

## Report to Council

7 September 2016

Cabinet Member for Community and Wellbeing

**DECISION REQUIRED**



**Horsham  
District  
Council**

Not Exempt

### Public Spaces Protection Order

#### Executive Summary

The purpose of this report is to recommend that the Council exercises its powers under the Anti-Social Behaviour Crime and Policing Act 2014 to introduce a Public Spaces Protection Order (PSPO).

The PSPO aims to address a number of key issues raised by members the Community Safety Partnership that are having a detrimental effect on the quality of life for residents and visitors to the District.

The proposed PSPO contains the following prohibitions:

- Consumption of Alcohol in a Public Place (to replace the existing Designated Public Place Order).
- Parkour or “Free-Running” within Horsham Town Centre.
- Anti-social use of Vehicles.
- Anti-social use of Horse Drawn Vehicles.
- Dog Fouling.
- Control of Dogs.

The Community Safety Team in conjunction with other agencies which form the Community Safety Partnership, have compiled significant evidence to support the need to introduce these prohibitions which existing powers either do not address as they do not exist; have been repealed previously or can only be applied after problems escalate.

The Council is asked to support the adoption of the PSPO to protect the majority of law abiding citizens and contribute towards the Districts reputation as being a very safe place in which to live, work and visit.

#### Recommendations

That the Council is recommended:

- To exercise its powers under the Anti-Social Behaviour, Crime and Policing Act 2014 to introduce a Public Spaces Protection Order.
- To delegate any minor amendment to the PSPO to the Director of Community Services.

## **Reasons for Recommendations**

- i) To allow Horsham District Council and Sussex Police to tackle the anti-social behaviours outlined within the report, therefore protecting the quality of life of those who live in, work in and visit our district.

## **Background Papers**

Anti-Social Behaviour, Crime and Policing Act 2014

<http://www.legislation.gov.uk/ukpga/2014/12/contents/enacted/data.htm>

Anti-Social Behaviour, Crime and Policing Act 2014 – Reform of Anti-Social Behaviour Powers, Statutory Guidance for Frontline Professionals (July 2014).

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/352562/ASB\\_Guidance\\_v8\\_July2014\\_final\\_2\\_.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/352562/ASB_Guidance_v8_July2014_final_2_.pdf)

**Wards affected:** All

### **Contacts:**

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## **Background Information**

### **1 Introduction and Background**

- 1.1 The Anti-Social Behaviour, Crime and Policing Act 2014 received Royal Assent in May 2014 and simplified the range of powers available to professionals to tackle anti-social behaviour (ASB) from the previous 19 powers down to nine. The Act also introduced new statutory duties for local authorities and other relevant bodies; which include the requirement to conduct case reviews when requested to do so by members of the public. These changes are fundamental in our approach to dealing with all forms of anti-social behaviour.
- 1.2 Contained within the legislation are a number of powers that can be exercised by local authorities as well as the Police. The Act creates the ability for local authorities to prohibit all forms of anti-social behaviour by way of a Public Spaces Protection Order (PSPO). Following various Community Safety Partnership meetings a number of behaviours have been identified as causing concern to the community and meet the necessity test for the introduction of a PSPO within Horsham District

### **2 Relevant Council policy**

- 2.1 Anti-Social Behaviour Policy, adopted 2015.
- 2.2 The HDC Corporate Plan 2016 – 2019 states that the Council will work to support the reduction in anti-social behaviour to ensure that residents are safe. The introduction of a PSPO will enhance the ability of HDC officers and Sussex Police to do just that, particularly with regard to the behaviour that has been identified within this report.

### **3 Details**

- 3.1 Public Spaces Protection Orders (PSPOs) are intended to deal with a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone. They are designed to ensure that law-abiding citizens can enjoy public spaces, safe from ASB.
- 3.2 When making an order the Council must be satisfied on reasonable grounds that the activities carried out, or likely to be carried out, in a public space:
  - Have had, or are likely to have, a detrimental effect on the quality of life of those in the locality;
  - Is, or is likely to be, persistent or continuing in nature;
  - Is, or is likely to be, unreasonable; and
  - Justifies the restrictions imposed.
- 3.3 The Council can make a PSPO on any public space within the boundaries of Horsham District (the definition of a public space 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).

