CONSULTATION ON A BOROUGH WIDE PUBLIC SPACES PROTECTION ORDER

Introduction

Ealing Council's Safer Communities Team is consulting on the enforcement of a borough wide Public Spaces Protection Order (PSPO) to reduce anti-social behaviour.

There are several PSPOs already in operation in different parts of the borough, including Southall Town Centre and West Ealing Town Centre. Following evidence gathering and listening to the concerns of people and businesses, Ealing Council's Safer Communities Team is proposing to introduce a new PSPO to reduce anti-social behaviour in public spaces such as town centres, parks and housing estates across the whole borough.

A PSPO identifies specific unreasonable and persistent behaviours that are having a detrimental effect on people in public spaces and gives the Police and Council partners an additional tool to tackle these, alongside the existing powers and ongoing partnership work. It forms part of a broader strategy to increase awareness and address these local issues.

The accompanying survey has been designed to gauge your opinion as someone who lives, works or visits the London Borough of Ealing about local issues, and whether you support the introduction of additional enforcement powers under a PSPO to tackle these. Your knowledge will be essential to understand whether the proposals in this consultation will adequately address local issues as you view them and inform our decision making at this formative stage.

The consultation will be open from the 15th of April 2019 to the 9th of June 2019.

Context and Background

What is a PSPO

A PSPO is a wide ranging and flexible power introduced under Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014. It is a measure available to the Council to tackle behaviour which is having a persistent and detrimental effect on the local community’s quality of life.

The Order gives power to the Council to introduce reasonable prohibitions and/or requirements to, prohibit specific behaviours/ activities, and/ or require certain things to be done by people engaged in particular behaviours/ activities – these are known as conditions. The Order can be enforced by the Police and officers authorised by the Council.

Not complying with the Order when challenged and asked to do so by an enforcing officer is a criminal offence, and results in the issuing of a Fixed Penalty Notice (FPN) of £100 or be prosecuted which could lead to a fine of up to £1000.

Legal Background

Section 59 (1) of the Anti-Social Behaviour, Crime and Policing Act 2014 ("the Act") empowers local authorities to make a public spaces protection order if they are satisfied on reasonable grounds that the following two conditions are met:

1. The first condition is that:
   a. The activities carried on in a public place within the authority’s area have had a detrimental effect on the quality of life those in the locality, or
b. It is likely that activities will be carried on in a public place within that area and that they will have such an effect.

2. The second condition is that the effect, or likely effect, of the activities:
   a. Is, or is likely to be, of a persistent or continuing nature,
   b. Is, or is likely to be, such as to make the activities unreasonable, and
   c. Justifies the restrictions imposed by the notice of proposals.

Section 59 (5) of the Act provides that a PSPO can only impose reasonable prohibitions or requirements in order to prevent the detrimental effect caused by the anti-social activities from continuing, occurring or recurring.

Definitions

‘Anti-Social Behaviour’ refers to section 59 (2) (a)-(b) of the Anti-Social Behaviour, Crime and Policing Act 2014 and means: activities carried out, or which are likely to be carried out, in a public space which have a detrimental effect on the quality of life those in the locality. This also means behaviour likely to cause harassment, distress or alarm to one or more other person. This can include, but is not limited to, littering, verbal abuse, obstructing the highway, illegal drug use, urinating or, spitting

“The designated area” refers to any public space to which the public or a part of the public has access (S 74(1) of the Anti-Social Behaviour, Crime and Policing Act 2014). This can be with payment, or with express or implied permission. This can include businesses and communal areas of housing blocks, but excludes residential premises. Prohibitions/requirements may vary for each designated area and will be highlighted accordingly on the attached plans.

‘Authorised officer’ refers to: police officer, police community support officer, or any other person designated to enforce the Order by Ealing Council. You can require any authorised officers to produce authorisation before enforcing the Order.

‘Psychoactive substances’ refers to S 2(1) and S 2(2) of the Psychoactive Substances Act 2016: “any substance which –
(a) is capable of producing a psychoactive effect in a person who consumes it, and
(b) is not an exempted substance”
Laughing gas (nitrous oxide or balloons), khat, spice, and mephedrone (drone) are examples of psychoactive substances referred to in this Order.

Why is Ealing thinking of introducing a borough wide PSPO?

The existing PSPOs in the borough have proven to be a valuable additional tool for enforcement officers to tackle anti-social behaviour and highlight the types of behaviour which are unacceptable in public spaces. In West Ealing and Southall, analysis showed a reduction in reports of crime and anti-social behaviour following the introduction of the Orders.

