

CABINET

Public Space Protection Orders

22nd October 2024

Report of Chief Officer People & Policy

PURPOSE OF REPORT			
To seek Cabinet approval for the renewal of the Public Space Protection Orders (PSPO) in relation to various types of anti-social behaviour for a period of three years. The existing PSPOs which cover Lancaster City Centre, Morecambe, Lower Heysham, Happy Mount Park and Williamson Park expire on 13 th December 2024			
Key Decision	X	Non-Key Decision	Referral from Cabinet Member
Date of notice of forthcoming key decision	23 rd September 2024		
This report is public but Appendix 4 is exempt from publication by virtue of Paragraph 7 of Schedule 12A of the Local Government Act, 1972.			

RECOMMENDATION OF Councillor Peter Jackson

- (1) **That the Public Space Protection Orders (PSPOs) are made to cover the designated areas as set out in Appendix 2**

1.0 Introduction

- 1.1 Public Spaces Protection Orders (PSPO's) sit amongst a broad range of powers and tools to help tackle anti-social behaviour. They are aimed at ensuring public spaces can be enjoyed free from anti-social behaviour, and to help with persistent issues that are damaging their communities.
- 1.2 The power to make PSPO's rest with the local authorities. Enforcement can then be undertaken by Councils and the Police.
- 1.3 In December 2016 and April 2018 Cabinet approved PSPO's covering Lancaster City Centre (2016) and defined areas in Morecambe & Heysham (2018) These orders replaced designated Public Place Orders and were as a result of enacted powers from the Anti-Social Behaviour, Crime and Policing Act 2014.
- 1.4 The current PSPO expires on 13th December 2024. The test for extending a PSPO is set out in Section 60 of the Anti-Social Behaviour Crime & Policing Act 2024.

A Public Space Protection Order (PSPO) can be made for a maximum duration of up to three years. After which it may be extended if certain criteria under section 60 of the Act are met. This includes that the extension is necessary to prevent activity reoccurring and/or there has been an increase in frequency or seriousness of the activity.

Under Section 60, before the time when a public spaces protection order is due to expire, the local authority that made the order may extend the period for which it has effect if satisfied on reasonable grounds that doing so is necessary to prevent—

(a) occurrence or recurrence after that time of the activities identified in the order, or

(b) an increase in the frequency or seriousness of those activities after that time.

Under Section 72 of the Anti-Social Behaviour Crime & Policing Act 2014, a Local Authority must carry out the necessary consultation and necessary publicity when extending and varying a PSPO.

1.5 ~~Although~~ Since the PSPO was introduced in 2021 the recorded police data shows that in general terms anti-social behaviour has decreased but is still occurring in the areas that the PSPO covers. There are still concerns ~~are still~~ being raised by businesses, elected members, and members of the public in both Lancaster and Morecambe. Police data also indicates that Lancaster City Centre continues to be an anti-social behaviour hotspot and as a result have introduced Operation Paragon to address this issue.

1.6 In November 2022, the Police and Crime Commissioner announced his plans to tackle anti-social behaviour following an independent anti-social behaviour study and as a result, this has funded additional police patrols in an operation entitled 'Operation Centurion.' Police data was used to determine the hotspot locations, and additional police patrols have taken place in Happy Mount Pak and Poulton ward in Morecambe. In the last 12 months Happy Mount Park has seen an 85% reduction in reported incidents of ASB and Poulton Ward a reduction of nearly 24%.

1.7 Lancashire Fire and Rescue have also reported an increase in deliberate secondary fires in Lancaster City Centre. There is evidence that indicates that youth anti-social behaviour is a contributory factor.

2.0 Proposal Details

2.1 Approval is sought to renew the Public Space Protection Order (Appendix 2) in the areas defined in the attached maps. (Appendix 3)

2.2 In specific terms the PSPO will provide additional powers to deal with:

- Shouting, swearing, and behaviour causing annoyance, harassment, alarm, or distress.
- A person ingesting, injecting, smoking or otherwise an intoxicating substance.
- Prohibition of alcohol consumption

2.3 A Fixed Penalty Notice will carry a £100 penalty reduced to £65 for early payment. A discount exists for early payments due to difficulties experienced in obtaining payments.

2.4 Authorised officers of Lancaster City Council together with officers from Lancashire Police would have the powers to enforce the PSPO on behalf of

Lancaster City Council by the issuing of or requesting the issue of fixed penalties, but collection of fines and any potential prosecutions would be the responsibility of the council.

