

WELWYN HATFIELD BOROUGH COUNCIL  
SOCIAL OVERVIEW AND SCRUTINY COMMITTEE – 17 JANUARY 2018  
REPORT OF THE EXECUTIVE DIRECTOR (HOUSING AND COMMUNITIES)

PUBLIC SPACE PROTECTION ORDER – HATFIELD TOWN CENTRE

**1 Executive Summary**

- 1.1 The purpose of this report is to inform on the outcome of the public consultation on proposals to implement a Public Space Protection Order (PSPO) to tackle particular types of antisocial behaviour (ASB) in 'hot spot' areas.
- 1.2 The recommendation relates to the implementation of a PSPO, which will replace the already existing Designated Public Place Order (DPPO) in Hatfield.
- 1.3 This report recommends the introduction of a zoned PSPO as set out in Appendix A and seeks approval of the draft Order set out in Appendix B

**2 Recommendation(s)**

- 2.1 That Members acknowledge the formal consultation responses received on the proposed PSPO for Hatfield Town Centre.
- 2.2 That Members note the results of the consultation undertaken and agree to the implementation of a zoned PSPO for Welwyn Hatfield, as recommended by the local Community Safety Partnership Joint Action Group (JAG), to cover the areas of Hatfield Town Centre.
- 2.3 That Members agree to discharge the current PSPO (automatically created by the legislation from the current DPPO).

**3 Explanation**

- 3.1 In October 2014 the Secretary of State enacted new powers according to the Anti-Social Behaviour, Crime and Policing Act 2014 ("the Act") relevant to tackling ASB. These new powers make changes to some existing legislation and were part of a Government commitment to put victims at the centre of approaches to tackling ASB.
- 3.2 The aims of the Act are as follows:
  - for local agencies to focus on the needs of victims
  - to support people and communities in establishing what is and what is not acceptable, and support them to hold local agencies to account
  - to ensure that professionals have the powers they need to tackle problems

- to focus on long term solutions.
- 3.3 One of the provisions within the Act relates to PSPOs (Ch. 2, Pt 4, ss59-75). A PSPO is intended to deal with behaviours and problems that are considered to be detrimental to the local community's quality of life. The orders are meant to be flexible and can be applied to a broad range of issues (not just alcohol related), with local authorities having the ability to design and implement their own prohibitions or requirements. These conditions centre on the impact on quality of life, persistence and prevalence of the ASB and whether the impact constitutes the behaviour as unreasonable.
- 3.4 Local authorities have the power to make PSPOs if satisfied on reasonable grounds that two conditions are met:
1. a) activities carried on in a public place within the Authority's area have had a detrimental effect on the quality of life of those in the locality, or b) it is likely that 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 likely effect of the activities—
    - a) is, or is likely to be, of a persistent or continuing nature;
    - b) is, or is likely to be, such as to make the activities unreasonable; and
    - c) justifies the restrictions imposed by the notice.
- 3.5 A PSPO is an order that identifies the public place to which it applies ("the restricted area" within which the impact has or is likely to occur) and can make requirements, or prohibitions, or both within that area. This means that the local authority can require people to do specific things in a particular area or not to do specific things in a particular area provided that the prohibitions or requirements imposed are reasonable. The local authority can grant the Part I prohibitions / requirements in order to prevent or reduce the detrimental impact from continuing, occurring or recurring.
- 3.6 The PSPO can be made to apply to specific people within an area, or to everybody within that area. It can also apply at all times, or within specified times and equally to all circumstances, or specific circumstances.
- 3.7 A failure to comply with either a prohibition or requirement of the order is an offence and carries criminal sanctions. Upon summary conviction (offences heard within the Magistrates Court) defendants can face a fine not exceeding level three on the standard scale (currently £1000). Breaches of the order can also be discharged by use of a fixed penalty notice (FPN).
- 3.8 It is important to recognise that FPNs are not a fine but are an alternative to prosecution whereby an individual accepts payment of a sum of money to discharge their liability for conviction. Failure to pay a FPN may result in the case being progressed to Court.
- 3.9 In cases where an individual is convicted the maximum fine is a level 2 fine (max £500) for alcohol consumption or a level 3 fine (max £1000) for other breaches.

