

 Brent	<p style="text-align: center;">Cabinet 11 September 2017</p> <p style="text-align: center;">Report from the Strategic Director of Regeneration and Environment</p>
For Information and Action	Wards affected: All
<p style="text-align: center;">Managing Street Drinking and Identified Problem Areas – Pilot Evaluation</p>	

1.0 Summary

- 1.1 Brent has implemented 6 pilot Public Spaces Protection Orders (PSPOs) in **Harlesden, Kilburn, Ealing Road (including One Tree Hill), Neasden, Wembley Park and Sudbury** for the duration of 6 months, to tackle problematic areas where street drinking has been prevalent over the years. This order was made possible under the Anti-Social Behaviour, Crime and Policing Act 2014 (“the 2014 Act”), and was implemented after consultation with residents and stakeholders.
- 1.2 The order gave Brent Council the ability to issue Fixed Penalty Notices, or begin court proceedings against, anyone street drinking in prohibited areas.
- 1.3 The evidence of street drinking and associated Anti-Social Behaviour (ASB) will also be used to update the Statement of Licensing Policy. The evidence can be used to consider introducing cumulative impact policies which, amongst other things, could limit the number of off-licences in PSPO areas and imposing additional conditions on existing off-licences aimed at reducing street drinking if they are found to breach their existing conditions. Conditions can include reduction on their opening hours, no sale of high strength alcohol over 6% ABV, no sale of single cans etc.
- 1.4 This report provides an update on the effectiveness of the PSPOs, the scale of the problem in Brent as well as options going forward for Cabinet on how to tackle the street drinking problem when the borough wide Control Drinking Zone (CDZ) ends in October 2017.

2.0 Recommendation

- 2.1 That Cabinet considers the options appraisal set out in section 6.0 of this report and to agree the recommended option to take forward which is to go through the process of making a Borough Wide Public Space Protection Order (“PSPO”) to replace the existing Controlled Drinking Zone which expires in October 2017.
- 2.2 That Cabinet approve the increase in the Fixed Penalty Notice (FPN) issued under sections 52 and 68 of the Anti-Social Behaviour Crime and Behaviour Act 2014 (“the 2014 Act”) from £75 to £100, which is the maximum set limit under the Anti-Social Behaviour Crime and Policing Act 2014 Act and to bring this in line with FPNs issued by Brent’s Waste Enforcement Team under the Anti-Social Behaviour legislation and Harrow Council, where both Councils have shared priorities.

3.0 Policing Plan

- 3.1 The act allows reasonable discretion on how PSPOs are enforced once PSPO warnings are issued as a first step, followed by a FPN if an individual breaches the order twice.
- 3.2 The council owned Police officers known as the Partnership Tasking Team have predominantly enforced the PSPO in the pilot areas alongside their other wider work programmes to target Safer Brent Partnership priorities to help make a Safer Brent. This has resulted in manpower resources being stretched considerably in terms of providing effective enforcement for all the PSPO areas.
- 3.3 The highest number of street drinking complaints to the ASB team since the orders were implemented have been received in Dudden Hill, Alperton and Wembley Central wards to date resulting in enforcement operations prioritised in these areas.
- 3.4 Below is a summary of the PSPO enforcement from 28 April to 20 July 2017. There has been very few offenders to date who have breached PSPO warnings, which has shown a good compliance rate in the pilot areas.

Area	Cans Seized	PSPO Warnings	Fixed Penalty Notices	Compliance Rate
Ealing Road including One Tree Hill	47	47	3	93.61%
Neasden Town Centre	39	39	2	94.87%
Sudbury	15	15	0	100%
Harlesden Town Centre	11	11	0	100%
Wembley Park	3	3	0	100%
Kilburn	1	1	0	100%

4.0 Current Analysis

- 4.1 Ealing Road including One Tree Hill Park has generated the most complaints to the Council for street drinking since the order was implemented. A lot of these incidents involved drinking in the park which has been a hotspot area for a number of years. There has been a very good compliance rate following the warnings with only 3 fixed penalty notices issued for further breaches. Following a review at the Local Joint Action Group (LJAG) none of the individuals were known to support services in Brent. All individuals who were warned were offered the support from voluntary sector agencies such as Change Grow Live for alcohol misuse.
- 4.2 Neasden Town Centre also generated many complaints to the Council for street drinking. The offenders are predominantly male with only 2 females issued with warnings to date. There has been a good compliance rate following the warnings being issued with only 2 fixed penalty notices issued for further breaches. All individuals warned were offered the support from Change Grow Live for alcohol misuse. Over 70% of addresses given by these individuals were false. However, here is evidence to

suggest a lot of these individuals congregate in Houses with Multiple Occupancy (HMO) areas or are overpopulated private rental properties

- 4.3 Sudbury Town Centre generated some complaints. To date the warnings issued have not been breached, showing a lack of repeat offenders at this stage.
- 4.4 Harlesden Town Centre has received few complaints from around the Craven Park area. A high proportion of individuals warned in this area are known to support services within Brent predominantly for mental health and substance misuse sectors.
- 4.5 Enforcement data so far has shown an over-representation of Asian and Eastern European men, in Ealing Road and Neasden Town Centre respectively who live in the immediate area. Sudbury Town Centre has shown a mix of Asian, Eastern Europeans and White British males and Harlesden has shown an over representation of vulnerable individuals from a Black British Background who also live in the immediate area. Thus emphasising the need for further analysis as the pilot continues regarding potential root causes of street drinking within these communities.

