

	<h2 style="text-align: center;">Chief Officer in consultation with Committee Chair delegated powers report</h2>
Title	Authorisation approval for a Borough-wide Public Spaces Protection Order (PSPO) in the London Borough of Barnet valid for a period of 3 years.
Report of	Clair Green: Executive Director of Assurance in consultation with Councillor Sara Conway: Chair of the Communities, Leadership and Libraries Committee.
Wards	All wards
Status	Public
Enclosures	<p>Appendix A: PSPO order for authorisation.</p> <p>Appendix B: PSPO signage.</p> <p>Appendix C: Borough-wide PSPO Public consultation summary report.</p> <p>Appendix D: Revised Equalities Impact Assessment (EIA) for the PSPO.</p>
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Summary

This report seeks the authorisation of the Executive Director of Assurance, in consultation with the Chair of the Community Leadership & Libraries Committee, for the authorisation of a Borough-wide Public Spaces Protection Order (PSPO) in the London Borough of Barnet valid for a period of 3 years.

Decisions

The Director of Assurance, in consultation with the Chair of the Community Leadership & Libraries Committee, authorises a Borough-wide Public Spaces Protection Order (PSPO) in the London Borough of Barnet valid for a period of 3 years.

1. WHY THIS REPORT IS NEEDED

- 1.1 On 20th June 2022 the Community Leadership and Libraries Committee (CLLC) received the request to implement a public consultation for a Borough Wide Public Spaces Protection Order (PSPO) in Barnet.

The web link to this paper is at the end of this report in the Background Papers section.

This report summarises the feedback to the public consultation; presents the revised Equalities Impact Assessment and the final PSPO draft order and PSPO sign for authorisation by the Executive Director of Assurance. The PSPO draft order for authorisation is at Appendix A of this report and the PSPO signage is at Appendix B of this report.

- 1.2 The CLLC resolved to:

- *Note the contents of the report and the 12 proposed prohibitions for the proposed PSPO.*
- *Approve to proceed to public consultation for the proposed PSPO.*
- *Delegate authority to the Executive Director of Assurance, in consultation with the Chair to finalise the wording of the consultation document and to consider the Equality Impact Assessment (EQIA) and all necessary steps to make the order.*

1.3 The consultation summary

As authorised the public consultation for this proposed PSPO proceeded on the 15th August 2022 and ended on the 24th October 2022. A total of 550 responses were received and a summary of those responses is at Appendix C of this report.

In addition to the public consultation on the Engage Barnet website the following community representatives were also written to inviting their bespoke feedback which was received from all the groups listed below:

- The London Gypsy and Travellers Association
- The Dogs Trust
- The Kennel Club
- London Fire Brigade
- Public Health Barnet
- Metropolitan Police Service – Barnet
- Barnet Green Spaces Department

The Community Safety Team also received several direct responses from elected members and other community representatives such as the Monken Hadley Common Trust.

1.4 The consultation response summary:

The majority of responses were from residents regarding the road they live in (62%) and Green Spaces (66%)

The majority of the public who answered the consultation Strongly Agree or agree with implementing the borough wide PSPO. This is broken down into over two thirds of respondents (72%) Strongly Agreeing with the council's proposed borough wide PSPO and a further 15% Tend to Agree.

7% of respondents disagree with the council's proposed borough wide PSPO (3% Tending to Disagree and 4% Strongly Disagreeing)

The consultation response content in paragraphs 1.4.1 to 1.4.4 of this report is predominantly the direct wording of the relevant group's response. These quotes will be defined by way of italic text below.

1.4.1 The London Gypsy and Travellers (LGT) highlighted in their response *recent judgments in the High Court and Court of Appeal regarding Borough-wide injunctions against 'persons unknown' occupying land and depositing waste. These judgements have highlighted the disproportionate impacts on the Romany Gypsy and Traveller ethnic groups of a blanket ban from stopping on land and have highlighted the steps that Local Authorities need to consider before seeking such extensive powers.*

The LGT invited Barnet to consider the use of 'negotiated stopping'¹ which is the process Barnet Council and the Police apply locally and also extended their willingness to work with the Council in the future in relevant or related workstreams.

The Council recognises the issue of unauthorised camping in Barnet's green spaces is not solely attributed to the gypsy and travelling community the existing powers within the Public Order Act 1994 (and amendments) are considered

¹ Negotiated Stopping is a balanced and humane approach, based on a mutual agreement between the local authority and Gypsy and Traveller families on what short term accommodation is appropriate, fair and in the best interests of all residents. This involves dialogue with families, providing waste disposal and basic temporary facilities, and sometimes directing Gypsy and Traveller families away from contentious public spaces to more appropriate council land.

[LGT_report_28Nov_web.pdf \(londongypsiesandtravellers.org.uk\)](#)

sufficient and therefore based upon the representation offered the proposed condition of 'No Camping' has been withdrawn from the final draft order.

