

Report Title:	Proposal for the extension of the Public Spaces Protection Orders (PSPO) in Windsor and Maidenhead
Contains Confidential or Exempt Information?	No - Part I
Member reporting:	Councillor Cannon, Lead Member for Public Protection and Parking
Meeting and Date:	Licensing & Public Space Protection Order (PSPO) Sub Committee, 28 November 2019
Responsible Officer(s):	Chris Nash, Community Protection Principal
Wards affected:	All

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REPORT SUMMARY

Public Spaces Protection Orders (PSPOs) were brought in under the Anti-social Behaviour, Crime and Policing Act 2014, which came into force on 20 October 2014.

PSPOs specify an area where activities are evidenced to be taking place that are detrimental to the local community's quality of life. PSPOs impose conditions or restrictions on people using that area; such as alcohol bans or putting up gates.

1. This report deals with the proposal to extend the existing PSPOs and maintain the current conditions in Windsor, Maidenhead and Ascot.
2. The report's recommendation would see the current conditions continue and be enforceable for a further 3 years.
3. This report summarises responses to a consultation, undertaken by the Royal Borough of Windsor and Maidenhead (RBWM), which asked for public and stakeholder views on the proposed extension.
4. The Panel should then decide whether an extension of the PSPOs is appropriate in this case.

1. DETAILS OF RECOMMENDATION

RECOMMENDATION: That members of the Panel consider the report and data collated from the PSPO consultation and:

- i) Approve the extension of the existing areas for a period of three years.
- ii) Approve the RBWM Community Wardens as authorised persons for the purposes of section 63(1) of the Anti-Social Behaviour Crime and Policing Act 2014, for the purposes of enforcing the renewed orders.

2. REASONS FOR RECOMMENDATIONS AND OPTIONS CONSIDERED

Background

- 2.1 The Anti-Social Behaviour, Crime and Policing Act 2014 made a number of changes to the law on anti-social behaviour.
- 2.2 PSPOs were brought in as part of a Government commitment to put victims at the centre of approaches to tackle anti-social behaviour (ASB); focusing on the impact behaviour can have on both communities and individuals, particularly on the most vulnerable.
- 2.3 The legislation stated that PSPOs were to replace Designated Public Places Orders (DPPOs), dog control orders and gating orders in addition to a range of other behaviours that local authorities can now regulate in public spaces.
- 2.4 RBWM had 4 DPPOs in place; these are commonly referred to as 'alcohol free zones'. These related to more than 120 separate locations, under s.75 of the ASB Act, DPPOs were automatically replaced by PSPOs on 20 October 2014. (detailed within 'PSPO 1'- as below)
- 2.5 Prior to the implementation of PSPO 3, there were numerous reports from local residents regarding people congregating in the alleyway, urinating, drinking alcohol, aggressive drunken behaviour, littering, intimidating local residents and passers-by and making noise. Since the introduction of the PSPOs, reports of anti-social behaviour have reduced which is reflected in feedback into the consultation, which indicates that residents have recognised an improvement.
- 2.6 RBWM undertook a consultation (as summarised within section 8 of this report) to see whether local residents of the borough and people who had a connection to the area would support the proposal to extend the 3 existing Public Spaces Protection Orders – with 93% of respondents supporting
- 2.7 To simplify the administration of the process, the two previous PSPOs relating to alcohol (PSPOs 1 and 2) are proposed to be combined within a single simplified order. The requirements will remain the same.
- 2.8 The report also recommends that the panel approve the RBWM wardens as authorised persons for the purposes of section 63(1) of the Anti-Social Behaviour Crime and Policing Act 2014 – this is for the purpose of enforcing the renewed orders (ie: permitting the seizure of alcohol and the issuing of fines, as appropriate).
- 2.9 The recommendations would see the following PSPOs (Table 1) extended for a further 3 years:

Table 1: Description of PSPOs currently in place

No	Name of PSPO	Condition
1	PSPO alcohol consumption 2015	Authorised person can ask persons to stop drinking or for alcohol, container with alcohol to be handed over or level 2 fine (maximum of £500).
2	The Brocas: Footpath 51 and 30 Eton 2016 and Meadow Lane Car Park Eton.	Authorised person can ask persons to stop drinking or for alcohol, container with alcohol to be handed over or level 2 fine (maximum of £500) to prevent public nuisance or disorder.
3	Footpath Eton 51	Restrict public right of way between hours of 10pm and 5am via installation, operation and maintenance of an electronic gate. Gate managed by Eton Thameside Management company ltd

Table 2: Options arising from this report

Option	Comments
To extend the existing 3 PSPOs for a further 3 years and maintain the current conditions. This is the recommended option.	To allow the conditions in the existing PSPO to remain and be enforced by authorised persons.
Take no action and allow the existing PSPOs to expire.	This option is not recommended as it would mean the PSPOs would cease and that individuals partaking in anti-social drinking in a public place could not be challenged formally and that the gating order would also cease resulting in a possible increase in anti-social behaviour.

