



**ANNUAL REPORT OF PUBLIC SPACE PROTECTION ORDER (PSPO) 2020
PREVIOUSLY DESIGNATED PUBLIC PLACES ORDER(DPPO)**

**CORPORATE COMMITTEE
MEETING DATES 2021/22**

14th September 2021

CLASSIFICATION:

OPEN

**If exempt, the reason will be listed in the
main body of this report.**

WARD(S) AFFECTED

All Wards

GROUP DIRECTOR

Ajman Ali, Neighbourhoods & Housing

1. INTRODUCTION AND PURPOSE

- 1.1. The Borough wide Designated Public Place Order (DPPO) was introduced on 24th May 2010. Originally it was implemented under section 13 of the Criminal Justice and Police Act 2001 which was superseded on 20th October 2014 by the provisions of the Anti-Social Behaviour, Crime and Policing Act 2014.
- 1.2. The purpose of the DPPO was to ensure that the consumption of alcohol in a public place did not cause disorder, nuisance or annoyance to members of the public, or a section of the public within the London Borough of Hackney.
- 1.3. The 2014 Act automatically transitioned the previous DPPO into a Public Space Protection Order (PSPO's) on 20th October 2017 which is required to be reviewed every three years. The PSPO expired on 19th October 2020.

2. RECOMMENDATION(S)

The Corporate Committee is recommended to:

- 2.1 There are no official recommendations arising from this report. This report is for information purposes. Corporate Committee can note the content of this report and level and the scope of work being carried out to meet the requirements of the PSPO.

3. REASONS FOR DECISION

- 3.1 A PSPO is a tool to ensure the law-abiding majority can use and enjoy public spaces safe from activities which have a detrimental effect on the quality of their life in that area.
- 3.2 PSPOs are intended to be used to deal with a particular nuisance or problem in an area that is detrimental to the local community's quality of life, by putting in place conditions on the use of that area that apply to everyone. They are designed to ensure people can use and enjoy public spaces safe from activities which have the requisite detrimental impact.
- 3.3 Councils can make a PSPO after consultation with the Police and other relevant bodies and communities. The legislation sets out a two-pronged test of which a local authority has to be satisfied on reasonable grounds before a PSPO can be made. These conditions are as follows:
 - (1) *That the activities carried out in a public place have had a detrimental effect on the quality of life of those in the locality; or that it is likely that they will have such an effect.*
 - (2) *That the effect or the likely effect of the activities:*
 - *Is (or is likely to be) persistent or continuous.*

- *Is (or is likely to be) unreasonable.*
- *Justifies the restriction imposed by the notice.*

3.4 A PSPO must identify the public place in question and can:

- prohibit specified things being done in that public place
- require specified things to be done by persons carrying on specified activities in that place; or
- do both of those things.

3.5 The only prohibitions or requirements that may be imposed are ones that are reasonable to impose in order to prevent or reduce the risk of the detrimental effect continuing, occurring or recurring.

3.6 Prohibitions may apply to all persons, or only to persons in specified categories, or to all persons except those in specified categories.

3.7 The PSPO may specify the times at which it applies and the circumstances in which it applies or does not apply.

3.8 Unless extended, the PSPO may not have effect for more than 3 years.

3.9 Breach of a PSPO without reasonable excuse is a criminal offence. The Police or a person authorised by the Council can issue fixed penalty notices, the amount of which may not be more than £100. A person can also be prosecuted for breach of a PSPO and on conviction, the Magistrates' Court can impose a fine not exceeding level 3 on the standard scale (currently £1000).

3.10 In deciding to make a PSPO the Council must have particular regard to Article 10 (Right of Freedom of Expression) and Article 11 (Right of Freedom of Assembly) of the European Convention on Human Rights ('ECHR').

3.11 The Council must also carry out the necessary prior consultation, notification and publicity as prescribed by s.72 of the 2014 Act.

3.12 In preparing this report Officers have had regard to the statutory guidance issued by the Home Office and the Guidance on PSPOs issued by the Local Government Association.

4 BACKGROUND

4.1 Historically alcohol related ASB was regulated by the Council's Designated Public Places Order (DPPO). When PSPOs were created, the power to create further DPPOs was repealed and existing orders were allowed to last for a three-year period until October 2017. After October 2017, existing DPPOs could be enforced as though they were PSPOs and they expired in October 2020 as they were "transitioned" PSPOs.

