

Report subject	Protecting our coastal and open spaces
Meeting date	14 December 2022
Status	Public Report
Executive summary	<p>The Seasonal Response Programme, delivered at peak visitor periods over the last two years, has seen a number of negative behaviours presented by some individuals which have impacted upon our environment and on visitor and resident enjoyment of our beaches and open spaces –which has required significant additional resource to manage. The annual Seasonal Response review has made a recommendation to consider the use of Public Spaces Protection Orders (PSPO’s) where appropriate, in order to prohibit these behaviours, thereby creating a strong deterrent and enabling the Council to take effective action in a timely manner.</p> <p>A feasibility assessment has identified six behaviours which meet the legislative criteria for consideration of a PSPO, based on consideration of evidence and enforcement options. The next step is to launch a public consultation which is an essential requirement in considering whether to proceed with any Order. This report seeks approval from Cabinet to continue the detailed work required to prepare for public consultation, including final mapping of evidence in order to define the areas where behaviours are proposed to be prohibited. The report seeks delegated authority for the Portfolio Holder for Community Safety and Regulation to approve the final proposals subject to completion of this work as well as consideration of external legal advice from counsel.</p> <p>The consultation results will inform a detailed assessment of responses which will be considered along with a final options appraisal. Final proposals will be presented to Cabinet for approval.</p>
Recommendations	<p>It is RECOMMENDED that:</p> <ul style="list-style-type: none"> i) Cabinet approve the further consideration of potential Public Spaces Protection Orders as noted at paragraph 9; ii) Cabinet approve the progression to public consultation on Public Spaces Protection Orders within the scope noted, subject to finalisation of the

	<p>iii) evidence assessment; Cabinet delegate authority to the Director of Communities in consultation with the Portfolio Holder for Community Safety and Regulation, to approve the final proposals and consultation documents by way of a Portfolio Holder Decision Record</p>
<p>Reason for recommendations</p>	<p>Public Spaces Protection Orders (PSPO) have been identified as a means of preventing and resolving negative behaviours seen throughout the last two years of Seasonal Response Programme delivered at peak visitor periods.</p> <p>Section 59 of the Anti-Social Behaviour Crime and Policing Act 2014 permits a Local Authority to designate a PSPO if it is satisfied on reasonable grounds that conditions prescribed by the Act are met. A feasibility assessment has concluded that there is sufficient evidence to support the further consideration of a PSPO's in regard to six identified behaviours. The assessment also strongly indicates that the Council and Police will be able to take more robust action in regard to these behaviours, improving the response and acting as a deterrent.</p> <p>Further work is required to finalise proposals and progress to public consultation. In order to do so in a timely manner and within timescales which could allow for adoption prior to the Summer 2023 season, delegated authority is sought to support the completion of this work and to achieve the launch of consultation in January 2023.</p>

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Wards	Council-wide
Classification	For Decision

Background

1. Through the Seasonal Response Programme delivered at peak visitor periods over the last two years, a number of negative behaviours presented by some individuals have impacted on our environment, on visitor and resident enjoyment of our beaches and open spaces and have required significant additional resource to manage. The Seasonal Response Programme has addressed issues as they emerged during these peaks by increasing staff within key core services and targeting known hot spot areas with proactive security and staff presence. However, robust enforcement of these behaviours is limited given the restricted enforcement options relating to byelaws and restrictions of existing legislation resulting in limited prevention and impact in addressing the issues in real time. It should be noted that there is no option for issuing a Fixed Penalty for breach of a byelaw, so the only recourse is through the Courts which is both costly and due to backlogs in the Court, not timely in reaching an outcome.
2. A review of the Seasonal Response challenges and activity over the last two years has resulted in a recommendation to consider the use of Public Spaces Protection Orders (PSPO's) where appropriate, in order to prohibit these behaviours, thereby creating a strong deterrent and enabling the Council to take effective action in a timely manner.

Legislation

3. Section 59 of the Anti-Social Behaviour Crime and Policing Act 2014 permits a Local Authority to make a Public Spaces Protection Order (PSPO) if it is satisfied on reasonable grounds that two conditions are met as follows:-

First Condition

- 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;
- 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 Second Condition

- The activity/activities is, or is likely to be, persistent or continuing in nature;
 - is, or is likely to be, such as to make the activities unreasonable; and
 - justifies the restrictions imposed.
4. Section 59 (5) states that ‘the only prohibitions or requirements that may be imposed are ones that are reasonable to impose in the order –
 - a) To prevent the detrimental effect referred to above for continuing, occurring or recurring, or
 - b) To reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.’
 5. The Council must undertake the necessary consultation and publicity before making or extending any Order and in order to ensure that the Conditions as set out in S59 are met. It is critical that there is sufficient evidence to support that for the behaviours we intend to target.
 6. Failing to comply with the terms of a PSPO is a criminal offence that can be actioned by either the issuing of a Fixed Penalty Notice (FPN) or a prosecution through the Magistrates Court. It should be noted that FPN’s cannot be issued to anyone under the age of 18. However, where anti-social behaviour is demonstrated by those under 18, informal and early intervention can be successful in changing behaviour and protecting communities. Several measures are available to both the Police and the Council, including Verbal or written warnings, Acceptable Behaviour Contracts, and the Community Consequence Scheme.
 7. These measures allow the Police or Council to deal more proportionately with less serious crime and anti-social behaviour, taking account of the needs of the victim, the perpetrator, and the wider community.