- 2.5 To issue a Fixed Penalty Notice the evidential test required will be the same for any court proceedings. There are a limited number of officers within Lancaster City Council who are responsible for a wide range of enforcement, and these officers are not routinely out and about in the hotspot areas to witness first hand any potential breaches of the PSPO. The police do assist in gathering the required evidence for breaches of the PSPO, but this is also dependent on the resource available and other policing responses required in Lancaster District.
- 2.6 The purpose of this report is solely to seek approval for the PSPO to be renewed. Consideration as to the resources attached to enforcing it may be considered by Cabinet. However, that will take place through discussions with the Police and other partners.

3.0 Details of Consultation

- 3.1 An online public consultation was held in July and August 2024 with hard copies of the survey available. This also included a question about the use of E-Scooters and E-cycles in Lancaster City Centre and the introduction of additional conditions for the PSPO. It has been determined that this issue requires further research and therefore is not included in this report. A summary of the responses is attached as Appendix 1.
- 3.2 87% of respondents stated that they have been affected by incidents of anti-social behaviour across the district with Lancaster and Morecambe being identified as the main location where this has occurred. A smaller number of respondents identified other locations across the district. The top locations for police reported incidents of anti-social behaviour correlate with the maps for the Lancaster City Centre PSPO and the Morecambe PSPO. The open spaces of Lower Heysham, Happy Mount Park and Williamson Park have historically experienced higher levels of youth related anti-social behaviour generally when the weather is warmer, and the evenings are lighter. The majority of respondents stated that the anti-social behaviour had taken place on the street. The top categories of ASB reported were alcohol, drug and youth related anti-social behaviour, with litter, graffiti and fly-tipping also being highlighted as causes of concern. 76% of respondents recorded that this had affected them – with 31% stating that it had affected them a lot.
- 3.3 Police data for the last 3 years (Sept 21- August 22, Sept 22 –August 23, Sept 23-August 24) show that reported incidents of ASB have decreased. Youth ASB accounts for approximately 25% of all reported incidents. Approximately 9% of incidents are alcohol related. Hotspot locations include Cheapside in Lancaster, Lancaster Bus Station, and Happy Mount Park. In November 2023 NOS (Nitrous Oxide) was categorised as a Class C drug but Lancaster City Council Public Realm staff are still receiving reports of both the small silver capsules of nitrous oxide to the bigger catering-sized cannisters.
- 3.4 The police report that the PSPO introduced in December 2021 has enabled them to make early interventions in terms of incidents of ASB.
Under Section 60 of the Act, the test that needs to be met is that there are reasonable grounds to prevent an occurrence, or a recurrence of the activities identified in the order. Analysis of the police data for Poulton Ward, which is covered by the Morecambe map (Appendix 4) indicates there has been a 40% reduction in incidents when comparing the numbers of reported incidents

from September 21-August 22 against the number of reported incidents between September 23-August 24. The additional resources provided by the PCC funded Operation Centurion has assisted in this reduction. Displacement has been seen in other areas where the PSPO is in place. In Lancaster City Centre over the same period there has been only an 18 percent reduction. Where there have been additional resources provided to tackle incidents of anti-social behaviour the reduction is significant. Lancaster City Centre has experienced an increase in the number of incidents recorded in the last 12 months with displacement being an attributable factor. (Appendix 4 refers)

Incidents of anti-social behaviour are still being recorded in the other 3 areas defined in the maps in Appendix 3 and contained in the police report (Appendix 4)

3.5 With regards to the Human Rights Act 1988 Article 10 (Freedom of expression) and Article 11 (Freedom of assembly and association) a consultation has been carried out and publicised across the district.

The PSPO is not targeted at any individual or group but instead seeks to tackle defined anti-social behaviour in specified locations and the need to protect the public from harm outweighs the restrictions contained in this order.

