



Cabinet
12 December 2022

**Report from Corporate Director
Resident Services**

Public Space Protection Order (PSPO) - Borough Wide including Wembley Park (Wembley Stadium Events), Parks, Open Spaces, Graveyards and Cemeteries

Wards Affected:	All
Key or Non-Key Decision:	Key
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	Ten Appendix 1 PSPO Report December 2022 Appendix 2 Evidence Gathering Questionnaire Appendix 3 Evidence Gathering Questionnaire Comments Appendix 4 Proposed PSPO Mapped Area – Entire Borough Appendix 5 Proposed PSPO Mapped Area – Wembley Park Appendix 6 Proposed PSPO Mapped Area – Parks, Open Spaces, Cemeteries & Graveyards Appendix 7 List of Brent Parks, Open Spaces, Cemeteries & Graveyards Appendix 8 PSPO Legal Implications Appendix 9 PSPO Equality Impact Assessment Appendix 10 Under-Reporting Supporting Statement
Background Papers:	N/A
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1.0 Purpose of the Report

1.1 This covering executive summary supports a wider Public Space Protection Order (PSPO) paper which can be found at **Appendix 1**. The report was

created following an evidence gathering exercise (**Appendix 2 & 3**), consultation and statements from relevant officers. There were originally three PSPOs in Brent. They expire as follows:

- **Appendix 4** - Borough wide street drinking PSPO - **19 October 2023 (renewed twice)**
- **Appendix 5** - Wembley Park (the area surrounding Wembley National Stadium) PSPO – **31 December 2022 (first PSPO)**
- **Appendix 6 & 7** - Parks, Open Spaces, Cemeteries and Graveyards (POsCGs) PSPO - **16 September 2022 (first PSPO)**.

1.2 The current legislation which underpins PSPOs, permits local authority officers and the Police to carry out enforcement for breaches of prohibitions within each of the PSPOs. With three separate orders, this has proven to be impracticable as it causes confusion for both officers and members of the public. It has also caused issues of displacement of anti-social behaviour.

1.3 The suggested solution is to amalgamate all three PSPOs into one single unified order. Based on the above expiry dates and to meet the requirements

2.0 Recommendations

That Cabinet:

2.1 Feedback on the proposed extensions, addition of new prohibitions and the suggested removal of others set out in this document, the main report (attached as Appendix 1) and accompanying appendices.

2.2 Consider and approve the recommendations set out a-h of para 2.1 in Appendix 1.

2.3 Delegate authority to the Corporate Director Resident Services in consultation with the Cabinet Member for Safer Communities & Public Protection for the function of making all Public Spaces Protection Order under the Anti-Social Behaviour Crime and Policing Act 2014 Act.

2.4 Note that it is proposed the new PSPO would be implemented as follows:

Entire Borough (including POsCGs & Wembley Park)

(1) consumption of alcohol, (2) Use of illegal drugs or psychoactive substances (formerly known as legal highs or balloons), (3) Littering (urination or defecation), (4) Littering (spitting), (5) Littering (bottles, cans, packets, food, chewing gum, cigarettes), (6) Dog fouling **(7) Illegal trading (food or other items in the street)*, (8), Use of megaphone or microphone with speaker without consent* and (9) Aggressive begging***

***Does not apply to POsCGs**

Wembley Park only

(10) Illegal trading of merchandise, (11) Illegal trading of tickets (ticket touting), (12) Distribution of free literature (including giveaway items) without consent,

(13) Charity collectors without consent, (14) Busking without consent, (15) Ambush marketing (including fly posting), (16) Pyrotechnics such as flares or smoke emitters, (17) Obstruction of the public highway, preventing the free flow of person's movement and (18) Flying of drones

Parks, Open Spaces, Cemeteries & Graveyards only

(19) Unauthorised use of motor vehicles (including e-scooters and e-bicycles), (20) Use of permitted vehicles without due care and attention, (21) Loss of control of dogs (dog not within eyesight of owner and/or do not respond to recall), (22) Dogs that are prohibited from specific areas, (23) Letting a dog off a lead in a specified area, (24) More than four dogs being walked at the same time, (25) Flying drones and model aircrafts without consent, (26) The lighting of fires or use of barbeques, (27) The use of fireworks without consent, (28) Defacing or damaging fixtures, furniture or other items, (29) Launching of sky lanterns, (30) Feeding wild animals inclusive of birds and (31) Unauthorised events or activities.

