

Report of Harvinder Saimbhi, Head of Operational Delivery – ASB, Hate Crime & Security Services

Report to James Rogers, Director of Communities and Environment

Date: 11 September 2017

Subject: Public Space Protection Orders

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Is the decision eligible for Call-In?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number: <i>If the information is exempt rather than confidential, the public interest test should be addressed under 'Legal Implications, Access to Information and Call-In' in section 4.</i>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Summary of main issues

1. This report supports both the Safer Leeds Executive report dated 31 August 2017, and the associated Delegated Decision Notification (DDN) report.
2. This report provides the Director of Communities and Environment with an overview of the process to replace the current Designated Public Protection Orders (DPPO's) with 18 Public Space Protection Orders (PSPO's), across Leeds.
3. This report relates to a 'Key Decision' as the proposals are deemed to:
 - to have a significant effect on communities living or working in an area (including one ward);
 - and
 - which is not a decision which a direct consequence of implementing a previous Key decision, or in relation to which a further report will be submitted for approval of the proposal before the council is committed to proceed, or
 - which is not the result of varying a previous key decision in line with recommendations made by a scrutiny board following a call in of that decision.

Recommendations

- The Director of Communities and Environments to approve the 18 PSPO's as part of his delegated powers.
- The Director of Communities and Environments is advised that it is anticipated that PSPOs will come into force on 20 October 2017.
- Harvinder Saimbhi, ASB, Hate Crime & Security Services is the Officer responsible for implementation.

1 Purpose of this report

- 1.1 This report supports the Safer Leeds Executive report dated 31 August 2017, following the Safer Leeds Executive agreement made on 19 July 2017 to agree in principle the proposals for PSPOs for 18 areas in Leeds.

2 Background information

- 2.1 The Safer Leeds Executive report dated 31 August 2017, updates on the process that has been followed to enable Leeds City Council to consider the introduction of 18 PSPOs in the Leeds local authority area. The report considers the statutory consultation exercise conducted by the Council. It examines the responses to consultation and the main substantive issues raised during the consultation process.

3 Main issues

- 3.1 Leeds City Council is to introduce Public Space Protection Orders (PSPOs) for 18 areas in Leeds. An 'Order' is being considered for each individual area to address issues around anti-social behaviour related to alcohol and (in the city centre only) issues around Psychoactive Substances, also known as 'Legal Highs'. We are also taking the opportunity to address behaviours causing specific environmental and public safety/access issues in two of these areas.
- 3.2 For full details of the proposed PSPOs please visit:
<http://www.leeds.gov.uk/council/Pages/Public-Space-Protection-Orders-Consultation.aspx>
- 3.3 PSPOs deal with a particular nuisance in a defined public space where this is having a negative impact on the quality of life for those in that public space. A PSPO can stop or require an activity. For example, it may limit or stop alcohol consumption in a particular public space, or make requirements on residents relating to the presentation of waste.
- 3.4 Before introducing a PSPO the council must decide if it passes the legal test. For this, the behaviour being restricted has to:
- Be having, or is likely to have, a detrimental (harmful) effect on the quality of life of those in the locality;
 - Be persistent or continuing in nature; and
 - Be unreasonable
 - justify the restrictions imposed.
- 3.5 A PSPO lasts for a maximum of three years and can be renewed if necessary. Failure to comply with an order can result in a Fixed Penalty Notice of £100 or a maximum fine of £1000.
- 3.6 There are three activities which Leeds City Council's PSPOs will tackle:
- 3.7 Alcohol- all 18 areas

- Safer Leeds has evidence and anecdotal information from Safer Leeds Analytical Team, West Yorkshire Police, and Ward Councillors supporting alcohol related PSPOs in all 18 areas.
- Leeds City Council, West Yorkshire Police, and Community Safety Partners including Ward Councillors have advised that the existing DPPOs have been useful for agencies when responding to concerns of anti- social behaviour caused by alcohol. They have told us that providing the legal ‘test’ is met, they would like to see the DPPO scheme replaced by PSPOs.
- It is therefore proposed that all 18 proposed PSPOs will include a provision which makes it clear that ‘Person(s) within the Exclusion Zone will not: consume alcohol, or be in possession of an open container of alcohol in a public space’.