- 1.4.2 **The Dogs Trust** submitted their feedback inviting the Council to consider the removal of the requirement to carry a bag but *placing more emphasis upon the offending act of failing to pick up the fouling and the provision of dog fouling bin provisions.*

Barnet Council allow dog walkers to deposit such waste in any of our 3000+ street litter bins therefore it is considered this provision suggestion is met.

The Dog Trust also highlighted that *the competency of the handler needs to be taken into consideration if considering this order. Research from 2010 shows that 95% of dog owners have up to 3 dogs. Therefore the number of dogs taken out on to land by one individual would not normally be expected to exceed four dogs.*

The Dogs Trust enthusiastically support Dogs on Leads by Direction orders (for dogs that are considered to be out of control or causing alarm or distress).

- 1.4.3 **The Kennel Club** responded and stated *they would like to take this opportunity to encourage the local authority to employ further proactive measures to help promote responsible dog ownership throughout the local area in addition to introducing Orders in this respect. These proactive measures can include: increasing the number of bins available for dog owners to use; communicating to local dog owners that bagged dog faeces can be disposed of in normal litter bins; running responsible ownership and training events; or using poster campaigns to encourage dog owners to pick up after their dog.*

The Kennel Club also commented that *having 'too many dogs' is not ASB in itself and when answering this question, it cannot be distinguished from having an experience of dogs being out of control in the borough. Additionally, the experience of ASB of a dog out of control could be a single dog rather than a group of dogs but the results of this survey would be interpreted as multiple dogs being an issue, and in turn, leaving it impossible to separate issues caused by multiple dogs vs individual dogs. The Kennel Club invited the Council to consider that if a maximum number of dogs measure is being considered due to issues arising from commercial dog walkers, we (The Kennel Club) instead suggest that councils look at accreditation schemes – as seen in places such as the East Lothian Council area.*

In response to both of these organisations' representations the Council is now proposing the limit of dogs being exercised by one person is limited to 6 and that any professional dog walker who wishes a dispensation to this condition makes direct contact with the Council's Community Safety Team to consider their request.

1.4.4 London Fire Brigade (LFB) responded to the consultation that *they welcomed the opportunity to provide feedback on Barnet Council's consultation on the introduction of a Borough Wide Public Space Protection Order (PSPO). Our (London Fire Brigade's(LFB)) response relates specifically to the proposed Condition 9 – 'Not to start or attempt to build any open fires or BBQs in the London Borough of Barnet Green Spaces {unless council sponsored / pre-approved} (The damage to land and smoke nuisance, and associated litter)'*.

LFB came under significant pressure during the heatwave in July 2022 due to the large number of fires that occurred across London. LFB declared a major incident on 19 July 2022, as firefighters battled multiple large fires across the capital during the record-breaking heatwave. Extreme weather patterns like those experienced over summer are likely to become more common in future and barbecues are one of the most common causes of grass and open land blazes.

During the week commencing Monday 18 July 2022:

- *LFB received 8,302 calls.*
- *Firefighters attended 3,231 incidents, including more than 1,000 fires.*
- *999 calls received were more than double the same period in 2021.*
- *34 grass fires required an attendance of four fire engines and above, with some requiring up to 30 fire engines to bring them under control.*

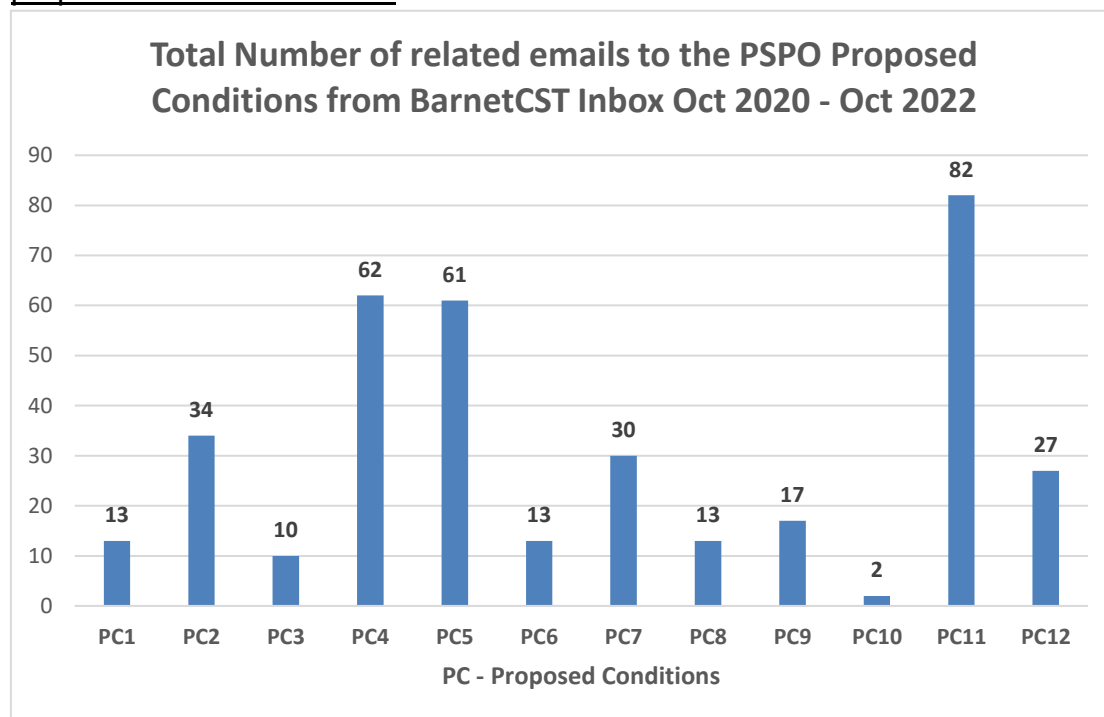
1.5 General anti-social behaviour reporting data considered for this PSPO

