

# BOROUGH WIDE PUBLIC SPACES PROTECTION ORDER 2020

<b>Cabinet Member(s)</b>	Councillor Douglas Mills
<b>Cabinet Portfolio(s)</b>	Community, Commerce and Regeneration
<b>Officer Contact(s)</b>	Joanne Howells - Residents Services
<b>Papers with report</b>	Appendix 1 - Equality Impact Assessment Appendix 2 - Borough wide Public Spaces Protection Order 2020 Appendix 3 - Map of restricted areas covered by PSPO 2020 Appendix 4 - List of restricted areas - Drones Appendix 5 - Number of Fines issued under PSPO 2017

## HEADLINES

<b>Summary</b>	Public Spaces Protection Orders (PSPOs) are intended to deal with nuisance or problems that are detrimental to the local community's quality of life. The current Borough-wide PSPO expires on 19 October 2020. A renewal is sought enabling residents to continue to use and enjoy public spaces, safe from anti-social behaviour.
<b>Putting our Residents First</b>	This report supports the following Council objectives of: <i>Our People; Our Natural Environment; Our Built Environment; Our Heritage and Civic Pride.</i>  Safer Hillingdon Partnership.
<b>Financial Cost</b>	There are no direct financial implications.
<b>Relevant Policy Overview Committee</b>	Residents, Education & Environmental Services Policy Overview Committee External Services Select Committee
<b>Relevant Ward(s)</b>	All wards

## RECOMMENDATIONS

**That the Cabinet, having regard to the Equalities and Human Rights Impact Assessment, makes a Borough Wide Public Spaces Protection Order 2020 to come into force on the expiry of the current order on 19 October 2020 in the form set out in Appendix 2.**

## Reasons for recommendation

Public Spaces Protection Orders (PSPOs) are intended to deal with nuisance or problems that are detrimental to the local community's quality of life and work by imposing conditions on the use of the area, enabling residents and visitors to use and enjoy public spaces, safe from anti-social behaviour. The PSPO provides local authorities with the necessary powers to introduce such restrictions and prohibitions within the designated area, where evidential tests are satisfied. Measures under the PSPO in Hillingdon would include the prohibition of;

- Drinking alcohol (other than in premises licensed for the sale of alcohol or at a venue where a Temporary Event Notice is in place) after having been required to stop by an authorised person;
- Being under the influence of controlled drugs and/or other psychoactive substance;
- Lighting or being in control or responsible for an activity involving a fire, barbecue or fireworks without the express consent of the Council;
- Remove forthwith dog faeces left by any dog which at the time the person is in charge of or responsible for;
- Leaving the engine of a stationary or parked vehicle running.

The implementation of the PSPO is to be applied to everyone within the designated area, however, it may have an increased negative impact on particular groups including; homeless people, people on a low income, the working age population and potentially younger people as well.

Whilst it is designed to prohibit certain activities, it is also designed to enable people to feel Hillingdon is a safe and welcoming place for all.

There is a direct causal link between the behaviour of street drinkers which is characterised by drinking in the street, park, vacant land or private land in groups or singly, littering the streets, urinating and on occasions defecating. This is clearly anti-social, a public nuisance and results in a diminution in the quality of life of local residents. The approach to addressing this activity will be to target those who litter beer cans, urinate and cause a nuisance to park users. The implementation of this prohibition will give the Council the ability to monitor and take enforcement action where necessary, including safeguarding members of the public and signposting individuals to other services.

Littering such as bottles, cans, food and cigarettes has continued and causes an increase in costs to clean, and has serious environmental consequences that can persist for many years. A rise in the use of park and open areas for transient populations has led to complaints of urination and defecation within these areas. The inclusion of this prohibition within the PSPO would allow Council Officers and Police greater powers to tackle such anti-social behaviour. There will also be positive arrangements to signpost homeless individuals to the relevant services.

The introduction of the Anti-Social Behaviour, Crime and Policing Act 2014 provided legislative scope to replace previous dog control orders with a Public Spaces Protection Order. Dog fouling is often regarded as one of the most offensive types of nuisance affecting parks and streets, creating public health risks. The Council is looking at a double approach aspect using the PSPO

being the offence of allowing a dog to foul and not cleaning it up. This is consistent with neighbouring boroughs who have adopted such provisions.

The lighting of fires or using barbecues could result in smoke nuisance to residential premises and also presents a fire risk to all parks and open spaces.

A council can make a PSPO on any public space within its own area. The definition of public space is wide and may include any place to which the public has access as of right or by permission.

Police, Council officers, and officers authorised by the Council, can enforce the conditions of PSPOs and can issue fixed penalty notices for non-compliance. Failure to comply with a PSPO is an offence which could result in a fine of up to £1,000 in a magistrates' court.

PSPOs are regularly reviewed in terms of reported breaches and enforcement undertaken and can be discharged/lapse or the conditions can be varied. Discharging a PSPO must be undertaken when the PSPO becomes unnecessary due to the fact that the issue that justified the PSPO has ceased.

### **Alternative options considered / risk management**

Alternative options for the Council's officers to manage anti-social behaviour in public spaces are limited due to available enforcement legislation. Police officers have additional legislative powers to manage criminal activities and offences, however, their resources are limited and unable to tackle this type of anti-social behaviour.

