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Cabinet

4<sup>th</sup> October 2017

**Name of Cabinet Member:**

Cabinet Member for Policing & Equalities – Councillor A Khan

**Director Approving Submission of the report:**

Deputy Chief Executive (Place)

**Ward(s) affected:**

All

**Title:** Creation of a Citywide Public Spaces Protection Order

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**Is this a key decision?**

Yes – the proposals within the report will have implications for all Wards across the City.

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**Executive Summary:**

On the 4<sup>th</sup> July 2017 permission was obtained from Cabinet to consult on a new City Wide Public Space Protection Order (PSPO). There are three main elements to this order;

- i) To extend and slightly amend existing control measures in the city regarding the consumption of alcohol in public places (away from licensed premises)
- ii) Measures to tackle the issue of nuisance use of off road motorbikes and similar vehicles
- iii) Powers to be able to seize and dispose of any containers of Nitrous Oxide (Laughing Gas).

210 people replied to the consultation, which received unanimous support. There have been some slight amendments to the proposed Order in light of comments received in the consultation process. This report now seeks approval from Cabinet to implement the Order.

**Recommendations:**

The Cabinet is recommended to:-

1. Consider and approve the wording of the proposed PSPO and the suggested area to be covered by the Order, as set out in Appendices 1 and 2.
2. Authorise officers to bring the Order into effect at the earliest practicable date.

**List of Appendices included:**

Appendix 1 – Draft Citywide Public Space Protection Order for Coventry

Appendix 2 – Map outlining area covered

Appendix 3 – Summary of Consultation Responses

Appendix 4 – Impact Statements

**Background papers:**

None

**Other useful documents:**

Cabinet report 4<sup>th</sup> July 2017, permission to consult granted.

<http://democraticservices.coventry.gov.uk/ieListDocuments.aspx?CId=124&MId=11470&Ver=4>

**Has it been or will it be considered by Scrutiny?**

No

**Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?**

No

**Will this report go to Council?**

No

**Report title:** Creation of a Citywide Public Spaces Protection Order

## **1. Context (or background)**

- 1.1 The Anti-Social Behaviour, Crime and Policing Act 2014 gained Royal Assent in April 2014. The Public Spaces Protection Order (PSPO) provision has been in operation since 20th October 2014. PSPO's are intended to provide a means of preventing individuals or groups committing anti-social behaviour in a public space where the behaviour is having, or likely to have, a detrimental effect on the quality of life of those in the locality; be persistent or continuing in nature; and be unreasonable.
- 1.2 The proposed City Wide PSPO will continue the current restrictions regarding the consumption of alcohol in public (Designated Public Places Order), as well as allowing officers to use their discretion to seize unopened vessels of alcohol and canisters of nitrous oxide gas. The Order will also make being in possession of an off road bike, or similar vehicle, an offence unless that individual has the correct insurance for being on public roads and the express permission of the landowner when on private land. Full details of the Order can be seen in Appendix 1
- 1.3 On the 4<sup>th</sup> July 2017 Cabinet granted permission to carry out a public consultation on the introduction of this proposed City Wide PSPO.

## **2 Options considered and recommended proposal**

- 2.1 **Do nothing (not recommended).** The local authority and the Police, in some cases, already have powers to deal with certain adverse behaviour covered in the proposed PSPO. However, these current powers are viewed as being overly bureaucratic and can quickly result in offenders obtaining criminal records, which may adversely affect their future employment prospects. Equally, if the conditions around public drinking were to be relaxed, we have no way of predicting what impact this may have.
- 2.2 **Approve a citywide PSPO (recommended).** The introduction of a specific City Wide PSPO, would provide useful powers for Council officers and the Police in addressing adverse behaviours in the city. It is quick and easy to use, which is an important consideration when both organisations are facing reductions in resources. It also has the added benefit of enabling the offender to accept a fixed penalty notice rather than appear in court and receive a criminal record. The wording of the proposed PSPO can be seen in Appendix 1.
- 2.3 The proposed City Centre PSPO will cover the whole of the City (see Appendix 2).
- 2.4 In summary, Cabinet is recommended to:
  1. Consider and approve the wording of the proposed PSPO and the suggested area to be covered by the Order as shown in appendix 1 and 2
  2. Authorise officers to bring the Order into effect at the earliest practicable date

### 3. Results of consultation undertaken

3.1 Consultation took place with partners, businesses, residents and the general public. The consultation was for a period of approximately one month between 5<sup>th</sup> July and 6<sup>th</sup> August 2017.

