

**Decision Maker:** PORTFOLIO HOLDER FOR PUBLIC PROTECTION & ENFORCEMENT

**Date:** For Pre-Decision Scrutiny by the Public Protection and Enforcement Committee on Tuesday 19 March 2024

**Decision Type:** Non-Urgent Executive Key

**Title:** ANTI-SOCIAL BEHAVIOUR PUBLIC SPACES PROTECTION ORDER - EXTENSION

**Contact Officer:** Karen Proudfoot, Projects Manager  
E-mail: karen.proudfoot@bromley.gov.uk

**Chief Officer:** Assistant Director of Public Protection

**Ward:** (All Wards);

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1. Reason for decision/report and options

- 1.1 This report sets out the proposal to renew the borough-wide Public Spaces Protection Order (PSPO) which restricts the public consumption of alcohol and use of psychoactive substances and prohibits public urination and defaecation under Section 59 of the Anti-social Behaviour, Crime and Policing Act 2014 until 31 March 2027.
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2. **RECOMMENDATION(S)**

**The Public Protection & Enforcement Policy Development & Scrutiny to:**

- 2.1 Note and provide comment to the Portfolio Holder for Public Protection & Enforcement.

**The Portfolio Holder for Public Protection & Enforcement to:**

- 2.2 Approve the renewal of the Public Space Protection Order to address anti-social behaviour until 31 March 2027.

### Impact on Vulnerable Adults and Children

1. Summary of Impact: Public Spaces Protection Orders (PSPO) are introduced to enable authorised officers to take quick and effective action to address behaviour that has a detrimental impact on the wider public and provide a safer environment. Providing safe public spaces for children and vulnerable adults to enjoy Bromley's public facilities, such as parks, which enables physical activity and improved mental health.
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### Transformation Policy

1. Policy Status: Existing Policy
  2. Making Bromley Even Better Priority  
(4) For residents to live responsibly and prosper in a safe, clean and green environment great for today and a sustainable future.
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### Financial

1. Cost of proposal: £5,000 will cover the initial cost for introducing new signage in strategic locations across the borough.
  2. Ongoing costs: The enforcement of the PSPO is undertaken primarily by Metropolitan Police Officers within their existing resources.
  3. Budget head/performance centre: Not applicable
  4. Total current budget for this head: Not applicable
  5. Source of funding: existing Community Safety budget
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### Personnel

1. Number of staff (*current and additional*): Not applicable
  2. If from existing staff resources, number of staff hours: Not applicable
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### Legal

1. Legal Requirement: Non-Statutory - Government Guidance - Anti-Social Behaviour, Crime and Policing Act 2014
  2. Call-in: Applicable
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### Procurement

1. Summary of Procurement Implications: Not applicable
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### Property

1. Summary of Property Implications: Not applicable
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### Carbon Reduction and Social Value

1. Summary of Carbon Reduction/Sustainability Implications: Neutral.
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### Impact on the Local Economy

1. Summary of Local Economy Implications: Neutral. This is a renewal of an existing Public Space Protection Order that has been in place for 6 years. Therefore this is expected to have a neutral impact on the local economy.

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### Impact on Health and Wellbeing

1. Summary of Health and Wellbeing Implications: This is a renewal of an existing Public Space Protection Order that has been in place for 6 years. Therefore there is no change to the impact on Health and Wellbeing. The PSPO seeks to tackle alcohol related crime and anti-social behaviour and prohibit the use of psychoactive substances, which can be harmful to users.
2. The PSPO also prohibits public urination and defaecation, however, it is acknowledged that some people may have health conditions which mean they require short-notice access to toilet facilities and this is provided through the community toilet scheme which operates in the borough.

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### Customer Impact

1. Estimated number of users or customers (*current and projected*): There are no direct customers or users. The PSPO applies to all residents and visitors to the borough.

