

Report to: Councillor Harvey – Cabinet Member for Social Inclusion and Community Safety

Date: 07/08/2023

Subject: Decision to renew a Public Spaces Protection Order (PSPO) relating to the Consumption of Alcohol in Public Spaces

Report author: Roisin Conroy, Community Safety Projects and Commissioning Officer

Responsible Director: Bram Kainth, Strategic Director of Environment

SUMMARY

Public Spaces Protection Orders (PSPOs) are a tool that can be used by local authorities to address Anti-Social Behaviour (ASB) and the impact that this behaviour can have on individuals and communities (under the Anti-Social Behaviour, Crime and Policing Act 2014). An Order can be introduced in a public area where the local authority is satisfied on reasonable grounds that the effect, or likely effect, of such activities is, or is likely to be, of a persistent and continuing nature; is, or is likely to be, such as to make the activities unreasonable; and justifies the restrictions imposed by the Order. The PSPO gives authorised Council and Police officers powers to issue a Fixed Penalty Notice (FPN) of £100 (reduced to £60 if paid within 10 days) to those who engage in an activity that is prohibited by the Order.

This report recommends renewing the existing PSPO across the borough to continue in our action to combat anti-social behaviour related to the irresponsible consumption of alcohol in public spaces. It is proposed that this Order remains in force for a period of three years.

RECOMMENDATIONS

That the Cabinet Member for Social Inclusion and Community Safety:

1. Approves the extension of the current PSPO relating to the consumption of alcohol in public spaces for a period of three years from 20 October 2023 to 19 October 2026.
 2. Delegates authority to sign the PSPO to the Assistant Director of Community Safety, Resilience and CCTV.
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Wards Affected: All

Our Values	Summary of how this report aligns to the H&F Values
Building shared prosperity	PSPOs reduce anti-social behaviour and contributes to the council's commitment to tackling anti-social behaviour. Implementing this PSPO will contribute to the council's commitment to designing out crime.
Creating a compassionate council	The PSPO enforcement plan will align with the Metropolitan Police 4 'E' model – Engage, Explain, Encourage and Enforce to address ASB and will prioritise safeguarding and support. The LET will receive training from our commissioned Drug and Alcohol Support Service (DAWS/ Turning Point) to ensure they are equipped to respond to any instances of substance misuse and potential vulnerable residents. As part of our enforcement plan going forward, we will ensure more training is provided to ensure that the LET can appropriately signpost vulnerable individuals to the correct support services when engaging. Enforcement action will only be taken as a last resort and only if appropriate for the individual who is in breach of the order.
Doing things with residents, not to them	<p>The statutory guidance for renewing/extending PSPOs states that local residents, business and landowners should be consulted on any proposed new, varied or renewed PSPO, and it must go through a consultation process in which residents have the opportunity to help shape and influence the order by expressing their views. The responses from the consultation form part of the evidence base informing thinking and decision making on how the final PSPO may be implemented. This decision was informed by an extensive public consultation exercise which received 184 responses.</p> <p>As part of the PSPO consultation process, a focus group was held with service users from our commissioned Drug and Alcohol Service, Turning Point, to ensure effective co-production and consideration of those with substance use needs.</p>
Being ruthlessly financially efficient	The Police and the council's Law Enforcement Team have delegated authority to enforce PSPOs. This provides opportunities to manage and tackle anti-social behaviour effectively.

	The revenue from any fixed penalty notices (FPNs) served to those that are in breach of the order will contribute towards the costs of enforcement action.
Taking pride in H&F	PSPOs aim to reduce anti-social behaviour in the borough. We know that ASB impacts negatively on perceptions of an area so, by addressing the ASB in a consistent and visible manner we will be able to deliver a safer borough for all.
Rising to the challenge of the climate and ecological emergency	PSPOs can work directly to improve the climate and ecological surroundings. Enforcing this PSPO will help make our parks and public spaces safe and enjoyable for all residents and visitors.

