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Report to: Fiona Worrall, Strategic Director, Neighbourhoods

Date: 31 January 2020

Subject: City Centre Public Space Protection Order

Executive Summary

This report relates to the making of Public Spaces Protection Orders (PSPOs), under the Anti-social Behaviour, Crime and Policing Act 2014 (“the Act”) to address anti-social behaviour in the City Centre by setting out, in numbered articles, various prohibitions and requirements.

We are satisfied that we have met the conditions as set out in section 59 of the Act and that by introducing the PSPOs, this will prohibit certain activities or require specified activities be carried out by persons to ensure compliance with the Orders.

This report sets out the proposed prohibitions and requirements and provides details of consultations carried out, both with partner agencies and the residents of Manchester and seeks approval for the advertising and making of the Orders as proposed.

Recommendations

That the Director of Neighbourhoods:

1. Makes Public Spaces Protection Orders (PSPOs) in respect of the City Centre for a maximum of 3 years
 2. Authorises the advertisement of Public Spaces Protection Orders (PSPOs) in respect of the City Centre
 3. Arranges the discharge of the existing PSPO (which transitioned from a Designated Public Places Order originally introduced in 2006), the provisions of which took effect from 20th October 2017 as though they were PSPOs once the period of challenge has expired or any such challenge has been determined.
 4. Ensures that there is a 6 monthly review of the implementation and impact of the PSPO
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Background Documents

- Antisocial Behaviour, Crime and Policing Act 2014
- Antisocial Behaviour, Crime and Policing Act 2014: Reform of anti-social behaviour powers – Statutory guidance for frontline professionals
- Manchester City Council Corporate Enforcement Policy
- Manchester City Council ASB Policy and Procedures

The Proposed Order Public Spaces Protection Order

Area 1 (city centre defined in Appendix 2)

Article 1: Consumption of alcohol

No person shall consume alcohol in a public place in the Restricted Area (save for those places identified in section 62 of the ASB Crime and Policing Act).

Article 2: Discarding a hypodermic needle or syringe

No person shall discard, other than in an appropriate sharps container, a hypodermic needle or syringe in a public place in the Restricted Area.

Article 3: Urination or defecation

No person shall urinate or defecate in a public place in the Restricted Area. This prohibition does not apply to urinating or defecating in a legitimate toilet facility.

Area 2 (commercial areas within the city centre defined in Appendix 3)

Article 4: Commercial waste - storage

No person shall leave commercial waste in a public place in the Restricted Area other than in secure, commercial waste company containers or commercial waste company sacks. Any such waste shall be left in a manner that prevents escape of waste into the public place.

Article 5: Commercial waste - collection

No person shall leave commercial waste company bins, or commercial company waste sacks in a public place in the Restricted Area for the purposes of collection more than 2 hours prior to their contracted collection time.

Article 6: Health and/or safety risks - obstruction

A person in a public place in the Restricted Area who causes a health and/or safety risk by:

- obstructing the entrance to or exit from any building; or
- obstructing the free passage of pedestrians on or in a stairwell; or
- causing an obstruction which prevents or hinders street cleansing activity;
- or
- causing an obstruction which prevents or hinders the free passage of pedestrians or vehicles

shall, upon valid request of a Constable or an Authorised Person, move from that location within a reasonable time as specified in writing by that Authorised Person.

Article 7: Health and/or safety risks - tents and structures

A person who has erected or is occupying a tent or other temporary structure in a public place in the Restricted Area in a manner that;

- attracts or is likely to attract vermin; or
- creates or is likely to create a health and/or safety risk for any other person

shall, upon valid request of a Constable or an Authorised Person, move from that location within a reasonable time as specified in writing by that Authorised Person.

Article 8: Provision of information upon request

A person who an Authorised Person reasonably suspects of breaching any of the prohibitions or requirements in this Order shall, upon request of that Authorised Person, provide their name, address and date of birth to that Authorised Person.

Article 9: Commercial waste - clearance

A person who has placed commercial waste in a public place in the Restricted Area for collection shall, upon a valid request of a Constable or an Authorised Officer, immediately clear that place of any such commercial waste that escapes from their control.

A requirement under this Article is not valid if the Authorised Person is asked by the person subject to the requirement to show evidence of their authorisation and they fail to do so.

WHAT HAPPENS IF A PERSON FAILS TO COMPLY WITH THIS ORDER?

ALCOHOL

Section 63 of the Anti-Social Behaviour Crime, and Policing Act 2014 provides that where a constable or authorised person has reason to believe that a person has been consuming alcohol in breach of this PSPO or intends to consume alcohol in circumstances which would be a breach of this PSPO, the constable or authorised person may require that person not to consume alcohol or anything which is reasonably believed to be alcohol and/or surrender anything believed to be alcohol or a container for alcohol. Failure to comply without having a reasonable excuse is an offence. A requirement is not valid if, when asked to do so, the constable or authorised person, fails to show evidence of their authorisation. Section 62 (set out in full below) contains a list of exceptions where the ban on consuming alcohol does not apply).

CRIMINAL OFFENCE

Section 67 of the Anti-Social Behaviour Crime, and Policing Act 2014 says that it is a criminal offence for a person without reasonable excuse:

(a) to do anything that the person is prohibited from doing by a public space protection order, or

(b) to fail to comply with a requirement to which the person is subject under a public spaces protection order.

PENALTY

A person who is guilty of an offence under this Order shall be liable to a £100.00 Fixed Penalty Notice, or upon summary conviction to a fine not exceeding level 3 (£1000) on the standard scale.

APPEALS

Any challenge to this order must be made in the High Court by an interested person within six weeks of it being made. An interested person is someone who lives in, regularly works in or visits the Restricted Areas. This means that only those who are directly affected by the restrictions have the power to challenge. The right to challenge also exists where an order is varied by the Council. Interested persons can challenge the validity of this order on two grounds: that the Council did not have the power to make the order, or to include particular prohibitions or requirements; or that one of the requirements of the legislation has not been complied with. When an application is made the High Court can decide to suspend the operation of the order pending the court's decision, in part or in totality. The High Court has the ability to uphold or quash the order or any of its prohibitions or requirements.

