

REPORT TO THE COMMUNITY AND CORPORATE ORGANISATION POLICY AND SCRUTINY PANEL

DATE OF MEETING: 13 MARCH 2018

SUBJECT OF REPORT: PUBLIC SPACE PROTECTION ORDERS

TOWN OR PARISH: ALL

**OFFICER/MEMBER PRESENTING: DEE MAWN, ENVIRONMENTAL HEALTH
SERVICE MANAGER**

KEY DECISION: NO

RECOMMENDATIONS

- I. To note the update on the early implementation Public Space Protection Orders (PSPOs) and associated ASB tools and powers across North Somerset.
- II. To seek views on a revised Fixed Penalty Notice Policy in relation to PSPOs and authorise officers to regularly review and update the policy in accordance with changes to legislation and best practice.
- III. To seek views on the council's continued engagement with Community Safety Accreditation Scheme (CSAS) moving forward and to consider the introduction of a MoU between the police and North Somerset Council
- IV. To discuss and feedback on the next steps in light of revised guidance issued to Local Authorities on the continued use of the tools and powers.

1. SUMMARY OF REPORT

1.1 Public Space Protection Orders (PSPOs) were introduced across the district by North Somerset Council at the end of October 2017 to deter individuals or groups of individuals committing anti-social behaviour in public places.

1.2 The new orders have replaced existing dog control orders, designated public place orders that help the police tackle alcohol related anti-social behaviour and, where appropriate, local byelaws.

1.3 Around 100 designated council staff, police officers and Business Improvement Team (BID) wardens have been trained to enforce the orders. During November and December they gave verbal warnings and spoke to members of the public about the issues including:

- Dog fouling
- Littering
- Urinating in inappropriate places.

1.4 The initial warning period, which also served as a window of opportunity for anyone wishing to challenge the orders, is now over and offenders are now being reported leading to Fixed Penalty Notices (FPN) being issued or, in some cases, prosecution. This is in accordance with a revised FPN policy which can be found in background papers.

1.5 Easily recognisable signs featuring the message #OURSPACE and the warning "Fines apply if you don't comply" continue to be put up where the new orders are in force.

1.6 Our Youth Offending Team has been assisting us with the signage work and are fully engaged and supportive of our moderated approach in dealing with juveniles as detailed in the FPN policy, see background papers.

1.7 In places where dog control orders and designated public place orders have been replaced, the existing signage is still valid and should continue to be adhered to.

1.8 Anti-social behaviour that cannot be addressed specifically by a PSPO can be tackled using Community Protection Warnings and Notices (CPW/CPNs). More information on the ASB tools and powers can be found in background papers.

1.9 The council is an accredited member of the Community Safety Accreditation Scheme. This scheme has supported a strong working relationship with the Police. We have worked well together in embedding the various ASB tools and powers, including PSPOs, CPWs and CPNs within the district. We are now seeking to develop a Memorandum of Understanding (MoU) surrounding this work which will supersede the existing CSAS arrangements. More information on CSAS can be found in background papers.

1.10 Revised guidance on the use of Anti-social Behaviour tools and powers was issued to local authorities in December 2017 in response to reports of misuse. This new guidance has a bearing on the areas/issues being considered for future PSPO consultation that were identified in the report to the Executive on the 20 June 2017 which can be found in background papers.

2. POLICY

2.1 The implementation of the PSPOs has supported the vision and ambition of the council to **“build and sustain great places to live and visit that are vibrant, accessible and safe”**.

2.2 The implementation of PSPOs is a key project delivered in line with Development & Environment’s (D&E) Annual Directorate Statement (ADS)

2.3 Our engagement with the CSAS accreditation scheme together with the implementation of the broad range of ASB Powers within North Somerset has demonstrated our ongoing commitment to partnership working with the Police. The development of a MoU between our two organisations will serve to strengthen this commitment further.

