

## CABINET MEMBER DECISION RECORD TEMPLATE

This form should be used to record Executive decisions taken by Cabinet Members

<p><b>Decision Ref. No:</b></p>
<p><b>Responsible Officer:</b> Matt King, Community Enforcement Manager</p>
<p><b>Subject: Public Spaces Protection Order (PSPO)</b></p>
<p><b>Decision taken:</b> To instruct Officers to:</p> <ul style="list-style-type: none"> <li>• Undertake consultation on the use of PSPOs in Bournemouth Town Centre in relation to anti-social behaviour caused by busking and skateboarding which is having a detrimental effect on the quality of life of those in the community.</li> <li>• Review the finding of the consultation alongside any evidence relating to the aforementioned behaviour</li> <li>• Prepare a report to the Enforcement Member Working Group, outlining the consultation responses and a proposed response</li> </ul>
<p><b>Reasons for the decision:</b></p> <ul style="list-style-type: none"> <li>• To respond to concerns from traders, residents and the Town Centre BID around levels of persistent/continuing and unreasonable behaviour caused by these activities</li> <li>• To undertake wider consultation to gain a view of how these activities are perceived</li> <li>• To undertake wider consultation to gain a view of whether these activities should be controlled by a PSPO</li> <li>• To inform the Council in any subsequent decision making process relating to these activities</li> </ul>
<p><b>Call-in and Urgency:</b> Subject to call-in.</p>
<p><b>Background:</b> Public Spaces Protection Orders (PSPOs) are intended to deal with a particular nuisance in an area and that behaviour 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 designed to ensure that the law-abiding majority can use and enjoy public spaces without experiencing such behaviour.</p> <p>From the 20<sup>th</sup> October 2017, the Designated Public Protection Order DPPO restricting drinking in public places that was introduced in July 2014 under the Criminal Justice and Police Act 2001, automatically transitioned into a Public Spaces Protection Order under the Anti-Social Behaviour, Crime and Policing Act 2014. Dog Control Orders under the Clean Neighbourhoods and Environment Act 2005 transitioned in the same way.</p>

The conditions of the previous DPPO have not changed, meaning that it's still an offence anywhere in the Borough to refuse to surrender alcohol to the police or authorised person if there is, or is likely to be, associated anti-social behaviour. The previous Dog Control Orders continue to ensure those who refuse to pick up faeces after their dogs or keep their dogs on leads, if so directed, are fined or prosecuted.

Following concerns from local businesses and residents, the Town Centre Business Improvement District and visitors to the town, Bournemouth Council are considering whether a PSPO is required in Bournemouth Town centre to deal with unreasonable behaviour relating to:

- Busking in certain areas of the town
- Skateboarding in certain areas of the town

Undertaking public consultation will enable us to identify:

- how much of an issue this behaviour is having on Bournemouth Town Centre to decide whether such behaviour is having a detrimental effect on the community, and
- whether the behaviour is continuing/persistent and unreasonable, and
- what action should be taken, if any, to deal with this behaviour

If a PSPO is made, anyone breaching it is committing a criminal offence and can be punished either by a fixed penalty notice of £100 or a prosecution. Failure to pay a fixed penalty notice could also lead to prosecution. The PSPO measures apply to anyone aged 16 years and above and enforcement in this area is carried out by Dorset Police and authorised Officers. Persistent offenders who are found guilty of a breach of the PSPO can also be considered for further ASB sanctions upon conviction of the breach.

In order to introduce a PSPO, the council must be satisfied that the behaviours contained in the order effect the quality of life for local communities. The named behaviours must be continuing/persistent and unreasonable.

#### **Options - and reasons for rejection:**

1. Do nothing- this has been rejected due to the number of complaints and concerns that have been raised by local businesses, Ward Councillors and the Town Centre BID.
2. Identify individuals acting in an unreasonable manner and deal with them on an individual basis- this has been rejected as it would be resource intensive in terms of both officer time and cost and would undertake a reactive rather than proactive approach to dealing with the behaviour.
3. Carry out consultation with a view to implementing a PSPO to regulate the behaviour, subject to the consultation responses. This is the preferred option.

#### **Consultations undertaken:**

Informal discussions have taken place with Dorset Police, Bournemouth Town Centre Business Improvement District (BID), Enforcement Member Working Group and ward Councillors.

This Cabinet Member Decision is to instruct Officers to undertake consultation with Dorset Police and whatever community representatives it thinks appropriate. This will include:

- Targeted stakeholder engagement through the Chamber and Coastal BID with Town Centre businesses
- Press release detailing the consultation and coverage on the Council's social media platforms
- Information on the Council's Consultation Tracker webpage
- Consultation leaflet and online snapsurvey for responses

- Promotion at any relevant business or resident forum meeting
- Information leaflets in Bournemouth library

**Finance/Resource Implications:**

The consultation will be undertaken utilising officer time and existing resources. Any decision on whether to proceed with any PSPOs would be subject to the Council's decision making processes where the finance/resource implications will be examined with due diligence.