Financial Impact

1. The cost of extending the PSPO is limited to the cost of signage. As this is the renewal of an existing PSPO, it is estimated that costs will be minimal due to the presence of existing signage and will be met from existing Community Safety revenue budgets. The PSPO will be enforced by the council's Law Enforcement Officers as part of their regular duties, meaning no additional resource will be required. The income from any Fixed Penalty Notices issued will contribute towards the cost of the enforcement activities.

Implications completed by Kellie Gooch – Head of Finance (Environment), 27.04.2023

Verified by Andre Mark, Head of Finance (Strategic planning and investment), 27.04.2023

Legal Implications

2. Section 59 of the Anti-Social Behaviour Crime and Policing Act 2014 (“ASBCPA”) allows the Council to make a PSPO for a period of not more than 3 years. Section 60 ASBCPA allows a council to extend the duration of a PSPO at any point before the PSPO in question expires, provided that the council is satisfied on reasonable grounds that it is necessary to do so to prevent the occurrence or recurrence of the activities identified in the PSPO or restrict the frequency or seriousness of the identified activities in the PSPO.
3. Therefore, before extending the PSPO, the Council must be satisfied that the irresponsible consumption of alcohol in public spaces is having a detrimental effect on the community’s quality of life. Also, that the effect of that behaviour is, or is likely to be,

of a persistent and continuing nature; is, or is likely to be, unreasonable, and justifies the restrictions imposed by the PSPO.

4. Anyone who lives in, or, regularly works or visits the area, can challenge a PSPO in the High Court within six weeks of the PSPO being made or varied. There are three possible grounds of challenge as follows:
 - i The council did not have the power to make the PSPO;
 - ii The council did not have the power to include particular prohibitions or requirements imposed by the PSPO
 - iii. The council has failed to comply with the prescribed process for making/varying/extending the PSPO.
5. When carrying out its functions, including when considering the making/variation/extension of a PSPO the Council must have due regard to its duties under section 149 of the Equality Act 2010 (the Public Sector Equality Duty, "PSED"). The PSED requires the council to have due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. In order to assist the Council to comply with the PSED, an Equality Impact Assessment ("EQIA") is attached at **Appendix 1** to this report. The relevant decision-maker must carefully consider and apply the EQIA to the decision they are making. In summary, the PSED requires the Council, when exercising its functions, to have "due regard" to the need to:
 1. Eliminate discrimination, harassment and victimisation and any other conduct that is prohibited by or under the Act (which includes conduct prohibited under section 29);
 2. Advance equality of opportunity between people who share a relevant protected characteristic and those who don't share it;
 3. Foster good relations between people who share a relevant protected characteristic and those who do not (which involves having due regard, particularly to the need to tackle prejudice and promote understanding).
6. A consultation has been carried out and the Cabinet Member must carefully consider the consultation responses when approving the recommendations.

Implications verified/completed by: Patricia Rowe, Chief Solicitor Litigation Social Care, 24.04.2023

Proposals and Analysis of Options

7. Since the PSPO was last renewed in October 2020 the LET have had over 300 engagements with members of the public consuming alcohol. On 84 occasions, LET officers have issued formal warnings or dispersed individuals causing a nuisance or ASB. All individuals ceased drinking alcohol or disposed of/ surrendered any alcohol in their possession when requested by an authorised officer.
8. The majority of warnings were issued in district centres and parks with a majority in Bishops Park. Parks where the highest number of warnings were issued include:
- Bishops Park
 - Frank Banfield Park
 - Eel Brook Common
 - Wormholt Park
 - Shepherds Bush Green
 - Hammersmith Park
 - Furnivall Gardens
 - Normand Park
 - Ravenscourt Park
9. It should be noted that Police are not currently able to record data capturing the number of warnings issued and therefore have not been included in this report.
10. The council's CCTV control room identified the following number of incidents of crime or ASB involving alcohol:

Financial Year	Number of Recorded Incidents involving alcohol
2020-21	175
2021-22	224
2022-23	217

11. The London Ambulance Service received the following number of call outs for alcohol in H&F:

Financial Year	No. of alcohol related ambulance call outs
2020	875
2021	934

2022	806
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12. A briefing note was presented to the Cabinet Member in February 2023, which proposed launching a public consultation to renew the existing PSPO powers regarding the public consumption of alcohol. This public consultation took place for a period of 37 days, from the 24 February 2023 to the 2 April 2023. The consultation received 184 responses via the council’s ‘Have Your Say’ Platform. One further email response was received which was taken into consideration as well as the findings from a focus group held with service users from the Council’s commissioned Drug and Alcohol Support Service, with 12 attendees. More detailed analysis of the consultation findings can be found in **Appendix 2**.
13. For the purposes of the consultation, the council proposed the following prohibitions:

1	Persons in the restricted area detailed in Schedule 1 (1) of this Order will, on the request of a Police Officer, Police Community Support Officer or authorised person from the Council cease drinking alcohol and will dispose of or surrender any alcohol in their possession when asked to do so, unless subject to exemptions listed in Schedule 1 (2).
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14. A copy of the draft Order can be found in **Appendix 3**.
15. A Police Constable, Police Community Support Officer, Law Enforcement Officer, or other authorised person may issue a fixed penalty notice (FPN) of up to £100 to those who fail to comply with the Order.

Options and analysis of options

The following options have been considered:

16. **Extend/renew the current order for a further 3 years: This is the recommended option.** Increase the amount of time the order shall remain in place, for a period of three years. An extension can be deemed necessary under s60 of the Act if it is necessary to prevent the activity recurring, or that there has been an increase in frequency or seriousness of the activity. There was significant public support to extend/renew the current order. Via the Have Your Say consultation: 78% of respondents felt that the consumption of alcohol in public spaces reduces public safety, 66.3% of respondents had witnessed ASB as a direct result of street drinking in the last year, 45% had witnessed this over 5 times, and 90.8% of respondents were in favour of renewing the PSPO. The Police have also provided feedback in relation to their support of the PSPO and their willingness to continue to enforce the order. The data presented in sections 7-11 also demonstrates the need for this order to be renewed in order to prevent an

escalation of issues and to allow Authorised Officers to effectively manage issues related to the consumption of alcohol in public spaces across the borough. The maximum duration of a PSPO is three years, but they can be made for shorter periods and then reviewed. It is proposed that this Order is renewed for three years due to the financial impact and impact on officer time of renewing after a shorter period. At any point before the expiry of a PSPO it can be extended for a further period of up to three years. The terms can also be varied, subject to further consultation.

17. **Extend for a further 3 years and vary the order:** Change the conditions of the order, either in terms of the behaviours it seeks to tackle or the geographical scope of the order. 90.8% of respondents agreed with renewing the existing order. Enforcement partners also supported maintaining the current prohibitions as part of this renewal. **Therefore, this is not the recommended option.**
18. **Discharge the order:** Remove the order as it is no longer required. The data provided by Police and Local Authority provide evidence of the need for this order to be renewed in order to prevent an escalation of issues and to allow Authorised Officers to effectively manage issues related to the consumption of alcohol in public spaces across the borough. The public consultation has also concluded that residents and visitors to the borough see the PSPO as still being needed to tackle the issue of irresponsible public consumption of alcohol. A minority of 4.3% of respondents were against renewing the order, and 6% of respondents were not sure. **This is not the recommended option.**
19. An Equality Impact Assessment can be found in **Appendix 1**. This helped to decide the above additions to the exemption list.
20. More detailed analysis of the consultation findings can be found in **Appendix 2**.
21. A copy of the draft Order can be found in **Appendix 3**.
22. Easy read version of the order which was provided with the Have Your Say consultation can be found in **Appendix 4**.

