

REPORT TO: FULL COUNCIL

Date: 13th March 2019

**TOPIC: PUBLIC SPACES PROTECTION ORDER IN AND
AROUND ILFRACOMBE HARBOUR**

REPORT BY: HARBOURMASTER

1 INTRODUCTION

- 1.1 The Council owns Ilfracombe Harbour, which is the largest harbour on the North Devon coast and which has been in existence as a port for several centuries. It is a working port to trawlers and potters, a recreational harbour to private owners and a commercial boat trip harbour for a diverse range of day trips.
- 1.2 In relation to the boat trips, complaints have been received over many years that ticket sales have become excessively competitive, with boat operators having engaged in "ticket-touting." This has taken the form of employees of the boat operators making multiple approaches to potential customers who have leaflets thrust on them as they approach and enter the Harbour area.
- 1.3 The competition in high summer is intense and so the ticket sellers have become more assertive in their techniques. This has led to confrontation between the operators in full view of the public. Such "ticket-touting" and confrontation have a negative effect on the well-being of the community, both local residents and visitors, and are unreasonable and unnecessary.
- 1.4 The Anti-Social Behaviour, Crime and Policing Act (2014) created provision for Public Spaces Protection Orders (PSPO's) to be made, thereby enabling local authorities to seek to prevent or restrict behaviour which is having a negative effect on communal well-being.
- 1.5 This report sets out the rationale for the proposal that North Devon District Council makes a Public Spaces Protection Order at Ilfracombe Harbour, and on roads leading to the harbour, to restrict or eradicate the practice of "ticket-touting."

2 RECOMMENDATIONS

- 2.1 That North Devon Council makes a Public Spaces Protection Order for a period of 1 year in relation to Ilfracombe Harbour and roads adjacent to it, as per the Order attached at Appendix A.

3 REASONS FOR RECOMMENDATIONS

- 3.1 To restrict the practice of “ticket-touting” in and around Ilfracombe Harbour
- 3.2 To improve the quality of life for all in the vicinity.

4 REPORT

- 4.1 Ilfracombe Harbour is a historic and highly valuable asset for North Devon as a working port and tourist attraction. As a working port, the Harbour is home to trawlers and potters, recreational activities by private boat owners, and operators providing a diverse range of day trips.
- 4.2 Historically, in relation to those operators running boat trips, there has habitually been an element of “ticket-touting” in and around Ilfracombe Harbour, but with the increase in the number of commercial operators, this has increased in more recent years.
- 4.3 It seems to be the case that if one operator engages in “ticket-touting,” then the others have to become involved as well, and sometimes to a greater degree. This has led to operators, through their employees, making multiple approaches to members of the public as they approach the Harbour, with leaflets being thrust upon them.
- 4.4 The competition in the summer months is intense, with ticket sellers becoming more assertive, and this has led to confrontation between operators in full public view. Although visitors subjected to such activities have not made written complaints, it is nonetheless clear that the practices have attracted public disapproval and have had a negative effect on the reputation of the Harbour.
- 4.5 Such ticket-touting is unreasonable and unnecessary because the operators have kiosks from which they are able to operate, and this position will not change. When the re-development of the kiosks takes place, the boat operators will be designated an area where they can distribute leaflets and talk to the public.
- 4.6 In effect, it is the practice of competitive ticket-touting along Quay Road and adjoining areas which has caused a problem, and has led to consideration as to how the situation can be addressed. It is perceived that the making of a Public Spaces Protection Order would potentially address the problem.
- 4.7 The Public Spaces Protection Order is a creation of the Anti-social Behaviour, Crime and Policing Act 2014 which, according to the statutory guidance, is “designed to stop individuals or groups committing anti-social behaviour in a public space.” Under the provisions, local authorities may seek to prevent or restrict behaviour which is having a negative effect on the communal well-being.
- 4.8 In pursuing a PSPO the 2014 Act states that a local authority should be satisfied on reasonable grounds that two conditions are met:

- (a) Activities carried on in a public place have had a detrimental effect on the quality of life of those in the locality
- (b) The effect of the activities is of a persistent or continuing nature, is such as to make the activities unreasonable, and justifies the restrictions imposed by the notice.

4.9 A PSPO may last for a period of up to 3 years. A PSPO may be extended (and more than once) if it deemed by the local authority to continue to be appropriate to do so.

4.10 The Anti-social Behaviour, Crime and Policing Act 2014 sets out some key requirements as to the process for making a PSPO, including carrying out necessary consultation, necessary publicity and necessary notification with regard to the proposed PSPO.

