

Brighton & Hove City Council

Equalities, Safety and Human Rights Committee

Agenda Item 19

Subject: Public Space Protection Orders

Date of meeting: 13th October 2023

Report of: Executive Director – Housing, Neighbourhoods, and Communities

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Ward(s) affected: All

For general release

1. Purpose of the report and policy context

- 1.1 Public Space Protection Orders (PSPOs) are intended to deal with a particular nuisance or problem in an area that is detrimental to the local community's quality of life by imposing conditions on the use of that area that apply to everyone. They are designed to ensure people can use and enjoy public spaces safe from anti-social behaviour (ASB).
- 1.2 In 2017, existing Dog Control Orders, and the Designated Public Place Order for addressing anti-social behaviour associated with alcohol use in public space transitioned into PSPOs. There was no requirement at this time to consult on the transition due to a change in legislation and the provisions of the orders stayed the same. However under the Anti-social Behaviour, Crime and Policing Act 2014, there is a requirement to consult on these continuing to be in place every three years. The Tourism Equalities, Culture and Communities Committee agreed to an extension in 2020. These orders are due to expire in October 2023.
- 1.3 Following concerns raised by local businesses and residents around criminal and anti-social behaviour, PSPOs have been granted in five locations in the City since 2007 which allowed access to be restricted to an area by the installation of a gate. Four of these five orders are due to expire in October 2023 and we therefore consulted on whether residents and businesses in the locality support their continuation. These orders are in relation to Brunswick Row, Farman Street, Oxford Court, and St James Court.

2. Recommendations

- 2.1 That Committee endorses the continued use of the PSPOs relating to the exiting gating, dog control, and alcohol PSPOs for three years until further

review is required in 2026. The orders will be amended to reflect these new dates.

3. Context and background information

- 3.1 Under the Anti-social Behaviour, Crime and Policing Act 2014, existing Designated Public Protection Orders (DPPOs), Gating Orders, and Dog Control Orders in place at the time the Act came into force continued for three years. From October 2017 those orders automatically transitioned into PSPOs with the same conditions as the original orders.
- 3.2 The Gating Orders and subsequent PSPOs have addressed and reduced ASB in relation to the areas that gates have been installed.
- 3.3 In relation to dog control, the PSPOs have meant less risk of people, especially children, being affected by diseases associated with dog faeces and a reduced risk of incidents involving dogs not on leads.
- 3.4 Brighton & Hove has a city wide PSPO in relation to alcohol consumption in public spaces. This order allows Police Officers and Police Community Support Officers to remove alcohol from any person in a public place if that person is involved in ASB or the officer believes that by having alcohol in their possession there is an increased risk of ASB. This has been useful in tone setting in the City and Police colleagues are in support of the continuation of the order. The PSPO is attached at Appendix 1.
- 3.5 Brighton & Hove has a number of PSPOs in relation to dog control in place in a number of parks and open spaces, including the seafront. They replaced former inconsistent and unenforced bylaws. There are four orders in relation to:
 - Fouling of land by dogs
 - Dogs on leads
 - Dogs on leads by direction
 - A dog exclusion zoneThe orders are attached at Appendices 2-5.
- 3.6 Brighton & Hove had two original gating orders in place. The order at Brunswick Row was implemented to manage drug use, dealing, and street drinking. The order at Farman Street was implemented to manage night time disorder, drug use, criminal damage, and street drinking. Both orders require residents to manage the locking of gates overnight. These orders are attached as Appendices 6 and 7 respectively.
- 3.7 Two further gating PSPOs in Oxford Court and St James Court were granted by the Neighbourhood Inclusion Communities and Equalities Committee in March 2018. These are also managed by local residents and both were implemented to manage ASB. These orders are attached as Appendices 8 and 9 respectively.
- 3.8 Since 2019, staffing resources to implement further gating PSPOs have been limited due to budget saving requirements. Whilst the procedure is currently

under review, as it stands further PSPOs will only be considered in extreme circumstances. The existing PSPOs are appreciated by the communities they serve.