3. KEY IMPLICATIONS

Table 3: Key Implications

Outcome	Unmet	Met	Exceeded	Significantly Exceeded	Date of delivery
PSPOs are extended for a further 3 years and the existing conditions remain in place and	The PSPOs conditions are no longer in place and authorised officers cannot enforce	Conditions remain in place and anti-social drinking is enforced. Footpath	Reports of anti-social behaviour continue to remain low.	Residents feel safe and this is reflected in the resident's survey.	30.11.20

Outcome	Unmet	Met	Exceeded	Significantly Exceeded	Date of delivery
the requirements are enforced by authorised officers.	behaviours. Reports of anti-social behaviour increase.	remains gated.			

4. FINANCIAL DETAILS/VALUE FOR MONEY

- 4.1 There are no financial implications at this time. The levels of Fixed Penalty Notices were approved by Cabinet on 27 September 2018.

5. LEGAL IMPLICATIONS

- 5.1 The Royal Borough is empowered under s.59 of the Anti-Social Behaviour, Crime and Policing Act 2014 to make PSPOs where activities carried on in a public place have had, or are likely to have, a detrimental effect on the quality of life of those in the locality;
- Are, or are likely to be, persistent or continuing in nature;
 - Are, or are likely to be, unreasonable; and
 - Justify the restrictions imposed.
- 5.2 Furthermore, under s.59, the Royal Borough has to consider the restrictions, and the duration of the order proposed.
- 5.3 Section 66 of the Anti-Social Behaviour, Crime and Policing Act allows that an interested person, i.e. *“an individual who lives in the restricted area or who regularly works in or visits that area”*, may challenge the validity of a PSPO by application to the High Court where:
- A local authority did not have power to make the order; or
 - That a requirement under the legislation was not complied with
- 5.4 Additionally, Regulation 2 of the Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014 requires that the Royal Borough must take certain steps to publicise PSPOs.
- 5.5 The legislation stipulates that PSPOs must be subject to regular review. New orders should ideally be reviewed after a year, and thereafter PSPOs must be reviewed triennially.
- 5.6 Finally, under s71, RBWM must have had regard to the Rights of Freedom of Expression and of Assembly under the Human rights Act 1998, before making the Order. European Human Rights considerations are covered overleaf.

6. RISK MANAGEMENT

Table 4: Impact of risk and mitigation

Risks	Uncontrolled risk	Controls	Controlled risk
Legal challenge to the validity of the PSPO process	Reputation damage to the Council, potential court costs	<ul style="list-style-type: none"> • Public consultation on PSPOs • PSPO panel to decide on local PSPOs • Cabinet to decide on strategic new PSPOs in future. • Initial review of individual PSPOs and Triennial reviews of all PSPOs 	Low

7. POTENTIAL IMPACTS

- 7.1 Equalities: There are no equality impacts that have been identified through the EIA screening process.
- 7.2 Climate change/sustainability: If a PSPO is approved, there are several considerations going forward: The legislation stipulates that PSPOs must be subject to a regular review. New orders must be reviewed after a year, and thereafter PSPOs must be reviewed triennially.
- 7.3 Data Protection/GDPR: Data Protection Impact Assessment is not required. The information journey is captured in the Privacy notice which can be found on https://www3.rbwm.gov.uk/download/downloads/id/4589/privacy_notice_community_safety_public_spaces_protection_order_consultation.pdf
- 7.4 The Council has had regard to the rights and freedoms set out in Article 10 (right of freedom of expression) and Article 11 (right of freedom of assembly) of the European Convention of Human Rights and has concluded that the restrictions on such rights and freedoms imposed by this Order are lawful, necessary and proportionate.

8. PUBLIC CONSULTATION

- 8.1 The consultation to propose the extension of the three existing Public Spaces Protection Orders went live on the Royal Borough of Windsor and Maidenhead website on 16 September 2019 for a period of six weeks until 27 October 2019. Details of the consultation responses are listed in Appendix 3).