The Council and the Police use a wide range of measures to protect the public and tackle crime and anti-social behaviour. There measures include injunctions, warnings, Acceptable Behaviour Agreements, Community Protection Notices (CPN), dispersal powers, arrests and Criminal Behaviour Orders (CBO), alongside engagement activity and appropriate offers of
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intervention and support. While these approaches are effective, there are some instances that make this type of targeted work challenging without additional powers.

As well as providing an additional enforcement tool, PSPOs have been effective at engaging the community, generating discussion of what is acceptable behaviour in public spaces and promoting positive behaviour change.

We have considered the findings from analysis of reports received to the Safer Communities Team, local community feedback at events, crime data we have assessed, consultation with our partner agencies and further interdepartmental research and it is clear that residents, business owners, visitors and partner agencies have concerns about anti-social behaviour in public spaces not currently benefitting from a PSPO.

We have listened and have identified specific, persistent and detrimental behaviours having a negative effect on the quality of life across the borough and in specific types of public space. Some of these behaviours have also been identified to be linked with criminal activity and a PSPO offers an additional tool to disrupt and tackle these effectively. On the basis of this research we have drafted a series of requirements and prohibitions that will apply in all public spaces across the borough, as well as specific conditions for particular types of public space.

The majority of residents, visitors and people who live and work in the borough enjoy our public spaces positively and considerately. We aim to address the unreasonable behaviours identified in this order and ensure that our public spaces remain accessible to all in a safe environment. The PSPO will support the work of our partner agencies and other Council services to enhance the vibrancy of our public spaces and strengthen community cohesion.

Locations Identified

Since there are different issues affecting different types of public space across the borough, we have taken this into consideration when developing the proposed conditions in this order. Town centres, parks and housing estates have been identified as having unique issues negatively effecting the local community, in order to address these in a proportionate way, different conditions are being proposed for these public spaces. However, there are behaviours which have been identified as having, or likely to have, a detrimental effect on the quality of life in all public spaces across the borough and, as a result some conditions will apply to the entire borough.

Town Centres

With a high footfall of people during the day and night, our town centres are some of the most used public spaces in the borough. Whether it be for shopping, eating out, the night-time economy, or to access one of the borough’s transport hubs, town centres offer a variety of essential services to the community. With the high number of users also comes increased levels of crime and anti-social behaviour. We want to continue embracing and developing the vitality of our town centres, and the proposed conditions in this Order are designed to ensure they continue to be accessible to a wide range of people and purposes. This proposed Order will incorporate the areas of the existing Orders in West Ealing and Southall Town Centres and the conditions for town centres will apply to these areas as well as, Acton, Ealing, Hanwell and Greenford Town Centres.
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Parks

Parks and green spaces are valuable shared community assets and are central to the lives of the community. In heavily developed and crowded cities parks provide clean fresh air and opportunities for leisure, relaxation, and exercise, as well as being fundamental for community cohesion, physical and mental health and wellbeing, and biodiversity. Anti-social behaviour is often cited as the main reason for people not using parks and green spaces and when these spaces become less used, the problematic behaviours are often further entrenched. The proposed conditions for parks and green spaces seek to address these behaviours and provide an attractive and safe environment to play sport, get fit, meet with friends, attend events and appreciate local heritage and nature. The conditions for parks in this proposed Order will apply to all parks and open spaces across the whole borough, to address these issues where they are occurring or, likely to occur. This also means that this proposed Order will incorporate the areas of the existing Order in Southall Parks.

Housing Estates

Our housing estates provide homes for thousands of residents across the borough. Many were designed in the post war period and have housed generations of long standing communities. With changing needs and conditions some of our estates are undergoing essential regeneration, both to increase supply at a time of increased pressure on housing in London but also to deliver healthier, safer and more secure neighbourhoods. With green open spaces, walkways, courtyards and car parks there are many communal and public spaces on our estates. There are specific persistent behaviours which have been identified on our housing estates which are unacceptable and have a detrimental effect on residents. This PSPO proposes conditions on housing estates managed by the Council across the borough to address these issues.

Behaviours identified

The Council is satisfied that there is sufficient evidence to demonstrate that behaviours and activities identified by this Order meet the statutory criteria set out in the legal background and that the prohibitions and requirements proposed by this Order are justified and reasonable to impose to prevent the detrimental effect of the activities from continuing, occurring or recurring.

Street Drinking

There is a long, recorded history of residents complaining to the Police and the Council about the problems created by anti-social drinking and a number of interventions have previously been implemented to reduce alcohol related anti-social behaviour, including the now lapsed Controlled Drinking Zones (CDZ). The majority of residents, visitors and people who live and work in the borough choose to drink socially and behave responsibly. However, there are some people who do not drink responsibly in public spaces and engage in anti-social behaviour while street drinking, including harassment, intimidation of passers-by, spitting, as well as littering of cans and bottles.

