

ENVIRONMENT OVERVIEW AND SCRUTINY

Date of Meeting	Monday 13th July 2020
Report Subject	Review of Public Space Protection Orders
Cabinet Member	Deputy Leader of the Council and Cabinet Member for Streetscene and Transportation Cabinet Member for Planning and Public Protection
Report Author	Chief Officer (Streetscene and Transportation) Chief Officer (Planning, Economy and Environment)
Type of Report	Operational

EXECUTIVE SUMMARY

Public Spaces Protection Orders (PSPO's) are an intervention to prevent individuals or groups committing anti-social behaviour in a public space. They are part of the Anti-Social Behaviour, Crime and Policing Act 2014 ("the Act").

Councils may make a PSPO after consultation with the Police, the Police and Crime Commissioner and appropriate community representatives. Once introduced, they can be enforced by Council Officers, Police Officers or Police Community Support Officers, if they are designated to do so.

Cabinet approved the making of a dog control PSPO's in September 2017, following a period of consultation and the other requirements under the Act.

PSPO's can last for a maximum of three years before a review is required and the Orders are now due for review or will expire on 19th October 2020.

To extend a PSPO the Council must firstly undertake, in accordance with the Act, a public consultation and notification exercise, as if it were making a new order.

Under provisions of the Act, Flintshire's Alcohol Designated Public Place Order transitioned automatically into a Public Space Protection Order. This order allows Police Officers the power to ask members of the public to surrender alcohol if a member of the public are believed to be causing a nuisance in a public place. This is not a total alcohol ban in public areas, and is not applicable to licensed premises, but encouragement of sensible drinking. This Order also needs to be reviewed.

RECOMMENDATIONS

1	That Scrutiny notes the need to consult with the required statutory consultees and members of the public with the purpose of gaining views to extend the two current PSPO's in Flintshire for a period of three years.
2	That Scrutiny recommends Cabinet approves the consultation methods proposed in the report to gain views on extending the two current PSPO's in Flintshire for a period of three years.

REPORT DETAILS

1.00	EXPLAINING THE BACKGROUND TO THE PROPOSALS
1.01	<p>PSPO's are designed to stop individuals or groups committing anti-social behaviour in a public place. PSPO's may not be made for a period of more than three years, but can be extended or varied if legal requirements are met.</p> <p>On 12th September 2017, Cabinet approved the making of a Dog Control Public Space Protection Order (PSPO) following a period of consultation and other requirements under the Act. The PSPO required dog owners to:</p> <ol style="list-style-type: none">1. Remove their dogs' waste from all public places within Flintshire,2. Have a means on their person to pick up dog waste,3. Place their dog on a lead when asked by an authorised officer if the dog was causing a nuisance.4. Prohibit dogs from entering the playing areas of public marked sports pitches, formal recreation areas including but not exclusively bowling greens and tennis courts, fenced equipped children's play areas and all areas within school grounds,5. Keep their dog on a lead in cemeteries.
1.02	<p>Since the implementation of the dog control PSPO over 1,100 dog walkers have been approached and provided with information and advice on the prohibitions of the Order. A total of 3 Fixed Penalty Notices (FPN's) have been issued for dog fouling and 45 for dogs entering the boundaries of marked sports pitches. Whilst enforcement activity is timed to busy periods of dog walking and when intelligence is received about a regular offender, it is difficult to actually witness dog owners not clearing up after their dogs. The Council has adopted a high profile approach in order to act as a deterrent and enforcement officers enter into dialogue with dog walkers during their patrols to ensure that they are aware of the PSPO's. It should be noted that a high number of FPN's is not the only measure by which the success of PSPO's should be measured and overall cleanliness and public awareness of the FPN process should also be considered.</p>
1.03	<p>Flintshire's Designated Public Place Order automatically transitioned to a PSPO under the Act in October 2017. The order allows designated officers, in this case Police Officers, the power to ask members of the public to surrender their alcohol if they are deemed to be a nuisance in</p>

	<p>public areas. Licensed premises are not included under these restrictions. Drinking alcohol in a public place is not a breach of the Order, but refusing the officers request to cease drinking, or surrender their alcohol when asked.</p>
1.04	<p>Initial discussion has taken place with Flintshire's North Wales Police Chief Inspector who is supportive of the Alcohol Control PSPO being consulted on with the same requirements.</p>
1.05	<p>PSPO's can be introduced in a specific public area where the local authority is satisfied on reasonable grounds that certain conditions have been met. These would include the nature of the anti-social behaviour requiring that:</p> <ul style="list-style-type: none"> • Activities that have taken place have had a detrimental effect on the quality of life of those in the locality, or it is likely that activities will take place and that they will have a detrimental effect • The effect or likely effect of these activities: <ul style="list-style-type: none"> • Is, or is likely to be, persistent or continuing in nature • Is, or is likely to be, unreasonable • Justifies the restrictions being imposed <p>Any local authority that made a PSPO, may extend the period for which it has effect if it is satisfied, on reasonable grounds that doing so is necessary to prevent an occurrence or recurrence of the activities identified in the order, or an increase in the frequency or seriousness of those activities, after that time.</p>
1.06	<p>PSPO's are not permitted to have an effect for a period of more than 3 years, unless extended under Chapter 2 Section 60 of the Act.</p> <p>Before the time when a PSPO is due to expire, the local authority that made the PSPO may extend the period for which it has effect if satisfied on reasonable grounds that doing so is necessary to prevent—</p> <p>(a) occurrence or recurrence after that time of the activities identified in the order, or</p> <p>(b) an increase in the frequency or seriousness of those activities after that time.</p> <p>An extension under this section may not be for a period of more than 3 years, but a PSPO may be extended under this section more than once.</p>
1.07	<p>A constable or authorised person of the Council may issue a Fixed Penalty Notice of £75 to anyone he or she believes to be guilty of an offence under PSPO restrictions, which would be required to be paid within 14 days. Failure to do so may lead to a fine on summary conviction not exceeding level 3 (currently £1000) on the standard scale.</p>
1.08	<p>Consultation is proposed to take place through two online surveys, one for each PSPO, asking for residents and statutory consultees' views on the PSPO's to be extended and whether the requirements of the orders are proportionate, on the FCC website for a period of 5 weeks through August</p>

