

## Birmingham City Council – Community Safety Team

### Public Space Protection Orders

#### Frequently Asked Questions

#### Overview

Below is a list of questions and answers intended to help members of the public understand

- What Public Space Protection Orders are
- What it means to Breach a Public space Protection Order
- How Public Space Protection Orders are used as a tool to address complex ASB in Birmingham.

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### **1: What is a Public Space Protection Order (PSPO)?**

A Public Space Protection Order (PSPO) is a power under the Antisocial Behaviour, Crime and Policing Act 2014. They are intended to allow a Council to deal with a particular nuisance or problem behaviour that is impacting on the local community's quality of life in a particular area.

They allow Councils to impose either restrictions or requirements in that particular area which will apply to everyone. They are designed to ensure the law-abiding majority can use and enjoy public spaces safe from anti-social behaviour.

More information can be found by visiting [Public spaces protection orders: guidance for councils](#)

### **2: Are Public Space Protection orders unique to Birmingham?**

Public space protection Orders are a national power that can be applied by any local authority.

### **3: Who is responsible for Public Space Protection Order's in Birmingham?**

The accountable body for all Public Space Protection Orders in Birmingham is Birmingham City Council. The duty for the application, implementation and monitoring of all Public Space protection orders sits with the City Operations Directorate.

### **4: What Public space Protection orders are in place in Birmingham ?**

For the most up to date list of PSPO's in Birmingham please visit

[Public space protection orders | Birmingham City Council](#)

### **5: How are the terms and the location in an order agreed?**

Complex and persistent ASB in a location can be identified in several different ways. This includes gathering of data intelligence, incident reports, residents and businesses reporting to MP's and Ward Councillors, Information from services and locations being raised at partnership forums such as the Local Community safety Partnership (LCSP).

Services will then work together to address the ASB however if this delivery is unsuccessful, they will then look to other powers such as a PSPO

The location and terms within the PSPO will be drafted based on the ongoing ASB issues that other tools and measures have not been addressed and continue to have a high demand on services and cause alarm and distress to residents . The draft order will then be raised stakeholders for discussion and the terms within the order are agreed. this will go out for public consultation.

The findings of the public consultation will determine the terms within the final published order.

### **6: What are the benefits of a PSPO?**

The main benefits of PSPO's are to help tackle the Anti-Social behaviours that are highlighted in the Order. They are all aimed at making the area within the boundary of the order safer and a more pleasant place to be.

### **7: How long is a Public Space Protection Order in place for?**

A PSPO can be introduced for a maximum of three years. After this initial period, it must be reviewed. If the review supports an extension (known as a renewal) and other requirements are met it may be extended for further three-year period. There is no limit on how many times an order can be reviewed and renewed.

### **8: Do the terms in a Birmingham PSPO order only apply to Birmingham Residents**

The order is put in place to address antisocial behaviour within a specific identified location. It prohibits certain behaviour in that location (known as the restricted area) and therefore applies to anyone carrying out the prohibited behaviour within that area.

### **9: Who will enforce the Public Space Protection Order?**

Authorised Person from Birmingham City Council and West Midlands Police have responsibility for the enforcement of the PSPO.

### **10: What is an “Authorised Person”?**

An Authorised Person is a Police Constable, Police Community Support Officer or a designated Birmingham City Council Officer who can enforce the conditions on the order.

### **11: What does a “breach “of the Public Space protections order mean?**

A Breach of the order means that an individual has carried out an activity or displayed behaviours that are restricted or prohibited in the restricted area of the PSPO

### **12: What will happen if someone breaches the Public Space Protection Order?**

Breaching a PSPO is a criminal offence and can be subject to fixed Penalties (known as an FPN) and prosecution before the magistrate’s court and a fine not exceeding (Level 3 of the standard scale) (£1000 as of October 2024)

If an individual is witnessed breaching the PSPO by an Authorised Person they will be issued with a Suspected offence ticket. (SOT)

There are two stages to Birmingham City Councils the breach process

**Stage 1:** An individual breaches the PSPO for the first time -They are given an opportunity to cease from the activity and or behaviour that is prohibited in the restricted area. If the individual does not comply with the request to cease, they will be issued with a SOT. They will then receive a warning letter from Birmingham City Council.

**Stage 2:** An individual breaches the PSPO again. If this is within six months of the first breach, a 2nd suspected offence ticket will be issued by the authorised officer at the time of breach. Consideration will be given to the personal circumstances of the individual and either a fixed penalty notice (FPN) will be issued, or a final written warning letter will be served, this may also include referrals being made to support services.

If it is agreed that the individual is to receive a FPN they will then receive a Fixed Penalty Notice (FPN) letter from Birmingham City Council informing them that they will have to pay a financial penalty of £100 for the repeated breach of the PSPO. They are given 14 days to pay the

### **Under 18s**

A person under the age of 18 years will only ever be dealt with by way of warnings. This could include 1st, 2nd and final warning. If repeat breaches are evidenced, agencies including Youth Offending Services (YOS) will consider whether an application for a Civil Injunction or an FPN is appropriate. FPN's can be issued to individuals between the ages of 16 and 18. YOS must be informed at each stage of the process when a person under 18 years is involved.

### **Non-Payment of the FPN**

If the Individual does not pay the FPN within the 14 days, they will receive a further letter from Birmingham City Council informing them they they are being summons to court for the criminal offence of "breach of PSPO".

### **13: Once a Public Space Protection Order is in place will any other measures be used to respond to incidents of Anti-Social behaviour in that area?**

A PSPO is only one tool to address complex Anti-Social behaviour. Having a PSPO in force in a particular area does not stop services using other powers in place with individuals who persistently cause ASB.

### **14: What if someone who breaches the order is vulnerable?**

Guidance will be provided to Authorised Persons who enforce the order about support and referrals that can be made should they come across individuals who are vulnerable.

### **15: What happens if a person cannot afford to pay the fixed penalty notice associated with the PSPO Breach?**

It is helpful to understand that a Fixed Penalty Notice (FPN) is not a fine. Only the Courts have powers to fine and issue sanctions following a conviction. A FPN is a tool that can be used in certain circumstances where an individual accepts that they have 'broken the law' but does not wish to be summoned to court and would rather pay a sum of money to discharge their liability for a criminal conviction. If an individual

either has no money to pay or felt that they were innocent, then they could then appear in front of a Magistrate and plead their case. If they were found guilty then it would be up to the Courts to impose a sanction, and they would consider their ability to pay.

### **16: Can an FPN be appealed?**

There are no formal grounds of appeal against an FPN, as it is an invitation to discharge your liability to be summonsed to court for prosecution. While this is not an admission of guilt, you agree that an offence has been committed and by paying the sum of money specified no further action will be undertaken by the council. Dealing with it in this manner saves the time for everyone (including the offender) in prosecuting cases at court, and costs associated to FPN's are a lot lower than any fine imposed by the courts.

If you do not agree that you committed the offence for which you received the FPN then the matter will be dealt with through formal prosecution via the courts. It will then be up to the court, on receiving evidence, to determine whether or not an offence was committed and therefore whether or not any penalty should be imposed. Effectively this means that the formal court route becomes the mechanism for those wishing to appeal an FPN.