- 3.4 It is an offence for a person, without reasonable excuse, to do anything that they are prohibited from doing by a PSPO or for them to fail to comply with a requirement to which they are subject to under a PSPO.
- 3.5 Taking into account the specific test outlined in 3.2 above, the following prohibitions are proposed:
- Consumption of Alcohol in a Public Place (to replace the existing Designated Public Place Order).
  - Parkour or “Free-Running” within Horsham Town Centre.
  - Anti-social use of Vehicles.
  - Anti-social use of Horse Drawn Vehicles.
  - Dog Fouling.
  - Control of Dogs.
- 3.6 Research undertaken in preparation for this report has established that between March 2015 and February that there is a need to address the specific issues outlined above as they are of a persistent and ongoing nature. In terms of complaints to the Police regarding Parkour, Anti-social use of vehicles and the anti-social use of horse drawn vehicles, the following number of complaints have been received:
- Parkour – 57 recorded complaints mainly based around Horsham Town Centre. These complaints have resulted in damage to properties and over £36,000 to one property in West Street alone.
  - Anti-social use of vehicles – 125 recorded complaints relating to mainly young drivers gathering in groups and performing dangerous manoeuvres.
  - Anti-social use of horse drawn vehicles. This relates to the practice known as “Trotting” whereby a pony and trap race each other or conduct time trials along stretches of dual carriageway (public highway) within the district. This causes significant disruption to the road network and has potentially serious road safety consequences. Sussex Police have received 45 complaints during the time period in question and the problem is increasing.
- 3.7 With regard to the proposed prohibitions on alcohol and dog fouling, the PSPO will replace the existing Designated Public Place Order that was approved by Council 11 December 2013, whilst extending the restrictions introduced across the district. Likewise it will replace the previous designation to prohibit Dog Fouling made under the Dogs (Fouling of Land) Act 1996 which has been repealed. Likewise there is nothing currently in place to address the issue of dogs being kept under control, particularly around livestock. As a result a requirement for people to put their dogs on a lead, when asked to do so by an authorised officer, has been included.
- 3.8 A copy of the proposed PSPO can be found at Appendix A.

## **4 Next Steps**

- 4.1 Once granted the PSPO must be widely advertised, this includes a legal requirement to publish the Order on the council's website. Appropriate signage will also need to be placed at strategic locations throughout the district.
- 4.2 A guidance document on enforcing the PSPO will be prepared for both HDC officers and Sussex Police officers to ensure that they understand these new powers. IT will ensure that a consistent approach is taken with regard to enforcing the Order and will mirror advice previously provided following the introduction of the Designated Public Place Order in 2013.
- 4.3 Horsham District Council's Enforcement Policy needs to be revised and re-published to incorporate the introduction of the Order and the specific details.

## **5 Views of the Policy Development Advisory Group and Outcome of Consultations**

- 5.1 It should be noted that the report was presented in draft format and discussed by member of the Community and Wellbeing Policy Development Advisory Group on 26/07/16. Appropriate comments have been incorporated into this report.
- 5.2 A full public consultation was held in June 2016. Through this consultation the Kennel Club of Great Britain replied, broadly welcoming the introduction of the Order in a sensitive manner.
- 5.3 All Parish and Neighbourhood Councils were written to and replies were received from Denne and Trafalgar Neighbourhood Councils and Southwater Parish Council. These bodies were supportive of the introduction of the Order. They did, however, enquire about including littering and use of illegal drugs within the proposed Order. As these offences are already covered by existing legislation this has been discounted.
- 5.4 The District Commander (Sussex Police) has made the following comments about each element of the order:

### **Anti-social Consumption of Alcohol in a Public Place (District wide).**

There has been a Designated Public Place Order in Horsham since 2014, which the local police were instrumental in providing evidence for such an order. Whilst the order affords the police to deal with anyone in the particular area who has alcohol, the good practice highlighted in the Home Office Guidance on Designated Public Place Orders for local authorities suggested certain conditions that we have used. These conditions are that individuals with alcohol would not be approached and asked to stop drinking unless (i) they were engaged in anti-social behaviour or disorder; (ii) the police were of the view that there was likely to be anti-social behaviour or disorder; or (iii) complaints had been received from other members of the public.