4.11 In the case of Ilfracombe Harbour, the proposed PSPO, attached at Appendix A, would prohibit, except under the express terms of a lease or a licence, the written permission of the Harbourmaster or an authorised Council Officer, anyone engaging in the soliciting of services by word of mouth or through the distribution by hand of any leaflet, pamphlet or circular. A plan of the area subject to the proposed PSPO is attached at Appendix B.

4.12 In relation to the proposal to introduce the new PSPO, statements by the Harbourmaster and the Deputy Harbourmaster are appended at Appendix C.

4.13 Responses have been invited from key stakeholders and the public in the period from 4th February 2019 to 4th March 2019. The responses are attached at Appendix D.

4.14 The proposed PSPO reflects the considerations as outlined at 4.8, 4.12 and 4.13 (the points made by consultees in relation to the current period of consultation).

4.15 **Alternative options** – there are few alternative and viable options:

- (a) Discouragement of touting activities over previous years by the Harbourmaster has not been successful, with those involved in the touting activities being apparently unwilling to subscribe to any voluntary guidelines
- (b) Turning a blind eye to the activity risks damaging the reputation of the Harbour and discouraging visitors from visiting or returning to it

5 RESOURCE IMPLICATIONS

5.1 There are no significant resource implications which would result from the introduction of the PSPO, other than the cost of signs in and around the Harbour, advising of the terms of the PSPO. This is on the assumption that there are no substantial enforcement issues which arise from frequent infringements of the Order; such enforcement issues are not anticipated.

6 CONSTITUTIONAL CONTEXT

Article or Appendix and paragraph	Referred or delegated power?	Key decision?
Part 2, Article 4.5.13	No	No

7 STATEMENT OF CONFIDENTIALITY

7.1 This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

8 BACKGROUND PAPERS

8.1 The following background papers were used in the preparation of this report:

- Consultation responses
- Anti-social Behaviour, Crime and Policing Act 2014

The background papers are available for inspection and kept by the author of the report.

9 STATEMENT OF INTERNAL ADVICE

9.1 The author (below) confirms that advice has been taken from all appropriate Councillors and officers.

Executive Member: Councillor Barker

Author: Georgina Carlo-Paat

Date: 4th March 2019

Reference: GCP

NORTH DEVON DISTRICT COUNCIL

ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014

PART 4, SECTION 59

PUBLIC SPACES PROTECTION ORDER

In exercise of the power under section 59 of the Anti-social Behaviour, Crime and Policing Act 2014 (the Act), being satisfied that the conditions set out in sections 59 of the Act have been met, the North Devon District Council (NDDC) hereby makes a Public Spaces Protection Order, in relation to Ilfracombe Harbour and adjacent streets (the Restricted Area) as outlined in red on the location plan.

The terms of the order are as follows:.

- (1) Except under the express terms of a licence or lease issued by the North Devon District Council, or the written permission of the Harbourmaster or authorised Council Officer, no person shall, in the Restricted Area, engage in the soliciting of services by word of mouth or through the distribution by hand of any leaflet, pamphlet or circular, nor attach or affix any such leaflet, pamphlet or circular.
- (2) Any person who, without reasonable excuse, fails to comply with the requirements of this Order commits an offence and shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale
- (3) This Order shall come into force on 1st April 2019 and shall remain in place for a period of 1 year.

Dated this

THE COMMON SEAL of NORTH DEVON
DISTRICT COUNCIL was hereunto fixed
In the presence of:





 Lynton House, Commercial Road,

 Barnstaple, EX31 1EA

Ifracombe PSPO Restricted Area

© Copyright and database right 2019 Ordnance Survey Licence No. 100021929. No unauthorised reproduction permitted.

Copy Supplied to:

 Scale: 1:2500

 Date: 01.02.2019

APPENDIX B

Statement of Witness

The Statement of: **Georgina Carlo-Paat**
Age of Witness: **Over 21**
Occupation of Witness: **Harbourmaster**

I am Captain Georgina Carlo-Paat, and I am employed by North Devon District Council in the capacity of Harbourmaster for the Ilfracombe Harbour.

I took up my post on 30th April 2018 following the retirement of Lt Cdr Rob Lawson. I am assisted in my role by the Deputy Harbour Master Ric Simpson, who has been in post since November 2003.

From Council records, and from conversations with Lt Cdr Rob Lawson and Ric Simpson, I have come to understand there have been complaints over many years that boat operators who work out of Ilfracombe Harbour have engaged in what has been described as "ticket-touting."

This touting takes the form of the various boat operators employing multiple persons to station themselves either at the road end of Old Quay Head or along Quay Road, at times these persons have been sighted along Broad Street.

