

Report

Newport City Council

Part 1

Date: 24 July 2018

Subject Revised City Centre Public Spaces Protection Order

Purpose To inform Council of the recommendations of the Overview and Management Scrutiny Committee to extend and revise the current Public Spaces Protection Order for Newport City Centre.

To ask Council to consider the recommendations and to decide whether to approve the draft Order reflecting the recommendations made.

Author Head of Law and Regulation

Ward Stow Hill

Summary A Public Spaces Protection Order (PSPO) is designed to prevent individuals or groups committing anti-social behaviour in a public space where the behaviour is having, or is likely to have, a detrimental effect on the quality of life of those in the locality; and the behaviour is, or is likely to be, persistent or continuing in nature; and be unreasonable.

The first city centre PSPO for Newport was made in November 2015, following consultation and oversight by Scrutiny and extensive public consultation.

The Order will expire in November 2018, unless Council decides to extend it. It has been reviewed through a Scrutiny process (meetings on 8 January and 26 April 2018) and public consultation, taking into account what has worked over the past two years, what restrictions need to be kept or revised, and whether we need to introduce new restrictions to tackle other forms of anti-social behaviour that are occurring in the city centre.

This report details the recommendations of the Scrutiny Committee of 26 April 2018 as to the restrictions to be included in an extended and revised City Centre PSPO.

Following these recommendations, Council lawyers have drafted the revised City Centre Order – Appendix B.

Proposal That Council approves the extended and revised Public Spaces Protection Order for the City Centre, as detailed in Appendix B.

Action by Head of Law and Regulation

Timetable Immediate

This report was prepared after consultation with:

- Head of Finance
- Head of People and Business Change
- Cabinet Member for Licensing and Regulation

1. Background

1 What is a Public Spaces Protection Order?

- 1.1 A PSPO is designed to prevent individuals or groups committing anti-social behaviour in a public space where the behaviour is having, or is likely to have, a detrimental effect on the quality of life of those in the locality; and the behaviour is or likely to be persistent or continuing nature; and be unreasonable. The power to make an Order rests with local authorities, in consultation with the Police, Police and Crime Commissioner and other relevant bodies who may be impacted.
- 1.2 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, for example a shopping centre. There are particular considerations for registered common land, town or village greens and open access land.
- 1.3 The maximum length of a PSPO is three years.
- 1.4 When making a PSPO, the Council must have particular regard to the rights of freedom of expression and freedom of assembly set out in the Human Rights Act 1998. Consideration of a PSPO will take place where there is material evidence of anti-social behaviour. Assessments will commonly include reports to the police, and various Council teams and partner agencies.

2 What kind of restrictions can be in a PSPO?

- 2.1 Restrictions and requirements are set by the local authority and can be blanket restrictions or requirements, or can be targeted towards certain behaviour by certain groups at certain times. They can restrict access to public spaces (including certain types of highway) where that route is being used to commit Anti-social behaviour.
- 2.2 Section 59 of the ASB etc. Act sets out the basis on which local authorities may make a PSPO.
It provides as follows -
 - (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.

- 2.3 Orders can be enforced by a police officer, police community support officer and delegated council officers. A breach of the Order is a criminal offence and can be dealt with through the issuing of a Fixed Penalty Notice of up to £100 or a level 3 fine of up to £1000, on prosecution.

3 Approving the City Centre PSPO

This is matter for full Council to decide.

Essentially the Council needs to consider:

- Is there a specific problem caused by particular on-going activities?
- If so, what needs to be done to regulate or control the problem?
- What is the least restrictive way of achieving this?

Appeals against the setting up of a PSPO

Anyone who lives in, or regularly works in or visits the area can appeal a PSPO in the High Court within six weeks of issue. Further appeal is available each time the PSPO is varied by the council.

4. Creating the first Newport City Centre PSPO

- 4.1 The first city centre PSPO was made in November 2015, following consultation and oversight by Scrutiny and extensive public consultation. Newport's city centre PSPO was one of the first "city centre" PSPOs to be made in the UK and was thus subject to intensive interest not just locally, but by national civil liberties groups and the UK media.
- 4.2 The Order included an alcohol restriction, replicating a provision that had been in place since 2001 as an alcohol exclusion zone, along with four other restrictions, see paragraph 5 below.
- 4.3 The Order will expire in November 2018, unless extended by the Council and, therefore, it is now necessary for Council to review it, taking into account what has worked over the past two years, what restrictions need to be kept or revised, and whether we need to introduce new restrictions to tackle other forms of anti-social behaviour that are now occurring in the city centre.