1.5.1 In considering these and the other responses received, the Community Safety Team recognises the number of calls regarding general nuisance/ anti-social made to the police annually. Prior to the Covid19 lockdown the annual number of anti-social calls for Barnet made to 999 or 101 was approximately 8500 and had been steadily declining. The use of the anti-social call category for Covid 19 breaches resulted in that figure rising to just over 16,000 in 2020/21 and slowly reducing to just over 12,000 in 2021/22 and is currently returning to the pre Covid19 trend of below 10,000 anti-social calls in this reporting year to date. It is considered that further reductions can be made as a result of public confidence in reporting anti-social and possible breaches of this PSPO in the lifetime of the order resulting in increased confidence in reporting and measurable and visible deterrents and outcomes to such anti-social behaviour issues.

1.5.2 In preparation for this PSPO to be proposed and the conditions being considered the Community Safety Team undertook an audit of public complaints by type made directly to just the Community Safety Team and the number and type of elected member enquires/complaints made solely to the Community Safety Team regarding anti-social behaviour issues in Barnet.

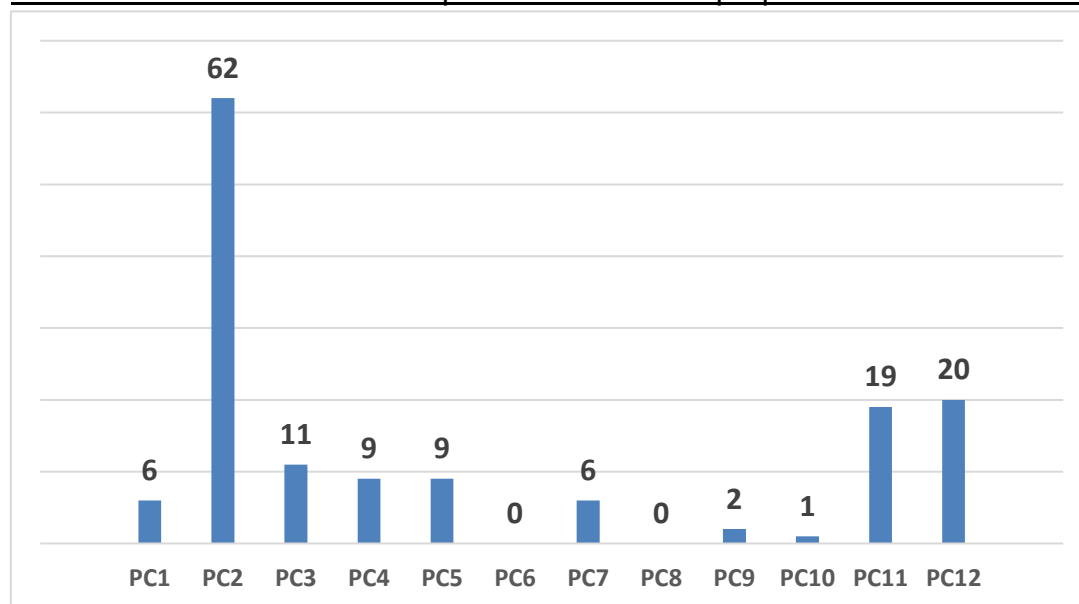
1.5.3 Table 1 below shows the number of public complaints made directly to by email to the Community Safety Team. In the period of October 2020 - October 2022 the Community Safety Team processed 364 public complaints broken down into the relating 12 initial proposed conditions.

Table 1 – Email complaint volumes to the Community Safety Team linked to the proposed PSPO conditions



1.5.4 Table 2 below shows the number of elected member enquires/complaints made directly by email to the Community Safety Team relevant to reporting and requesting assistance in tackling anti-social behaviour. In the period of January 2021- October 2022 the Community Safety Team processed 145 elected member complaints relating to the anti-social behaviours as defined by the 12 proposed conditions.

Table 2 – Elected Member enquiries linked to the proposed PSPO conditions



1.6 Public Spaces Protection Orders (PSPOs)

1.6.1 Public Spaces Protection Orders (PSPOs) are intended to deal with a particular nuisance or problems in a particular area that is detrimental to the local communities quality of life, by imposing conditions on the use of that area. They are designed to ensure the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour.