	<p>2020 and the first week in September 2020. The consultation responses will be considered by the Council before a decision is made on final PSPO's.</p>
1.09	<p>The requirements for the Dog Control PSPO are for dog owners to:</p> <ol style="list-style-type: none"> 1. Remove their dogs' waste from all public places within Flintshire, 2. Have a means on their person to pick up dog waste, 3. Place their dog on a lead when asked by an authorised officer. 4. Prohibit dogs from entering the playing areas of public marked sports pitches, formal recreation areas including but not exclusively bowling greens and tennis courts, fenced equipped children's play areas and all areas within school grounds, 5. Keep their dog on a lead in cemeteries. <p>An interactive map will be made available online with colour coding of each land category showing which restriction is in force at which location, including relevant land adopted by the local authority since the Order was made in 2017, along with a document explaining Frequently Asked Questions.</p> <p>With regard to the Dog Control PSPO consultation it is proposed to write to the following outlining the proposal to extend the PSPO and where they are able to take part:-</p> <ul style="list-style-type: none"> • Elected members • School head teachers, • Town and Community councils, • Bowling club secretaries, • Lease holders of affected land, i.e sports clubs. • Charities and Organisations such as the RSPCA and Kennel club, • North Wales Police and the Police and Crime Commissioner. • Any other appropriate community representatives.
1.10	<p>The Alcohol Control PSPO will require the following to be written to directing them to take part in the consultation.</p> <ul style="list-style-type: none"> • Elected Members • North Wales Police • The Police and Crime Commissioner • Flintshire's Drug and Alcohol Teams and Substance Misuse Service • The Area Planning Board • Town And Community Councils • Any other appropriate Community representative.
1.11	<p>A press release through local newspapers, regular updates via FCC social media and highlighted on the FCC website will be made to inform the public on the proposals and where/how to take part in the consultation.</p>
1.12	<p>Following closure of the consultation period the results of the surveys will be considered and analysed and a report will be submitted to the Environment Overview and Scrutiny Committee for discussion and</p>

	recommendations on the final PSPO's (subject to consultation outcomes) will be made to Cabinet.
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2.00	RESOURCE IMPLICATIONS
2.01	Budget – There may be costs associated with any signage for the new PSPO's in any areas where they may need to be displayed. These costs will need to be funded from current budgets
2.02	Legal – Notice and publicity of the PSPO will need to be made prior to any extension being made.
2.03	Staffing – The Dog Control PSPO would be enforced by Streetscene Enforcement staff. An Alcohol Control PSPO would be enforced by designated officers of North Wales Police.

3.00	IMPACT ASSESSMENT AND RISK MANAGEMENT
3.01	<p>An Equality Impact and Welsh Language Assessment (EIA) was completed for the current Dog Control PSPO and the Order contains exemptions for those with protected characteristics. This document shall be reviewed for the proposed extension of the Dog Control PSPO and a new EIA will be completed and included before recommendations for the final order.</p> <p>To enable a PSPO to be extended the legal requirements of the Anti Social Behaviour, Crime and Disorder Act 2014 have to be met, which includes required consultation. Not to meet the statutory requirements may result in successful legal challenge.</p> <p>Documents are not, due to current the current COVID 19 pandemic, going to be physically available for the public to view at FCC public buildings. This is not a legal requirement under the Act, nor is it desired in the relevant statutory guidance.</p> <p>Both Orders expire on 19th October 2020. Not having any Order in place following this date will mean any enforcement of the current prohibitions will not be able to take place.</p>

4.00	CONSULTATIONS REQUIRED/CARRIED OUT
4.01	FCC must carry out the necessary consultation and the necessary publicity, and the necessary notification before extending the period for which a PSPO has effect.

	<p>The necessary consultation means consulting with—</p> <ul style="list-style-type: none"> (a) the chief officer of Police, and the local policing body, for the Police area that includes the restricted area; (b) whatever community representatives the local authority thinks it appropriate to consult; (c) the owner or occupier of land within the restricted area; <p>The necessary publicity means—</p> <ul style="list-style-type: none"> (a) in the case of a proposed Order or variation, publishing the text of it; (b) in the case of a proposed extension or discharge, publicising the proposal; <p>The necessary notification means notifying the following authorities of the proposed Order, extension, variation or discharge</p> <ul style="list-style-type: none"> (a) the parish council or community council (if any) for the area that includes the restricted area;
4.02	Consultation has taken place with the Chief Officer of Streetscene and staff
4.03	Consultation has taken place with Flintshire's Chief Inspector of North Wales Police

5.00	APPENDICES
5.01	None

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	None

7.00	CONTACT OFFICER DETAILS
7.01	<p>Contact Officer: Stephen O Jones Telephone: 01352 704700 Email: stephen.o.jones@flintshire.gov.uk</p> <p>Contact Officer: Andrew Farrow Telephone: 01352 703201 Email: andrew.farrow@flintshire.gov.uk</p>

8.00	GLOSSARY OF TERMS These are provided corporately on the Infonet (link) and maintained by the Executive Office
8.01	Public Space Protection Orders (PSPO's)