- 3.10 In deciding if the local authority should make a PSPO the local authority must:-
- a) have particular regard for the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the European Convention on Human Rights (“ECHR”);
  - b) carry out the necessary consultation;
  - c) carry out the necessary notification; and
  - d) carry out the necessary publicity.
- 3.11 Human Rights; Article 10 of the ECHR relates to freedom of expression. Article 11 of the ECHR relates to freedom of assembly and association. A PSPO may interfere with the rights granted under Articles 10-11 of the ECHR. Careful consideration needs to be given so that prohibitions and requirements under a PSPO do not unnecessarily interfere with what would otherwise be legitimate under the law. Local authorities must show that they have tried to use less restrictive methods to address the issues under the PSPO. In essence it is a balancing exercise between the competing interests of the individual, other individuals and the community at large.
- 3.12 Consultation; the necessary consultation means consulting with the following:-
- chief police officer of police, and the local policing body for the local area that includes the restricted area
  - land owners or occupiers within the affected area
  - any community representatives that the local authority feels appropriate
  - The local authority may also consult with Members of Parliament however this is not a requirement within section 72 of the Act.
- 3.13 Notification; the necessary notification means notifying the following authorities of the proposed order, extension, variation or discharge:-
- the parish council or community council (if any) for the area that includes the restricted area
  - in the case of a public spaces protection order made or to be made by a district council in England, the county council (if any) for the area that includes the restricted area
- 3.14 Publicity; the necessary publicity means:-
- In the case of a proposed order or variation, publishing the text of it;
  - In the case of a proposed extension or discharge, publishing the proposal
- 3.15 The Act is not overly descriptive about the necessary process required for application of a PSPO. It has therefore been necessary to design a process that can be considered to be appropriate and suitably robust.
- 3.16 Support for the PSPO has been sought from the local Community Safety Partnership (CSP); local residents and businesses of Hatfield Town Centre at the Community Information Day (CID) held on 18 July 2016; business owners via the Town Team/Forum meetings and local councillors and the Portfolio Holder for Governance, Community Safety, Police and Crime Commissioner (PCC) and Corporate Property.

- 3.17 The PSPO can apply for a maximum of three years, upon which a process of review and consultation must be repeated to ascertain if the issues are still occurring and that the order is having the required effect. Thereafter it can be extended for a further three years. It can be extended more than once for further periods of three years.
- 3.18 Although initiated by the local authority, guidance has been sought from members of the CSP, in order to consider the most effective ways to utilise the new powers and address current ASB issues. Through the JAG and other local engagement such as the CID, the following ASB issues were identified as the most problematic to tackle through alternative means:
- ASB in public places influenced by consumption of alcohol
  - ASB in public places caused by begging activity
  - Persistent rough sleeping (after failing to engage with support)
  - Urinating and defecating in public
- 3.19 The behaviours listed are recommended on the basis that Hatfield Town Centre has a long standing issue with street drinking, rough sleeping, begging associated anti-social behaviour; with the people involved in such activity, urinating or defecating in public spaces. These specific behaviours cause harassment, alarm and distress to members of the public, but are particularly difficult to deal with through other legal channels due to the burden of evidence required to pursue as a criminal act. In addition local residents who are affected by the behaviour are often unwilling to act as witnesses.
- 3.20 This proposal has been developed to provide opportunities to impact on the issues detailed above through enforcement (ultimately backed by support and interventions). The recommendation is to seek a PSPO for targeted areas of the town. It is recommended that JAG reviews the PSPO on a regular basis in order to make provision for a varied order and further zoned areas if required, perhaps due to displacement of the issues.

A further report will be presented to Members to consider the impact and effectiveness of the PSPO once they have been in effect for 12 months

- 3.21 It is proposed that the PSPO include the following prohibitions: Person(s) within this area will not:
- Consume alcohol in a public place
  - Be in possession of an open vessel(s) of alcohol in a public place
  - Approach another person either verbally or through action in order to beg from the other person
  - Loiter at or within ten metres of any pay machine (including banks, supermarkets and car parks) unless waiting legitimately to use the machine for the purpose it is designed for
  - Sit on the ground in a public place, street, highway or passage in a manner that may be perceived that you are inviting people to give you money
  - Urinate or defecate in a public place
  - Sleep in any public place which is or includes:
    - Open to the air

- Within a vehicle for a sustained period
- Within a car park
- A non-fixed structure including a caravan or tent without the prior permission of the owner or occupier of the land.

