

**Public Spaces Protection Order – Town Centre  
Renewal/Revision**

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|---------------------------------------|---|
| <b>Final Decision-Maker</b>           | Communities, Housing & Environment Committee            |
| <b>Lead Head of Service</b>           | John Littlemore, Head of Housing and Community Services |
| <b>Lead Officer and Report Author</b> | Martyn Jeynes, Community Protection Team Manager        |
| <b>Classification</b>                 | Public  |
| <b>Wards affected</b>                 | High Street   |

**Executive Summary**

A report to request committee to delegate to the Head of Housing and Community Services the authority to review the public consultation responses regarding the continuation of the Begging and Street Drinking controls with the Chair of the Committee and the High Street Ward members and enable the Head of Service to extend/vary the existing Public Space Protection Order (PSPO), where appropriate and necessary. Also, that the Committee extend the current delegation to the Head of Housing and Community Services.

**Purpose of Report**

Decision

**This report makes the following recommendations to this Committee:**

1. That the Committee give delegated authority to the Head of Housing and Community Services to make/extend/vary/discharge existing Public Space Protection Orders, where appropriate and necessary.
2. That the PSPO implemented in town centre area, outlined in Appendix 1, including prohibitions for anti-social drinking in a public place and begging, as set out in Appendix 2, be extended for a further 3 years, subject to section 2.13.

**Timetable**

| <b>Meeting</b>                               | <b>Date</b>  |
|--|--------------|
| Communities, Housing & Environment Committee | 30 June 2020 |
|  |              |

# Public Spaces Protection Order – Town Centre Renewal/Revision

## 1. CROSS-CUTTING ISSUES AND IMPLICATIONS

| Issue                                 | Implications   | Sign-off                               |
|---------------------------------------|--|--|
| <b>Impact on Corporate Priorities</b> | <p>Keeping Maidstone Borough an attractive place for all. Securing a successful economy for Maidstone.</p> <p>PSPOs provide Councils with a flexible power to implement local restrictions to address the effect on quality of life caused by a range of anti-social behaviour issues in public places in order to prevent future problems and ensure safe and attractive environment.</p> | Head of Housing and Community Services |
| <b>Cross Cutting Objectives</b>       | <p>The report recommendations support the achievements of the Health Inequalities cross cutting objectives by ensuring there is a strong focus on preventative work that is intelligence driven so as to maximise the opportunities to reduce health inequalities in partnership with the police and other community safety related partners.</p>  | Community Protection Manager           |
| <b>Risk Management</b>                | <p>The management of PSPOs will be subject to the current performance management arrangements within the service, with performance benchmarking as part of the process.</p>  | Head of Housing and Community Services |
| <b>Financial</b>                      | <p>It is anticipated that the continued delivery of the PSPO and the consultation exercise described in this report will be resourced from within existing budgets.</p>  | Section 151 Officer & Finance Team     |
| <b>Staffing</b>                       | <p>Delivery of the PSPO will continue to be overseen by the Community Protection Team in partnership with Kent Police and One Maidstone. Authorised officers will complete appropriate training in order to be able to issue fixed penalties and deal with prosecutions.</p>   | Head of Housing and Community Services |
| <b>Legal</b>                          | <p>As contained within the body of the report, any enforcement by way of prosecution, or non-payment of FPN and any other legal process will have resource implications for MKLS. These are not anticipated to be any different than the current PSPO.</p>   | [Legal Team]                           |

|                                    |  |  |
|------------------------------------|--|--|
| <b>Privacy and Data Protection</b> | Private information within obtained within the process of delivering the PSPO will be managed in accordance with Environmental Health, Waste Crime & Community Protection Enforcement Policy and the Council's and the Council's Data Protection Policy.   | Policy & Information Manager           |
| <b>Equalities</b>                  | Incidents of ASB will continue to be dealt with in line with the existing strategy and in line with our equality's framework. These legislative changes are designed to have a significant community impact in preventing and limiting anti-social behaviour. The need for an updated EQIA will be looked at.              | Policy & Information Manager           |
| <b>Public Health</b>               | The Community Protection team is under the reporting line of the Head Housing and Community Services. The focus is strongly on preventative work that is intelligence driven so as to maximise the opportunities to reduce health inequalities in partnership with the police and other community safety related partners. | Community Protection Manager           |
| <b>Crime and Disorder</b>          | The continued delivery of the PSPO will contribute to make Maidstone town centre a safer place by promoting the message and enforcement of appropriate standard of conduct and behaviour.  | Head of Housing and Community Services |
| <b>Procurement</b>                 | Appropriate procurement methods will used to procure consultation, publicity and signage.  | Head of Housing and Community Services |

