

North East Derbyshire District Council

Council

4 January 2016

Public Space Protection Orders

Report No ADGMO/26/15-16/JF of the Assistant Director – Governance and Monitoring Officer

This report is public

Purpose of the Report

- To ask Council to amend the Council's delegation scheme within the Constitution to enable the Chief Executive Officer to decide whether Public Space Protection Orders may be made.

1 Report Details

- 1.1 On the 5 August 2015 the Cabinet resolved to make a Public Space Protection Order (PSPO) under section 59 of the Anti-social Behaviour Crime and Policing Act 2014 (the Act). The Executive also resolved to include a delegation to the Chief Executive Officer relating to the determination of Public Spaces Protection Orders in the Delegation Scheme when it is next reviewed.
- 1.2 On the 9 December 2015 Standards Committee resolved to recommend to Council that:-
 - (1) the Officer Delegation Scheme is amended to enable the Chief Executive Officer to authorise the making of Public Space Protection Orders under Part 4 of the Anti-social Behaviour, Crime and Policing Act 2014 in consultation with the Leader or Deputy Leader of the Council and incur necessary expenditure to create, manage or revoke Public Space Protection Orders; and
 - (2) Paragraph 10.26 of the existing Scheme of Delegation for Officers (authorisation of alcohol exclusion zones) be removed.
- 1.3 In order to make a decision Council will require a brief background to the new powers which were introduced by the Act.
- 1.4 PSPOs are orders that impose conditions on an area in order to address a particular problem that is or is likely become detrimental to the local community's quality of life. They replace powers to make Dog Control Orders (the power to place restriction on dogs and their owners), Designated Public Place Orders (the power to restrict drinking in public spaces) and Gating Orders (the power to restrict access to

public highways). The new power is far wider than the powers that it replaces and can potentially be used to control any anti-social activity. For example the recently made Mickley PSPO has the following restrictions:

- Being in possession of open alcohol vessels in a public place;
- Playing golf, or being in possession of golf equipment, on the open park areas at and surrounding the Hut and BMX track;
- Making excessive noise which causes a nuisance.

Not all of these restrictions could have been imposed by the old powers.

- 1.5 Due to their broad nature and versatility the new powers are akin to byelaws, however, they are far less bureaucratic than both bye law procedure and the powers they replace.
- 1.6 There are a number of legal requirements that need to be satisfied. Section 59 of the Act requires that before a local authority makes a PSPO it must be satisfied on reasonable grounds that two conditions are met. The first condition is that either: (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. 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 by the notice.

Orders last for 3 years however they may be extended.

- 1.7 A breach of an order is a criminal offence and could result in a fixed penalty notice of up to £100 or on conviction a fine of £1000.
- 1.8 In addition due to the affect these orders will have on an area, officers consider that the Chief Executive Officer should first consult with the Leader or Deputy Leader before making a decision. Further in order to be effective there should be the power to incur costs of making, managing and revoking the order. The recommendation below reflects this. Also the Chief Executive officer currently has power to make alcohol exclusions zones. As alcohol exclusion zones (designated public place orders) have been superseded by PSPOs this power should be removed from the delegation scheme.

2 Conclusions and Reasons for Recommendation

- 2.1 The Cabinet and Standards Committee are satisfied that the decision to make a PSPO can be made by an individual as opposed to the Cabinet. By granting the power to the Chief Executive Officer the decision making process is simplified.

3 Consultation and Equality Impact

- 3.1 Not applicable.

4 Alternative Options and Reasons for Rejection

4.1 For the Cabinet to continue to determine whether to make PSPOs. The Cabinet and Standards Committee are satisfied that such decisions can be made by the Chief Executive Officer.

5 Implications

5.1 Finance and Risk Implications

5.1.1 None.

5.2 Legal Implications including Data Protection

5.2.1 As contained in the report.

5.3 Human Resources Implications

5.3.1 None.

6 Recommendations

6.1 That Council resolve that:-

- (1) The Officer Delegation Scheme is amended to enable the Chief Executive Officer to authorise the making of Public Space Protection Orders under Part 4 of the Anti-social Behaviour, Crime and Policing Act 2014 in consultation with the Leader or Deputy Leader of the Council and incur necessary expenditure to create, manage or revoke Public Space Protection Orders;
- (2) Paragraph 10.26 of the existing Scheme of Delegation for Officers (authorisation of alcohol exclusion zones) be removed

7 Decision Information

Is the decision a Key Decision? (A Key Decision is one which results in income or expenditure to the Council of £50,000 or more or which has a significant impact on two or more District wards)	No
District Wards Affected	
Links to Corporate Plan priorities or Policy Framework	

8 Document Information

Appendix No	Title
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
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