



City-Wide Street Drinking Order

Decision to be taken by: Neighbourhood Services &
Community Involvement Scrutiny Commission

Decision to be taken on: 13th October 2014

Lead director: John Leach

Useful information

- Ward(s) affected: All
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1. Purpose of report

- 1.1 The purpose of this report is to provide details of the work undertaken to establish a city wide street drinking order. Furthermore, the report provides an overview of the consultation process used and the subsequent findings.

2. Summary

- 2.1 The street drinking order, gives police additional powers within a designated area to tackle street-drinking where there is associated anti-social behaviour (ASB).
- 2.2 A Police Officer or Police Community Support Officer can in a designated area:
 - Require a person not to consume alcohol
 - Require a person to surrender any alcohol in his/her possession
 - Dispose of the alcohol
 - Arrest an individual if they fail to comply with the Officer's request or issue a fixed penalty notice.
- 2.3 As part of the new Anti-Social Behaviour, Crime and Policing Act 2014; the new Public Spaces Protection Order (PSPO) now replaces the Designated Public Places Order (DPPO).
- 2.4 At the commencement for this work, the guidance for this new power had not been released and it was therefore decided that the DPPO process would be used for the assessment and a possible establishment of a city-wide street drinking order. As a result a 7 week consultation was instigated from the 23rd June to the 17th August 2014.
- 2.5 Subsequently, due to the announcement of the new legislation, it was agreed that the consultation would be re-opened for a further 4 weeks (from 8th September to 5th October 2014) under the Public Spaces Protection Order (PSPO). This was done on the understanding that the earlier consultation findings would be amalgamated with additional views gleaned from this new consultation.
- 2.6 Public spaces protection orders (PSPOs), which are to come into effect as of the 20th October 2014 are intended to deal with a particular nuisance or problem in a particular area that has a detrimental to the quality of life of those in the locality. They are designed to ensure that the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour.
- 2.7 The application of the PSPO is designed to be broad and focus on the impact

that the anti-social behaviour is having on victims and communities. A PSPO can be made by the Council if they are 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

*justifies the restrictions imposed by the PSPO.

3. Recommendations

- 3.1 It is recommended that members of the Scrutiny Commission note and comment on the contents of this report.

4. Report:

- 4.1 As part of the new Anti-Social Behaviour, Crime and Policing Act; the new Public Spaces Protection Order (PSPO) now replaces the Designated Public Places Order (DPPO).
- 4.2 At the commencement for this work, the guidance for this new power had not been released and it was therefore decided that the DPPO process would be used for the assessment and possible establishment of a city-wide street drinking order.
- 4.3 The process used for establishing PSPOs is the same as the process used for establishing DPPO except the consultation process within the PSPO process can be shorter. As we, in Leicester are investigating the possibility of establishing a city-wide street drinking order, for a meaningful consultation to take place we would not benefit from a consultation shorter process. As a result, a 7 week consultation was undertaken from the 23rd June to the 17th August 2014.
- 4.4 Subsequently, due to the announcement of the new legislation, it was agreed that the consultation would be re-opened under the Public Spaces Protection Order (PSPO) for a further 4 weeks (from 8th September to 5th October 2014). This was done on the understanding that the earlier consultation findings would be amalgamated with additional views gleaned from this new consultation.
- 4.5 PSPOs are applied to specific geographical locations shown to have issues which are likely to have, a detrimental effect on the quality of life of those in the locality; or are likely to be, persistent or continuing in nature. However, the legislation does not exclude the possibility of having a city-wide street drinking order provided that it can be demonstrated that street drinking is a problem across the whole area. Several Councils have implemented, or are seeking to implement, a citywide order to cover their full local authority area under the new legislation.

- 4.6 A recent 'snapshot' audit of street drinking in Leicester highlighted 106 street drinking hotspots. Around 15% of these are in the city centre, and there are issues present in all but four wards in the city. Therefore the citywide street drinking order may be beneficial and justifiable.
- 4.7 Applying an order to the whole city would allow greater flexibility and immediacy in tackling street drinking across the local authority area. The police and other authorised persons will be able to act as and when hotspots emerge rather than needing to go through the process of having the location designated by the local authority before they can use their powers.
- 4.8 A PSPO should encourage greater consistency across the city in how street drinking is addressed. It will remove confusion over which streets/areas (or parts of) are covered by the order, and where the police can and cannot enforce powers. The PSPO will send a clearer message to the drinkers themselves about what constitutes acceptable behaviour when drinking in public.
- 4.9 The PSPO should also save money and time, as the process for establishing or expanding the area (with its associated costs of publishing newspaper notices, producing street signs, etc.) will not have to be gone through each time a new hotspot emerges.
- 4.10 There are also a number of risks and challenges to be taken into consideration with a citywide approach to street drinking, particularly with regards to human rights implications. However, through clear and targeted publicity, outreach work with problem street-drinkers, and careful monitoring and management of enforcement, the authority should be able to mitigate these risks.

