

APPENDIX ITEM 1



PROCEDURES FOR USE OF ANTI-SOCIAL BEHAVIOUR CRIME AND POLICING ACT 2014

PUBLIC SPACE PROTECTION ORDER (PSPO)

This allows the local authority to stop individuals or groups committing ASB in public places.

The local authority will identify the area that is to be covered by the order – known as the 'restricted area'.

The PSPO can:

- Prohibit specified things being done in the area
- Require specified things to be done in the area

The prohibitions or requirements can be framed so that they:

- Apply to all persons, or only persons in specified categories, or to all persons except those in specified categories
- Apply at all times, or only at specified times, or at all times except those specified
- Apply in all circumstances, or only in specified circumstances, or in all circumstances except those specified

The following conditions must be met before making the order:

- Activities carried out in a public place within the local authority's area have a detrimental effect on the quality of life for those living in the locality *or*
- Is likely that activities will be carried out in a public place within the area that will have such an effect

The effect or likely effect of the activities:

- Is, or is likely to be, of a persistent or continuing nature
- Is, or is likely to be, such as to make the activities unreasonable *and*
- Justifies the restrictions imposed by the order

The need for a PSPO to be identified

This will come from a variety of routes – including, but not exclusively:

- Partnership problem solving (Multi Agency Action Group – MAAG)
- Complaints from members of the public
- Public consultation/residents meetings/residents groups
- Elected members/Parish Councils

- Neighbourhood groups
- Private land owners
- Registered Social Providers

The process to be followed is below. Responsibility for overseeing this process will lie within the Communities and Partnerships Department's Anti-Social Behaviour Team. Depending on the focus of the PSPO certain elements of the process below may well also be taken on by other departments within the local authority such as Environmental Protection or Trading Standards.

Examples of behaviour that a PSPO might be used to tackle

The following list is intended to be indicative and not exhaustive

Legal highs – sale of/taking of	Verge parking
Boy racers	Parking outside schools
Congregating in car parks	Ball games
Cars for sale	Swimming in dangerous areas
Vehicle Nuisance	Ball games
Buskers	Grazing of horses
Dog fouling	Litter
Unruly Dogs/dogs out of control	Fly tipping
Rough sleeping	Cycling in pedestrian areas
Street drinking	Aggressive Charity Collectors (Chuggers)
Urinating or defecation	Begging
Prostitution	Placing yourself to beg
Dogging	Skateboards

Prior to formal consultation for a PSPO:

It is important that the PSPO is used proportionately and that it is not seen to be targeting behaviour of the children/young people where there is a lack of tolerance and understanding by local people. Consideration must also be given to the Equality Act when setting out restrictions or requirements.

When making a PSPO Cheshire East Council will bear in mind the impact on other areas and the level to which displacement is likely to occur.

All requests/considerations for a PSPO will be nominated to the Communities and Partnerships Multi-Agency Action Group (MAAG). Initial thoughts and actions will be recorded at the meeting, and the relevant agencies will be nominated to take the request further once it has been agreed via an initial professionals meeting.

Professionals meeting:

This will be held by the ASB Team along with the relevant Partnership Manager/Local Engagement Officer, attendees may include the following:

- ASB Team representative – **Compulsory**
- CEC Partnership Manager or Local Engagement Officer – **Compulsory**
- Local Elected Member/Parish Council member – **will at least be informed**

- Land owner (If not CEC land) – **Compulsory**
- Police
- Housing/Registered Social Provider
- Other CEC departments
- Representative from the local community

The following will need to identified either prior to this meeting or during this meeting:

- How many incidents have been reported and who to?
- What has been attempted in order to resolve this issue already?
- What is the exact area that all present would like a PSPO to cover?
- What sort of prohibitions would need to be considered?
- Are there any other people that need to be consulted as part of this process?
- What are the implications should a PSPO not be granted
- What are the risks if a PSPO is granted (displacement etc.)?
- Who would be responsible costs around publicity and signage (if not CEC land)?
- How would this be policed does any training need to take place with delegated local officers whom may not have had opportunity to enforce this type of order yet?
- Do the majority agree that a PSPO application should be requested? *(if the answer is no the issue will be refereed back to the MAAG)*

Authorisation to begin Consultation

Following the professionals meeting, should it be agreed to pursue a PSPO a summary of the problems and proposed PSPO will be presented to the nominated Portfolio Holder who will make a decision as to whether to progress to the consultation process being undertaken. If authorisation is not given, then the issue will be nominated back to the MAAG.

