

Keeping Swindon

Safe



Public Spaces Protection Orders Guidance

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1 Scope

1.1 Anti-social behaviour can have devastating effects on communities and individuals. At Swindon Borough Council (SBC), we put victims at the heart of our response, take a flexible approach to managing incidents and work in partnership with all residents and other organisations to tackle it. This statement of procedures relates specifically to the implementation of Public Spaces Protection Orders (PSPOs).

1.2 This statement of procedures has been written in accordance with the statutory guidance issued under sections 19, 32, 41, 56, 73 and 91 of the Anti-social Behaviour, Crime and Policing Act 2014 and the Secretary of State regulations, conferred by sections 59(8), 60(3)(b), 61(5) and (6) of the Act regarding the implementation of PSPOs.

1.3 This guidance forms a part of the Anti-social Behaviour policy, which should be considered alongside those of housing; domestic abuse; safeguarding; enforcement and prosecution; and other linked services.

1.4 This document is for internal use by Swindon Borough Council and Wiltshire police officers.

2 Public Spaces Protection Orders

2.1 PSPOs were introduced as part of the Anti-social Behaviour, Crime and Policing Act 2014 and are intended to deal with a particular evidenced nuisance or problem in a particular area that is detrimental to quality of life, by imposing conditions on the use of that area which apply to everyone. They are designed to ensure the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour.

3 Procedure

3.1 Proposals to introduce a PSPO are initially made at the Community Safety Partnership's Community MARAC (Multi-agency Risk Assessment Conference) meeting. The Community MARAC is attended by SBC staff, police and partner agencies to tackle crime and anti-social behaviour. A decision to consult on a proposed PSPO should be made by the Community Safety Partnership. The Community Safety Partnership will then be informed of the results of the consultation exercise and dependent on their support approval will be granted for the Order in conjunction with the appropriate Head of Service and Director of Law and Democratic Services.

3.2 Before making, varying or discharging an order (as the case may be), SBC will consult with the police, the owner/occupier of land within the proposed restricted area, and with appropriate community groups, by appropriate means including where applicable, in a formal meeting.

3.3 Pre-consultation with relevant representatives will take place where appropriate for dog related restrictions.

3.4 Before making an order, there will be a period of public engagement of no less than six weeks via the Swindon Borough Council website – www.swindon.gov.uk

Before varying or discharging an order (as the case may be), there will be a period of public engagement of no less than two weeks via the Swindon Borough Council website – www.swindon.gov.uk

3.5 In making an order, particular regard shall be had to the rights of freedom of expression and freedom of assembly set out in Articles 10 and 11 of the European Convention on Human Rights and this will be noted on any order made.

3.6 Prior to the final decision of making, varying or discharging an order (as the case may be), the CSP Board members, usually at a CSP Board meeting and/or the relevant CM will be advised.

3.7 The final decision to make, vary or discharge an order (as the case may be) will be made in accordance with the Council's authorisation process.

3.8 In accordance with Secretary of State regulations the Council will (a) publish an order as made, extended, varied or discharged (as the case may be) on the Swindon Borough Council website; and (b) cause to be erected on or adjacent to the public place to which the order relates such notice (or notices) as the council considers sufficient to draw the attention of any member of the public using that place to— (i) the fact that the order has been made, extended, varied or discharged (as the case may be); and (ii) the effect of that order being made, extended, varied or discharged (as the case may be).

3.9 It is an offence for a person, without reasonable excuse, to:

- do anything that the person is prohibited from doing by a PSPO (other than consume alcohol – see below); or
- fail to comply with a requirement to which the person is subject under a PSPO.

A person guilty of an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

It is not an offence to drink alcohol in a controlled drinking zone. However, it is an offence to fail to comply with a request to cease drinking or surrender alcohol in a controlled drinking zone. This is also liable on summary conviction to a fine not exceeding level 2 on the standard scale. If alcohol is confiscated, it will be disposed of by the person who confiscates it.

Depending on the behaviour in question, the enforcing officer could decide that a fixed penalty notice (FPN) would be the most appropriate sanction. The FPN can be issued by a police officer, PCSO, or designated SBC officer. In making the decision to issue a FPN, the officer should consider that if issued, payment of the FPN would discharge any liability to conviction for the offence. However, where the FPN is not paid within the required timescale, Swindon Borough Council will consider court proceedings (prosecution for the offence of failing to comply with the PSPO).

The decision to include an Early Payment Discount as a part of the Fixed Penalty Notice will be made when each Order is made and will be decided on a case by case basis.

- 3.10 The wording of all PSPO conditions will be such as to align the conditions not related to the consumption of alcohol to those that are e.g. to cease an act when instructed by an officer, or to obtain permission from the authority.
- 3.11 Payment of an FPN will be in accordance with the Council's enforcement policy.
- 3.12 In all cases enforcement officers will use words of advice and FPNs before taking court action. This reinforces that the PSPO is designed to be used to prevent anti-social behaviour before being used as an enforcement tool.
- 3.13 A Fixed Penalty Notice is given at the discretion of authorised officers and should they consider it a proportionate response.
- 3.14 For perpetrators aged 10 – 15, acknowledgement of wrong doing will be sought and follow-up letter sent to the address given. For those aged 16 – 17, a Fixed Penalty Notice may be issued and follow-up letter sent to the address given should the authorised officer consider it a proportionate response.
- 3.15 Failing to provide details to an officer issuing a notice for a breach of the PSPO is an offence; as such CCTV surveillance will be used to ascertain the identity of the individual where it exists and where necessary.
- 3.16 Authorised officers have in all cases received relevant training and will take no action unless in possession of a FPN notepad or handheld in line with the FPN policy.
- 3.17 Administration of FPNs, letters and public engagement will be managed by the relevant officers/teams. Details of issued FPNs and warnings will be recorded to inform variation and discharge decisions.
- 3.18 Officers issuing FPNs will hand the top two copies to the perpetrator and retain the third. Officers are required to submit a copy (hard copy or scan) to the Business Support team within two working days of issue. Thereafter, the original copy should be sent at the officer's earliest convenience and before any court application is made.
- 3.19 Permission and licensing decisions will be made by SBC's licensing team and conveyed in writing to the applicant in line with the relevant policy.
- 3.20 Repeat offenders may be dealt with by other tools and powers where appropriate e.g. Civil Injunctions.