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| Title | Birmingham Community Safety Partnership Public Space Protection Order Report |
| Date | 22nd October 2020 |
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1. Purpose

- 1.1 To provide an overview of Birmingham City Council Community Safety Team's (BCC CST) development of the use of Public Space Protection Orders (PSPOs) in Birmingham, using the learning from across the country since the ASB Act was introduced in 2014.
- 1.2 To provide an update on the changes in the process, made to ensure people within the street community are not the target of a PSPO based solely on the fact that they may be homeless or rough sleeping, or have another vulnerability for which they may require help and support.

2. Background

2.1 The Anti-social Behaviour, Crime and Policing Act 2014 provides a broad legal framework within which PSPOs can be implemented. Orders can be introduced in a specific public area where the local authority is satisfied on reasonable grounds that certain conditions have been met. The first test concerns the nature of the anti-social behaviour, requiring that:

Activities that have taken place have had a detrimental effect on the quality of life of those in the locality, or it is likely that activities will take place and that they will have a detrimental effect, the effect or likely effect of these activities:

- is, or is likely to be, persistent or
- continuing in nature
- is, or is likely to be, unreasonable

2.2 Home Office Anti-Social Behaviour Powers statutory guidance for front-line professionals, last updated in August 2019 states:

- *PSPOs are one of the tools available under the 2014 Act. These are wide-ranging and flexible powers for local authorities, which recognise that councils are often best placed to identify the broad and cumulative impact that ASB can have. The Act gives councils the authority to draft and implement PSPOs in response to the particular issues affecting their communities, provided certain criteria and legal tests are met.*
- *Councils can use PSPOs to prohibit specified activities, and/or require certain things to be done by people engaged in particular activities, within a defined public area. PSPOs differ from other*

tools introduced under the 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 legislation provides for restrictions to be placed on behaviour that apply to everyone in that locality (with the possible use of exemptions). Breach of a PSPO without a reasonable excuse is an offence.*
- *Homeless people and rough sleepers Public Spaces Protection Orders should not be used to target people based solely on the fact that they are homeless or rough sleeping, as this in itself is unlikely to mean that their behaviour is having an unreasonably detrimental effect on the community's quality of life which justifies imposing restrictions using a PSPO. Councils may receive complaints about homeless people, but they should consider whether the use of a Public Spaces Protection Order is the appropriate response. These Orders should be used only to address any specific behaviour that is causing a detrimental effect on the community's quality of life which is within the control of the person concerned. Councils should therefore consider carefully the nature of any potential Public Spaces Protection Order that may impact on homeless people and rough sleepers. It is recommended that any Order defines precisely the specific activity or behaviour that is having the detrimental impact on the community. Councils should also consider measures that tackle the root causes of the behaviour, such as the provision of public toilets. The council should also consider consulting with national or local homeless charities when considering restrictions or requirements which may impact on homeless people and rough sleepers.*

2.3 Home Office guidance on the use of ASB powers makes clear therefore that powers should be used as appropriate and proportionately to ensure that orders do not disproportionately target vulnerable groups such as rough sleepers. The guidance followed feedback from charities and other groups who raised concerns that the orders were being used to disproportionately target certain groups in some areas rather than focusing on behaviour that is genuinely anti-social and causing others distress or alarm. The guidance helps local authorities and front-line workers to focus on specific and actual problems rather than blanket bans of behaviour that are not in themselves anti-social – such as rough sleeping.

2.4 When the ASB Act 2014 was introduced it was decided in Birmingham that the decision to make an order would be devolved to the Director of Neighbourhoods and a West Midlands Police Superintendent. It was also agreed that we would not issue a fixed penalty notice (FPN) at the first breach. Birmingham has adopted a process in which a warning letter will be issued on the first breach and only on the second breach would a FPN be considered, allowing all partners the opportunity to engage and work with anyone causing a breach. The intention in Birmingham has always been to reduce the ASB not to increase the use of FPNs.

2.5 This approach has proved successful in that, in all PSPO areas the reports of ASB have reduced by over 50% in areas when a PSPO is first introduced. We have seen a further reduction on average of about 30% as a result of the notice to issues a PSPO (or warning letter) being sent out.

2.6 PSPOs are also a temporary time-limited option and are not automatically renewable. A new application must be submitted on each occasion, backed by up to date evidence and support from partners.

3. PSPO current position

3.1 Within the BCC CST there are 17 PSPOs in place. Regulation and Enforcement have 5 PSPO in place, all of which relate to restriction on dogs – fouling, use of leads and exclusion areas.

3.2 Of the 17 PSPOs within Community Safety there are currently 12 PSPOs that only have Alcohol Restricted Conditions, these are:

- Birmingham City Centre
- Bordesley and Nechells
- Bournville/Cotteridge
- Bournville/Stirchley
- Handsworth and Soho
- Lozells and East Handsworth
- Masefield
- Old Oscott
- Rotten Park, Winson Green
- Selly Oak
- Northfield
- Stockland Green

The 5 remaining PSPO in the following areas have a number of different conditions, with the first 3 including begging restrictions:

- Fox & Goose Shopping precinct
- Moseley & Kings Heath
- Sutton Town Centre
- Newtown
- Rednal (Edgewood Road)

3.3 Since 2019 there have been a total of 175 breaches for all prohibitions and 86 total breaches to date in 2020. 37.5% of all breaches in 2019 and 2020 have related to begging prohibitions.