1.6.2 Notice of intent and consultation

- (a) The CLLC approved public consultation for this proposed PSPO proceeded on the 15th August 2022 and ended on the 24th October 2022. (A period of 10 weeks).
- (b) The legally required consultation with the Chief Officer of Police, and the local policing body, for the police area that includes the restricted area has been undertaken and record of that consent for this PSPO (in writing) has been received to the Council's Community Safety Team on the 26th October 2022 from the Metropolitan Police Service Chief Superintendent of the Tri Borough Policing Command (NW) area for Barnet.
- (c) Consultation with the Chair of the Barnet Safer Communities Partnership Board, Councillor Sara Conway, has been undertaken via the CLLC and Safer Communities Partnership Board meetings in the relevant period – 20th June 2022 to 5th December 2022.

1.6.3 In deciding to place restrictions on a particular public space, councils should consider the knock-on effects of that decision. Introducing a blanket ban on a particular activity may simply displace the behaviour and create victims elsewhere.

1.6.4 The council must also consult whatever community representatives they think appropriate. This could relate to a specific group, for instance the resident's

association, an individual or group of individuals, for instance, regular users of a park or specific activities such as busking or other types of street entertainment

1.6.5 Before a PSPO is made, the council has to publish the draft order in accordance with regulations published by the Secretary of State.

1.6.6 The council can make a PSPO on any public space within its own area. The definition of public space is wide and includes any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission.

1.6.7 **Prohibitions and penalties:** Following the consideration of the public consultation feedback and that of the specific consultees that the Council contacted, the prohibitions and penalties for this PSPO to be authorised are as defined below. A copy of the final draft order for authorisation is at Appendix 1 of this report.

Prohibition 1:

Any person who, without reasonable excuse, continues consuming alcohol (or anything reasonably believed to be alcohol) in the restricted area when asked not to do so by an Authorised Officer, Police Officer or a Police Community Support Officer, commits an offence. Any person who, without reasonable excuse, fails to surrender any alcohol in their possession (or anything reasonably believed to be alcohol) when asked to do so by an Authorised Officer, Police Officer or a Police Community Support Officer commits an offence.

Prohibition 2:

Any person who, without reasonable excuse, behaves in a manner that causes, or is likely to cause, harassment, alarm, or distress to any person(s) commits an offence. Examples of such behaviour include use of offensive, threatening or abusive language.

Prohibition 3:

Any person in charge of a dog at the time, who, without reasonable excuse, fails to remove the dog's faeces immediately from land in the restricted area and dispose of it suitably, commits an offence.

It is not a reasonable excuse to not have a suitable means for collecting the faeces.

Please note the council permits the disposal of dog fouling waste in all of Barnet's street based litter bins.

Exemptions: *This prohibition is not to be enforced against any person with a disability that affects their mobility, manual dexterity, physical coordination, ability to lift, carry or otherwise move everyday objects, and those persons who are in charge of an assistance dog trained by a relevant charity.*

Prohibition 4:

a. *Any person who exercises more than 6 dogs (whether the dogs are on leads or not) at any one time in the restricted area, commits an offence.*

b. *Any person who fails to put a dog(s) on a lead when instructed to do so by an Authorised Officer, Police Officer or a Police Community Support Officer, commits an offence.*

Exemptions: This prohibition is not to be enforced where a professional or personal dog handler has written dispensation from the Barnet Community Safety Team. This dispensation is not a licence and can be withdrawn by the Community Safety Team if the owner or handler is subject of public complaints of unsafe dog handling. Please email BarnetCST@Barnet.gov.uk for more information.

Prohibition 5:

Any person who urinates, defecates or spits in the restricted area, without reasonable excuse, commits an offence.

Prohibition 6:

Any person who actively or aggressively begs for money by approaching anyone asking for money or asking for money whilst blocking anyone's free access to a business or cash point commits an offence.

Prohibition 7:

Any person who drives or rides any motorised vehicle on or in a park or public green space in the borough without permission from Barnet Council commits an offence. Any person failing to immediately stop doing so when asked to by an Authorised Officer, Police Officer or a Police Community Support Officer commits an offence.

Prohibition 8:

Any person who lights a firework in any public space in the restricted area commits an offence unless that person, or organisation, has a licence from Barnet Council permitting this to happen in that location.

Prohibition 9:

Any person who builds or attempts to build, or starts or attempts to start, a fire or barbecue in any public spaces in the restricted area commits an offence, unless it has been agreed in writing and in advance by Barnet Council, or is using a facility provided for this by Barnet Council.

Prohibition 10:

Any person who promotes any music event (in any way, including flyposting and handing out leaflets), or encourages other person(s) to do so, or is involved in running any music event which is not licensed by Barnet Council, commits an offence.

Prohibition 11:

Any person who, without reasonable excuse, uses, shares, or supplies others with any psychoactive substances (including Spice, nitrous oxide gas canisters, and other substances known for legal highs) or marijuana/weed, in any public place within the restricted area, commits an offence.

