

DECISION-MAKER:	CABINET		
SUBJECT:	CONTROLLING STREET DRINKING USING PUBLIC SPACES PROTECTION ORDERS		
DATE OF DECISION:	16 APRIL 2019		
REPORT OF:	CABINET MEMBER FOR COMMUNITY WELLBEING		
<u>CONTACT DETAILS</u>			
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STATEMENT OF CONFIDENTIALITY			
None			
BRIEF SUMMARY			
<p>This report seeks Cabinet approval to extend for three years the existing Public Spaces Protection Orders (PSPOs) in five localities within the city; to vary the orders so that the controls on street drinking continue; to remove the controls on begging and to extend the boundaries of two of the orders (City Centre and Shirley) to address the wider distribution of street drinking in these areas.</p>			
RECOMMENDATIONS:			
	(i)	To consider the representations received in relation to this matter in response to the consultation carried out between 25 February and 24 March 2019 as set out in Appendix 1 and Appendix 4.	
	(ii)	To determine whether to vary and extend the five Public Spaces Protection Orders to control street drinking in the localities shown in the maps at Appendix 2.	
	(iii)	To determine whether to include controls on begging in the Public Spaces Protection Orders.	
REASONS FOR REPORT RECOMMENDATIONS			
1.	Begging and street drinking continue to cause problems in some parts of Southampton. The anti-social behaviour associated with these activities can have a detrimental impact on the quality of life for those who live and work in or visit the City and generate complaints to either the Council or the police.		
2.	<p>The Anti-Social Behaviour, Crime and Policing Act 2014 introduced new powers to tackle anti-social behaviour. The Act allows the local authority to make a Public Spaces Protection Order (PSPO) if it is satisfied that:</p> <ul style="list-style-type: none"> a. activities carried on in a public place have had or will have a detrimental effect on the quality of life of those in the locality; and b. the activities are persistent or continuing and are unreasonable; 		

	<p>and</p> <p>c. the restrictions imposed by an order are justifiable.</p> <p>A public spaces protection order can last for a period of three years after which it may be extended for a further three year period. The local authority may also vary a public spaces protection order.</p>
3.	<p>Public spaces protection orders (PSPO's) provide the police and other authorised officers with powers to tackle the anti-social behaviour which is restricted by the order. Officers may direct individuals not to engage in an activity which is prohibited by the PSPO; issue a fixed penalty notice (up to £100) to anyone who fails to comply with the requirements of the PSPO; and in the case of a person consuming alcohol in a location covered by a PSPO, can require that person to surrender the alcohol. Failure to comply with the requirements of a PSPO is an offence, which can result in a fine of up to £1,000 on conviction.</p>
4.	<p>In April 2016, the Council created five PSPO's to control street drinking and begging in five localities where anti-social behaviour associated with these activities was particularly prevalent. The orders last for three years and are due to expire on 29 April 2019.</p>
5.	<p>Over the past three years, the Council has worked in partnership with the police to tackle anti-social behaviour associated with street drinking and begging. Following the introduction of the PSPO's in 2016, activity was initially focussed on engaging with individuals found to be begging or street drinking and directing them to the appropriate support services within the city. Individuals who persisted with aggressive begging were issued with fixed penalty notices. Few of these fixed penalties were paid and they did little to change the behaviour of these individuals. A review of the approach to enforcement available to tackle begging was undertaken and other interventions were found to have a greater deterrent effect. These interventions include the use of dispersal powers by the police; issuing persistent beggars with community protection notices; and seeking criminal behaviour orders from the Court for those who continued to beg aggressively. These intervention were more effective and the use of fixed penalty notices for non-compliance with the requirements of the PSPO's was discontinued.</p>
6.	<p>As other interventions have a greater impact on reducing begging, it is recommended that the current PSPO's are varied so that they no longer include controls on begging.</p>
7.	<p>The Council and the police continue to receive complaints from members of the public and businesses about the anti-social behaviour associated with street drinking in the city. The PSPO's provide powers for police officers and PCSO's to require a person to stop consuming alcohol in within an area covered by a PSPO; and to require that person to surrender their alcohol. These powers are not available through other legislation and it is recommended that the controls on street drinking in the existing PSPO's are extended for a further three year period.</p>
8.	<p>The boundaries of the existing PSPO's for the City Centre and for Shirley do not cover all of the areas where anti-social behaviour associated with street drinking has been identified. It is recommended that the boundaries of these PSPO's are extended to allow the police to effectively deal with complaints about street drinking in these areas.</p>