9. TIMETABLE FOR IMPLEMENTATION

- 9.1 The full implementation stages are set out as below:

Date	Details
28.11.19	Panel convened to decide whether a PSPO is appropriate.
28.11.19	If the Panel is satisfied that a PSPO is appropriate, the Council's solicitor shall be authorised to issue the Orders with the revised date and seal.
The Orders will be sealed as quickly as possible after the panel have approved their making.	Extended Orders sealed.
2.12.19	The extended Orders will be published on the website and notices will be erected at the sites as considered sufficient.
9.01.20	Challenges to the PSPO must be made to the High Court within 6 weeks of the order being made.
28.11.20	Panel convened to review whether to continue/amend/remove order.
01.08.22	Triennial review

10. APPENDICES

- 10.1 This report is supported by 3 appendices:
- Appendix 1 – Consultation Documents
 - Appendix 2 – Consultation Questionnaire
 - Appendix 3 – Consultation Responses

11. BACKGROUND DOCUMENTS

- 11.1 This report is supported by 4 background documents:
- Equality Impact Assessment
 - Privacy Notice
 - Public Space Protection Orders are established in sections 59 to 75 of the Anti-Social Behaviour, Crime and Policing Act 2014. This can be viewed at: <http://www.legislation.gov.uk/ukpga/2014/12/part/4/chapter/2/crossheading/public-spaces-protection-orders/enacted>
 - Guidance on the legislation is available on the Home office publication: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/823316/2019-08_05_ASB_Revised_Statutory_Guidance_V2.2.pdf

12. CONSULTATION (MANDATORY)

Name of consultee	Post held	Date sent	Date returned
Cllr Cannon	Lead Member for Public Protection	19 th Sept 2019	20 th Sept 2019
Duncan Sharkey	Managing Director	19 th Sept 2019	20 th Sept 2019
Russell O'Keefe	Executive Director	19 th Sept 2019	20 th Sept 2019
David Scott	Head of Communities	19 th Sept 2019	20 th Sept 2019

13. REPORT HISTORY

Decision type:	Urgency item?	To Follow item?
Key decision	No	
Report Authors: Chris Nash, Community Protection Principal Mandy Mann, Anti-Social Behaviour Co-ordinator		

Appendix 1

Notice of Consultation for extension of Public Spaces Protection Orders

The Royal Borough of Windsor and Maidenhead are carrying out a consultation on extending our Public Spaces Protection Orders (PSPOs).

PSPOs propose to deal with nuisance in a particular public space that is having a detrimental effect on the quality of life for those in the local community. It can prohibit certain things or require specific things to be done.

The Royal Borough of Windsor and Maidenhead currently have three PSPOs in Windsor, Maidenhead and Ascot and these have been effective in preventing alcohol related anti-social behaviour and anti-social behaviour in a footpath during their operation and if not extended there is a significant risk that the activities would recommence and the quality of life of the local residents may be adversely affected.

We are proposing to extend the current PSPOs for an additional three years with the existing restrictions and requirements which would see the PSPOs being in place until 2023.

The consultation will run for 6 weeks from **Monday 16 September 2019 until midnight Sunday 27 October 2019.**

For more information on PSPOs and to feed into our consultation please visit our website - <https://www3.rbwm.gov.uk/forms/form/485/> or call 01628 685636 to leave your comments.

Appendix 2

Consultation on proposal to extend the three Public Space Protection Orders in Windsor, Maidenhead and Ascot for 3 years.

Residents are being invited to provide feedback on a proposal for a three year extension to the Public Spaces Protection Orders (PSPO), listed below:

- a) Alcohol Consumption – Borough wide (previously DPPO).
 - If the consumption of alcohol has a detrimental effect of those in the locality, an authorised person can ask persons to stop drinking or for an alcohol container to be surrendered or face a level 2 fine.
- b) Alcohol Consumption – Brocas / footpath 51 and 30 / Meadow Lane Car Park (Eton College Land).
 - An authorised person can ask persons to stop drinking or for an alcohol container to be surrendered or face a level 2 fine, to prevent public nuisance or disorder.
- c) Gating of Footpath 51.
 - Restrict public right of way between hours of 10pm and 5am via installation, operation and maintenance of an electronic gate.

Public Spaces Protection Orders propose to deal with nuisance in a particular area that is having a detrimental effect on the quality of life for those in the local community. It can prohibit certain things or require specific things to be done. Repeated reports of drunk and disorderly behaviour and blockage of the footpath were seen by the council as having, or likely to have, a detrimental effect on the community's quality of life. As a result, we implemented borough wide PSPOs for Windsor, Maidenhead and Ascot and a gating order to the footpath to address these behaviours, enabling our Community Wardens and other authorised persons to issue on-the-spot fines. The PSPOs have been effective in preventing these activities during its operation.

We are proposing to extend the current PSPOs for an additional three years with the existing restrictions and requirements which would see the PSPOs being in place until 2023.

Residents have until midnight 27 October 2019 to give their feedback on extending the PSPOs.

Proposal to extend the Public Spaces Protection Orders (PSPO) in Windsor, Maidenhead and Ascot

COMMENT FORM

Please see supporting information explaining the proposed order before completing this form.

