

CONSULTATION ON THE RENEWAL OF EALING'S BOROUGH WIDE PUBLIC SPACES PROTECTION ORDER

Introduction

Ealing Council wants to hear your views about anti-social behaviour and public safety and is consulting on whether to renew Ealing's borough-wide Public Spaces Protection Order (PSPO).

Following a process of extensive evidence gathering and listening to the concerns of residents and businesses during 2018-19, Ealing Council introduced the PSPO in September 2019 to respond to anti-social behaviour issues residents told us concerned them in public spaces across the borough, including town centres, parks and housing estates.

A PSPO identifies specific unreasonable and persistent behaviours that have been found to have had a detrimental effect on people in public spaces and gives the police and council an additional tool to tackle these, alongside their existing powers and ongoing partnership work. Ealing's borough-wide PSPO forms part of our broader strategy to increase awareness and address these local issues.

The accompanying survey has been designed to gauge your opinion as someone who lives in, works in or visits the London Borough of Ealing. It invites you to tell us about the local issues identified as important to you and whether you support the renewal of the PSPO as part of Ealing's approach to tackling anti-social behaviour and enhancing our public spaces.

Your knowledge is essential in helping us understand whether the existing PSPO should continue. The consultation runs from 12 July to 6 September 2022.

Context and Background

What is a PSPO

PSPOs were introduced under Section 59 of the *Anti-Social Behaviour, Crime and Policing Act (2014)*. A PSPO 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.

A PSPO allows the Council to introduce reasonable prohibitions or requirements to prohibit specific behaviours or require certain things to be done by people engaged in certain activities. The PSPO is 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 may result in the issuing of a Fixed Penalty Notice (FPN) of £100 or prosecution.

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,

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- 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

'Public spaces' 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.

'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 the area covered by the PSPO. The designated area will in some cases relate to all public spaces across the whole of the borough, with some additional measures applying to designated areas that include town centres, parks or housing estates.

'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 considering whether to extend its borough-wide PSPO?

The existing PSPO has 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.

The Council and the Police use a wide range of measures to protect the public and tackle crime and anti-social behaviour. These measures include injunctions, warnings, Acceptable Behaviour Agreements, Community Protection Notices (CPNs), dispersal powers, arrests and Criminal Behaviour Orders (CBOs), alongside engagement activity and appropriate offers of 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.

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We have considered the findings from analysis of police crime and ASB data, reports received by the council's safer communities team, local community feedback, consultation with our partner agencies and further interdepartmental research and it is clear that residents, business owners, visitors and partner agencies continue to have concerns about anti-social behaviour in Ealing's public spaces.

As part of Ealing's investigation prior to introducing the borough-wide PSPO, the council identified certain behaviours found to be having a negative effect on the quality of life across the borough, as well as other behaviours happening in more specific types of public space. Some of these behaviours were identified to be linked with criminal activity and the PSPO has proven an additional tool to disrupt and tackle these effectively. The PSPO provides for a series of requirements and prohibitions that apply in all public spaces across the borough, as well as specific conditions for particular types of public space.

We know the majority of residents, visitors and people who live and work in the borough enjoy our public spaces positively and considerately. Ealing's aim is to address unreasonable behaviours residents have told us they are concerned about, and to ensure our public spaces provide a safe, inclusive and accessible environment to all. 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

Ealing recognises there are different issues affecting different types of public space across the borough and this was taken into consideration when developing the PSPO. Town centres, parks and housing estates have been identified as having different issues affecting the local community. In order to address these in a proportionate way, different conditions were introduced 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 for shopping, the night-time economy, or accessing the borough's transport hubs, town centres offer a variety of essential services to the community. A high number of users can also translate to increased levels of crime and anti-social behaviour. Ealing wants to continue embracing and developing the vitality of our town centres, and the PSPO conditions are designed to ensure they continue to be accessible to all.