This has been proven to be a vital tool in tackling anti-social behaviour in our community. It has ensured that officers have had sufficient powers to deal with such incidents at the outset and hence prevented further escalation whilst allowing

law abiding members of the public to consume alcohol in parks and other public places. This legislation has now been superseded by the Anti-Social Behaviour, Crime and Policing Act 2014.

The PSPO proposal affords a similar type of legislation. However, under S59 (6)(a) of the ASB, Crime and Policing Act 2014, it does state the prohibition may be framed so as to apply in all circumstances, or only in specified circumstances. We would therefore suggest a condition is inserted similar to that outlined in the Home Office Guidance on Designated Place Public Order (DPPO), as above for specific circumstances.

This would therefore provide the police with relevant powers to deal with alcohol related disorder or nuisance, replacing the existing legislation.

#### **Parkour or Free-running (Horsham Town Centre only).**

Free running has increased in the Town Centre which has not only caused a nuisance to those witnessing such behaviour, but also damage to property in which they partake of such activity. It is further compounded by the frustration that unless criminal damage occurs, there is no current legislation to deal with behaviour which at times is very distressing for those who witness it due to the likelihood of serious harm occurring. We would therefore welcome the opportunity to have legislation that can be implemented to deal with such behaviour, accepting that it will still be restrictive.

#### **Anti-social Use of Vehicles (District wide).**

Anti-social use of vehicles has been a source of annoyance to a considerable number of residents in Horsham District. This piece of legislation will afford the relevant authorities to have a positive impact on such behaviour.

#### **Anti-social Use of Horse Drawn Vehicles (District wide).**

This activity has a significant effect on the flow of traffic on the district. The majority of reports relate to the A24 during the week-end. Despite many calls from the public, there is very little the police can do about such an activity due to a lack of legislation. The advent of a PSPO will afford the police to deal with the matter effectively and hopefully reduce the traffic disruption at the weekends.

#### **Dog Fouling (District wide).**

Dog fouling is raised at local community events, so Sussex Police would be supportive of this legislation.

#### **Control of Dogs (District wide).**

Whilst there is legislation under Chapter 21 of the Dogs (Protection of Livestock) Act 1953 which affords police powers for dogs that worry livestock, the proposal above provides a more preventive element which would be welcomed.

- 5.5 The Chief Constable of Sussex Police has said the following in relation to PSPO generally within Sussex.

“Whilst we are supportive of the Public Space Protection Orders, we would also like to comment on any potential enforcement of the orders by Sussex Police through local Commanders, including what resources we may have available to enforce the orders. As you are aware, the Local Policing Programme is currently reviewing the delivery of policing across Sussex. This includes the future role of our Prevention Teams, currently our Neighbourhood Policing Teams.

Our Prevention Teams will focus on problem solving within our communities and will be tasked against areas of threat, risk and harm. With the changes in resource allocation, we will need to work in effective partnerships across West Sussex in order to deliver against the competing priorities and demands.

This approach will require working with partners to ensure that threat, risk and harm are appropriately assessed to enable the most appropriate agency to lead on prevention and enforcement.

Public Space Protection Orders are intended to deal with a particular nuisance or problem in an area that is deemed to be detrimental to the community’s quality of life. These can be enforced by police officers, Police Community Support Officers (PCSOs) and Council Officers.

However, the Chief Constable of Sussex Police has made the decision not to designate powers to enforce PSPOs to PCSOs in this County.

Police officers will be able to enforce PSPOs. However, as they will be tasked against threat, risk and harm, there must be no general presumption that they will be available to enforce PSPOs or that local Prevention Teams will be able to support Council Officers around enforcement. It is therefore, worthwhile your consideration as to how you may be able to enforce these orders from within the Council.

