

Notice of:	Cabinet Member for Enforcement, Public Safety, Highways and Transport
Decision Number:	PH36/2023
Relevant Officer:	Jennifer Clayton, Acting Head of Public Protection and Enforcement
Relevant Cabinet Member:	Councillor Neal Brookes, Cabinet Member for Enforcement, Public Safety, Highways and Transport
Date of Decision:	2 March 2023

PUBLIC SPACE PROTECTION ORDERS – Parks and Cemeteries

1.0 Purpose of the report:

- 1.1 To consider going out to separate consultations for Public Space Protection Orders for parks/green spaces and cemeteries under Sections 59, 60 and 61 of the Anti-social Behaviour (ASB), Crime and Policing Act 2014. The consultations aim to establish public opinion and feedback as to what behaviour standards and prohibitions should be established for these areas, which will be set for a three year period.

2.0 Recommendation(s):

- 2.1 To approve the public consultation for Public Space Protection Orders in relation to parks/green spaces and cemeteries, commencing in June 2023.
- 2.2 To use the consultation feedback to inform the development of Public Space Protection Orders aimed at enhancing security measures and standards of behaviours in parks/green spaces and cemeteries.

3.0 Reasons for recommendation(s):

- 3.1 The reason for the recommendations in relation to the Public Space Protection Orders (PSPO's) is to set out reasonable requirements and acceptable behaviours within Blackpool's parks/green open spaces and cemeteries. It gives enforcement options to officers of the local authority and police to deal with nuisance and anti-social behaviour.
- 3.2 Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No
- 3.3 Is the recommendation in accordance with the Council's approved budget? Yes

4.0 Other alternative options to be considered:

4.1 There are no other viable options that would enable us to tackle nuisance and ASB effectively bar local bye laws which are too costly.

5.0 Council priority:

5.1 The relevant Council priority is: “Communities: Creating stronger communities and increasing resilience”.

6.0 Background information

6.1 Local Authorities have a key role to play in helping to make local areas safe places to live, work and visit and it is believed that our parks/green spaces and cemeteries would benefit from enhanced security measures and behaviour standards. Tackling behaviour which has a detrimental impact on the quality of life of those in the locality is a key element of this role. It is to be noted that behaviour which has a detrimental impact can be broader than that which has traditionally been described as anti-social behaviour.

6.2 The Anti-social Behaviour, Crime and Policing Act 2014 (‘the 2014 Act’) introduced several new tools and powers for use by councils and their partners to address anti-social behaviour in their local areas. These tools, which replaced and streamlined a number of previous measures, were brought in as part of a Government commitment to put victims at the centre of approaches to tackling anti-social behaviour, focusing on the impact anti-social behaviour can have on both communities and individuals, particularly on the most vulnerable.

6.3 Local Authorities can use a Public Space Protection Order to prohibit specified activities, and/or require certain things to be done by people engaged in particular activities, within a defined public area. Public Space Protection Orders differ from other tools introduced under the 2014 Act as they are council-led, and rather than targeting specific individuals or properties, they focus on the identified problem behaviour in a specific location. The Home Office’s statutory guidance reiterates that Public Space Protection Orders should be used responsibly and proportionately, in response to issues that cause anti-social behaviour, and where necessary to protect the public.

6.4 Under the 2014 Act, authorised council officers have the power to issue a fixed penalty notice (‘FPN’) to anyone they reasonably believe is in breach of the Public Space Protection Orders. Whilst the 2014 Act sets out a framework for issuing fixed penalty notice, Councils will also have their own wider protocols around issuing fines. The Council currently has an enforcement policy for the Council’s enforcement team to ensure fairness and best practice is exercised. This will be reviewed and updated following any Report Title Report Number future decision of the Council in relation to any additional restrictions that form part of any varied, extended or new Public Space Protection Order.

- 6.5 The Council is required under the 2014 Act to carry out a Consultation and necessary publicity and notification before making a Public Space Protection Order.
- 6.6 As a minimum, the Council must consult with the Chief Officer of Police, the Police and Crime Commissioner, appropriate community representatives, and members of the public.
- 6.7 Evidence for the requirement for these restrictions will be provided to the decision maker along with the results of the Consultation and details of enforcement implications for a decision on whether, or not, to introduce the Public Space Protection Orders for parks/green spaces and cemeteries.
- 6.8 Local authorities can make an order as long as two conditions are met:

First condition:

- Activities carried out in a public space within the local authority's area have a detrimental effect on the quality of life of those in the locality, or
- It is likely that activities will be carried out in a public place within the area that will have such an effect.