3.22 Statutory Guidance of the Use of the Ant-Social Behaviour Powers under the Act has recently been updated to provide clarification on the use of PSPOs to target people who are homeless and/or sleeping rough. This guidance has been considered and balanced with the responses received from the consultation. These responses show a clear link between respondent's feelings of intimidation and lack of safety and those sleeping rough in the proposed zone. There is also significant mention of the impact that this has on the perception of others particularly the elderly and young.

3.23 To mitigate this the PSPO Procedure Guide is clear that the purpose of the PSPO is to offer support and advice to those identified as sleeping rough with enforcement action to be considered only if this support is not accepted. The council has introduced a new initiative 'Housing First' to reduce the number of rough sleepers in Welwyn Hatfield.

A key aspect of this initiative has allowed the commissioning of two Resolve charity workers to deliver 25 hours per week of dedicated outreach services on the streets, signposting anyone sleeping rough to vital support services.

Another aspect of this initiative the work that Citizens Advice Welwyn Hatfield has been commissioned to do on behalf of the council to advise people and oversee more complex needs in ongoing cases.

The council are working with a homeless charity to house people with more complex needs, and help address these problems whilst they are living in a safe, warm, dry environment.

3.24 A prohibition in a public spaces protection order on consuming alcohol does not apply to:-

- a) premises (other than council-operated licensed premises) authorised by a premises licence to be used for the supply of alcohol;
- b) premises authorised by a club premises certificate to be used by the club for the supply of alcohol;
- c) a place within the curtilage of premises within paragraph (a) or (b)
- d) premises which by virtue of Part 5 of the Licensing Act 2003 may be at the relevant time be used for the supply of alcohol or which, by virtue of that Part, could have been so used within the 30 minutes before that time;
- e) a place where facilities or activities relating to the sale or consumption of alcohol are at the relevant time permitted by virtue of a permission granted under section 115E of the Highways Act 1980

A prohibition in a public spaces protection order on consuming alcohol does not apply to council-operated licensed premises:-

- a) when the premises are being used for the supply of alcohol, or

- b) within 30 minutes after the end of a period during which the premises have been used for the supply of alcohol.

For the purposes of the Act, premises are “council-operated licensed premises” if they are authorised by a premises licence to be used for the supply of alcohol and-

- a) the licence held by a local authority in whose area the premises (or part of the premises) are situated, or
- b) the licence is held by another person but the premises are occupied by a local authority or are managed by or on behalf of a local authority

Furthermore an offence will **only** be committed once an individual does not cease drinking or surrender a container with alcohol in, when challenged by the Police or an authorised person. The purpose of the Order is to tackle anti-social behaviour and when there is no threat of anti-social behaviour there will be no need to challenge an individual.

- 3.25 It is not intended that the PSPO will replace existing legislation that address issues such as encampments or control of alcohol.
- 3.26 These prohibitions represent specific behaviours, exhibited by individuals and groups of people who either live within Welwyn Hatfield, or commute to the town to undertake criminal activity. The PSPO will be utilised to prevent and disrupt their antisocial behaviour. This is deemed to be a reasonable approach based on the specified objectives within Section 59(5) of the Act
- 3.27 It is felt that a PSPO would provide officers with an opportunity to record breaches more effectively, which in turn will provide greater evidence for the courts. The Crown Prosecution Service (CPS) is more willing to issue Criminal Behaviour Orders (CBO) when a PSPO has been breached by offenders, as this demonstrates habitual ASB.
- 3.28 The justification for this PSPO is based on a similar premise to that of the original DPPO, in terms of alcohol consumption in public and the associated ASB. It is felt that the opportunity to initiate a PSPO should be maximised, in order to provide agencies with the additional chance to address and tackle the significant issue of street begging and associated ASB.
- 3.29 In relation to enforcement of these orders there are two fundamental differences to that of our abilities under DPPOs:
  - police community support officers (PCSO) can enforce, if sanctioned by the Chief Constable (under s69 of the Act)
  - an authorised person, being a person authorised by the local authority under section 69 of the Act, can issue a fixed penalty notice
- 3.30 The PSPO can be enforced by an authorised person, police officers and PCSOs. Implementation and enforcement of the PSPO will be included in the CSP action plan and will primarily be enforced by police officers and PCSOs without the need for additional resources. The Order allows for an authorised person to use the powers where they witness someone in breach of the prohibitions within the

