

For General Release

REPORT TO:	CABINET 20 November 2017
SUBJECT:	Croydon town centre Public Space Protection Order (PSPO)
LEAD OFFICER:	Shifa Mustafa, Executive Director, Place Andy Opie, Director of Safety
CABINET MEMBER:	Cllr Hamida Ali, Communities, Safety and Justice
WARDS:	Fairfield and Broad green
CORPORATE PRIORITY/POLICY CONTEXT/ AMBITIOUS FOR CROYDON In June 2017 Cabinet adopted the 2017-2020 Safer Croydon Strategy for Croydon. The strategy specified five key priorities that the Safer Croydon Partnership intends to achieve. These priorities include the aim to improve public confidence and community engagement and tackle antisocial behaviour and environmental crime. The successful delivery of this priority is important not only for the wellbeing of the people that live, work and visit Croydon but it clearly links to the Borough's Growth Strategy and the need to make Croydon an attractive place for businesses to invest in and people to come and live.	
FINANCIAL IMPACT There are no significant financial impacts from the Policy identified and no additional funding is being requested. The primary cost is installing new signage through the proposed PSPO zone. This will be absorbed by existing budgets.	
FORWARD PLAN KEY DECISION REFERENCE NO.: not a key decision	

The Leader of the Council has delegated to the Cabinet the power to make the decisions set out in the recommendations below

1. RECOMMENDATIONS

To note the contents of the report including the outcome of the consultation and the process for implementing a Public Spaces Protection Order in the Town Centre.

2. EXECUTIVE SUMMARY

- 2.1 On 20 October 2014 the Anti-Social Behaviour and Policing Act 2014 ("the Act") came into force. This Act introduced several new tools and powers for use by councils and their partners to address anti-social behaviour (ASB) 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 ASB, focussing on the impact behaviour can have on both communities and individuals, particularly on the most vulnerable. This act replaced most of the powers available to the police and local authorities to deal with anti-social behaviour. One of these new measures is the use of Public Space Protection Orders (PSPO).

- 2.2 A PSPO is an order that identifies the public place and prohibits specified things being done in the restricted area provided certain criteria are met. This report proposes a PSPO allows the council and the police to introduce new measures to reduce street drinking and antisocial behaviour which aims to improve this public space for the wider community. On 28th January 2015 the General Purposes and Audit Committee agreed that the Director of Safety be given delegated authority to undertake the Council's functions in respect of Public Space Protection Orders (PSPOs), including in relation to the introduction, approval, variation and enforcement of PSPOs.
- 2.3 The Town Centre Street Drinking and ASB PSPO would replace the existing Town Centre Controlled Drinking Zone (also known as Designated Public Place Orders) which had been used by Safer Croydon Partnership to tackle street drinking hotspots across the borough.
- 2.4 A Public Consultation in accordance with the statutory requirements was undertaken following on from a public consultation exercise from 30th August to 15th October. The draft order is set out at Appendix 1

3. Public Spaces Protection Orders

- 3.1 Public Spaces Protection Orders (PSPOs), which have replaced 3 previous powers, namely:
 - Designated Public Place Orders (No drinking Zones);
 - Gating Orders (To restrict access to alleyways where ASB takes place);
 - Dog Control Orders (To place conditions on dog owners/walkers to reduce dog related nuisance).
- 3.2 PSPOs are intended to deal with a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area. These can apply to everyone who uses that area or can be specifically structured to apply only to certain groups or categories of person, at different times or in specified circumstances. The Council is responsible for making a PSPO although the police also have enforcement powers.
- 3.3 The Council can make a PSPO if satisfied, on reasonable grounds that the following conditions are met in relation to the activities sought to be regulated:
 - That they are or are likely to be carried on in a public place within the Borough;
 - That have had, or are likely to have, a detrimental effect on the quality of life of those in the locality;