The majority are paid a flat rate but also by commission and so the incentive is set to get as many paying passengers to their respective operators as they can.

This results in multiple approaches to members of the public having leaflets pushed at them as they walk towards the Pier entrance to the harbour.

As they approach the Pier and wish to walk either side of the road they need to walk under the portico joining the kiosks where the operators sell the tickets from, they are again approached by ticket sellers on either side.

The competition in the high summer months can become intense and so the ticket sellers have become more assertive in their techniques.

This has led to confrontation between the operators in the full view of the public which is detrimental to the public perception of the Harbour.

I have been made aware from many sources that at times in the past this confrontation has led to aggression again in full view of the public.

As this was my first season as Harbour Master I spent the majority of my time walking the Harbour and getting to know the people and the 'rhythm' of the Harbour, on multiple occasions I was approached by members of the public asking if I was aware of the number of touts they had encountered whilst walking to or from the pier and on many occasions asking what I would do to prevent this.

Prior to becoming Harbour Master I have visited the Harbour on many occasions as I have lived in North Devon for over 20 years. On each occasion I have been

approached and in my opinion hassled to go on a 'boat trip' so I can understand the feelings expressed to myself this last season.

Ifracombe Harbour is dynamic in the fact it is home to multiple differing uses. It is a working harbour to trawlers and potters, a recreational harbour to private owners, a commercial boat trip harbour encompassing a diverse range of day trips, a Harbour with grade 1 star and grade 2 structures set within a conservation area bordering AONB and SSSI areas. A harbour home to unique sculptures. Ifracombe Harbour is an area of vibrancy and it attracts the public for this very reason. The Visitors and residents alike come to the harbour to enjoy the many aspects it has to offer.

It is also unusual to the jurisdiction, the public see it as one from the turning onto either Quay Road or Heirns Lane however this is not the case and the approaches to the Pier side of the Harbour comes under a different authority than that of the Harbour Itself and this had led to the past and present situation of 'touting' and to the fundamental question of who is responsible for the control of the persons conducting such behaviour.

After due deliberation and consultation with the legal department of the council I have determined that the making of a PSPO to restrict this anti-social behaviour by the commercial day boat operators and those that they employ is the best course of action to help prevent the past events from occurring again and enhancing the publics' perception of the Harbour.

Signed: *Capt. Georgina Carlo-Paat*

Dated: 8th February 2019

Touting statement

I have held the position of Harbour Master's Assistant, then latterly Deputy Harbour Master, since November 2003.

Historically there has always been touting of one form or another at the harbour, however with the increase in commercial operators, the level of touting has also increased. There seems to be a mentality that if one operator does it, then the others have to do it too, sometimes to a greater degree, regardless of the affect this has on the public.

I have witnessed touts from 3 separate operators lining up along Quay Road, all within a few feet of each other. The public are walking along the road and are offered a leaflet from the first tout, and refuse. They are then offered one from the second, and refuse, then from the third.

On busy days there can be several touts lined up on both sides of Quay Road, as well as in the road, and stretching down to the Sandpiper at the end. On occasion they can even be found around the corner near the RNLI shop, in the hope of getting to potential customers 'first'.

This persistent behaviour is unnecessary, and I believe should be contained to a pre-defined area, as the public should be able to walk along in peace and be free to make their own mind up to which boat trip they may wish to go on.

Ric Simpson

Mr Ric Simpson

Ilfracombe Deputy Harbour Master

Ilfracombe Harbour PSPO

Consultation Report

1. Background

This consultation relates to the proposal to make a Public Spaces Protection Order (PSPO) in relation to Ilfracombe Harbour and the nearby streets from 1 April 2019 for a period of 1 year. Consultation, publicity and notification are a necessary requirement of making a PSPO as per the Anti-social Behaviour, Crime and Policing Act 2014.

A consultation process was undertaken between Monday 4th February 2019 and Monday 4th March 2019.

2. Consultation Process

The following groups were consulted with:

- Key stakeholders – public bodies: Devon and Cornwall Police, the local Community Safety Partnership, Ilfracombe Town Council, Devon County Council
- Key stakeholders – traders in the vicinity
- The Ilfracombe Chamber of Commerce
- Traders at the Harbour
- The public at large

The following consultation methods were employed:

- Individual letters
- An advertisement in the North Devon Journal
- A notice on the North Devon council website.

Consultation responses were invited by emailing or writing directly to NDC.

Consultation materials included:

- The PSPO wording
- A plan of the area

3. Consultation Responses

In essence, 151 responses were received, 42 support the proposal, whilst 109 object to the proposal.

Part A below documents the responses in support, whilst Part B records the responses objecting to the proposal.