Any person who is in possession of any drug paraphernalia (including cannabis grinders or crack cocaine pipes), in any public place within the restricted area, without reasonable excuse, commits an offence.

Exemptions: The prohibition is not to be enforced where a person has a prescribed medical need for personal medication for example an Epiprene injector (Epipen).

PENALTIES

A person who commits an offence under this PSPO under Prohibition 1 shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale. A fixed penalty notice may be issued as an opportunity to discharging any liability to conviction for the offence.

A person who commits an offence under this PSPO under Prohibitions 2 to 11 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale. A fixed penalty notice may be issued as an opportunity to discharging any liability to conviction for the offence.

OFFENCES

Any person who, in the 'Restricted Area', without reasonable excuse, breaches any prohibition of this PSPO commits an offence.

1.6.8 The enforcing officer (an Authorised Officer of the Council, Police Officer or Police Community Support Officer) will take into consideration the behaviour in question and apply the most appropriate sanction. This includes prosecution for the breach of the PSPO or issuing a fixed penalty notice (FPN). Payment of the FPN will discharge any liability to conviction for the offence. However, if payment by the individual is not made within the required timescale, the process may result in the matter reverting back to prosecuting the individual through the court for the offence of failing to comply with the Public Space Protection Order.

In the London Borough of Barnet the current level of FPN for a breach of a PSPO condition is £100 (Reduced to £70 if paid within 14 days).

1.6.9 **Appeals:** Any challenge to a Public Spaces Protection Order must be made in the High Court by an interested person within six weeks of it being made. An interested person is someone who lives in, regularly works in, or visits the restricted area. This means that only those who are directly affected by the restrictions have the power to challenge. This right to challenge also exists where an order is varied by a council.

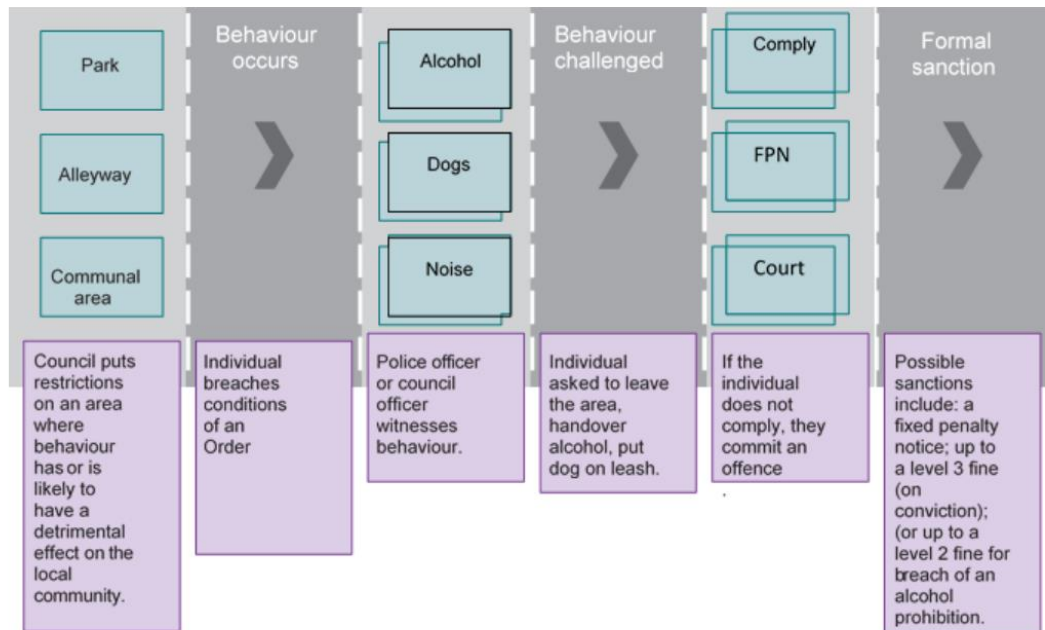
Interested persons can challenge the validity of an Order on two grounds. They could argue that the council did not have power to make the order, or to include particular prohibitions or requirements. In addition, the interested person could argue that one of the requirements (for instance, consultation) had not been complied with.

When the application is made, the High Court can decide to suspend the operation of the Public Spaces Protection Order pending the verdict in part or in totality. The High Court has the ability to uphold the Public Spaces Protection Order or to quash it (or any of the prohibitions or requirements imposed by it).