The consultation was online, and key partners and trade associations were directly consulted with and paper copies were provided where and when required. The results of the consultation can be seen in Appendix 3.

3.2 It is a requirement of granting a PSPO that it can be shown that it is needed and proportionate to a given issue. Impact statements, responses from specific organisations and supporting evidence can be found in Appendix 4

3.3 Three questions were posed in the consultation and people were invited to give an answer of yes, no or don't know. In addition there was also an opportunity to allow people to make comments to expand upon their answer.

3.4 Questions were all very well supported with all responses indicating strong support for the measures proposed.

Question	Yes	No	Don't Know
1 Coventry has had measures in place to control the drinking of alcohol in public for approximately 30 years. The proposed order is to continue to control the drinking of alcohol in public, away from licensed premises. Do you support the introduction of this order?	185 (93%)	14 (7%)	0
2 Nitrous Oxide (also known as "Laughing Gas") is a substance that can pose a health risk to people using it. The supply of it is currently illegal, but possession is not. It is linked to incidents of Anti-Social Behaviour. The proposed order will introduce powers to allow officers to seize canisters of Nitrous Oxide in the possession of people in a public space. Do you support the introduction of this order?	185 (93%)	14 (7%)	0
3 The proposed order will introduce powers to stop the use of off road bikes or similar mechanically propelled vehicles on public open spaces. Do you support the introduction of this order?	187 (94%)	12 (6%)	0

### 4 Timetable for implementing this decision

4.1 Should the Order be approved by Cabinet it will be implemented at the earliest practical date.

A PSPO is valid for a period of 3 years, they can be rescinded, amended or extended at any point during that period. Any amendment or extension will need to follow the process again.

## **5 Comments from Director of Finance and Corporate Services**

### **5.1 Financial implications**

No additional resource will be required to implement the proposed PSPO. Any additional income generated by the introduction of a PSPO will contribute towards Council resources.

### **5.2 Legal implications**

Under sections 59-75 of the Anti-social Behaviour, Crime and Policing Act 2014, local authorities have powers to make PSPOs.

The Council can only make a PSPO when it is satisfied on reasonable grounds that the activities carried out or likely to be carried out in a public place have a detrimental effect on the quality of life of those in the area and are persistent, continuing and unreasonable. The Council would also need to be satisfied that the restrictions imposed were justified.

Should anyone object to the granting of a PSPO they would have to make a High Court application within 6 weeks of the order being granted.

For that appeal to be successful they would have to show that the Council did not have the power to make the order, as the issue covered has not been demonstrated, usually by empirical evidence, to be a significant enough issue to justify the restriction. The other grounds for the appeal would be to demonstrate that the consultation process was inadequate.

PSPOs can only apply to public places. This means any place to which the public, or and sections of the public, on payment or otherwise, have access to as of right or by virtue of express or implied permission.

The Council will decide whether it is appropriate to issue a fixed penalty notice for any breach of the PSPO witnessed by an enforcing officer. In line with other PSPOs in Coventry, any Fixed Penalty Notice for non-compliance with a PSPO will be set at £100 reduced to £60 if paid within 14 days. If the Fixed Penalty Notice is not paid, court proceedings can be initiated to prosecute for the offence of failing to comply with the PSPO where the maximum fine is currently £1000 (level 3 on the standard scale). Following conviction the Council could apply for a Criminal Behaviour Order which can contain both prohibitions and positive requirements.

## **6 Other implications**

### **6.1 How will this contribute to the Council Plan ([www.coventry.gov.uk/councilplan/](http://www.coventry.gov.uk/councilplan/))?**

#### **Crime and Disorder**

Tackling crime and anti-social behaviour through partnership working is central to the delivery of the Community Safety Plan and Strategic Assessment.

### **6.2 How is risk being managed?**

Police and Council Officers continue to incorporate the area in their patrol strategies and work schedule and will monitor behaviour of individuals and the condition and cleanliness of the area.

### **6.3 What is the impact on the organisation?**

None

## 6.4 Equalities / EIA

The impact on protected groups as defined by the Equality Act 2010. At present it is not considered necessary to take any particular steps to prevent the negative impact on any particular protected groups as a result of the introduction of the proposed PSPO

## 6.5 Implications for (or impact on) the environment

The purpose of taking action is to address adverse behaviours in the City, in an attempt to improve the environment and wellbeing of the community.

## 6.6 Implications for partner organisations?

Powers granted will also be available to West Midlands Police.

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