LEGISLATION

Section 62

62 Premises etc to which alcohol prohibition does not apply

(1) A prohibition in a public spaces protection order on consuming alcohol does not apply to—

- (a) premises (other than council-operated licensed premises) authorised by a premises licence to be used for the supply of alcohol;
- (b) premises authorised by a club premises certificate to be used by the club for the supply of alcohol;
- (c) a place within the curtilage of premises within paragraph (a) or (b);
- (d) premises which by virtue of Part 5 of the Licensing Act 2003 may at the relevant time be used for the supply of alcohol or which, by virtue of that Part, could have been so used within the 30 minutes before that time;
- (e) a place where facilities or activities relating to the sale or consumption of alcohol are at the relevant time permitted by virtue of a permission granted under section 115E of the Highways Act 1980 (highway-related uses).

(2) A prohibition in a public spaces protection order on consuming alcohol does not apply to council-operated licensed premises—

- (a) when the premises are being used for the supply of alcohol, or
- (b) within 30 minutes after the end of a period during which the premises have been

used for the supply of alcohol.

(3) In this section—

“*club premises certificate*” has the meaning given by section 60 of the Licensing Act 2003;

“*premises licence*” has the meaning given by section 11 of that Act;

“*supply of alcohol*” has the meaning given by section 14 of that Act.

(4) For the purposes of this section, premises are “council-operated licensed premises” if they are authorised by a premises licence to be used for the supply of alcohol and—

(a) the licence is held by a local authority in whose area the premises (or part of the premises) are situated, or

(b) the licence is held by another person but the premises are occupied by a local authority or are managed by or on behalf of a local authority.

Section 63 Consumption of alcohol in breach of prohibition in order

(1) This section applies where a constable or an authorised person reasonably believes that a person (P)—

(a) is or has been consuming alcohol in breach of a prohibition in a public spaces protection order, or

(b) intends to consume alcohol in circumstances in which doing so would be a breach of such a prohibition.

In this section “*authorised person*” means a person authorised for the purposes of this section by the local authority that made the public spaces protection order (or authorised by virtue of section 69(1)).

(2) The constable or authorised person may require P—

(a) not to consume, in breach of the order, alcohol or anything which the constable or authorised person reasonably believes to be alcohol;

(b) to surrender anything in P's possession which is, or which the constable or authorised person reasonably believes to be, alcohol or a container for alcohol.

(3) A constable or an authorised person who imposes a requirement under subsection (2) must tell P that failing without reasonable excuse to comply with the requirement is an offence.

(4) A requirement imposed by an authorised person under subsection (2) is not valid if the person—

(a) is asked by P to show evidence of his or her

authorisation, and

(b) fails to do so.

(5) A constable or an authorised person may dispose of anything surrendered under subsection (2)(b) in whatever way he or she thinks appropriate.

(6) A person who fails without reasonable excuse to comply with a requirement imposed on him or her under subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Offences

67 Offence of failing to comply with order

(1) It is an offence for a person without reasonable excuse—

(a) to do anything that the person is prohibited from doing by a public spaces protection order, or

(b) to fail to comply with a requirement to which the person is subject under a public spaces protection order.

(2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) A person does not commit an offence under this section by failing to comply with a prohibition or requirement that the local authority did not have power to include in the public spaces protection order.

(4) Consuming alcohol in breach of a public spaces protection order is not an offence under this section (but see section 63).

1.0 Introduction

To achieve our strategic objectives of a safe, clean and welcoming city centre the Council and the police use a wide range of informal and formal powers to protect the public and tackle crime and antisocial behaviour. These measures include community resolution, warnings, Acceptable Behaviour Agreements, Community Protection Notices, injunctions, dispersal powers, arrests, prosecution and Criminal Behaviour Orders, alongside appropriate offers of intervention and support.

The use of these powers has enabled the Council and Police to address some of the ASB that occurs in the city, however there are limitations to these powers. Current powers do not always facilitate an appropriate response to some of the problems that are frequently reported in the City Centre, like urination and defecation, health and safety hazards caused by the erection of tents and obstruction of exits, and build-up of commercial waste on the city streets.

In response to these concerns and in conjunction with the police, the Council agreed to explore whether a Public Spaces Protection Order (PSPO) would be an appropriate additional tool to address these behaviours.

This report provides information to support the decision with regard to the proposed Public Spaces Protection Order for the city centre. This includes a summary of the evidence that led to a public consultation, the findings from the consultation and the rationale for the resulting proposed order. It includes the key points raised at the Communities and Equalities Scrutiny on 7 November 2019 and a response to the points raised.

2.0 Evidence of Issues of Concern in Manchester city centre

2.1 The Manchester city centre Survey, which took place from 27 July to the 24 August 2018, received a total of 3002 responses. The survey asked respondents questions about their perception of the city centre. Themes identified through the survey as being problematic issues included alcohol, begging, on street defecation and urination and the overall cleanliness of the area. Nearly half of the respondents were city centre residents.

The following information was also considered in order to better identify the issues that were being reported and experienced in Manchester city centre.

- 2018 -2021 Community Safety Strategy consultation responses
- Greater Manchester Police data from April 2016 to March 2018
- Manchester City Council data on reports of anti-social behaviour and environmental issues
- Community Impact Statements

A summary of the issues and concerns are detailed below.

2.2 Alcohol: Over the previous year a third of arrests in the city centre were recorded as involving alcohol intoxication. More arrests in the city centre

involved alcohol intoxication in comparison to the rest of Manchester. Street drinking is sometimes associated with antisocial behaviour including rowdy and nuisance behaviour, harassment and intimidation of passers-by, as well as the littering of cans and bottles. (If introduced the PSPO will replace the existing city centre PSPO previously known as a Designated Public Place Order which puts restrictions on public drinking). An officer may require an individual to not consume alcohol or surrender their alcohol and failure to comply without a reasonable excuse is a breach of the order.

- 2.3 Begging:** Over the previous three years Manchester city centre accounted for 75% of all incidents in Manchester coded as begging or vagrancy. Members of the public reported that they had been intimidated by people who beg near to cash machines and the entrances of commercial premises. Concerns were also raised about people begging approaching people to ask for money. Examples of the reports received involved incidents of verbal abuse and intimidation associated with begging activity.

