

**Manchester City Council
Report for Information**

Report to: Communities and Equalities Scrutiny Committee – 11 January 2022

Subject: Proposed Public Spaces Protection Order – restricting alcohol consumption in public places

Report of: Head of Compliance, Enforcement and Community Safety and Community Safety Lead, Compliance, Enforcement and Community Safety

Summary

This report provides information about the outcome of the statutory consultation regarding the potential introduction of a Public Spaces Protection Order (PSPO) to restrict the consumption of alcohol in public places and proposes the introduction of a new PSPO.

Recommendations

The Communities and Equalities Scrutiny Committee is invited to consider and comment on the contents of the report and endorse the proposed decision to make a City Wide PSPO to restrict alcohol consumption in a public place.

Wards Affected: All wards

Environmental Impact Assessment - the impact of the issues addressed in this report on achieving the zero-carbon target for the city

There is no direct impact on achieving zero carbon from the implementation of the PSPO
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Manchester Strategy outcomes	Summary of how this report aligns to the OMS
A thriving and sustainable city: supporting a diverse and distinctive economy that creates jobs and opportunities	
A highly skilled city: world class and home grown talent sustaining the city's economic success	
A progressive and equitable city: making a positive contribution by	

unlocking the potential of our communities	
A liveable and low carbon city: a destination of choice to live, visit, work	This report will highlight how Public Spaces Protection Orders can support the maintenance of neighbourhoods as a clean, safe, attractive and cohesive destination of choice for people to live, visit and work.
A connected city: world class infrastructure and connectivity to drive growth	

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Background documents (available for public inspection):

The following documents disclose important facts on which the report is based and have been relied upon in preparing the report. Copies of the background documents are available up to 4 years after the date of the meeting. If you would like a copy of the documents, please contact one of the contact officers above.

- Community Safety Strategy 2018/21
- Home Office Anti-social behaviour powers – statutory guidance for frontline officers (January 2021)
- Transitioned Designated Public Places Orders

1.0 Introduction

- 1.1 This report provides details of the consultation on a proposed Public Spaces Protection Order to restrict the consumption of alcohol in public places across the city of Manchester, excluding the majority of the city centre (GMP policing boundary) which has a separate PSPO. This report includes a summary of the early engagement that led to the statutory consultation, the findings from the consultation and the rationale for the resulting proposed order. Please note 'street drinking' for the purpose of this consultation is described as people drinking alcohol in a public place, for example a street or a park. Places legally exempt from PSPOs include licensed premises such as public houses, bars or cafe outdoor areas and licensed organised public events.

See **Appendix 1** for the premises and places where the proposed PSPO would not apply.

2.0 Background

- 2.1 To achieve our strategic objectives of a safe, clean and welcoming city the Council and the police use a wide range of informal and formal powers to protect the public and tackle crime and anti-social behaviour. These measures include community resolution, warnings, Acceptable Behaviour Agreements, Community Protection Notices, ASB Injunctions, Dispersal powers, arrests, prosecution and Criminal Behaviour Orders, alongside appropriate offers of intervention and support.
- 2.2 Several areas of the city have previously been subject to PSPOs to restrict street drinking. These PSPOs were originally introduced as Designated Public Place Orders (DPPOs) between 2001 and 2010. As a result of the enactment of the Anti-social Behaviour, Crime and Policing Act 2014 all DPPOs transitioned into PSPOs in October 2017 and ceased to have effect in October 2020. These PSPOs imposed restrictions on street drinking and made it an offence to fail to comply with a request from a police officer to refrain from drinking and/or surrender alcohol. Areas covered by the transitioned Orders include Oxford Road corridors, Rusholme and Fallowfield, Sportcity, Withington and Wythenshawe.
- 2.3 The Council and Greater Manchester Police regularly receive reports and witness street drinking associated with crime and antisocial behaviour which has a detrimental impact on the quality of life of some of those living, visiting or working in our neighbourhoods. The types of behaviours associated with street drinking include people urinating and defecating in public spaces, littering, verbal abuse and fighting resulting in people feeling harassed, intimidated, distressed and anxious.
- 2.4 A PSPO is a place based order which is intended to control or restrict activities, within a specific area, which are having, or may have, a detrimental effect on the quality of life of those in the vicinity. The terms of a PSPO can prohibit or require particular acts. They can apply to particular groups or to the public as a whole.

