

Report of:	Meeting	Date
Councillor Berry, Neighbourhood Services and Community Safety Portfolio Holder and Mark Billington, Corporate Director Environment	Cabinet	17 February 2021

<p>Extension and Amendment of the Existing Public Space Protection Order for Alcohol Related Anti-Social Behaviour</p>

1. Purpose of report

- 1.1 To seek Cabinet agreement to renew the existing Public Space Protection Order (PSPO) for alcohol related anti-social behaviour for a further three years, whilst also varying the order to include wider areas of the borough.

2. Outcomes

- 2.1 Renewal and expansion of the existing order will enable authorised officers to continue to enforce across the borough in relation to alcohol related anti-social behaviour, and will ensure that those areas of the borough subject to such behaviour are included.

3. Recommendations

- 3.1 That Cabinet agree to the renewal of the PSPO for alcohol related anti-social behaviour for a further 3 years in accordance with the Anti-Social Behaviour Crime and Policing Act 2014.
- 3.2 That the boundaries of the existing PSPO are extended having regard to the feedback received from the recent consultation exercise, to encompass the district boundaries of Fleetwood, Thornton-Cleveleys, and Poulton-le-Fylde up to the borough boundaries; and to include the wider areas of Garstang, as highlighted on the attached maps.
- 3.3 That the Environmental Protection & Community Safety Manager take forward the recommendation made by Lancashire Constabulary and the Police & Crime Commissioner to consider expansion of the PSPO to encompass the whole administrative district, by undertaking a further public consultation exercise as soon as is reasonably practicable.

- 3.4** That the Legal Services Manager is authorised to make the order as publicised subject to any minor amendments that she may wish to make.

4. Background

- 4.1** In October 2017, Cabinet approved a PSPO for alcohol related anti-social behaviour under the Anti-Social Behaviour Crime & Policing Act 2014. The PSPO came into force on the 20 October 2017 and covered certain public spaces within the towns of Cleveleys, Fleetwood, Garstang and Poulton-le-Fylde. A copy of the existing order is provided in Appendix 1.
- 4.2** The effect of the order is that an individual can be prosecuted or given a fixed penalty notice of up to £100, if they fail to surrender alcohol (or anything believed to be alcohol) when asked to do so by an authorised officer. The order does not make it illegal to carry alcohol or to drink in a public place as long as drinking is done responsibly. The order is therefore only used when necessary to tackle alcohol related anti-social behaviour, and no offence is committed if individuals comply with a request to stop drinking and / or dispose of alcohol when asked to do so.
- 4.3** The order does not restrict the consumption of alcohol where the premises or its curtilage (e.g.: a beer garden or pavement seating area) is licensed for the supply of alcohol. There are also limitations where either Part 5 of the Licensing Act 2003, or section 115E of the Highways Act 1980 applies. Such premises are covered by existing licensing laws to prevent and control anti-social behaviour.
- 4.4.** In accordance with the requirements of the Anti-Social Behaviour, Crime & Policing Act 2014, PSPO's must be reviewed every three years, with any decision to renew being made before their expiry. Accordingly, the PSPO for alcohol related anti-social behaviour required renewal before the 20 October 2020.
- 4.5** A short extension to the 2017 PSPO was granted in October 2020 by way of a non-delegated officer decision. This decision extended the 2017 order until the 28 February 2021 and was made to allow for an extension of the public consultation process. This followed initial consultation feedback which suggested that amendment of the areas covered by the 2017 order may be of benefit if a decision to renew the order is made.
- 4.6** Extension of the current PSPO enabled the council to undertake more thorough consultation on renewal of the order whilst also seeking opinion on whether the boundaries of each area covered by the order should be extended.
- 4.7** The public consultation exercise was undertaken over a period of 6 weeks between the 1 October 2020 and the 13 November 2020, and was advertised to the public by way of social media and the council's website. Direct notification of the consultation process was also given to statutory consultees, in addition to relevant stakeholders, partner agencies and interested parties such as Lancashire County Council, relevant Town & Parish Councils, etc.