specified zones. Subject to the approval to introduce the order, a protocol will be agreed with the police regarding enforcement. A draft protocol has been produced – Appendix C

- 3.31 Only council officers with legal accreditation to issue FPNs are authorised to enforce the PSPO (authorised person). It should be noted that this will **not** be a reactive service by Council officers. Warnings and Orders could be issued if the breach is witnessed whilst officers are carrying out their normal day to day duties.
- 3.32 The Order allows for the possibility of joint (council and police) operations to target known offenders causing ASB within the zoned areas.
- 3.33 Enforcement will be made through various means:
  - discretionary warning; or
  - fixed penalty notices payable to the Council (maximum of £100); or
  - prosecution through the courts for persistent offenders (liable to a fine of up to £1000 upon summary conviction).
- 3.34 In 2008 Council created a Designated Public Place Order (DPPO) for Hatfield Town Centre. In October 2017 this DPPO automatically transferred to a PSPO under the Anti-Social Behaviour, Crime and Policing Act. The Council has the option to allow that event to take effect, however this is not recommended due to enforcement problems which exist relating to the existing DPPO and the additional powers of a PSPO as outlined above.
- 3.35 The Act also makes changes to some of the existing legislation and the Council is required, within the period of three years from the implementation of the Act (i.e. by October 2017), to reconsider its Designated Public Place Order (DPPO) and either withdraw or replace it with a new Public Spaces Protection Order (PSPO). As there is evidence of ongoing anti-social behaviour with street drinking, begging and associated behaviour in the DPPO area, it is wise to replace the current DPPO at this stage with a new PSPO which covers previously behaviours as well as new identified issues affecting the local community.
- 3.36 The Anti-Social Behaviour Crime & Policing Act 2014 requires that local authorities carry out public consultation on any proposed PSPO. A full programme of public consultation began on 16 October 2017 and concluded on 24 November 2017.
- 3.37 The consultation sought to obtain public view on the restricted activities in the proposed order. The consultation sought to obtain public view on the location of the proposed order. The area consulted on included Hatfield Town Centre and surrounding streets that are currently subject to a designated public protection order.
- 3.38 Approximately a quarter (55) of the 205 respondents' feedback included suggested additional areas to be included in the new PSPO, spread across a number of different areas. The 10 respondents supporting the highest suggested area, Birchwood Shops, can be considered for inclusion at a later date once the

PSOP is in place and will prevent delay of the proposed adoption of the new PSPO.

3.39 Consultation methods used included:

- Consultation documents sent to residents and businesses/organisations in proposed area
- Local partners were emailed inviting them to respond to the PSPO Consultation
- Launch WHBC website pages about PSPO
- Consultation documents sent to local schools
- Consultation documentation available at events in Hatfield Town Centre
- Use of web-based survey software – Survey Monkey

In addition the consultation sought to obtain the opinions from

- Welwyn Hatfield Community Safety Partnership Partners
- Herts County Council
- Police and Crime Commissioner's Officer
- Hatfield Town Centre Forum
- WHBC Councillors
- Hatfield Town Centre Councillors

3.40 **Consultation Comments**

Two hundred and five consultation forms were completed and returned either by Survey Monkey or paper copies. All paper copies were inputted onto Survey Monkey to allow for detailed analysis of the results.

98.00% of responses were received from residents, business owners and those working in Hatfield. The responses were mostly split equally between male and female with the largest age group represented being 45-54 yrs (25%).

The detailed report on the questionnaire responses and the full comment list is attached as Appendix D.

**Question 1** - The PSPO area will cover the areas highlighted in the information leaflet or in the FAQ sheet. What is your view of the proposed control zone?