Under section 59 of the 2014 Anti-Social Behaviour Crime and Policing Act, local authorities must be satisfied on reasonable grounds that each type of activity included in an Order;

- has a detrimental effect on the quality of life of those in the locality (or it is likely that activities will take place and have such an effect)
- is (or is likely to be) persistent and continuing in nature
- is (or is likely to be) unreasonable
- the effect of the behaviour justifies the restrictions to be imposed

A PSPO that restricts alcohol consumption does not create a blanket ban on people drinking alcohol in public places. People are allowed to meet outside for a social drink. A breach of the Order occurs when an authorised person or a constable asks a person to stop drinking alcohol or surrender their alcohol and they fail to comply. If the person complies with the request no further enforcement action is taken.

The sanction for breaching a prohibition or requirement included in a PSPO is solely a financial penalty. The consequences of breaching a PSPO that restricts alcohol consumption are a Fixed Penalty Notice (£100) or a prosecution resulting in a criminal conviction and a fine of up to £500 if the individual is found guilty of the offence. There is no provision for a community order, for positive requirements to be attached to a breach of the order or a custodial sentence. Prior to introducing a PSPO the Council is legally obliged to publish the text of the proposed order and consult with;

- the chief officer of police, and the local policing body, for the police area that includes the restricted area;
- whatever community representatives the local authority thinks it appropriate to consult; and
- the owners or occupiers of land within the restricted area.

A PSPO can last for up to three years. Before a PSPO expires it must be reviewed and if the review supports an extension, it may be extended for up to a further three years. There is no limit on the number of times an Order can be reviewed and extended. PSPOs can also be varied or discharged. When PSPOs are varied, extended or discharged, there are statutory requirements regarding publishing or publicising this and councils are required to undertake a further consultation process.

3.0 Early Engagement

3.1 Prior to the statutory PSPO consultation commencing officers engaged with partners and key stakeholders to help understand the prevalence of street drinking in Manchester, the potential association with crime and anti-social behaviour and how individuals and communities were impacted or not by street drinking in their local area.

3.2 From 26 June 2020 to 27 July 2020 an online informal public survey was undertaken which received 450 responses. The survey asked Respondents

how problematic or not street drinking was in their area. Outside of the city centre the survey identified 320 locations in Manchester where street drinking was deemed to be problematic and 78 locations where street drinking was not a problem. A copy of the survey analysis can be found at **Appendix 2**.

- 3.3 Officers considered Council and Greater Manchester Police data and information to help identify areas of Manchester where street drinking and associated anti-social behaviour caused a detrimental effect on the quality of life of people within the locality. The information shared with the public as part of the informal consultation can be found at **Appendix 3**.

4.0 Statutory PSPO Consultation

- 4.1 The early engagement with partners and key stakeholders evidenced the need to further explore the option of introducing a PSPO/s to restrict the consumption of alcohol. The Council undertook a statutory consultation from 9th March 2021 to 31st May 2021. Information and an online survey were published on the Council's website. In accordance with relevant guidance the information included;

- Why the Council was undertaking the consultation together with a summary of the evidence
- A draft PSPO including the proposed behaviours and requirements
- The consequences of breaching a PSPO
- The right to appeal a PSPO

- 4.2 The survey included closed questions regarding the proposed order and a free text field to allow Respondents to provide additional feedback. Respondents were given the option to choose which questions they answered.

The draft proposed order which was the subject of the consultation and listed the prohibitions and requirements under consideration can be found at **Appendix 4**.

- 4.3 Awareness of the consultation was promoted extensively through a communications and stakeholder plan. Methods of communication included social media and promotion within ward networks. The consultation was promoted on the council's social media channels and website. Officers undertook on street engagement with members of the public to raise awareness of the consultation in North, Central and South areas and completed surveys with people who did not have access to the internet.