- That they are or are likely to be, persistent or continuing in nature;
 - That they are or are likely to be, unreasonable; and
 - That they justify the restrictions sought to be imposed by the order.
- 3.4 In addition to the specific statutory consultation requirements (see section 4), the Council has to adhere to the publication requirements which form part of the Anti-social behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014 (“The regulations”). These specify both advertising requirements and the need for notification to be placed on land affected.
- 3.5 Once made, details of the making of a PSPO will be available on the Council’s website and notification is required to be placed on the land affected in such a manner as to bring the order to the notice of persons using the restricted land. Any variation or discharge of the orders must be similarly publicised.
- 3.6 A breach of the PSPO is a criminal offence, which can be dealt with, either by way of a fixed penalty notice (FPN) of £80 or prosecution. If prosecuted, an individual could be liable to a fine no higher than £1,000. Only those aged over 18 can be issued with a FPN.
- 3.7 Any PSPO introduced is only valid for three years and must thereafter be extended if still required. Such extension is subject to the Council being satisfied that it is reasonable and necessary to do so and is subject to the same publication requirements as the introduction of a PSPO. The extension period is also restricted to a maximum of three years.
- 3.8 Existing statutory orders (such as Controlled Drinking Zones, Gating Orders and Dog Control Orders) that the PSPO is designed to replace will remain in force for a period of three years from the commencement of the PSPO provisions in the 2014 Act i.e. 3 years from 20 October 2014, unless replaced sooner by one or more PSPO. After this period they default to becoming PSPOs automatically. This will mean that the Council has a period of time within which it can review needs and replace existing orders with new orders gradually in advance of expiry of the existing orders in 2020. The Council believes that this will be a useful power to tackle persistent anti-social behaviour hotspot locations.

4. PSPO Decision Making Process

- 4.1 On 28th January 2015 the General Purposes and Audit Committee agreed that the Director of Safety be given delegated authority to undertake the Council’s functions in respect of Public Space Protection Orders (PSPOs), including in relation to the introduction, approval, variation and enforcement of PSPOs. Such delegated decisions would be undertaken in accordance with the delegated decision procedure rules at Part 4.G of the Council’s Constitution. In accordance with the legislation any decision would need to be supported by evidence demonstrating the conditions set out in section 3.3 can be met and would require a formal consultation process.

- 4.2 Subject to the requirements set out above, stakeholders (including partners and members), may make referrals through the Safer Croydon Partnership to identify specific locations that may require PSPOs to assist in tackling crime and disorder issues. The Safer Croydon Partnership will then review these requests prior to any formal consultation process.
- 4.3 The next steps for addressing anti-social behaviour hotspots outside of the town centre will be the use of the delegated authority for the implementation of PSPOs in other areas of the borough. These areas will be identified and shaped through feedback from stakeholders, alongside analysis of available data and formal consultation processes as stipulated in the 2014 Act. This process will include reviewing the areas also previously covered DPPOs (now PSPOs), in New Addington, Thornton Heath and South Norwood.

5. Town Centre Street Drinking and Anti-Social Behaviour PSPO

- 5.1 The first step in using the PSPO powers will be to look at a new PSPO to replace the controlled drinking zone that currently exists in the town centre. As the borough's primary town centre, this area has had historical and ongoing issues with street drinking and anti-social behaviour.
- 5.2 Analysis of crime and anti-social behaviour data for the financial year 2016/17, and identified over 3,220 confirmed crimes within the proposed PSPO area. 39% of the violent offences occurred in North End and the High Street, and 33% of all criminal damage offences recorded within the proposed PSPO area, also occurred in these two locations.
- 5.3 597 calls to the police regarding anti-social behaviour were recorded during this period, of which 370 (62%), were classified as rowdy or inconsiderate behaviour. 31% of the calls to the police for this type of rowdy or inconsiderate behaviour were also linked to North End and the High Street. The Council and partners including the Police also know that street drinking has a negative effect on the general public and that this type of behaviour is under recorded.
- 5.4 Providing Police and Council officers with powers to tackle Anti-social behaviour and street drinking directly supports the Council's commitment to the delivery of the Safer Croydon Strategy 2017-2020, which was ratified by Cabinet in June 2017. The strategy specified five key priorities that the Safer Croydon Partnership would be working on. Two of the five priorities included; improve public confidence and community engagement; and tackle antisocial behaviour and environmental crime.
- 5.5 The PSPO will enable the Council and Police to tackle the visible issues of street drinking and anti-social behaviour in the town centre area, thereby reducing incidents of anti-social behaviour with the aim of improving public confidence and increasing the public perception of safety in a key economic and cultural centre for the borough for residents from the across the borough, as well visitors and commuters from outside of the borough. The PSPO conditions do not apply to licensed premises or events and would only be applied where the activity is having or likely to have a detrimental effect on

the local community. This links in to the Borough's Growth Strategy and the need to make Croydon town centre (and the borough), an attractive place for businesses to invest in and people to come and live.