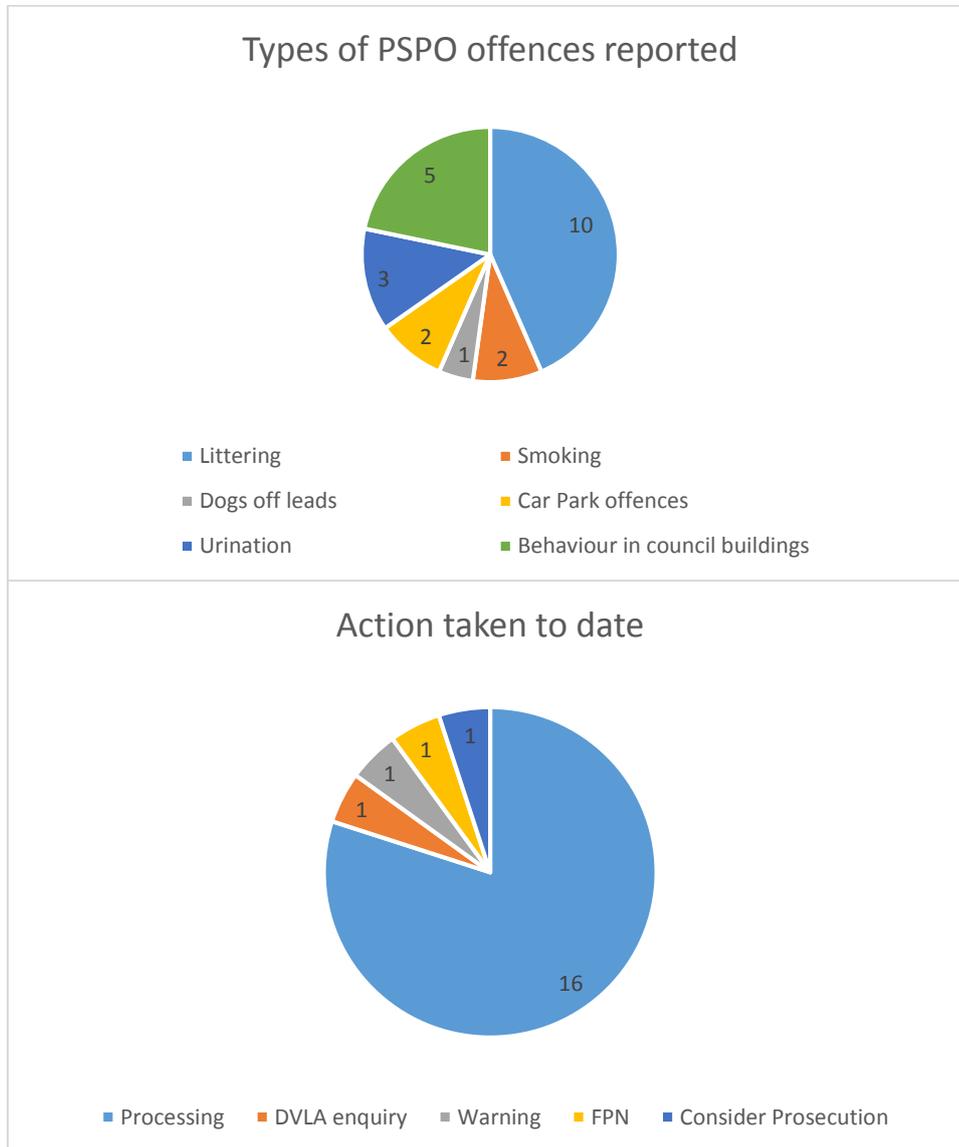
2.4 Attention is drawn to the following policy documents (full details of which can be found in the background section of this report)

- The Anti-social Behaviour, Crime and Policing Act 2014: Revised statutory guidance for frontline professionals - provides guidance to local authorities on the steps it must take before introducing a PSPO.
- The council’s revised policy relating to the issue of Fixed Penalty Notices - explains the process that officers must take when considering enforcement action.

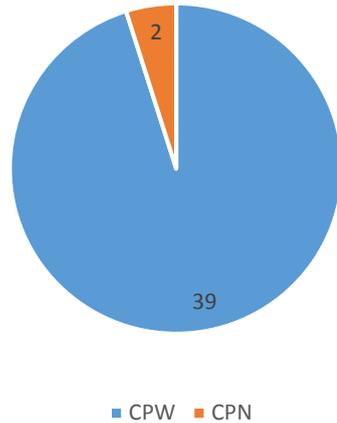
- The Regulatory Services Enforcement Procedure – explains the council approach to enforcement in line with the Regulators Code (national guidance).

3. DETAILS

3.1 We are successfully tackling ASB in North Somerset. The following charts show the successful interventions to date.



Community Protection Warnings/Notices



3.2 PSPOs allow us to warn, fine or prosecute those who breach the conditions of the order. Full details of the orders that are in place in North Somerset can be found on the council's website at www.n-somerset.gov.uk/PSPO

3.3 The approach we take when introducing and enforcing PSPOs must be in accordance with legislation and any guidance issued to frontline professionals.

3.4 New guidance issued on 24 December 2017 will help police and councils to continue to take appropriate action against nuisance behaviours while ensuring the most vulnerable, including the homeless, are not disproportionately targeted.

3.5 This new guidance follows feedback from charities and other groups who raised concerns nationally that the orders were being used in some cases to disproportionately target certain groups in some areas rather than focusing on behaviour that is genuinely anti-social and causing others distress or alarm.

3.5 Particular concerns were raised around the use of the orders against the homeless, buskers, dog walkers and, in some cases, people simply gathering together in small groups in town centres who were not engaged in anti-social behaviour.

3.6 The guidance puts greater emphasis on the need to ensure the powers are used to target specific nuisance behaviours and are not applied in a blanket way against specific groups or behaviour that is not in itself anti-social. It reminds councils that powers should not, for example, target normal everyday behaviour that is not having a detrimental effect on the community's quality of life, such as skateboarding.