What is your view of the proposed control zone		
About Right	Too Small	Too Large
56.50% (113)	24.50% (49)	3.50% (7)

15.50% (31) of responses provided additional comments:-

- 5 responses made reference to considering drug dealing as part of the PSPO
- 2 responses made reference to issues with cyclists in the proposed zone
- 1 response asked the council to providing a homeless or wet shelter.



**Question 2** - Are there any areas which adjoin the proposed area in Hatfield where you feel we should consider implementing this PSPO?

Are there any areas which adjoin the proposed area in Hatfield where you feel we should consider implementing this PSPO?		
Yes	No	Unsure
14.95% (29)	26.80% (52)	29.90% (58)

28.35% (55) of responses suggested a number of areas in Hatfield where a PSPO should be implemented. The following areas were most requested:-

Birchwood Shops Inc. Co-Op Store	10
Aldi	6
Hill Top	6

Other significant areas suggested were all subways surrounding Hatfield Town Centre (6) and the Alban Way (4).

**Question3** - Do you consider any of the following to be a problem in the proposed PSPO area?

Proposed Prohibitions	Do you consider these to be a problem?		
	Yes	No	Unsure
Street Drinking	91.41% (181)	6.06% (12)	2.53% (5)
Begging	79.17% (152)	11.46% (22)	9.38% (18)
Rough Sleepers	63.64% (119)	14.97% (28)	21.39% (40)
Public Urination and Defecation	75.66% (143)	11.11% (21)	13.23% (25)

Of the 199 responses to this question, 154 provided additional comments. The following table provides some an example of these comments included in the full consultation document attached as Appendix D

Proposed Prohibition	
Street Drinking	<p>Groups of drinkers hanging around Market Place can be visually threatening and a barriers to where we wish to go.</p> <p>There are nearly always men, and sometimes a few women, drinking alcohol in Hatfield Town Centre, including daylight hours and mornings. They are in Market Place, but also often in White Lion Square and the area leading from the square to Asda. Various ages. They are sometimes swearing loudly as they talk to each other. Their presence is rather intimidating, even though they are not actively aggressive to the public, and their presence definitely does not make the town centre seem</p>

	<p>attractive and welcoming. I avoid looking at them or attracting their attention in any way</p> <p>They stand in my office door way drinking and swearing when it rains.</p> <p>As I work in [REDACTED] Town Centre, the drinkers that congregate around and in the alley adjacent to Bet Fred / Dog Kennel Lane are a particular issue, on numerous occasions I have had customers to the shop complaining of feeling threatened by their presence, which has led to them postponing their visit to the shop or phoning me to ask me to accompany them to the shop from elsewhere in the town centre. On many occasions when I've asked them to desist and move away I've been met with a barrage of abuse, or at very least belligerence.</p> <p>I have witnessed drunk fights in the market square at 3pm in the afternoon when school children are walking through.</p>
<p>Begging</p>	<p>When customers sit outside they quickly come beg for money and fags. No one sit's outside anymore due to them (losing trade).</p> <p>Known drug users in Market Place.</p> <p>Some get aggressive, insult other people if they don't give them money.</p> <p>Aggressive beggars by Asda and town centre shops. Can be intimidating particularly for young and old.</p> <p>You know struggle to get from one end of Asda to the other without being begged, and although I feel bad for those in need, it is very uncomfortable and intimidating. The town needs more that a lick of paint and a few new shops. It needs a new atmosphere and until the drinkers, loiterers and beggars are removed from the area nobody will want to spend time there.</p>
<p>Rough Sleepers</p>	<p>The sleep behind the bins in Dog Kennel Lane car park. Use our rear courtyard as a toilet and sleeping place, we now bolt rear yard but they still climb over.</p> <p>I am approached regularly by those facing homelessness and welcome that there will be more of a focus on outreach and support for these people.</p> <p>A lot of people sleep rough behind Boots, There are homeless people wandering around drunk.</p>