5. Key issues and proposals

5.1 The council received a total of 41 responses to its consultation exercise. 38 of these were via the council's consultation portal and 3 by direct email submission. 71% (n-29) of the responses received were from local residents, 22% (n-9) from either a parish council or from the local voluntary, faith, community sector; and 5% (n-2) from Lancashire Constabulary and the Police and Crime Commissioner. 2%, i.e.: one response was received from a member of the public looking to move to the area.

5.2 Renewal of the PSPO

Of the 41 responses, 95% agreed that the existing order should be renewed. Whilst not all respondents chose to state why they favoured renewal, those comments received by the council's consultation portal suggest that the public associate the consumption of alcohol to anti-social behaviour in the community, and consider the PSPO to be an effective deterrent and tool to be used to prevent and control such behaviour. Table 1 of Appendix 2 provides a copy of all comments received by the council's consultation portal.

5.3 In addition to those comments received by way of the council's portal, Lancashire Constabulary made a separate and detailed submission to the council outlining their support and reasoning for renewal of the PSPO. Data indicating the number of incidents reported over the last 12 months in which alcohol is likely to have been a contributing factor was submitted to justify renewal of the PSPO and to support the fact that alcohol related crime and disorder remains a key priority for local policing. The submission provided by the police identifies the PSPO as a critical part of their approach to tackling alcohol related incidents within the community, and makes particular reference to its use in the policing of football matches and the night time economy, together with attendance at anti-social behaviour operations and sporadic incidents of disorder; where use of the PSPO can prevent further consumption of alcohol and prevent individuals from reaching the levels of drunkenness which often lead to assaults and disorder. Whilst it is impossible for the police to provide accurate figures of how many times the PSPO has been used over the lifetime of the existing order, their submission makes clear that it is used regularly as a tool of engagement when dealing with individuals involved in, or likely to become involved in anti-social behaviour. A copy of the submission provided by Lancashire Constabulary is provided in Appendix 3, alongside a letter submission provided by the Police and Crime Commissioner which supports the views expressed by the police.

5.4 A separate email submission was also received from Garstang Town Council confirming support for renewal of the existing order within Garstang. A copy of their email response can be found in Appendix 4.

5.5 In respects to those respondents who were not in favour of the PSPO being extended (i.e.: 2 respondents), only one provided any reason, which was as follows; thereby suggesting that they do not consider the existing PSPO to have been used effectively:

'The police don't follow anything through with alcohol being used by teenagers which I've seen many many times on the sea front in Cleveleys'.

5.6 Extension / Reduction of those areas covered by the PSPO

In reviewing the existing PSPO, consultees were asked whether or not they felt that the boundaries of the areas covered by the existing order should be altered. Of the 31 respondents that chose to answer this question via the council's consultation portal, all (i.e.: 100%) agreed that the boundaries should not be reduced, and 58% (n=18) confirmed that the existing boundaries should be extended.

	Yes	No
Reduced	0	31 (100%)
Extended	18 (58.1%)	13 (41.9%)

5.7 Whilst not all respondents who confirmed their support for an extension of the current boundaries also took the opportunity to state which streets / areas they considered should be included, of those respondents that did, their responses ranged from extending the existing boundaries of the order within the areas of Cleveleys, Poulton, Fleetwood and Garstang, to including new areas of the borough such as Thornton, Hambleton, Stalmine, Preesall and Knott End. A list of all the responses received are provided in Table 2 of Appendix 2, however it should be noted that some suggest inclusion of areas already covered by the existing order.