- 4.4 In addition awareness of the consultation was raised through resident and business groups, councillors, licensed premises, the Community Safety Partnership, Homelessness Partnership, Macc and members of the Safety, Violence and Policing Meeting (voluntary and community organisations), Manchester's housing providers, Street Engagement Hub, the faith network, safeguarding boards, taxi licensing, hate crime reporting centres and other Integrated Neighbourhood Management partners. Young people and students were informed of the consultation through contact with Young Manchester,

youth providers, Manchester College, Manchester Universities and the Student Safety Group.

Consultation took place with all statutory consultees.

- Greater Manchester Police
- Police and Crime Commissioner
- Community representatives and Owners/Occupiers of Land

5.0 Statutory Consultation Responses

5.1 The consultation survey was open to the public including community representatives and owners and occupiers of land. The Police and Crime Commissioner and Greater Manchester Police have also been consulted. During the survey period 334 responses and 6 written submission were received. However, 58 of the responses related to the city centre and 2 related to outside of Manchester. These responses were excluded resulting in analysis of 274 responses.

5.2 The survey responses are summarised with reference to the broad geographical areas where Respondents choose to provide feedback about. These areas include North, Central and South Manchester. Separately 7 people commented about an area that we were unable to identify and 15 people provided feedback about the whole of Manchester.

5.3 North Manchester (130 survey responses)

96 (74%) respondents were resident in the area

27 (16%) respondents worked in the area

7 (5%) respondents visited the area

5 (4%) respondents owned or managed a business in the area

1 (1%) other

The areas highlighted by Respondents providing feedback about North Manchester were Heaton Park, Cheetham Hill, Harpurhey, Cutting Room Square, New Islington and the Etihad. 105 (81%) respondents visited the area almost every day and 124 (95%) respondents had observed street drinking in the area in the past two years. 98 (76%) respondents reported that street drinking took place daily or several times a week. 83 (64%) respondents described street drinking as a major problem and 32 (25%) respondents described it as a minor problem. 12 (9%) respondents said street drinking was not a problem and 3 (2%) respondents did not know if street drinking was a problem or not. 113 (87%) respondents thought street drinking was an ongoing problem and 17 (13%) respondents said the problems with street drinking were not continuing. Afternoons and evenings were identified as the times of day when street drinking took place and the main associated behaviours were littering, noise, urination and groups congregating. The main impacts of the behaviour were concerns about the area looking untidy, feeling unsafe and feeling afraid and intimidated. 17 (13%) respondents said they were not affected by the behaviour. Overall, 108 (83%) respondents were in

support of a PSPO to help control street drinking and 17 (13%) respondents opposed the introduction of a PSPO.

5.4 Central Manchester (23 survey responses)

13 (57%) respondents were resident in the area
7 (30%) respondents worked in the area
2 (9%) respondents visited the area
1(4%) respondents owned or managed a business in the area

The areas highlighted by respondents providing feedback about Central Manchester were Ardwick, Moss Side and Levenshulme. 19 (83%) respondents visited the area almost every day and 16 (70%) respondents had observed street drinking in the area in the past two years. 15 (65%) respondents reported that street drinking took place daily or several times a week. The other responses identified the weather or problems related to street drinking being a seasonal issue. (48%) respondents described street drinking as a major problem and 4 (17%) respondents described it as a minor problem. 8 (35%) respondents said street drinking was not a problem. 13 (57%) respondents thought street drinking was an ongoing problem and 10 (43%) respondents said the problems with street drinking were not continuing. Afternoons and evenings were identified as the time of day when street drinking took place and the main associated behaviours were other than the categories identified in the survey included drug taking and selling, defecation and urination, begging and noise from students and groups congregating and littering. The main impacts of the behaviour were concerns about the area looking untidy and feeling unsafe. 8 (35%) respondents said they were not affected by the behaviour. Overall, 16 (70%) respondents were in support of a PSPO to help control street drinking and 5 (22%) respondents opposed the introduction of a PSPO.