5. Current restrictions

<u>1. Street Drinking</u>
No person shall within the restricted area refuse to stop drinking alcohol or hand over any containers (sealed or unsealed) which are believed to contain alcohol, when required to do so by an authorised officer to prevent public nuisance or disorder.
<u>2. Touting for services/ donations</u>
No person shall within the restricted area, approach members of the public in a persistent manner with a view to persuading them to: subscribe to a service; or make charitable donations; by direct debit, standing order or similar means.
<u>3. Aggressive Begging</u>
No person shall beg within the restricted area in a manner which is aggressive or intimidating, or which harasses members of the public.
<u>4. Flyposting</u>
No person shall affix any notice, picture, letter, sign or other mark upon the surface of a highway or upon any tree, structure or works on or in a highway without permission of the landowner within the restricted area

5. Dogs to be on a lead

Any person in charge of a dog within the restricted area shall be in breach of this Order if he/she fails to keep the dog on a lead (of no more than 1.5 metres in length).

6. Consultation on a revised PSPO

- 6.1 **It was decided that the review of the PSPO should be overseen by a Scrutiny Committee.** At its meeting of 8 January 2018, the Scrutiny Committee considered the issues and agreed for public consultation to commence to seek views on experiences of the city centre, views on review the current restrictions, possible amendments to them and views on possible new measures to be included in a revised PSPO.
- 6.2 **Consultation**-Public consultation ran from 8 January to 11 March 2018 with 61 responses via the questionnaire and two letters – one from Liberty and the other from the RSPCA. The questionnaire responses are to be found collated at Appendix C, with the two letters included in full. In summary the letter from Liberty expressed concern that a blanket ban on begging (which was consulted on) would be “not only cruel...but also incredibly unfair...” and expressed the view that imposing a blanket ban would be unlawful and a disproportionate response to the situation. The letter from the RSPCA is in support of the current condition requiring dogs to be on a lead of no more than 1.5 metres in length but encouraged discretion on enforcement when the dog is on a longer lead but is under effective control. The RSPCA also encouraged broader promotional work on responsible dog ownership is undertaken and mentioned that some PSPOs have included a condition requiring dog owners to carry an appropriate receptacle to clean up their dog’s waste at all times.
- 6.3 As requested by Scrutiny Committee at its January meeting, enquiries were made of 19 local authorities who had similar city/town centre PSPOs regarding their experiences. All were emailed and 7 responded. These responses are detailed in Appendix C but in summary, of the 7 local authorities who responded, 4 said that they regarded their PSPO restrictions as being successful or working well and all 4 had restrictions relating to begging and alcohol consumption in public places. The other 3 respondents said that their PSPOs were [too] new [to draw conclusions properly] and one of those said that there was no huge improvement but the direction of travel was in the right direction. Another one of those with a new PSPO said that they had an issue with enforcement capacity and this was resulting in the PSPO having a limited effect at present.
- 6.4 In summary, the results of the public consultation are as follows:

Current restrictions	Consultation summary
<p>1. Street Drinking No person shall within the restricted area refuse to stop drinking alcohol or hand over any containers (sealed or unsealed) which are believed to contain alcohol, when required to do so by an authorised officer.</p>	<p>64% (37 respondents) said that they had witnessed or been affected by this type of ASB and many of the responses suggested that it was common to see alcohol being drunk in public places.</p> <p>83% (49 respondents) want this restriction to remain; only 8% (5) want the restriction to be removed and only another 8% (5) want the restriction altered.</p> <p>Several comments were made about the need for better enforcement.</p>