1.6.10 Figure 1 below is the flowchart process provided by the Home Office Guidance to Practitioners for the ASB, Crime and Policing Act 2014 (Last updated in June 2022):

Figure 1:

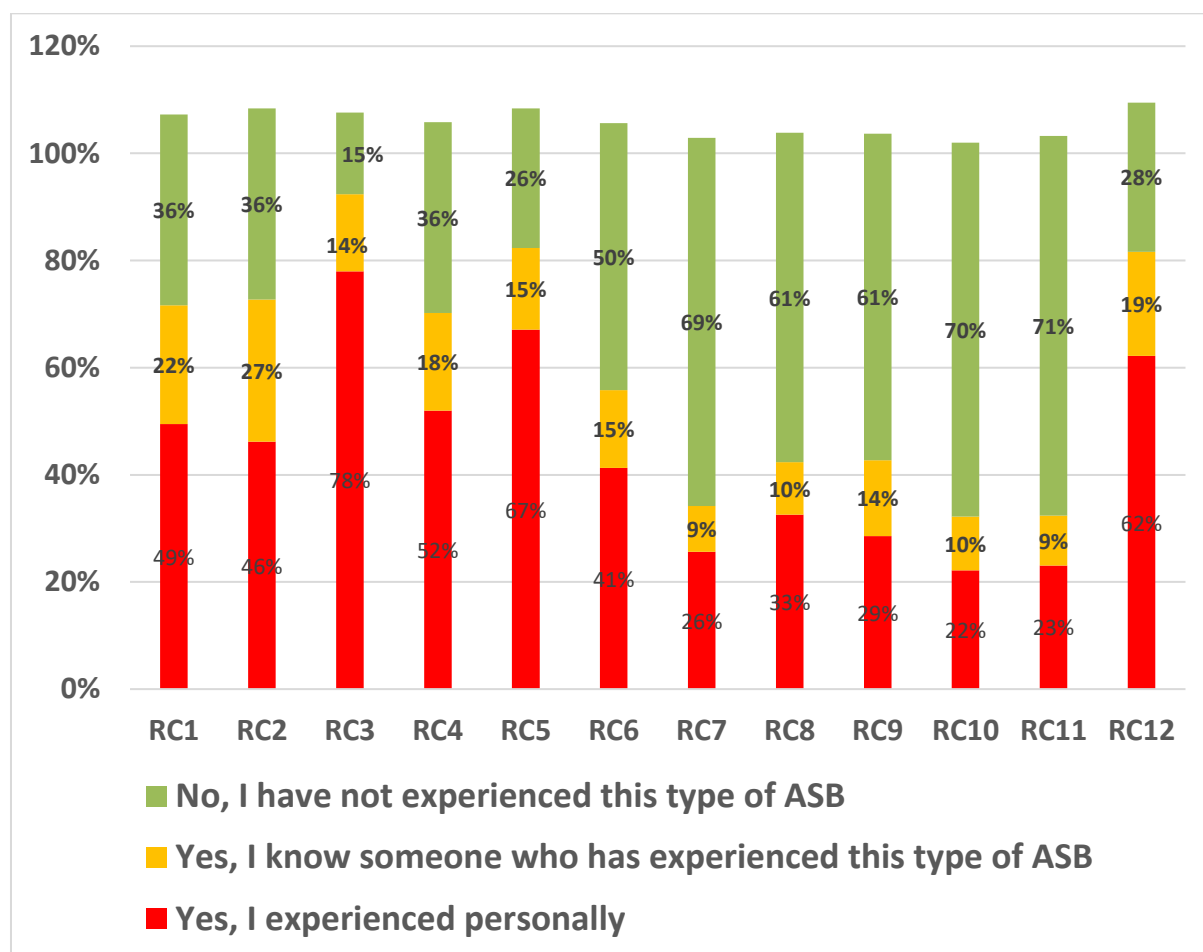
Public Spaces Protection Order



2. REASONS FOR RECOMMENDATIONS

- 2.1 During the lifetime of the prior PSPOs in Barnet for alcohol related anti-social behaviour and dog control it is apparent to the public and those officers tasked with managing the public space that those PSPOs acted as both a deterrent for such behaviour and an effective enforcement tool for Local Authority and Police officers tasked to tackle the persons acting in this manner.
- 2.2 Without the use of PSPOs it is considered inevitable that the previous behaviours which required this power to be able to address the issues risks returning, causing harm to the area, the community's confidence in the authorities tasked to protect them from such anti-social behaviour and potentially the loss of confidence using the defined public space for their lawful business or recreation.
- 2.3 The PSPO consultation summary report at Appendix 3 of this report refers to the responses made to the public consultation however due to the high volume of feedback it is not possible to draft a response to each comment raised however Table 3 below provides an insight into the anti-social behaviour experienced by the respondents.

Table 3: Summary of answers for Question 1 of the consultation - Type of ASB Experienced



2.4 Evidence provided in this report and by way of the public consultation feedback summary report (Appendix 3) indicate that:

- 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
- It is likely that activities will be carried on in a public place within that area and that they will have such an effect.

