

<b>Subject:</b>	<b>Review of Park and Open Spaces Public Spaces Protection Order</b>		
<b>Date of Meeting:</b>	<b>Monday 19<sup>th</sup> of March 2018</b>		
<b>Report of:</b>	<b>Executive Director Neighbourhoods, Communities and Housing</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Jo Player</b>	<b>Tel: 01273 292488</b>
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<b>Ward(s) affected:</b>	<b>All</b>		

**FOR GENERAL RELEASE**

**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 The purpose of this report is to consider the effectiveness of the Parks and Open Spaces Public Spaces Protection Order (PSPO) that was implemented in April 2017 under section 59 of the Anti-social Behaviour Crime and Policing Act 2014.
- 1.2 The report documents the proactive approach taken by the council in monitoring the Parks and Open Spaces PSPO which is in place until January 2020.

**2. RECOMMENDATIONS:**

- 2.1 That the committee notes the review undertaken in relation to the impact and enforcement of the Parks and Open Spaces PSPO as set out in the report.

**3. CONTEXT/ BACKGROUND INFORMATION**

- 3.1 PSPOs are intended to be used 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).
- 3.2 Analysis was undertaken of ASB in parks and open spaces where people were reporting that areas were blighted by anti-social behaviour. Consultation took place with people using those areas including residents, park users and those that might be impacted upon by the suggested prohibitions. This resulted in the Parks and Open Spaces PSPO being drawn up and agreed by Policy, Resources and Growth Committee in July 2016. The order came into effect in January 2017 and was implemented in April 2017.
- 3.3 The order covers the following areas where there was substantial evidence of ASB:

- Greenway (New England Quarter)
- Hollingbury Park
- Lawn Memorial Cemetery and adjacent land (Woodingdean)
- Preston Park
- Rottingdean Recreation Ground
- The seafront including the A259 from Black Rock to Hove Lagoon
- Sheepcote Valley and East Brighton Park
- St Helens Green
- Stanmer Park
- Surrenden Field
- Waterhall
- Wild Park

3.4 The PSPO includes the following prohibitions and positive requirements:

Prohibitions:

- Occupying any vehicle, caravan, tent or other structure
- Driving any vehicle on grass
- Littering or fly tipping
- Lighting or maintaining a fire
- Defecating or urinating

Positive requirements:

- Removing any vehicle, caravan, tent or other structure within 12 hours
- Disposing of items as directed
- Permitting a council, police or fire officer to extinguish a fire
- Providing name, address and date of birth when required to do so by a council or police officer

3.5 Breaching a PSPO is a criminal offence. A fixed penalty notice (£75) can be issued or a summons can be served. No fixed penalty notices have needed to be issued in Brighton & Hove to date. Many verbal warnings have been given and 123 warning letters were issued between April and September 2017. These have largely led to compliance with the order.

3.6 People staying in these locations at the time the order was implemented include Gypsies and Travellers who tend to use large caravans and towing vehicles, new travellers who use a variety of older large vehicles including caravans, people who sleep in tents rather than rough sleep in the open and in some instances people camping whilst visiting Brighton. In relation to the tent encampments, these include a broad range of people often with vulnerabilities.

3.7 The implementation of the order was delayed until April 2017 when the council had opened a transit site for Gypsies and Travellers to enable officers to encourage Gypsies and Travellers to move to that site from locations where they had set up in the city.

- 3.8 During 2017 the city saw an increasing number of people occupying tents rather than sleeping rough. In the majority of instances joint working between commissioned rough sleeping services, the council and the police have enabled these people to receive support and/or to move on from areas where ASB was being reported and, where possible in to accommodation or to be reconnected with support in areas outside of the city in instances where they have no local connection. The Tent Protocol (which can be found at Appendix 2) and good joint working has been key to this work.
- 3.9 There were concerns that there would be displacement created by the PSPO. The table below shows unauthorised encampments that were recorded by the council outside of the PSPO areas between April and September in 2016 and the same period in 2017 when the order was in place. These encampments were managed using existing powers available to the council and police.