Every case will be reviewed on merit and, where any PSPO breaches are linked to wider issues that cause harm, enforcement of PSPOs may be considered as part of a wider problem solving approach”.

- 5.6 The Office of the Sussex Police and Crime Commissioner (OPCC) has indicated that they are supportive of PSPO’s where it can be evidenced that there is a real and genuine need for additional powers. Beyond that the OPCC has suggested that local Police Teams are best placed to comment on local need (as per Section 5.5)
- 5.7 The introduction of the Order has been discussed extensively within the Executive Board of the Community Safety Partnership, chaired by Cllr Rowbottom and attended by senior officers including the Director of Community Services. During these conversations it has been made very clear that the Order should only prohibit behaviour for which legislation does not already exist.

## **6 Other Courses of Action Considered but Rejected**

- 6.1 Anti-social behaviour is a key issue for the local community and the problems outlined within this report have been persistent and ongoing for a number of years. As a result of the legislation the Council are able to tackle these issues where in the past they may not have been able to. The only other course of action is to maintain the status quo and allow the problem to continue. This, however, is neither appropriate nor viable.

## **7 Resource Consequences**

- 7.1 There are no direct financial consequences as a result of this report as any resulting costs will be met by the Community Safety Partnership funds. It should be noted however that they may be additional staff training costs as well as staffing costs associated with enforcing the PSPO.

## **8 Legal Consequences**

- 8.1 The legal authority for this matter comes directly from the legislation in question and the duties that arise from it.

## **9 Risk Assessment**

- 9.1 By not taking action to tackle anti-social behaviour there is a risk to the Council in terms of meeting both statutory duties and also with regard to public perception.

## **10 Other Considerations**

- 10.1 Making an Order under the Anti-Social Behaviour, Crime and Policing Act 2014 supports the Council's duties under that act and also under Section 17 of the Crime and Disorder Act 1998. The appropriate use of these powers will allow council officers, working in partnership, to directly tackle anti-social behaviour. Any enforcement action undertaken in connection with these powers will be done taking into account that Right to a Fair Trial under The Human Rights Act 1998. All actions taken will be proportionate, lawful and necessary with officers remaining fully accountable for their decisions. Any use of legal powers by council officers is undertaken with due regard to eliminating unlawful discrimination. As the powers discussed in the report form part of the Criminal Law they will only be applied to those over the age of criminal responsibility (age ten) and then taking into account the specific protected characteristics and needs of the individual. The powers are designed to enable local authority officers to tackle a range of anti-social behaviour, including behaviour that adversely impacts the environment.

**Horsham District Council  
Public Spaces Protection Order 2016  
Anti-Social Behaviour, Crime and Policing Act 2014**

This Order may be cited as the Public Spaces Protection Order (Horsham District) 2016. Horsham District Council (“The Council”) makes this Order, being satisfied on reasonable grounds that the activities set out below have had or are likely to have a detrimental effect on the quality of life of those in the locality, or it is likely that activities will be carried out within that area and have such an effect. The Council is also satisfied that the effect, or likely effect, is, or is likely to be, of a persistent or continuing nature and that these activities are unreasonable and justify the restrictions imposed by the Order. In all circumstances the making of this Order is considered expedient for the purpose of reducing anti-social behaviour in a public place.

The Order comes into force at midnight on \_\_\_\_\_ 2016 for a period of three years thereafter, unless extended by further orders under the Council’s statutory powers.

The activities described below are hereby prohibited from the date of this Order:

**1. Consumption of Alcohol in a Public Place (Section 63)**

The consumption of alcohol in any place to which the public has access within Horsham District is prohibited, where a Police Constable or duly authorised Horsham District Council Officer (hereafter “Authorised Officer”) reasonably believes that a person:

- a) is or has been consuming alcohol in breach of this prohibition, or
- b) intends to consume alcohol in circumstances in which doing so would be a breach of such a prohibition

The Police Constable or authorised officer may require the person:

- a) not to consume, in breach of this Order, alcohol or anything which the Police Constable or authorised officer reasonably believes to be alcohol;
- b) to surrender anything in the persons possession which is, or which the Police Constable or authorised officer reasonably believes to be, alcohol or a container for alcohol.