## 2. INTRODUCTION AND BACKGROUND

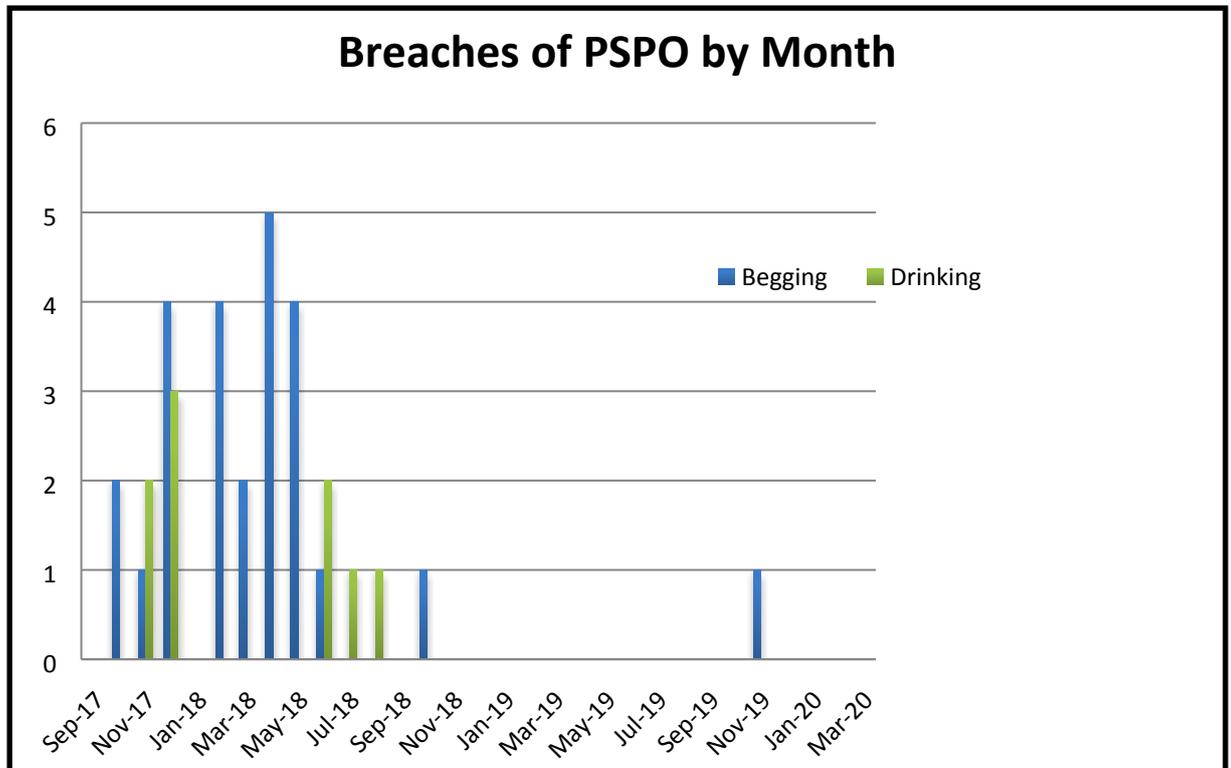
- 1.1 In September 2017, following approval from Communities, Housing and Environment Committee, the current Public Space Protection Order was introduced as detailed in Appendix 1.

### Review of the current order

- 1.2 A desk top review, undertaken with community safety partners and internal teams has found that the existing Town Centre PSPO remains an effective tool as both a enforcement tool and a deterrent against the anti-social behaviour associated with drinking and against begging.
- 1.3 When enforcing the PSPO, particularly around alcohol, the police will use their 4 "E" approach. Engage, Explain, Encourage are used frequently, utilising the PSPO, to challenge behaviour. Enforce is only used where someone presents a persistent issue. Much of the impact of the PSPO is therefore not recorded but that doesn't mean it is not an effective tool/deterrent. This is also in accordance with the Environmental Health,

Waste Crime & Community Protection Enforcement Policy, where the use of the PSPO powers needs to be proportionate to the issues encountered.