The Order does not prohibit individuals from drinking alcohol in our public spaces but proposes a requirement allowing authorised officers to challenge those street drinking while
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engaged in anti-social behaviour in any public space across the borough. These requirements will not apply to licensed premises.

Urination, defecation and spitting

The reports received from residents and businesses across the borough tell us that there are issues with people urinating, defecating and spitting outside homes, business entrances, communal areas in housing estates and near pubs and clubs. Human waste such as this has a negative impact on the local community, the detrimental effects include the smell, the low level health risk and the distress caused for people using public spaces.

The Order proposes to prohibit this behaviour in all public spaces across the borough.

Littering

There is already legislation in place to tackle individuals leaving and/or depositing waste in public spaces. The Order proposes a requirement allowing authorised officers to ask individuals to remove any litter or waste that they have thrown down, dropped or deposited and left in a public place and dispose of that litter or waste in a lawful manner.

Occupying vehicles and caravans

A large of number of reports are received of unauthorised encampments emerging in parks, open spaces, communal gardens, car parks and other public spaces across the borough. Within and around encampments there can be evidence of littering, inappropriately stored flammable materials, human waste and fly-tipping. Nomadic life is not illegal however, the environmental issues and other associated behaviours reported about unauthorised encampments on public spaces demonstrate the detrimental impact on the occupants of encampments and the wider community. Between April 2017 – March 2018 there were 47 unauthorised encampments across the borough costing the council an estimated £40-50,000 to remove and carry out environmental cleansing.

The Order proposes a requirement allowing authorised officers to direct individuals and/or groups to remove all vehicles and caravans within a reasonable time and disperse because they have been occupying a vehicle or caravan as part of a group where an authorised officer is satisfied that there have been substantiated reports of crime or anti-social behaviour relating to one or more person/s.

Failure to extinguish cigarettes

The London Fire Brigade deals with a growing number of fires relating to waste material/rubbish in outdoor spaces across the borough. These are often associated with the careless disposal of cigarettes igniting waste material or rubbish which may pose a risk to people and property. This has a detrimental impact on the users of public spaces and property owners. Smokers should ensure that cigarettes are fully and properly extinguished before disposing of them.

The Order proposes a prohibition on individuals disposing of any cigarettes/cigars/roll-ups without the first fully and properly extinguishing them.
Obstructions of entrances and exits
Reports continue from residential and commercial premises about people obstructing the entrance or exit from a building, including fire exits. In our town centres, this has created problems for businesses during their opening hours with customers intimidated by individuals or groups obstructing entrances. Obstructing a fire exit causes a significant health and safety risk for those inside the building and as a landlord the council takes fire safety on its housing estates very seriously. Residents require free passage through walkways and stairwells, as well as to leave and enter their homes without the distress caused if their route is obstructed. Obstructions may also be caused by individuals leaving items, belongings or rubbish in walkways, stairwells, at entrances and exits from buildings and businesses.

The Order proposes a series of requirements on individuals in the different public spaces it applies to, to move from the area and remove any items/vehicles/structures if they are obstructing and/or causing an obstruction when asked by an authorised officer.

Groups engaged in anti-social behaviour
There are frequent complaints voiced by residents of groups congregating and engaging in anti-social behaviour. These complaints relate to a variety of public spaces across the borough and residents feel that groups engaging in anti-social behaviour such as, littering, spitting, verbally abusing passers-by and using illegal drugs or psychoactive substances, all have a negative impact on their quality of life. We are not seeking to prohibit groups of friends or family from gathering in our public spaces to enjoy the wide range of purposes they serve however, groups engaging in anti-social behaviour cause harassment, distress or alarm to others also wanting to enjoy our public spaces and residents believe this is unacceptable.

The Order proposes a requirement to disperse from the area within a reasonable time and not return for 24 hours if asked by an authorised officer because they have been congregating in a group of 3 or more, where one or more person/s have been engaging in anti-social behaviour.

Fly-tipping
Though fly-tipping is already covered in existing legislation by the Environmental Protection Act 1990, there is a large amount of waste dumped on our housing estates every year. This waste is often dumped off of the highway in parts of our housing estates which the existing legislation does not cover. Fly-tipping is unsightly and dangerous, it has a huge impact on the natural environment and can attract rodents and other pests which pose a public health risk especially in built up areas such as our estates. Between January 2017 -December 2018, the council’s Estate Services team removed over 1000 tonnes of bulky waste from our housing estates.