3.4 17.3% of all begging related breaches in 2019 and 2020 are for individuals with no fixed address. Therefore 82.7% are for individuals who did provide an address. This indicates that a significant majority of individuals being breached are in accommodation, and therefore not begging to ensure they have a bed that evening. It should be acknowledged though that a proportion of this significant majority may be in first stage accommodation after rough sleeping and may not be in receipt of their benefits. Our data does not indicate how many individuals, if any, are affected by this.

3.5 With regards to the individuals with no fixed address, all received warning letters, advice and sign posting. 4 breached again and received another warning letter advice and sign posting. 2 individuals then breached again (one individual twice on the same day) they were both issued an FPN.

3.6 Although there are a large number of different prohibitions for PSPOs and many do not include any begging prohibitions, breaches for begging prohibitions account for over a third across both 2019 and 2020.

3.7 During 2019-20, there have been no begging breaches for individuals with no fixed abode outside of the City Centre or Five Ways (Edgbaston) area. This may suggest a different nature to the begging in local

centres such as Erdington and Moseley and a consequent need for a more focussed approach to understand the causes and potential solutions.

3.8 In all cases, a warning letter has been issued and, in most cases, has proved to be effective at preventing further breaches. In only one case (in 2019) involving two individuals working as a pair have FPNs been issued. Payment was not made and not chased; however, they have not been further complaints relating to these individuals within the city. It should be noted that they had been persistently begging at this location with complaints from businesses and shoppers for approx. 18 months prior to this.

3.9 With the above in mind the Council has undertaken extensive consultation with West Midlands Police, voluntary and community sector partners and the Business Improvement Districts (BIDs) to develop a partnership approach to working with the street community and strengthen intervention models. An approach has now been developed that should prove more effective in addressing both the effects of begging and its underlying causes than simply a PSPOs prohibition alone. The new approach seeks to make a distinction between passive begging, where individuals may have a genuine need and be homeless, and the more persistent and aggressive behaviour that can cause alarm and distress to members of the public. The approach enables the Council and our partners to consider supportive intervention as the primary choice for dealing with begging ahead of blanket enforcement approaches through the use of PSPOs.

4. Good Practice and Learning

4.1 Since the introduction of the ASB Act 2014 Birmingham has had a total of 29 PSPOs the earliest bringing introduced in 2016. This has given us the opportunity to reflect and learn, recognising both good and bad practice.

4.2 Through working with the Local Government Association, Core Cities Group, West Midlands Community Safety Partnership and other local authorities we have also been able to share learning from developing good practice models across the country. It is as a result of this learning we will be looking to introduce a new PSPO process.

4.3 Our recently developed partnership approach is one such example of good practice which not only takes from the learning from across the country but also builds from the work of the Street Intervention Team which was set up in Birmingham as part of the partnership approach to working with the street community. Taking this learning we have now introduced a process that has been in operation since September 2020. There are 3 parts to this process:

- Weekly partnership meetings are in place with all partners involved with supporting the street community. The meetings allow partners to bring issues and concerns to the table with a view to facilitate a wider partner's approach in dealing with members of the street community or a problem location. Actions are agreed and allocated to relevant partners to progress Work on the process commenced in 2019 with discussions with partners and has been in place since April 2020.
- A central data base managed by Trident Reach and BVSC is in place that enables rapid identification of vulnerable individuals within the street community.
- Weekly enforcement partnership meetings with WM Police, Trident Reach and BCC CST are also in place. This meeting helps ensure that no enforcement action is taken against any person

within the street community without agreement from outreach services. Trident Reach provide the link between this partnership and all other providers. The partnership has a city-wide catchment area which helps monitor any displacement.

- 4.4 Bringing this approach into place ensures that no individual within the street community will have any form of enforcement action imposed unless this is agreed by outreach services. It also ensures that all key stakeholders working in a location of concern where ASB has been identified are working in partnership to respond to the issues in the location
- 4.5 Throughout the country different approaches have been taken with regards to PSPOs. Some local authorities have never issued a PSPO for any reason, others have used them consistently. Some have used PSPOs with begging conditions and then made the decision to remove them, such as Bournemouth and Poole. In helping to shape the approach in Birmingham we have liaised with a number of local authorities including Leicester, whose approach has been championed by the LGA as an example of good practice. Leicester operates a similar street lifestyles operation group with the aim of helping vulnerable people such as rough sleepers and those living street lifestyles, whilst dealing firmly with those responsible for anti-social behaviour.
- 4.6 It is clear from the learning that approaches that include early intervention and support are likely to be more effective in the long-term than enforcement alone and this will therefore be the basis of Birmingham City Council considerations with partners.

5. Conclusion

- 5.1 There is evidence that shows PSPOs can be an effective tool to help reduce ASB and are supported and requested by many local councillors.
- 5.2 The evidence as to the effectiveness of begging clauses in addressing anti-social behaviour is mixed. However, alternative approaches such as the Street Intervention Team offer a far more nuanced and focused means of tackling offensive behaviour whilst ensuring that those who are vulnerable or at risk get the support they need.
- 5.3 Processes are now in place in Birmingham to ensure no enforcement action is taken against any individual or location without first having full agreement and support of the outreach services and hence ensure a supportive intervention approach is considered and works alongside an enforcement approach that can include fixed penalty notices or civil injunctions against those who behave anti-socially and or fail to engage with the support offered.
- 5.4 A new process for implementing PSPOs, considering local and national learning and good practice will be introduced in the coming year.