

North Tyneside Council

Report to Cabinet

Date: 22 May 2023

Title: Public Spaces Protection Orders

Portfolio(s):	Environment	Cabinet Member(s):	Councillor Sandra Graham
Report from Service Area:	Environment		
Responsible Officer:	Samantha Dand, Director of Environment	Tel:	(0191) 643 3442
Wards affected:	All		

PART 1

1.1 Executive Summary:

Tackling environmental crime is a key priority for the Elected Mayor and Cabinet, to ensure that North Tyneside remains a great place to live, work and visit.

Having legal powers available to effectively manage and enforce environmental crime is essential to the quality of life of the community. Public Spaces Protection Orders (PSPOs) provides the Authority with an important enforcement tool.

In October 2020, Cabinet approved the extension of existing PSPOs within the Borough, covering the control of dogs and the consumption of alcohol in public spaces. PSPOs however cannot last for more than 3 years, therefore the PSPOs currently in place will expire in October 2023.

It is proposed that these PSPOs are extended without variation for a further 3 years using the appropriate powers that the Authority has and to continue to work in partnership with Northumbria Police to tackle environmental crime.

This report seeks approval for the commencement of a 4-week consultation exercise to be undertaken based on this proposal.

1.2 Recommendations:

It is recommended that Cabinet:

- i. agree to the commencement of a 4-week consultation exercise on the proposed extension of the Public Space Protection Orders attached at **Appendix 1**, of this report;

- ii. authorise the Director of Environment in consultation with the Cabinet Member for Environment, to take all appropriate steps to undertake the consultation exercise and any ancillary matters relating to it; and
- iii. agree to receive a further report following the conclusion of the consultation exercise to consider the consultation responses and to determine if there are reasonable grounds for the Public Space Protection Orders to be extended for a further period of 3 years.

1.3 Forward Plan:

Twenty-eight days' notice of this report has been given and it first appeared on the Forward Plan that was published on 17 March 2023.

1.4 Council Plan and Policy Framework

This report relates to the following priorities in the 2021-2025 Our North Tyneside Plan:

A secure North Tyneside:

- Council Wardens will work in partnership with Northumbria Police to prevent and tackle all forms of anti-social behaviour.

A Green North Tyneside:

- Council environmental hit squads will crack down on littering.

1.5 Information:

1.5.1 Background

Preventing and tackling all forms of anti-social behavior and cracking down on littering are key objectives of the Our North Tyneside Plan 2021-2025.

In the 2021 Residents Survey conducted by Ipsos on behalf of the local authority, when asked what factors were most important in making somewhere a good place to live residents identified:

- Health services (49% residents)
- Clean streets (46% residents)
- Low levels of anti-social behavior (43% residents).

Perception of community safety is a key driver of resident satisfaction in the local area as a place to live. Residents consider crime and anti-social behavior as important issues and most in need of improvement with results showing a steady increase in concern since 2016.

89% of people in North Tyneside feel safe in their local area during the day, which is consistent to previous years. However, fewer residents, 45%, reported feeling safe after dark, which is a drop of 17 percentage points since 2016. The importance to residents of being able to address crime and tackle anti-social behavior has increased at a national level, as well as locally in North Tyneside.

Over the years, additional officer capacity has been introduced, which includes new community protection wardens and an environmental rapid response team. Also, an additional two fully electric CCTV vehicles have been introduced, along with more mobile CCTV cameras to tackle anti-social behavior and environmental crime.

Having legal powers available to deter environmental crime and to take action when it is appropriate to do so, is key to ensuring that the borough remains a great place to live, work and visit. Public Spaces Protection Orders (PSPOs) provide the Authority with an important and highly visible enforcement tool.

1.5.2 What is a PSPO?

PSPOs were introduced by 'The Anti-social Behaviour, Crime and Policing Act 2014' (the 'Act'). The Act gave powers to local authorities to introduce PSPOs to deal with any particular nuisance or problem having a detrimental effect on the quality of life of those in communities.

A PSPO effectively prohibits specified things from being done or requires certain things to be done in an area covered by it, whilst ensuring that law-abiding members of the public can use and enjoy that area.

A PSPO can be made by the Authority where it is satisfied on reasonable grounds, that two conditions are met:

- 1) Activities carried on in a public place within the borough have had, or are likely to have, a detrimental effect on the quality of life of those living or working in the locality; and
- 2) That the effect, or likely effect, of the activities:
 - a) is, or is likely to be, of a persistent or continuing nature;
 - b) is, or is likely to be, such as to make the activities unreasonable, and
 - c) justifies the restrictions imposed by the PSPO.