Current restrictions	Consultation summary
<p>2. Touting for services/ donations No person shall within the restricted area, approach members of the public in a persistent manner with a view to persuading them to: subscribe to a service; or make charitable donations; by direct debit, standing order or similar means.</p>	<p>64% (38) said that they had witnessed or been affected by this, with many respondents mentioning “no win – no fee” touts and those selling broadband services.</p> <p>One respondent said that this used to be a major problem but that they felt that the Order had really helped. It is assumed that this comment relates to charities seeking donations by direct debit.</p> <p>84% (47) wanted this restriction to remain in the Order with 11% (6) wanting changes, some of which specifically mentioned those selling services should be restricted. Only 5% (3) wanted this restriction removed from the Order.</p>
<p>3. Aggressive Begging No person shall beg within the restricted area in a manner which is aggressive or intimidating, or which harasses members of the public.</p>	<p>64% (38) said that they had witnessed or been affected by this type of ASB with many responding that this is a persistent and common problem including near cash machines. Some respondents commented on some beggars reacting rudely/becoming verbally abusive when money was not given. Others say you cannot walk through the city centre without being approached for money/ cigarettes. A small number of respondents specifically mentioned they find the begging intimidating.</p> <p>73% (43) of respondents want this restriction to remain in the Order with only 8% (5) wanting it removed.</p> <p>19% (11) want the definition altered, some to define “aggressive” begging more effectively and two commenting that begging near cash points should be prevented.</p> <p>Some want begging banned altogether and more enforcement to be carried out. Some comments relate to more focused donations to relevant charities.</p>
<p>4. Flyposting No person shall affix any notice, picture, letter, sign or other mark upon the surface of a highway or upon any tree, structure or works on or in a highway without permission of the landowner within the restricted area.</p>	<p>80% (48) of respondents had not been affected by this issue.</p> <p>Comments submitted suggest the problems are mainly on empty shop windows and buildings, and one points out that flyposting is unsightly.</p> <p>75% (38) said it should with remain in the Order, with 14% (7) wanting it removed and 12% (6) wanting it altered. Multiple comments in the</p>

Current restrictions	Consultation summary
	“reasons” section said that this is not a major issue that needs to be dealt with by a PSPO.
<p>5. Dogs to be on a lead Any person in charge of a dog within the restricted area shall be in breach of this Order if he/she fails to keep the dog on a lead (of no more than 1.5 metres in length).</p>	<p>Letter from RSPCA - Appendix C and summarised previously at paragraph 6.2</p> <p>52% (31) of respondents said they had witnessed or been affected by this type of ASB, but 48% (29) said they had not.</p> <p>Some comments said that they found certain breeds of dogs not on leads to be frightening and a number of general comments appear to be supportive of this restriction.</p> <p>87% (48) of respondents wanted this restriction to stay in the Order with a number of comments asking for more enforcement to be done.</p>

Possible New/ Revised Restrictions	Consultation Summary
<p>6. Groups/ individuals causing harassment, alarm or distress. “Within the restricted area not to behave (either individually or in a group) in a manner that has caused or is likely to cause a member of the public to suffer harassment, alarm or distress by that behaviour.</p> <p>Persons who breach the above shall, when ordered to do so by an authorised person, disperse either immediately or by such time as may be specified and in such a manner as may be specified.”</p>	<p>65% (39) had been affected by this type of behaviour and 85% (49) want this new restriction included in the revised Order.</p> <p>Many respondents have experienced this behaviour and find this behaviour to be frightening and unacceptable. Individuals and groups shouting and swearing are mentioned multiple times, and groups on pedal bikes harassing/intimidating people is reported to be a significant problem in certain locations. Need more enforcement.</p> <p>A minority of respondents expressed the view that this restriction is not needed as it can be dealt with by existing legislation.</p>
<p>7. Touting for services/ donations</p> <p>Revision of current restriction to: “Within the restricted area no street trading including peddling, charity collecting or touting for services, subscriptions or donations unless covered by an existing Police or Council-issued or Council-recognised Street Trading/Charity Collection/ promotions consent, licence or written permission.”</p>	<p>The results of the consultation broadly reflect the results set out at 2 above.</p> <p>81% (44) would like to see a change to the current restriction to regulate this area more effectively.</p>
<p>8. Aggressive begging The consultation was on revising the restriction so that “aggressive begging” included any begging within the vicinity of a cash machine;</p>	<p>Letter from Liberty - Appendix C and summarised previously at paragraph 6.2</p> <p>75% (40) wanted the restriction to include no</p>