Consultation Process

- 4.11 In order to establish a street drinking order, local authorities are required to consult with the public, police and community representatives (as the Local Authority sees fit). A 'Steering Group' was formed by the community safety team and consisted of various members, who contributed to the formation of the consultation document which outlined the opportunities for consultation. The consultation document and process as a whole was based on the Statutory Guidance which came into effect in September 2011.
- 4.12 Leicester City Councils Research and Analyst team was also consulted, the team advised officers on the wording of questions, which were to be put to individuals taking part in the consultation. The consultation questionnaire was made available online and in paper copy. A short web address was secured to ease access and this information was included in all emails and paper correspondence.
- 4.13 Notice of the forthcoming consultation opportunity was sent by email to each member of the Safer Leicester Partnership together with members of each of the delivery groups that make up the Safer Leicester Partnership. Other key contacts (such as city council Heads of Service) were also sent a copy of the questionnaire with a request for them to cascade the questionnaire to staff and service users.

- 4.14 Presentations were delivered to relevant strategic groups such as the Safer Leicester Partnership, Alcohol Delivery Group, Frontline Services Forum and some Ward meetings. Paper copies of the questionnaire were sent out to all libraries, community centres and customer service centres across Leicester along with a poster to share with service users. Contact email addresses for Leicester City Council Officers were provided on the on-line consultation site for any verbal queries. Finally, an online frequently asked questions (FAQs) document was also made available.
- 4.15 Staff from the Community Safety Team visited the Council's Customer Service Centres to discuss the consultation and ask for views on street drinking to those individuals using the Centre. People of varying ages, gender and ethnicity were approached.
- 4.16 Press releases were put out by the Council's Communication Team with wide coverage in the media and in particular over BBC Radio Leicester. Contacts were made with e-networks such as Voluntary Action Leicester, Democratic Services and the Housing Provider Forum. Reminders were sent out by email at the halfway point of the consultation in order to encourage people to take part in the consultation.

Key Consultation Findings

- 4.17 (The consultation findings are still outstanding as the consultation closes on the 5th October – these are to follow shortly)*

Resource requirements

- 4.18 Funding will be required to meet the cost of producing street signs, leaflets, posters, and other publicity. A publicity plan is being developed and will include costs associated with this work.
- 4.19 Also, funding will be required to pay for publishing the two statutory notices in the local newspaper; it is estimated that this will cost about £1,000 (£500/notice).

Implementation

- 4.20 Currently through discussions and joint working with the police, it is expected that police frontline staff will be trained on the use of the power, together with when and where to apply the order.
- 4.21 Furthermore, it is our expectation that the police will monitor the use of this power. Data will be collected on issues such as location, age and ethnicity of individuals where the order has been applied. This information will be collated and shared regularly with partners in order to ensure that services and enforcement activities are targeted where needed.

5. Financial, legal and other implications

5.1 Financial implications

The implementation costs have not been quantified in detail at this stage, and will be driven by the extent of publicity, signs, public engagement, etc., deemed to be required both before and after implementation. However, reasonable costs can be funded from the City Developments & Neighbourhoods budget. The implementation of a single city wide order should in any event be more cost effective than a more ad-hoc/reactive series of orders for specific areas.

Colin Sharpe, Head of Finance, Ext. 37 4081.

5.2 Legal implications

The provisions of the Anti-Social Behaviour, Crime and Policing Act 2014 ('the 2014 Act') which sets out the powers and conditions of a Public Spaces Protection Orders (PSPO's) are due to come into force on 20 October 2014. The new PSPO's replace Designated Public Place Orders (DPPO's) under the Criminal Justice and Police Act 2001.

Leicester City Council proposes to impose a city wide PSPO designed to specifically tackle street drinking.

The PSPO's are the new mechanism designed to tackle a range of activities which have a detrimental effect on the quality of life of those in the locality. The PSPO's provide a constable (or other authorised person as defined in the 2014 Act) ('officers') powers to take steps to tackle activities within the public place which are being carried out in contravention of the PSPO.

