



Name of meeting: **CABINET**
Date: **30 June 2015**

Title of report: **Proposed introduction of Public Space Protection Orders**

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Yes
Is it in the Council's Forward Plan ?	No
Is it eligible for "call in" by Scrutiny ?	Yes
Date signed off by <u>Director</u> & name	Jacqui Gedman – 16 June 2015
Is it signed off by the Director of Resources?	David Smith – 17 June 2015
Is it signed off by the Assistant Director - Legal & Governance?	Julie Muscroft – 17 June 2015
Cabinet member portfolio	Housing and the Relief of Poverty

Electoral [wards](#) affected: **ALL**
Ward councillors consulted: **NONE**

Public or private: **PUBLIC**

1. Purpose of report

To seek Cabinet authorisation to introduce Public Space Protection Orders (PSPO), as set out in the Anti-Social Behaviour, Crime and Policing Act 2014, within the Kirklees district and delegate authority for future orders to officers as defined within the schedule of delegated authority.

2. Key points

- 2.1 Under the Anti-Social Behaviour, Crime and Policing Act 2014, there is provision for local authorities to introduce measures to address anti-social behaviour in public spaces. As relevant to this report, the Act replaces three existing powers with one new power – the Public Space Protection Order.
- 2.2 The new orders are more flexible and can be applied to a much broader range of issues, with local authorities having the ability to design and implement their own prohibitions or requirements where certain conditions are met these being that:

The Council must be satisfied on reasonable grounds that activities carried out in a public space will have or are likely to have:

- A detrimental effect on the quality of life of those in the locality
- Are persistent or continuing in nature
- Are unreasonable
- And justify the restrictions imposed

(Appendix A sets out the activities that will have controls placed upon them and the geographical areas covered by the orders).

2.3 The orders to be replaced are listed below, it should be noted that if the act was not introduced any existing orders would transfer over to the new legislation in three years:

- Designated Public Place Orders - these place controls on street drinking.
- Dog Control orders.
- Gating orders (Appendix B sets out the revised criteria for introduction of controls on public rights of way).

2.4 We are proposing to use the new Public Space Protection Orders to:

Extend the controls on street drinking to cover the route of the Ale Trail as well as the existing control zones of Huddersfield town centre, Dewsbury town centre and Batley. It will allow West Yorkshire Police to respond to the identified concerns along the route of the so called Ale Trail. (See appendix C setting out reported issues and mapping the areas).

Extend the current dog control orders to include a restriction on multiple dog walking in response to increasing problems caused by commercial dog sitters/walkers.

Put in place an easier route for action on public urination, these areas, to correspond with those within the controls on street drinking.

Put controls on nuisance caused by amplified busking.

2.5 Failure to abide by these orders will result in the issue of a fixed penalty of £100 with an early repayment reduction to £60, which if not paid may then result in prosecution (maximum fine £1000 for most offences). The FPN's can be issued by any duly authorised officer with agreement in place between the Local Authority and the Police, that both will issue these. Offences relating to alcohol will be the responsibility of the Police.

2.6 The Authority has recently introduced a good citizen course, this may allow those issued with an FPN to attend this as a means of discharging the offence. This will only be offered once, and failure to attend or repeat offences will result in prosecution. This is intended to modify people's behaviour whilst not criminalising them.

- 2.7 If it is agreed to proceed with the introduction of PSPO's there will be a full public and interested party consultation over the summer, with the intention of introducing the orders in October 2015.
- 2.8 The orders can be in place for a maximum of three years, with no minimum time limit and are designed to be flexible and responsive to need. There is no limit on the number of times that orders can be renewed, as long as the need is still present. This will require a further consultation. Variation of orders can be done at any time to respond to the changing needs of public spaces. As such, it is proposed that the variation, renewal or introduction of future orders is delegated to officers, with this being informed to the member led enforcement steering group.