Possible New/ Revised Restrictions	Consultation Summary
Or instead revising it to “no begging”.	<p>begging near a cash/payment machine.</p> <p>70% (37) wanted it changed to “no begging”. Reasons for “no begging” included that it is far too prolific in the city centre, not genuine and intimidating. A number of respondents said that people should be encouraged to give to charities directly.</p>
<p>9. Intoxicating substances - No ingesting, inhaling, injecting, smoking or otherwise using, possessing or supplying substances believed to be intoxicating (psychoactive) substances.</p> <p>Persons who breach this restriction shall surrender any such substance in his/her possession when asked to do so by an authorised officer.</p>	<p>69% (41) of respondents said they had been affected by this type of anti-social behaviour, although it is clear from some of the comments that some respondents thought this included alcohol.</p> <p>Many respondents indicated this type of ASB is prevalent in public areas, with some people clearly under the influence of drugs during the day.</p> <p>81% (47) wanted this to be in the revised Order and many commented that enforcement would be important.</p>
Other forms of Anti-Social Behaviour	<p>43% (25) of respondents said they had been affected by or witnessed other forms of ASB in the city centre. However the majority of issues raised are covered by the existing, altered or new restrictions outlined previously.</p>

7. Overview & Management Scrutiny Committee 26 April 2018

7.1 Scrutiny was asked to consider the consultation results and information presented at the meeting and consider the following test:

1. Is there a specific problem caused by particular activities?
2. If so, what needs to be done to regulate or control the problem?
3. What is the least restrictive way of achieving this?

Then, make recommendations to Council regarding the restrictions that could be included in the revised Order.

7.2 In order to support the Committee and provide a starting point for debate, following consideration of the consultation results the Regulatory Services Manager included a possible revised Order in the report. This is shown in the table below. Notably this did not propose a blanket ban on begging and would result in the deletion of the current restriction on flyposting.

7.3 A possible revised Order

Possible Restriction	Comment
1. Street Drinking	Same wording as current PSPO

No person shall within the restricted area refuse to stop drinking alcohol or hand over any containers (sealed or unsealed) which are believed to contain alcohol, when required to do so by an authorised officer.	restriction
2. Touting for services/ donations Within the restricted area no street trading including peddling, charity collecting or touting for services, subscriptions or donations unless covered by an existing Police or Council-issued or Council-recognised Street Trading/Charity Collection/ promotions consent, licence or written permission.	Wording revised to expand the current PSPO restriction to cover the street trading of services.
3. Begging in an anti-social manner Within the restricted area no person shall beg within 10 metres of a cash or payment machine, nor beg in a manner that has caused or is likely to cause a member of the public to suffer harassment, alarm or distress by that behaviour.	Wording of the current PSPO restriction on aggressive begging revised to make it easier to enforce on begging related ASB and set an exclusion zone around cash points.
4. Groups/ individuals causing anti-social behaviour. Within the restricted area no person shall behave (either individually or in a group) in a manner that has caused or is likely to cause a member of the public to suffer harassment, alarm or distress by that behaviour. Persons who breach the above shall, when ordered to do so by an authorised person, disperse either immediately or by such time as may be specified and in such a manner as may be specified.	A new restriction.
5. Intoxicating/Psychoactive substances Within the restricted area no person shall ingest, inhale, inject, smoke, possess or otherwise use intoxicating substances or sell or supply them. Persons who breach this prohibition shall surrender any such intoxicating substance, or a substance believed to be intoxicating, in his/her possession when asked to do so by an authorised officer. Intoxicating substances (psychoactive substances) = substances with the capacity to stimulate or depress the central nervous system. Exceptions: alcohol, tobacco, food & drink, and where substances are for used for valid and demonstrable medical use.	A new restriction.
6. Dogs to be on a lead Any person in charge of a dog within the restricted area shall be in breach of this Order if he/she fails to keep the dog on a lead (of no more than 1.5 metres in length).	Same wording as current PSPO restriction

7.4 The Committee also heard from Council officers (Regulatory Services, Youth Services, Housing Needs), Gwent Police (City Centre Inspector), Newport Business Improvement District and also from The Wallich Homeless Charity.

