

PUBLIC SPACES PROTECTION ORDER 2023

Cabinet Member(s)	Cllr Eddie Lavery
Cabinet Portfolio(s)	Cabinet Member for Residents' Services
Officer Contact(s)	Stephanie Waterford / Joanne Howells – Place Directorate
Papers with report	Appendix 1 – Full Consultation Responses Appendix 2 – Equality Impact Assessment Appendix 3 – Final Public Spaces Protection Order 2023

HEADLINES

Summary	The current Borough Public Spaces Protection Order (PSPO) has been reviewed, and this report seeks Cabinet approval to implement the finalised version of the revised PSPO for a further three-year period to 2026. Following a statutory public consultation recommendations and amendments were made based on received responses.
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 are no direct financial implications expected from the recommendations in this report, although any impact on enforcement costs and fixed penalty notice income will be tracked through the budget monitoring cycle and MTFE process.
Relevant Select Committee	Residents' Services Select Committee
Relevant Ward(s)	All

RECOMMENDATIONS

That the Cabinet:

- 1) Considers the public consultation responses and subsequent PSPO amendments set out in the report and Appendix 1;**
- 2) Has regard to the contents of the Equalities Impact Assessment in Appendix 2 and;**
- 3) Decides whether to approve the finalised Public Spaces Protection Order in Appendix 3 for publication.**

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 Anti-Social Behaviour Crime and Policing Act 2014 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, allowed to lapse at the end of their 3-year period of validity, or the conditions can be varied. A PSPO must be discharged when it becomes unnecessary due to the issue that justified the PSPO being introduced having since 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
- Car Meets/Street Racing
- Use of amplification equipment at the Ruislip Lido

Appendix 3 sets out the Final Public Spaces Protection Order 2023 for Cabinet to consider approving.

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 restricts their ability to tackle these types 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 Spaces Protection Orders, noting there are also requirements for statutory consultation on them, which has been undertaken.

Select Committee comments

The Residents' Services Select Committee considered the proposed changes to PSPOs at their meeting on 14 June 2023. The Committee agreed, after the meeting with the Chairman and Opposition Lead, the following comments for submission to Cabinet:

1. We acknowledge the London Borough of Hillingdon's efforts in implementing the Public Spaces Protection Order (PSPO) under the Anti-Social Behaviour Crime and Policing

Act 2014. The Order aims to address various concerns and promote a safer and more pleasant environment for residents and visitors.

2. The inclusion of clear prohibitions related to alcohol and drugs, such as possession, consumption, and being under the influence, demonstrates a commitment to ensuring public spaces remain free from anti-social behaviour. The penalties specified for these offenses align with the seriousness of the violations.

3. The restrictions on vehicles, particularly driving motorised or powered vehicles on footways, footpaths, and grass verges, contribute to pedestrian safety and the preservation of public spaces. Exemptions for mobility vehicles show consideration for individuals with mobility needs.

4. The Order's provisions regarding urinating, defecating, and spitting in public places highlight the importance of maintaining cleanliness and hygiene standards. These regulations are essential for preserving the well-being and comfort of all residents and visitors.

5. The regulations related to dogs, including restrictions on the number of dogs under sole charge and the requirement to remove dog faeces promptly, reflect responsible pet ownership and aim to prevent public nuisance. The provisions encourage individuals to consider the impact of their actions on others and the environment.

6. The prohibition of activities such as lighting fires, barbecues, and fireworks without council consent in parks and open spaces enhances safety and protects these areas from potential damage. Additionally, restrictions on smoking in children's play areas promote a healthy and smoke-free environment for young residents.

7. The Order's focus on general prohibitions, such as encampment without council consent, discouraging verbal abuse, foul language, and begging, contributes to a harmonious and respectful community atmosphere. These regulations promote positive interactions and reduce potential disturbances.

8. The inclusion of penalties for non-compliance with the Order emphasizes the seriousness with which the London Borough of Hillingdon addresses anti-social behaviour and non-compliant actions. The specified fines and consequences demonstrate a commitment to maintaining order and reinforcing community standards.

9. The provision of clear definitions for terms used in the Order ensures consistency and clarity in interpretation, reducing ambiguity and enabling effective enforcement.

Overall, the Public Spaces Protection Order demonstrates the London Borough of Hillingdon's commitment to creating safe, welcoming, and well-maintained public spaces for the benefit of all residents and visitors. The provisions address a range of issues and provide a solid framework for promoting community well-being and reducing anti-social behaviour.

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, services 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 expected from the recommendations within this report. The cost of the Council's enforcement contractors continues to be funded from income generated via the issue of Fixed Penalty Notices. Should Cabinet approve the inclusion of additional prohibitions within the PSPO, an increase in the existing level of enforcement resources is not anticipated at this stage. However, any impact, in terms of both costs and income generated via the issue of fines, will be reported as part of the budget monitoring cycle and subsequently considered via the next refresh of the Council's MTFP planning process.

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

Public Consultation

The consultation was launched on 1st May and closed on 16th June 2023, resulting in 123 responses from Members of the public, Residents Associations, and statutory consultees. No responses were received from Ward Councillors. Of the Statutory Consultees, one response was received from the Metropolitan Police.

