

REPORT TO: STRATEGY & RESOURCES COMMITTEE

Date: 2 March 2019

TOPIC: PUBLIC SPACES PROTECTION ORDERS

REPORT BY: TIM BIRTWISLE, COMMUNITY PROTECTION OFFICER

1 INTRODUCTION

- 1.1 In October 2014 the Anti-Social Behaviour Crime and Policing Act 2014 (The Act) was brought into force – giving Local Authorities and the Police more effective powers to deal with Anti-Social Behaviour (ASB).
- 1.2 Under this act, The Council has additional powers available to better address Anti-Social Behaviour
- 1.3 The Council is aware of the level of concern of some aspects of the community in relation to the behaviour that an updated order could address
- 1.4 The consultation exercise which this paper seeks approval for, will provide all stakeholders with the opportunity to suggest any additional controls for further consideration by The Council.
- 1.5 The current arrangements (as summarised in section 4.1 and 4.2 of this report) need to be amended to enable The Council to proactively manage ASB associated with these areas more effectively.

2 RECOMMENDATIONS

- 2.1 It is recommended that The Strategy and Resources Committee approve the draft consultation exercise to be undertaken on the proposals identified in Paragraph 4.2, as outlined in appendix 1

3 REASONS FOR RECOMMENDATIONS

- 3.1 To enable The Council to proactively manage ASB associated with street based behaviour
- 3.2 To bring the Council up to date in its arrangements under the Act

4 REPORT

- 4.1 The current arrangements relate to consumption of alcohol in a public place, namely “that if a constable believes that a person is, or has been, consuming intoxicating liquor in a designated place or intends to consume intoxicating liquor, he may require that person not to consume any intoxicating liquor and/or surrender anything in his possession which the constable reasonably believes to be, intoxicating liquor (other than in a sealed container)”
- 4.2 Council Officers’ currently issue a Fixed Penalty Notice for £100 if the individual fail to abide by the request to dispose of the alcohol in their possession.
- 4.3 If the Fixed Penalty Notice is not paid, The Council is able to commence prosecution proceedings for the offence.
- 4.4 The Council is not making use of additional powers available under The Act to better address ASB associated with street based behaviour
- 4.5 It is proposed that six towns across North Devon will have areas covered by PSPOs: Barnstaple, Ilfracombe, Braunton, Croyde, Woolacombe and Combe Martin.
- 4.6 The proposed restriction of areas in **Barnstaple and Ilfracombe** will apply at all times.
- 4.7 The proposed restrictions in **Braunton, Croyde and Combe Martin** will apply between 1 April and 30 September of each year

The proposed restrictions are:

1)

“Surrender any intoxicating substance in their possession when requested to do so to an authorised person if:

- (a) They are found to be ingesting, inhaling, injecting or otherwise using an intoxicating substance or substances, or,
- (b) They are in possession of such an intoxicating substance or substance with the intent of using that substance within the PSPO area.
- (c) The authorised person has reasonable grounds to believe that such person is using or intends to use the intoxicating substance or substances within the said area.

The following proposed restrictions relate to **Barnstaple and Ilfracombe only:**

2)

“Not to urinate in a street or public Place”

“Street” includes any road, footway, beach or any other area to which the public has access. Other areas will include parks and car parks.

3)

**“Not to behave, either individually or in a group of two or more people, in a manner that has caused or is likely to cause a member of the public to suffer harassment alarm or distress”.
“Persons within this area who breach the above prohibition while in a group shall when ordered to do so by an authorised person disperse either immediately or by such time as may be specified and in such a manner as may be specified”**

4)

“Not carry out aggressive begging”

“Aggressive begging” is defined as behaviour that a reasonable person would regard as intimidating and is designed to cause a member of the public to give money to a person not known to them. North Devon Council would define the language as (1) clearly intimidating, i.e. through the use of threatening language or gestures or (2) intimidating by being passively aggressive such as standing or sitting within 5 metres of a cash machine, pay station or anywhere it is likely where an individual may expect privacy or feel vulnerable as their cash, bankcards, purse or wallet is on display

4.8 The Committee will be aware that the actions described above may constitute criminal behaviour under The Vagrancy Act 1824. However, current advice is for the Police not to use this legislation as it risks criminalising individuals unnecessarily. The proposals for the PSPO relate to Anti-Social behaviour related to this action and not begging itself.

4.9 Breach of a requirement of the PSPO would result in a Fixed Penalty Notice being issued for £100

4.10 If the Fixed Penalty Notice is not paid, The Council is able to commence prosecution proceedings for breach of the PSPO.

4.11 A high profile consultation exercise will be undertaken, in accordance with the requirements of The Act and associated guidance - to invite the views of all key stakeholders - on the proposals in this report.

4.11.1 The proposals shall then be reviewed in light of the consultation responses received and amended accordingly - before being ultimately submitted to Full Council for final approval.

5 RESOURCE IMPLICATIONS

- 5.1 Set up of the new PSPO will be undertaken using existing Officer resource.
- 5.2 Enforcement within the PSPO would be undertaken by Council Officers, and other groups which The Council are satisfied hold the appropriate competencies, and subsequently delegate powers to – for example Police Officers’.
- 5.3 There is a financial implication associated with the provision of new signage. The total cost of the signage (supply and installation) is expected to be in the region of £5000 – on the basis of costs for similar signage already incurred by other Local Authorities in Devon. This will be funded from within existing EH&H revenue budget.
- 5.4 Any procurement will be undertaken in accordance with The Council’s procurement guidelines

6 EQUALITIES ASSESSMENT

- 6.1 There are equalities implications anticipated as a result of this report. An Equality Impact Assessment Report has been completed

7 CONSTITUTIONAL CONTEXT

Article or Appendix and paragraph	Referred or delegated power?
Part 3 Annexe 1, Paragraph 1	Delegated

8 STATEMENT OF CONFIDENTIALITY

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

9 BACKGROUND PAPERS

This report has been prepared with reference to the Local Government Association document “Public Spaces Protection Orders – Guidance for Councils” - published on 1st February 2018 and readily available at www.local.gov.uk.