1.5.3 PSPOs in North Tyneside

During 2017, proposals to introduce PSPOs resulted in draft Orders being consulted on in accordance with the requirements of the Act. At its meeting on 9 October 2017, Cabinet approved the making of PSPOs within the Borough and these were made on 20 October 2017 and are attached at **Appendix 1** of this report.

On 21 September 2020, Cabinet agreed to the extension of the PSPOs made in October 2017 for a period of 3 years up to 19 October 2023. The Extension Orders are attached at **Appendix 2** of this report. Cabinet is being asked to agree to the commencement of statutory consultation on a further extension of the PSPOs for 3 years.

The PSPOs introduced prohibitions and requirements, and consolidated several existing prohibitions and requirements contained in by-laws and other types of Orders made by the Authority to tackle anti-social behaviour. A summary of the activities controlled by the PSPOs is attached as **Appendix 3** of this report.

The prohibitions and requirements introduced by the PSPOs were aimed at continuing to tackle problems relating to irresponsible dog ownership and the irresponsible

consumption of alcohol in designated public places. However, the opportunity was taken in 2017 to extend some of those controls whilst preserving what was in place under the by-laws or Designated Places Orders in place at that time.

For example, the control of dogs was extended to exclude dogs from all play sites in the Borough, not just some sites, and the restriction on the consumption of alcohol in a public space was extended from specified designated areas to include the whole of the public spaces in the Borough.

PSPOs are enforceable by means of a Fixed Penalty Notice of up to £100 and these can be issued by officers from the Authority and the Police. Court action can be taken against persons who have failed to pay the fixed penalty within the requisite period of time for the offence of failing to comply with the terms of the PSPO. A person who without reasonable excuse, fails to comply with the requirements imposed by a PSPO restricting the consumption of alcohol on conviction can be fined up to £500. A person who without reasonable excuse fails to comply with the terms of a PSPO prohibiting or restricting other types of behaviour on conviction can be fined up to £1,000.

At its meeting on 9 October 2017, Cabinet set the Fixed Penalty Notice amount to be set at the statutory maximum of £100 but this is discounted to £75 if it is paid within 21 days.

The Authority has a published Statement of Enforcement Policy which is based on taking a proportionate approach towards achieving compliance with the law without having to take enforcement action. Considerable community engagement is undertaken by the Authority's community protection and environment teams to achieve that. However, in some circumstances, formal enforcement action is required and PSPOs enable such action to be taken in appropriate circumstances.

Since the extension of the original order in October 2020 and up to 31 March 2023, a total of **244** Fixed Penalty Notices (FPNs) were issued using the PSPOs.

1.5.4 Extension of PSPOs

When a PSPO is made, the Act specifies that it cannot last for more than 3 years unless formally extended. The effect of this is that the existing PSPOs made by the Authority will expire at midnight on 19 October 2023 if they are not extended. However, the Act provides that the Authority may extend the PSPOs for a further period of not more than 3 years. Any proposed extension of the PSPOs cannot take place until the necessary statutory consultation on the proposed extension has taken place in accordance with the Act.

Cabinet is being asked to authorise the commencement of statutory consultation on the extension of the three existing PSPOs. It is proposed that at the end of the consultation exercise a further report will be presented to Cabinet. Cabinet at that stage, having regard to the consultation responses and any other relevant considerations, will be in a position to determine if it is reasonably satisfied that extending the PSPOs is necessary to prevent: -

- a) occurrence or recurrence after the expiry of the PSPOs of the activities identified in the PSPOs; or
- b) an increase in the frequency or seriousness of those activities after the expiry of the PSPOs.

1.5.5 Next Steps

Should Cabinet approve commencement of the consultation exercise on extending the PSPOs then a comprehensive engagement plan will be finalised. The Act requires the Authority to consult with:

- the Chief Officer of Police
- the Police and Crime Commissioner
- the owner or occupier of land within restricted areas
- community representatives that the Authority thinks appropriate.

The engagement plan will meet both the statutory requirements and the Authority's recognised corporate standards for consultation.

The consultation responses will be collated and analysed with recommendations being brought back to a future Cabinet meeting, so that an informed decision can be taken as to whether or not to extend the PSPOs.

1.6 **Decision options:**

The following decision options are available for consideration by Cabinet:

Option 1

To agree to the recommendations set out in Section 1.2 of this report.

Option 2

Not to agree to the recommendation set out in Section 1.2 of this report and instruct that an alternative approach is taken.