The conditions to be satisfied before a PSPO can be made are set out in S.59 of the 2014 Act and the procedure to be followed is set out in S.72 of the 2014 Act. The Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014, as the title suggests, provides guidance on the publication of the PSPO's as required by S.72 of the 201 Act. Further guidance in relation to the making of a PSPO is set out in the Home Office Guidance Document (Anti-Social Behaviour, Crime and Policing Act 2014: reform of anti-social behaviour powers) July 2014.

Before a PSPO can be made the Local Authority must be satisfied (on reasonable grounds) that the following two conditions are met:-

1. That 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 that 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. That the effect, or the likely effect, of the activities is (or is likely to be) of a persistent or continuing nature and which is such as to make the activities unreasonable and that this justifies the restrictions set out in the PSPO.

If it is the case that the above conditions are satisfied then subject to the procedure being followed to implement a PSPO, a PSPO can be put into effect following authorisation.

A PSPO gives powers to an officer to regulate the activity which is subject to the PSPO. However it is important to note that a PSPO would not impose a ban on the activity within the designated area. In relation to street drinking, unless the consumption of alcohol is causing a detrimental effect (such as associated anti-social behavior), drinking in itself therefore in the area subject to the PSPO, would not constitute an offence.

An offence will be committed where in the event that the person does not stop consuming the alcohol or fails to surrender it at the request of an officer. Such an offence can be subject to a fixed penalty notice or on summary conviction a fine not exceeding level 2 on the standard scale. These details should be relayed to the police and other authorised persons who will be enforcing the PSPO.

The PSPO can be drafted to cater for the requirements of any particular area with reference to the duration of the PSPO, the time of the day and period of time during which it is to be in effect and the specific areas in which it would operate.

It should be noted that premises which are licensed to sell alcohol would not be subject to the PSPO until 30 minutes after the time that premises license ceases to be in operation.

Unlike the previous DPPO's a PSPO will only be in force for a maximum period of 3 years from the commencement date. The Local Authority however has power under the 2014 Act to extend the duration of the PSPO or to revoke it as necessary.

It should be noted that even after following the relevant steps to bring into force a PSPO, the PSPO may still be challenged by way of judicial review by anyone subject to it, within 6 weeks of making of the PSPO. If it is the case that the matter is going through judicial review then the Court may suspend the operation of the PSPO while the matter is considered.

In so far as a PSPO is concerned to regulate street drinking within Leicester, the proposal is legally compliant and falls within the ambits of the 2014 Act. The matter may require further consideration at the time that the terms of the PSPO are drafted to ensure that the prohibitions are reasonable.

Shazmina Bhesania (Solicitor) Ext. 371433

5.3 Climate Change and Carbon Reduction implications

There are no climate change implications associated with this report.

Louise Buckley, Graduate Project Officer (Climate Change), Ext. 372 293

5.4 Equalities Implications

Our Public Sector Equality Duty is present throughout the whole policy development process and afterwards, during implementation. Likely equalities impacts for both the communities affected by street drinking and for the street drinkers themselves should be identified and considered in this report. Information on potential impacts arising from street drinking is available in the public domain and could be used to inform the potential impacts on the proposed city wide order to tackle street drinking, any negative impacts arising and potential mitigating actions that should be considered. Without such consideration, due regard of the equalities implications cannot be given for any decision taken and our Public Sector Equality Duty will not have been met.

Irene Kszyk, Corporate Equalities Lead, Ext. 374147.

5.5 Other Implications (You will need to have considered other implications in preparing this report. Please indicate which ones apply?)

Section 17 Crime & Disorder Act: implications with regards to the duty of local authorities to consider the impact of their decisions and actions on crime and disorder in the local area.

Daxa Pancholi, Head of Community Safety, Ext 37 0203

6. Background information and other papers:

- a. Proposal to implement a citywide Designated Public Place Order to tackle street drinking related anti-social behaviour – Report to Executive April 2014
- b. Criminal Justice and Police Act 2001
- c. Violent Crime Reduction Act 2006
- d. Guidance on Designated Public Place Orders (DPPOs) for Local Authorities in England and Wales, Home Office, December 2008
- e. Anti-Social Behaviour, Crime and Policing Bill 2013-14

7. Summary of appendices:

- a. Consultation Finding Report – City- Wide Street Drinking Order

8. Is this a private report (If so, please indicated the reasons and state why it is not in the public interest to be dealt with publicly)?

No

9. Is this a “key decision”?

No

10. If a key decision please explain reason