Feasibility Assessment

8. A feasibility assessment has been undertaken in regard to the most challenging behaviours. This has considered:-
 - the evidence available, tested against the legislative Conditions outlined above
 - the initial geographical scope which may be applied to any PSPO relating to these behaviours, based on the evidence
 - the options and constraints in each case, including alternative enforcement options
9. The assessment has identified six behaviours which meet the criteria and the Conditions of the legislation, summarised in the table below.

Behaviour	Evidence Assessment	Proposed Area	Options and Constraints
1.To refuse to reduce the volume of music or making noise on	Numerous reports and complaints throughout the	All beach areas, clifftops and open	Evidence indicates this behaviour is usually associated with large

<p>the beach at levels that have a detrimental effect on the quality of life of those in the locality and is or is likely to be persistent or continuing in nature.</p>	<p>summer were received evidencing a negative impact on residents and visitors alike.</p>	<p>spaces to be identified - to prevent displacement issues.</p>	<p>groups and possible drug and alcohol activity. This poses a risk to any staff undertaking enforcement activities and additional support may be required from the Police. Positively, a PSPO is a more effective and timely enforcement tool when compared to Statutory Nuisance legislation and will provide real time response.</p>
<p>2. Anti-social behaviour by groups on the seafront.</p>	<p>It can be argued that larger groups of people might have a tendency to be intimidating and if displaying aggressive or antisocial behaviour, reporting shows this impacts on the enjoyment of the beach areas for others, particularly families with young children and those with beach huts who cannot move away.</p>	<p>All beach areas, clifftops and open spaces to be identified - to prevent displacement issues.</p>	<p>Alcohol tends to be a contributing factor to poor behaviours. This poses a risk to any staff undertaking enforcement activities. Experience from summer 2021 and 2022 shows that seafront staff required additional support from Police in these instances. Enforcement may cause increased friction and escalation, which may be better dealt with by way of dispersal order by Police in some circumstances. It is noted that the current alcohol PSPO is in place within Bournemouth town centre, which allows officers to require individuals to cease drinking alcohol if requested to do so by an authorised officer who can also confiscate the alcohol if they are likely to cause anti-social behaviour.</p>
<p>3. Overnight stays in tents and/or sleeping on the beach or open spaces without landowners'</p>	<p>Complaints are evidenced at a variety of beach locations within the conurbation. The presence of</p>	<p>All beach areas to prevent displacement issues, clifftops and open spaces to be</p>	<p>Current enforcement relies on byelaws which are restrictive by definition and do not allow for real time action. Eviction notices are</p>

<p>permission</p>	<p>overnight camping is often associated with anti social behaviour and littering, impacting on the environment and on the enjoyment of the beach areas. Camping on the beach also creates operational issues with beach clearance. Seafront rangers served 122 eviction notices during summer of 2022.</p> <p>It is important that the evidence supports the test of detrimental effect of those in the locality.</p>	<p>geographically mapped.</p>	<p>served on occupants of tents on the beach, and byelaw enforcement is pursued where this is feasible. However, successful prosecution is limited due to the restricted definition of the byelaws and restrictive options for enforcement. Inclusion in a PSPO will allow for Fixed Penalty Notices to be served and will likely act as a deterrent.</p> <p>Open spaces have not benefited from additional security resources during the summer period and parks wardens and patrolling officers welcome the opportunity to be able to positively tackle those who stay without permission on open spaces.</p>
<p>4. Overnight stays in vehicles in car parks and other open spaces (vehicles includes cars, vans and mobile homes)</p>	<p>Complaints are evidenced at a variety of beach front car parks and highways locations areas within the conurbation.</p> <p>It is important that the evidence supports the test of detrimental effect of those in the locality.</p>	<p>Evidence must be geographically mapped for inclusion within any PSPO.</p>	<p>Not all car parks would be included but some naturally attract overnight stays and these would need to be included in any evening/early morning patrols to ensure the behaviour is addressed</p>
<p>5. To light or fuel any open fire or BBQ on beaches and open spaces</p>	<p>Dorset Fire and Rescue support this move and have provided evidence of BBQ fires attended to April - August 2022 on beaches, cliff tops and open spaces. Seafront and</p>	<p>All beach areas to prevent displacement issues, clifftop locations and open spaces to be identified.</p>	<p>Many people go to the beach in evenings to have a BBQ and enjoy the quieter space. Further consideration of the evidence available will be required and the public view will be important in considering whether a blanket</p>