And ***that the effect, or likely effect, of the activities:***

- is, or is likely to be, of a persistent or continuing nature
- is, or is likely to be, such as to make the activities unreasonable and
- justifies the restrictions imposed by the notice

- 2.5 **Therefore officers of Barnet Council are satisfied on reasonable grounds that the conditions set out in Section 59 and 60 of the Anti-Social Behaviour, Crime and Policing Act 2014, are met for this PSPO to be authorised and to remain in force for 3 years commencing on the 12th December 2022.**

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 **Do nothing – this is not recommended** for the reasons cited within this report. There is significant community support demonstrated by way of the complaints raised to the Council's Community Safety Team, via Elected Member complaints and also the responses to the public consultation.
- 3.2 Introduce a PSPO that only covers certain wards for certain conditions – **this is not recommended** for the reasons cited within this report. The feedback from the consultation and complaints records over the last two years shows that these behaviours impact across the borough. To attempt a ward-by-ward approach may prove confusing to the public and those officers expected to enforce this PSPO, as well as not tackling the issues.

4. POST DECISION IMPLEMENTATION

- 4.1 If the PSPO is authorised then the final order will be publicised on the Council's website and a joint Council and Metropolitan Police social media awareness raising promotion will be implemented including the Barnet First digital magazine.
- 4.2 The new PSPO will also be promoted by way of community engagement by Community Safety Team officers handing out 'Did you know you were in a PSPO area' flyers and via the newly introduced Community Safety Hubs.
- 4.3 All wards will have signage erected in the main arterial access routes and key, currently known, ASB hotspot areas. The volume of signage is dictated by the area and natural entry exit points to the area. Signage has been produced and will be erected upon authorisation of this PSPO by the Community Safety Team staff using plastic ties. The signs are designed/made of to prolong their use and endure weather conditions for the lifetime of the PSPO. The PSPO signage is at Appendix 2 of this report.
- 4.4 The officers of the Council's Community Safety Team and Neighbourhood Policing Team will maintain their operational deployments to patrol the area covered by the PSPO so that the PSPO area is subject to an effective, consistent and sustained programme of interventions, monitoring and enforcement.
- 4.5 The management and effectiveness of all PSPOs in Barnet are reviewed via the Council's and Partnership multi agency Community Safety MARAC and ASB Delivery Group, and if needed, variation can be made.

5 IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

5.1.1 Following the May 5th Elections, the council has a new Labour administration. On the 24th May 2022 Annual Council appointed a new Leader of the Council. The Leader and the new administration have set out the priorities which include – Investing in CCTV, Community Safety Hubs, Safety Audit Ward walks, a pro-active approach to improving safety for women and girls and the progression of a Borough-wide PSPO for Barnet.

5.1.2 This PSPO will support the council in our seeking to further reduce the levels of anti-social behaviour and the associated detritus in our borough. It will be demonstrative of the Council's commitment to work in collaboration with our partners such as the Metropolitan Police Service and support services such as Change Grow Live (CGL) to provide a safe environment for residents and ensuring residents feel able to report incidents through increased confidence in the council being able to help.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

5.2.1 PSPO enforcement arrangements will be provided within the existing service staff resources within the Council and Neighbourhood Policing Team officers when necessary for public safety concerns therefore this deployment will be self-sufficient.

5.2.2 There are no property implications identified.

5.2.3 There are no staffing implications at this stage.

5.2.4 Case management of PSPO non-complaint persons will be administered by the council and partnership through the Community Safety Team's IT system, ECINS.

5.2.5 If authorised the Council's Community Safety Team will place the order for 400 signs which have been quoted at £1700 in total. This will afford each of the 21 wards a minimum of 10 signs to be deployed into the main areas affected or key access routes into the ward and allow for a small surplus stock for when specific are issues are identified for rapid signage deployment.

5.2.6 Minimum signage life expectancy is 18mths - 2yrs excepting theft or vandalism of the signs and any replacement or additional signage will be funded from the Community Safety Team Enforcement budget 10997.

5.3 Social Value

5.3.1 Not relevant for this report

5.4 Legal and Constitutional References

5.4.1 The Anti-Social Behaviour, Crime and Policing Act 2014 provides the power and process for implementing a PSPO.

5.4.2 As noted earlier in this report, there are certain conditions that have to be met in order for the authority to make a PSPO. A PSPO sets a restricted area within which doing specified things are prohibited, or are required, or both.

5.4.3 **Section 59** of the Anti-Social Behaviour, Crime and Policing Act 2014 states that:

A local authority may make a public spaces protection order if satisfied on reasonable grounds that two conditions are met.

The first condition is that:

- 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
- It is likely that activities will be carried on in a public place within that area and that they will have such an effect.

The second condition is that the effect, or likely effect, of the activities:

- is, or is likely to be, of a persistent or continuing nature
- is, or is likely to be, such as to make the activities unreasonable and
- justifies the restrictions imposed by the notice

5.4.4 **Section 60 - Duration of orders** – of the Anti-Social Behaviour, Crime and Policing Act 2014 states that:

(1) A public spaces protection order may not have effect for a period of more than 3 years, unless extended under this section.

(2) Before the time when a public spaces protection order is due to expire, the local authority that made the order may extend the period for which it has effect if satisfied on reasonable grounds that doing so is necessary to prevent—

(a) occurrence or recurrence after that time of the activities identified in the order, or

(b) an increase in the frequency or seriousness of those activities after that time.