- 4.2 The Council believes that reintroducing a Public Space Protection Order (PSPO), will help with controlling ASB associated with alcohol consumption in a public place. It will also enable Community Safety and Enforcement Officers and Police Officers to issue warnings and fixed penalty notices to those not complying with the requirements of the proposed PSPO.
- 4.3 The Council undertook a consultation exercise in September and October 2020 to gauge support on having a PSPO in place, in which it asked whether residents were concerned about ASB associated with street drinking, whether they had witnessed and how often they witnessed this behaviour, and the type of behaviour witnessed that had occurred. The Council also asked if the current (transitioned) PSPO had a negative impact on people and the effectiveness of the PSPO. The consultation lasted for six weeks from 15th September 2020 to 30th October 2020.
- 4.4 In addition, an engagement exercise (the 'London Fields Conversation') was carried out from 29th September to 14th November 2020. The focus of the hyper-local engagement exercise was:
- Understanding the ASB issues that local residents and businesses in the London Fields area faced in Spring / Summer 2020, and how it impacted on them; and
 - Crowdsourcing ideas and suggestions from local people on potential solutions to the ASB issues they had been facing.
- 4.5 As the number of responses to the consultation was very low it was recommended to Cabinet that a further consultation exercise be undertaken and this was approved by Cabinet on 17th March 2021 and a consultation exercise was undertaken between 24th May 2021 and 4th July 2021 .

4.2 Executive Summary

- 4.2.1 The visible street population appears to have increased in the last three years, but the behaviour of individuals has, during the first few years at least of the DPPO, been moderated by use of this and other powers. In the context of a year on year overall reduction in all Anti-Social Behaviour (ASB) in this borough, in the first three years since the introduction of the PSPO, calls to the Police regarding anti-social street drinking have fallen year on year.
- 4.2.2 There was a very small increase recorded in the fourth year (but analysts indicate that this is an increase that may be attributed to the way Police changed how they classify incidents). In the last year there were 26 reports. This is still a very significant decrease as the number of complaints the year before implementation was 609. A breakdown of these is shown by Ward in Table 1.

Table 1

MPS -Street Drinking calls	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Grand Total
Brownswood					1								1
Cazenove					1		1						2
Clissold							1						1
Dalston				1									1
De Beauvoir												1	1
Hackney Central					1						2		3
Haggerston	1							1					2
Homerton								1					1
Hoxton East and Shoreditch							1	1		1			3
King's Park										1			1
Lea Bridge							1		1				2
London Fields				1	1								2
Shacklewell									1				1
Springfield	1			1									2
Stoke Newington					1	1					1		3
Grand Total	2	0	0	3	5	1	4	3	2	2	3	1	26

- 4.2.3 The resources available to deal with this problem are limited and a particular problem is ensuring the availability of all relevant Officers across a number of agencies. However there remains very effective operational partnership working and tasking to address this and related ASB issues, whilst maximising the available resources.
- 4.2.4 A monthly Street Users Outreach Meeting (SUOM), where Council Officers, Police and outreach staff meet to discuss individual cases of street drinkers, is the main mechanism used to coordinate the enforcement activity and improve treatment efforts in order to reduce alcohol related ASB and street drinking. Officers continue to work closely on the streets with Thames Reach and Officers in other support agencies when dealing with individuals.
- 4.2.5 The identification of any emerging or actual hotspots and the tasking of Police and Enforcement resources remains a standing agenda item of the monthly Partnership Tasking Group chaired by the Community Safety Partnership Manager. There is also more granular activity through the Anti-Social Behaviour Action Panels meetings which address singular impacted issues at the individual level with specific agencies particularly Housing.
- 4.2.6 There were two Anti-Social Behaviour Orders (ASBO) in place on persons in Hackney which had conditions attached to them, including prohibiting the individuals from consuming alcohol in Hackney or in specific areas of the borough, which have now expired. ASBOs are no longer applied for since the introduction of the Anti-Social Behaviour Crime and Policing Act 2014.
- 4.2.7 Detailed analysis work by the Community Safety Team has identified hotspots that are subject to detailed discussion with partners at Partnership Tasking. Action plans are in place supplemented by joint patrols involving Police, Enforcement Officers

and Community Safety with referrals being made to Westminster Drugs Partnership and other support agencies as appropriate.

