

Board/Committee:	FULL COUNCIL
Date of meeting:	29 JULY 2020
Title:	TOWN CENTRE PSPO
Author:	SENIOR SOLICITOR AND DEPUTY MONITORING OFFICER
Status:	FOR DECISION

Purpose

This report seeks the approval of the Council to commence the public consultation for the variation and extension of the existing Town Centre PSPO 2017 which expires on 17 November 2020.

Recommendation

That the Council approves the revised Town Centre PSPO 2020 to control ASB in public places within the area shown edged black in the accompanying plan (the “Restricted Area”) as set out at Appendix A to go out for public consultation

1.0	Introduction
1.1	On 17 November 2017 the Council made the existing Town Centre PSPO 2017. The Council has used this to engage with groups and reduce the level of anti-social behaviour (“ASB”) in the area. However, it is apparent that the current PSPO is difficult to enforce and requires variation so as to be effective in deterring the prevalent antisocial behaviour in the area. Begging, alcohol and drug related ASB (the “Activities”) remain prevalent in Gosport High Street, The Bus Station, Falkland Gardens and The Ramparts. This conduct can have a detrimental impact on the quality of life for those who live and work in or visit Gosport town centre.
1.2	The Anti-Social Behaviour, Crime and Policing Act 2014 (the “Act”) introduced new powers to tackle anti-social behaviour in public places. A public place means any land or premises open to the public with or without payment whether expressly or impliedly (“Public Place”). These powers included the ability to introduce Public Space Protection Orders (“PSPO”).
1.3	A PSPO provides for restrictions to be placed on behaviour that apply to everyone in that public area (with the possible use of exemptions). Breach of a PSPO restriction, without a reasonable excuse, is a criminal offence. The maximum penalty on conviction is a fine not exceeding £1,000. A fixed penalty of £100 within 14 days (or £50 in 7 days) can be offered as an alternative to prosecution, which if paid in full discharges a person’s liability to criminal proceedings. It is enforceable by Council officers authorised by the Chief Executive as well as Police Constables and Police Community Support officers (“Authorised Officers”) and can last up to three years, after which it must be reviewed. It may upon review be

	extended for an up to a further three years. There is no limit on how many times it may be renewed.
1.4	<p>The Act allows the Council to make a PSPO if it is satisfied that the two conditions below are met (the “Legal Threshold”):</p> <p>a. Activities carried on in a public place have had or will have a detrimental effect on the quality of life of those in the locality; and</p> <p>b. The activities are persistent or continuing and are unreasonable and the restrictions imposed by the PSPO are justifiable.</p>
1.5	With the Town Centre PSPO 2017 due to expire in November this report considers the need for the Council to introduce the Town Centre PSPO 2020 to vary, improve and renew the provisions contained within the expiring PSPO.
2.0	Report
2.1	The following paragraphs set out in general terms the types of behaviour that are covered by the Town Centre PSPO 2020. Full details appear in the draft PSPO attached to this report at Appendix A.
2.2	<p>Alcohol related ASB</p> <p>Street drinking in itself can be perceived as upsetting and threatening by other users of Public Places. It is particularly upsetting when the activity is accompanied by public disorder such as verbal abuse and other offensive behaviour.</p>
2.3	<p>Begging</p> <p>There have been complaints of persons loitering in Gosport High Street outside cash machines and the ferry ticket machines asking for money from customers withdrawing cash or buying tickets. Some members of the public have stated they are intimidated by this activity and feel especially vulnerable when withdrawing money or getting cash out of their purse/wallet to buy a ferry ticket. On occasions, when members of public have declined to give persons money or walked away, they have been met with verbal abuse. Some members of the public have stated they feel pressured into giving money to people begging even where the person has not verbally asked for the money, for example where people hold receptacles out.</p> <p>Begging is a criminal offence under the Vagrancy Act 1824. However, there is no power for an Authorised Officer to issue a fixed penalty notice for the offence or to require a person to disperse from the area and not return there for a period.</p>
2.4	<p>Drug related activity</p> <p>The behaviour of persons under the influence of drugs is unpredictable, especially if mixed with alcohol, and they may engage in verbal abuse or</p>

	<p>offensive behaviour. Used needles deposited in Public Places pose a risk to public health from needle stick injury which can be associated with the transmission of blood borne pathogens such as hepatitis B virus (HBV), hepatitis C virus (HCV) and HIV associated with needle stick injuries.</p> <p>In recent years the use of Psychoactive Substances (PS), known as legal highs, has increased. They are unpredictable in their effect, but are often mixed with hard drugs (heroin, cocaine, etc.) or alcohol. Intoxicated persons can become very aggressive, or very passive and vulnerable. Despite legislation to criminalise supply of PS in April this year, consumption remains legal.</p>
2.5	<p>Urination and defecation</p> <p>The Council and the police have received complaints of persons, usually in drink or under the influence of drugs, urinating in the passageways of the Bus Station and the High Street. This is mainly a problem at night-time when people leave establishments after drinking, although it can also take place during the day. People who urinate in the street often do so against or near premises or in shop fronts, making it very unpleasant for the premises owners or residents who must clean up the mess, and for employees, visitors and customers who frequent the premises and have to walk through the mess. For many, it can also add to the perception of feeling unsafe.</p> <p>It is not an offence under the criminal legislation or local byelaws to urinate or defecate in a Public Place.</p>
3.0	<p>Rough sleeping and homelessness</p>
3.1	<p>Rough sleeping in Public Places in the Restricted Area is not considered in itself to be ASB. There is no proposal to prohibit this activity under the PSPO. However, there is a problem of people blocking doorways and fire escapes on the High Street and this is included within the PSPO.</p>
3.2	<p>The Council has the power under the common law to take action, where necessary and proportionate, to recover possession of any land or premises in its ownership, which is occupied without its consent. It is a matter for the owner or lawful occupier of any other land or premises to take their own action.</p>
3.3	<p>It is recognised that persons engaging in the Activities may be vulnerable through being street homeless and / or having mental health or alcohol or addiction issues. Council officers, as well as police and charities, regularly engage with rough sleepers on the street and offer them support in finding temporary accommodation and dealing with addiction or mental health issues. Tackling ASB will not be achieved by enforcement action in isolation. A focus on identifying vulnerable individuals who engage in the activities will continue to be part of the solution.</p>
3.4	<p>The Council chairs a group of local organisations which meets regularly to</p>