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### Ward Councillor Views

1. Have Ward Councillors been asked for comments? No
2. Summary of Ward Councillors comments: Not applicable.

### 3. COMMENTARY

- 3.1 Public Spaces Protection Orders (PSPOs) were introduced by the Anti-Social Behaviour, Crime and Policing Act 2014 and are intended to address issues that have a detrimental impact on the quality of life of the local community by imposing conditions on disruptive behaviours.
- 3.2 A PSPO provides clear notification through signage to people using public spaces that some behaviours are restricted or prohibited. It also provides the Police, and officers authorised by the Council, an opportunity to take immediate and effective action in the event that an individual breaches the conditions.
- 3.3 Bromley had 3 alcohol exclusion zones (AEZ's) in Beckenham Town Centre, Bromley Town Centre and Penge Town Centre. These AEZ's were originally introduced through a Designated Public Place Orders and subsequently became PSPO's as a result of the Anti-Social Behaviour, Crime and Policing Act 2014 through transitional arrangements within the Act as of 20<sup>th</sup> October 2017.
- 3.4 A report presented to the General Purposes and Licensing Committee on the 30 September 2020 (Report ES20033) provided full details on the review and the proposed amendments and consultation, and the same information was presented to the Public Protection and Enforcement PDS on the 8 December 2020 (Report CSD20116).
- 3.5 On 19 January 2021 the Public Protection and Enforcement Policy Development and Scrutiny Committee resolved that the Portfolio Holder for Public Protection and Enforcement approve the amendments and continue to restrict public alcohol consumption. The PSPO that was subsequently approved, and is currently active, expires on 31 March 2024.
- 3.6 A local authority may extend the PSPO for up to 3 years 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.
- 3.7 If the PSPO conditions were to expire it is likely that the issues it was introduced to address will recur. The expiration of the PSPO would limit the tools for Police officers to take immediate action to deter behaviours that have a detrimental effect on the local community.
- 3.8 PSPOs are in place across the UK which place restrictions and conditions on a variety of behaviours as required by the individual needs of each area. Consistently they all impose controls on the consumption of alcohol.
- 3.9 The PSPO addressing anti-social behaviour has been in place in Bromley for the last 6 years, superseding other control measures, such as Alcohol Exclusion Zones (AEZ), and have proven to be successful in providing the Police with an efficient and effective tool to anti-social behaviour resulting from drinking or use of psychoactive substances.
- 3.10 The PSPO does not ban all drinking in a public place. A breach of the order only takes place when an individual refuses to stop drinking or to surrender their alcohol to a police officer or other designated enforcement officer. The same applies to psychoactive substances. All public urination and defaecation is prohibited. If the PSPO is breached,

there is a maximum fine of £1000 on conviction. Typically a fixed penalty notice of £100 is issued first and non-payment could then lead to a prosecution.

- 3.11 The House of Commons Committee Report ‘Alcohol Treatment Services’, May 2023 reported that ‘Alcohol harm impacts not only drinkers themselves but also their families and wider communities. It is linked to over 100 illnesses, can drive mental disorder, self-harm, and suicide, and is a major cause of preventable death. The Office for National Statistics reported that alcohol was linked to 42% of all violent crime in 2019–20, up from 40% in 2018–19, and there is evidence that it does most harm in our most deprived communities with five times as many liver deaths as the most affluent communities.’
- 3.12 Research by the Institute of Alcohol Studies, exploring the Patterns in alcohol-related violence: exploring recent declines in alcohol-related violence in England and Wales, provides insight into the changes that have taken place over the last 10 years whilst cautioning that the ‘declines described in this report should not encourage complacency. As more than half a million instances of alcohol-related violence take place each year, evidenced action is needed – including on price, consumption, and marketing.’
- 3.13 New Psychoactive Substances (NPS) mimic the effects of traditional drugs that are controlled under the Misuse of Drugs Act 1971. These substances, together with other substances used as intoxicants (for example, nitrous oxide), are often referred to as 'legal highs'. The chemicals in the substances are often neither legal nor safe for human consumption. NPS present a danger because:
- they are, or have been, easily accessible.
  - they may not necessarily hold the same perceived threat to health and well-being as other, ‘traditional’, illegal drugs.
  - some young people incorrectly think NPS are safer because of their perception that they used to be legal or that they come in branded packaging. This exposes young people to risk and participation in risky behaviours.
- 3.14 The Psychoactive Substances Act 2016 (‘the Act’): defines ‘psychoactive substance’ and makes it an offence to produce, supply, offer to supply, possess with intent to supply, import or export psychoactive substances. It does not prohibit the purchase and personal use of the substance, although, with effect from 8 November 2023 Nitrous Oxide became a controlled Class C drug under the Misuse of Drugs Act 1971.
- 3.15 In addition to the health risks presented by the use of NPS there is the wider issues associated to the littering of associated paraphernalia, the most common being metal cannisters which are not only unsightly but also create a trip/slip hazard to pedestrians, particularly those with different mobility needs.
- 3.16 There are many reasons to deter public urination and defaecation without reasonable excuse, these are mainly;
- It creates an unwelcoming environment for others;
  - It makes people feel less safe;
  - It is unhygienic;
  - Urination can be absorbed by porous surfaces and generate unpleasant smells that are difficult to remove;
  - Acidic compounds like ammonia from urine can erode some building materials, particularly traditional building materials.