The City Centre generated approximately 1328 incidents on GMP systems relating to people begging or asking for money over the three years to March 2018. There are also usually additional elements to those incidents which are reported – e.g. people becoming abusive or aggressive when refused money, or people begging who seem to be particularly vulnerable.

- 2.4 Obstruction of entrances and exits of premises:** Reports continue to be received from residential and commercial premises about people obstructing the entrance or exit of premises, including fire exits. On occasions this has created problems for businesses in terms of them opening or closing their stores. Obstructing a fire exit causes a significant health and safety risk for those inside the building. Residents are fearful when attempting to enter or leave their homes and the access route is obstructed. Several reports have been received that relate to people being verbally abused when they have asked individuals to stop obstructing the entrance or exit to their premises. There were 281 incidents reports to the police that included blocked fire exits or escapes in the three years to March 2018.

- 2.5 Urination and defecation:** The reports received from residents and people working in the city centre inform us that there is a problem with people urinating and defecating outside residents' homes, on the streets and in the vicinity of pubs, clubs and restaurants. The detrimental effect is the odour, the low level health risk, how this type of human waste is often offensive in nature when present in a public space and for those that witness it taking place. In addition reports are received that when people are asked not to urinate or defecate there have been incidents of verbal abuse and intimidation. Analysis of GMP incident data in the three years to March 2018 showed approximately 416 references to people defecating or urinating in a public place over the past 3 years in the City Centre.

Urination and defecation in public spaces can involve indecent exposure of body parts. Reports have been received of individuals exposing themselves in the presence of children and other adults. A report made to the police involved an individual being ejected from a premises who then pulled their pants down

outside the premises and defecated. Another report to the police involved an individual defecating outside a premises and when asked to clean up the faeces they told the victim that if he saw him in the street he would hit him with a bottle.

- 2.6 Disposal of needles:** It has been identified that discarded needles are a significant concern for people living, working in and visiting the city centre. This conduct can have a negative psychological impact, particularly for residents. Concerns have been raised about the potential health and safety risks of needles being disposed of in public spaces without using an appropriate sharps container. Manchester City Council data includes 132 records about drug waste from December 2017 to August 2018.

Biffa (waste contractor) provided reports from their operatives that included “On 3 July 2018, in Piccadilly Gardens, a Biffa operative found a carrier bag full of needles dumped on the seating area quite near to the children’s play area. The bag was removed so the needles could be safely disposed.”

- 2.7 Tents and other structures:** Reports have been received of tents obstructing the highway and the entrances and exits of commercial and residential buildings. Within and surrounding some tents there is evidence of an accumulation of drug paraphernalia, human waste, discarded food items, broken glass and vermin. This has a detrimental impact on the people occupying the tents and the wider community. Existing legislation to address the erection of tents and structures on public land can take time to progress and is ineffective for some circumstances that are presented in the city centre.

An example of a report received in the city centre relating to tents involved the tent causing a fire risk by blocking a fire escape door. It was reported that a group of people occupying the tent had been taking drugs and urinated in the fire escape area. Concerns were expressed that residents could not encourage the group to move due to the risk of verbal aggression. Another report was received involving a tent erected in a car park. It was reported that lots of people were coming and going and there was screaming and shouting coming from the tent. It was stated that the group were defecating on the car park and there was lots of debris around the tent. This report stated that the situation had been ongoing for several days. Officers have described how on occasions they have attended to engage with people occupying tents and found vermin attracted to food and debris. In addition officers report that sometimes tents can become a base for drug use and at times have found tents with drug paraphernalia including used syringes with uncapped needles.

- 2.8 Litter:** There is already legislation in place for the Council to take action when a person commits the offence of littering. Litter and hazardous waste have an impact on the public in terms of health and safety considerations, in addition to being unpleasant visually. The accumulation of items in public places, that create an opportunity to conceal objects, are considered a security risk and should be removed quickly.

- 2.9 Commercial Waste:** The city centre has a high number of and densely located commercial premises that operate across different business models

and at different hours of the day and night. The impact of these businesses not adequately managing their waste is detrimental to the visual amenity of the city centre. There are frequent instances of rat infestation in these areas, which is encouraged by the ready supply of food waste and other materials, often as a result of split bags, where waste has been left out on the street for a prolonged period of time or by individuals going through bags. This is then made worse by the lack of cleansing by premises following incidents of spillage.

2.10 Areas for the PSPO: The areas for the PSPO to cover have been arrived at based on the findings from the city centre survey, data on reports of crime and ASB and taking into account the possibility of displacement. The area also replicates the area of the existing alcohol PSPO that has been in place from when it was originally introduced as a Designated Public Places Order in 2006, transitioning to a PSPO in October 2017. The area of the prohibitions and requirements of the proposed PSPO is identified in Appendix 1. The area for the commercial waste elements of the PSPO is identified in Appendix 2.

3.0 Consultation on a PSPO

3.1 The Council undertook an eight week consultation from 12 February 2019 to 8 April 2019. Information and an online survey was 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 in relation to each of the behaviours
- A draft PSPO including the proposed behaviours, requirements and maps outlining the geographical areas where the terms may apply
- The consequences of breaching a PSPO
- The right to appeal a PSPO.

3.2 The survey included closed and open questions regarding the proposed order. Respondents were given the option to choose which questions they answered in relation to each of the behaviours and requirements. The respondents were able to complete free text fields to provide additional feedback and suggestions.

The draft proposed order which was the subject of the consultation and lists the prohibitions and requirements which were originally under consideration can be found at **Appendix 3**.

3.3 Awareness of the consultation was promoted extensively through a communications and stakeholder plan which is detailed in Appendix 1. Methods of communication included social media, city centre advertising boards and hard copies of the survey were available in Central Library. It was reported extensively in the media and 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 the city centre and the North, Central and South areas and completed surveys with people

who did not have access to the internet. Engagement with residents in the China Town area of the city centre involved utilising an interpreter and translated copies of the consultation survey which enabled residents whose first language was not English to participate in the consultation.