Reasons for decision

23. The council is proposing that the PSPO is extended under the same conditions as a result of the public consultation and the data collection exercises that were conducted. The outcomes of the public consultation were; 78% of respondents felt that the consumption of alcohol in public spaces reduces public safety, 66.3% of respondents had witnessed ASB as a direct result of street drinking in the last year, with 45% having witnessed this over 5 times in the last year, and 90.8% of respondents were in favour of renewing the PSPO.
24. Key enforcement partners from the Law Enforcement Team and the Metropolitan Police are also in support of the renewal and acknowledge the ongoing ASB which can be caused by the consumption of alcohol in places. The PSPO is a vital tool to help manage this ASB.

25. When asked 'Are you in support of renewing the Consumption of Alcohol PSPO?' A minority of respondents stated 'no', (4.3%), and a minority of respondents stated 'not sure', (6.0%). Some of these respondents cited concerns that this order proposed a complete ban of consumption of alcohol in public places. This order does not propose banning the consumption of alcohol in public spaces. Rather this order grants authorised officers enforcement powers when street drinking is directly resulting in, or is likely to result in, ASB. Officers will ensure that this is clearly communicated with enforcement officers and the public as part of implementation and awareness raising.

Equality Implications

26. The Council has given due regard to its responsibilities under Section 149 of the Equality Act 2010, and it is anticipated that there will not be any detrimental impacts on groups that shared protected characteristics from the renewal of this PSPO. The overall impact of the proposed PSPO will be neutral, but positive for residents in terms of creating a safer and more enjoyable borough for all residents and visitors including those who share protected characteristics.

27. An Equalities Impact Assessment can be found in **Appendix 1**.

Implications verified/completed by: Yvonne Okiyo, Strategic Lead Equity, Diversity and Inclusion, Yvonne.Okiyo@lbhf.gov.uk, 18.04.23

Risk Management

28. As an authority, we must decide what's reasonable and what is not before we act. Everyone's perception of the Consumption of Alcohol in public spaces is different, a lot of residents enjoy using the borough's green spaces during the summer months for picnics and most residents use these spaces responsibly. Consultation took place over whether or not this renewal should occur, in accordance with meeting our residents and community needs and expectations. The wording of the PSPO makes it clear that enforcement measures regarding the irresponsible public consumption of alcohol only occur as a last resort, and that responsible consumption of alcohol in public spaces is permitted in H&F. The proposals in this report contribute to the management of the risks associated with renewing the PSPO.

Implications verified by: David Hughes, Director of Audit, Fraud, Risk and Insurance, 20.04.23

Climate and Ecological Emergency Implications

29. The PSPO will ensure public spaces, such as parks and green spaces particularly, will continue to thrive and stay a pleasant place for residents and visitors. It will ensure that residents feel safe when using our public spaces.

Implications verified by: Hinesh Mehta, Head of Climate and Ecology, 21.04.2023

Consultation

30. The public consultation took place for a period of 37 days, from the 24 February 2023 to the 2 April 2023. The consultation received 184 responses. The consultation was through the online 'Have Your Say' consultation platform and was advertised online on the council's website, social media, through community groups, councillors, and ward panel meetings. The consultation was also taken to a focus group of service users from our commissioned Drug and Alcohol Support Services (DAWS/ Turning Point). An 'easy-read' version of the consultation documents was also published.
31. The consultation received 184 responses via the online portal. The results and a sample of comments received as part of the public consultation, and the focus group, from those both for and against the proposed PSPO are included in **Appendix 2**. It is specified within the legislation that before making a PSPO the council must consult with the chief of police for the area. This consultation took place on 21st February. Furthermore, an effort was made to consult any private landowners affected to ensure they were fully sighted and able to contribute to the consultation via the public consultation platform.

LIST OF APPENDICES:

Appendix 1 –Equality Impact Assessment

Appendix 2 – Consultation Findings

Appendix 3 – Draft Order

Appendix 4- Easy Read version of Draft Order