10 STATEMENT OF INTERNAL ADVICE

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

Author: Tim Birtwisle
Reference: Document5

Date: 11/02/2020

Appendix 1

Draft Consultation

In October 2014, the Anti-Social Behaviour (ASB) Crime and Policing Act 2014 was brought into force, giving Local Authorities and the Police more effective powers to deal with Anti-Social Behaviour.

North Devon Council have reviewed the issues which are currently impacting on our community relating to dogs and intends to introduce new measures – by way of implementing a Public Space Protection Order (PSPO) - to enable it to better address Anti-Social Behaviour.

The measures proposed in this consultation will enable additional certain restrictions to be imposed, to help correct other behaviour associated with irresponsible dog ownership.

The purpose of this consultation exercise is to seek stakeholder views on the current proposals - as well as enable any other potential measures to be identified, and subsequently considered

The consultation has been divided into 4 parts:

- | | |
|--------|-------------------------|
| Part A | Intoxicating substances |
| Part B | Public urination |
| Part C | Anti-Social Behaviour |
| Part D | Aggressive Begging |

Part A - Proposals for controlling alcohol and other substance misuse

The misuse of alcohol in North Devon's towns can result in anti-social behaviour.

Safe streets are particularly important locally due to the Council's desire to promote tourism and the economy.

North Devon Council believe that the ongoing need for regulatory controls is evidenced by:

- (i) The current level of community representations received by the Council and Police.
- (ii) The current level of regulatory activity.
- (iii) The observations of our Anti-Social Behaviour Officer and Police colleagues.

The Council considers the areas that merit regulation are Barnstaple and Ilfracombe (all year round) and Combe Martyn, Braunton, Croyde and Woolacombe (between 1 April and 30 September)

North Devon Council wishes to consult, therefore, on the following plan:

1. To issue Fixed Penalty Notices (FPNs') to people who fail to comply with a request to surrender an intoxicating substance.

Questions on Part A

1. Do you support the Council in addressing this area of community need through a PSPO?

YES/NO

If **NO**, *why not?*

2. Do you support the introduction of these controls on all public spaces across the district?

YES/NO

If **NO**, *why not?*

3. Do you support the introduction of these controls on all the towns identified?

YES/NO

If **NO**, *why not?*

Part B – Public urination

North Devon Council believe public urination poses a health risk to the public.

It is also of the view that prevention of such an activity is important due to the Council's desire to promote tourism and the local economy

The Council takes the view that public urination could cause nuisance or offence.

North Devon Council wishes to consult, therefore, on the following plan:

1. To issue FPNs' of £100 to people who urinate in a street or public place
2. "Street" includes any road, footway, beach or other area which the public has access.

Questions on Part B

1. Do you support the Council in addressing these issues through a PSPO?

YES/NO

If **NO**, *why not?*

Part C – Anti-Social Behaviour

North Devon Council believe that anti-social behaviour can cause nuisance and/or distress to members of the public.

The council also recognises this issue due to the Council's desire to promote tourism, the economy, and support residents and visitors alike to have a healthy and active lifestyle.

North Devon Council believe the need for regulatory controls is evidenced by:

- (i) The current level of regulatory activity.
- (ii) The observations of our ASB officer, Neighbourhood Wardens and Police Officers

North Devon Council wishes to consult, therefore, on the following plan:

- 1 To issue FPNs' of £100 to those individuals, whether on their own or in a group of two or more, who act in a way likely to cause a member of the public to suffer alarm, harassment or distress by that behaviour.
- 2 Persons within this area who breach the above prohibition while in a group shall when ordered to do so by an authorised person disperse either immediately or by such time as may be specified and in such a manner as may be specified

Questions on Part C

- 1 Do you support the Council in addressing this area of community need through a PSPO?

YES/NO

If **NO**, *why not?*

- 2 Do you support the dispersal of those who have committed anti-social behaviour?

YES/NO

If **NO**, *why not?*

Part D – Aggressive begging

North Devon Council believe the need for regulatory controls is evidenced by:

- (i) The current level of regulatory activity.
- (ii) The observations of our Neighbourhood Wardens, Anti-Social Police Officer and Police Officers who patrol the district.

The council therefore wishes to consult on the following plan:

- (a) To issue FPNs of £100 to individuals who beg in an aggressive manner: language that any normal person would regard as intimidating i.e. through the use of threatening language or gestures.
- (b) To issue FPNs to those who beg within five metres of a cash machine, pay station or anywhere it is likely where an individual may expect privacy or feel vulnerable as their cash, bank cards, purse or wallet is on display.

Questions on Part D

- 1 Do you support the Council in addressing the issue of aggressive begging through the use of a PSPO?

YES/NO

If **NO**, *why not?*

- 2 Do you support the proposed controls to prohibit begging within 5 metres of a cash machine, pay point or anywhere where it is likely that an individual may have case, bank cards, purse or wallet on display?

YES/NO

If **NO**, *why not?*