3.6 The police and the PCC have been consulted with and district and town councillors notified.

4.0 Options and Options Analysis (including risk assessment)

	Option 1: Adopt the PSPO as proposed in the consultation, with no amendments	Option 2: Adopt the PSPO as proposed in the consultation, but not in all the proposed locations	Option 3: Do not adopt the PSPO
Advantages	<p>Reflects the majority of representations made during the public consultation that the prohibitions outlined in the current PSPO order are types of behaviour not acceptable within the proposed areas.</p> <p>Anti-social behaviour is still being experienced in all the areas that the PSPO intends to cover (Appendix 3)</p> <p>Comment has been made in the PSPO consultation about ASB ruining lives</p>	<p>Not all areas received the same level of concern in the consultation.</p> <p>Some members of the community could view the proposed restrictions in public parks as unnecessary.</p> <p>Less areas to enforce.</p>	Minimal cost benefit of not paying for signage.

	and businesses. The conditions are identical for the proposed areas which makes for more consistent and less confusing enforcement.		
Disadvantages	Raises public expectation. The PSPO is only one of the tools that can be used by authorised officers. Lack of enforcement could lead to a reduction in confidence in the Local Authority and Lancashire Police.	Smaller communities feeling that their views have not been taken into consideration. Potential displacement of the types of behaviour to other public spaces	Going against majority of consultees Continued complaints received from the public about not feeling safe in the public spaces of the district. Loss of confidence in the local authority and Lancashire Police
Risks	Reputational. Not listening to views of the public.	Reputational. Not listening to views of the public.	Reputational. Not listening to views of the public.

5.0 Officer Preferred Option (and comments)

5.1 The officer preferred option is Option1. This option reflects the majority of the public comment arising from the consultation. It supports the council policy framework for Happy Healthy Communities and a Cooperative Kind and Responsible Council.

6.0 Conclusion

6.1 There is strong evidence to support the need of a PSPO in certain localities of the district. Police data is only one source of evidence that indicates what is taking place in the localities that the PSPO will cover. Elected members regularly report concerns of continued incidents of anti-social behaviour that is impacting on the lives of residents that they represent. It is a fair and balanced approach to address the issue that certain types of behaviour spoil the enjoyment of the public spaces of Lancaster District for our residents and visitors alike.

RELATIONSHIP TO POLICY FRAMEWORK

Healthy and Happy Communities

Keeping our district's neighbourhoods, parks, beaches, and open space clean, well-maintained, and safe.

A Co-operative, Kind and Responsible Council

Listening to our communities and treating everyone with equal respect, being friendly, honest, and empathetic.

CONCLUSION OF IMPACT ASSESSMENT

(including Health & Safety, Equality & Diversity, Human Rights, Community Safety, HR, Sustainability and Rural Proofing)

When considering any proposed PSPOs, the authority must consider any equality issues pursuant to its duty under section 149 of the Equality Act 2010.

LEGAL IMPLICATIONS

Chapter 2 of Part 4 of the Anti-Social Behaviour, Crime and Policing Act 2014 deals with Public Spaces Protection Orders (PSPO). Sections 59 – 61 inclusive deal with the power to make such orders, their duration, and their variation and discharge.

Section 66 specifically provides an interested party (as defined in the Act) the ability to challenge the validity of a PSPO, or its variation, by application to the High Court. The grounds for such a challenge are that the local authority did not have the power to make or vary the order or include certain prohibitions/requirements, or that a requirement under the relevant part of the Act was not complied with. There is a 6-week time limit to make such an application from the date of the order or variation. Pending full determination, the High Court can suspend the operation of the order, or variation. Upon determining the application, the Court, if it finds that the authority did not have the power to do what it did/required under the order, or that the interests of the applicant have been substantially prejudiced by a failure to comply with a requirement of the Act in relation to PSPOs, can quash or vary the order or any prohibitions or requirements under it.

FINANCIAL IMPLICATIONS

Any costs associated with prosecutions against offenders who fail to discharge their criminal liability by paying the fixed penalty notice within the required time will be sought from that individual during the Court process. Whilst there is a risk not all costs will be recovered it is expected that this will be minimal and can be met from within existing resources.

With regard to signage, this can be funded from general fund revenue, utilising the Community Safety Partnership budget.

OTHER RESOURCE IMPLICATIONS

Human Resources/Information Services/Property/Open Spaces

No implications arising directly from this report.

SECTION 151 OFFICER'S COMMENTS

The s151 Officer has been consulted and has no further comments to add

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments to add

BACKGROUND PAPERS

LGA guidance on Public Space
Protection Orders [Public spaces protection
orders: guidance for councils \(local.gov.uk\)](#)

[Commissioner takes aim at anti-social behaviour -
Lancashire Police Crime Commissioner \(lancashire-
pcc.gov.uk\)](#)

[Nitrous oxide: Laughing gas possession becomes
illegal - BBC News](#)

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