The proposed Order prohibits the leaving and/or depositing of rubbish and other bulky waste, including but not limited to, furniture, mattresses, and builders waste in a public and/or communal space in our housing estates.
Psychoactive substances (legal highs)

This Psychoactive Substances Act 2016 made it an offence to produce or supply what are often referred to as legal highs, this includes substances such as laughing gas (nitrous oxide or balloons), khat, spice, and mephedrone. The existing legislation is limited since it does not address the consumption and/or possession of these substances, meaning it does not allow the police or council to tackle the current problems of anti-social behaviour and waste generated by usage in the borough.

The Order proposes a prohibition and requirement to address this issue. People are prohibited from possessing and/or smoking, injecting, inhaling, or otherwise consuming any psychoactive substances in a public space across the borough. People will also be required to surrender any psychoactive substances they possess or associated paraphernalia when asked by an authorised officer.

Driving on park land

Parks and green spaces are valuable shared community assets which provide clean fresh air and opportunities for leisure, relaxation and exercise. Any type of vehicle, including mopeds or caravans, should never be driven on park land, unless on rare occasions where there is prior written permission from the local authority. Driving on park land poses a significant risk for all users, many of whom are young children, and has a detrimental effect on the enjoyment of these spaces as well as causing significant damage to the environment.

The proposed Order prohibits the driving or riding of any vehicle, motorcycle, moped, caravan or any other motor propelled vehicle in park grounds without prior permission from the responsible authority.

Intimidating or aggressive begging

Our town centres account for the majority of incidents reported to us relating to begging, although there are also issues in other specific parts of the borough. Some member of the public have reported that they have been intimidated by people who beg near cash machines and along the highway. Although there is ongoing support and intervention work, the public are concerned about individuals and groups who beg for money in a manner which causes harassment or distress and can involve incidents of verbal abuse.

The proposed Order requires people to disperse from the area, within a reasonable time, for 24 hours if asked to do so by an authorised officer because they have begging in a manner reasonably believed to be intimidating, aggressive or causing distress, or pose a risk to their safety or the safety of others.

Commercial waste

Town centres across the borough have a high number of densely located commercial premises that operate differently and at different hours of the day and night. The impact of these businesses not adequately managing their waste is detrimental to the appearance and quality of our town centres. The risks of pest infestations, encouraged by the ready supply of
food waste and other materials has a detrimental impact on users of town centres. This is often a result of improper disposal or split bags, where waste has been left out on the street for a prolonged period and, can also increase the risk of fires associated with careless disposal of cigarettes onto loose rubbish sacks. There is existing legislation and requirements that commercial businesses must comply with regarding the disposal of waste in public spaces, which already incur a fine if breached. This includes timed collection for waste and recycling in particular town centres, which aims to keep the public highway clear of waste between the hours of 8am-6pm.

The proposed Order requires commercial businesses to remove from the public space any commercial waste deposited or left there for the purposes of collection for an unreasonable length of time. This means that if waste has been left in the public space outside of the specified timed collection slots an authorised officer can require the business to remove that waste from the public space.

**How will the PSPO be enforced?**

The Order will be enforced by police officers, police community safety officers, and/or officers designated by Ealing Council, as an additional tool in their day to day activities. They will notify those breaking the Order and if they refuse to stop the offending behaviour, they will issue fines and dispersal orders.

It is important to remember that enforcing officers will be trained to first challenge the behaviour and inform individuals about why they are in breach of the PSPO. If a condition is not enforceable but, a designated officer reasonably believes the individual/s were engaging in anti-social behaviour it offers an opportunity to advise individuals of what is acceptable behaviour in the public space.

The penalty for breaking a PSPO is a Fixed Penalty Notice (fine) of £100. If the fine is not paid, court proceedings may be started, which will increase the fine to up to £1,000.

If an individual breaches a PSPO on numerous occasions a Community Protection Notice can be issued, which would further restrict the individual’s behaviour both in and out of the PSPO area. It is a criminal offence to breach a CPN and can thus result in criminal prosecution.

**How will I know about the PSPO?**

The Order will be advertised in the local press, the Ealing Council website, on various social media accounts and on public noticeboards. Signs will also be erected in the proposed PSPO area informing people of the PSPO, leaflets will also be produced, and information sessions will be held in partnership with community groups within different parts of the borough during the public consultation period.

**When will it come into force?**

The consultation will run for 8 weeks, from the 15th of April 2019 to the 9th of June 2019. If the public consultation is a success the PSPO will come into force approximately in Autumn of 2019 and will run until 2022, but the Council has the option to vary or discontinue the Order if the behaviours stop or change.
Can I protest a PSPO?

Yes, if you are “an interested person” who is someone who lives, works in or regularly visits the area where the PSPO will be affected. That means only people who are directly affected by the PSPO can challenge it. The appeal must be made through an application to the High Court within 6 weeks of the order being made.