5.5 South Manchester (99 survey responses)

76 (76%) respondents were resident in the area
17 (17%) respondents worked in the area
3 (3%) respondents owned or managed a business in the area
1 (1%) representative from the voluntary and community sector
3 (3%) other

The areas highlighted by respondents providing feedback about South Manchester were Chorlton, Whalley Range, Fallowfield, West Didsbury, Didsbury Village, East Didsbury, Northenden, Wythenshawe Park and Wythenshawe Civic Centre. 88 (89%) respondents visited the area almost every day and 93 (94%) respondents had observed street drinking in the area in the past two years. 70 (70%) respondents reported that street drinking took place daily or several times a week. 58 (59%) respondents described street drinking as a major problem and 20 (20%) respondents described it as a minor problem. 21 (21%) respondents said street drinking was not a problem. 74 (75%) respondents thought street drinking was an ongoing problem and 25 (25%) respondents said the problems with street drinking were not

continuing. Afternoons and evenings were identified as the times of day when street drinking took place and the main associated behaviours were littering, groups congregating and urination. The main impacts of the behaviour were concerns about the area looking untidy and people feeling unsafe. 23 (23%) respondents said they were not affected by the behaviour. Overall, 72 (73%) respondents were in support of a PSPO to help control street drinking and 17 (17%) respondents opposed the introduction of a PSPO.

5.6 Unidentifiable locations

7 respondents referenced locations that officers were unable to identify from the survey response. Their feedback is captured in the analysis document.

5.7 All Manchester

15 respondents chose to provide feedback about the whole of Manchester. 11 (73%) of these respondents had witnessed street drinking in the past two years. 12 (80%) respondents said that street drinking was not a problem and 13 (87%) of respondents opposed the introduction of a PSPO. 1 (7%) respondent supported the introduction of an Order and the other respondent did not know whether an Order should be introduced.

Analysis of the statutory consultation responses can be found at **Appendix 5**.

5.8 Written responses

Six separate written responses were received by the Council during the consultation survey period;

- A member of the public from the Moss Side area contacted a Community Representative to express that parks and other green spaces are surrogates for a lack of gardens. The member of the public opposed the introduction of a PSPO stating that the green spaces should be allowed to be used similarly to a shared garden without oppressive rules on where and how people can meet.
- A Council Officer shared information about groups gathering in Platt Fields Park, Fallowfield drinking alcohol and littering the area. The conduct resulted in noise complaints and concerns raised about people using the residential fence line as a toilet.
- An Ardwick Community Representative said, "We would like to see a PSPO in place to prevent drinking in our small parks, Ardwick Green Park, Gartside Gardens, Wonderland Park and West Gorton Community Park, and the open green spaces along Coverdale Crescent, and along Lauderdale Crescent. These open spaces are all in very close proximity to streets of houses and have in recent years begun to attract numbers of street drinkers, causing nuisance, damage to the parks, and occasional abusive and threatening behaviour directed at residents close to their homes."
- A Moss Side Community Representative provided feedback that they broadly supported the aims of the PSPO believing it could be an

effective tool to tackle anti-social behaviour but wanted to highlight that introducing a PSPO in the area needed to be carefully considered. The representative explained that Moss Side has spaces and culture that are communal and the PSPO could potentially conflict with the needs or wishes of the wider community. The representative expressed concern that the proposed Order could be open to disproportionate use against Moss Side residents.

- Two residents jointly contacted a Community Representative to oppose the introduction of a PSPO in the Ancoats and New Islington areas. The response refers specifically to Cutting Room Square having brief problems, associated with the height of lockdown, during the Bank Holiday weekends and very good weather. The response explains that the problems involved people from outside of the area visiting Cutting Room Square and asserts that local people enjoy the outdoors for a drink or a picnic and are generally very civilised. The response concludes by stating that the long term quality of life in the area, which is richer for the ambience that outdoor picnics and drinking allow for, should not be determined by very unusual circumstances.
- A Council Officer shared concerns raised by a person who owned a business premises in the Moston Lane area. They had experienced problems with people drinking and urinating in the Peace Gardens, Moston Lane.