	<p>I know have been a problem in Hatfield town centre, especially as they leave evidence of public defecation (I have been told this by a shop manager) and other mess (e.g. in the car-park near the library).</p> <p>We have found evidence of rough sleeping outside the library when we have arrived at work (items left behind).</p>
Public Urination and Defecation	<p>Horrified with a group of males openly urinating in front of me. They urinate everywhere, wherever they feel like it. I witness it every day.</p> <p>We used to leave the gate open behind our shop for the dustman and there would be human faeces.</p> <p>Public urination is absolutely unacceptable</p> <p>From personal experience of confronting them whilst in the act on numerous occasions both Dog Kennel Lane car park, and the alley adjacent to Bet Fred, are frequently used as a public toilet. It has been well documented on local social media sites and through conversations I've had with people that the behaviours listed above are putting people off visiting Hatfield Town Centre.</p>

**Question 4 - How often do you feel that the problem behaviour has occurred?**

Proposed Prohibitions	How often do you feel that the problem behaviour has occurred?						
	Daily	Once a week	Twice a week	Three times a week	Four times a week	Week-ends	Less than once a week
Street Drinking	83.24% (154)	1.62% (3)	2.16% (4)	5.41% (10)	3.78% (7)	1.62% (3)	2.16% (4)
Begging	57.06% (97)	11.18% (19)	10% (17)	4.71% (8)	4.71% (8)	1.18% (2)	14.71% (25)
Rough Sleepers	44.52% (65)	10.27% (15)	7.53% (11)	5.48% (8)	5.48% (8)	0.68% (1)	28.08% (41)
Public Urination & Defecation	61.04% (94)	6.49% (10)	2.60% (4)	5.84% (9)	5.84% (9)	4.55% (7)	13.64% (21)

**Question 5 - What time does the problem occur?**

Proposed Prohibitions	What time does the problem occur?						
	All Day	Evening Only	6am – 9am	9am – 12pm	12pm – 3pm	3pm – 6pm	Random
Street Drinking	67.03% (124)	7.57% (14)	1.62% (3)	0.54% (1)	1.62% (3)	1.62% (3)	20.00% (37)
Begging	53.05% (87%)	4.88% (8)	0.00% (0)	2.44% (4)	1.22% (2)	0.61% (1)	37.80% (62)
Rough Sleepers	18.57% (26)	33.57% (47)	0.71% (1)	0.71% (1)	0.00% (0)	0.71% (1)	45.71% (64)
Public Urination & Defecation	42.48% (65)	14.38% (22)	0.65% (1)	0.00% (0)	0.65% (1)	0.00% (0)	41.83% (64)

**Question 6 - Do you consider the behaviour have an impact on you and or the local community in the PSPO control zone?**

Proposed Prohibitions	Do you consider the behaviour have an impact on you and or the local community in the PSPO control zone?		
	Yes	No	Unsure
Street Drinking	89.18% (173)	5.67% (11)	5.15% (10)
Begging	78.29% (137)	8.57% (15)	13.14% (23)
Rough Sleepers	56.80% (96)	16.57% (28)	26.63% (45)
Public Urination and Defecation	84.97% (147)	8.67% (15)	6.36% (11)

Of the 194 responses to this question, 148 provided additional comments. The most common concerns raised were as follows (full details of these and other comments are included in the consultation document attached as Appendix D):

- 30 responses stated that the behaviour puts people off visiting Hatfield Town Centre.
- 27 responses stated that they were intimidated by the behaviour witnessed.
- 24 responses expressed concern for young people/children who witnessed the behaviour.
- 20 responses expressed concern for their safety.

**Question 7 - Do you think a PSPO would help address the impact/problem?**

Proposed Prohibitions	Do you think a PSPO would help address the impact/problem?		
	Yes	No	Unsure
Street Drinking	78.07% (148)	6.42% (12)	15.51% (29)
Begging	67.06% (114)	9.41% (16)	23.53% (40)
Rough Sleepers	57.14% (92)	13.66% (22)	29.19% (47)
Public Urination and Defecation	70.12% (115)	7.93% (13)	21.95% (36)

Of the 187 responses to the question, 114 provided additional comments. 26 responses made specific reference that the proposed PSPO needs to be enforced and there were requests for more of a presence from Police Community Support Officers. There was strong support for providing additional advice and assistance to those who are likely to be disrupted by the PSPO.