- 1.4 Since the introduction of the current PSPO formal offences have been recorded 34 times as shown in the graph below:



- 1.5 As the graph in 2.4 shows, a lot of the formal enforcement was undertaken in the first year after implementation. As per paragraph 2.4 it should be noted that the 34 formal offences recorded were committed by only 18 individuals. 80% of them were down to just 4 individuals. Most cases were referred to the Community Protection Team for summons and these were progressed through legal services where the evidential and public interest tests were met. There have been 3 successful prosecutions of three of the most serial offenders, with mixed results. One offender received a 6 months conditional discharge. One offender was fined £5 and another £430. 3 FPNs of £100 were also paid.
- 1.6 Issuing FPNs and bringing cases to court has been problematic, with many cases being written off by Community Protection officers in accordance with our procedures. The procedures allow that where there is an evidential shortfall or where information about the subject comes to light that would make it disproportionate to proceed, the team can choose not to proceed. Given that many most offences related to begging and the nature of those undertaking the offences it was often challenging to take formal action.
- 1.7 After the first year the need to use the PSPO regularly reduced. This was, in part, down to the effectiveness of the order, but is largely due to the effectiveness of MBCs Homeless Outreach Team. As members will know, this specialist team have significantly reduced the homeless population in

Maidstone and tackled the associated ASB. They work closely with clients with complex needs, offering effective support, which ultimately meant that some of the most frequent offenders were either moved out of the area or supported. As part of the desktop review the Outreach team manager noted that the current PSPO acts as an excellent deterrent to would be offenders and influences those in need of support by removing an opportunity to avoid obtaining the support.

- 1.8 Maidstone Council recently re-trained authorised Police and Police Support officers and trained the Ambassadors provided by One Maidstone, the Maidstone Business Improvement District on the details of the PSPO, enabling them to challenge individuals and make referrals for formal action to be considered. A Memorandum of Understanding between Maidstone Council, Kent Police and One Maidstone has also been drafted and should be signed off by all parties once the current crisis subsides, so that further support and training can be provided to newer officers.

### **Consideration of other powers/measures**

- 1.9 Consideration has been given to other persistent behaviours that have been sought to be controlled by other LAs through their PSPOs. Issues such as cycling, spitting, offensive language and busking have all been implemented in other areas. Our desk top review found that there is very little evidence that these or any other issues were persistent enough to warrant their inclusion as a new measure. It was also felt that many issues, such as those listed above, could be dealt with by tackling the individuals rather than a "blanket ban", particularly if they are persistent.
- 1.10 As an example, with regard to dog control a formal warning was recently issued to a gentleman whose dog was causing damage in Brenchley Gardens and was distressing visitors and the ground's team. The warning requires the named dog owner to keep his dog under close control and places additional measures that we would not apply to all dog owners by way of the dog control PSPO.

### **Ward Member Consultation**

- 1.11 Following the desk top review and prior to undertaking the Public Consultation, the High Street Ward Members were briefed on the findings of the desk top review and the plan to undertake a Public Consultation on retaining the existing measures.

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### **Public Consultation**

- 1.12 Having undertaken our desktop review, the decision was made to reinforce our decision by undertaking a public consultation. This was not initially believed to be necessary but following advice from legal services it was deemed appropriate to ensure the public are aware and supportive of the measures outlined in the PSPO.

- 1.13 A public consultation was launched on the 18th June 2020 and will run until the 7th August. Owing to the current climate and the lack of changes in the proposed order, the consultation asks whether people feel there are issues around specific ASB linked to the measures the PSPO is seeking to challenge. The survey also asks whether those completing the survey are in favour of extending the two measures provided in the draft order in Appendix 2. Some FAQs have also been produced to support peoples understanding of the PSPO and are provided on the website. In the current climate we are only able to offer the survey online. Whilst One Maidstone were involved in in the desk top exercise, we have also asked them them to invite their members to complete the survey as representatives of the businesses in the area concerned.
- 1.14 We are also required by the PSPO legislation to consult with the Police Chief Constable and the Police Crime Commissioner on our proposal to extend the current order.
- 1.15 Once the consultation closes, a summary report will be produced by the Performance Management team for John Littlemore, as Head of Housing and Community Services. The results will then be reviewed and discussed with the Chair of this Committee and the High Street Ward members. If it is deemed appropriate, the PSPO will be extended/varied and sealed for the 1<sup>st</sup> September 2020.
- 1.16 The Head of Housing and Communities has delegated authority to make orders, as per the constitution and this report seeks for that authority to be extended to also include: extend/vary/discharge existing orders, where appropriate and necessary.