5.9 Greater Manchester Police

Greater Manchester Police (GMP) supports the introduction and appropriate enforcement of a city wide PSPO to control street drinking involving GMP and Council officers working together. GMP said that enforcement would be targeted in areas where there are concerns that street drinking causes or is likely to contribute towards anti-social behaviour. GMP commented that a city wide PSPO would help prevent displacement within Manchester and was practical to implement operationally.

5.10 Police and Crime Commissioner

The Greater Manchester Police and Crime Commissioner expressed support for a PSPO to restrict street drinking in Manchester.

6.0 **Equality Impact Assessment and the European Convention on Human Rights**

6.1 An Equality Impact Assessment (EIA) has been completed considering each of the protected characteristics and vulnerable groups. Officers have worked together with the Council's Equalities, Diversity and Inclusion Team to undertake the assessment. The EIA can be found at **Appendix 6**.

6.2 The Council is a public authority and the Human Rights Act 1998 requires it to act compatibility with the European Convention on Human Rights.

- 6.3 In addition to this general position s.72(1) of the 2014 Act requires the Council to have particular regard to the rights protected by Article 10 (Freedom of Expression) and Article 11 (Freedom of Assembly and Association) when deciding whether to make a PSPO.
- 6.4 Article 10 of the European Convention on Human Rights protects everyone's right to freedom of expression. This includes freedom to hold opinions and to receive and impart information and ideas without interference by public authority. The proposed PSPO does not interfere with this right.
- 6.5 Article 11 of the European Convention on Human Rights protects everyone's right to freedom of peaceful assembly and to freedom of association with others. The proposed PSPO does not interfere with this right. If people were to assemble or associate with others when drinking alcohol in a public place a constable or an authorised person could ask them to stop drinking and surrender their alcohol. There are no prohibitions or requirements contained within the proposed Order that would allow a constable or an authorised person to ask the group to disperse nor prohibit the assembly or association with others.

7.0 Risk of Displacement

- 7.1 The Home Office Anti-Social Behaviour statutory guidance 2021 recommends that consideration is given to the risk of displacement when considering introducing a PSPO. Taking a whole city approach to restricting the consumption of alcohol in public places prevents the risk of displacement within Manchester. The majority of Manchester's neighbouring Local Authority areas have similar PSPOs that restrict street drinking covering the whole of or parts of the area. Therefore, the proposals mean that the overall risk of displacement is low.

8.0 The Proposed PSPO

- 8.1 Having carefully considered feedback from the early engagement, the statutory consultation responses, the risk of displacement, the outcomes of the Equality Impact Assessment, Articles 10 (Freedom of Assembly) and 11 (Freedom of Expression) of the European Convention on Human Rights and the legal threshold it is proposed that a city wide PSPO (excluding the area covered by the City Centre PSPO) is introduced to restrict people consuming alcohol in a public place. This is not a street drinking ban. It's a discretionary power that constables and authorised officers can use when appropriate to address anti-social behaviour associated with street drinking.
- 8.2 With regard to the legal threshold the evidence demonstrates that street drinking in public places has or is likely to have a detrimental effect on the quality of life of people, at times, in most Manchester wards. A summary of the information gathered through the early engagement and direct quotes from statutory survey respondents by ward can be found at **Appendix 7**. Through the statutory consultation 126 Respondents, people who live, work or visit Manchester, told us that they felt unsafe in the city due to street drinking and

associated anti-social behaviour. This detrimental effect on their quality of life is unreasonable. Overall, 205 (75%) statutory survey Respondents told us that the problems associated with street drinking were ongoing.