**Question 8** – How safe do you feel in the proposed PSPO area during the following times?

	How safe do you feel in the proposed PSPO area during the following times?				
	Unsafe	Relatively Unsafe	Relatively Safe	Safe	N/A
In the town centre during daylight hours?	13.13% (26)	20.20% (40)	45.96% (91)	19.70% (39)	1.01% (2)
Elsewhere on the proposed control zone during daylight hours	10.71% (21)	24.49% (48)	45.41% (89)	17.86% (35)	1.53% (3)
In the town centre in the dark	57.36% (113)	21.32% (42)	10.66% (21)	7.11% (14)	3.55% (7)
Elsewhere on the proposed control zone in the dark	49.74% (97)	28.72% (56)	12.31% (24)	5.64% (11)	3.59% (7)

Responses indicate that the drinking (27) and drug use (10) are the main concern. There were also mention of poor lighting (7) which makes local residents feel unsafe.

These responses show that the behaviour that the proposed PSPO aims to prohibit does have a significant impact on members of the public and is a problem in the town centre area included on the map attached to the PSPO.

The following table summarises the high level responses expressed as Percentages of the total response.

Proposed Prohibition	Do you consider these to be a problem?		
	Yes	No	Unsure
Street Drinking	91.41%	6.06%	2.53%
Begging	79.17%	11.46%	9.38%
Rough Sleepers	63.64%	14.97%	21.39%
Public Urination and Defecation	75.66%	11.11%	13.23%

#### **4 Financial Implication(s)**

- 4.1 Enforcement costs under this order will be met by existing police and council staff. The Anti-Social Behaviour Team will undertake all administration functions with regards to this and will use its existing legal budget in relation to any enforcement action required. This is supported by the PSPO Procedure Guide which will be finalised, subject to implementation of the Order.

- 4.2 Any supplementary enforcement or back office work will form a part of the role of the police and Council's ASB officers.
- 4.3 Should the PSPO be approved, this must be published in accordance with the regulations made by the Secretary of State and there will be some costs associated with publicising of the order, stationery (FPN booklets) and signage. These costs can be met within existing budgets held by the Community Safety Partnership.
- 4.4 Income from FPNs is expected to be small and could be used to cover some associated costs of implementing the proposal.
- 4.5 Home Office Guidance states that the council is liable for all court action undertaken by way of prosecution against the PSPO. The council has an existing procedure for dealing with the use of FPNs. Any FPN issued as a result of the proposed PSPO will be dealt with in line with this procedure, however it is not anticipated that there will be a large volume of Notices issued.

## **5 Legal Implications**

- 5.1 A PSPO can be challenged by a person who lives or regularly works in the restricted area or visits that area under section 66(2) of the Act within six weeks beginning on the date when the PSPO is made or varied on the following grounds:-
  - 1. That the local authority did not have power to make the order or variation, or to include particular prohibitions or requirements imposed by the order (or by the order as varied);
  - 2. That a requirement under Chapter 2 of Part 4 of the Act was not complied with in relation to the order or the variation.
- 5.2 In addition, a challenge may be made under section 67(3) as a defence to a charge that a PSPO has been breached (on the basis that the local authority did not have the power to include a particular prohibition or requirement in a PSPO).
- 5.3 It is not intended that this Order will replace existing legislation that address issues such as unauthorised encampments (i.e. gypsy and traveller encampments as opposed to a rough sleeper occupying a car or tent) or control of alcohol as there is existing legislation in place to respond to this such as Licensing Act 2003, Public Health Act 1936 and Town and Country Planning Act 1990.

## **6 Risk Management Implications**

- 6.1 Legal challenge could present a financial and reputational risk to the council and wider CSP. The legislation states that "interested persons" may challenge the validity of the order within a period of six weeks. The High Court has the power to quash, amend or uphold the order. This risk has been mitigated by a comprehensive consultation process, which included approaches to interested groups such as Liberty. All views have been considered and are included in this report.

6.2 The penalty for breaches of this order relate to fines (FPNs), and there is a risk that this may lead to non-payment. However, the suite of new powers available allows authorised persons to utilise a wide range of measures for those identified as persistently breaching the order, for example:

- discretionary warnings
- Community Protection Notices (CPN)
- an Antisocial Behaviour Injunction (ASBI), which carries tougher sanctions
- a Criminal Behaviour Order (CBO)

Therefore the use of FPNS will be rare and only used in appropriate circumstances taking into account the perpetrators ability to pay and additional specialist needs identified

The proposed recommendations are in accordance with the Act.