A Police Constable or authorised officer who imposes a requirement on a person must tell that person that failing without reasonable excuse to comply with that requirement is an offence.

Authorised Officers

A requirement imposed by an authorised officer is not valid if the person asks the officer to show evidence of his or her authorisation and they fail to do so.

Disposal of Items

A Police Constable or authorised officer may dispose of anything surrendered under this section in any way he or she thinks appropriate.

Premises to Which this Prohibition Does Not Apply

This prohibition does not apply to the following premises:

- 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 paragraphs a) or b) above;
- d) premises which by virtue of Part 5 of the Licensing Act 2003 may 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 (highway-related uses).

This prohibition 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.

#### Failure to Comply with Order (Alcohol Prohibition)

In relation to the prohibition on consuming alcohol made by this Order outlined above, a person who without reasonable excuse fails to comply with a requirement imposed on him or her to stop drinking or surrender containers commits an offence and is liable on summary conviction to a fine not exceeding Level 2 on the standard scale or to a Fixed Penalty Notice up to £100.

## **2. Parkour or Free-Running**

The sport or activity of running through urban areas while performing various gymnastic manoeuvres over or on man-made obstacles such as walls and buildings (known as Parkour or free running), is hereby prohibited in any place to which the public has access within the confines of Horsham Town Centre (as defined on the map found at Map 2).

## **3. Anti-social Use of Vehicles**

The use of any mechanically propelled vehicle in a manner that has, or is likely to cause harassment, alarm or annoyance in any place to which the public has access within Horsham District is hereby prohibited. This includes the following behaviour:

- a) The revving of engines as to cause annoyance;
- b) Repeated sudden and rapid acceleration;
- c) Racing;
- d) Performing stunts;
- e) Sounding horns so as to cause annoyance;
- f) Playing music within the vehicle at excessive volume as to cause annoyance;
- g) Gathering in groups of two or more vehicles as to cause harassment, alarm or annoyance;
- h) Causing an obstruction on the highway, whether moving or stationary, including driving in convoy; and
- i) Using threatening or intimidating behaviour towards another person.

#### 4. **Horse Drawn Vehicles**

The racing of, conducting time trials with, or exercising of a horse (including pony, ass or mule) and horse-drawn vehicle on any dual carriageway road within Horsham District is hereby prohibited. This includes both the A24 and A264 roads.

#### 5. **Dog Fouling**

If a dog defecates at any time on any land open to the air to which the public has access within the Horsham District the owner, or person in charge of, said dog shall remove the faeces from the land.

##### Exceptions (Dog Fouling)

This section does not apply if:

- a) The owner, occupier or other person in authority having control of the land consents to a person not removing faeces.
- b) The owner of or person in charge of the dog, is registered blind.

#### 6. **Control of Dogs**

The owner or person in charge of a dog must, upon the request of a constable, PCSO or authorised officer, keep the dog under control on a lead as long as is reasonable to prevent nuisance to other people, animals or birds.

#### **Geographical Extent of this Order**

With the exception of the activity prohibited in Section 2, the land in relation to which this Order applies is any place to which the public has access within the Horsham District as is delineated and shown on the map (No 1) forming part of the Order.

With regard to the activity prohibited in Section 2, the land to which this Order applies is any place to which the public has access with Horsham Town Centre as is delineated and shown on the map (No 2) forming part of this Order.

#### **Offence of Failing to Comply with Order**

It is an offence for a person, without reasonable excuse to engage in any activity prohibited by this Order. Any person found guilty is liable, upon summary conviction, to a fine not exceeding Level 2 on the standard scale; or to a Fixed Penalty Notice up to £100.

GIVEN under the Common Seal of Horsham District Council on the

.....day of .....2016