5. PSPO (PREVIOUSLY DPPO)

- 5.1 The Borough wide DPPO/PSPO went live on the 24th May 2010. The aim of this was to reduce the amount of anti-social street drinking occurring within Hackney and therefore lowering the number of residents' complaints and also to ensure our public spaces are safe, improving the quality of life for residents and visitors. The Order was granted by the Regulatory Committee following an extensive public consultation during the last three months of 2009.
- 5.2 The power gave Police Officers, Police Community Support Officers and accredited LBH Wardens the power to require people to stop drinking within the designated area and to surrender any open or unopened containers of alcohol. It was an offence to fail to comply with either request. Police Officers were trained and processes put into place to manage the tasking of Police resources and the tracking of both hotspots and individual incidents.
- 5.3 The training specifically highlighted the use of the power to deal with "Anti-Social Behaviour" related to the consumption of alcohol in public places and not simply consumption. Additionally, the SUOM consisting of Council Officers, Police and outreach and support services was re-designed to manage the balance between enforcement, treatment and support.
- 5.4 In 2018 the Group Director, Neighbourhoods and Housing convened a working group consisting of Officers from Housing Needs, Community Safety, Enforcement and Public Health to review the support currently offered to street users and the initial focus of the is to map the cohort of street users that we know along with their issues, map out with costs the current interventions that we commission/provide to support this cohort and to review/refresh the SUOM. Based on this the effectiveness of interventions undertaken is constantly reviewed and challenged if the signposting process for street users is not clear enough.
- 5.5 This also linked to the Manifesto commitment on street users which states that "we will provide an effective, co-ordinated and support focused response from across the Council and voluntary sector to those present on our streets and estates who engage in begging or who are committing anti-social drinking and prostitution" as ASB and disorder associated with a section of people present on our streets and estates is a complex issue that required better integration of partnership activities to create a flexible response that provides both support to these people, but is flexible enough to escalate the response to more proactive enforcement should the support fail to reduce ASB or associated disorder.
- 5.6 It was always intended that the implementation of the Order was to ensure that there would be a balance between proportionate enforcement and acceptable behaviour with the provision that potentially vulnerable individuals would be referred or signposted for appropriate support.

- 5.7 The DPPO, latterly the PSPO until 19th October 2020, had been in place for nearly eight years and in that time the number of complaints in respect of ASB from street drinkers has gone from a historic high of 609 in 2010 to XX in 2020 and there have been no complaints received in respect of the operation of the Order in the last year.
- 5.8 The introduction of the Borough wide DPPO/PSPO was never intended on its own to completely remove the issues of anti-social street drinking nor to overly disadvantage or reduce the numbers of the street population in the borough. The number of people who may be considered as street drinkers is difficult to estimate and can fluctuate. The reasons for this, for example the social and financial factors, are not matters that the Order is able to address.
- 5.9 The focus of the DPPO/PSPO is to moderate behaviour which it is considered to have achieved since its introduction and its continued maintenance. Following an initial sharp overall reduction of reported incidents, these now appear to have reduced further. The ongoing work by the Intelligence Hub has identified hotspots but these do not include a number of the original pre-DPPO/PSPO hotspots such as Kynaston Park.
- 5.10 A successive reduction year on year in the numbers of complaints of anti-social street drinking has already been reported to the Committee in its previous role as the Regulatory Committee with a small increase noted in the annual report to this Committee in 2014.
- 5.10 A PSPO allows Enforcement Officers and Police Constables to issue Fixed Penalty Notices (FPNs) of £100 being issued and/or prosecution in the event of a person being issued with an FPN failing to pay the FPN or an injunction in extreme circumstances.
- 5.11 Injunctions are another new power introduced by the 2014 Act, which impose requirements upon the individual on whom and FPN has been issued, where it is clear the individual's conduct is having a detrimental effect on the quality of life of those in the locality, is of a persistent or continuing nature and the conduct is unreasonable.
- 5.12 It is important that Councils do not inadvertently restrict everyday sociability in public places. The PSPO should target specifically the problem behaviour that is having a detrimental effect on the community's quality of life rather than everyday sociability, such as standing in groups which itself is not a problem behaviour.
- 5.13 Injunctions can be applied for in extreme cases and could be worded for example not to:
1. 'Be in possession of open bottles, cans or open receptacles of alcohol anywhere in LBH'
 2. 'Drink alcohol anywhere the public has access within the LBH including but not limited to highways, streets, passages and parks'.
- 5.14 With the introduction of the Act, the Council has a number of tools at its disposal to tackle street drinking, however these tools must be utilised in a measured and

proportionate way, in accordance with the Council's policies/protocols and consultation requirements. FPNs will only be issued to persons who are undertaking street drinking where ASB has been identified and associated with the activity.