Option 1 is the recommended option.

1.7 **Reasons for recommended option:**

Option 1 is recommended. Section 1.5.4 of this report explains that the PSPOs in place within the Borough will expire on 19 October 2023. If the PSPOs are not extended before their expiry they will cease to have effect resulting in the Authority having no controls in place to tackle anti-social behaviour relating to dogs and alcohol across the Borough.

1.8 **Appendices:**

Appendix 1: PSPOs approved by Cabinet and made on 20 October 2017

Appendix 2: Extension Orders approved by Cabinet and made on 2 October 2020

Appendix 3: Summary of activities controlled by PSPOs

1.9 **Contact officers:**

Kimberley Pye, Head of Environment and Safer Neighbourhoods, Tel. (0191) 643 3442
Richard Mitchell, Community and Public Space Protection Manager, Tel. (0191) 643 7710

Samantha Dand, Director of Environment, Tel. (0191) 643 7294

John Barton, Legal Manager, Governance and Regulatory Team, Legal Services, Tel. (0191) 643 5354

David Dunford, Senior Business Partner, Tel. (0191) 643 7027

1.10 Background information:

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

- 1) [The Anti-Social Behaviour, Crime and Policing Act 2014](#)
- 2) [Statutory guidance from Home Office on Anti-social behaviour powers](#)
- 3) [PSPOs: Guidance for councils, LGA](#)
- 4) [North Tyneside Council Statement of Enforcement Policy](#)
- 5) [Cabinet decision, 21 September 2020](#)
- 6) [Cabinet report, 21 September 2020](#)
- 7) [Equality impact assessment](#)

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

The review process outlined and proposed in this report will be managed within existing budgets. Any additional financial implications will be reported to Cabinet.

2.2 Legal

As stated, the Anti-Social Behaviour, Crime and Policing Act 2014 (the 2014 Act) introduced Public Spaces Protection Orders (PSPOs) as a means of tackling a wide range of anti-social behaviour that can have a detrimental effect on the lives of those living and working in the borough. PSPOs can be used to tackle such issues as litter, vandalism, public drunkenness, and the control of dogs.

The Authority can extend a PSPO for a period of up to 3 years if the Authority is satisfied that it has reasonable grounds for doing so in accordance with section 60(2) of the 2014 Act. A PSPO may be extended under section 60 of the 2014 Act more than once. Before any extension of a PSPO can be made “necessary consultation” has to take place on the proposed extension with those set out in in section 72(4) of the 2014 Act. The Authority to undertake such consultation is now being sought from Cabinet.

The decision on whether or not to extend the PSPO is a Cabinet function because there is nothing in the 2014 Act that specifies that such a decision has to be taken by Council and there is nothing in the Local Authorities (Functions and Responsibilities)(England) Regulations 2000 that indicates that the making of a PSPO is a function that is not the responsibility of Cabinet.

The appropriate length of the consultation depends on the particular circumstances of the PSPO being sought and it is important that councils ensure that the consultation is reasonable and proportionate to the issues under consideration.

2.3 Consultation/community engagement

2.3.1 Internal Consultation

Consultation on the proposal to extend the PSPOs has taken place with the Cabinet Member for Environment and the Cabinet Member for Community Safety and Public Protection.

2.3.2 External Consultation/Engagement

Section 1.5.5 of the report highlights that a statutory consultation process is required by the Act and that an engagement plan will be finalised to meet both the statutory requirements and the Authority's recognised corporate standards for consultation.

2.4 Human rights

In deciding whether or not to make a PSPO the Authority must have particular regard to the rights of freedom of expression and freedom of assembly as set out Articles 10 and 11 of the European Convention of Human Rights respectively.

2.5 Equalities and diversity

An Equality Impact Assessment has been undertaken which will be kept under review during the consultation process. It will be updated prior to finalising and implementing the proposals outlined in the report.

2.6 Risk management

There are no risk management implications arising directly from this report. Risks are managed via the established risk management arrangements in place within Environment which form part of the corporate risk management framework.

2.7 Crime and disorder

The purpose of a PSPO is to provide the Authority and Police with the ability to effectively tackle anti-social behaviour, which can amount to crime and disorder.

2.8 Environment and sustainability

The existence of PSPOs can improve the environment for the community by preventing behaviour that has a detrimental effect on the community from occurring or recurring.

PART 3 - SIGN OFF

- Chief Executive X
- Director(s) of Service X
- Mayor/Cabinet Member(s) X
- Chief Finance Officer X
- Monitoring Officer X
- Assistant Chief Executive X