5.6 Based on the findings from the crime and anti-social behaviour data analysis and consultation with the Police, we are proposing to include the following two activities in the town centre PSPO:

- a) Being in possession of an open container of, or consuming alcohol, within the restricted public space that is having or likely to have a detrimental effect to the local community. This does not include licensed premises.
- b) People or groups of people behaving in a manner which is likely to cause harassment, alarm or distress, in the restricted area.

5.7 The new order and the town centre area that the PSPO would cover is included with the draft order set out in Appendix 1. Please note the order and the geographical area it covers have been amended to reflect feedback from the consultation process (Section 6). It is envisaged that the new PSPO would become operational once the new signage has been erected, at which point the previous controlled drinking zone would cease to apply.

6. CONSULTATION

6.1 There is a requirement on the Council to consult when implementing or varying a PSPO. The specific wording of the Act sets out that: Local authorities are obliged to consult with

- a) The chief officer of police, and the local policing body, for the police area that includes the restricted area (the Metropolitan Police have agreed that this should be the Police Borough Commander);
- b) Whatever community representatives the local authority thinks it appropriate to consult;
- c) The owner or occupier of land within the restricted area;

6.2 Although not a statutory requirement the Council has conducted a formal 6 week consultation for residents and visitors to comment and provide feedback. A public consultation has been run between 30th August and 15th October 2017. An electronic version of the survey was published on the Council website and a hard copy format was made available via our partners in the voluntary sector such as Turning Point and Croydon Reach, to engage with street drinkers and other groups likely to be affected. The survey was advertised using the Croydon bulletins and newsletters to residents and targeted young people through the Community Engagement team (Children and Young People), to encourage more age representative feedback. The consultation document is attached as Appendix 2.

6.3 The consultation closed on 15th October with 788 respondents. The respondents included 14.83% who lived in the town centre and 65.7% who lived in Croydon but outside the town centre. 52.69% of respondents identified themselves as female (39.38% as male), with 45% of all

respondents aged between 45 and 64. 20.76% of respondents described their ethnicity as black and or minority ethnic (684 respondents answered this question).

- 6.4 91.56% (of 739 people who answered this question) supported the use of the PSPO to tackle street drinking and 93.23% (of 739 who answered that question), to reduce ASB in the town centre. The majority, 65.86% of 788 respondents supported the implementation of the PSPO in the designated area. Many of those who did not agree to proposed area wanted the PSPO to expand to cover additional areas adjoining the town centre or introduce PSPOs in entirely new locations.
- 6.5 Respondents were given the opportunity to provide comments through several open questions provided within the survey, including variations to the proposed PSPO area. A significant proportion of respondents suggested the area of the original proposed area (map in appendix 2), should be extended to cover more of West Croydon (73 respondents) and specifically London Road (58 respondents), particularly the lower stretches towards West Croydon station. The Council has reviewed the proposal and adjusted the zone to cover London road up to the junction of Sumner road and extending over to Roman Way (please see map in Appendix 1), re-joining the original zone at Church Street. Further analysis of the Police data identified 109 ASB demand calls were reported in a 12 months period between September 2016 to August 2017 in this area, of which 50 incidents were classified as rowdy or inconsiderate behaviour.
- 6.6 38 respondents also provided information as to why they did not agree with the proposed inclusion of anti-social behaviour as part of the PSPO order. The most prevalent theme was a concern that the powers could be abused (16 respondents), followed by a perception that existing powers (particularly the Police), and were sufficient to deal with the issues without a PSPO.
- 6.7 These were mirrored within the 458 respondents that also answered the 'any other comment's' section at the end of the survey. In addition to identifying specific issues such as, congregations of large groups of young people (38), begging (20) and street drinking (108). Respondents also expressed a desire for an increased Police presence to support enforcement of any PSPO or utilise the existing powers available to them.
- 6.8 Following consultation with the Police on the activities the order would cover, it was felt that the order should focus on individuals with an open containers or consuming alcohol in public. As a result paragraph 3a of the order has therefore been amended from;

“ a) Being in possession of a container of, or consuming alcohol, within the restricted public space. This does not include licensed premises.”

to

*“a) Being in possession of an **open** container of, or consuming alcohol, within the restricted public space. This does not include licensed premises.”*

- 6.9 The survey results have also been used will be used to inform the final draft of the PSPO order conditions and how they will be implemented. The order now includes for example an additional section that provides more information the areas that the PSPO would apply to.
- 6.10 The other proposals put forward by residents around PSPOs in locations outside of the Town Centre are discussed further in Section 17 of the report.

