

Borough-wide Public Space Protection Order consultation

Frequently Asked Questions (FAQ)

Anti-Social Behavior

1. What is a Public Space Protection Order (PSPO)?

A Public Space Protection Order (PSPO) is a power under the Anti-Social Behaviour, Crime and Policing Act 2014. It is intended to allow a council to deal with a particular nuisance or problem behaviour that is detrimental to the local community's quality of life in a particular area. It allows councils to impose either restrictions or requirements in that particular area, or across a wider area such as the whole borough. They are designed to ensure that people can use and enjoy public spaces safe from nuisance and anti-social behaviour.

2. Who can make a PSPO?

Councils can create a Public Spaces Protection Order (PSPO) following a statutory process including consultation with the local Police, chief officer of Police, and other relevant bodies/persons.

3. Why do we need a PSPO in The London borough of Barnet?

The council and our partners have identified that there are several issues within the town centres, parks; and neighbouring areas that are having a negative impact on people who live, work or visit the London Borough of Barnet. There have been a significant number of complaints made to the council, Members of the council, Police, Registered Social Landlords and Housing Associations around the issues of public safety and nuisance, as well as the issues that the council and partners regularly witness. The proposed PSPO has been adapted in response to complaints about persistent nuisance behaviour. It clearly sets out the standards of behaviour acceptable in our city centres, and within the borough's public spaces, and challenges those who are causing a nuisance to people going about their normal daily lives.

4. What behaviour could be included in the PSPO and be restricted?

The behaviour restricted has to be having, or be likely to have, a detrimental effect on the quality of life of those in the locality, and the behaviour believed to be of a persistent or continuing nature; and be unreasonable. A balance needs to be struck between what residents and businesses want in order to feel safe, secure, and be happy in their respective communities, whilst at the same time allowing people to enjoy what the public spaces have to offer. This is particularly relevant to the borough's 'on street' hospitality services (cafes), evening and/or night-time economy, and the public enjoyment of our parks and open green spaces. The Orders, which must be enforceable, will supplement and help address any gaps in the current rules and regulations that apply on a local and national level, e.g., police powers and local byelaws. The council is leading these proposals to help challenge anti-social behaviour at a local level and to complement the existing well established and outreach-led multi-agency approach for those who are vulnerable and need extra support. Anti-social behaviour identified must justify the restrictions imposed.

Intended conditions for the PSPO: The behaviours are related to anti-social behaviour and we are proposing the conditions below to seek to protect the public from the negative or detrimental impact of the behaviours.

- 1. Not to commit Alcohol Related Nuisance/Anti-Social Behaviour** (*Persons Drinking in Public Spaces and Parks*)
- 2. Not to cause harassment, alarm, or distress to any individual(s) by committing anti-social behaviour** (*Offensive Language, acting in an aggressive manner*)
- 3. You must pick up all dog fouling belonging to your dog - Prevention of fouling of Land by Dogs** (*Control of Dogs*)
- 4. Limit the maximum number of dogs to six that an individual may take onto Council owned land** (*Control of Dogs*)
- 5. Not to urinate/defecate; spit or litter in a public place** (*Persons not using toilets in public spaces appropriately, persons spitting in public places to cause alarm and health concerns and persons littering in public spaces*)
- 6. Not to beg in any public place in the London Borough of Barnet in a manner which is aggressive or intimidating or is likely to cause someone to feel harassed, alarmed or distressed**
- 7. Not to drive any vehicles on/in Green Spaces without prior written permission of the landowner**
- 8. To prohibit the lighting or use of fireworks in any public space in Barnet unless for an event authorised by the council in writing or licenced by the council**
- 9. Not to start or attempt to build any open fires or light any BBQs in the London Borough of Barnet Green Spaces** {unless council sponsored / pre-approved} (*The damage to land and smoke nuisance, and associated litter*) with the exemption of allotments
- 10. Not to organise, promote; encourage or support others to promote or to deliver any unauthorised music events** unless individually licensed by the council
- 11. Not camp in London Borough of Barnet green spaces without the landowners (the council's) written permission** (*The obstruction of land and leaving of waste*)
- 12. Not to misuse any Novel Psychoactive Substances e.g., spice, nitrous oxide gas canisters, and other substances known for legal highs**

