

PUBLIC SPACES PROTECTION ORDER - PSYCHOACTIVE SUBSTANCES

Head of Service: Rod Brown, Head of Housing & Community
Wards affected: (All Wards);
Urgent Decision?(yes/no)
If yes, reason urgent decision required:
Appendices (attached): Appendix 1 - Equalities Impact Assessment
Appendix 2 - Draft PSPO
Appendix 3 - Consultation summary report

Summary

Report on the adoption of a new borough wide Public Spaces Protection Order to control the possession and use of psychoactive substances.

Recommendation (s)

The Committee is asked to:

- (1) Approve the Draft Public Spaces Protection Order in Appendix 2**
- (2) Delegate authority to The Head of Housing and Community to make the Order in accordance with the statutory process set out in the Anti-social Behaviour, Crime and Policing Act 2014.**

1 Reason for Recommendation

- 1.1 As part of our approach to enforcement and community safety the council has committed to take action to reduce anti-social behaviour. The adoption of a Public Spaces Protection Orders (PSPO) controlling the possession and use of psychoactive substances in a public place should help control and reduce anti-social behaviour.
- 1.2 During the initial covid-19 lockdown there was a steep rise in the quantities of nitrous oxide cannisters recovered from open spaces in the borough, particularly on the Epsom Downs. This increase built upon a more general trend seen over the last five years in the consumption of nitrous oxide as a way to induce a psychoactive effect without the use of more hard drugs.

Environment and Safe Communities Committee

25 January 2022

- 1.3 Members of the public have objected to the presence of the signs of use psychoactive substances in public places including litter in the form of non degradable metallic cannisters and balloons used to inhale the substance. There was also the sense that the presence of groups of individuals consuming substances in open spaces was a cause of alarm to the community.
- 1.4 More recently reports have slowed to previous levels but anecdotal reports from the Council's Streetcare team and others still point to there being an issue.

2 Background

- 2.1 A Public Space Protection Order (PSPO) is designed to stop individuals or groups committing anti-social behaviour in a public space. The Council can issue a PSPO following consultation with the police, Police and Crime Commissioner, the owner or occupier of land in the restricted area and other community representatives they see fit.
- 2.2 Under the 2014 Act PSPOs can be made where the following requirements are met:
 - activities in a public place have had or are likely to have a detrimental effect on the quality of life of those in the locality;
 - the effect of those activities is considered to be of a persistent or continuing nature; and
 - the activities are unreasonable
- 2.3 Enforcement of PSPO measures is through the criminal sanctions for breaches. A breach is a criminal offence. Enforcement officers can issue a fixed penalty notice of up to £100 if appropriate or the courts can impose a fine of up to level 3 on prosecution.
- 2.4 The Council carried out a formal consultation on the proposal to establish a PSPO to control the possession and use of psychoactive substances. This included publishing the consultation on our website and sending a copy to Surrey Police, the local Police and Crime Commissioners Office and Surrey County Council. The responses to that formal consultation are summarised in the Consultation Report Summary at Appendix 3.
- 2.5 Council Officers can be authorised to enforce the provision of the PSPO however, it is expected Surrey Police will be the main users of these provisions and the development of the PSPO has been carried out in close cooperation with the Borough Commander.

3 Proposal

Environment and Safe Communities Committee

25 January 2022

- 3.1 It is proposed that the draft order set out in Appendix 2 be made with the Head of Housing and Community delegated the ability to make the Order in accordance with statutory process as set out in the Anti-social Behaviour, Crime and Policing Act 2014.
- 3.2 The duration of the PSPO is proposed to be limited to two years in consideration of the limitations of available objective data about the current extent of psychoactive substance consumption following the surge in reports of nitrous oxide canisters during the coronavirus lockdown.

4 Risk Assessment

Legal or other duties

4.1 Impact Assessment

- 4.1.1 An equalities impact assessment has been prepared and appears as appendix one to this report.

4.2 Crime & Disorder

- 4.2.1 A positive effect is anticipated.

4.3 Safeguarding

- 4.3.1 No negative impacts have been identified

4.4 Dependencies

- 4.4.1 None

4.5 Other

- 4.5.1 None

5 Financial Implications

- 5.1 It will be necessary to place signage in certain areas of the Borough. The cost is expected to be in the region of £1k and is proposed to be funded from the Community Safety Reserve.
- 5.2 **Section 151 Officer's comments:** The current balance of the Community Safety reserve is £71,770 and therefore sufficient to meet the costs of the required signage.

6 Legal Implications

- 6.1 The Council has published the draft version of the PSPO in accordance with regulations.

Environment and Safe Communities Committee

25 January 2022

- 6.2 The Council can make a PSPO on any public space within its local authority area. The definition of public space is wide and includes any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission.
- 6.3 Anyone who lives in, or regularly works in or visits the area can appeal a PSPO in the High Court within six weeks of issue. Time starts to run again each time a PSPO is adopted, renewed or varied.
- 6.4 **.Legal Officer's comments:** none arising from the content of this report.

7 Policies, Plans & Partnerships

- 7.1 **Council's Key Priorities:** The following Key Priorities are engaged: Safe and Well
- 7.2 **Service Plans:** The matter is included within the current Service Delivery Plan.
- 7.3 **Climate & Environmental Impact of recommendations:** It might be expected that a small reduction in the presence of litter be produced from these proposals.
- 7.4 **Sustainability Policy & Community Safety Implications:** There is likely to be a positive community safety effect.
- 7.5 **Partnerships:** The existing statutory Community Safety Partnership consists of members, several of whom are consultees of these proposals in their own right. The CSP has been advised of these proposals and is supportive.

8 Background papers

- 8.1 The documents referred to in compiling this report are as follows:

Previous reports:

- none

Other papers:

- LGA: Public Spaces Protection Orders: Guidance for Councils https://www.local.gov.uk/sites/default/files/documents/10.21%20PSP%20guidance_06_1.pdf [accessed 20/12/21]