Current Evaluation

- 4.6 In all areas the common behaviours displayed have been waste accumulation, loitering, public disorder and visual anti-social behaviour which has been the catalyst for complaints to the Council.
- 4.7 Laminated notices affixed in the PSPO areas have been repeatedly removed by street drinkers and therefore financial investment in metal signage would be a suitable solution in town centres and hot spot areas and a lesson learnt at this stage.
- 4.8 A breakdown of calls with an alcohol flag to the Police from January to June 2017 in all Brent wards are listed in Appendix 1. It is too early in the pilot (July) to compare with last year's data however in September a more comprehensive analysis will be undertaken. The data has identified that Willesden Green and more notably Stonebridge resulted in numerous calls regarding street drinking. The Stonebridge ward wasn't identified as a primary area before the orders were implemented and local intelligence has shown some displacement from Harlesden and Tokyngton which has presented some negative challenges however positively highlights the disruption of this action. Kenton has consistently had the lowest recorded calls in comparison to other wards in Brent and received no calls for the month of June, however previous months and noticeably January has seen some evidence of street drinking in the ward. It is highly likely that should the order only be enforced only in priority areas the problem will be displaced to wards such as Kenton where street drinking flags have been low.
- 4.9 Council data from August last year has also shown reports of street drinking in Alperston, Wembley Central, Northwick Park, Dollis Hill, Kilburn and Dudden Hill but more analysis will be needed to understand who reports to the Council or Police and reasons for doing so.
- 4.10 Initial analysis suggests more targeted interventions and increased awareness is required for the Asian and east European communities around the fact that street drinking is not tolerated. There needs to be more work with Public Health and Employment and Skills, to deal with substance misuse issues on unemployment, in

more deprived areas of the borough such as Harlesden and Willesden and more work will be done at the LJAGs to signpost appropriately to Public Health and the Employment and Skills Team.

- 4.11 If a PSPO is implemented by the Council after the end of the CDZ in October 2017, it is recommended that they should be in place for the maximum duration of 3 years to better evaluate the problem.
- 4.12 Since the CDZ was implemented in 2007 there has been *zero* data on individuals enforced or alcohol seized whereas the current PSPO pilots has already shown a more robust identification and enforcement process.

5.0 Forward Policing Plan

- 5.1 Given our first three month trial from April 2017, and the lessons learnt and data analysed to date we have agreed the following plan of action:
- Increase patrols in Kilburn Town Centre and Wembley Park where enforcement low.
 - Analyse all street drinking calls to find out who is reporting the problem and raise awareness across Brent where reports have been low.
 - Design more visual signage through working with the Communications Team on an awareness exercise in reinforcing the message to Brent's residents.
 - Evaluate the support work from Change Grow Live and their impact of dealing with the substance misuse cohort which at this current stage too early to complete.
 - Continue to pass intelligence on licenced venues contributing to the problem.
 - Work with the Town Centre Management programme and Resident groups in building up greater resistance from Businesses in the Town Centre and residential areas to police their space with the Council assisting.
 - Continue to issue Fixed Penalty Notices on breach as early compliance rates shows you can change behaviour by fines.

6.0 Options Appraisal for Cabinet

- 6.1 The below table sets out options available to the Council's Cabinet, once the borough wide control drinking zone ceases in October 2017. A recommendation would be put forward for recommendation number 2 based on the below mitigation of risk.
- 6.2 In relation to options 1 and 2, PSPOs can be made by the Strategic Director for Regeneration and Environment in consultation with the Lead Member for Stronger Communities once the necessary consultation has been carried out. The PSPO will commence immediately after the expiry of the current CDZ and can be enacted for a maximum of 3 years.

Option	Risk	Mitigation
1. Implement a Public Spaces Protection Orders in the 12 primary areas for the maximum duration of 3 years.	Individuals could be displaced to non-PSPO areas where there is no prohibition. Officer time will be spent in varying the order in accordance	This would be a smaller area to police and more resources could be sustained in primary hot spots.

	with the Legislation.	
2. Implement a Borough Wide PSPO to replace the existing CDZ which expires in October 2017.	This could be resource intensive if policed as a whole Borough approach and could impact on sustained patrols in all areas of Brent.	Identifying hotspot areas across Brent's 21 wards, as per pilot, will focus policing in priority areas and provide zero tolerance across the whole Borough. To safeguard against displacement.
3. Decide against implementing a PSPO when the order expires	No systematic enforcement of street drinking.	N/A

7.0 Diversity Implications

- 7.1 The implementation and policing of PSPO has been in accordance with the Equality Act 2010.