Most respondents felt that the Council's approach to PSPOs was clear. 69% of respondents felt that the draft PSPO covers or partly covers the major ASB issues in their area. 62% of respondents felt that the Council had not included matters that were expected in the PSPO.

99 individual comments were received, many containing suggestions of the measures which the Council may wish to include in the final draft or raising concerns about some of the proposed measures. The comments have been grouped into the following categories to assist Cabinet:

Ruislip Lido

18 responses mentioned issues at the Ruislip Lido including, ASB, Noise, Litter and specifically the use of amplification equipment/portable speakers. Many respondents would like to see amplification equipment being banned through a PSPO to cover the Ruislip Lido.

Amendment: *To extend the prohibition on amplification equipment to all parks and green spaces.*

Nuisance Driving/Street Racing

Four responses raised concerns about car races, loud revving of engines, stunt driving etc. with one respondent mentioning the recent spate of car meets in Hayes. The Transport Policing Team have also asked the Council to consider using PSPO powers to deal with the car meets following several focussed operations in Hayes over recent months.

Response: Addition of conditions relating to car meets/street racing. These previously formed part of the 2017-2020 PSPO but were not included in the 2020-2023 PSPO due to the fact that this problem was not present at the time of the review.

Town Centre Events and Promotions

10 respondents felt that the measures proposed will have a detrimental effect on campaigns, political/social/religious expression and stated that this will hinder freedom of speech.

Response – The measures contained within the PSPO aim to direct legitimate organisations through the correct approval route. The introduction of the prohibition provides the Council with enforcement capability to deal with those organisations who do not have appropriate authorisation for the activity and cause impediment, nuisance, overcrowding of town centre areas. The Council currently operates a booking system for events, campaigns and promotional stands which allows consideration of public safety, highway obstruction and other bookings within its town centres. The authorisation is currently free for charity/community/religious/political organisations and can be made via application to the Council’s Licensing Service.

Cycling/mopeds/e-scooters

10 respondents raised concerns about nuisance cycling/riding on footpaths in town centres. Uxbridge and Ruislip were mentioned as problem areas. Many of these responses concerned pedal bicycles which would be difficult to enforce under a PSPO as these are permitted to lawfully ride on pavements except for the pedestrianised area of Uxbridge where specific traffic prohibitions apply.

Response – The PSPO remains as it is as there are already measures included to deal with motorised bikes/scooter/mopeds on footways and pedestrianised areas.

Other matters

A large number of responses raised the following concerns which relate to anti-social issues which are outside the scope of PSPO and where primary legislation and/or enforcement options are used:

- Noise
- Problem neighbours
- Skips
- Drug dealing
- Nuisance parking
- Fireworks
- Graffiti
- Untidy gardens
- Youths congregating/loitering

Response: Primary legislation to be used to address these issues, no amendment to PSPO, however the information available to residents will be reviewed and checked so that the reporting

and enforcement of these issues can be better highlighted through the Council's communication channels.

Restriction on Driving tuition within Park/Green Spaces

One respondent commented positively on the removal of the ban on practice manoeuvres in Council car parks.

Recommendation: *Condition related to Driving instruction in PSPO 2020 removed.*

The full list of consultation responses is set out in Appendix 1. Where residents' personal and/or confidential information has been given, this has been redacted from the public version.

Next steps

Subject to Cabinet approval, and the expiry of the scrutiny call-in period and no scrutiny call-in received, these new PSPOs would start to come into effect from 5pm, Friday 4th August 2023 subject to the required publicity and notices in place.

CORPORATE CONSIDERATIONS

Corporate Finance

Corporate Finance have reviewed this report and concur with the Financial Implications set out above, noting that there are no direct financial implications associated with this report.

Legal

Legal advice is that the resolution should be for Cabinet to have regard to the consultation responses and EIA and then to decide whether to approve the PSPO.

Section 59 of the Antisocial Behaviour, Crime and Policing Act 2014 enables the Council to make a PSPO where it is "satisfied on reasonable grounds" that the following two conditions are met.

The first condition is that "activities carried on in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality, or it is likely that activities will be carried on in a public place within that area and that they will have such an effect".

The second condition is that 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 restrictions imposed by the notice.

Prior to making a PSPO the Council is required to undertake consultation in accordance with section 72 of the Act and also to have regard, in particular, to "the right of freedom of expression and freedom of assembly" as set out in the human rights legislation.

With regard to proportionality, Cabinet will note that the EIA shows that by dealing with low-level antisocial behaviour via a PSPO as opposed to commencing a criminal prosecution, the

consequences of the behaviour are brought home to the offender without them acquiring a criminal record which can affect their life chances.

It is confirmed that the Council has fully complied with the consultation provisions and Cabinet is required to take the consultation responses into account in deciding whether to confirm the PSPO.

With regard to the rights of freedom of expression and freedom of assembly, it is noted that the PSPO will apply if amplification equipment or furniture is used in connection with an event in town centres without permission from the Council. The requirement to obtain permission is designed to ensure that such events do not impact on public safety or cause nuisance. This is in accordance with case law concerning the scope of the rights of freedom of expression and assembly.

If Cabinet does decide to make the PSPO, the Council is required under The Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014 to publish the PSPO on its website and also to place sufficient notices across the Borough to advise the public that a PSPO is in force.

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