- 3.4** Awareness of the consultation was raised through resident and business groups, councillors, licensed premises, the Community Safety and the Homelessness Partnership, Macc and members of the Safety, Violence and Policing Meeting (voluntary and community organisations), Manchester's housing providers, the faith network, safeguarding boards, taxi licensing, hate crime reporting centres and other city centre 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. Written correspondence was sent to owners and occupiers of land in the proposed area inviting them to participate in the online survey.
- 3.5** Offers were made to facilitate focus groups with people who may be affected by a PSPO to enable them to participate in the consultation via organisations in the Homelessness Partnership . One organisation accepted this offer and a focus group was held attended by a member of staff and engaged former or current service users and their representatives. Other groups and organisations expressed a preference to meet with their service users and clients, without the involvement of Council officers, directly to support them in contributing to the consultation. Officers attended a Youth Council meeting to provide information about the consultation. The young people expressed a preference to participate by completing the survey online.

Consultation took place with statutory consultees;

- Greater Manchester Police
- Police and Crime Commissioner
- Community representatives
- Occupiers and owners of land in the city centre

4.0 Consultation Responses

- 4.1** The consultation received over two thousand responses which have been reviewed and analysed. This included 1996 survey responses, 7 written submissions and 3 complaints specific to the consultation.

Analysis of the survey responses can be found at **Appendix 4**. An independent organisation was commissioned to provide an analysis of the free text fields completed in the consultation. This analysis is provided in **Appendix 5**.

4.2 Statutory Consultee Responses:

Greater Manchester Police (GMP) supports the implementation of a PSPO stating that a PSPO would enhance the Neighbourhood Teams' ability to reduce crime and disorder and maintain public safety. The consumption of alcohol, begging in a manner that causes nuisance, annoyance, fear or distress, the erection and abandonment of tents in public places and obstruction were noted as particular issues that place a significant demand on the Local Policing Team. In regard to begging GMP provided feedback that the teams already demonstrate a sensible use of statutory powers acting proportionately and in a way designed to achieve meaningful progressive outcomes for the community and the individuals concerned.

The Mayor of Greater Manchester (fulfilling the Police and Crime Commissioner statutory obligation to consult) responded to say that these issues need to be dealt with proportionately and sensitively by providing advice for businesses or the individuals committing the unacceptable behaviour. If that advice is not heeded, then firmer action may be required for the benefit of the majority. The response expressed the need to balance the management of the city centre so that it is a welcoming place for visitors and the need to appropriately challenge behaviour that is anti-social, aggressive, intimidating or prevents others from going about their lawful business.

The views of community representatives and owners / occupiers of land were captured through the consultation survey.

4.3 Written responses were received from:

- Psychologists for Social Change
- Chair of Manchester Health & Care Commissioning and MHCC Clinical Lead for Homelessness
- Liberty
- Transport for Greater Manchester (TFGM)
- Manchester Metropolitan University, Programme Leader, MSc Urban Policy and Analytics

These responses were considered alongside the survey responses.

4.4 All the consultation responses are considered in relation to each of the specific behaviours and requirements contained within the draft PSPO and with reference to the legal threshold. It is important to consider each behaviour individually to ensure the legal threshold for that behaviour is met, rather than comparing the survey results across the different behaviours. Proposals have been made as to whether or not the evidence justifies the prohibition/requirement being included in the final Order or if any amendments should be made. The proposed PSPO has taken into consideration, initial evidence that demonstrated the grounds to consult, further evidence provided from the consultation responses, support for the PSPO, alternative

suggestions and local and national developments since the consultation was undertaken.

5.0 Consideration of the articles for a PSPO

Prohibitions

5.1 Alcohol

Article 1 - No person shall consume alcohol in a public place in the Restricted Area (save for those places identified in section 62 of the ASB Crime and Policing Act).

5.1.1 697 respondents believe alcohol to be a major city centre problem. 211 of 1416 survey respondents reported that people drinking alcohol in public places makes them feel unsafe. Respondents also reported a detrimental effect in terms of a noise disturbance, nuisance or annoyance, verbal abuse, physical harm and littering. 621 survey respondents have personally experienced problems with the consumption of alcohol in a public place on either a daily or weekly basis. One third of the arrests in the city centre involve alcohol intoxication. Consumption of alcohol places significant demand on GMP due to the associated crime and disorder. The PSPO will replace the existing city centre PSPO ("Alcohol Restriction Zone"). 907 respondents agreed it should be in the PSPO.

5.1.2 If the restriction on public consumption of alcohol was removed it is likely that problems associated with alcohol related disorder would significantly increase as GMP currently use the existing Order to seize and dispose of alcohol.

5.1.3 It is proposed that this article will be included in a PSPO.

5.2 Begging with associated ASB

Article 2 - No person shall beg for money or any other item in a public place in the Restricted Area in a manner that causes or is likely to cause nuisance, annoyance, fear or distress for or to any other person.

5.2.1 766 out of 1597 respondents reported that begging in this manner had a detrimental effect on their quality of life. 391 respondents stated that the behaviour made them feel unsafe. 995 respondents reported experiencing this problem on a daily or weekly basis. Begging was one of the most significant concerns raised through the city centre survey completed in 2018 and causes significant demand for GMP. 1025 respondents reported that this conduct was a major city centre problem. 962 respondents agreed that it should be in the PSPO and 529 disagreed.

5.2.2 The sanction for breaching a prohibition or requirement included in a PSPO is solely a monetary penalty - either a Fixed Penalty Notice (£100) or a prosecution, criminal conviction and a fine (up to £1000). The PSPO legislation does not allow for requirements to be formally attached to breach proceedings either by issuing a Fixed Penalty Notice or prosecuting an individual at court. On conviction for breach of a PSPO requirement the court

has no power for example to impose a Drug Rehabilitation Requirement (DRR), a Community Order or a 'positive requirement' to engage with services such as homelessness, mental health or substance misuse. Issuing a monetary sanction against a person who has no means to pay has been identified as a concern within a number of responses provided. It is acknowledged that both homeless and accommodated people beg in the city centre. 520 respondents stated that begging in such a manner could be reduced by providing more support to individuals. Unlike other behaviours the analysis of the free text showed that the majority of respondents do *not* agree with enforcing against people begging in an aggressive way or people begging in a non-aggressive way. However, 196 people believed that begging should be dealt with by more enforcement and fines.