8.0 Financial Implications

- 8.1 If a decision is made to enact a PSPO after the CDZ expires the Council will issue fixed penalty notices for breaches in the first instance. Current fines are set at £75 but there is a desire to raise this to £100 which is maximum set limit under the legislation (cf section 68(6) of the 2014 Act).
- 8.2 There will also be a cost element in removing all existing CDZs in the borough and replacing them with Street Drinking signs under the new order which is required by law.
- 8.3 Approximately £45k was spent on designing and implementing existing CDZ signs around the Borough and it is estimated that £20k will be required to replace those signs with PSPO signs, using the existing infrastructure already in place.

9.0 Legal Implications

- 9.1 Under section 59 of the 2014 Act, a Public Space Protection Order (PSPO) can be made by the Council if it is satisfied on reasonable grounds that the activities carried out, or likely to be carried out, in a public space:
- have had, or are likely to have, a detrimental effect on the quality of life of those in the locality;
 - is, or is likely to be, persistent or continuing in nature;
 - is, or is likely to be, unreasonable; and
 - justified the restrictions imposed.
- 9.2 Under Regulation 2 of the The Anti-Social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014, when a PSPO has been made, that local authority must—
- (a) publish the order as made on its website; and
 - (b) cause to be erected on or adjacent to the public place to which the order relates such notice (or notices) as it considers sufficient to draw the attention of any member of the public using that place to—
 - (i) the fact that the order has been made, extended or varied (as the case may be); and
 - (ii) the effect of that order being made, extended or varied (as the case may be).

- 9.3 Under section 67 of the 2014 Act, it is a criminal offence for a person without reasonable excuse:
- (a) to do anything that the person is prohibited from doing by a PSPO; or
 - (b) to fail to comply with a requirement to which the person is subject under a PSPO.

A person who is found guilty of an offence under section 67 of the 2014 Act is liable on summary conviction to a fine not exceeding level 3 on the standard scale – level 3 is currently at £1000.

- 9.4 Under section 68 of the 2014 Act, a police constable or a person authorised by the local authority that made the PSPO may issue a fixed penalty notice to anyone he or she has reason to believe has committed an offence under section 67 of the 2014 Act (as described in the previous paragraph) in relation to a PSPO. Under section 68(2) of the 2014 Act, a FPN is a notice offering the person to whom the FPN is issued the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to a local authority specified in the FPN.
- 9.5 Any challenge to PSPO made by the Council must be made in the High Court by an interested person within six weeks of the PSPO being made. An interested person is someone who lives in, regularly works in, or visits the restricted area. The grounds for challenging a PSPO are that the Council did not have the power to make the PSPO, or to seek an order to include particular prohibitions or requirements and that one of the requirements in making a PSPO (e.g. a necessary level of consultation with relevant bodies) had not been complied with.
- 9.6 At its meeting of 14 April 2015, Brent Council's Cabinet delegated authority to the then Chief Operating Officer in consultation with the Lead Member for Stronger Communities for the function of making PSPOs under the 2014 Act. This function now rests with the current Strategic Director for Regeneration and Environment in consultation with the Lead Member for Stronger Communities and decisions to make PSPOs are made once the necessary consultation has been carried out as required under section 72(3) of the 2014 Act. The definition of "necessary consultation" which must be carried out before making a PSPO is: "consulting with (a) the chief officer of police, and the local policing body, for the police area that includes the restricted area; (b) whatever community representatives the local authority thinks it appropriate to consult; and (c) the owner or occupier of land within the restricted area. The maximum duration of a PSPO is three years.

10.0 Staffing Implications

- 10.1 The enforcement of all PSPO pilot areas has been done predominantly by the Council's Partnership Tasking Team with some assistance of the borough Police Safer Neighbourhood Team. This also has the potential to stretch the resources of the Partnership Tasking Team who have a wide programme across all Safer Brent Partnership priorities including issues relating to Gangs, Violence Against Women and Girls, prolific offenders, Child Sexual Exploitation and Hate Crime.
- 10.2 The ASB Localities Officers in Community Protection have led on recovering FPN payments, offender management of cohorts through the LJAGs and will be required to assist the Legal Team in prosecution for cases which meet the threshold. This could impact heavily on the other ASB priorities/ cases in the clusters they manage.

- 10.3 There must be some consideration going forward to look at a pool of enforcement officers across Regeneration and Environmental Services to assist with the enforcement programme where there are obvious shared priorities; as well as admin support to recoil fine payments.

11.0 Background Papers

- 11.1 None.

Contact Officer:

Simon Egbor
ASB and Crime Manager
Community Protection
Ex 5853