8.3 It is important to consider that people have provided feedback that they do not experience problems with street drinking and are not supportive of an Order that prohibits street drinking. Some people welcome the opportunity to responsibly drink alcohol in public places outside of licensed premises. These proposals demonstrate that all feedback has been considered and the proposed Order is balanced and proportionate in that it does not ban street drinking in a public place. People are allowed to meet outside for a social drink. A breach of the Order occurs when an authorised person or a constable asks a person to stop drinking alcohol or surrender their alcohol and they fail to comply. Following the consultation, the proposed PSPO has been amended to ensure the wording of the prohibitions make this clear to the public. If the person complies with the request no further enforcement action is taken. Appended to the proposed PSPO is a map of the Restricted Area. The current map is for illustrative purposes only. If the decision is made to introduce a PSPO a more detailed map will be produced. In addition, it is important to consider the enforceability of the proposed PSPO. Having a clearly defined city-wide area supports operational implementation of the proposals for the Council and Greater Manchester Police. Therefore, in conclusion, Officers consider the restrictions and requirements are justified.

8.4 The effect of the proposed PSPO is to give a constable or an authorised person the power to;

- require a person to not consume alcohol or anything which they reasonably believe to be alcohol
- require a person surrender anything in their possession which is, or which they reasonably believe to be, alcohol or a unsealed container of alcohol
- require a person who is suspected of breaching the Order, upon request by the constable or authorised person, to provide their name, address and date of birth to the constable or authorised person.

The proposed PSPO that Officers are recommending introducing can be found at **Appendix 8**.

9.0 Enforcement

9.1 If the PSPO is introduced it will provide an additional discretionary power for both authorised Council and Police Officers to use when appropriate. The approach to enforcement remains as outlined in the Council's Corporate Enforcement Policy and the Anti-Social Behaviour Policy and Procedure. The overarching principles of any enforcement activity are to ensure that decisions are fair and equitable with a strong focus on seeking compliance. Enforcement activity is delivered in a way that is proportionate, accountable, consistent, transparent and targeted. If a decision is made to introduce a PSPO and dependent upon the particular circumstances officers will have the options to

provide verbal advice, issue a warning, make a referral to a support service, issue a Fixed Penalty Notice or prosecute. To become authorised to enforce the PSPO officers will undertake the required training and formal authorisation process. The outcomes of the Equality Impact Assessment and the Human Rights considerations will form a key part of the training package.

Officers will continue to be proactive in the identification of vulnerability and provide appropriate advice, signposting and if necessary, referrals to safeguarding or support services. The enforcing officers work closely with the Council's commissioned drug and alcohol service Change, Grow, Live (CGL). All engagement related to the enforcement of the PSPO will include information about CGL's services so that people can self-refer or, with consent, an officer can make a referral for support on their behalf.

- 9.2 Upon commencement of the PSPO, for the first three weeks, officers will spend time raising awareness of the PSPO. This will involve engaging with all stakeholders and spending time in the Restricted Area speaking with members of the public and anyone else who may be affected by the terms of the Order to raise awareness of the prohibitions, requirements and consequences of breach. Officers will use translation and interpretation services to ensure everyone has a fair opportunity to understand the proposed PSPO and consequences of breaching the Order. During this period the PSPO will not be enforced.
- 9.3 Members of the public will be asked to report breaches of the PSPO using the existing channels to provide details of the incident and the location. This information will be discussed at the Local Partnership Meetings to inform the response and the targeting of resources in particular and repeat locations where street drinking is having or likely to have a detrimental effect on the community.
- 9.4 Officers will record breach actions: the number of verbal warnings, Fixed Penalty Notices and prosecutions.

10.0 Next Steps

- 10.1 Before a final decision is made any feedback or recommendations from the committee will be considered.
- 10.2 The decision to introduce a PSPO is a key decision in the constitution delegated to the Strategic Director Neighbourhoods (in consultation with the Deputy Leader). If the Order is made there follows a period of six weeks in which an appeal can be made to the High Court by an interested person to challenge the decision.
- 10.3 If the Order is introduced, it will be important to closely monitor any activity and review the impact of the PSPO. This will be important to establish any issues with enforcement, identify any areas of displacement, and to understand whether the PSPO is achieving the desired outcomes of the Order.