8. Overview & Management Scrutiny Committee – Recommendations to Council

8.1 Following debate and a vote on each of the possible restrictions plus the deletion of the Flyposting restriction, **Scrutiny recommended to Council that the Flyposting restriction be deleted and each of the restrictions above should be reflected in a new Order.**

8.2 Following these recommendations, Council lawyers have drafted the revised City Centre Order included at Appendix B.

9. Boundary of the PSPO

There is no proposal to change the existing boundary of the PSPO, which is shown on the map at Appendix A and Appendix B.

10. Enforcing the PSPO

10.1 There are no plans to change the way in which enforcement is currently undertaken – Gwent Police will continue to lead on the enforcement of PSPO restrictions. They have made it clear that they have asked for the current PSPO to be revised in order to improve the effectiveness of enforcement.

10.2 Should a revised City Centre PSPO be agreed by Council, once the Order has been made initial work would involve advising affected parties as to the restrictions, through a variety of methods: letters, publicity, individual conversations. Contraventions would then be dealt with by way of a “stepped-up” enforcement approach, using verbal advice, then Fixed Penalty Notices (FPNs) and prosecution only being considered where advice and warnings have failed and/or an FPN has not been paid.

11. Financial Summary

11.1 The cost of implementing the PSPO will be funded through existing budgets.

12. Risks

Risk	Impact of Risk if it occurs (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect	Who is responsible for dealing with the risk?
Council puts in measures that are not supported	H	L	Listen to all groups that are affected.	Head of Law and Regulation
Council puts in measures that are disproportionate to the problems experienced / open to legal challenge	H	L	Ensure the measures that are introduced are balanced against the anti-social behaviour experienced and the right level of restrictions to address it.	Head of Law and Regulation

13. Links to Council Policies and Priorities

13.1 Ensuring that this work is completed as required will support the following Council Policies and Strategies:

The proposed PSPO has clear links to the aims and objectives of Newport City Council’s Corporate Plan (relevant themes are “Resilient communities” and “A thriving city”).

Newport’s Community Strategy 2010-2020 “Feeling Good About Newport” (Relevant themes: “To be a prosperous and thriving city”; “To have a better quality of life”; “To have vibrant and safe communities”).

The proposals also demonstrate that the service area is acting in accordance with the “Be Courageous” value outlined in the Corporate Plan: the proposal is ambitious in order to try and improve the city centre.

14. Options Available and considered

Option 1

Approve the extended and revised City Centre Public Spaces Protection Order at Appendix B, for a further period of 3 years, as per the Scrutiny Committee’s recommendations.

Option 2

Not to approve the revised Order –but to refer it back for further work on a potential revised Order

Option 3

Not to approved the Order and either let the current order lapse in November 2018 or resolve to discharge the current Order with immediate effect.

15. Preferred Option and Reasons

Option 1 - Approve the extended and revised City Centre Public Spaces Protection Order at Appendix B, for a further period of 3 years, as per the Scrutiny Committee’s recommendations. This is supported by Gwent Police and is felt by Council Officers to be a proportionate response to the on-going anti-social behaviour being experienced in the city centre and a reasonable response to the public consultation undertaken.

16. Comments of Chief Financial Officer

- 16.1 The proposed continuation of the City Centre Public Spaces Protection Order will be met from existing budgets.

17. Legal Comments - Comments of Monitoring Officer

- 17.1 The Council has a statutory power under the Anti-Social Behaviour, Crime and Policing Act 2014 to make Public Spaces Protection Orders in order to prevent types of anti-social behaviour which have, or are likely to have, a detrimental effect on the quality of life of those in the locality and the behaviour is or is likely to be persistent or continuing in nature. The nature and extent of the PSPO must be reasonable having regard to the type of behaviour and its impact on the public.
- 17.2 The existing City Centre Public Space Protection Order was made by the Council in November 2015, following extensive public consultation and a Scrutiny review. A range of control measures were introduced based on historical complaints and Scrutiny carried out a general public consultation exercise to assess the need and justification for specific controls, to inform the final Council decision. The current PSPO was made for the maximum period of three years and will, therefore, expire in November 2018, unless the Council decides to extend it, either on the same terms or with variations.
- 17.3 Therefore, a review of the current PSPO has been undertaken by the Overview and Management Scrutiny Committee to assess whether there is a continuing need for the control measures in the PSPO and, if so, whether they should be varied.