**Non PSPO encampments April to September inclusive**

Location	Encampments 2016	Days of occupation 2016	Encampments 2017	Days of occupation 2017
Patcham Place	1	3	4	12
Coldean Woods	3	65	1	34
Victoria Rec Portslade	0	0	1	2
39 Acres	0	0	2	33
Racehill Allotments	1	47	1	34
Lynchett Close Car Park	1	13	1	20
Home Farm Road	0	0	1	3
Devil's Dyke Road	2	22	1	33
Carden School	0	0	1	2

- 3.10 In relation to the PSPO sites and unauthorised encampments, officers have carried out welfare checks and pointed out that there is a PSPO in place. Where people are in breach and have not moved on, warning letters have been issued. This has in the majority of cases, combined with the option of moving to the transit site where appropriate, enabled officers to move the unauthorised encampment where there are no presenting welfare issues.

- 3.11 The table below shows unauthorised encampments on PSPO areas and where warning letters were issued in relation to unauthorised encampments in PSPO areas by the council between April and September 2017.

**PSPO encampments April to September inclusive**

<b>Location</b>	<b>Encampments 2016</b>	<b>Days of occupation 2016</b>	<b>Encampments 2017</b>	<b>Days of occupation 2017</b>	<b>Warning letters issued 2017</b>
Wild Park	5	29	4	8	9
Waterhall	4	32	5	15	41
Stanmer Park	6	28	2	2	11
Preston Park	8	24	2	5	25
Hove Lawns	5	34	2	8	26
Madeira Drive	4	46	3	4	11

- 3.12 In relation to tent encampments, that are in the majority of cases occupied by rough sleepers, the council have used existing powers and commissioned support services to manage the issues presented. The Seafront Team and City Parks officers have used the existence of the PSPO as a means of persuading people to move on but based on proportionality and necessity no formal warning letters have been issued.
- 3.13 The PSPO in place in the city does not target rough sleepers but it is the case that the majority of tent dwellers are sleeping in tents as an alternative to sleeping in the open. The order only applies to selected areas in the city.
- 3.14 In December 2017 the Home Office issued revised guidance to accompany the Anti-social Behaviour Crime and Policing Act 2014 and it included the following.

‘Public Spaces Protection Orders should not be used to target people based solely on the fact that someone is homeless or rough sleeping, as this in itself is unlikely to mean that such behaviour is having an unreasonably detrimental effect on the community’s quality of life which justifies the restrictions imposed. Councils may wish to consider whether the use of a Public Spaces Protection Order is the appropriate response. These orders should be used only to address

any specific behaviour that is causing a detrimental effect on the community's quality of life which is beyond the control of the person concerned. Councils should therefore consider carefully the nature of any potential Public Spaces Protection Order that may impact on homeless people and rough sleepers. It is recommended that any Order defines precisely the specific activity or behaviour that is having a detrimental impact on the community. Councils should also consider measures that tackle the root causes of the behaviour, such as the provision of public toilets.

The council should also consider consulting with national or local homeless charities when considering restrictions or requirements which may impact on homeless people and rough sleepers.'

- 3.15 Prohibitions in the order that cover the lighting of fires, defecating and urinating, driving on grass and littering and fly tipping have not been called upon by officers.
- 3.16 It should be noted that no fixed penalty notices have been issued and no offenders have been summoned to court to date. Officers are of the opinion though that the prohibitions, accompanied by warnings are working reasonably well as a deterrent. In some instances this is because although the order has been breached a better resolution has been found and it would not be proportionate or necessary to prosecute.
- 3.17 There have been several occasions when council officers have not been in a position to safely challenge breaches and take out a prosecution, either because officers were being threatened and were in an unsafe situation, or because although police were requested they were not in a position at that time to support officers. These decisions in relation to officer safety and enforcement are not exceptional. Other teams experience similar problems on some occasions.