- 5.2.3** The Ministry of Housing, Communities and Local Government is currently undertaking a review of the Vagrancy Act 1824. This was a commitment of a wider legislative review outlined in the Government's Rough Sleeping Strategy (2018). Members of the city centre Integrated Neighbourhood Management (INM) Team are actively engaged with the review which has a specific focus on the support and enforcement work in Manchester city centre.
- 5.2.4** Southampton Council has experience of a change in approach in terms of a PSPO begging prohibition. In practice Southampton found that trying to control begging through a PSPO was not effective and did not achieve behaviour change. During the three year period 32 Fixed Penalty Notices were issued for begging and there was one prosecution resulting in a conviction and a conditional discharge. Very few of the FPNs were paid. A review of the approach to enforcement available to tackle begging was undertaken and other interventions were found to have a greater deterrent effect. These interventions include the use of dispersal powers by the police; issuing persistent beggars with Community Protection Notices; and seeking Criminal Behaviour Orders from the Court for those who continued to beg aggressively. Southampton decided to remove controls on begging in the extended order.
- 5.2.5** City centre INM partners continue to evolve their approaches to begging raising awareness of the issues and a 'what works' approach engaging with custody suites, the courts, the public, probation, voluntary and community organisations and substance misuse services. A funded project working with people who beg and are accommodated continues to achieve success through engaging people in their residential localities outside of the city centre and increasing use of the accommodation provision. This had led to people stopping or significantly reducing their time spent begging. These developments in policy and practice continue to inform our approach in the city centre. GMP data shows that the number of recorded incidents of begging or people asking for money in the city centre has declined.
- 5.2.6** Whilst there is evidence of detriment and persistence, this should be balanced by the ongoing work to address this issue in ways more likely to have an impact which has been demonstrated by the experiences in Southampton.
- 5.2.7** It is proposed that this article will not be included in the PSPO.

5.3 Needles

Article 3 - No person shall discard, other than in an appropriate sharps container, a hypodermic needle or syringe in a public place in the Restricted Area.

- 5.3.1** 523 people describe this behaviour as a major problem. 389 respondents out of 1094 said this behaviour had a detrimental effect with 118 people describing the effect caused by seeing or personally having to dispose of needles. 353 respondents said they experienced the problem daily or weekly and 560 said they experienced the problem less frequently or never. In addition to having to see or dispose of needles 76 people expressed health and safety concerns. 774 respondents agreed it should be included in the PSPO, 241 disagreed.
- 5.3.2** It is recognised that these issues are particularly detrimental for those people that live in the city centre. Analysis of those individuals that had a city centre postcode showed that a higher proportion of those that responded to the question experienced a more persistent issue found it to be more unreasonable and detrimental. 142 out of 212 saying it was a major problem and 120 out of 204 citing that it was detrimental.
- 5.3.3** The detriment has been demonstrated specifically for city centre residents.
- 5.3.4** It is proposed that this article will be included in the PSPO.

5.4 Urination and Defecation

Article 4 - No person shall urinate or defecate in a public place in the Restricted Area. This prohibition does not apply to urinating or defecating in a legitimate toilet facility.

- 5.4.1** 575 respondents said urination had a detrimental effect and 708 respondents said it did not. 680 respondents stated they experienced this problem on a daily or weekly basis and 702 respondents said this is a major problem for the city centre. 921 respondents agreed that it should be included in the PSPO.
- 5.4.2** 394 respondents said that defecation had a detrimental effect and 669 said it did not. 394 people describe defecation as a major problem in the city centre whereas 564 people state this is a minor problem or not a problem. 751 respondents agreed that it should be in the PSPO. Analysis of the impact on city centre residents also demonstrated that the impact of this behaviour was greater for those city centre residents that responded to the question with 131 out of 208 identifying a detriment and 118 out of 212 citing as a major problem.
- 5.4.3** For both urination and defecation the respondents suggested that as an alternative to using a PSPO to address these issues there was a need to improve public services. Further analysis was undertaken to identify how respondents believed public services could be improved. Overwhelmingly a specific suggestion made by 735 respondents was improved public toilet facilities in the city centre. In response to these concerns the Council has

made a commitment to extending the opening hours of the Lloyd Street public toilet provision.

5.4.4 Evidence of detriment and harm has been demonstrated for urination in the consultation responses and defecation has been identified as a greater concern for city centre residents. As noted above improved availability to toilet facilities has been sought as a result of the consultation.

5.4.5 It is proposed that this article will be included in the PSPO.

5.5 Tents

Article 5 - No person shall erect or keep a tent or other temporary structure in a public place in the Restricted Area in a manner that:

- attracts, or is likely to attract, vermin; or
- creates, or is likely to create, a health and/or safety risk to any person

5.5.1 339 respondents stated this had a detrimental impact in comparison to 974 who said it did not. The main detriment identified was that tents were visually unsightly which has a relatively low harm impact on individuals. 524 respondents stated they experienced a problem with this behaviour on a daily or weekly basis. 441 described this as a major problem and 864 respondents said this was a minor problem or not a problem for the city centre. 617 respondents agreed that it should be included in a PSPO, 632 disagreed. When asked about alternative actions 501 respondents suggested that more support should be provided to individuals and 164 respondents said that people should not be criminalised in regard to tents. 88 respondents suggested removal and enforcement.

5.5.2 The evidence is limited for this to be included as a prohibition, however it will be included as a requirement to enable a reasonable and proportionate response to be available to address the issue.

5.5.3 It is proposed that this article will not be included in the PSPO as a prohibition, however it is proposed that it is included as a requirement (see below).

5.6 Commercial Waste - Storage

Article 6 - No person shall leave commercial waste in a public place in the Restricted Area other than in secure, commercial waste company containers or commercial waste sacks. Any such waste shall be left in a manner that prevents escape of waste into the public place.

5.6.1 484 respondents experienced this problem on a daily or weekly basis and 468 respondents described this conduct as a major problem for the city centre. 384 respondents out of 809 said this conduct did have a detrimental effect and 425 said it did not. The main detrimental effects were littering or mess, visually unsightly and raised concerns about vermin. 662 respondents agreed that it should be included in the PSPO whilst 79 disagreed. Waste, unlike other

behaviours, involves the main respondent suggestion to tackle this issue being more enforcement or fines (159 suggestions).

5.6.2 Whilst the number of respondents for this article is lower, the proposal corresponds to a smaller area of the city and is therefore likely to impact fewer individuals.

