

Public Space Protection Orders (PSPOs)

PSPOs can be made under powers granted by the Anti-social Behaviour, Crime and Policing Act 2014 where 2 conditions are met-

1. Activities carried out in a public place have a detrimental effect on the quality of life of those in the locality, or it is likely that such activities will be carried out, and
2. The effect or likely effect of the activities is of a persistent or continuing nature, such as to make the activities unreasonable and justifies the restrictions imposed.

Consultation with the police and community representatives is required before a PSPO can be introduced. PSPOs can be resource intensive to introduce and enforce.

Guidance from the Local Government Association is that PSPOs should be used responsibly and proportionately to counter unreasonable and persistent behaviour that affects the quality of life of residents of an area. The guidance further states that other options should be actively considered before a PSPO is pursued as the issues may be addressed using other tools.

In the case of parking on the footway this could be prohibited by way of a traffic regulation order (TRO) under the Road Traffic Regulation Act 1984. A TRO may make any provision prohibiting, restricting or regulating the use of a road or any part of the width of a road, by vehicular traffic, or by vehicular traffic of any class specified in the order.

Byelaws

Byelaws are local laws made by a local council under an enabling power contained in a public general act or local act requiring something to be done or not done in a specified area. A byelaw cannot be made where alternative legislative measures exist that could be used to address problems.

Traffic issues are dealt with under the Road Traffic Regulation Act 1984. A byelaw is therefore inappropriate to prevent parking on the footway as this can be dealt with by a TRO made under the Road Traffic Regulation Act.

The Council has existing TROs preventing parking on the footway and verges in the Surrenden and Mile Oak areas and on part of Carden Avenue.

Body-worn CCTV

Under the Human Rights Act 1988 which binds public authorities a pressing need has to be demonstrated when surveillance is undertaken. The use of surveillance cameras must be necessary, proportionate and transparent. Body cameras must be used in a way that does not invade a person's privacy.

Clear rules, policies and procedure must be in place before a surveillance camera system is used. Security measures must also exist as a safeguard against unauthorised access and use. Under the data protection legislation the person being recorded must be told that they are being recorded,

who is processing their information and why. Data protection legislation also applies to the use, processing and storage of recordings.

At present the Council's Civil Enforcement Officers do not use body worn cameras. If the use of body worn cameras is to be introduced, policies and procedures must first be in place to ensure that their use by CEOs complies with the Data Protection Act, Protection of Freedoms Act, Human Rights Act and Regulation of Investigatory Powers Act.

Static traffic cameras/CCTV

The legislation relating to TROs allows a local authority to install structures on or near a highway for the detection of contraventions of the authority's TROs and to use the information provided by them to serve a Penalty Charge Notice (PCN) on the registered keeper of the vehicle that contravenes the TRO. The system may be used to survey any area of highway on which there are parking and traffic restrictions. The use of CCTV cameras must comply with the Data Protection Act, Protection of Freedoms Act, Human Rights Act and Regulation of Investigatory Powers Act.

An essential and integral part of any CCTV system operated by an authority is its Code of Practice which must set out the objectives of the system and the rules by which it will be operated. The Code of Practice ensures that issues such as privacy, integrity and fairness are properly dealt with. It sets a minimum standard which an authority choosing to enforce traffic regulation using CCTV cameras must comply with to ensure public confidence in the scheme.

At present the Council uses CCTV cameras to enforce the traffic restrictions in bus lanes and parking contraventions of double parking and parking in loading bays in some areas of the City. A code of practice for CCTV enforcement exists to ensure compliance with the relevant legislation and to set out the procedures for operation of the system.

Lawyer Consulted: Stephanie Stammers, Solicitor, Brighton & Hove City Council Date: 23/10/2017