#### **4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS**

- 4.1 There are other provisions available to officers to manage ASB in parks and open spaces in relation to the prohibitions of the existing order. In relation to encampments these include powers under the Criminal Justice and Public Order Act 1994 and common law powers and Part 55 of the Civil Procedure Rules. Additionally there is a tent protocol in place where a notice is served prior to the removal of tents
- 4.2 There are also other provisions available for officers to manage other prohibitions including bylaws and other criminal and civil remedies.
- 4.3 The order enables officers to use a more direct approach to manage ASB in parks and open spaces if they believe it is appropriate and proportionate. Although no prosecutions have been pursued in many instances officers have found the order useful in managing ASB and setting the tone. Areas where the order is in force are supported with signage which may also discourage ASB.
- 4.4 There are no findings in the review that prevent the order continuing until it's expiration in January 2020.

#### **5. COMMUNITY ENGAGEMENT & CONSULTATION**

5.1 There was extensive consultation undertaken prior to the introduction of the order. The outcome of consultation through the Council Portal can be found at Appendix 1.

5.2 Feedback since the order has been in place has been positive. Local Action Teams (LATs) and park users have been canvassed. LAT responses have endorsed the order, some LATs would like to order extended to other areas. Brighton Rugby Club based at Waterhall said:

‘the order has been revolutionary for us, there have been no instances of ASB since the order was in place and we have not changed any security measures to effect this. We can provide a community sport without damages, intimidation, and rubbish clear ups. We have found the whole experience much improved’.

Friends Families and Travellers, an organisation supporting Gypsies and Travellers, have written to the council to ask them to consider withdrawing the order in light of the revised guidance from the Home Office.

## **6. CONCLUSION**

6.1 The order has, as part of a range of options, added and strengthened responses to ASB in parks and open spaces. There is no direct evidence of displacement.

## **7. FINANCIAL & OTHER IMPLICATIONS:**

7.1 There are no immediate financial implications in relation to this report if the recommendations are accepted.

*Finance Officer Consulted: Monica Brooks*

*Date: 1/03/18*

### Legal Implications:

7.2 The updated Home office Guidance issued in December 2017 is statutory guidance to which the Local Authority must have regard. As set out in the body of the report, the Parks and Open Spaces PSPO (The Order) complies with the updated Home Office Guidance because the Order is targeted at specific behaviour in specific locations which is having a detrimental impact on the community. The Order does not target people based on the fact they are homeless or rough sleeping. Each case is treated on its facts and the process is designed to be proportionate in its operation. Built into the operation of the Order is a ‘grace period’ which allows breaches to be rectified in a reasonable period of time.

*Lawyer Consulted: Simon Court*

*Date: 09/02/18*

### Equalities Implications:

7.3 In relation to groups protected by the Equality Act 2010 there is an impact on Gypsies and Travellers because they are likely to be frequently affected by the

PSPO prohibitions if they are in one of the twelve locations. However there is a Transit and Permanent site in the city that is available.

- 7.4 In relation to people that are using tents and are homeless a broad range of support services are available to them to help them off the streets some of which are commissioned or directly delivered by the council.
- 7.5 Discretion in relation to the enforcement of the order is exercised by officers. The council and commissioned services will continue to assess the welfare needs of those that are breaching the order.
- 7.6 The order is only one of a number of options available to address anti-social behaviour and is considered alongside other remedies such as injunctions, bylaws, criminal prosecutions the tent protocol and powers under the Criminal Justice and Public Order Act 1994 to deal with encampments.
- 7.7 The council's approach to social inclusion identifies poverty as an important factor in disadvantage and that therefore all work relating to the order has assessed the impact on people living in poverty (here specifically people sleeping rough) and responds appropriately to this need. The council has also taken note of the revised guidance from the Home Office in relation to the Anti-social Behaviour Crime and Policing Act. No negative impacts relating to poverty have been identified.

Crime and Disorder Implications:

- 7.8 The order is only one of a number of options available to address anti-social behaviour and is considered alongside other remedies such as injunctions, bylaws, criminal prosecutions the tent protocol and powers under the Criminal Justice and Public Order Act 1994 to deal with encampments.

## **SUPPORTING DOCUMENTATION**

**Appendices:**

1. PSPO Consultation Report
2. Tent Protocol