3.8 Psychoactive Substances – City Centre

- Safer Leeds has anecdotal information from West Yorkshire Police supporting a psychoactive substance provision within the proposed city centre PSPO
- Psychoactive Substances mimic the effects of cocaine, ecstasy, amphetamine, and cannabis. They have had their chemical structure altered to avoid being classed as illegal substances.
- They are structured and marketed in such a way as to avoid the controls of the Misuse of Drugs Act 1971, and they used to be known as ‘Legal Highs’.
- The term ‘Legal High’ is not used by Psychoactive Substances professionals as often now, following a law change in May 2016.
- The Psychoactive Substances Act (PSA) 2016 came into force on 26 May 2016.
- This Act makes it an offence to produce, supply or offer to supply, import or export any psychoactive substances if the substance is likely to be used for its psychoactive effects.
- The main intention of the ‘PSA’ was to stop shops, websites and people from trading in Psychoactive Substances.
- The Misuse of Drugs Act 1971 has been amended and following implantation on 14 December 2016, some psychoactive substances are now covered by this Act. However, it is known that manufacturers of psychoactive substances are still producing substances which fall outside of the Misuse of Drugs Act 1971.
- It is therefore proposed that Leeds City Centre will include a provision which makes it clear that Person(s) within the Exclusion Zone will not: ingest, inhale, inject, smoke or otherwise use intoxicating substances (including psychoactive substances) in a public space.

3.9 Household Wastes- Harehills and Armley

- We have anecdotal information from Leeds City Council's Cleaner Neighbourhoods Team supporting a 'household wastes' provision within Harehills and Armley.
- Residents and Leeds City Council's Cleaner Neighbourhoods Team have identified issues in some areas with waste receptacles and household waste being left in the street for prolonged periods of time. This is detrimental (harmful) in terms of causing obstructions for vehicles and pedestrians, and in terms of health. When bins are being left out, this causes and contributes to littering, fly tipping and poses a hazard to residents. Despite various initiatives over the years by residents and the Cleaner Neighbourhoods Team, some areas have shown no real improvement.
- It is therefore proposed that the Harehills and Armley PSPO will include a provision which makes it clear when residents should or should not leave out household wastes and waste containers for collection.

3.10 Our proposals for 18 PSPOs support the KPI of a 'Decrease in reported anti-social behaviour / nuisance concerns'; which is outlined in the Best Council Plan 2017/18: Tackling poverty and reducing inequalities; Resilient communities.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 Safer Leeds has carried out extensive consultation with community safety partner agencies, Leeds City Ward Members, and community representatives and stakeholders; including that required by statute. This consultation is outlined in the Safer Leeds Executive report dated 31 August 2017.

4.1.2 It is recognised that the PSPOs consultation could be of interest to many sections of the community, including public and special interest groups. Accordingly, Safer Leeds has consulted widely.

4.1.3 The public consultation survey generated a response from 1117 respondents with a direct connection to the locality; and of those respondents a total of 76% of stated that they supported a PSPO.

- The statutory consultation web based consultation exercise commenced on Monday 12 June 2017 and ran until Sunday 16 July 2017. The consultation was advertised and facilitated through the following media:
- Leeds City Council Ward Members in all affected areas were consulted with by email; and this generated some face to face meetings.
- Leeds City Council website and survey www.leeds.gov.uk/pspo , with 1117 individuals taking part in the survey.
- Leeds City Council Facebook shared in excess of 100 times to locality and special interest based FB groups and individual FB pages; including leedsface FB (which picked this up several times and has a membership of 55 000+).
- Leeds City Council Community Committee Facebook in all communities: Inner East, Inner North East, Inner North West, Inner South, Inner West,

Outer East, Outer North East, Outer North West, Outer South, Outer West; and these were shared to numerous individual FB pages.

