Public Space Protection Orders

What you need to know
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What is a Public Space Protection Order (PSPO)
A public spaces protection order is an instruction that governs a designated public place and prohibits/or requires specified things to be done in that area.

What are the aims of a PSPO
The basic aim of the PSPO is to help keep Bristol a safe and enjoyable place for all. PSPO's were created by the 2014 Anti-Social Behaviour, Crime and Policing Act and intended to deal with any particular nuisances or problems in a defined area that are detrimental to the local community's quality of life.

Anti-social Behaviour, Crime and Policing Act 2014
Legislation.gov.uk
Appendix A contains the full relevant parts of the Act.

Old Versus New Tools
- Civil Injunctions replace Anti-Social Behaviour Orders (ASBOs), Drink Banning Orders (DBOs), Anti-Social Behaviour Injunctions (ASBIs), Individual Support Orders and Intervention Orders
- Criminal Behaviour Orders (CBOs) replace ASBOs on conviction and DBOs on conviction
- Community Protection Notices replace Litter Clearing Notices, Street Litter Clearing Notices and Graffiti/Defacement Removal Notices
- Public Spaces Protection Orders (PSPOs) replace Designated Public Place Orders, Gating Orders and Dog Control Orders
- Closure Powers replace Premises Closure Order, Crack House Closure Orders, Noisy Premises Closure Order and Section 161 Closure Orders
- Dispersal Powers replace Section 30 Dispersal Orders and Section 27 Direction to Leave
Who can designate a PSPO in Bristol

Bristol City Council will be responsible for making the new PSPO although enforcement powers will be much broader. The new power is not available to parish councils and town councils in England, or community councils in Wales. Section 71 ensures that bodies other than local authorities can make PSPOs in certain circumstances by order of the Secretary of State [ASB, Crime & Policing Act 2014/part 4/chapter 2/PSPO].

Before making a PSPO, the council must be satisfied on reasonable grounds that the activities carried out or likely to be carried out, in a public space:

- have had, or are likely to have, a detrimental effect on the quality of life of those in the locality;
- is, or is likely to be, persistent or continuing in nature;
- is, or is likely to be, unreasonable; and
- justifies the restrictions imposed.

If you wish to discuss whether a PSPO is right for an area of concern contact the Bristol City Council, Neighbourhood Enforcement Team.

Where can a PSPO be applied

The council can make a PSPO on any public space within its own area. The definition of public space is wide and includes any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission.

Working with partners

Before making a PSPO, the council must consult with the local Police force and vice versa. This is done formally through the chief officer of Police and the Police and Crime Commissioner, but details could be agreed by working level leads. This is an opportunity for the Police and council to share information about the area and the problems being caused as well as discuss the practicalities of enforcement. In addition, if applicable, the owner or occupier of the land should be consulted.

The council must also consult with community representatives they think appropriate. This could relate to a specific group, for instance a local residents association, or an individual or group of individuals, for instance, regular users of a park or specific activities such as busking or other types of street entertainment. Before the PSPO is made, the Council has to make the order publicly available in accordance with regulations published by the Secretary of State.
Steps involved in issuing a PSPO

Public Space Protection Order Flow Chart

Reports of ASB to partner agencies.
- ASB witnessed by officers on patrol;
- Environmental evidence (graffiti, alcohol containers etc.);
- Representation by community groups;
- CCTV evidence

START process by sending an email to: Neighbourhood.enforcement@bristol.gov.uk

Is there evidence of behaviour in a public space* which is having, or likely to have, a detrimental effect on quality life of the community.
Is it persistent/continuing? Is it unreasonable?

Yes

Two or more Wards Mayor & Cabinet sign off to consult required

Carry Out Consultation
- Council must consult formally with Chief Officer of police and PCC (opportunity to share info & discuss practicalities of enforcement).
- Chief Officer of police might decide to delegate to lower rank e.g. Superintendent.
- Ensure local police are aware.
- Owner/occupier of land should be consulted.
- Council must consult whatever community reps. they think appropriate e.g. residents association.
- Discussing potential restrictions & requirements with those living/working nearby may help ensure PSPO better meets needs of local community.
- Suggested consultation methods;
  - Local media; websites; social media; mail drops; door knocks; surveys; public meetings.