5.6.3 The consultation responses demonstrated persistence and unreasonableness for those that responded and the article is supported by 80% of the 828 respondents

5.6.4 It is proposed that the article will be included in the PSPO.

5.7 Commercial Waste - Collection

Article 7 - No person shall leave commercial waste company bins, or commercial company waste sacks in a public place in the Restricted Areas for the purpose of collection more than 2 hours prior to their contracted collection time.

5.7.1 300 respondents said they experienced this problem on a weekly or daily basis out of 606 respondents. 222 respondents said this conduct had a detrimental effect on their quality of life and 347 said it did not. 269 respondents said this was a major problem for the city centre whilst 255 people said it was a minor problem or not a problem. 399 respondents agreed that this should be included in the PSPO and 84 disagreed.

5.7.2 It is proposed that this article will be included in the PSPO.

5.8 Requirements

5.8.1 The consultation responses in respect of the requirements included in the PSPO consultation are detailed below. Requirements are not blanket bans but support a formal request from an authorised officer. Currently there is no opportunity to require individuals to address these behaviours. The inclusion of requirements will give additional powers to both council and police officers to be able to formally request actions to address ASB.

| | Strongly agree | Agree | Neither agree nor disagree | Disagree | Strongly disagree | Don't know | Response Total |
|--|-----------------------|----------------|-----------------------------------|-----------------|--------------------------|-------------------|-----------------------|
| Identification – give their name, date of birth and address to someone investigating | 42.7% (836) | 17.6% (345) | 6.6% (129) | 7.9% (154) | 23.2% (454) | 2.0% (40) | 1958 |

| | | | | | | | |
|---|-----------------|----------------|---------------|---------------|----------------|--------------|------|
| a breach of a PSPO | | | | | | | |
| Litter – immediately, when asked to pick up any litter or rubbish that they have dropped or left, and properly dispose of it. | 62.1% (1215) | 22.7% (445) | 4.4% (87) | 2.0% (39) | 7.5% (146) | 1.3% (26) | 1958 |
| Obstruction – move from an entrance, exit or stairway that they are obstructing, within a reasonable time | 46.1% (902) | 20.4% (400) | 7.4% (144) | 6.7% (131) | 17.5% (342) | 1.9% (38) | 1957 |
| Obstruction – move, within a reasonable time, if they are stopping street cleaning | 45.4% (889) | 24.2% (474) | 7.8% (153) | 6.6% (130) | 14.5% (283) | 1.5% (29) | 1958 |
| Obstruction – move, within a reasonable time, if they are stopping people or vehicles passing | 49.2% (958) | 22.9% (446) | 7.6% (148) | 5.8% (113) | 13.2% (257) | 1.3% (26) | 1948 |

| | | | | | | | |
|--|-----------------|----------------|---------------|---------------|----------------|--------------|------|
| Tent – move, within a reasonable time, a tent or other temporary structure that is attracting or is likely to attract vermin | 43.6% (851) | 15.5% (302) | 7.4% (144) | 9.4% (183) | 22.2% (434) | 1.9% (37) | 1951 |
| Tent – move, within a reasonable time, a tent or other temporary structure that is a health or safety risk | 44.7% (871) | 16.3% (317) | 7.6% (149) | 9.1% (178) | 20.4% (397) | 1.8% (36) | 1948 |
| Commercial waste – immediately clean up any spillages | 68.7% (1344) | 20.6% (402) | 3.7% (73) | 1.1% (21) | 4.5% (87) | 1.4% (28) | 1955 |
| | | | | | | answered | 1970 |
| | | | | | | skipped | 26 |

5.8.2 Consultation responses supported the inclusion of all the requirements, however having considered the consultation responses it is proposed that these requirements are amended as follows:

5.8.3 It is proposed that changes be made to the requirements concerned with obstructions and erection of tents and structures to clarify that these are intended to address health and safety risks. The amended requirements are: Health and/or safety risks - obstruction

A person in a public place in the Restricted Area who causes a health and/or safety risk by:

- obstructing the entrance to or exit from any building; or
- obstructing the free passage of pedestrians on or in a stairwell; or
- causing an obstruction which prevents or hinders street cleansing activity; or
- causing an obstruction which prevents or hinders the free passage pedestrians or vehicles

shall, upon valid request of a Constable or an Authorised Person, move from that location within a reasonable time as specified in writing by that Authorised Person.

Health and/or safety risks - tents and structures

A person who has erected or is occupying a tent or other temporary structure in a public place in the Restricted area in a manner that

- attracts or is likely to attract vermin; or
- creates or is likely to create a health and/or safety risk for any other person

shall, upon valid request of a Constable or an Authorised Person, move from that location within a reasonable time as specified in writing by that Authorised Person.

5.8.4 It has been identified that implementation of existing legislation to address littering is having a positive impact on the cleanliness of the city and as such additional provision in the PSPO is not considered to be necessary.

6.0 The Proposed PSPO

The resulting proposed Public Spaces Protection Order prohibitions and restrictions are detailed below:

Area 1 (city centre defined in Appendix 1)

Article 1: Consumption of alcohol

No person shall consume alcohol in a public place in the Restricted Area (save for those places identified in section 62 of the ASB Crime and Policing Act).

Article 2: Discarding a hypodermic needle or syringe

No person shall discard, other than in an appropriate sharps container, a hypodermic needle or syringe in a public place in the Restricted Area.

Article 3: Urination or defecation

No person shall urinate or defecate in a public place in the Restricted Area. This prohibition does not apply to urinating or defecating in a legitimate toilet facility.

Area 2 (commercial areas within the city centre defined in Appendix 2)

Article 4: Commercial waste – storage

No person shall leave commercial waste in a public place in the Restricted Area other than in secure, commercial waste company containers or commercial waste company sacks. Any such waste shall be left in a manner that prevents escape of waste into the public place.

Article 5: Commercial waste – collection

No person shall leave commercial waste company bins, or commercial company waste sacks in a public place in the Restricted Area for the purposes of collection more than 2 hours prior to their contracted collection time.

Article 6: Health and/or safety risks – obstruction

A person in a public place in the Restricted Area who causes a health and/or safety risk by:

- obstructing the entrance to or exit from any building; or
- obstructing the free passage of pedestrians on or in a stairwell; or
- causing an obstruction which prevents or hinders street cleansing activity; or
- causing an obstruction which prevents or hinders the free passage of pedestrians or vehicles

shall, upon valid request of a Constable or an Authorised Person, move from that location within a reasonable time as specified in writing by that Authorised Person.

