

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

Date: 9 May 2024

Subject: Decision to introduce a Public Spaces Protection Order (PSPO) relating to Street Harassment

Report author: Natalie Covino, Violence Against Women and Girls (VAWG) Project 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 that a PSPO is introduced across the borough, to reduce incidents of harassment that cause distress and alarm to people who live, work, or visit the Hammersmith & Fulham. This in line with the council's commitment to ending violence against women and girls. 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 introduction of a new Street Harassment PSPO across the borough.
 2. Delegates authority to sign the PSPO to the Assistant Director of Community Safety, Resilience and CCTV.
-

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.
Creating a compassionate council	<p>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. For victims of harassment, support services will signposted and referred into, as will be the case for perpetrators who may have complex needs.</p> <p>Harassment is more likely to occur on the basis of someone's protected characteristic, such as their sex or sexual orientation. Enforcing the PSPO would align with the council's commitment to challenges all forms of discrimination that drive inequality in the borough.</p>
Doing things with residents, not to them	To introduce a PSPO there must be a consultation process in which residents 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 whether and how the final PSPO may be implemented. This decision was informed by multiple consultation exercises, held both online and in-person, engaging 180 residents in total.
Being ruthlessly financially efficient	<p>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.</p> <p>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.</p>
Taking pride in H&F	<p>H&F takes a zero-tolerance approach to all forms of gender-based violence. We want everyone who visits, works, or lives in the borough to feel safe, and free from any incidents of harassment.</p> <p>The PSPO will ensure that incidents of harassment are taken more seriously as part of our commitment to tackling VAWG in the borough, making the borough more safe and pleasant.</p>

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 public spaces safe and enjoyable for all residents and visitors.

Financial Impact

1. The cost of introducing the PSPO is expected to be minimal and will be limited to the cost of signage and other promotional material. It is expected that this can be fully funded from existing service budgets. The PSPO will be enforced by the council’s Law Enforcement Officers as part of their regular duties, therefore requiring no additional resource. The income from any Fixed Penalty Notices issued will contribute towards the cost of the enforcement activities.

Kellie Gooch, Head of Finance (Environment), 17 April 2024

Verified by Andre Mark, Head of Finance (Strategic planning and investment), 19 April 2024

Legal Implications

2. Section 59 of the Anti-Social Behaviour Crime and Policing Act 2014 allows local authorities to make Public Space Protection Orders (“PSPO”).
3. To make the proposed PSPO, the council must be satisfied that the street harassment is or has or is likely to occur in a public space and:
 - Has had or is likely to have a detrimental effect on the quality of life of those in the locality
 - Is or is likely to be persistent or continuing in nature
 - Is or is likely to be unreasonable.
 - And justifies the restrictions imposed.
4. Anyone who lives in or regularly works or visits the area can appeal a PSPO in the High Court within six weeks of the PSPO being made on the grounds that the council did not:
 - Have the power to make the order,
 - Did not have the power to include the prohibitions or requirements,
 - Or the council did not follow the proper process to make the PSPO as set out under the Anti-social Behaviour Crime and Policing Act 2014.
5. When carrying out its functions and making decisions, the council must have due regards to the Public Sector Equality Duty (“PSED”) as set out at s149 Equality Act 2010. The PSED requires the council to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
 - Advance equality of opportunity between people who share a relevant protected characteristic and those who do not share it
 - Foster good relations between people who share a relevant protected characteristic and those who do not (which involves having due regard, in particular, to the need to tackle prejudice and promote understanding).
6. A consultation has been carried out and the decision maker must carefully consider the consultation responses before making their decision on the report and recommendations.

Implications verified/completed by: Patricia Rowe (Chief solicitor (Litigation)) 12/4/24.

Proposal

7. Street harassment is defined as unwanted comments, gestures, and actions forced on a person in a public place without their consent, making victims feel uncomfortable and unsafe. Behaviour can include, but is not limited to, unwanted whistling, gestures or advances, lewd commenting, intrusive staring and following.¹
8. A briefing note was presented to the Cabinet Member for Social Inclusion and Community Safety in October 2023, proposing to consult residents on the introduction of a Street Harassment PSPO. Before introducing a PSPO, the council must consult with the police and with any partners and stakeholders that they think appropriate. In addition, the owner or occupiers of any land affected should be consulted.
9. An initial public consultation ran for 7 weeks between 23 November and 11 January 2024, and a subsequent consultation ran for a further 4 weeks in February 2024, receiving a total of 161 responses. The additional consultation window was to ensure residents had sufficient opportunity to express their views on the PSPO and inform any future decision-making following minor amendments made to the proposed PSPO following the initial consultation period. Overall, a majority (84.5%) expressed support for the PSPO to tackle street-based harassment in the borough.
10. If introduced, the council's Law Enforcement Officers or other authorised enforcement partners such as a Police Constable or Police Community Support Officer, may issue a fixed penalty notice (FPN) of up to £100 to those who fail to comply with the Order. An educational campaign will run for four weeks following the launch of the PSPO, after which any offences will be enforced with immediate effect. Individuals will have 14 days to pay the fixed penalty of £100 (reduced to £60 if paid within 10 days).