Second condition:

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 activities unreasonable
- Justifies the restrictions imposed by the notice.

- 6.9 Any requirement must be reasonable in order to prevent the detrimental effect from occurring or reoccurring, or must reduce the detrimental effect or reduce the risk of its occurrence, reoccurrence or continuance.
- 6.10 The consultation will commence in June 2023 for four weeks, when it is believed that usage of these areas will be high, with the results informing the contents of the Public Space Protection Orders, aimed at enhancing security measures and standards of behaviours in parks/green spaces and cemeteries.

7.0 List of Appendices:

None.

8.0 Financial considerations:

8.1 The cost of consultation and implementation will be met by the Community and Environmental Services revenue budget.

9.0 Legal considerations:

9.1 The introduction, varying or amending of a Public Space Protection Orders must be undertaken in accordance with the 2014 Act and the Statutory Guidance. Failure to do so could result in a legal challenge.

9.2 Section 72 of the Anti-Social behaviour and Policing Act 2014 requires the Cabinet Member as decision maker to pay particular regard to rights of freedom of expression and freedom of assembly set out in articles 10 (the right to freedom of expression) and 11 (freedom of assembly and association) of the European Convention on Human Rights in considering the making any such Public Space Protection Order. The making of a Public Space Protection Orders is power made available to the council under statute. In making an order, the local authority must be satisfied that what has been happening in the relevant area has had or will have a detrimental effect on the quality of life of those in the locality and that it has been persistent or is likely to continue. The provisions within an Order must then address that specific activity and take into account the matters required by statute and as set out in this report. Consultation and Publication is required before an Order can be made and an Order can be subject to appeal. There are therefore a number of risks associated with the making of a Public Space Protection Orders which Members should be aware of. To mitigate the risks any Order should be legally robust by consultation and is compliant with the legal requirements.

10.0 Risk management considerations:

10.1 The introduction of Public Space Protection Orders in parks and cemeteries will ultimately reduce the risk of anti-social behaviour and associated behaviours in these areas.

11.0 Equalities considerations:

11.1 The aim is to ensure that the Public Space Protection Orders are fair and affords accessibility for all.

12.0 Sustainability, climate change and environmental considerations:

12.1 None directly.

13.0 Internal/external consultation undertaken:

13.1 Consultation will take place with responsible authorities and with the public.

14.0 Background papers:

14.1 [Public spaces protection orders: guidance for councils \(local.gov.uk\)](https://www.local.gov.uk/public-spaces-protection-orders-guidance-for-councils)

15.0 Key decision information:

15.1 Is this a key decision? No

15.2 If so, Forward Plan reference number:

15.3 If a key decision, is the decision required in less than five days? No

15.4 If **yes**, please describe the reason for urgency:

16.0 Call-in information:

16.1 Are there any grounds for urgency, which would cause this decision to be exempt from the call-in process? No

16.2 If **yes**, please give reason:

TO BE COMPLETED BY THE HEAD OF DEMOCRATIC GOVERNANCE

17.0 Scrutiny Committee Chairman (where appropriate):

Date informed:

Date approved:

18.0 Declarations of interest (if applicable):

18.1 **None.**

19.0 Executive decision:

19.1 The Cabinet Member agreed the recommendations as outlined above namely:

1. To approve the public consultation for Public Space Protection Orders in relation to parks/green spaces and cemeteries, commencing in June 2023.

2. To use the consultation feedback to inform the development of Public Space Protection Orders aimed at enhancing security measures and standards of behaviours in parks/green spaces and cemeteries.

20.0 Date of Decision:

20.1 2 March 2023

21.0 Reason(s) for decision:

21.1 The reason for the recommendations in relation to the Public Space Protection Orders (PSPO's) is to set out reasonable requirements and acceptable behaviours within Blackpool's parks/green open spaces and cemeteries. It gives enforcement options to officers of the local authority and police to deal with nuisance and anti-social behaviour.

22.0 Date Decision published:

22.1 2 March 2023

23.0 Executive Members in attendance:

23.1

24.0 Call-in:

24.1

25.0 Notes:

25.1