- 3.17 Bromley operates a Community Toilet scheme with local businesses which allows members of the public to use the toilet facilities of cafes, licensed public houses, restaurants and supermarkets during opening hours and without the need to make a purchase.
- 3.18 Required consultation was undertaken with the Metropolitan Police Service and confirmed their support of the extension.
- 3.19 As the PSPO is already in place and there are no proposals to vary its current conditions a simple public consultation process was undertaken to understand if the proposed 3-year extension was supported by the public. The consultation asked 2 questions.
- Question 1: Do you agree with Bromley Council extending our current PSPO for the control of alcohol consumption, use of psychoactive substances and prevention of urination for a further 3 years?
- Question 2: Please tell us the reasons for your answer?
- 3.20 The consultation was active between 11 December 23 and 15 January 24.
- 3.21 Respondents indicated they had heard about the consultation through the Bromley Council website, on social media, such as Facebook, the Crystal Palace blog and by word of mouth.
- 3.22 There were 19 respondents, seventeen stated they supported the extension and 2 did not.
- 3.23 Those who stated they supported the renewal gave the following reasons for their responses:
- That behaviour might return if you don't extend it.
  - The safety & wellbeing of a residents is essential. This ensures services can act quickly where necessary.
  - It has all the protections - it just needs full enforcement.
  - If these controls are not in place then I think anti-social behaviour will be rife.
  - We pay council tax to ensure cleanliness and safe space provision for residents of the borough and should not be afraid or intimidated when walking around public spaces in our day to day life.
  - There is enough ASB even with it, so the potential of it being removed, and enforcement weakened as a result does not bear thinking about.
  - Further prevention is critical so families and other residents can safely enjoy open spaces in Bromley.
  - Continued safety of residents using open spaces in the borough are essential.
  - In order to maintain a healthy environment.
  - If it has been shown to work well then it should continue.
  - To maintain law and order and anti-social behaviour prevalent.
  - It's an important tool in the reduction of antisocial behaviour and needs to be extended accordingly.
  - Bromley Residents need to feel safe and comfortable when they are out and about in the evening eating out or going to the theatre or cinema.
  - Allows the police to effectively and efficiently stop anti-social behaviour in our parks and commons.
  - The use of the tiny canisters of gas that are found everywhere are a blight on the area.

- 3.24 The respondents who stated they did not support the renewal gave the following reasons.
- Because I think you should be more concerned with kids running around stabbing people than a hard-working tax payer enjoying a gin and smoke in the park on a summers day. Also not enough public toilets and many of us have bladders that need to go every half hr. Cleaner pissing in a Bush than public toilets anyway.
  - This consultation gives no regard to those who have nowhere to go to the toilet. You've closed all your public toilets - no wonder people go on the street.

#### **4. IMPACT ON VULNERABLE ADULTS AND CHILDREN**

- 4.1 Public Spaces Protection Orders (PSPO) are introduced to enable authorised officers to take quick and effective action to address behaviour that has a detrimental impact on the wider public and provide a safer environment. Providing safe public spaces for children and vulnerable adults to enjoy Bromley's public facilities, such as parks, which enables physical activity and improved mental health.

#### **5. TRANSFORMATION/POLICY IMPLICATIONS**

- 5.1 The PSPO tackling ASB supports the 'Bromley Even Better Priority' priority for residents to live responsibly and prosper in a safe, clean and green environment great for today and a sustainable future.