The Council must consider the impact a PSPO may have on the vulnerable, homeless and rough sleepers, and should ensure that it is not aimed at this group of people but at specific activity and behaviour.

An interested person can challenge the introduction of a PSPO in the High Court within six weeks of its introduction. It can also be challenged by judicial review on public law grounds within three months of the decision to implement.

### **Democratic compliance / previous authority**

Deputy Chief Executive and Corporate Director of Residents Services, Jean Palmer, has previously had the necessary delegated authority from Cabinet to authorise implementation of PSPOs within the London Borough of Hillingdon.

### **Policy Overview Committee comments**

None at this stage.

## **SUPPORTING INFORMATION**

1. The Home Office published statutory guidance in July 2014 to support the effective use of new powers to tackle anti-social behaviour, introduced through the Anti-social Behaviour, Crime and Policing Act 2014. The powers introduced by the 2014 Act were deliberately local in nature. As the London Borough of Hillingdon's byelaws dated back to 1976, it was

timely to bring them up to date with the use of the new legislation and a Borough wide PSPO was introduced in April 2017. This expires on 19 October 2020.

2. The Council originally consulted residents in 2015 through a survey to establish views on proposals to update the Borough's byelaws and make prohibitions and requirements under a PSPO covering all of the Borough's parks and public places, and again when this PSPO was varied. A large majority of survey respondents were in favour of all of the proposed activities being punishable via the issue of a Fixed Penalty Notice (FPN).
3. The Home Office updated their guidance in August 2019, highlighting the overwhelming impact that anti-social behaviour has on victims and communities if it is not addressed. The introduction of this new PSPO is specifically designed to stop individuals or groups committing anti-social behaviour in a public place and is considered proportionate to address the harm or nuisance caused. This conclusion is drawn from the recent public consultation on the proposed PSPO and previous statistics regarding the numbers of FPNs issued under the current order.
4. As a public authority, the Council needs to ensure that all its strategies, policies, service and functions, both current and proposed, have given proper consideration to equality, diversity, cohesion and integration. An Equality Impact Assessment (EIA) before the introduction of a PSPO can help to inform how best to balance the interest of different parts of the community and provides evidence as to whether or not the restrictions being proposed are justified, as required by section 59 of the 2014 Act. The EIA is attached at Appendix 1

## **Financial Implications**

A revenue neutral impact is anticipated from the proposed renewal of the PSPO, with the costs of the Council's enforcement contractors continuing to be funded by income generated via the issue of Fixed Penalty Notices.

## **RESIDENT BENEFIT & CONSULTATION**

As part of the consultation it was considered whether the behaviour experienced by residents had a detrimental effect, was likely to affect their quality of life and whether the activities were of a persistent and unreasonable nature.

### **Consultation carried out or required**

The public consultation ended on 24 August 2020 and no objections were raised against the renewal of this PSPO for a further three years, with all responses mainly positive in nature. There were no objections in the public consultation to the implementation of all prohibitions. No comments received from the Police.

Comments were received which sought to add further conditions to the proposed order, such as restricting the use of skateboards, roller blades and electric scooters and to people gathering in groups of two or more. While this is not a current condition within the proposed PSPO, the Council will monitor any issues to see if there is a problem that needs to be addressed in the future.

PSPO 2020 currently states that:

In the restricted areas a person commits an offence if without reasonable excuse they carry out activities from which they are prohibited namely

'Having more than four dogs in a person's sole charge, for non commercial purposes. Having more than six dogs in a person's sole charge for commercial purposes without a licence.'

A response was received from a resident related to this condition as follows:

'The clause is very badly worded, as under the 2018 change to the PSPO to include Professional Dog Walkers licenses, there is no license that allows anyone, (resident or Pro Dog walker) to have more than 6 dogs under their management. I would suggest a drafting amendment replacing 'more than' with 'up to'.

The wording of this provision has previously been found by the County Court to be clear and enforceable. Officers do not, therefore, propose to make any amendments to this condition.

Additional activities included in PSPO 2020 relate to the following conditions:

vi. No person or organisation shall, except with the written permission of Hillingdon Council, use parking spaces within a designated public spaces car park for the purpose of instructing learner drivers in any manoeuvres.

xii. Use any device designed or adapted for detecting or locating any metal or mineral on or in the ground without the express consent of the Council.

xiii. Engage in any type of fishing or dredge or remove any material from any park or open space without the express consent of the Council.

## CORPORATE CONSIDERATIONS

### Corporate Finance

Corporate Finance has reviewed the report and concur with the Financial Implications set out above, noting that there are no financial implications arising from the report recommendations.

### Legal

Under section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 the Council is able to make a PSPO if two conditions are met. The first is that the Council is satisfied that activities carried on in a public place have had or are likely to have a detrimental effect on the quality of life of those in the locality. The second condition is that the effect or likely effect of the activities are persistent or continuing in nature and are unreasonable and also that the effect of the activities justifies the restrictions imposed by the PSPO.

The report explains the improvements to the quality of life in the Borough that have arisen since the Council first made a PSPO and that these benefits will continue if a further PSPO is made. The Equalities Impact Assessment also sets out the steps that the Council will take to minimise any adverse equality impact that might arise if the PSPO is made.

The Borough Solicitor confirms that the consultation carried out by the Council has complied with section 72 of the Act and there are no legal impediments to Cabinet making a further Borough Wide PSPO

## **BACKGROUND PAPERS**

Nil