2.5 The table below sets out the current and proposed prohibitions:

Prohibition	Borough Wide		Parks, Open Spaces, Cemeteries & Graveyards		Wembley Park	
	Current	Proposed	Current	Proposed	Current	Proposed
Consumption of alcohol	✘	✘	✘	✘	✘	✘
Use of drugs or Psychoactive substances (formerly known as legal highs or balloons)		✘	✘	✘		✘
Littering (urination or defecating)		✘	✘	✘	✘	✘
Littering (spitting)		✘	✘	✘	✘	✘
Littering (bottles, cans, packets, food, chewing gum)		✘	✘	✘	✘	✘
Littering (cigarettes)		✘	✘	✘	✘	✘
Dog fouling		✘	✘	✘		✘
Use of megaphone or microphone with speaker without consent		✘				✘
Illegal trading (food or other items on the street)		✘			✘	✘
Charity Collecting without consent					✘	✘
Aggressive begging		✘				
Leaflet distribution without consent					✘	✘
Unauthorised use of motor vehicles including e-scooters and e-bicycles			✘	✘		
Use of permitted vehicles without due care and attention				✘		
Loss of control of dogs (dog not within eyesight of owner and/or do not respond to recall)			✘	✘		
Dogs that are in a banned area in parks (such as a playgrounds, outdoor gyms, multi-use games areas, tennis courts, walled gardens, etc.)			✘	✘		
Letting a dog off a lead in an area where a notice specifies that dogs must be on a lead			✘	✘		
Prevent more than four dogs being walked at the same time			✘	✘		
Flying drones and other model aircrafts without consent			✘	✘		
Lighting of fires or use of barbeques			✘	✘		
Use of fireworks without consent			✘	✘		
Defacing or damaging fixtures, furniture or other items			✘	✘		
Feeding wild animals inclusive of birds				✘		
Unauthorised events and activities				✘		
Illegal trading of merchandise						✘
Illegal trading of tickets (ticket touting)						✘
Pyrotechnics such as flares and smoke emitters					✘	✘
Ambush marketing including fly posting						✘
Busking a without consent					✘	✘
Obstruction of the public highway, preventing the free flow of persons movement						✘
The launching of sky lanterns (with an open flame)			✘	✘		
To fly drone(s) without consent					✘	✘
To play games or competitions which may cause an obstruction or nuisance					✘	
To leave the engine of a vehicle idling without reasonable excuse					✘	

3.0 Detail

- 3.1 The [Anti-Social Behaviour Crime and Policing Act 2014](#) permits local authorities to implement a Public Space Protection Order (PSPO) in a public place within the authority's area that is, or is likely to have a detrimental effect on the quality of life for those in the locality. This initiative assists in combating anti-social behaviour (ASB) for a maximum of 3 years and has been adopted by many local authorities in the UK. Prior to the expiry of the PSPO, there is an opportunity to review and renew or revoke the PSPO to ensure that the targeted ASB is proportionate.
- 3.2 Each of the existing PSPOs contained an individual set of prohibitions, which prevented members of the public from undertaking specific activities in its relative area that are causing a nuisance to the community.
- 3.3 Since May 2022, work has been undertaken to collate information from members of the public and officers as to what the presenting issues of anti-social behaviour are. This has been undertaken via an evidence gathering exercise and consultation but has also included returns and statements provided by council officers, stakeholders and the Met Police.

4.0 Alternative Options Considered

- 4.1 There are no other options that provide a suitable alternative to a Public Space Protection Order (PSPO). The only alternative is that a PSPO is not implemented, however this option would have a detrimental affect on the Borough of Brent and would provide Brent with limited powers to tackle issue of ASB that relate to the PSPO.

5.0 Financial Implications

- 5.1 The approximate cost of affixing the notices is £15,000 and will be funded within the Environment and Leisure service budget.
- 5.2 As part of existing duties by the Neighbourhood Patrol team and MET Police enforcement will be undertaken, with no extra budget required.
- 5.3 Should the PSPOs not be agreed, there is an estimated cost of £5,000 to remove the current signage.
- 5.4 The current annual income generated from fixed penalty notices for breach of the PSPO is £40,000., and will rise to approximately £70,000, with an increase in prohibition and more police involvement. Part of this income will be used to further communicate and educate on the existence of the PSPO, to train additional staff where required, and to provide additional signage.
- 5.5 Annual income generated from fixed penalty notices for breach of the PSPO is estimated at £70,000. Some of this income can be used to further communicate and educate on the existence of the PSPO, to train additional staff where required and to provide additional signage.

6.0 Legal Implications

6.1 The Anti-Social Behaviour, Crime, Crime and Policing Act 2014 (“the 2014 Act”) provides the Council with power to make PSPOs in the areas where a particular nuisance is having a detrimental effect to local communities quality of life, by imposing conditions on the use of those areas. PSPOs can also be used to deal with likely future problems (section 59).

6.2 In order to **make** a PSPO, the Council must be satisfied on reasonable grounds that the two statutory conditions are met and that it is reasonable and proportionate for the restrictions the first condition (section 59(2) of the 2014 Act) 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 of those in the locality, **or**
- b) it is likely that the activities will be carried on in a public place within that area and that they will have such an effect, and

the second condition (section 59(3) of the 2014 Act) 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.