Consultation

The Consultation that is undertaken will depend on the location and the particular issues to be addressed. The consultation will be proportionate but not excessive. At least 4 weeks will be allowed for the consultation process and as a minimum standard consultation details will be publicised via Cheshire East Council’s Website.

Groups to be consulted may include:

Elected members Parish Councils Local residents Members of public using the area/facility via notice placed in area.	Community Groups Town Councils Pub watch SCOOT/shop watch or equivalent Chamber of Commerce
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The general public will be made aware of the plans through any of the following methods:

- Cheshire East Council website – **Compulsory**
- Press release
- Notice in the affected area
- Residents newsletters

- Leaflets
- Social media

Cheshire East Council will ensure that the consultation is in line with its own consultation policy.

Additionally (if not already done so)

- The owner of the land (if not the Council) will be contacted
- Cheshire Police and Police and Crime Commissioner

Decision is taken to make a PSPO

The process for approving PSPO applications will be made by the Strategic Director in consultation with the Portfolio Holder for Communities and Health. However, decisions to approve PSPO applications will be escalated for full Cabinet approval where recommendations in the report identify approving the order will have wider implications for the Local Authority. This will allow opportunity for elected members outside of the majority group the opportunity to scrutinise the decision.

If this is refused then the matter will be referred back to the MAAG.

Public are advised that the PSPO is coming into effect

Cheshire East Council will ensure that the following principals are followed with reference to publicising a PSPO although some of the processes may vary from case to case:

- The publicity is proportionate and cost effective
- It takes account of the different languages spoken in the area
- Takes into account the need to manage people's expectations once the order is in place
- That at least one week prior to the PSPO coming into effect a multi-agency approach in relation to educating the relevant members of public and agencies on the new order coming into force and the implications of breach of this order
- During the first week of the order being in force, a campaign of education will continue followed by enforcement action
- That breaches will be monitored, as will any potential displacement which will all be recorded by Cheshire East Councils Partnerships and Communities/ASB Team with a view to the appropriate review processes/amendments taking place on the order.

General publicity may include:

- Press release
- Cheshire East Council website
- Other partner agency websites (i.e. Police, Registered Housing Providers)
- Residents' newsletters
- Leaflets
- Social media
- Parish Councils
- Community Groups

- Signage within the area

In the area affected signage may be used taking into account the different language spoken – using pictures where possible.

Enforcing the PSPO

The power to enforce the PSPO has been given to:

- Cheshire Constabulary Police Officers
- Cheshire Constabulary Police Community Support Officers
- Designated Cheshire East Council Officers

Cheshire East Council may authorise an officer not on the above list (e.g.: Registered Social Provider or Commissioned agency/company) to issue FPN's where a senior officer within the agency to which that person belongs makes a written request to the Chief Executive of Cheshire East Council for that person to be designated.

A decision will then be made by Cheshire East Council as to whether that person should be authorised as a person who may issue FPN's in Cheshire East.

In each case any person who is so authorised will be required, prior to designation, to complete relevant training identified by Cheshire East Council.

Cheshire East Council reserves the right to vary or cancel any authorisation at any time and for any reason

Breaching the PSPO

Those who are found to be breaching the PSPO will be given the opportunity to discharge the offence by way of a Fixed Penalty Notice (FPN).

- The level of FPN will have to be decided (not exceeding £100) suggested amount to remain at the higher rate of £100 with no early payment opportunity
- Agreement will be reached with Cheshire Constabulary about issuing of FPN's on a case by case basis and how this will be done

There will also need to be an awareness that if someone is taken to court and they are on benefits they can agree with the court to pay a weekly sum to clear a fine. This option is not available with a FPN – unless they are taken to court for non-payment.

Transition

There are a number of current orders which will be replaced by the PSPO:

- Designated Public Place Order
- Dog Control Order
- Gating Order

There is the ability to replace existing orders with a PSPO at the commencement. Alternatively they can continue for 3 years when they will transfer over to a PSPO. There are a number of gating orders and DPPO's within the Cheshire East area which will need to be

considered in due course which will expire in their current form in October 2017. A task group will be set up to review this in due course which will decide whether:

- To leave as the current order and allow to move over in 3 years
- To replace immediately with a PSPO
- To discharge any of the existing orders as no longer needed