No

Approval Granted?

Yes

Approval Granted?

No

One Ward or less report to Director of Communities for approval to consult

Terms of the Order
- Multiple restrictions & requirements
- Restrictions or requirements can be targeted at specific people, apply at certain times, or in certain circumstances
- Council should terms are necessary to prevent or reduce likelihood of detriment.
- PSPO can last up to 3 years. Short term orders should be used where it is not certain restrictions will have the desired effect.
- Consider whether a blanket ban will displace the problems.
- Dog restrictions- need to consider if there are suitable alternatives for dogs to be exercise without restrictions (Animal Welfare Act 2006). Could exclude from specific areas in parks, or restrict the number of dogs a person can walk.
- Access restrictions to highways- need to consider if there is a reasonably convenient alternative route

Yes

Further investigation may be required or consider alternatives

No

Reports to be produced by nominating manager
Report to include:
- Background
- Reasons
- Summary of evidence
- Other options considered
- Recommendations
- Draft Order
- Schedule of Public Spaces
- Implementation timetable

Yes

Is the size of the public space being considered, include two or more Wards?

No

Go back to authorising authority with consultation results,

No

Approval Required?

Yes

Before order made, council must publish draft order in accordance with Secretary of State Regulations & identify:
- activities having detrimental effect
- explain potential sanctions available on breach
- specify period for which PSPO has effect.

BREACH
- Breach is refusal to comply with a prohibition, or positive requirement, when asked, e.g. to hand over alcohol; put a dog on a lead etc...
- Breach is a criminal offence.
- Authorised persons can issue a Fixed Penalty Notice.
- Fines can be up to level 2 for breach of alcohol restriction or level 3 for other breach on prosecution.

CHALLENGE
Anyone who lives in or regularly visits the area can appeal a PSPO in the High Court within 6 weeks of issue. Further appeal is available each time the PSPO is varied.

ORDER MADE

Note: At any point before expiry, Council can extend the PSPO by up to 3 years if they consider it necessary. Repeat consultation. If a new issue arises in a PSPO area, Council can vary the terms of the order to; change size of area; requirements; or restrictions.

*Any place which the public/any section of the public has access, on payment or otherwise, as of right or by virtue of
**Enforcement Process and Penalties**

1. It will be for the Head of Service responsible for the Council’s Neighbourhoods Functions to ensure that the PSPO is effectively enforced. This Head of Service together with the Chief Executive and other members of the Senior Leadership Team are the Council’s Proper Officers for PSPO enforcement and can delegate other officers accordingly.

2. When any person is caught breaching a PSPO declared by Bristol City Council by any officer(s) from Avon & Somerset Police or Bristol City Council the individual will be requested to desist forthwith. In the case of alcohol consumption in a controlled drinking zone, the officer(s) providing the request will use their discretion about confiscation and disposal of alcohol.

3. Where any person is requested to desist from breaching a PSPO and immediately complies, the officer will verify the details of the person by passing them to Avon & Somerset Police and Bristol City Council for recording on their appropriate secure systems. A warning letter will be sent to the person which will contain suitable narrative.

4. Where any person is requested to desist from breaching the PSPO and fails to comply immediately they commit an offence and the instructing officer(s) will secure a Witness Statement in an agreed form and pass to Bristol City Council for recording on the appropriate secure system.

5. In respect of 4 above, for a first offence, an officer duly authorised by Bristol City Council will consider whether to issue a warning letter as set out in 3 above or instruct a duly authorised officer (i.e. an officer of Bristol City Council or Avon & Somerset Police) to issue a Fixed Penalty Notice to the person concerned. Where a Fixed Penalty Notice is issued and duly paid within the timeframe prescribed, no further action will be taken and the offence will have been discharged. Where a Fixed Penalty Notice is not duly paid, the Council will consider all of the recovery options open to it in accordance with the Law and its Corporate Enforcement Policy.