¹ [Street Harassment | RAINN](#)

11. An enforcement protocol will be developed for the council's Law Enforcement Officers will follow the MPS '4Es Enforcement Approach' – Engage, Explain, Encourage and Enforce, which is applied across all current PSPOs. The Law Enforcement Team will receive training on the PSPO to ensure they are confident in responding to an incident on harassment and make appropriate decisions in the issue of safeguarding concerns. This training will be ongoing and reiterated in daily briefings with officers. Outside of this, officers regularly receive conflict management training, and use their Body Warn Videos to assist with incidents.
12. A copy of the draft Order can be found in **Appendix 1**. Following feedback from the consultation period, the final prohibition states:

1	<p><i>No person shall direct verbal or physical attention, including attention of a sexual nature, at or towards a person or group of persons where that attention is likely to cause a person or persons present harassment, alarm or distress or is likely to undermine their sense of safety in a public place.</i></p> <p><i>Such attention includes – but is not limited to:</i></p> <ul style="list-style-type: none"> • <i>Unsolicited sexualised or obscene comments, propositions or gesture</i> • <i>Persistent questioning</i> • <i>Following someone</i> • <i>Sexist, homophobic, or transphobic slurs</i> • <i>Flashing or exposing intimate body parts</i> • <i>Non-consensual physical contact</i> • <i>Whistling or cat-calling</i>
---	--

13. 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 introduced 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. Consideration will be given to aligning the renewal of the PSPO with other PSPOs that are due to expire at a similar time, as to make efficient use of officer time and resources.

Evidence for the PSPO

14. All members of the public can be victims of unwanted street harassment. Yet it is recognised that women and girls are more likely to face this experience, and the harassment is often of a sexual nature. Sexual harassment is when someone carries out unwanted sexual behaviour towards another person that makes them feel upset, scared, offended, or humiliated.²

² [What is sexual harassment? | Rape Crisis England & Wales](#)

15. There is significant research to indicate the prevalence of street-based harassment within society. Yet reports on harassment are notoriously low, due to women either thinking an incident is not serious enough to report or believing that reporting would not provide any help.
16. Research conducted by the All-Party Parliamentary Group (APPG) for UN Women in March 2021 found that 71% of women of all ages in the UK had experienced some form of sexual harassment in a public space. The figure increased to 97% for women aged 18 – 25 years old.³
17. Meanwhile, the council's own [Women's Safety at Night](#) survey, carried out in 2022, found that:
 - 57% of respondents stated that harassment of women made them feel unsafe.
 - 80% of women were concerned about sexual harassment.
 - 56% of women felt that walking through the borough was the least safe mode of transport.
18. In 2023, the Metropolitan Police Service (MPS) recorded 483 harassment offences, representing 14% of all non-injury violence offences. This is a 25% increase compared to 2022. Furthermore, 30% of all harassment offences were flagged as Domestic abuse and 10% were as Hate Crime.
19. In September 2023, the [Protection Against Sex-Based Harassment Act](#) passed through government, receiving Royal Assent. Previously, only some forms of sexual harassment were illegal (i.e., stalking). This Act has now made 'low-level' sex-based harassment in a public space a criminal offence. This grants further jurisdiction around harassment, expanding the Protection from Harassment Act (1997) with a sentencing of up to two years. Examples of behaviour that will be caught under the new offence include:
 - Intrusive or persistent staring or questioning,
 - following someone,
 - sexual or obscene comments, propositions, or gestures,
 - flashing or exposing intimate body parts,
 - non-consensual physical contact,
 - and technology-enabled sexual behaviour.⁴

³ [All-Party Parliamentary Group for UN Women - UN Women UK](#)

⁴ House of Commons Library (2023), available at: [Protection from Sex-based Harassment in Public Bill 2022-23 - House of Commons Library \(parliament.uk\)](#)

20. Supporting this legislation, the proposed PSPO would provide additional powers to council-authorized staff (in addition to the police) to tackle harassment in the public realm, providing further opportunity for local data collection on violence against women and girls, and education on behaviour that is not acceptable.

Options and analysis of options

The following options have been considered:

21. ***Option 1- To introduce a PSPO tackling street harassment in Hammersmith & Fulham. This is the recommended option.***
22. The PSPO is being proposed after consultation with our legal services, police and the public, and research into similar PSPOs launched in the London Borough of Redbridge and West Yorkshire. The PSPO was supported by a majority (84.6%) of respondents to the public consultation in H&F and has similarly received support from the chief of police for the area.
23. In line with council's [VAWG strategy](#), and the wider recognition of VAWG as a 'national threat', the PSPO would grant further provisions in which to tackle incidents of harassment within Hammersmith & Fulham.⁵ In addition to additional enforcement powers, it would allow for further data collection on the issue locally, through our Law Enforcement Team and the police.
24. Alongside the PSPO the council will continue a campaign on harassment, educating residents on behaviour that is not acceptable, and the impact this can have on victims. The campaign will encourage victims to report incidents, promote active bystanders and challenge such behaviour that causes distress to individuals in our borough.
25. This will support the council's wider commitment to tackling crime and ASB and improving the safety of public spaces. In total, £4.5 million has been invested into our CCTV, meanwhile our Law Enforcement continue to tackle crime and anti-social behaviour, with 5,704 investigations, 5,621 weapon sweeps and 98,667 patrols conducted in 2023.
26. ***Option 2 - Monitor the impact of the Protection from Sex-Based Harassment in Public Act, and review introducing PSPO in a years' time. Not recommended.***
27. Since the PSPO was proposed, there has been changes in national legislation. The Protection from Sex-Based Harassment in Public Act now makes harassment in public spaces a criminal offence. This grants further jurisdiction around harassment, expanding the Protection from Harassment Act (1997) with a sentencing of up to two years. The council could choose not to implement a PSPO at this stage and monitor the impact of the Sex-based Harassment in Public Act locally. However, this has only recently received Royal Assent, and there has been little guidance since on its implementation. Likewise, the Act only extends enforcement powers to police officers, whereas a PSPO would allow the council's Law Enforcement Officers to act in response to incidents of harassment they witness while on duty.

⁵ [First national threat assessment of VAWG \(npcc.police.uk\)](#)

28. **Option 3 – Do nothing – do not introduce the Street Harassment PSPO. Not recommended.**

29. This option would see no prohibitions introduced to improve how we enforce against and tackle street harassment. Whilst this would maintain the “as is” it would not provide opportunity for the council’s Law Enforcement Team to address Street Harassment that occurs in the borough, therefore negating to tackle the concerns raised by residents. Enforcement partners also supported the introduction of the PSPO, in addition to 84.5% members of the public consulted. Therefore, this is not the recommended option.

30. An Equality Impact Assessment can be found in **Appendix 2.**

31. More detailed analysis of the consultation findings can be found in **Appendix 3.**

32. Easy read version of the order which was provided with the Have Your Say consultation can be found in **Appendix 4.**

Reasons for decision

22. A minority of respondents voted ‘Unsure’ (8.2%) and less voted ‘No’ (3.1%), on whether they were in favour of the proposed PSPO. Where hesitancy was expressed by respondents, it was largely around the enforcement on the PSPO. While some did not trust uniformed officers to enforce the PSPO correctly, others highlighted that adequate training and preventative work will be required alongside this measure to ensure accuracy and success.

23. The council is proposing that the PSPO is introduced, following the results of a public consultation, legal advice and wider research exercises conducted. When asked whether in support of the PSPO, 84.5% of respondents to the public consultation were in favour. When expanded upon, several people noted their support of further measures to tackle harassment, particularly citing incidents they have experienced or witnessed in the borough.

22. If the PSPO is introduced, comprehensive training for all staff responsible for issuing warnings and fines would be administered, in line with a clear enforcement policy. Alongside this, the PSPO would provide opportunity for a wider educational campaign to reduce street-based harassment, challenging stereotypes that drive incidents of harassment, and informing residents of behaviour that could make someone feel uncomfortable or distressed.

23. Key partners from the Law Enforcement Team and the Metropolitan Police are also in support of the proposed PSPO. The PSPO is a vital tool to help manage this form of violence against women and girls, in addition to all residents.

Equality Implications

24. 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. An Equalities Impact Assessment can be found in **Appendix 2**.
25. The overall impact of the proposed PSPO will be neutral, but positive for those who have been impacted by harassment in a public space, particularly women and girls. Where there may be a negative consequence for if someone identifies as Disabled, a comprehensive enforcement plan will ensure that these circumstances are mitigated.

Implications verified/completed by: Yvonne Okiyo, Strategic Lead Equity, Diversity and Inclusion, 03/04/24.

Risk Management

26. There are reputational and legal risks that the implementation of the PSPO is not carried out in an even-handed way and that certain groups become targeted or have a perception of being targeted by officers. This also includes groups of people gathering in public spaces including street artists, street performers, street musicians, campaigners, and their audiences as well as local residents, members of the public protesting.
This can be mitigated through publishing the statistics surrounding PSPO usage in the borough and to scrupulously check that legal processes are followed.
27. There is a risk that PSPO officers do not implement the PSPO adequately or overreach their powers. This can be mitigated through approved education and subsequent checking reporting on officer behaviours. Negative behaviours should result in further re-educations or as a final resort dismissal.
28. There is a risk that residents and other members of the public are not sufficiently aware of the PSPO or supporting regulations. To mitigate this an education programme should be launched to inform residents and the public; this should include but not be restricted to leafletting, posters, public events and web / paper advertisements.

Risks verified by Jules Binney, Risk and Assurance Manager, 04-Apr 2024

Climate and Ecological Emergency Implications

29. The aim of this PSPO is to ensure all who live, work, or visit the borough feel safe in our public spaces. Based on local evidence, there are areas in the borough where incidents of harassment prevent this, and as such may deter people from enjoying our public spaces. The enforcement of the PSPO will help to eradicate inappropriate behaviour that can make individuals feel scared or unsafe and help to improve our climate and ecological surroundings.

Implications verified by: Hinesh Mehta, Assistant Director Climate Change, 08/04/2024.

Consultation

30. The first round of public consultation took place for a period of 49 days, from the 23 November 2023 to the 11 January 2024 through the 'Have your Say' online platform. The consultation was promoted extensively across platforms, such as the council website, newsletters, organic socials (Facebook, Twitter and Next door), paid social ads and in borough digital BT hubs.
31. Overall, we received 2190 clicks, with 36,600 people reached through our social media targeting. Easy-read versions of the consultation documents were also published.
32. The Law Enforcement Team also engaged users of the nighttime economy on the PSPO consultation as part of their Women's Safety Operation. The officers used printed promotion to signpost residents to the survey, in addition to support services for anyone affected by harassment or more broadly VAWG. In total, our Law Enforcement Officers engaged with 1,138 people over the course of four weekends.
33. Meanwhile, two in-person pop-ups were also held to gather resident feedback on the possibility of prohibiting street harassment through the PSPO. One stall was hosted in the Livat Shopping Centre Hammersmith on 14 December 2023, and other in W12 Shepherd's Bush Shopping Centre on 8 January 2024. Both were received well, engaging with roughly 50 residents on the topic of harassment and the PSPO.
34. The consultation initially received 157 responses via the online portal. To guarantee residents the opportunity to share their views on the PSPO, the online consultation reopened for a further four weeks on 2 February 2024. A further four responses were received, three of which were supportive of the PSPO. The results and a sample of comments received as part of the public consultation, from those both for and against the proposed PSPO are included in **Appendix 3**.
35. In response to initial consultation feedback, the Draft Order was revised on the 4 March 2024 as to clearly signpost the type of behaviour that is to be prohibited under the PSPO. To maintain residents' involvement in the decision-making and ensure their feedback was collated, the revised Draft Order was shared and consulted upon with residents for a further period of two weeks between 4 and 18 March 2024. This was advertised through social media platforms including X (Twitter) and Facebook, resident-facing newsletters and at in-person events held for International Women's Day. Overall, 19 residents shared their views on the amended Draft Order, with a majority (16) being supportive of the revised wording.
36. 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 5 February 2024 and again on the 11 April 2024. Police have confirmed that they are supportive of the introduction of a Street Harassment PSPO and of the final Draft Order.

LIST OF APPENDICES:

Appendix 1 –Draft Order

Appendix 2 – Equality Impact Assessment

Appendix 3 – Consultation Findings

Appendix 4 - Easy Read version of Draft Order