Name: *A Richards*

Signature: (of Chief Finance Officer)

Date: *26/10/17*

**Legal implications:**

PSPO's were introduced by The Anti-Social Behaviour, Crime and Policing Act 2014 with the purpose of dealing with a particular nuisance or problem in an area. The behaviour must be having a detrimental effect on the quality of life of those in the community and must be persistent or continuing and it must be unreasonable. The PSPO can impose restrictions on the use of that area which apply to everyone who is carrying out that activity. The Orders are designed to ensure that the law-abiding majority can enjoy public spaces, safe from anti-social behaviour. The Council can make a PSPO on any public space within its own area but before doing so it must consult with the local police and whatever community representatives it thinks appropriate. There is no statutory time frame for Consultation, however the Council should have regard to setting a reasonable time for this to allow representations to be made.

The Anti-Social Behaviour, Crime and Policing Act 2014 makes provision for any existing Gating Orders, Designated Public Protection Orders (DPPO) and Dog Control Orders to automatically convert to a PSPO with effect from 20<sup>th</sup> October 2017. A PSPO is valid for a maximum of 3 years. As such the previous DPPO and Dog Control Order are now deemed to be a PSPO and will be valid until 19<sup>th</sup> October 2020.

The proposed terms of the PSPO which will be the subject to any consultation agreed as a result of this Form will not impact upon the above.

It should be noted that there is a current bye-law restricting skateboarding in designated areas within the Borough and some of those areas may be mirrored in any PSPO that might cover this. If this is the case then pursuant to Section 70 of the Anti-Social Behaviour, Crime and Policing Act 2014 the bye-law that details an activity regulated by a PSPO is of no effect in relation to the restricted area during the currency of the PSPO.

A breach of a PSPO is a criminal offence. The maximum fine, following conviction, the Courts can impose is £1000. The Anti-Social Behaviour, Crime and Policing Act 2014 allows an offence to be enforced by either a prosecution via the Courts or in the alternative by issuing a Fixed Penalty Notice in lieu of summoning the offender to Court. The maximum amount the Council can set for the Fixed Penalty is £100. Therefore, a PSPO gives the Council a choice of enforcement methods.

To this end it must be noted that in order to either prosecute for a breach of a PSPO or issue a Fixed Penalty Notice in the alternative the Council must be satisfied that there is sufficient evidence to prove the breach of the PSPO and it is in the public interest to prosecute/issue a Fixed Penalty Notice. It should also be noted that if the Fixed Penalty is not paid then the Fixed Penalty is not able to be recovered as a Civil Debt, rather a decision should then be taken whether to issue a summons for the principle offence i.e the breach of the PSPO. To clarify the Fixed Penalty Notice is only a tool to deal with the offence as an alternative to



issuing a summons for the said offence.

In either case the offenders name and address must be obtained and a decision then taken as to the most appropriate enforcement tool, having regard to all the circumstances. Any person issuing a Fixed Penalty must be authorised by the Council in this regard.

If the Council decides to introduce a PSPO then an interested person (this is an individual who lives in the restricted area or who regularly works in the restricted area) has the right to appeal the decision to introduce the PSPO to the High Court within 6 weeks beginning on the day the PSPO is made.

Name: *SIAN BALLINGALL*  
Date: *26 OCTOBER 2017.*

Signature: *Deputy*  
(of Monitoring Officer)

**Risk assessment:**

There are risks associated to the consultation in relation to negative publicity and press coverage. Poole Council have recently undertaken a consultation on PSPOs and received a considerable amount of negative press attention. Their consultation, however, included proposals to regulate begging which is often seen as an emotive subject by the general public. This is outside of the scope of our consultation.

If the Council decided to proceed with a PSPO a risk assessment would be undertaken relating to the orders- this is outside of the scope of this CMD.

Name: *Clare Anderson* Signature: [Redacted]  
Date: *26/10/17.*

**Impact Assessments:**

Environmental impact assessment and Equality Impact Needs Assessment have been undertaken on the proposal to undertake consultation. No negative impacts have been identified relating to the consultation.

**Information for/not for publication:**

For publication.

**Background papers:**

Web Link to PSPO guidance:

[https://www.local.gov.uk/sites/default/files/documents/10.4%20-%20PSPO%20guidance\\_03\\_1.pdf](https://www.local.gov.uk/sites/default/files/documents/10.4%20-%20PSPO%20guidance_03_1.pdf)

Any conflict of interest declared by a Cabinet Member who is consulted by the Member taking the decision	Name of Cabinet Member	Nature of interest	Details of any dispensation granted by the Monitoring Officer

Yes/No\*  
(\*Delete as  
appropriate)

**Decision taken by:**

Councillor DAVID SMITH (Print name)

Cabinet Portfolio Planning & Environment

Signed: 

Date of decision: 25/10/17

**Date of publication of record of decision:** (to be inserted by Democratic Services)

**Date decision effective** - that is 5 working days after the date of publication of the record of decision unless the decision is called-in for consideration by the relevant Overview and Scrutiny Panel:

-insert  
date-

