

Greater Manchester Law Centre – Manchester PSPO Briefing February 2020

Public Space Protection Orders – s59 Anti-social Behaviour Police and Crime Act 2014

Power to prohibit or require certain behaviours in a specified area if:

- Activities have (or are likely to have) a detrimental effect on the quality of life of those in the locality
- The effect is (or is likely to be) persistent or continuing in nature; and
- Such that the activities are (or are likely to be) unreasonable; and
- Justify the restriction being imposed.

Penalty - £100 fixed penalty notice (FPN) issued by police or person authorised by the Council, if unpaid criminal prosecution and fine up to £1000.

PSPO - Max duration 3 years

Right of appeal against PSPO within 6 weeks of enactment.

Home Office (revised) Statutory Guidance 2019:

PSPOs should not be used to target people based solely on the fact that they are homeless or rough sleeping.

Should only be used for specific behaviours within the person's control.

Councils should consider carefully the nature of any potential PSPO that may impact on homeless people and rough sleepers.

Councils should 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.

Evidence against:

Experience of other Councils with similar PSPOs:

- Southampton scrapped its scheme in April 2019
- Newcastle issued 4 FPN notices over 18 months; 0 were paid
- High Court challenge vs Poole PSPO in March 2020

People who have spoken out against Manchester's PSPO:

58 frontline and faith organisations working directly with homeless people signed a joint letter opposing the PSPO as contrary to Manchester's Homeless Strategy and Charter.

150 mental health professions signed a letter with Psychologists for Social Change opposing the PSPO for the harm it will cause to people suffering mental health problems and its counter-productive effects.

Liberty wrote an open letter to MCC warning about the unlawfulness of the PSPO and its discriminatory effects.

Criminal, housing and immigration legal aid solicitors and barristers signed a joint letter to MCC opposing the PSPO owing to the risk of unjust results and availability of alternative powers to address all of the specified behaviours.

GMHA, Tenant's Union and Acorn have all campaigned against the PSPO at all of its stages.

Our Reasons for Opposing the PSPO:

The obvious - fining homeless people and drug users! How are they going to get the money to pay?

The practicalities – how often will an officer witness the act of discarding a needle or defecating in the street, if they do what fit state will the person be in to understand the penalty being issued, what happens if the person can't/won't give their name, hasn't got an address, how do you enforce, how does the court serve the summons?

The unfairness – if the Council only intend to use their powers against some people, who selects who and why? Will the people targeted also be the people that the Council most struggles to help – people with drug/alcohol issues, mental health problems and challenging behaviour.

The false assumptions -
a) that there is "a bed for every night" for every person or enough support to meet their needs and/or
b) that people can be coerced or threatened into accepting help.

And, even if just intended as a deterrent - the risks of unintended harm:

Displacement – to outside city centre and darker streets where more at risk of harm.

Distrust - people being less likely to trust the Council and their partner agencies and accept help

Division - encouraging negative views and assumptions about homeless people among the wider public, increasing the abuse/discrimination they face.

The Hostile Environment: 16/11/2019 123 rough sleepers "recorded" in Manchester.

2018 Manchester had the highest number of homeless deaths (19) of any local authority, 2/5 drug related. The most common age of death is 45-49 for men, 35-39 for women. In Feb 2020 Biffa reported 109 "near misses" April to Dec 2019 as a result of people sheltering in bins with 7 recorded deaths from crushing across the UK in the last 5 years.

Manchester City Council's Proposed PSPO:

Area 1 (city centre defined in Appendix 1)

Article 1: Consumption of alcohol

No person shall consume alcohol in a public place in the Restricted Area (save for those places identified in section 62 of the ASB Crime and Policing Act).

Article 2: Discarding a hypodermic needle or syringe

No person shall discard, other than in an appropriate sharps container, a hypodermic needle or syringe in a public place in the Restricted Area.

Article 3: Urination or defecation

No person shall urinate or defecate in a public place in the Restricted Area. This prohibition does not apply to urinating or defecating in a legitimate toilet facility.

Area 2 (commercial areas within the city centre defined in Appendix 2)

Article 4: Commercial waste - storage

No person shall leave commercial waste in a public place in the Restricted Area other than in secure, commercial waste company containers or commercial waste company sacks. Any such waste shall be left in a manner that prevents escape of waste into the public place.

Article 5: Commercial waste - collection

No person shall leave commercial waste company bins, or commercial company waste sacks in a public place in the Restricted Area for the purposes of collection more than 2 hours prior to their contracted collection time.

Article 6: Health and/or safety risks - obstruction

A person in a public place in the Restricted Area who causes a health and/or safety risk by:

- obstructing the entrance to or exit from any building; or
- obstructing the free passage of pedestrians on or in a stairwell; or
- causing an obstruction which prevents or hinders street cleansing activity; or
- causing an obstruction which prevents or hinders the free passage of pedestrians or vehicles

shall, upon valid request of a Constable or an Authorised Person, move from that location within a reasonable time as specified in writing by that Authorised Person.

Article 7: Health and/or safety risks - tents and structures

A person who has erected or is occupying a tent or other temporary structure in a public place in the Restricted Area in a manner that;

- attracts or is likely to attract vermin; or
- creates or is likely to create a health and/or safety risk for any other person

shall, upon valid request of a Constable or an Authorised Person, move from that location within a reasonable time as specified in writing by that Authorised Person.

Article 8: Provision of information upon request

A person who an Authorised Person reasonably suspects of breaching any of the prohibitions or requirements in this Order shall, upon request of that Authorised Person, provide their name, address and date of birth to that Authorised Person.

Article 9: Commercial waste - clearance

A person who has placed commercial waste in a public place in the Restricted Area for collection shall, upon a valid request of a Constable or an Authorised Officer, immediately clear that place of any such commercial waste that escapes from their control.

A requirement under this Article is not valid if the Authorised Person is asked by the person subject to the requirement to show evidence of their authorisation and they fail to do so.

Enforcement: Fixed Penalty Notices of £100 issued by Police or Council Officers – or prosecution, criminal conviction and fine of up to £1000.