	security also have complaints logged showing extent of problem with potential for larger fires caused by reckless disposal or BBQ's and one major injury to a child due to careless disposal of BBQ on beach.		prohibition is applied, or whether this is restricted under certain circumstances and at specified times.
6. Littering	Numerous complaints are regularly received about the amount of litter left on the beach every day during seasonal peaks. Significant resource is committed to clearance in order to ensure public enjoyment of beaches and protection of the environment.	All beach areas to prevent displacement issues, clifftop locations and open spaces to be identified.	The Council is considering a proposal to implement a further litter enforcement programme across BCP which will involve employing an external contractor to undertake this work in relation to existing littering offences. This will be determined prior to the PSPO consideration due to public consultation requirements. The inclusion of littering in any proposed PSPO will allow for an additional targeted response in key areas at peak periods and application by a wider staff base.

PSPO's for Consideration

10. It is recommended that public consultation is launched to consider the following PSPO Orders;

a) All beach areas as well as clifftop locations and open spaces to be identified;

- Failure to comply with a request to reduce the volume of music and/or other noise which is occurring at levels that cause alarm or distress to others and is/or is, likely to be persistent or continuing in nature.
- Failure of a group of people to disperse at the request of an Authorised officer who believes that they are acting in an antisocial manner that is likely to cause alarm or distress to others and is/or is likely to be persistent or continuing in nature

- Overnight stays in tents and/or sleeping on the beach and open areas without landowners' permission
 - To light or fuel any open fire or BBQ on beaches and open spaces
 - Littering
- b) Areas to be defined by evidence in a wider geography;**
- Overnight stays in vehicles in car parks and other open spaces (vehicles includes cars, vans and mobile homes)

Consultation

11. Further detailed work is required prior to commencing public consultation, including final mapping of evidence in order to define the areas where behaviours are proposed to be prohibited. Draft Orders including maps will be presented in any public consultation documentation along with the detailed evidence assessment and options.
12. It is proposed that the consultation commences by the end of January 2023 for a period of 28 days.
13. Upon closure of the consultation, a detailed assessment of responses will be considered along with a final options appraisal. Final proposals will then be presented to Cabinet for approval.
14. It is recommended that the Director of Communities in consultation with the Portfolio Holder for Community Safety, Regulation and Legal Services is delegated authority to approve the final proposals subject to completion of the work outlined in paragraph 10 and external legal advice from counsel.

Summary of financial implications

15. It is anticipated that given the potentially broad geographical area and multiple Orders under consideration, the costs of consultation and implementation will be £40,000 to include legal advice, consultation costs and signage.
16. These costs will be met from within the Communities Directorate budget.

Summary of legal implications

17. If a PSPO is to be considered then it must follow the statutory consultation as set out in Section 73(3) of the ASB, Crime and Policing Act 2014 and any term in any proposed PSPO must be reasonable to prevent the detrimental effect of the behaviour continuing, occurring or recurring OR to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence. Failure to follow this, or not to do so adequately, could make any decision thereafter unlawful and could open the Council up to a High Court challenge under Section 66 of the ASB, Crime and Policing Act 2014. Any challenge must be brought within 6 weeks of the introduction of any PSPO and be based on the grounds that the Council did not have the power to make the Order (or variation), to include particular prohibitions or requirements or that the process for implementation of any PSPO as set out in the ASB, Crime and Policing Act 2014 has not been complied with.
18. If such a challenge were made there would be both cost implications and possible reputation consequences to the Council.

Summary of human resources implications

19. An Enforcement Protocol would be required should the Council resolve to proceed with any PSPO's. This will include consideration of staff resource requirements.

Summary of sustainability impact

20. It is anticipated that the potential prohibition of the behaviours under consideration will reduce environmental damage and protect our beaches and open spaces

Summary of public health implications

21. It is anticipated that the potential prohibition of the behaviours under consideration will make a positive contribution to public health by protecting our beaches and open spaces from negative behaviours which have an impact on visitors and residents.

Summary of equality implications

22. This is the first step in considering the options available and to approve in principle, public consultation. No decision will be undertaken until the consultation is complete and fully considered.
23. An Equality Impact Assessment is being completed as an integral part of this entire process and will be duly considered by the Equality Impact Assessment Panel prior to the outcome of any decision.

Summary of risk assessment

24. Failure to follow the legal process and consult, or not to do so adequately, could make any decision thereafter unlawful and could open the Council up to a High Court challenge under Section 66 of the ASB, Crime and Policing Act 2014. If such a challenge were made there would be costs implications and possibly reputational risks to the Council. This risk will be mitigated by having the option in seeking advice from counsel on the evidence and proposals as part of the final approval process prior to commencing consultation