

PUBLIC SPACES PROTECTION ORDER 2023 REVIEW

Cabinet Member(s)	Cllr Eddie Lavery
Cabinet Portfolio(s)	Residents' Services
Officer Contact(s)	Stephanie Waterford – Place Joanne Howells - Place
Papers with report	Appendix 1 – Draft Public Spaces Protection Order 2023 Appendix 2 – Equality Impact Assessment

HEADLINES

Summary	The Borough's Public Spaces Protection Orders (PSPO's) are due for review and this report seeks Cabinet approval to consult on the draft PSPOs which will be in force for a further three-year period to 2026.
Putting our Residents First Delivering on the Council Strategy 2022-2026	This report supports our ambition for residents / the Council of: Be / feel safe from harm This report supports our commitments to residents of: Safe and Strong Communities
Financial Cost	There is no direct financial impact arising from the recommendations in this report.
Relevant Select Committee	Residents' Services Select Committee
Relevant Ward(s)	All

RECOMMENDATIONS

That the Cabinet:

- 1) Approves the draft Public Spaces Protection Order in Appendix 1 for public consultation to commence on 28th April 2023
- 2) Notes the proposed consultation and implementation timetable contained in the body of the report
- 3) Has regard to the contents of the Equalities Impact Assessment.

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.

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, those on a low income, the working age population and potentially younger people.

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

A council can implement a PSPO on any public space within its own area. The definition of a 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 may 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 issue that justified the PSPO having ceased.

The following existing prohibitions contained within the PSPO are proposed to be retained for the 2023-2026 PSPO period:

- Alcohol and drug misuse in public spaces
- Idling vehicles
- Use of drones in public spaces
- Urinating, defecating and spitting
- Being in charge of more than 4 dogs (6 with a valid licence)
- Unauthorised encampments
- Begging

Officers have taken into account emerging issues and complaint data from the 2020-2023 PSPO period. New prohibitions are proposed in the 2023-2026 PSPO which will seek to address:

- Smoking/vaping within children's play areas
- Dogs within children's play areas
- Driving e-vehicles or motor vehicles over footways
- Use of amplification equipment in Town Centres (Uxbridge, Hayes & Ruislip)
- Placing of tables/stands/signage in Town Centres (Uxbridge, Hayes & Ruislip)
- Financial Agreements in the street in Town Centres (Uxbridge, Hayes & Ruislip)

- Street Trading & Leaflet distribution without proper consent

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 may also be challenged by judicial review on public law grounds within three months of the decision to implement.

Democratic compliance / previous authority

Cabinet authority is required to approve public space protection orders, noting there are also requirements for statutory consultation on them.

Select Committee comments

None at this stage. Select Committee comments may be sought during the consultation period.

SUPPORTING INFORMATION

1. The Antisocial Behaviour Crime and Policing Act 2014 provides the legal framework to implement PSPO's. Orders may be introduced in a specific administrative area where the Council is satisfied that certain conditions have been met. These conditions focus on the behaviours which the Council is seeking to address which:
 - a. Have a detrimental effect or are likely to have a detrimental effect on the quality of life in a locality
 - b. The effect or likely effect of such behaviours is or is likely to be persistent or continuing or is likely to be unreasonable
 - c. And, justifies the restrictions being imposed through the enactment of a PSPO.
2. 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.
3. 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 2.

Financial Implications

A revenue neutral impact is anticipated from the recommendations within this report, furthermore, it is worth noting that the costs of the Council's enforcement contractors continue to be funded from income generated via the issue of Fixed Penalty Notices, therefore should the outcome of the consultation conclude that the additional prohibitions be included in the PSPO operations, this will have a net nil impact on the service's operating budget.

RESIDENT BENEFIT & CONSULTATION

The benefit or impact upon Hillingdon residents, service users and communities?

The PSPOs allow authorised Council officers to take robust actions against perpetrators who choose to cause harm or nuisance to the environment and/or community. Existing PSPO powers have proved effective in imposing financial sanctions. The January-December 2022 Fixed Penalty Notice figures are summarised below:

Abusive Language	32
Alcohol misuse	38
Barbecue	7
Begging	1
Bird feeding	7
Causing distress	1
Commercial Vehicle in Council Car Park	81
Dog unleashed in children's play area	1
Driving Tuition	8
Car idling	1,253
Motorbike in a green space	1
Obstruction	2
Urinate/Defecate/Spitting	300
Littering	8
Total	1,740

Consultation carried out or required

Before introducing, extending or varying a PSPO, the Council is required to consult with statutory consultees as well as the public. Statutory consultees include:

- Chief Officer of Police for the area
- Police & Crime Commissioner
- Owners/occupiers of land affected by the PSPO (where practicable)
- Community representatives

This report seeks approval to launch the public consultation which will run for a minimum of six weeks.

Officers will be publicising the PSPO consultation through social media channels, engagement with Community and Town Centre representatives and direct contact to residents' associations.

The proposed timetable for consultation and implementation of the PSPO is:

28 April 2023 – Public consultation starts
14 June 2023 – Consultation with Residents Services Select Committee
16 June 2023 – Public Consultation ends
27th July 2023 – Cabinet for final adoption

CORPORATE CONSIDERATIONS

Corporate Finance

Corporate Finance have reviewed this report and concur with the Financial Implications set out above, noting that the recommendations do not have any direct financial impact on the Council.

Legal

As explained in the report, section 72 of the Antisocial Behaviour, Crime and Policing Act 2014 requires the Council to consult prior to adopting the proposed PSPO. In order for activity to be restricted by the PSPO, the Council has to be satisfied that the activity has or is likely to have a detrimental effect on the quality of life within Hillingdon, that the activity is of a persistent or continuing nature so as to make the activity unreasonable and that it is proportionate to restrict the activity.

Further, more detailed legal advice will be given to Cabinet when it considers the outcome of the consultation.

BACKGROUND PAPERS

The Antisocial Behaviour, Crime & Policing Act 2014 - [Anti-social Behaviour, Crime and Policing Act 2014 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2014/12)

Home Office Guidance for Frontline Professionals – Anti-social Behaviour Powers June 2022 - [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1088750/2022_Updated_ASB_Statutory_Guidance- FINAL.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1088750/2022_Updated_ASB_Statutory_Guidance-_FINAL.pdf)

Local Government Association PSPO Guidance for Councils = https://www.local.gov.uk/sites/default/files/documents/10.21%20PSPO%20guidance_06_1.pdf