7 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

7.1 Revenue and Capital consequences of report recommendations

There are limited capital or revenue implications associated with this report. There are no significant financial impacts from the Policy identified and no additional funding is being requested. The primary cost is installing new signage through the proposed PSPO zone. This cost will be absorbed by existing budgets.

7.2 The effect of the decision

The introduction of a new PSPO which encompasses both street drinking and anti-social behaviour, will enable the Council and its partners to utilise additional powers to tackle these issues within the Town Centre. This is in accordance with delivering against the priorities within the Safer Croydon Strategy 2017-2020 to; tackle antisocial behaviour and environmental crime and; improve public confidence and community engagement. As an identified area which many residents visit for work and leisure purposes, any impact on reducing anti-social behaviour and street drinking will have disproportionate effect on positively influencing public confidence. This will in turn support the borough's ability to attract new businesses and residents to the area. The effect of implementing the PSPO will not result in an increase in Council and Police resources which will remain the same. The team and partnership governance framework already exists that will absorb and deliver this work so there is little or no financial impact.

8 Risks

- 8.1 If the proposal is not approved the principal risk is if the existing drinking zone is challenged, (which automatically converted into PSPO in October 2017, in accordance with the 2014 legislation). In particular, if any enforcement cases are taken to court, defence solicitors may use the lack of a properly considered review of the PSPO as a way to criticise the Council's approach to a particular case and challenge the legitimacy of the PSPO. The area that the PSPO covers has also been considered, as the Council has to evidence that there is a significant nuisance or problem in a specific area that is detrimental to the local community's quality of life. Having a larger PSPO than the current proposal may leave the Council open to challenge if it cannot evidence the need, and will stretch the Safer Croydon Partnership resources available to enforce the PSPO, thereby potentially diluting its impact and negatively influencing public perception on the efficacy of PSPOs as a response to anti-social behaviour.

8.2 If the new proposed PSPO is introduced it will be important to ensure that its scope and the process for introduction is in accordance with the powers and requirements of the 2014 Act. Any challenge to a PSPO would be made by an interested person by way of an application in the High Court for permission to seek a Judicial Review. That application must be made within six weeks of the PSPO being made. An interested person is someone who lives in, regularly works in, or visits the restricted area. A person who receives an FPN due to a breach of PSPO can also challenge the validity of the order. This means that only those who are directly affected by the restrictions have the power to challenge. This right to challenge also exists where an order is varied by a council. Interested persons can challenge the validity of a PSPO on two grounds. They could argue that the council did not have power to make the order, or to include particular prohibitions or requirements. In addition, the interested person could argue that one of the requirements (for instance, consultation) had not been complied with. When the application is made, the High Court can decide to suspend the operation of the PSPO pending the verdict in part or in totality. The High Court has the ability to uphold the PSPO, quash it, or vary it.

8.3 The Council has taken measures to mitigate against these risks by for example embarking on a full consultation process, publishing the proposed order and map and putting in place measures to publicise the PSPO through street signage and an intention to publish the final Order on the Council website in accordance with the act.

9. Options

- a) Approve the implementation of a Town centre PSPO to tackle street drinking and anti-social behaviour in the recommended area set out in appendix 1. This would replace the existing controlled drinking zone PSPO.
- b) Do not approve the commencement of the new Town Centre PSPO, resulting in the continuation of the existing street drinking PSPO which will run until October 2020, but may leave the Council at increased risk of challenge.

Neither option has any significant financial implications but a failure to approve the PSPO may have reputational impact with the members of the public who supported the implementation of the PSPO and community safety partners including the Police. Failure to introduce the new PSPO will also inhibit the Council's ability to make use of new powers to tackle anti-social behaviour in the town centre.

10. Future savings/efficiencies

10.1 There are no savings or efficiencies associated with this report.
(Approved by: *Lisa Taylor*, Director of Finance)

11. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER

11.1 The Solicitor to the Council comments that the Anti-Social Behaviour, Crime and Policing Act 2014 has altered the enforcement powers which are

available to the Council to combat anti-social behaviour as detailed within the body of the report. The Council needs to ensure that the powers are used in a responsible, consistent, appropriate and proportionate manner and comply with the various consultation requirements set out within the body of the report.