6. Should any person requested to desist from breaching the PSPO as set out in 4 above fail to do so for a second time within any six month period, a duly authorised officer from Bristol City Council will consider issuing a formal prosecution against the individual in accordance with the Law and the Council’s Corporate Enforcement Policy. The offence of failing to comply with a request to cease drinking or to surrender alcohol in a controlled drinking zone is punishable on summary conviction by a level 2 fine, An individual is liable to a level 3 fine on summary conviction for any other breach of a PSPO.

7. Notwithstanding any failure to comply with 4 above, Avon & Somerset Police retain all other prevailing powers to deal with anti-social behaviour and public order offences.
Bristol City Council also has the right to use any and all other powers vested in it to deal with any person who commits any anti-social behaviour in the local authority area.

8. Any Fixed Penalty Notice issued by Bristol City Council for breach of the PSPO approved by Council, Committee, Cabinet or responsible officer in their delegated function, will carry a £100 fine. A reduced sum of £60 will apply if paid within 10 days of issue.
Appendix A

Extract of relevant legislation for full details visit: Legislation.gov.uk

59 Power to make orders
(1) A local authority may make a public spaces protection order if satisfied on reasonable grounds that two conditions are met.

(2) The first condition is that—
(a) 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
(b) it is likely that activities will be carried on in a public place within that area and that they will have such an effect.

(3) The second condition is that the effect, or likely effect, of the activities—
(a) is, or is likely to be, of a persistent or continuing nature,
(b) is, or is likely to be, such as to make the activities unreasonable, and
(c) justifies the restrictions imposed by the notice.

(4) A public spaces protection order is an order that identifies the public place referred to in subsection (2) (“the restricted area”) and—
(a) prohibits specified things being done in the restricted area,
(b) requires specified things to be done by persons carrying on specified activities in that area, or
(c) does both of those things.

(5) The only prohibitions or requirements that may be imposed are ones that are reasonable to impose in order—
(a) to prevent the detrimental effect referred to in subsection (2) from continuing, occurring or recurring, or
(b) to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.

(6) A prohibition or requirement may be framed—
(a) so as to apply to all persons, or only to persons in specified categories, or to all persons except those in specified categories;
(b) so as to apply at all times, or only at specified times, or at all times except those specified;

(c) so as to apply in all circumstances, or only in specified circumstances, or in all circumstances except those specified.

(7) A public spaces protection order must—

(a) identify the activities referred to in subsection (2);

(b) explain the effect of section 63 (where it applies) and section 67;

(c) specify the period for which the order has effect.

(8) A public spaces protection order must be published in accordance with regulations made by the Secretary of State.

60 Duration of orders

(1) A public spaces protection order may not have effect for a period of more than 3 years, unless extended under this section.

(2) Before the time when a public spaces protection order is due to expire, the local authority that made the order may extend the period for which it has effect if satisfied on reasonable grounds that doing so is necessary to prevent—

(a) occurrence or recurrence after that time of the activities identified in the order, or

(b) an increase in the frequency or seriousness of those activities after that time.

(3) An extension under this section—

(a) may not be for a period of more than 3 years;

(b) must be published in accordance with regulations made by the Secretary of State.

(4) A public spaces protection order may be extended under this section more than once.

61 Variation and discharge of orders

(1) Where a public spaces protection order is in force, the local authority that made the order may vary it—

(a) by increasing or reducing the restricted area;

(b) by altering or removing a prohibition or requirement included in the order, or adding a new one.

(2) A local authority may make a variation under subsection (1)(a) that results in the order applying to an area to which it did not previously apply only if the conditions in section 59(2) and (3) are met as regards activities in that area.
(3) A local authority may make a variation under subsection (1)(b) that makes a prohibition or requirement more extensive, or adds a new one, only if the prohibitions and requirements imposed by the order as varied are ones that section 59(5) allows to be imposed.

(4) A public spaces protection order may be discharged by the local authority that made it.

(5) Where an order is varied, the order as varied must be published in accordance with regulations made by the Secretary of State.

(6) Where an order is discharged, a notice identifying the order and stating the date when it ceases to have effect must be published in accordance with regulations made by the Secretary of State.