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED	
9.	The PSPO's could be renewed without variation to extend the existing controls on both street drinking and begging for a further three year period, but as the controls on begging are not actively used and more effective interventions are available to address aggressive and persistent begging this is not considered appropriate.
10.	The PSPO's could be allowed to expire on 29 April 2019 and not extended, but this would remove the power to deal with anti-social street drinking which is not available through other legislation (allowing police officers to require a person to stop consuming or surrender their alcohol).
11.	The PSPO's could be varied, so that the existing controls on begging are discontinued, but the controls on street drinking are extended for a further three years in the areas currently covered but this would not provide an effective control on street drinking in those areas where it is problematic but not within the existing boundaries of the PSPO's for the City Centre and Shirley.
12.	The controls on either street drinking or begging could be controlled by creating a PSPO to cover the entire city, but this would be difficult to justify as anti-social behaviour associated with these activities does not cause problems in many parts of the city.
DETAIL (Including consultation carried out)	
13.	The legislation requires the local authority to carry out the 'necessary consultation' before making a public spaces protection order, which includes consulting the chief officer of Police and the Police and Crime Commissioner (PCC).
14.	Consultation on the proposals to extend the controls on street drinking and discontinue the controls on begging; and to vary the boundaries of the PSPO's in the City Centre and Shirley was carried out between 25 February and 24 March 2019. (www.southampton.gov.uk/pspo). Almost 500 people responded to the consultation. Most respondents (94%) live in the city. A report on the consultation is included as Appendix 1.
15.	The consultation revealed strong support for extending the controls on street drinking, with 94% of respondents agreeing with the proposal.
16.	The proposal to discontinue the controls on begging was not supported by the majority of respondents, with 71% disagreeing with the proposal.
RESOURCE IMPLICATIONS	
<u>Capital/Revenue</u>	
16.	Some costs may be incurred if additional signs are required to facilitate enforcement activity in areas where street drinking is prevalent. This would not be a significant cost and can be contained within the Safer Communities budget for 2019/20.
17.	The PSPO's do provide a mechanism for fixed penalties to be issued to individuals failing to comply with the requirements of the PSPO, but it is not anticipated that this will provide a significant revenue stream, as the requirement to surrender alcohol provides an effective deterrent to street drinking.

<u>Property/Other</u>	
18.	None.
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
19.	Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 provides the local authority with the power to make a PSPO and sets out the procedure for making an order.
20.	Section 60 of the Act allows a local authority to extend an existing order for a further three year period if satisfied on reasonable grounds that doing so is necessary.
	Section 61 of the Act allows the local authority to vary an order, by increasing the restricted area, or by removing a restricted activity from the order.
<u>Other Legal Implications:</u>	
21.	Section 68 of the Anti-Social Behaviour Crime and Policing Act 2013 allows a police constable to issue a fixed penalty to anyone believed to have committed an offence in relation to a public spaces protection order. The notice offers the person the opportunity of discharging any liability to conviction for the offence by paying a fixed penalty up to £100 to the local authority.
22.	The introduction of PSPOs by both Southampton City Council and other local authorities has been controversial and the subject of some scrutiny by interested parties. This has particularly been the case where the orders have restricted 'rough sleeping' or been perceived as criminalising poverty or homelessness. Controls on 'rough sleeping' are not included in this proposal, which only seeks to extend the control of anti-social street drinking.
23.	Section 66 of the Act does allow an 'interested person' to apply to the High Court to question the validity of a PSPO on the grounds that either: <ul style="list-style-type: none"> a. the local authority did not have the power to make the order; or b. there was failure to meet a requirement set out in Chapter 2 of the Act. <p>Any such action must be made by a person who regularly lives or works in the area covered by an order and must be made within six weeks of the order being made.</p>
POLICY FRAMEWORK IMPLICATIONS	
24.	Reducing anti-social behaviour in the city and reducing the harm caused by alcohol are priorities for the Safe City Partnership as identified by the Safe City Strategic Assessment.
KEY DECISION?	No
WARDS/COMMUNITIES AFFECTED:	Bargate, Bevois, Freemantle, Peartree, Portswood, Millbrook, Shirley, Woolston

SUPPORTING DOCUMENTATION

Appendices

1.	Consultation Feedback - Public Spaces Protection Orders 2019
2.	Revised text for the Public Spaces Protection Orders.
3.	Maps showing the proposed boundaries of the PSPO's in the City Centre, Portswood, Shirley, Woolson and Bitterne).
4.	Representation from Southampton Business Improvement District Ltd

Documents In Members' Rooms

1.	Equality and Safety Impact Assessment
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Equality Impact Assessment

Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.	Yes
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Privacy Impact Assessment

Do the implications/subject of the report require a Privacy Impact Assessment (PIA) to be carried out.	No
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Other Background Documents

Other Background documents available for inspection at:

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1. None	