(3) An extension under this section—

(a) may not be for a period of more than 3 years;

(b) must be published in accordance with regulations made by the Secretary of State.

(4) A public spaces protection order may be extended under this section more than once.

5.4.5 Before making or extending an Order, the Council must consult with the chief officer of police, the Police and Crime Commissioner and any representatives of the local community it considers appropriate. Orders may last for a maximum of three years, after which they may be reconsidered for renewal or discontinued. There are also requirements to publicise, and notification requirements in relation to a proposed PSPO.

5.4.6 Under the Act an interested party can challenge the making of a PSPO, or its variation, by application to the High Court. The grounds for such a challenge are that the local authority did not have the power to make or vary the order or to include certain prohibitions/requirements, or that a requirement under the Act was not complied with. There is a 6-week time limit to make such an appeal from the date of the order or variation.

5.4.7 Where an Order has been made and has come into effect, it is an offence to fail to comply with its provisions. The Police are given additional powers in relation to the consumption of alcohol within the restricted area.

5.4.8 At their meeting on 20th June 2022, the Community Leadership and Libraries Committee (CLLC), in relation to this proposed PSPO, resolved to:

- *Delegate authority to the Executive Director of Assurance, in consultation with the Chair to finalise the wording of the consultation document and to consider the Equality Impact Assessment (EQIA) and all necessary steps to make the order.*

5.5 Risk Management

5.5.5 Whilst the statutory process and guidance has been followed in the preparation of this new Borough-wide PSPO, there remains a possibility that the lawfulness of the PSPO could be challenged. It should be noted that the community have been afforded consultation via the Council's website and Engage Barnet processes and that officers have taken the consultation responses into account in the preparation of this new PSPO.

5.5.6 The review process set out in Section 4 of this report summarises how the operational use of the PSPO powers will be managed and monitored in accordance with the established council process for managing anti-social behaviour.

5.6 Equalities and Diversity

5.6.1 A refreshed Equalities Impact Assessment (EIA) was undertaken and has now been reviewed as part of this process to ensure the approach does not have a disproportionate or adverse impact, or to try and mitigate such impact. The EIA for this new PSPO can be found at Appendix 4 of this report.

5.6.2 The EIA show that some protected groups may be affected by the proposed PSPO but no negative impact has been recorded in the lifetime of the previous PSPOs of 2018 and their subsequent extensions into 2021, albeit they did not cover all the restrictions in the current proposed PSPO. Going forward this will continue to be monitored as noted above, and in addition, mitigating and support measures are proposed for persons likely to be the subject of breaching the PSPO. Within that EIA assessment some persons within the group affected by this PSPO may be alcohol or substance misusers and despite efforts to support them their alcohol/substance misuse the associated anti-social behaviour may be better addressed in an alternative way such as through Community Protection Notices and other court imposed orders such as Criminal Behaviour Orders or Premises Closure Orders.

5.6.3 The public sector equality duty is set out in Section 149 of the Equality Act 2010.

5.6.4 A public authority must, in the exercise of its functions, have *due regard* to the need to:

(a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

5.6.5 The protected characteristics are:

- age
- disability
- gender reassignment
- pregnancy and maternity
- race / ethnicity
- religion or belief
- gender / sex
- sexual orientation
- marital status (including civil partnership)

5.6.6 The decision to take enforcement action will be decided on a case by case basis and dependent upon the assessment of the facts and evidence supporting each one.

5.7 Corporate Parenting

- 5.7.1 The decision to proceed with the proposed PSPO is not expected to have a direct or indirect impact on children in care and care leavers because if any such children come to the Council's attention, they will be subject to referral as set out in 5.7.2 below.
- 5.7.2 Should any person under 18 years old or care leavers be identified involved directly or indirectly in breaches of the PSPO they will first be referred to the MASH in accordance with standard protocols for vulnerable young people.

5.8 Consultation and Engagement

- 5.8.1 As authorised by the CLLC, the public consultation for this proposed PSPO proceeded on the 15th August 2022 and ended on the 24th October 2022.
- 5.8.2 A total of 550 responses were received and the findings were that indicated that the community was in support of a Borough-wide PSPO being introduced by 87%.
- 5.8.3 Several responses were received by the Community Safety Team to the Council's website notification published on 15th August 2022 which included representations from the Dogs Trust, The Kennel Club, The London Gypsy and Travellers Association, London Fire Brigade, Public Health Barnet, Local Police and Elected Members correspondence in support and offering comment to the specific conditions relevant to their service areas.
- 5.8.4 In accordance with the council's process for community consultation all the consultation responses have been reviewed and considered and one key change has been adopted as a result, namely the removal of the 'No camping' proposed condition.

5.9 Insight data

- 5.9.1 Not relevant for this report.

6. BACKGROUND PAPERS

Recent papers to various committees on enforcement and some examples of web links to the council's service specific enforcement actions are listed below.

Anti-Social Behaviour, Crime and Policing Act 2014 (Last updated June 2022) – Home Office Statutory Guidance for frontline professionals.