5. What are the proposed areas that will be covered by a PSPO?

It is proposed that the London Borough of Barnet PSPO will be borough wide and will cover all of the streets, pavements, and public spaces within the London Borough of Barnet. The proposed creation of the PSPO we are consulting on is inclusive of covering all public spaces within the London Borough of Barnet. "The designated area" refers to any public space which the public or a part of the public has access (S 74(1) of the Anti-Social Behaviour, Crime and Policing Act 2014). This is regardless of whether access is on payment or not, or as of right or by virtue of express or implied permission. This can include businesses and communal areas of housing blocks but excludes residential premises.

6. How long is a PSPO in force for?

A PSPO when created can be in force for three years from the date it is implemented. Any changes to the PSPO area or additional restrictions will require further consultation.

7. Can I have further information about Alcohol Related Nuisance and Anti-Social Behaviour?

The conditions that will be included in the PSPO Alcohol Nuisance and Anti-Social Behaviour are outlined below:

Alcohol Related Nuisance and Anti-Social Behaviour (Existing Powers) Barnet PSPOs relating to Street Drinking replaced the former borough wide Designated Public Places Order, which lapsed on 20th October 2017. Those PSPOs were introduced under Section 75 of the Anti-Social Behaviour, Crime and Policing Act 2014. The selected areas where PSPOs for alcohol related nuisance and anti-social behaviour were only in the Burnt Oak, Childs Hill, Edgware Town Centre, and High Barnet areas in 2018 - 2021. Most residents, visitors and people who live and work in the borough choose to drink socially and behave responsibly. However, there are some people who do not drink alcohol responsibly and this can impact on the local community. Therefore, the proposal to use the powers borough-wide has been put forward based on wider spread nuisance being caused by this activity.

Alcohol Related Nuisance and Anti-Social Behaviour (Scenarios fitting of PSPO Enforcement)

The proposal is aimed at helping to deal with behaviour such as public intoxication, being rowdy and inconsiderate, swearing and shouting, urinating in the street or any other behaviour that is considered to be detrimental, such as discarding alcoholic beverages or gathering and loitering on public benches making other users of public spaces feel uncomfortable and unsafe.

Alcohol Related Nuisance and Anti-Social Behaviour - Prohibition Requirement

The effect of the Order is to impose the following prohibitions and / or requirements:

(i) In this area any person who without reasonable excuse continues consuming alcohol in the restricted area when asked to stop by a an authorised officer of the authority, Police Officer, Police Community Support Officer under Section 63 of the ASB Crime and Policing Act 2014 or fails to surrender anything in his / her possession which is, or which the constable or authorised person reasonably believes to be, alcohol or a container (sealed or unsealed) containing alcohol in order to prevent public nuisance or disorder, unless they have a reasonable excuse is liable on summary conviction to a fine not exceeding level two on the standard scale or if in receipt of a Fixed Penalty Notice to a penalty of a maximum of £100.

8. Does this mean I can't drink alcohol outside?

No. The proposed order would restrict drinking in a public place if an officer believes that there is, or could be, anti-social behaviour in the area linked to drinking alcohol. The container can be removed whether open or not. This does not include areas covered by an alcohol premises licence.

9. Why introduce an alcohol related street drinking PSPO?

The majority of residents, visitors and people who live and work in the borough choose to drink socially and behave responsibly. However, there are some people who do not drink alcohol responsibly and this can impact on the local community.

Since the lapse of the Designated Public Place Order (DPPO) on the 20th October 2017 we have been monitoring incidents and reports of alcohol related nuisance and anti-social behaviour in the borough. The council and its partners have already tried a number of interventions to reduce alcohol and street drinking related nuisance and anti-social behaviour. These have included enforcement and engagement with those identified as acting this way. However, this has not completely reduced the problem sufficiently.

The council have shown that the new PSPO powers used to control street drinking since 2018 have worked by giving the Police and the council additional powers to tackle the individuals responsible.