- 17.4 In accordance with the legislation and the statutory guidance, the Council is required to consult with the Police, the Police and Crime Commissioner and specific community groups, and to have regard to any observations made before deciding whether or not to extend and/or vary any PSPO. However, because of the potential impact of any PSPO within the City Centre, it was agreed that a wider consultation and public engagement exercise should be undertaken as part of the Scrutiny review. A range of possible measures that could be included within an extended and revised PSPO were identified by Scrutiny, based on historical complaints, and the Council has carried out a further public consultation exercise to assess the need and justification for specific controls, to inform the final decision. The results of the engagement with key stakeholders and the public responses to the wider consultation are summarised within this Report. Scrutiny Committee have considered the consultation responses and have formulated their recommendations, which are set out in the draft PSPO (Appendix B). The Cabinet Member for Licensing and Regulatory Functions is also supportive of their recommendations to extend the current PSPO for a further period of 3 years and to vary the existing controls. For the most part, there is considered to be a continuing need for the existing control measures in the current PSPO (with the exception of fly posting, which is covered by other legislation, in any event). Other variations and additional control measures are also being recommended to strengthen and clarify existing powers. The final decision regarding the need to extend and/or vary the existing City Centre PSPO is a matter for full Council.
- 17.5 When considering the need to extend and/or revise any PSPO, the Council must act reasonably and, in particular, it must have regard to the Human Rights Act 1998. However, the rights and freedoms set out in the Articles to the Human Rights Act are qualified rights and can lawfully be restricted or limited where this is a necessary and proportionate means of achieving a legitimate aim, including public safety and the prevention of crime and disorder. It is a question of balancing rights and freedoms of individuals against the needs of the wider community. Therefore, the Council has to take a balanced decision regarding the need for any prohibition or restriction and its impact on the freedoms and rights of individuals. Any prohibition order must be a reasonable and proportionate means of preventing or reducing the detrimental impact of any specific type of anti-social behaviour within the City Centre. When considering the need for and the impact of any PSPO, the Council also has to have regard to its public sector equality duty under Section 149 of the Equality Act 2010 and a full Fairness and Equalities Impact Assessment is attached to this Report.
- 17.6 Public support for a particular measure is not, of itself, sufficient grounds to make a PSPO. The Council needs to be satisfied that the proposed controls are justified because of a specific problem and a need to control the anti-social behaviour in order to protect the public. The Council also has to be satisfied that the extent of the controls or prohibitions is reasonable and that there are no alternative, and less restrictive ways, of regulating the problems.
- 17.7 There is a statutory right of appeal to the High Court within 6 weeks if a PSPO is considered to be unreasonable.

18. Comments from Head of People and Business Change

- 18.1 The report asks Council to make a decision on the implementation, or not, of a new Public Spaces Protection Order – the implementation of which will be met from existing resources. As such there are no specific staffing implications. The development of the city centre for the benefit of all Newport residents is a priority for the Council and partners and expressed within the Wellbeing Plan. Public consultation regularly indicates a common concern over

the impact of anti-social behaviour on people and business in the city centre in terms of investment, footfall, visitor economy and community safety. It is noted that the public consultation undertaken as part of the PSPO review was supportive of maintaining and clarifying most of the current restrictions and implementing further measures.

- 18.2 Clearly, resolving some of the issues affecting the city centre can be contentious as these issues are complex in nature. Any PSPO should be proportionate and seen in the context of other, preventative work, currently being undertaken with individuals, families and communities within Newport. Whilst considering the options presented Council should be mindful of the full range of evidence available, including the impacts and mitigations drawn out within the Fairness and Equality Impact Assessment, to ensure any decision does not disproportionately impact upon any groups within the protected characteristics of the Equalities Act 2010. If there is any disproportionate impact then there will need to be robust mitigating measures in place and Council will have to ensure that they are adequate and appropriate to the risk identified.
- 18.3 As the current PSPO has been in place for over two years its effectiveness is better understood and the review by Scrutiny will help ensure that the critical balance between restriction and rights and freedoms is achieved, however the final decision with regards to the PSPO is a matter for full council.

19. Comments of the Cabinet Member for Licensing and Regulation

- 19.1 I fully support the proposed extension and variation of the existing City Centre Public Spaces Protection Order, in accordance with the recommendations of the Scrutiny Committee. There is clearly a continuing need for these measures (with the exception of the fly posting restrictions, which are already covered by other legislation) and the proposed controls are a reasonable and proportionate way of regulating this anti-social behaviour. The proposed variations and additional measures should strengthen existing powers.