Article 7: Health and/or safety risks - tents and structures

A person who has erected or is occupying a tent or other temporary structure in a public place in the Restricted Area in a manner that;

- attracts or is likely to attract vermin; or
- creates or is likely to create a health and/or safety risk for any other person

shall, upon valid request of a Constable or an Authorised Person, move from that location within a reasonable time as specified in writing by that Authorised Person.

Article 8: Provision of information upon request

A person who an Authorised Person reasonably suspects of breaching any of the prohibitions or requirements in this Order shall, upon request of that Authorised Person, provide their name, address and date of birth to that Authorised Person.

Article 9: Commercial waste - clearance

A person who has placed commercial waste in a public place in the Restricted Area for collection shall, upon a valid request of a Constable or an Authorised Officer, immediately clear that place of any such commercial waste that escapes from their control.

A requirement under this Article is not valid if the Authorised Person is asked by the person subject to the requirement to show evidence of their authorisation and they fail to do so.

7.0 Considerations from Communities and Equalities Scrutiny

7.1 The Communities and Equalities Scrutiny Committee received a report of the Head of Compliance, Enforcement and Community Safety which provided an update on the outcome of the consultation for the city centre proposed PSPO on 7 November 2019.

Officers referred to the main points and themes within the report, which included:

- Background information;
- Supporting people with vulnerabilities;
- Evidence of issues of concern in Manchester city centre;
- The consultation and consultation responses;
- Consideration of the articles for a PSPO;
- The proposed PSPO;
- Enforcement;
- Equality Impact Assessment (EIA) and Human Rights; and
- Next steps.

The following issues and discussion took place in response to the report.

7.2 Kathy Cosgrove from Greater Manchester Law Centre expressed concern about the lawfulness and fairness of the consultation. She advised that it did not include enough information, for example, on existing powers, to enable respondents to make an informed decision. She also stated that it was not balanced and that the way it was carried out as an online consultation meant that it did not target and was not accessible to some of the people who would be most impacted by the proposal, particularly homeless people. She also advised that the consultation responses were not presented fairly, not showing the full range of responses to the open text questions. She reported that the evidence presented did not demonstrate justification for the proposed PSPO, stating that it did not demonstrate that it would achieve its aims and that the benefits would outweigh the risk of harm. She expressed concern that the PSPO would indirectly discriminate against homeless people who could not avoid breaching it and were often members of other minority groups. She outlined the significant challenges facing homeless people and stated that the report did not address the additional risk of harm to this group which, she advised, the proposed PSPO would present. She stated that many professionals in this area of work and related fields were opposed to the proposed PSPO. She also reported that some other local authorities had

introduced similar measures which had not been successful. A Member supported her comments.

- 7.3** Dr Morag Rose from the University of Liverpool outlined her concerns about the consultation, stating that it included leading and ambiguous questions, that it had received very few responses from homeless people, that some shop workers in the area had been coerced by their managers to complete it and that the analysis was flawed. She advised that there was academic evidence against the use of PSPOs to address the behaviours outlined. She also expressed concern that the proposed PSPO could criminalise protest and that it sent a negative message about attitudes towards homeless people.
- 7.4** The Ward Councillors for the city centre wards of Deansgate and Piccadilly were invited to comment on the proposals. They provided a number of examples of the negative effect of the current situation on local residents, including repeated instances of people urinating and defecating outside their homes, alcohol consumption and associated litter and fighting, drug dealing and drug paraphernalia, receiving abuse and blocked entrances to residential buildings, which made residents feel intimidated going into and out of their home. A Ward Councillor for Deansgate noted that it was important not to penalise vulnerable people for unavoidable behaviour, that this had been given consideration in the proposals, and that this was the reason they had requested and obtained 24-hour access to the public toilets on Lloyd Street. He advised that it was important to provide support to people experiencing this issue from both sides and to find a solution that worked for everyone. Another Ward Councillor for Deansgate reported that begging in the city centre had increased and this was often not by people who were rough sleeping. She reported that local residents were sympathetic to the situation of vulnerable people but that the issue needed to be addressed. She reported that the police and Council officers did not just take enforcement action against vulnerable people but assessed their vulnerabilities and offered support to them. She outlined the dangers of people sleeping in tents and in doorways, which were often fire escapes.
- 7.5** The Deputy Leader of the Opposition reported that, while he accepted the points in the report about commercial waste and anti-social behaviour related to drinking and drug-taking, he was concerned about how the proposed PSPO would impact on vulnerable people living on the streets. He advised that the proposed PSPO would be a blunt tool to deal with complex issues and, in his opinion, it was the wrong approach. He commented that more 24-hour toilets were needed across the city. He highlighted that article 8 of the proposed PSPO required the individual to provide their address to the Authorised Person, which a homeless person could not do. He questioned how the Committee could consider the proposals without knowing the enforcement protocol. He emphasised the need to consider the disproportionate impact on those living on the streets and the necessity and proportionality of the proposals.

Some of the key points that arose from the Committee's discussions were:

- Recognition of the issues being experienced by city centre residents;
- The need to provide support to vulnerable people with complex needs;
- The importance of providing facilities such as 24-hour toilets and sharps bins for disposing of needles so that vulnerable people could avoid breaching the articles in the proposed PSPO;
- To ask what difference the PSPO would make and why this was preferable to using existing powers to tackle these issues;
- To question the appropriateness of fining vulnerable people with no means to pay a fine and the impact this would have on the relationship that Council officers were trying to build with these individuals to encourage them to engage with support services;
- Whether there was evidence that this would be effective;
- Whether a PSPO would just displace people outside the city centre rather than address the problem;
- That a significant number of the respondents to the consultation said the issues identified did not impact on their quality of life;
- How much money had been spent so far on the process for this PSPO, how much would it cost to implement and whether this money could be better spent on the valuable work the Council was already doing in this area; and
- That the Vagrancy Act 1824 should be reviewed.

7.6 The Committee decided:

- To ask the decision maker and Deputy Leader to take into account all the views raised when making their decision
- That if the decision maker wishes to respond to the Committee on any of the points raised, they are welcome to do so.