10. Which areas are we going to apply the Alcohol Related Nuisance and Anti-Social Behaviour PSPO to?

As noted above, to address the growing concerns of residents, businesses, and visitors, we are proposing to introduce a PSPO for alcohol related street drinking nuisance in all green spaces and public owned land. This has been highlighted by the number of complaints of anti-social drinking in green spaces and on the outskirts of town centres.

11. How will you deal with anti-social behaviour under the PSPO?

Anyone witnessed by our officers to be acting in a manner which is causing or is likely to cause harassment, alarm or distress will be given advice and the appropriate action will be taken, such as directed to disperse from the area and/or issued with a fixed penalty notice. Additional or other legislative action may be used where more appropriate dependent upon context.

12. Why are we tackling aggressive begging?

Begging is illegal under the Vagrancy Act 1824, written nearly two hundred years ago. Presently only Police may enforce under the Act. Its interpretation in modern day law is seen as problematic. Many people, including vulnerable people, legitimately access our town centres and open spaces within London Borough of Barnet daily and they, nor any other person, should have to be exposed to any form of aggressive begging. Aggressive begging is characterised by repeated requests for money from a member of the public; following a person and making requests/demands; shouting and using abusive language; positioning themselves near to banks, post offices and cash withdrawal machines for the purpose of obtaining money from customers.

Enforcement partners in all cases will start with offering the person advice and referrals to support agencies. Partners' efforts will be made to steer people into the services they need as this is central to our approach.

13. How will you deal with begging?

We would seek to avoid issuing fines for begging to those who are genuinely homeless and instead authorised officers will offer support, working closely with the Housing Department, and street-based support services. Action will be taken against individuals found begging who are in accommodation and in receipt of benefits and in breach of the proposed PSPO.

14. What are Novel Psychoactive Substances (NPS)? Why Should the PSPO address this?

Novel Psychoactive Substances used to be commonly known as 'legal highs' or 'designer drugs' often contain one or more chemical substances which produce similar effects to illegal drugs. Nitrous oxide, or

'laughing gas', is a well-known example of a Psychoactive Substance. The Psychoactive Substances (NPS) Act 2016 primarily deals with supply and possession with intent to supply psychoactive substances but does not afford protection from anti-social behaviour aspects. It does not make it an offence to be in possession of, or to misuse such substances in our Public Spaces. This means Police Officers and council officers have limited powers to stop such activity or behaviour without a PSPO. The linked anti-social behaviour aspects commonly seen are the associated littering linked to people in possession of, and the local environment effects of people using it, such as perceptions of crime and or smells, behaviours of persons under influence linked with NPS consumption.

15. Is busking prohibited in Barnet business areas?

The Answer is No. There have been minimal recorded nuisance buskers in business areas. This requirement is therefore excluded from this proposed PSPO relating to music events and projection.

16. Does this mean I can't walk my dogs in the business areas?

No. A PSPO would require that owners must clear up any dog mess and keep their dog(s) under control. The maximum number of dogs proposed to be walked at any one time by one person for this PSPO is six (6).

17. What would the changes be if we had PSPOs?

PSPOs allow the Local Authority and partners to directly address a broader range of anti-social behaviours rather than those just associated with the misuse of alcohol and Dog Control measures. The proposed conditions support our reduction in crime and Anti-social Behaviour goals and promoting safer neighbourhoods whilst setting boundaries of what are regarded as unacceptable behaviours for our London Borough of Barnet Area.

18. What enforcement action will be taken?

Our officers will investigate all incidents and advice will be given to the person and the relevant action taken. Officers who can enforce the PSPO are authorised council officers, Police Community Support Officers (PCSOs) and Police Constables. If an individual is found to breach any of the conditions an authorised officer may issue a fixed penalty notice to anyone he or she believes has committed an offence. A person committing an offence will have 14 days to pay the fixed penalty notice. However, if someone persistently breaches this order they could receive more formal action which could include either a Community Protection Notice, a Criminal Behaviour Order or a Civil Injunction - in some cases this could mean unlimited fines or even imprisonment. Failure to comply with the order if prosecuted is an offence carrying a maximum fine of £1000. Breaching a PSPO is a criminal offence. (Where applicable an authorised officer may give a Direction, being advice to follow or adhere or requirement to disperse from a given area where anti-social behaviour is being caused/reported).