- 3.9 There is a statutory requirement for the Council to consult on the continuation of PSPOs. A full public consultation was carried out on the Council's consultation portal between 11th August and 3rd September 2023 in relation to the dog control and alcohol consumption PSPOs. In relation to the gating PSPOs, affected residents were written to on 11th August and invited to provide feedback on the continuation of the orders before 3rd September 2023. As required by the legislation, the Chief Superintendent of Sussex Police was also invited to complete the consultation. Analysis of the results of the consultation is attached as Appendix 10. The consultation shows that there is support for the dog control, alcohol use, and gating PSPOs continuing.
- 3.10 122 responses were received in relation to the alcohol use PSPO. Of these, 65% respondents strongly agreed that they should remain in place with 17% tending to agree that they should remain in place. 181 responses were received in relation to the dog control PSPOs. 58% of respondents strongly agreed that they should remain in place and 15% tended to agree that they should remain in place. Sussex Police support of the continuation of these orders. The Dog's Trust broadly support the continuation of the PSPOs in relation to dog control, particularly in relation to the fouling of land by dogs and dogs on leads by direction.
- 3.11 Improved enforcement and clearer signage were key themes throughout responses in relation to both the alcohol use and dog control PSPOs. We are working with partners to address these issues.
- 3.12 Whilst there were limited responses to the consultation regarding the four gating PSPOs, all residents who did respond were in support of the orders continuing as they felt the gates had reduced incidents of ASB which they had been installed to address. Sussex Police are in support of all four gating PSPOs continuing.

4. Analysis and consideration of alternative options

- 4.1 Whilst it would be possible to allow these PSPOs to lapse, they are helpful in managing the specific ASB they were introduced to address.
- 4.2 PSPOs have proved an effective enforcement method because a separate Court application is not required for each new matter as would be the case for e.g. an injunction, saving both time and resource. Unlike enforcement action using bylaws, PSPOs allow an immediate fine to be issued, providing an immediate impact and an effective deterrent.
- 4.3 Residents and professionals are in support of the continuation of the orders.

5. Community engagement and consultation

- 5.1 In relation to the PSPO regarding alcohol, Police are of the view that the order should remain in force as a helpful tool in acting as a deterrent and helping to manage ASB in the City. Local drug and alcohol and street outreach services were contacted specifically to inform the consultation.
- 5.2 Environmental Enforcement at Brighton & Hove City Council have not received any requests for changes to the dog control PSPOs and therefore consider them to be proportional and appropriately targeted.
- 5.3 Residents have been contacted in the locality of the four gating PSPOs. Those who responded feel that the orders were still necessary as a community safety and crime reduction measure and that the gates had reduced ASB in the vicinity.

6. Conclusion

- 6.1 At any time, where there is evidence and strong public support, these orders can be varied or rescinded; however there does not appear to be support for these orders to be rescinded or varied at this time.

7. Financial implications

- 7.1 There are no direct financial implications arising from the recommendations made in this report.

Name of finance officer consulted: Monica Brooks
Date consulted: 21/09/2023

8. Legal implications

- 8.1 Consultation and analysis of that consultation is the key legal requirement in this case of a PSPO. The consultation is recent and significantly in favor of the alcohol related PSPO. It is more nuanced with regards to dogs, but the majority response still support the position of an order. About two thirds supported or tended to support the making of an order. If the order is made by committee there are follow up steps such as publication of the order which will need to be completed.

Name of lawyer consulted: Simon Court
Date consulted: 15/09/23

9. Equalities implications

- 9.1 We have considered the applicability of equalities. In relation to the gating orders we consider there to be none. We do not see how the wider community would be impacted and so it is whether the local residents would face difficulties challenges – none have been reported to us. In relation to dog

controls, we are mindful of people who have assistance dogs. Were this to be the case then we could consider this on a case by case basis, this would be a proportionate way of dealing with any disability related issues. The overall legitimate aim being to protect the whole community from dog owners who behave poorly and so impact on other users of public spaces including other dog owners, who are responsible. This relates to those who have a disability. We have not identified that it would impact on anyone else with a protected characteristic.

With regards to the alcohol provisions. We have noted that this may impact those with a disability. It is often the case that those with substance misuse issues will have closely linked mental health issues which might be protected characteristics under the legislation. We have considered this and as the purpose of the orders is to address anti-social behavior and protect public safety, we believe that this a proper act of indirect discrimination as it is pursuing a legitimate aim and is being done in a limited and proportionate manner. We believe there have been no prosecutions in the last three years for breaches of the order, however it has been effective in allowing early intervention by the Police. We do not believe that it will have any other equalities issues directly or indirectly for any other group with a protected characteristic.

10. Sustainability implications

- 10.1 There are no sustainability implications in relation to this report.

11. Other Implications

Crime & disorder implications:

- 11.1 These orders assist the Council in discharging its duty under the Crime and Disorder Act 1998 and the Anti-Social Behaviour, Crime, and Policing Act 2014.

Supporting Documentation

1. Appendices

1. Draft PSPO – alcohol use in public spaces
2. Draft PSPO – fouling of land by dogs
3. Draft PSPO – dogs on leads
4. Draft PSPO – dogs on leads by direction
5. Draft PSPO – dog exclusion zone
6. Draft PSPO – Brunswick Row
7. Draft PSPO – Farman Street
8. Draft PSPO – Oxford Court
9. Draft PSPO – St James Court
10. Analysis of consultation – dog control and alcohol use PSPOs