- West Yorkshire Police Facebook in all divisions: City, Inner East, Inner North East, Inner North West, Inner South, Inner West, Outer East, Outer North East, Outer North West, Outer South, Outer West
- Leeds City Council Twitter accounts.
- Leeds City Council Cleaner Neighbourhoods Team Facebook.
- Leeds City Council Housing Leeds Facebook.
- Business Against Crime in Leeds (BACIL) website.
- Leeds Pubwatch website.
- Leeds City Council press release to media outlets; picked up by local publications and generic publications including Leeds Multi Agency Blog, Redditt Leeds, Wharfedale Observer, and Telegraph and Argus.
- Yorkshire Evening Post (03.07.17 - two page newspaper spread and editorial, plus website). This generated on-line/ off-line discussions.
- Leeds Community Safety Partnership Working Area teams disseminated information and awareness within all 18 proposed PSPO areas.
- Leeds City Council's Communities Team disseminated information and awareness within all 18 proposed PSPO areas, including special interest groups such as Tenants and Residents Associations and Town Councils.
- Leeds City Council's Communities Team- Central disseminated awareness within Leeds Migration Partnership.
- Leeds City Council's Communications and Marketing Business Partner, and Leeds City Council's Safer Leeds Service Improvement Manager contacted by email Leeds City Council staff.
- Leeds City Council's Crime Reduction Project Officer contacted by email community safety/ communities/ Housing Leeds / One Stop Centre and Community Hub staff.
- A Leeds City Council Safer Leeds phone number was provided for telephone advice and assistance.
- Community Hubs and One Stop Centre had available staff to help with advice and terminal access for 'non web savvy' customers.
- Leeds City Council's Cleaner Neighbourhoods Team disseminated information and awareness in Harehills and Armley.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 Safer Leeds has carried out an Equality Impact Assessment.

4.3 Council policies and the Best Council Plan

4.3.1 Our proposals for 18 PSPOs support the KPI of a 'Decrease in reported anti-social behaviour / nuisance concerns'; which is outlined in the Best Council Plan 2017/18: Tackling poverty and reducing inequalities; Resilient communities.

4.3.2 There will be periodic reviews by Leeds City Council's Safer Leeds and Cleaner Neighbourhoods Team, and West Yorkshire Police; and these reviews will ensure that the PSPOs continue to be justified and meet the 'test' of:

4.3.3 Behaviour being restricted has to:

- be having, or be likely to have, a detrimental effect on the quality of life of those in the locality;
- be persistent or continuing nature; and
- be unreasonable.

4.4 Resources and value for money

4.4.1 Regulations set out additional requirements regarding the publication of PSPOs that have been made, stipulating that these must be:

- published on the local authority's website
- erected on or adjacent to the place the Order relates to, and is sufficient to draw attention, setting out the effect of the Order and whether it has been made, varied or extended.

4.4.2 Leeds City Council has accounted for 18 PSPOs with 20 Signs each at a cost of £45 each; therefore the total cost is £16200 (plus VAT as applicable).

4.4.3 A comprehensive list required for the 18 areas will be required which is to include street names and postal codes along with lamp column numbers to which signage will be affixed. It is anticipated that Communities staff will provide this.

4.4.4 Enforcement costs (in terms of patrolling the localities) will be met by existing Police staff. There will be a cost to Safer Leeds for Fixed Penalty Notices, and the administration of those by Leeds City Council. It is not anticipated that Safer Leeds will be submitting many Court Applications and therefore those costs are likely to be relatively small. The Cleaner Neighbourhoods Team is currently utilising Fixed Penalty Notices, and prosecutions; and they anticipate a cost through increased enforcement following implementation of PSPOs. This cost has yet to be determined.