5.8 In addition to those responses received by way of the council's consultation portal, Lancashire Constabulary made a separate and detailed submission to the council, confirming their desire to see the boundaries of the existing order extended beyond the towns of Garstang, Fleetwood, Poulton & Cleveleys, to incorporate the whole of Wyre's administrative district. The submission refers again to the number of incidents reported over the last 12 months in which alcohol is likely to have been a contributing factor and uses this data to demonstrate how many of the repeat locations of ASB / disorder have occurred outside of the boundaries of the existing order. The submission also refers to the fact that much alcohol related ASB involving young people will not be included within this data, and makes reference to other supporting information in the form of recent multi-agency problem solving operations (POPs) to highlight the fact that most incidents involving young people tend to take place outside of the borough's town centres, in more remote settings, away from both the night time economy and the public eye. Examples of such locations are given as Wyre Estuary Countryside Park Thornton, Cottam Hall playing fields Poulton, and Brockside Garstang; in which ongoing alcohol related ASB has impacted significantly on public

resources within the last 12 months, whilst causing much ongoing nuisance and distress to local residents.

- 5.9** Lancashire Constabulary's submission highlights the necessity of the order in preventing and controlling alcohol related ASB and disorder within the community and reconfirms the fact that its existence does not prohibit responsible drinking in public areas or impact on lawful activities. The submission also highlights the disparities caused by only applying the order to certain areas and streets within the borough and suggests that if only minor extensions of the existing order are made to include current 'hotspot' locations of ASB, displacement of that activity is only likely to take place, impacting on other remote areas not included. A blanket order covering the whole of the borough is therefore strongly encouraged in order to allow flexibility in the police response to emerging issues and to enable the police to take a proportionate approach to tackling alcohol related behaviour. A copy of the submission provided by Lancashire Constabulary is provided in Appendix 3, alongside a further letter submission provided by the Police and Crime Commissioner which supports the views expressed by the police.
- 5.10** In addition to the email submissions received from Lancashire Constabulary and the Police & Crime Commissioner, a third email response was received from Garstang Town Council, which supports extension of the boundaries of the PSPO to include the wider areas of Garstang. A copy of Garstang Town Council's submission can be found within Appendix 4.
- 5.11** To conclude, having regard to the consultation responses received and to the statutory provisions and guidance, there is considered sufficient evidence and support to recommend both renewal of the existing order and extension of the areas it covers. However, whilst there is also considered to be sufficient justification and benefit to replace the current 'area based' PSPO with a 'borough-wide' order, having regard to the fact that neither relevant stakeholders or the public were asked to make comment on such a proposal, it is considered appropriate to only recommend a partial expansion of the order at this time. The recommendation is therefore to renew the existing order for a further three years, and in doing so to expand the boundaries of the order to fully encompass the towns of Thornton Cleveleys, Poulton-le-Fylde, Fleetwood and Garstang as illustrated on the maps contained within Appendix 5. Thereafter it is recommended that a further public consultation take place to allow for further amendment of the order and inclusion of the all remaining areas of the borough, thereby creating a borough-wide PSPO for alcohol related anti-social behaviour. It is recommended that public consultation on the proposed 'blanket' PSPO commence as soon as reasonably practicable and certainly before expiry of the extended order in February 2024.
- 5.12** A copy of the proposed 2021 order is contained within Appendix 5. In accordance with the requirements of the Anti-Social Behaviour, Crime & Policing Act 2014, this has been publicised to the public both on the council's website; on its consultation portal; and, on its social media pages between the 18 December 2020 and the 10 January 2021. During that period the council received 19 consultation responses, 53% (n=10) of

which stated they had no further comments to make in relation to the order. A copy of all comments which were received can be found in Appendix 6, all of which were in favour of the proposed order, with the exception of 2 which expressed concerns that the order may unfairly disadvantage local businesses trying to recover from the Covid-19 restrictions. As the proposed order does not restrict the consumption of alcohol on land licensed for the supply of alcohol, these concerns are not considered relevant, and the recommendation remains to renew and vary the existing order as detailed.