6.3 If the process to introduce a PSPO is not followed correctly this could lead to a legal challenge, which will mean the council could face legal costs and reputational damage. This has been mitigated by demonstrating a clear understanding of the legislative scope through a comprehensive consultation process and subject to approval a targeted and specific PSPO.

6.4 There is a risk that expectations will be raised by the PSPO which agencies cannot meet, or that the order may not resolve the issues. This has been mitigated by clear communication during the consultation. The council has a very strong partnership through the joint action group and key partners involved in enforcement were party to the initial proposals. There will also be a protocol for enforcement to support the PSPO as well as promotion of the PSPO via public engagement events.

6.5 Implementation of a zoned order could lead to displacement. The most likely area of displacement is towards Welwyn Hatfield parks and open green spaces. This will be mitigated by the oversight of the JAG. The PSPO has been reviewed by this group, and can be varied as set out in Paragraph 3.25.

6.6 As this Order requires the implementation of new legislation, it could be construed negatively by local media due to a lack of understanding. The CSP has mitigated this by producing a communications plan to run in tandem with the consultation process, thereby pre-empting and influencing the media's stance on implementation of the PSPO.

6.7 The order will be formally reviewed by the JAG six months after implementation, and annually thereafter in order to mitigate the prevalence of any of the associated risks.

6.8 Not taking action presents a reputational risk as businesses and residents have been complaining about these issues for some time and consider the police and the council to be passive.





## **7 Security & Terrorism Implication(s)**

7.1 There are no known security and terrorism implications associated with this recommendation.

## **8 Procurement Implication(s)**

8.1 There are no procurement implications associated with this recommendation.

## **9 Climate Change Implication(s)**

9.1 There are no climate change implications associated with this recommendation.

## **10 Link to Corporate Priorities**

10.1 The subject of this report is linked to the Council's Corporate Priorities:

- Maintain a safe and healthy community
- Protect and enhance the environment
- Meet the borough's housing needs
- Help build a strong local economy

10.2 In addition the PSPO will enhance the community safety partnership's ability to tackle ASB through a targeted but flexible approach; and help to deliver its objectives of:

- Prevent Antisocial Behaviour
- Reduce the damage caused to neighbourhoods by drugs and alcohol misuse

## **11 Equality and Diversity**

11.1 An Equality Impact Assessment was completed and no negative impact was identified on any of the protected groups under Equalities legislation.

11.2 The completed assessment is attached as Appendix E

Name of author	Kerry Clare
Title	Anti-Social Behaviour and Customer Engagement Manager
Date	08 January 2018

## **BACKGROUND PAPERS**

Antisocial Behaviour, Crime and Policing Act 2014

Antisocial Behaviour, Crime and Policing Act 2014: Reform of antisocial behaviour powers - statutory guidance for frontline professionals

Public and open spaces information note

Drunken behaviour in public places information note

The Antisocial Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014 (Statutory Instruments)

<b>Glossary of Terms</b>	
ASB	Anti-social behaviour
ASBI	Anti-Social Behaviour Injunction
CBO	Criminal Behaviour Order
CID	Community Information Day
CPN	Community Protection Notice
CPS	Crown Prosecution Service
CSP	Community Safety Partnership
DPPO	Designation Public Protection Order
ECHR	European Convention on Human Rights
FAQ	Frequently Asked Questions
FPN	Fixed Penalty Notice
JAG	Joint Action Group
PCC	Police and Crime Commissioner
PCSO	Police Community Support Officer
PSPO	Public Space Protection Order

❖ Appendix A – Proposed PSPO zone



Proposed PSPO  
zone.docx

❖ Appendix B – Draft PSPO



Draft PSPO  
Order.docx

❖ Appendix C – PSPO Procedure Guide



DRAFT Public Space  
Protection Order proc

❖ Appendix D – PSPO Consultation Data Charts & Results



PSPO Data charts



PSPO Consultati

❖ Appendix E – Equality Impact Assessment



EIA PSPO.docx