The statutory code of guidance issued by the Home Office provides for “*is likely to have a detrimental effect*” in relation to the first condition (a).

6.3 The reasonableness requirement is set out in section 59(5) of the 2014 Act which provides that the only prohibitions, or requirements that may be imposed are ones that are reasonable to impose in order-

- (a) prevent the detrimental effect referred to from continuing, occurring or reoccurring, or
- (b) to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.

S59(6) provides that a prohibition or requirement may be framed-

- (a) so as to apply to all persons, or only persons in specified categories, or to all persons except those in specified categories;
- (b) so as to apply at all times, or only at specified times, or at all times except those specified;
- (c) so as to apply in all circumstances, or only in specified circumstances, or in all circumstances except those specified

6.4 In order to vary a PSPO where the PSPO is in force, the local authority that made the order may vary it:

- (a) by increasing or reducing the restricted area;

- (b) by altering or removing a prohibition or requirement included in the order, or adding a new one.
- (2) A local authority may make a variation to a public spaces protection order that results in the order applying to an area to which it did not previously apply only if the conditions in section 59(2) and (3) are met as regards activities in that area.

There is no limit on the number of variations or extensions a PSPO can undergo.

6.5 Further detailed legal implications can be found set out in **Appendix 8**.

7.0 Equality Implications

7.1 Capturing equalities information for those undertaking anti-social behaviour is currently under-recorded but is something that should be considered when considering the implementation of PSPOs. It is already challenging for officers to obtain a name, address and date of birth, trying to obtain other relevant equalities information would prove difficult. Consideration needs to be made as to how this information should be captured and what information would be required.

7.2 Please see **Appendix 9** for the Equalities Impact Assessment

8.0 Any Other Implications (HR, Property, Environmental Sustainability - where necessary)

8.1 Displacement

It is important to take into consideration the adverse effect that some prohibitions will have on neighbouring areas and wards.

8.2 Vulnerable Persons

Targeting vulnerable persons including those with mental health issues is not an appropriate or effective way of dealing with issues. Where enforcement is required, it is important that this be carried out in a way that supports an effective long-term solution for those vulnerable persons.

8.3 Defining Anti-Social Behaviour

It is vital to remember that local authorities have to balance the needs of residents, businesses and visitors to Brent. What may appear as only a few complaints, may still have a 'detrimental effect' on members of the public in an area. On the other hand, a few members of the public may be sensitive to activities which they believe are anti-social but is not detrimental enough or proportionate to be added to a PSPO. The evidence included as part of this proposal consequently includes Council and MET police's viewpoints who do have overall local knowledge and therefore an overview of the more detrimental anti-social behaviours, not just what may be annoying to someone.

8.4 PSPO as a Deterrent

Having a PSPO in place, which is communicated well in terms of for e.g. social media or signage, acts as a strong deterrent to preventing anti-social behaviour in the first instance. If over time, the PSPO influences a cultural change just by its mere presence, the PSPO in itself can be justified as a success from the Council's perspective.

8.5 **PSPO Training**

Should permission for the PSPO be granted, training for all authorised council and police officers will be provided. This is not only to ensure that all officers understand what prohibitions can be enforced but also ensure that the council's expectations around proportionality is applied when making a decision as to whether an FPN should be issued. This is to ensure a fair and consistent approach across the borough.

8.5.1 In order to ensure proportionality, enforcement will consist of a method that firstly involves assessing a situation. This will include whether there is or is likely to be ASB as a result of a prohibition being breached. The next step is to engage with the individual and educate them on their actions. This may include encouraging someone to cease what they are doing or explaining that it could lead to ASB which would in turn have a negative effect on others in the same locality. It may also include a warning that if the individual returns and carries on the same breach, they are likely to receive an FPN. Those individuals that continue or exhibit the restricted activity will be issued with an FPN.

8.5.2 The way in which FPNs are issued may also depend on the prohibition. If an individual is seen to be defacing a fixture in the park, smoking cannabis or doing balloons (nitrous oxide), it is likely they will be issued with a fine immediately by the appropriate officer. Whereas someone that drops litter or allows their dog off a lead in a prohibited area, are likely to be given a warning in the first instance.

8.6 **Under-Recorded Complaints**

It is important to note that unreported evidence, does not necessarily equate to the non-existence of ASB behaviour. A proportion of the evidence gathered includes reports of evidence that has been provided to officers during face-to-face customer engagement rather than in the usual formal manner of complaints in writing/email to council officers. Please see supporting statement at **Appendix 10** for further details.

Report sign off:

Peter Gadsdon

Corporate Director Resident Services