19. Who will be able to enforce the order?

Orders can be enforced by an officer authorised by the Local Authority including PCSOs and a Police Constable

20. How will the PSPO be enforced?

If an individual is found to be engaging in any behaviour either prohibited or a condition of the PSPO, they may be warned initially depending on the circumstances.

Breach of a PSPO is a criminal offence. The penalty for breach of a PSPO can be a Fixed Penalty Notice of £100 and if appropriate: The court can impose a fine of (up to level 3) £1000. An application for a Criminal Behaviour Order can be made as a result of a PSPO breach.

21. I have been given a fixed penalty notice. Does this mean I have a criminal conviction?

No, you do not have a criminal conviction if you pay the fixed penalty issued to you.

22. Prosecution at the Magistrates Court

A decision may be made to prosecute a person for the offence of breach of the PSPO. This may occur as a result of non-payment of the Fixed Penalty Notice or where the individual is repeatedly in breach of the PSPO and it is decided that the Magistrates Court is best placed to determine the matter.

Depending on the circumstances, the court may decide to punish the defendant by use of a fine. The court must also impose the victim surcharge used to assist support agencies. Magistrates are able to require a person to engage in positive activities by granting a Criminal Behaviour Order (CBO), applied for by the prosecuting authority on conviction of a criminal offence. Such an order may include prohibitions to stop the behaviour reoccurring and/or include positive requirements. For example, there could be a requirement to engage with a support service relating to the reoccurrence of the offence.

23. I don't believe I committed an offence

If you believe you have not committed an offence, you have the choice of not paying the penalty notice and challenging our police partners, or authorised officers' evidence in court, and the court will decide.

24. I believe that the officer was rude to me

A complaint about the officer's conduct is not a reasonable defence and the penalty should still be paid. If you want to make a complaint about the officer's behaviour, then this should be made using our normal complaints procedure. Go to www.Barnet.gov.uk and submit your formal complaint to the council.

25. Is there already legislation to deal with some of these issues?

There may be some cross over with other legislation that helps to prevent such activities, but the PSPO tackles slightly different (albeit related) behaviours more specifically and enforce in a more efficient way.

The PSPO permits Police Officers, Community Support Officers, council officers and delegated agents to issue Fixed Penalty Notices to a value of £100 and seize alcohol from street drinkers. It will therefore provide for broader enforcement to complement existing powers in some circumstances and create new powers to deal with issues we are currently unable to enforce sufficiently as seen in the breadth of subject matter on the proposed 1-12 PSPO subject matter. For example, where bylaws exist and are by summary only offence, a PSPO is a more pragmatic alternative.

26. How is the PSPO going to be enforced? Is there a danger that you could be accused of picking on some of the most vulnerable people in our society?

There will be an enforcement protocol in place that will provide guidance to those authorised to enforce the PSPO, ensuring that the appropriate support is highlighted for the individual and relevant agencies are made aware.

27. If I get a Fixed Penalty Notice, how long do I get to pay?

A constable or authorised person may issue a Fixed Penalty Notice to anyone he or she believes has committed an offence. A person committing an offence will have 14 days to pay the fixed penalty, failing which they may be prosecuted. The person issued with the penalty may appeal or make representation to the Issuing authority if they are struggling to pay or believe the offence did not occur.

28. Where do I go for more information?

Information about Public Spaces Protection Orders can be found in section 2.6 of the Home Office document Anti-social Behaviour, Crime and Policing Act 2014: Reform of anti-social behaviour powers. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/352562/ASB_Guidance_v8_July2014_final_2_.pdf (last updated January 2021 at the time of writing the FAQ)

29. How will the decision be made?

The consultation responses will be analysed, and the results reported to the council. There has already been a great deal of evidence gathered that has highlighted the impact on individuals and businesses of the types of incidents that the Public Space Protection Order (PSPO) is trying to address. The intention is that the Executive Director in consultation with the Chair of the Community Leadership and Libraries Committee will consider the results and decide whether to implement a borough wide PSPO.

30. When is the consultation taking place?

The consultation will take place once approved by the Communities Leadership and Libraries Committee.