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### 3. AVAILABLE OPTIONS

- 3.1 **Do Nothing** - Section 72 of the Anti-social Behaviour Crime and Policing Act 2014, requires Local Authorities to carry out the necessary consultation and the necessary publicity, and the necessary notification (if any), before extending the period for which a PSPO has effect, or varying or discharging a PSPO. We are undertaking this review but delegated authority is required to allow the order to be extended/varied appropriately. If delegated authority is not provided the existing order will lapse. This will remove the tool used to tackle anti-social street drinking and may see a return to the pre-Sept 17 position, where those needing support were failing to engage with support services.
- 3.2 **Committee review consultation responses** - Committee could require the consultation responses to be brought back to Committee. However, the next Committee meeting is the 1<sup>st</sup> September 2020, after the 31<sup>st</sup> August expiry date of the current order. If a report was brought back to Committee, a new PSPO could be implemented but there would be a period where the PSPO would be unenforceable due to call-in for any decision made. The service has undertaken a comprehensive review of the current provisions and possible other areas of concern and are satisfied that the evidence supports the decision to extend the existing order. Given the sensitive nature of tackling those who are begging and their

complex needs as detailed in the report, due consideration will be given to the public opinion, in balance with managing their perception of how the PSPO is used in reality. Where necessary additional communications can be undertaken to explain why the PSPO is not there to “fine beggars” but is used to encourage those who need support to do so from more appropriate charities and funds or to deal with those who beg professionally, despite being housed and supported through local government provisions.

- 3.3 Committee may wish to only give the requested delegated authority in regard to the Town Centre PSPO and not all PSPOs. Currently the only other PSPOs are those in relation to Dog Control. A report on these will be brought in September to update on those specific orders and any variation needed as previously requested. Currently our PSPOs cover matters where we would continue to provide reassurance to members that the measures are necessary and appropriate through briefing reports as necessary at appropriate intervals. PSPOs are an operational tool against ASB and they can be managed at an operational level, subject to the normal scrutiny of members as necessary. Some PSPOs can be considered with little impact, such as introducing a local gating order. These would not necessarily need the committee’s oversight but would always be looked at in consultation with the appropriate ward members.
- 3.4 **Delegated authority given to Head of Housing and Community Services** - Providing authority for the current delegation ‘to make Public Space Protection Orders’- to be extended to also include ‘extend/vary/discharge existing orders, where appropriate and necessary’. This is the preferred option as detailed in section 4.

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## **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 4.1 Providing extended delegated authority to Head of Housing and Community Services is the preferred option as it ensures continuity with the existing orders which should be extended as detailed in 4.2.

### **Summary of desk top review**

- 4.2 Our desktop review of the Order, detailed in section 2.2, showed that the current provision provides a sufficient deterrent to would be offenders and remains effective.
- 4.3 It should be recognised that the outstanding achievements of the Outreach team has seen a significant reduction in the number of street homeless, but that service in particular have said that the PSPO has enabled them and others to challenge members of the street population, those known to be associated with ASB and with complex needs. Partners felt that the implementation and existence of the current order, not only enabled us to “reclaim” Jubilee Square from street drinkers, but has also been effectively used to discourage, proportionately, revellers as necessary. We do still have occasional issues with both ASB from street drinking and begging and therefore the need for the PSPO remains. Increased support through

partnership working with Kent Police and One Maidstone will ensure the message delivered remains clear.

## **Public Consultation**

- 4.4 As detailed in the September 2016 report on this topic, there was a degree of confusion around how the measures would be enforced and their purpose. As demonstrated in this report, the PSPO does not seek to criminalise behaviour unless it is justified and proportionate to do so. As with many of the powers introduced by the Anti-social Behaviour Crime and Policing Act 2014, they are tools designed around achieving compliance, without putting an unnecessary burden on the criminal justice system.
- 4.5 The consultations in 2016 demonstrated more than 62% of respondents were in favour of the measure to deal with anti-social drinking. Less than 50% supported the measure around begging, but the comments suggested that the perceived use of the PSPO would be to prey on those already at a disadvantage. As detailed in this report, that is not the case, but it is difficult to convey that message to the public at large, without disclosing sensitive information around the individuals concerned. Whilst we are not pre-empting the consultation response, we are confident that residents and visitors to Maidstone would like to continue to benefit from the impact of the current order and will support its extension.
- 4.6 John Littlemore was the Head of Service for this area during the implementation of the original PSPO and has worked closely with the service to understand its continued value. Mr Littlemore is therefore the most appropriate officer to review the consultation responses and to liaise with the appropriate Ward members to discuss the appropriate steps to be take.

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## **5. RISK**

- 5.1 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. That consideration is shown throughout this report. We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.

## **6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

- 6.1 As detailed in 2.11 and 4.5

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## **7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 7.1 As detailed in 2.13. In addition, a media strategy will be developed to ensure the reason for the PSPO and why we are seeking to extend the order will be developed.

## **8. REPORT APPENDICES**

The following documents are to be published with this report and form part of the report:

- Appendix 1: Public Space Protection Order implemented in September 2017
  - Appendix 2: Draft Public Space Protection Order used as part of the Public Consultation
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## **9. BACKGROUND PAPERS**

20 September 2016 - Report of the Head of Housing and Community Services - Public Spaces Protection Order - Town Centre. Found [here](#)