3. Implications for the Council

The implications for the Council are:

- 3.1 Legal - The implementation of the PSPO can be challenged by any interested person within 6 weeks of the making of the Order, the challenge is made at the High Court. Anyone who is directly affected by the making of the PSPO can challenge the order. A challenge can be made on the basis that the Council does not have the power to make the order, or that the particular prohibitions or requirements are unnecessary or that procedurally the order is defective.
- 3.2 Financial - there is a financial implication in that the control zones will need to be signed to allow enforcement, this is expected to be in the region of £10,000, with the signage targeted at identified hotspots and specific control areas. Any income generated by payment of FPN's will be directed back into management of the process.
- 3.3 Human resources - none.
- 3.4 Information technology - use of the Council's website and social media presence to undertake part of the consultation.

4. Consultees and their opinions

- 4.1 Town centre Management - in favour.
- 4.2 Regeneration and Investment (Licensing) - in favour.
- 4.3 West Yorkshire Police - in favour.
- 4.4 Streetscene and Housing - in favour.

5. Next steps

- 5.1 Undertake a public consultation exercise, the statutory minimum for this is to consult with West Yorkshire Police, the office of the Police and Crime Commissioner and any immediately affected parties.
- 5.2 It is intended, to go wider than this by:
 - Presenting the proposals to public meetings of each of the district committees.

- Specific public meetings to be scheduled in localities.
 - Affected special interest groups to be contacted – e.g. residents associations, park user groups etc.
- 5.3 There will be information on the Council's website and the opportunity to comment.
- 5.4 Sign posting to the web site on the Council's social media presence.
- 5.5 Engage with local media to further direct people to the website.
- 5.6 The Police will undertake an internal consultation exercise and will contact the Police and Crime Commissioner, to set out the proposals; they will feed this back into the process.

6. Officer recommendations and reasons

- 6.1 Move forward with the consultation, then introduce the orders, with such amendments as are required, this will meet the Council's legal obligations for introduction under the act and will allow a more joined up and cohesive response to ASB within the district, between West Yorkshire Police and the Council.

7. Cabinet portfolio holder recommendation

The portfolio holder, Councillor Cathy Scott, supports the officer recommendations, to move forward with the consultation, then introduce the orders, with such amendments as are required and for the report to proceed to Cabinet on the 30 June 2015.

8. Contact officer and relevant papers

Rob Dalby
Streetscene Action Team Manager
Tel: 01484 221000
Email: rob.dalby@kirklees.gov.uk

<http://www.legislation.gov.uk/ukpga/2014/12/part/4/chapter/2/enacted>

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/352562/ASB_Guidance_v8_July2014_final_2_.pdf

9. Assistant director responsible

Joanne Bartholomew
Assistant Director – Place
Tel: 01484 221000
Email: joanne.bartholomew@kirklees.gov.uk

Appendix A

Proposed Public Space Protection Orders		
Activity to be control	location	Requesting partner
Street drinking	Existing street control zones plus locations along the Ale Trail	Police
Dog fouling	As per DCO's	LA
Dogs on leads at all times	As per DCO's	LA
Dogs on leads by request	As per DCO's	LA
Dogs excluded from specified areas	As per DCO's	LA
Dogs excluded from specified areas at specific times	As per DCO's	LA
Walking multiple dogs	identified area's	LA
public urination	Existing street control zones plus locations along the Ale Trail	Police
Busking with use of electronic amplification	Within Dewsbury and Huddersfield Ring road	LA
Highway access restrictions due to ASB	Various	LA

Mapping available at (web address *awaiting information*)

Appendix B

Criteria to be met for controls on PROWS

- a) Activities carried out on the PROW have had a detrimental effect on the quality of life of those in the locality, or
- b) 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:

- a) is, or is likely to be, of a persistent or continuing nature,
- b) is, or is likely to be, such as to make the activities unreasonable and
- c) justifies the restrictions imposed by the notice.

Activities can include things that a person or a group does, has done or should do (in order to reduce the detrimental effect).

Any controls must be supported by a robust evidence base and those controls reviewed as appropriate.

The areas' of concern would include:

- Illegal deposition of waste.
- Unauthorised use.
- Use of PROW to facilitate ASB by means of either providing a route or a gathering area.

Appendix C

Reported ASB in relation to street drinking

(Awaiting information from West Yorkshire police)