#### **6. FINANCIAL IMPLICATIONS**

- 6.1 Should the PSPO be renewed new signage would be at strategic locations across the borough, including key points of entry, parks, town centre and shopping centre locations. The cost of any additional signage will be met from the existing Public Protection revenue budget.
- 6.2 Ongoing enforcement of this legislation resides with the Police and, as such, there are no further financial considerations for the Authority.

#### **7. PERSONNEL IMPLICATIONS**

- 7.1 There are no personnel implications for the Council. Enforcement of the PSPO is undertaken by the Metropolitan Police Service.

#### **8. LEGAL IMPLICATIONS**

- 8.1 In deciding whether to extend the PSPO and if so for how long, the Council must have particular regard to the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the European Convention on Human Rights. Drinking alcohol, consuming psychoactive substances, urinating or defecating in public is likely to be an expressive act protected by the Convention. While public drinking of alcohol and consumption of psychoactive substances may be carried out in groups, this is not usually going to be in the form of a protected assembly.
- 8.2 In so far as the rights are engaged and the PSPO interferes with them, the interference can be justified as being necessary in a democratic society in the interests of public safety, for the prevention of disorder or crime and for the protection of health or morals and proportionate to those aims.

- 8.3 Before making a decision, it is necessary to have due regard to the public sector equality duty, which sets out the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations between people who share a protected characteristic and people who do not share it. Protected characteristics include sex, age and disability.
- 8.4 Given that excessive alcohol consumption is more of a prevalent with men (source: <https://www.ias.org.uk/report/women-and-alcohol/>), it is likely that more men than women will be affected by that part of the PSPO. As drug use is relatively more prevalent among young people (source: <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/drugmisuseinenglandandwales/yearendingjune2022>), it is reasonable to assume they will be more affected by the PSPO restriction on use of psychoactive substances. Finally, as the public consultation made clear, some individuals may not be near a toilet when they need to relieve themselves. This may in particular be a result of age or disability.
- 8.5 Using the powers in the PSPO should help people feel safer in public places, which ought to be of particular benefit to women (source: <https://www.london.gov.uk/media/98683/download?attachment>).
- 8.6 If an individual has a reasonable excuse for not complying with the PSPO, no offence is committed. Even if an offence is committed, taking action is discretionary and all the circumstances of the case are considered. It is considered these safeguards strike a reasonable balance between the objectives of the PSPO and the rights of individuals. As a consequence it is not anticipated that extending the PSPO for 3 years would lead to any unlawful acts. The extension would result in benefits and harms are adequately mitigated.

## **9. PROCUREMENT IMPLICATIONS**

- 9.1 There are no procurement implications.

## **10. PROPERTY IMPLICATIONS**

- 10.1 There are no property implications.

## **11. CARBON REDUCTION/SOCIAL VALUE IMPLICATIONS**

- 11.1 As this is a renewal of an existing PSPO, which has been in place for 6 years there is a neutral impact.

## **12. IMPACT ON THE LOCAL ECONOMY**

- 12.1 This is a renewal of an existing Public Space Protection Order that has been in place for 6 years. Therefore this is expected to have a neutral impact on the local economy.

## **13. IMPACT ON HEALTH AND WELLBEING**

- 13.1 This is a renewal of an existing Public Space Protection Order that has been in place for 6 years. Therefore there is no change to the impact on Health and Wellbeing. The PSPO seeks to tackle alcohol related crime and anti-social behaviour and prohibit the use of psychoactive substances, which can be harmful to users.



13.2 The PSPO also prohibits public urination and defaecation, however, it is acknowledged that some people may have health conditions which mean they require short-notice access to toilet facilities and this is provided through the community toilet scheme which operates in the borough.

#### 14. CUSTOMER IMPACT

There are no direct customers or users. The conditions of the PSPO apply to all residents and visitors to Bromley.

<b>Non-Applicable Headings:</b>	7, 9, 10, 11, 12, 14 & 15
Background Documents: (Access via Contact Officer)	ES20033 - REVIEW OF PUBLIC SPACE PROTECTION ORDERS CONCERNING ALCOHOL CONTROL ZONES 2020