8.0 Response to issues raised at Community and Equalities Scrutiny Committee

8.1 Support for people with vulnerabilities

The discussion highlighted a significant level of concern about support for people with vulnerabilities in the city centre, this was also reflected in the consultation. It is recognised that in Manchester some people who are involved in behaviours that the PSPO is seeking to address have support needs and some may be rough sleeping or begging. The ambition for the city is to support each individual in addressing their particular situation thus reducing drivers leading to individuals committing ASB.

Both Council outreach teams and the dedicated GMP team commence engagement with an individual on the street with an offer of practical support and signposting to relevant services. A proactive outreach team from substance treatment provider *Change Grow Live (CGL)* is also part of the partnership and aims to motivate and support people to access treatment services including alcohol support.

The approach is supportive and assertive. We support the message and campaign driven by *Big Change* Manchester which seeks to encourage members of the public to donate to charities and groups working with people who are on the streets rather than give money to people who are on the streets. This is to ensure that resources are used to support people to move on and make positive changes in their lives

rather than sustaining a life on the streets. In Manchester city centre, there are free meals readily available provided by indoor services including those commissioned by the Council.

Whilst there has been success in many individual cases and our approach is making a positive difference, the impact is diminished when the bigger picture is considered as the city continues to see new people on the streets.

Our absolute priority remains to support anyone who is in need and connect them with the services which can help improve their lives. The introduction of the PSPO would not change our approach, but would provide an extra tool to address some of the challenges that we are experiencing in the city centre. The proposed PSPO is targeted to address anti-social behaviours therefore individuals will not be fined for rough-sleeping or homelessness.

8.2 Lawfulness and fairness of the consultation

It was raised that the online consultation did not allow those who were homeless or work with homeless people to know about the proposals. As detailed in section 3.0 of the report activity was undertaken to engage with both individuals and support services that worked with people who live or sleep on the street. This included provision of paper copies of the survey as well as on street engagement and the offer of sessions for support agencies including those in the Homeless Partnership.

Unlawful consultation - Legal advice has been sought throughout the process and the full details of the range of consultation that took place throughout the period this is enclosed in Appendix 1.

8.3 Justification that the PSPO will work

Members of the Committee asked whether there was evidence that the PSPO would be effective. Whilst there are no published evaluations of PSPOs with similar prohibitions and requirements, we are clear that this offers an additional tool to work with others to address anti-social behaviour. It is proposed that there be regular review of the use of the power so that the impact of the PSPO can be evaluated and reviewed.

8.4 Equality Impact Assessment (EIA)

Concern was raised that the order will disproportionately impact homeless people and that this is not captured in the EIA. Homelessness in itself is not a protected characteristic and consequently is not detailed specifically in the EIA. However it has been identified that articles 6 and 7 may have a greater impact on individuals within the street-based community who may be homeless, and that this may include a higher proportion of individuals that have physical or mental health disabilities. The EIA has therefore been reviewed to consider the disability disproportionate impacts in more detail. The EIA has been reviewed by the Equalities Team in Manchester City Council who are satisfied it addresses the required considerations. This has now been reflected

in an updated EIA (Appendix 6).

8.5 Provision of services

Improved availability to toilet facilities has been sought as a result of the consultation on the PSPO, with 24 hour access to the Lloyd Street facilities now available. Sharps bins are available from all needle exchanges. Needle exchange provision is also currently being reviewed as part of a wider piece of work to review Public Health primary care services in the city.

8.6 Displacement

There are partnership arrangements to address anti-social behaviour in local neighbourhoods across the whole city. Additional investment was identified in 2019/20 to double the capacity of the city-wide Antisocial Behaviour Action Team in response to concerns about ASB in local neighbourhoods. There are existing examples of multi-agency work that have been undertaken to address issues such as street drinking, tents and anti-social behaviour in areas outside of the City Centre, albeit not in the same volume. Learning from the city centre approach to these issues has been used to inform our responses in other areas of the city. Part of the implementation of the PSPO will be to monitor any displacement and ensure that it is responded to appropriately.

8.7 Convention Rights

In accordance with section 72 of the Human Rights Act, particular regard has been given to the rights of freedom of expression (Article 10) and freedom of assembly and association (Article 11) in the Human Rights Act when deciding whether to proceed with the proposal to make a PSPO.

It has been found that Article 10 is not directly impacted by the proposed PSPO. In consideration of Article 11, the statutory guidance for PSPOs has also been taken into account. The statutory guidance states that “It is important that councils do not inadvertently restrict everyday sociability in public spaces”

The order has been carefully drafted to ensure that it does not amount to a prohibition of people gathering and that the prohibitions and requirements specify the activity and behaviour that is having a detrimental impact on the community.

Article 8 of the Human Rights Act, a right to privacy and family life, has been considered in terms of the health and safety requirement for tents and other structures. It was noted that the effect on a private life is compromised by the fact that the order relates to a public place in the city centre, it would therefore not be appropriate to determine such areas as a private home. Article 8 also states that “there shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others” .In response to the consultation and in order to allow a proportionate response to the issue, the article concerning tents has been made a requirement rather than a prohibition. This approach will allow officers to respond appropriately to the individual circumstances that are presented.

8.8 Enforcement

A number of issues raised around who would carry out enforcement and fining people who are homeless or have no means to pay a fine. The proposed PSPO will provide additional powers 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. To become authorised to enforce the PSPO officers will undertake the appropriate training and formal authorisation. Guidelines have also been drafted that will make the approach clear and ensure that officers understand the appropriate circumstances to issue a fine and consider whether a referral to other services or alternative action should be taken. 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.

9.0 Recommendations

That the Director of Neighbourhoods:

1. Makes Public Spaces Protection Orders (PSPOs) in respect of the City Centre for a maximum of 3 years
2. Authorises the advertisement of Public Spaces Protection Orders (PSPOs) in respect of the City Centre
3. Arranges the discharge of the existing PSPO (which transitioned from a Designated Public Places Order originally introduced in 2006), the provisions of which took effect from 20th October 2017 as though they were PSPOs once the period of challenge has expired or any such challenge has been determined.
4. Ensures that there is a 6 monthly review of the implementation and impact of the PSPO