

DECISION-MAKER:	CABINET		
SUBJECT:	CONTROLLING STREET DRINKING AND BEGGING USING PUBLIC SPACES PROTECTION ORDERS		
DATE OF DECISION:	15 MARCH 2016		
REPORT OF:	CABINET MEMBER FOR HOUSING AND SUSTAINABILITY		
<u>CONTACT DETAILS</u>			
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STATEMENT OF CONFIDENTIALITY	
None	
BRIEF SUMMARY	
This report seeks Cabinet approval to make Public Spaces Protection Orders (PSPOs) in five localities within the city where begging and street drinking are prevalent and have a detrimental effect on the quality of life of those who live and work in or visit these localities.	
RECOMMENDATIONS:	
(i)	To consider the representations received in relation to this matter in response to the consultation carried out between 3 rd November and 11 th December 2015 as set out in appendices 2 and 3;
(ii)	To approve five Public Spaces Protection Orders to control begging and street drinking in the localities shown in the maps at Appendix 1 and set the fixed penalty notice fine at £100;
(iii)	To delegate authority to issue fixed penalty notices to the Service Director: Transactions and Universal Services and all other ancillary powers for non-compliance with the requirements of a Public Spaces Protection Order; and
(iv)	To note that police officers may also take enforcement action and issue Orders, Directions and Notices as considered appropriate, including Fixed Penalty Notices, under the Public Space Protection Orders.
REASONS FOR REPORT RECOMMENDATIONS	
1.	Begging and street drinking are becoming increasingly prevalent in parts of Southampton and can have a detrimental impact on the quality of life for those who live and work in or visit the City.
2.	The Anti-Social Behaviour, Crime and Policing Act 2014 introduced new powers to tackle anti-social behaviour. The Act allows the local authority to make a

	<p>Public Spaces Protection Order (PSPO) if it is satisfied that:</p> <ol style="list-style-type: none"> a. activities carried on in a public place have had or will have a detrimental effect on the quality of life of those in the locality; and b. the activities are persistent or continuing and are unreasonable; and c. the restrictions imposed by an order are justifiable.
3.	<p>PSPOs provide the Police and other authorised officers with additional powers to tackle anti-social behaviour. In addition to directing individuals not to engage in an activity which is prohibited by the Order, an officer can issue a fixed penalty notice (up to £100) to anyone who fails to comply with the requirements of the Order; and in the case of a person consuming alcohol in a location covered by a PSPO, can require that person to surrender the alcohol. While council officers could, theoretically, issue penalty notices, it is envisaged that police will lead on this element of enforcement, and the council has liaised with police to ensure this is deliverable and effective enforcement can take place.</p>
4.	<p>Failure to comply with the requirements of a PSPO is an offence, which can result in a fine of up to £1,000 on conviction.</p>
5.	<p>The Council has received complaints from members of the public and businesses about begging and street drinking in the city. Analysis of data, including data provided by the Police, has identified five locations where begging and street drinking are prevalent. These locations are set out in the maps included at Appendix 1 and have been the subject of public consultation.</p>
6.	<p>Begging and street drinking have a detrimental effect on quality of life in certain localities within the city and introducing PSPOs in these localities will provide powers to tackle these activities. The police have supplied information which records complaints about street drinking and begging made by members of the public and people operating businesses in the city. This information shows the detrimental impact these activities can have on the quality of life of people living, working or visiting these localities.</p> <p>For example, street drinking can lead to behaviour which can be intimidating, particularly when drinkers gather in groups. The information supplied by the police records incidents such as drinkers obstructing access to business premises and directing verbal abuse towards members of the public trying to use businesses in the city; or directing verbal abuse at members of staff asking drinkers to move away from business premises. Drinkers gathering in parks, close to play facilities used by young children have become abusive and used foul language, discouraging the use of these facilities. Incidents of drinkers urinating in public and soiling themselves in business premises have been recorded, along with drinkers damaging vehicles and street furniture whilst intoxicated.</p> <p>The information supplied by the police shows that individuals begging in the city can become verbally abusive or threatening when requests to give money are declined. This behaviour can also be directed at the staff of businesses within the city when beggars are asked to move away from premises.</p> <p>The behaviour of street drinkers and beggars can have a detrimental impact on the quality of life in parts of the city, and discourage people from using businesses and other amenities within the City.</p>

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

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| 7. | Drinking alcohol in public in Southampton is currently restricted by a Designated Public Places Order (DPPO), which was created under previous legislation, but this order will expire in 2017. The PSPOs will extend the power of Police Officers to tackle street drinking until 2019. |
| 8. | Begging is an offence under the Vagrancy Act 1824 but this legislation does not provide an effective deterrent to those who engage in this activity, with the Courts often imposing a minimal fine. The Public Spaces Protection Orders will provide an alternative enforcement procedure and associated signage, which is required to publicise the orders, informing both the individuals engaging in the activity, and members of the public who give money, that begging is not permitted. An example of the type of sign to be erected to identify locations subject to a PSPO is included at Appendix 4. |
| 9. | Activities to engage with people who are begging or street drinking, to direct them to seek assistance from support services to address drug or alcohol dependency, already exist. For example, a StreetCRED event led by the neighbourhood police team was carried out in Portswood in May 2015. This type of activity is an important part of an overall strategy to tackle begging and street drinking, and activity to support and re-direct affected individuals will be continued, but needs to be supported by the ability to undertake enforcement activity, in appropriate circumstances, using the powers provided by a PSPO. |

DETAIL (Including consultation carried out)

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| 10. | The legislation requires the local authority to carry out the 'necessary consultation' before making a public spaces protection order, which includes consulting the chief officer of Police and the Police and Crime Commissioner (PCC). The response from the PCC for Hampshire and the Isle of Wight is included at Appendix 2. The PCC supports this proposal. |
| 11. | An online survey on the proposal to introduce PSPOs to control begging and street drinking in five locations within the city was held between 3 November and 11 December 2015 (www.southampton.gov.uk/pspo). This survey produced over 800 responses, predominantly from people living in the city. Almost three quarters of respondents supported the proposal and fewer than a quarter were against. The majority of those who were opposed to the proposal to introduce PSPOs were concerned that the underlying causes of street drinking and begging would not be addressed. The consultation report is included at Appendix 3. |
| 12. | Street drinking and begging may be linked to homelessness and consultation on the proposal to introduce public spaces protection orders has included engagement with the Council's homelessness manager and other agencies who work with individuals who are homeless. This consultation has confirmed that many individuals who engage in begging or street drinking have access to accommodation and other support services. |
| 13. | Tackling begging and street drinking will not be achieved by enforcement action in isolation. Identifying vulnerable individuals who engage in these activities and directing them towards the support services that are available within the city will be part of the solution. This will also be the first approach adopted by the council for those who are begging and drinking antisocially with PSPOs geared towards those who refuse help or to claim falsely to be homeless. |

14.	The PSPOs will demonstrate to people living in, working in and visiting the city that the detrimental effect that begging and street drinking can have on the quality of life of those in the locality is not acceptable and is being addressed.
15.	The powers provided by the PSPO are intended to provide an additional tool to tackle street drinking and begging. The consultation has shown some concern over the way these powers may be used and the potential conflict with the principles of civil liberty and human rights, which could lead to the Council being challenged where a PSPO is created. However, it is important to recognise that both street drinking and begging are currently restricted within the city and the powers provided by the PSPOs will tackle some of these activities which can have a detrimental impact on the quality of life within the City.
16.	The approach to enforcing the PSPOs will be key to their success in tackling street drinking and begging within the city. Any enforcement activity should be supported by community education to highlight the availability of support services. This approach has been agreed with police.

RESOURCE IMPLICATIONS

Capital/Revenue

17.	The erection of signs in the locations which are subject to PSPOs is the most significant cost associated with the proposal. Other costs will include providing fixed penalty notices for Police Officers to use when enforcing the requirements of the Orders. These costs can be met from the existing community safety budget. The estimated cost for erecting signs in the five areas covered by the PSPO's is £5,160.
18.	Any income from the payment of fixed penalty notices is not intended to provide a revenue stream to support community safety services.

Property/Other

19.	None.
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LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

20.	Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 provides the local authority with the power to make a PSPO and sets out the procedure for making an order. The tests to be met in making the order are set out in the report and the Council is satisfied that the tests and conditions enshrined within the legislation are met for the reasons set out above.
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Other Legal Implications:

21.	Section 68 of the Anti-Social Behaviour Crime and Policing Act 2013 allows a police constable or authorised person to issue a fixed penalty to anyone believed to have committed an offence in relation to a public spaces protection order. The notice offers the person the opportunity of discharging any liability to conviction for the offence by paying a fixed penalty up to £100 to the local authority.
22.	The introduction of PSPOs by other local authorities has been controversial and the subject of some scrutiny by interested parties. This has particularly been the case where the orders have restricted 'rough sleeping'. This is not included in the proposed orders for Southampton, which only seek to control antisocial begging and street drinking. Some responses to the consultation have raised concerns

	that the proposals have implications for civil liberties. However, the order only seeks to provide more effective powers to tackle issues which are already unlawful within the city (begging is prohibited by the Vagrancy Act 1824 and street drinking is controlled through the Designated Public Places Order). The proposal to introduce PSPOs to control begging and street drinking does not seek to criminalise currently lawful activity and instead provides a civil remedy for anti-social behaviour where a more draconian criminal remedy would not be the appropriate or proportionate response.
23.	Section 66 of the Act does allow an 'interested person' to apply to the High Court to question the validity of a PSPO on the grounds that either: the local authority did not have the power to make the order; or a. there was failure to meet a requirement set out in Chapter 2 of the Act.
24.	Any such action must be made by a person who regularly lives or works in the area covered by an order and must be made within six weeks of the order being made.
POLICY FRAMEWORK IMPLICATIONS	
25.	Reducing anti-social behaviour in the city is a priority for the Safe City Partnership as identified by the Safe City Strategic Assessment and detailed in the Southampton Safe City Strategy.

KEY DECISION?	Yes	
WARDS/COMMUNITIES AFFECTED:	Bargate, Bevois, Freemantle, Peartree, Portswood, Millbrook, Shirley, Woolston	
<u>SUPPORTING DOCUMENTATION</u>		
Appendices		
1.	Maps showing the proposed location of the public spaces protection orders in the City Centre, Portswood, Shirley, Woolson and Bitterne).	
2.	Consultation response from Police and Crime Commissioner for Hampshire & the Isle of Wight	
3.	Summary of the online survey consulting on the proposed PSPOs	
4.	Wording to be incorporated into the PSPO.	
5.	Example of signs to be erected to identify locations subject to the PSPO.	
6.	Equality and Safety Impact Assessment (ESIA)	
Documents In Members' Rooms		
1.	None	
Equality and Safety Impact Assessment		
Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.		Yes
Privacy Impact Assessment		
Do the implications/subject of the report require a Privacy Impact Assessment (PIA) to be carried out.		No
Other Background Documents		
Other Background documents available for inspection at:		
Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)	
1.	None	