6. DATA

Calls to the Police (Computer Aided Despatch – CAD) for street drinking

2014	126
2015	76
2016	51
2017	22
2018	26
2019	38
2020	XX

6.1 Hackney Enforcement Officers and Metropolitan Police Officers issue anti- social behaviour warnings prior to issuing FPNs for street drinking in an effort to deal with the problem in a proportionate manner. A breakdown of the number of warnings issued by Ward by both Enforcement Officers and Metropolitan Police is shown in Table 2 below. Officers only commenced issuing warnings in May 2018 and this is due to signage not being in place, the Enforcement Service bedding this and the merging of Hackney and Tower Hamlets Policing Teams to create the Police Central East Borough Command Unit.

Table 2

2018	Ma y	Ju n	Ju l	Au g	Se p	Oc t	No v	
								2
L B Hackney	3	6	7	1	1	2	2	2
Cazenove Hackney			3					3
Central		4						4
Hackney Downs						1		1
Homerton	1							1
Hoxton West		1						1
Lea Bridge	2							2
London Fields			2			1		3
Springfield		1	2				2	5
Victoria				1	1			2
Met Police	2	1		4				7
Cazenove				1				1
Dalston		1		3				4
Haggerston	1							1
London Fields	1							1

7. ANTI-SOCIAL BEHAVIOUR ORDERS AND INJUNCTIONS

7.1 There are currently no injunctions in place in relation to anti-social behaviour associated with street drinking.

8. POLICY CONTEXT

8.1 Community Safety Partnership Plan.

9. EQUALITY IMPACT ASSESSMENT

9.1 An Equality Impact Assessment (EIA) is required to be undertaken to assess the potential of an adverse positive or negative impact of any proposed PSPO on protected groups to ensure compliance with the requirements of the Public Sector Equality Duty into account which was created by the Equality Act 2010.

9.2 The equality duty was developed in order to harmonise the equality duties and to extend it across the protected characteristics. It consists of a general equality duty, supported by specific duties which are imposed by secondary legislation. In summary, those subject to the equality duty must, in the exercise of their functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

9.3 Any proposed PSPO sets out a range of powers available to the Council and how these would be legally applied. A PSPO reflects national legislation and the various powers would have been assessed for their impact on equality as part of the consultation and development process before the legislation was enacted. Its use will be determined by the behaviour occurring rather than any protected group.

10. SUSTAINABILITY

Not applicable to this report.

11. CONSULTATIONS

11.1 No consultation has been undertaken in relation to this report itself as one is not required. It is for informative purposes, no decision is being made or recommended in this report. In accordance with the guidance for the

implementation of a DPPO between September and November 2009 the Council conducted an extensive public consultation. This included businesses and particular licence holders of licensed premises, residents and visitors, local police commanders, neighbouring local authorities.

11.2 The Council undertook consultation in September and October 2020 to gauge support in relation to having a PSPO in place in relation to the consumption of alcohol in a public place and further consultation was carried out between May and July 2021.

12. RISK ASSESSMENT

Not applicable to this report.

13. COMMENTS OF THE GROUP DIRECTOR OF FINANCE AND CORPORATE RESOURCES

13.1 This report requests the Corporate Committee to note the level and the scope of work being carried out to meet the requirements of the Public Space Protection Order (PSPO)

13.2 There are no immediate financial implications as the report. The cost of Enforcement of the PSPO is managed within the available Community Safety and Enforcement Budgets.

14. COMMENTS OF THE DIRECTOR OF LEGAL AND GOVERNANCE SERVICES

14.1 The content of this report informative purposes and sets out the level and the scope of work being carried out to meet the requirements of the PSPO (previously DPPO) regarding alcohol consumption in the borough. The content of the report reflects the considerations advised by the updated Home Office Guidance (published December 2017) on the use of PSPO's. There are no further specific legal implications arising from this report.

15. APPENDICES

15.1 A copy of the DPPO which was approved on 4th May 2010 is attached to this report.

16. EXEMPT (or N/A)

N/A

17. CONFIDENTIAL

N/A

18. BACKGROUND PAPERS

None

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