	<p>address issues related to rough sleeping. The Council also works in partnership with Two Saints, a local homelessness charity to support people who are homeless or threatened with homelessness. Two Saints provide the following services:</p> <ul style="list-style-type: none"> -a specialist outreach worker to engage with those sleeping rough on the street; -a local direct access hostel and other supported housing schemes which provide accommodation; -help and support with a range of issues such as accessing medical services and substance misuse teams and tenancy sustainment.
4.0	Alternatives to the PSPO and proportionality
4.1	There are other enforcement options which target individuals responsible for ASB such civil injunctions, criminal behaviour orders and community protection notices. The nature of the ASB is such that the Activities are often undertaken by groups rather than individuals.
4.2	The police dispersal power is only exercisable on the direction of a Police Inspector. The dispersal power proposed under the PSPO is more flexible in that it will be conferred on Council officers as well as the Police and can be issued to individuals engaging in one or more of the Activities which cause harassment, alarm or distress to others.
4.3	The Council is not seeking a blanket prohibition on the consumption of alcohol or PS in Public Places within the Restricted Area. The prohibitions apply where the Activity causes or is likely to cause alarm, harassment, alarm or distress to any reasonable member of the public. The power to require a person to disperse for breach of one or more restrictions on begging, alcohol consumption and drug use is limited to no more than 24 hours. This balances the need for swift action taken for the ASB to cease in order to protect the public with the rights of individuals to use public spaces. The Council believes that on balance the interest of the community to enjoy public spaces without having to be subjected to the ASB described outweighs any impact on the persons affected by the restrictions.
4.4	The Council may offer the person an Acceptable Behaviour Contract (“ABC”) rather than a fee, when issued with a fixed penalty notice (FPN). The ABC is voluntary and non-binding and can include promises to make positive actions, such as accessing housing or addiction services and/or undertake restorative measures such cleaning up vomit etc (something that other authorities have introduced).
4.5	The Council will only prosecute in those cases where a FPN has been issued and either the fee has not been paid or a requirement of an ABC has been breached, and prosecution is in accordance with the Council’s generic enforcement policy.
4.6	Historically the majority of the ASB complaints have occurred in the High

	Street and Falkland Gardens. It is therefore proportionate for the geographical area that the PSPO is to apply to be restricted to the locality of Gosport town centre and not beyond.
5.0	Consultation
	<p>The Act requires the Council to carry out the necessary consultation before making a PSPO, which includes the chief constable of Hampshire Police and Police and Crime Commissioner and the public (PCC). It is intended to go out to public consultation for a period of six weeks.</p> <p>A proposed draft online survey is attached to this report as part of Appendix B. The final survey carried out will be substantially in accordance with this.</p>
6.0	Risk Assessment
6.1	If the PSPO 2017 is not amended and extended it will lapse and it is anticipated that there will be an increase in ASB arising which will have a detrimental effect on the quality of life for many people in Gosport town centre, and discourage people from using businesses and amenities within the town centre.
6.2	The focus of the Council and the Police remains on supporting individuals identified as vulnerable through issues such as addiction. Enforcement will be targeted on those who unreasonably refuse help and assistance and engage in ASB. The approach to enforcing the PSPO will be the key to their success in tackling the ASB within the Restricted Area. Any enforcement activity should be supported by community education to highlight the availability of support services. This approach has been agreed with the police.
7.0	Conclusion
7.1	The Town Centre PSPO 2017 will expire unless renewed. If the Council resolves to approve the Town Centre PSPO 2020 for consultation the expectation is that it will return to Full Council on 7 October for consideration of the outcome of the Consultation. At that stage the Council would be in a position to determine whether the Town Centre PSPO 2020 should be approved or varied further so as to come into force on 17th November 2020.

Financial Services comments:	N/A
Legal Services comments:	Contained within the report. Section 66 of the Act does allow an 'interested person' to apply to the High Court to challenge the validity of the PSPO on prescribed grounds. Any appeal must be made within 6 weeks of the PSPO being made.

Crime and Disorder:	The report directly addresses anti-social behaviour and the Police will be consulted on the proposed PSPO
Equality and Diversity:	The Council must assess, having regard to all the circumstances, the impact that the proposed PSPO and its enforcement will have on its duty to advance equality of opportunity for all and need to eliminate discrimination. A full impact assessment will be undertaken for the purpose before the PSPO is finalised.
Service Improvement Plan implications:	
Climate Change implications:	
Corporate Plan:	
Risk Assessment:	See section 6.
Background Papers:	Town Centre PSPO 2017
Appendices:	Appendix 'A' Town Centre PSPO 2020 Appendix 'B' Draft Online Consultation
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