3.7 Where young people are concerned, councils should think carefully about restricting activities that they are most likely to engage in. Restrictions that are too broad or general in nature may force the young people into out-of-the-way spaces and put them at risk. In such circumstances, councils should consider whether there are alternative spaces that they can use.

3.8 There is no current need to review the PSPOs in place at the present time as we are satisfied that they are in line with the revised guidance. They will be routinely reviewed in 2020 in accordance with legislation. The proposals identified for future consultation in the

report to the Executive of 20 June 2017 will need to be reconsidered in light of the revised guidance. The FPN policy which has been updated to reflect the new guidance has also now been shaped through experience gained in the early stages of PSPO implementation. This needs to be agreed and formally adopted.

3.9 If we have particular concerns about an individual's ASB and it is not currently covered by a PSPO then we have an established process in place for serving Community Protection Warnings and Notices, the breach of which can carry an FPN up to the value of £100 and a fine upon prosecution of up to £2500.

3.10 The work we have done implementing ASB tool and powers in North Somerset should be recognised as an example of good partnership working with the Police. The CSAS accreditation scheme helped to bring this about by strengthening our relationship with the police and provided us with the tools to undertake robust enforcement action. We have and will continue to align our enforcement skills through joint training programmes. We now consider that a MoU between us and the police to be the best tool moving forward. A MoU can be adapted and shaped to suit both our organisations' needs without the need for CSAS accreditation.

4. CONSULTATION

4.1 Consultation was undertaken to introduce the PSPOs we currently have in the district. This will need to be repeated once the proposals for the next consultation have been reconsidered in line with revised guidance.

5. FINANCIAL IMPLICATIONS

5.1 None to be considered at this stage

6. LEGAL POWERS AND IMPLICATIONS

6.1 PSPOs were brought in under the Anti-social Behaviour, Crime and Policing Act in 2014, which came in to force on 20 October 2017. PSPOs can be challenged in the high court within a period of six weeks following introduction.

6.2 North Somerset Council has not been challenged on the orders that were introduced on the 20 October 2017. However the council must be prepared to instigate legal proceedings and be prepared for further challenge if an FPN is unpaid. It is paramount therefore that the evidence leading to the issue of an FPN is robust. The decision as to whether the offender should receive a FPN will be made by an independent officer to that making the report so that a thorough examination of the evidence can be made. In short, to serve a FPN, the burden of proof is no different to laying information to prosecute. Failure to ensure that the evidential test is passed, may undermine the success of future PSPO enforcement. The FPN policy which reflects this needs to be agreed and formally adopted.

6.3 Any new PSPOs that the council propose to introduce will be open to challenge within the first six weeks of adoption. Any district wide controls will come under particular scrutiny and the council will have to demonstrate proportionality and evidence of on-going ASB.

7. RISK MANAGEMENT

7.1 Reconsidering the proposals to be included in the next phase of consultation reduces the risk to the local authority. Particularly in light of the revised guidance and the interest there is nationally over the implementation of PSPOs. Seeking a MoU between the council and the police over the implementation of ASB tools and powers will also help to strengthen roles and responsibilities surrounding this work.

8. EQUALITY IMPLICATIONS

8.1 An equality impact assessment was undertaken prior to introducing PSPOs in North Somerset. This will need to be repeated if we are to consider introducing any new PSPOs within the district. An Equality Impact Assessment will also need to be repeated when the routine review of the current PSPOs is carried out in 2020.

9. CORPORATE IMPLICATIONS

9.1 Health and Safety: The responsibility for health and safety is delegated via the Chief Executive Officer and Directors. Service managers regularly review risk assessments. Mitigation measures are put in where it is not possible to eliminate hazards and to ensure residual risks are as low as possible. Robust operational procedures are in place and regular training takes place to ensure that officers are able to deal with conflict and diffuse situations.

10. OPTIONS CONSIDERED

A full options appraisal was undertaken in conjunction with community and partner consultation prior to the first phase of PSPOs being implemented. Any future consideration to extend powers will be subject to the same rigorous process.

AUTHOR

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APPENDICES

Appendix 1 – Fixed Penalty Notice (FPN) Policy and Associated Appendices

BACKGROUND PAPERS

ASB Tools and Powers

<http://intranet/NR/rdonlyres/elz5fqcvjb62xqv5cqgo4xz6jedhkwo7cnh3ldl6fwvdxefgqozia5cqht5vgcehkcr3uygecdetnld6ytdqfmpgg/ASBtoolsandpowersforpractitionerspdf.pdf>

Community Safety Accreditation Scheme

<https://www.gov.uk/government/publications/community-safety-accreditation-scheme-powers>

Report to the Executive 20 June 2017

<http://apps.n-somerset.gov.uk/cairo/docs/doc28128.pdf>

Revised Guidance

<https://www.gov.uk/government/publications/anti-social-behaviour-crime-and-policing-bill-anti-social-behaviour>

The Regulatory Services Enforcement Procedure

<http://www.n-somerset.gov.uk/wp-content/uploads/2015/11/regulatory-services-enforcement-procedure-pdf.pdf>