20. Local Issues – Comments of Ward Members of Stow Hill

- 20.1 Councillor Miqdad Al-Nuaimi: I'm satisfied that there are good reasons for reviewing the current Public Spaces Protection Order that applies to the City Centre. I support option 1 which seeks to revise and extend the PSPO in the manner outlined in Paragraph 7.3 in the report. The Overview & Management Scrutiny Committee has considered the proposal to revise and extend the order in January and April 2018, including the results of the public consultations and members listened to detailed evidence from the Council Youth Officer, Homelessness Officer, The Police, Newport Now and other stakeholders. The OSM asked many questions and received detailed evidence in return. Based on the evidence received, the scrutiny committee voted on and approved the revisions outlined in Paragraph 7.3.
- 20.2 I am pleased to confirm my support for option 1 and recommend Council to approve it. In supporting the revised PSPO, my main motivation is to seek to improve the experience and perception of residents and visitors when they come to Newport City Centre. However, homelessness, rough sleeping and begging are challenging social issues that need concerted effort from various agencies to deal with humanely and satisfactorily. I urge the Council to do its utmost in a concerted effort, together with other agencies and the Welsh government to root out or mitigate the causes for these social ills.

21. Scrutiny Committees

21.1 Please see details throughout the report.

22. Equalities Impact Assessment and the Equalities Act 2010

22.1 When making a PSPO, the Council must have particular regard to the rights of freedom of expression and freedom of assembly and association set out in the Human Rights Act 1998 and must not act in a way which is incompatible with a Convention right. Human rights are enforced through existing rights of review and may therefore be taken as points in any challenge to the validity of any Order made by the Authority.

If Convention rights are engaged (as they are with the making of a PSPO) any interference with them must be –

- (a) In accordance with the law (in other words Council must be satisfied that the statutory conditions in Section 59 of the ASB etc. set out above in 1.6 are satisfied)
- (b) In pursuit of a legitimate aim (in this instance the control of activities which, if not controlled, would have a detrimental effect on the quality of life of those in the locality) and
- (c) A proportionate means of achieving the legitimate aim

The two issues which must therefore be addressed for every proposed restriction in the PSPO are whether the statutory criteria are met and whether the restrictions proposed are proportionate having regard to the legitimate aim of preserving the quality of life for everyone who lives or works in or who visits the city centre.

Council must also have regard to the public sector equality duty at s149 of the Equality Act 2010, which is as follows –

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

22.2 The Fairness and Equalities Impact Assessment is at Appendix D.

23. Children and Families (Wales) Measure

23.1 The proposals set out in this report are not relevant to the aims of the Children and Families (Wales) Measure.

24. Wellbeing of Future Generations (Wales) Act 2015

24.1 The proposals set out in the report to be consulted on would contribute to a number of the Well-being Goals set out in the Wellbeing of Future Generations (Wales) Act 2015. Relevant goals are “A more equal Wales”, “A Wales of cohesive communities”, “A Wales of vibrant culture and thriving Welsh language”. The proposals would contribute by helping to prevent problems of antisocial behaviour blighting the area, which would help to build a cohesive and sustainable community. Further detail is provided in the Fairness & Equalities Impact Assessment at Appendix D.

25. Crime and Disorder Act 1998

25.1 The proposals set out in this report are designed to reduce Crime and Disorder and are supported by Gwent Police.

26. Consultation

26.1 Consultation has been undertaken as detailed throughout the report.

27. Background Papers

Home Office Guidance on PSPOs

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/364851/Public_and_open_spaces_information_note.pdf

Local Authorities' guidance on PSPOs Dec 2017

https://www.local.gov.uk/sites/default/files/documents/10.21%20PSPO%20guidance_06_1.pdf

Overview and Scrutiny Management Committee minutes – 26 April 2018

<https://democracy.newport.gov.uk/ieListDocuments.aspx?MIId=6963&x=1>

Appendices

A: Current City Centre Public Spaces Protection Order

B: Proposed Revised City Centre Public Spaces Protection Order

C: Public Consultation results

D: Fairness and Equalities Impact Assessment