- 11.2 (Approved for and on behalf of Jacqueline Harris-Baker, Director of Law, Council Solicitor and Monitoring Officer)

12. HUMAN RESOURCES IMPACT

- 12.1 There is no impact in relation to staffing levels, restructuring/regrading, recruitment, employee relations, the Council's personnel policies or other human resources matter.

(Approved by: Sue Moorman Director of Human Resources)

13. EQUALITIES IMPACT

- 13.1 An Equalities Analysis has been completed, incorporating the findings of the consultation. This only identified statistically significant differences in that respondents who identified as having a disability (out of 71 respondents), were more likely to state that they felt Street drinking was a very big or fairly big problem (97.18%).
- 13.2 Although the PSPO is likely to have a positive impact on certain protected groups such as victims of hate (gender, sexuality, religious or disability) related ASB, it will apply to the whole population and its use will be determined by the behaviour occurring rather than the protected group. The exception is young people who cannot be issued with a FPN if they under 18 years of age. Given the concerns raised by some of the consultation respondents on the use of the PSPO and its impact on specific groups (e.g. people with mental health issues), the Council will monitor the use of the PSPO powers during the next 12 months to see how and who the powers have been used on with regard to protected groups.
- 13.3 In addition, the implementation of a PSPO will not preclude the ongoing of support and outreach services for rough sleeping, Alcohol and Drug misuse. The Youth Outreach Team will continue to provide a presence in the town centre and engage with young people to provide by raising awareness of their behaviour on others and directing them towards more positive use of their leisure time
- 13.4 Section 72 of the Anti-Social Behaviour and Policing Act 2014 requires the Cabinet as decision maker for this specific PSPO, 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 order. The making of the said order is considered to be proportionate and will fulfil a legitimate aim of curbing anti-social behaviour in

public places for the benefit of the law abiding majority and hence will not infringe article 11 ECHR.

14. ENVIRONMENTAL IMPACT

- 14.1 There is limited impact on the environment as a result of this report. Some anti-social behaviour and street drinking activity may be related to waste, noise or other issues that affect people's quality of life but the policy is principally about improving behaviour rather than the environment.

15. CRIME AND DISORDER REDUCTION IMPACT

- 15.1 The implementation of the PSPO provides additional powers to Council and Police officers to take action against street drinking and anti-social behaviour activity within the designated town centre area. This directly supports the Council in discharging its statutory duty under Section 17 of the Crime and Disorder Act 1998 to exercise its various functions with due regard to the likely effect of the exercise of those functions, and the need to do all that it reasonably can to prevent crime and disorder in its area. The PSPO will also support the Council and its partners in delivering the Safer Croydon Strategy 2017-2020, specifically the priorities to; reduce Anti-social behaviour and environmental crime and; to improve public confidence and community engagement.

16. REASONS FOR DECISION

The Council has a duty to do all that it reasonably can to prevent crime and disorder in its area and work towards delivering the objectives of the Safer Croydon Partnership plan. The implementation of the new Town centre order assists the Council with meeting these requirements by providing the Council and Police with additional powers to tackle the issues of street drinking and anti-social behaviour in the Town centre area. This proposal has seen considerable support from members of the public who have participated in the consultation and clearly demonstrated their desire for a PSPO to tackle these identified issues. Failure to implement a new Town centre order could have a negative reputational impact on for the Council including its relationship with partners and the public perception. The continuation of the existing controlled drinking order without reviewing its purpose and remit could also leave the Council open to criticism and challenge in court.

17. OPTIONS CONSIDERED AND REJECTED

The consultation identified a number of alternative options proposed by members of the public. These included suggestions to introduce entirely new PSPOs in other parts of the borough such as South Croydon, Purley and Thornton Heath (where there is an existing PSPO for street drinking). As this process focuses on the implementation of a PSPO in the town centre these suggestions have not been taken forward. These options will instead be considered as part of the Council's review of the need for PSPOs for areas outside of the Town Centre, which will include a formal consultation which residents can use to express their view regarding PSPOs in their locality.

CONTACT OFFICER: *Anthony Lewis, Head of Community Safety*

APPENDICES TO THIS REPORT

Appendix 1 – Draft Town centre PSPO Order including Map of Revised Area

Appendix 2 – Town Centre PSPO Consultation document

Appendix 3 – Consultation Response Tables

BACKGROUND PAPERS TO THIS REPORT

Appendix 4 – Consultation Responses Question 1b

Appendix 5 – Consultation Responses Question 3b

Appendix 6 – Consultation Responses Question 4