4.4.5 Income is likely to be generated from the use of Fixed Penalty Notices and/ or Court Applications where there has been a non-compliance of the Public Space Protection Order. However as members of the public become more aware of the terms of a PSPO, this income might reasonably be expected to reduce.

4.5 Legal Implications, Access to Information and Call In

4.5.1 Leeds City Council's Legal Services have been engaged and they have advised on a number of points preceding, during, and post consultation.

4.5.2 PSPOs can be subject to 'Variation' by increasing or reducing the restricted area, by altering or removing a prohibition or requirement included in the Order; or by adding a new one.

4.5.3 PSPOs can be subject to 'Discharge'.

4.5.4 Safer Leeds has carried out extensive consultation with community safety partner agencies, Leeds City Ward Members, and community representatives and stakeholders; including that required by statute

4.5.5 In accordance with regulations on publications PSPOs will be:

- published on the local authority's website

- erected on or adjacent to the place the Order(s) relates to, and is sufficient to draw attention, setting out the effect of the Order.

4.5.6 These publicity requirements are regarded as a legal minimum and an additional range of publicity options will be included via Leeds City Council's Communities Team and the Cleaner Neighbourhoods Team. This will include similar publicity methods as used in the public consultation such as the use of social media, press releases, contact with Ward Members, Town Councils Residents Associations etc, letter drops, information leaflets left at HUBS, and One Stop Centres etc.

4.5.7 This report is subject to call-in.

4.6 Risk Management

4.6.8 The Anti-Social Behaviour, Crime and Policing Act 2014 provides:

4.6.9 An interested person may apply to the High Court to question the validity of—

- a public spaces protection order, or
- a variation of a public spaces protection order
- "Interested person" means an individual who lives in the restricted area or who regularly works in or visits that area.

4.6.10 The grounds on which an application under this section may be made are—

- that the local authority did not have power to make the order or variation, or to include particular prohibitions or requirements imposed by the order (or by the order as varied);
- that a requirement under this Chapter was not complied with in relation to the order or variation

4.6.11 An application under this section must be made within the period of 6 weeks beginning with the date on which the order or variation is made.

4.6.12 On an application under this section the High Court may by order suspend the operation of the order or variation, or any of the prohibitions or requirements imposed by the order (or by the order as varied), until the final determination of the proceedings.

4.6.13 If on an application under this section the High Court is satisfied that—

- the local authority did not have power to make the order or variation, or to include particular prohibitions or requirements imposed by the order (or by the order as varied), or
- the interests of the applicant have been substantially prejudiced by a failure to comply with a requirement under this Chapter, the Court may quash the order or variation, or any of the prohibitions or requirements imposed by the order (or by the order as varied)

4.6.14 A public spaces protection order, or any of the prohibitions or requirements imposed by the order (or by the order as varied), may be suspended under subsection (4) or quashed under subsection (5)—

- generally, or
- so far as necessary for the protection of the interests of the applicant

4.6.15 An interested person may not challenge the validity of a public spaces protection order, or of a variation of a public spaces protection order, in any legal proceedings (either before or after it is made) except—

- under this section, or
- under subsection (3) of section 67 (where the interested person is charged with an offence under that section)

5 Conclusions

5.1 The Council is being asked to formerly approve the recommendations to make Public Space Protection Orders for all 18 areas, based on the behaviours indicated and the respective geographical 'exclusion zone' areas.

5.2 The Council is being asked to note that if further evidence is provided which is relevant to the effectiveness of this order, then the matter may be brought back to them, subject to the necessary evidence and consultation, for the order to be reviewed or varied or an additional PSPO be put in place as appropriate.

6 Recommendations

- The Director of Communities and Environments to approve the 18 PSPO's as part of his delegated powers.
- The Director of Communities and Environments is advised that it is anticipated that PSPOs will come into force on 20 October 2017.
- Harvinder Saimbhi, ASB, Hate Crime & Security Services is the Officer responsible for implementation.

7 Background documents¹

7.1 *None*

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.