour Policing and Crime Act 2014 applies and will be protected by the making of this Order.
2. The Order may be cited as the (Public Land) Public Spaces Protection Order and came into force on ..... for a duration of 3 years.
3. The effect of the Order is to impose the following conditions on the use of the land:
  - (a) In this area any person who continues to carry out activities from which they are prohibited commits an offence namely;
    - Consuming alcohol (in a place other than a premises licensed for the sale of alcohol) in a manner causing or likely to cause harassment, alarm and distress**
    - Spitting saliva or any other product from the mouth onto the ground without making any attempt to collect the saliva or product**
    - Feeding pigeons in a manner which causes or is likely to cause nuisance from the presence of pigeons**
  - (b) In this area any person who fails to comply with any activity that they are required to undertake commits an offence namely;
    - Placing a lead on a dog when required to do so by an authorised officer**
    - Placing a lead on a dog (of which at the time the person is in charge or responsible for) at any time when the dog is on a pavement by a road (within 3 metres of a carriageway)**
    - Removal forthwith of dog faeces left by any dog of which at the time the person was in charge or responsible for**

A person guilty of an offence under conditions (a) or (b) above, under section 67 of the Act is liable on summary conviction to a fine not exceeding level 3 on the standard scale or fixed penalty notice of a maximum £100.

In this area any person who continues drinking intoxicating liquor in the Order area when asked to desist by a Police Officer, Police Community Support Officer or authorised person from the Council under section 63 or fails to surrender any intoxicating liquor in his possession when asked to do so by a Police Officer, Police Community Support Officer or authorised person from the Council under section 63 commits an offence as follows:

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Any person who fails without reasonable excuse to comply with this requirement is liable on summary conviction to a fine not exceeding level 2 on the standard scale or fixed penalty notice of a maximum £100.

### **Schedule of the restricted areas**

This order applies to any place within the boundary of London Borough of Hillingdon to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission