



Report for: Cabinet

Date of Meeting:	14 th September 2023
Subject:	Public Space Protection Order (PSPO) Approval for Publication
Key Decision:	Yes – Impact Borough Wide
Responsible Officer:	Dipti Patel Corporate Director Place Cathy Knubley Director of Environment
Portfolio Holder:	Councillor Anjana Patel, Portfolio Holder for Environment & Community Safety
Exempt:	No
Decision subject to Call-in:	Yes
Wards affected:	All Wards.
Enclosures:	Appendix 1 PSPO Borough Wide Appendix 2 PSPO Town Centre Appendix 3 PSPO Parks Appendix 4 PSPO Housing Estates Appendix 5 PSPO Specific Areas Appendix 6 – Consultation report Appendix 7 – Consultation responses – Charities and organisations

Section 1 – Summary and Recommendations

This report seeks final approval of the wording of 5 new Public Spaces Protection Orders (“**PSPOs**”) to cover the Borough and specific areas with the Borough, pursuant to powers as set out in the Anti-Social Behaviour, Crime and Policing Act 2014, to address matters of Anti-Social Behaviour (defined as activities that have a detrimental effect on the quality of life to those in the locality)

Recommendations:

Cabinet is requested to

1. Consider the feedback received from the public consultation on the draft PSPO and the revised wording of the PSPOs.
2. Approve the final wording of the PSPOs for implementation and publication.
3. Delegate authority to the Corporate Director Community to take all steps necessary to publicise and implement the PSPOs.

Reason:

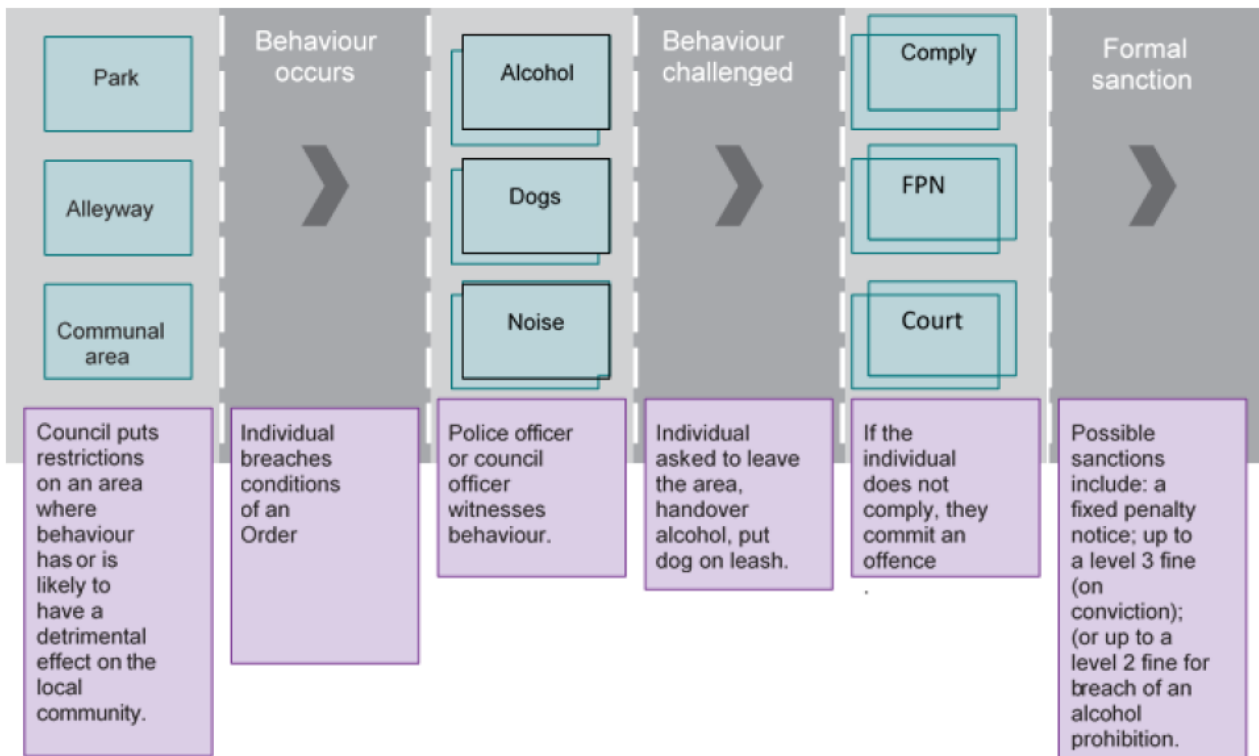
The proposed PSPOs would allow direct action against low level anti-social behaviour, with the benefit of being able to issue fixed penalty notices for breaches, if appropriate.

Section 2 – Report

Introduction.

- 1.1. Harrow Council is committed to improving the environment, reducing low crime, reducing anti-social behaviour and improving community safety. Directly relating to this commitment is the Council’s action to address anti-social behaviour and related complaints.
- 1.2. Introduction of a Public Spaces Protection Order (“**PSPO**”) is a power given to local councils under Anti-Social Behaviour, Crime and Policing Act 2014, (the “**Act**”).
- 1.3. PSPOs are intended to deal with a particular nuisance or problem in a specific area that is detrimental to the local community’s quality of life, by imposing conditions on the use of that area which apply to everyone. They are intended to help ensure that the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour.
- 1.4. An overview of the process is shown below, taken directly from the Home Office Statutory guidance on the Act for frontline professionals (March 2023 edition).

Public Spaces Protection Order



2.5 The Council can make a PSPO if satisfied, on reasonable grounds that the following conditions are met in relation to the activities sought to be regulated:

- That they are or are likely to be carried on in a public place within the Borough;
- That they have had, or are likely to have, a detrimental effect on the quality of life of those in the locality;
- The effect, or likely effect, of the activities, is or is likely to be, persistent or continuing in nature;
- The effect, or likely effect, of the activities is or is likely to be, such as to make the activities unreasonable; and
- The effect, or likely effect, of the activities justifies the restrictions sought to be imposed by the order.

2.6 As with all the anti-social behaviour powers, due regard should be given to issues of proportionality: is the restriction proposed proportionate to the specific harm or nuisance that is being caused? It is essential that the restrictions being introduced are reasonable and will prevent or reduce the detrimental effect continuing, occurring, or recurring.

2.7 In addition, the PSPO must be appropriately worded so that it targets the specific behaviour or activity that is causing nuisance or harm and thereby having a detrimental impact on others' quality of life.

- 2.8 Failure to comply with a PSPO is an offence and can lead to a summary conviction and fine not exceeding level 3 on the standard scale (level 3 currently being £1,000). In February 2015, the Council agreed that a Fixed Penalty (“FPN”) of £100 could be applied to any non-compliance with a PSPO if appropriate, rather than a prosecution. However, for repeat offenders or in cases where it is believed the issuing of a FPN would not deter future action, or if the offender fails to pay the FPN, a prosecution may be taken. A person authorised by the Council, a Police Officer and / or a Police Community Support Officer (“PCSO”) if authorised can enforce the PSPO.
- 2.9 In line with the normal approach taken with the PSPOs already in place, as well as other matters of low-level environmental significance, education and engagement will be the initial approach, which involves explaining to those potentially breaching the PSPO what the requirements are and how to meet them. Persistent offenders or those who refuse to heed advice will lead to escalation.
- 2.10 If the PSPOs are approved then information will go on the Council Website, be publicised through local and social media, new signage will be erected in relevant areas and our communications team will help to maximise publicity of the PSPOs.
- 2.11 Any PSPO can last a maximum of 3 years, although it can be extended if necessary, and/or reviewed (and varied or discharged) during the course of its life. In this case, the proposed PSPOs are sought for 3 years.
- 2.12 Currently there are two active PSPOs in the Harrow, a Borough wide PSPO which is in effect until January 2024 (Appendix 2) and a Town Centre PSPO which is in effect until July 2024 (Appendix 3). The proposal is to replace both of these orders with five separate orders to cover the Borough and the specific areas of concern identified.
- 2.13 The current PSPOs have been reviewed in relation to action taken for each offence. In 2022 a total of 6,158 offences were witnessed related to the PSPOs, each of these offences resulted in a fixed penalty notice being served on the offender.

	2022
PSPO-Amplification	26
PSPO-Birds feeding	44
PSPO-Dog fouling - failure to carry a bag	68
Littering-Cigarette	2313
PSPO-Defecating	4
PSPO-Dog Fouling	4
PSPO-Street Drinking	403
PSPO-Driving over footpath	2402
PSPO-Financial Agreement in street	1
Littering-Food	40

PSPO-Leaflets	21
PSPO-Obstruction	6
Littering-Other	91
Littering-Printed Literature	13
PSPO-Smoking in parks	12
PSPO-Spitting	425
Littering	64
LLA-Street Trading	173
PSPO-Street trading	7
PSPO-Tables stand without permission	10
PSPO-Urinating	31
Total:	6158

2.14 Enforcement activity over the last year demonstrates that these anti-social behaviours still exist and that there is a place for enforcement.

2.15 The proposed PSPOs (which can be found in the Appendices 1-5) have been drafted based on information and evidence gathered across several Council Departments and from key partners and has been amended following the outcome of the consultation and on advice from the legal team.

3 What are the activities that the proposed PSPOs seek to address?

3.1 In recent years Harrow has seen a rise in low level crime and antisocial behaviour including but not limited to:

- Groups of mainly men loitering and drinking in public places
- Litter and waste being dropped or left behind on the street
- Delivery waste and food packaging left in any open spaces
- Dog control and fouling related incidents in alleys and streets
- Dogs out of control and causing nuisance in parks and nature reserves
- Wildlife attacks and harassment
- Fly tipping and litter from vehicles
- Nuisance vehicles parked on the verges and repairs in the street
- Issues with delivery drivers riding and parking on pavements
- General anti-social behaviour in parks and open spaces

3.2 As with all enforcement, this is about having the powers to tackle individuals who will not engage with a reasonable request and not simply about targeting generally law-abiding members of the public.

3.3 A PSPO should not be a blanket ban or set of restrictions but should be bespoke to the issues in each area. In light of this the proposed PSPOs look to address anti-social behaviour in five areas:

- issues that are common throughout the Borough

- issues that occur in our housing estates and housing land
- issues that occur in all of our parks and open spaces
- issues that occur in our town and district centres
- issues that occur in specified public places

3.4 Across the whole area of the Borough the following areas have been included as requirements/prohibitions:

- Street drinking having been asked to stop
- Consumption, use, and/or possession of psychoactive substances
- Controlling and clearing up after dogs
- Urinating/defecating and/or spitting in public
- Careless disposal of cigarettes and other material
- Preventing nuisance noise from vehicles
- Depositing damaged and poorly maintained vehicles on the highway
- Smoking in Play Areas
- Illegal advertising or running events
- Fires and fireworks
- Congregating groups engaged in anti-social behaviour

3.5 For housing estates and housing land the following areas have been included as requirements/prohibitions:

- Disperse from an area when asked
- Causing an obstruction which prevents or hinders the free passage of pedestrians or vehicles
- Leaving waste outside the bins
- Leaving food exposed for wildlife and attracting vermin

3.6 For all parks and open space the following areas have been included as requirements/prohibitions:

- Dog Control
- Driving vehicles on park land without prior permission
- Unauthorised activities as set out in the PSPO

3.7 For the town and district centres (Harrow Town Centre, Pinner, Stanmore, Wealdstone, Hatch End, Harrow Weald, Rayners Lane, Belmont, South Harrow, North Harrow, Sudbury Hill, Kenton, Kingsbury, Edgware and Burnt Oak) the following areas have been included as requirements/prohibitions:

- Intimidating and/or aggressive begging
- Obstructing access to business premises during opening hours
- Leaving commercial waste in public spaces for an unreasonable length of time
- Use of amplification equipment for speaking or playing music
- Financial Agreements on the Street
- Placing of tables, stands, or other furniture / fittings
- Distribution of leaflets
- Illegal or Unauthorised Street Trading
- Feeding of Birds and Vermin

- 3.8 For specified public places (Bentley Priory and the Viewpoint) the following areas have been included as requirements/prohibitions:
- Bentley Priory Nature Reserve - Dog control
 - The Viewpoint - Indecent behaviour and causing damage

4. Consultation

- 4.1 The Act and the Home Office's "*Anti-social behaviour powers Statutory guidance for frontline professionals*"⁵ (the "**Statutory Guidance**") sets out the requirements for consultation around a PSPO.
- 4.2 Before making a PSPO, the Council must consult with the Chief Officer of Police, and the local police body, which was done in relation to the proposed PSPO. This occurred, with consultation being shared with the Borough Commander and local policing team.
- 4.3 The Council must also consult whatever community representatives they think appropriate. In this case, a consultation took place on the Council's consultation platform from 13th July to 12th August 2023, additional time was allowed towards the end of the consultation period for conversations with local and national representative groups to ensure that the broadest opinion possible was achieved. The communications team publicised the consultation locally and some of the proposals considered received national press interest. Public visits were made to Town and District Centres and to parks and public areas to seek immediate feedback from the public.
- 4.4 The Statutory Guidance states that where a local council is considering making a PSPO which will impose restrictions on the use of specific types of land such as registered common land, a registered town or and village green, and open access land, or on public rights of way, it should consider discussing the proposal with relevant interested groups. This proposal does include land which is open to public as right of way, land which is managed as a nature reserve and by committee, in order to consider the views of these representatives meetings were attended to discuss the practicalities of the controls proposed.
- 4.5 Correspondence was also sent to relevant parties to the PSPO including charities or representatives of affected groups. Including;
- *Park user groups
 - *animal welfare charities
 - *Town Centre BID
 - *Local business representatives
 - *Local Angling representatives
 - *Harrow volunteers and charitable groups
 - *Other Neighbouring Authorities & the GLA
 - *Representatives of minority groups

- 4.6 The proposed PSPO was consulted on to ensure residents and businesses are aware of the content and support the need for the proposed restrictions to help address anti-social behaviour.
- 4.7 The purpose of the consultation was to take all these matters to residents and businesses to assess whether they agree that these issues exist are happening in a persistent way across the Borough and are causing nuisance. Only where residents support these assertions have the offences been put forward for adoption in the final version.
- 4.8 Appendix 3 provides a report of the feedback and summary of issues raised in the consultation and the full feedback received for information. There is wide support for all aspects of the proposed PSPOs.

5. Performance Issues

- 5.1 There are no performance implications.

6. Environmental Implications

- 6.1 The PSPO is expected to have a hugely positive impact on the environment, by putting in place a proactive scheme that addresses low level environmental damage including issues such as vehicles idling, dog fouling and additional controls around depositing litter and causing damage.
- 6.2 By having clear requirements in place, backed up by the means of a timely penalty for non-compliance (Fixed Penalty Notices), it allows matters that affect the environment to be addressed in a more efficient and effective means and hopefully leading to longer term behavioural changes.

7. Data Protection Implications

- 7.1 Enforcement of the PSPO is currently delivered by the Tri-Borough contract. The contract covers data protection and ensure that the services are delivered in compliance with data protection legislation.

8 Risk Management Implications

- 8.1 Risks included on corporate or directorate risk register? **No**
- 8.2 Separate risk register in place? **No**
- 8.3 Relevant risks contained in the register are attached/summarised below. **n/a**
- 8.4 The following key risks should be taken into account when agreeing the recommendations in this report:

Risk Description	Mitigations	RAG Status
If the recommendation is not agreed, low-level anti-social behaviour in the borough will continue at its present level and potentially increase	<ul style="list-style-type: none"> ▪ Agreement to the proposed recommendations in the report will mitigate the risk 	GREEN
<p>Reputational risk Residents and businesses may not agree with all terms.</p>	<ul style="list-style-type: none"> ▪ Following consultation the PSPO has been reviewed and worded to take in to account all feedback and the restrictions included are those supported and the legal grounds are satisfied for adoption. 	GREEN

9 Procurement Implications

9.1 There are no implications.

10 Legal Implications

10.1 The power for a local authority to make a PSPO is set out in Part 4, Chapter 2 of the Act. The Council can make a PSPO if satisfied, on reasonable grounds that the following conditions are met in relation to the activities sought to be regulated:

- That they are or are likely to be carried on in a public place within the Borough;
- That they have had, or are likely to have, a detrimental effect on the quality of life of those in the locality;
- The effect, or likely effect, of the activities, is or is likely to be, persistent or continuing in nature;
- The effect, or is likely effect, of the activities, is or is likely to be, to be such as to make the activities unreasonable; and
- The effect, or likely effect, of the activities justifies the restrictions sought to be imposed by the order.

10.2 A PSPO can prohibit and/or require things to be done in an area, but this must be to prevent or reduce detrimental effect on the quality of life of those in the area. A PSPO can be limited to apply by time/circumstances, etc but it must be clear for people to understand what is required and/or prohibited.

The Act sets out the requirements for the content of a PSPO and publication requirements that must be followed.

- 10.3 Under Section 60 of the Act, a PSPO cannot have effect for longer than 3 years unless extended.
- 10.4 Sections 62 of the Act states that prohibitions in a PSPO on consuming alcohol does not apply to certain premises, such as premises, clubs or other areas authorised or otherwise permitted to supply alcohol, . Section 63 of the Act covers aspects relating to PSPOs prohibiting the consumption of alcohol.
- 10.5 Sections 64 and 65 of the Act deal with orders restricting public rights of way over the highway.
- 10.6 Section 66 of the Act 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.
- 10.7 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.
- 10.1 When considering any proposed PSPOs, the Council must consider any equality issues pursuant to its duty under section 149 of the Equality Act 2010.
- 10.2 Section 72 of the Act also requires the Council, in deciding whether to make, vary, extend or discharge a PSPO, o have particular regard to the rights of freedom of expression and freedom of assembly as set out in articles 10 and 11 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

11 Financial Implications

- 11.1 The costs so far have been met from within the Licensing & Enforcement service budget.
- 11.2 If approved:
 - Costs of publicity, training and implementation will have to be found within existing budgets.
 - The enforcement will be carried out within the service as well as the use of the Council's third-party enforcement contractor which operates on the basis of no cost to the Council.

12 Equalities implications / Public Sector Equality Duty

- 12.1 The Council has a statutory duty to comply with the provisions set out in the Equality Act 2010.
- 12.2 In summary, the Council must in the exercise of all its functions, “have due regard to” the need to comply with the three arms or aims of the general equality duty. These are to:
- eliminate discrimination, harassment, victimisation and any other conduct prohibited by or under the Equality Act 2010;
 - advance equality of opportunity between people who share a relevant protected characteristic and people who do not share it; and
 - foster good relations between people who share a relevant protected characteristic and people who do not share it.
- 12.3 Having due regard means to consider the three aims of the Equality Duty as part of the process of decision-making. This means that decision makers must be able to evidence that they have taken into account any impact of the proposals under consideration on people who share the protected characteristics before decisions are taken.
- 12.4 An Equality Act Impact Assessment has been carried out which finds that the proposed PSPO is likely to have a positive impact on the general population of Harrow, including those from protected groups such as mobility impaired, victims of hate related ASB (due to gender, sexuality, religious or disability), and it will apply to the whole population and its use will be determined by the behaviour occurring rather than the protected group.
- 12.5 The exception is young people who cannot be issued with a FPN if they are under 18 years of age.
- 12.6 Following the consultation a decision is needed whether to make the proposed PSPOs, Section 72 of the Act requires Cabinet as decision maker for the Council for these PSPOs, to pay particular regard to rights of freedom of expression and freedom of assembly set out in articles 10 (the right to freedom of expression) and 11 (freedom of assembly and association) of the European Convention on Human Rights (the “**ECHR**”) in considering the making any such order.
- 12.7 It would also have to be concluded that the making of the proposed PSPOs is proportionate and would fulfil a legitimate aim of curbing anti-social behaviour in public places for the benefit of the law-abiding majority and hence would not infringe article 11 of the ECHR.

13 Council Priorities

- 13.1 Harrow Council’s priority is to restore pride in Harrow by ensuring it is:
- A place that is clean and safe

- A council that puts residents first
- A place where those in need are supported.

13.2 Well drafted and fully consulted PSPOs will help to tackle anti-social behaviour which is having a detrimental effect on the quality of people's lives. Introduction and enforcement of the PSPOs will help to tackle low level crimes, clean up and reclaim Harrow's streets and public spaces, to enhance them and make them safer for residents, visitors and legitimate business operators.

Section 3 - Statutory Officer Clearance

Statutory Officer: Neil Hooper

Signed on behalf of the Chief Financial Officer

Date: 18/08/2023

Statutory Officer: Baljeet Virdee

Signed on behalf of the Monitoring Officer

Date: 25/08/2023

Chief Officer: Dipti Patel

Signed off by the Corporate Director

Date: 01/09/2023

Head of Procurement: Nimesh Mehta

Date: 16/08/2023

Head of Internal Audit: Signed off by Neale Burns

Date: 17/08/2023

Has the Portfolio Holder(s) been consulted? Yes

Mandatory Checks

Ward Councillors notified: NO, as it impacts on all Wards

EqIA carried out: Yes

EqIA cleared by: Yasmeen Hussain

Section 4 - Contact Details and Background Papers

Contact: David Gilmour, David.Gilmour@Harrow.gov.uk

Background Papers:

Anti-social Behaviour, Crime and Policing Act 2014: Anti-social behaviour powers Statutory guidance for frontline professionals [\[Title\]](#) (publishing.service.gov.uk)

Call-in waived by the Chair of Overview and Scrutiny Committee

NO