Financial and legal implications	
Finance	<p>It is anticipated that there will be costs associated with new and updated signage for the Public Space Protection Order if the order is extended to cover areas of the borough not already included. The majority of signage will be directed to areas of public open space, i.e.: within parks. The cost of the additional signage is intended to be met from existing budgets.</p> <p>Town and Parish Councils will be asked to contribute towards their sites if they request additional signage.</p>
Legal	<p>The Anti-social Behaviour, Crime and Policing Act 2014 (“the Act”) came into effect on 20 October 2014. Pursuant to section 59 of the Act a local authority may make a Public Spaces Protection Order if satisfied on reasonable grounds that</p> <p>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 and 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.</p> <p>Pursuant to section 60 of the Act before the time when a public spaces protection order is due to expire, the local authority that made the order may extend the period for which it has effect if satisfied on reasonable grounds that doing so is necessary to prevent—</p> <p>(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.</p> <p>A local authority must carry out consultation, publicity, and notification before extending the period for which a</p>

public spaces protection order has effect, or varying a public spaces protection order.

Pursuant to section 61 of the Act, where a public spaces protection order is in force, the local authority that made the order may vary it (a) by increasing or reducing the restricted area; (b) by altering or removing a prohibition or requirement included in the order, or adding a new one if satisfied that the tests set out above under section 59 of the Act are satisfied.

Revised statutory guidance has been issued by the Secretary of State.

Before making a PSPO, councils must consult with the local police (section 72(3) and 72(4) of the Act).

The Act also stipulates that councils must consult with the local community on any proposed PSPO. PSPO's must be reviewed at least every three years. Consultation opportunities have been widely publicised within communities via the council's website, social media channels, and E-alerts; in addition to statutory consultees, Lancashire County Council, Town and Parish Council's, and relevant partner agencies.

Anyone who lives in or regularly works or visits the area can challenge a PSPO in the High Court within six weeks of making on the grounds 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); or (b) that a requirement under the Act was not complied with in relation to the order or variation. A PSPO must be publicised locally.

With regard to breaches of a PSPO, it is an offence for anyone, without reasonable excuse, to do anything s/he is prohibited from doing by virtue of the order. Furthermore, it is an offence for anyone, without reasonable excuse, to fail to comply with a requirement in the PSPO. Section 67 of the Act specifies that anyone found guilty of an offence can be fined up to £1,000 by the Magistrates' Court. Section 68 of the Act provides that, in the alternative, a constable or authorised officer of the Local Authority may serve a fixed penalty notice on those in alleged breach offering them the opportunity to discharge liability by payment of Fixed Penalty Notice in an amount set by each local authority up to £100. Fixed penalty notices in Wyre for anti-social behaviour offences are currently set at £100.

Other risks/implications: checklist

If there are significant implications arising from this report on any issues marked with a ✓ below, the report author will have consulted with the appropriate specialist officers on those implications and addressed them in the body of the report. There are no significant implications arising directly from this report, for those issues marked with a x.

risks/implications	✓ / x
community safety	✓
equality and diversity	x
sustainability	x
health and safety	x

risks/implications	✓ / x
risk management	x
climate change	x
ICT	x
data protection	x

Processing Personal Data

In addition to considering data protection along with the other risks/ implications, the report author will need to decide if a 'privacy impact assessment (PIA)' is also required. If the decision(s) recommended in this report will result in the collection and processing of personal data for the first time (i.e. purchase of a new system, a new working arrangement with a third party) a PIA will need to have been completed and signed off by Data Protection Officer before the decision is taken in compliance with the Data Protection Act 2018.

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List of background papers:		
name of document	date	where available for inspection
None		

List of Appendices

Appendix 1 – Existing PSPO 2017 (extended to 28 February 2021)

Appendix 2 – Consultation responses received by way of the Consultation Portal (Table 1 & 2)

Appendix 3 – Consultation response Lancashire Constabulary and the Police & Crime Commissioner

Appendix 4 – Consultation response Garstang Town Council

Appendix 5 – Proposed PSPO 2021 (February 2021 – 2024) including maps of the areas to be included

Appendix 6 – Consultation comments in respects to publication of the draft 2021 PSPO.