Parks

Parks and green spaces are valuable shared community assets and are central to the lives of the community. Ealing's parks provide fresh air and opportunities for leisure, relaxation, and exercise; they support community cohesion, physical and mental health, wellbeing and biodiversity. Anti-social behaviour is often cited as a reason people may avoid parks and green spaces; when these spaces become less used, the problematic behaviours can often become further entrenched. The PSPO addresses these behaviours and supports Ealing's strategy to deliver clean, attractive and safe environments to play sport, get fit, meet with friends, attend events and appreciate local heritage and nature. The conditions for parks in within the PSPO apply to all parks and open spaces across the borough, to address these issues where they are occurring or are likely to occur.

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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 some persistent behaviours which have been identified by residents living on and visiting our housing estates, which are unacceptable and have a detrimental effect on them. The PSPO provides 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 an established history in Ealing of residents reporting to police and council about the problems created by anti-social drinking. A number of interventions were previously implemented to reduce alcohol related anti-social behaviour, including a Controlled Drinking Zones (CDZ). The majority of residents, visitors and people who live and work in the borough 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 PSPO does not prohibit individuals from drinking alcohol in our public spaces but provides a requirement allowing authorised officers to challenge those drinking alcohol while engaged in anti-social behaviour in any public space across the borough. These requirements do not apply to licensed venues and events.

Urination, defecation and spitting

Reports from residents and businesses across the borough tell us they have had negative experiences with people urinating, defecating and spitting outside homes, business entrances, communal areas in housing estates and near pubs and clubs. This type of behaviour has a negative impact on the local community, with detrimental effects including odour, 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 PSPO, however, provides for a requirement allowing authorised officers to ask individuals to remove any litter or waste that they have thrown down, dropped or otherwise deposited in a public place and to dispose of that litter or waste in a lawful manner.

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Failure to extinguish cigarettes

London Fire Brigade are developing partnership strategies for tackling the number of fires relating to waste material/rubbish in outdoor spaces across the borough. These fires are often associated with the careless disposal of cigarettes that ignite waste material or rubbish. Such fires have an obvious 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 and the PSPO provides a prohibition on individuals disposing of any cigarettes/cigars/roll-ups without 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 PSPO provides 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. Critically, the PSPO makes clear provision that these conditions are NOT to be targeted at people engaged only in rough-sleeping, a demographic the council recognise require our support rather than sanction.

Groups engaged in anti-social behaviour

Residents frequently contact the police and council with concerns about groups congregating and engaging in anti-social behaviour. These reports 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. The PSPO does not prohibit groups of friends or family from gathering in our public spaces, 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 PSPO provides 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 has been engaging in anti-social behaviour.

Fly-tipping

Though fly-tipping is a criminal offence, covered in existing legislation by the *Environmental Protection Act (1990)*, Ealing's housing estates are frequently affected by repeated and targeted dumping of waste. Fly-tipping is unsightly and dangerous, it also has a significant 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. Every year hundreds of tonnes of illegally dumped waste has to be removed by Ealing's estate services teams.

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The PSPO 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, and supports Ealing's broader partnership strategy to tackling waste crime across the borough.

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'. These include substances such as laughing gas (nitrous oxide or balloons), khat, spice, and mephedrone. The existing legislation is limited, as it does not address the consumption and/or possession of these substances, meaning it does not allow for the police or council to tackle the current problems of anti-social behaviour and waste generated by use of these substances in the borough.

The PSPO provides 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 are 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 for those occasions where there is prior written permission from the local authority. Driving on park land poses a significant risk for all users and has a detrimental effect on the enjoyment of these spaces as well as causing significant damage to the environment.

The PSPO 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 and 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 PSPO 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

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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 PSPO 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 is the PSPO enforced?

The PSPO is enforced by police officers, police community safety officers, and/or officers designated by Ealing Council. They will notify those breaking the Order and if they refuse to stop the offending behaviour, they may issue an FPN or dispersal instruction.

It is important to remember that enforcing officers are 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.

If an individual breaches a PSPO on numerous occasions a Community Protection Notice may 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?

Extensive signage is in place across the borough and the order has been widely publicised in the local press, the Ealing Council website, various social media accounts and on public noticeboards. Leaflets and posters have also been made widely available and notifications provided to key community groups.

When will the decision be made?

The consultation on whether the order will be renewed will run for 8 weeks. The council will then make a decision in September as to whether to renew the PSPO or to allow it to lapse, or to amend the order or take some other action.

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.