1. In what capacity do you wish to respond to this consultation?

- As a local resident
- On behalf of a local business
- On behalf of a community or voluntary group
- Other (please specify)

2. What is your postcode?

3. Which age band best describes you?

- Under 18
- 18-24
- 25-34
- 35-44
- 45-54
- 55-64
- 65 and over

4. How far do you agree or disagree with the proposed extension of Public Spaces Protection Order (PSPO) for Windsor, Maidenhead and Ascot? (Please tick)

Name of PSPO	Strongly agree	Agree	Disagree	Strongly disagree
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a) Alcohol consumption- Borough wide				
b) Alcohol Consumption – Brocas/Footpath 51 / Footpath 30 / Meadow Lane Car Park (Eton College Land).				
c) Gating of Footpath 51.				

5. Are there any other issues in relation to anti-social behaviour in public spaces that you think could be addressed by using a Public Spaces Protection Order?

6. Do you have any comments or suggestions on the proposed extension of Public Spaces Protection Orders (PSPO) for Windsor, Maidenhead and Ascot?

Thank you for your responses.

This consultation closes on midnight Sunday 27 October 2019

Queries about the questionnaire can be emailed to: anti.social@RBWM.gov.uk
**Post: FAO Mandy Mann, Community Safety, Town Hall St Ives Road
Maidenhead SL6 1RF**

Appendix 3 – Summary of Public Consultation

Name of consultee	Post held	Date sent	Date returned
Ian Mellor	Buildings & Facilities Director Eton College		27.03.19
Paul Edwards	As Chairman of the board of directors for Eton Thameside Management Co Ltd (landlord / land owner)		06.08.19
Hannah Brown	Office of Police and Crime Commissioner	11.09.19	13.09.19
Anthony Hurst	Parks and Countryside Manager	11.09.19	11.09.19
Jacqui Wheeler	Parks and Countryside Access Officer		
Cllr Peter Lawless	Eton Town Councillor	11.09.19	23.09.19
Ron Lewandowski	Mayor – Chairman of Eton Town council	11.09.19	23.09.19
Ros Rivaz	chair of the Eton Community Association	11.09.19	23.09.19
Insp Louise Warbrick	Engagement & Resilience Inspector, Windsor & Maidenhead Neighbourhood Team	13.09.19	13.09.19
Douglas Hill	Eton Town Councillor		25.09.19

Background

The consultation consisted of an explanation and copies of the existing PSPOs and a brief outline of the proposal and a short survey (Appendix II). The survey allowed local residents or people with a connection the Borough to express whether they agreed or disagreed with the proposal to extend. The survey also encouraged residents to provide their views on what other behaviour could be covered by the PSPOs. This data will be used to inform proposals for PSPOs in the future.

The consultation was publicised via the RBWM twitter and facebook pages and notices in public areas such as libraries, notice boards in shops and parish council's notice boards. We also sent out a Thames Valley Alert.

Letters were posted to residents in a specific area where the PSPO extension would have a direct impact.

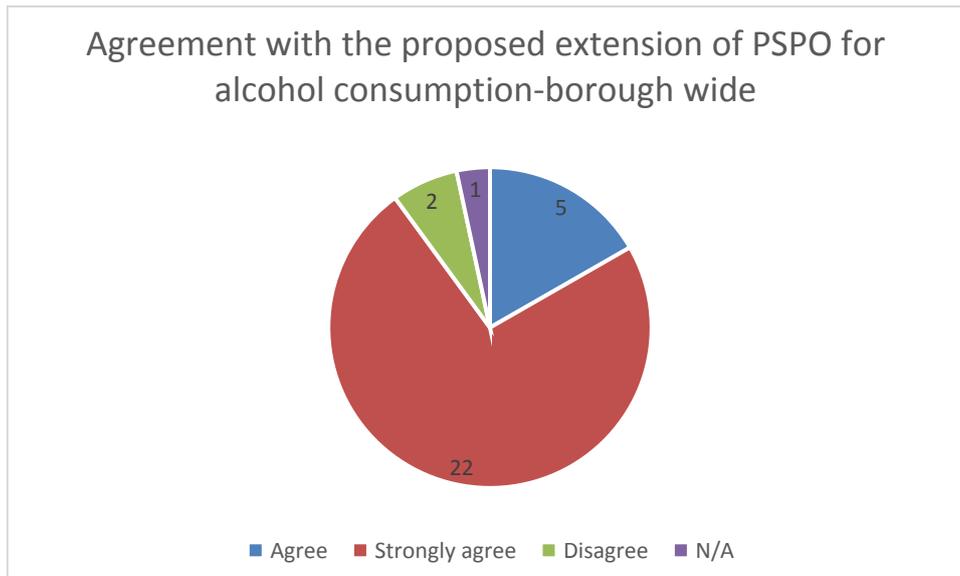
RWBM consulted with key stakeholders such as Thames Valley Police, Police and Crime Commissioner (PCC), Councillors, Eton Town Councils, landowners and resident groups.

Consultation responses

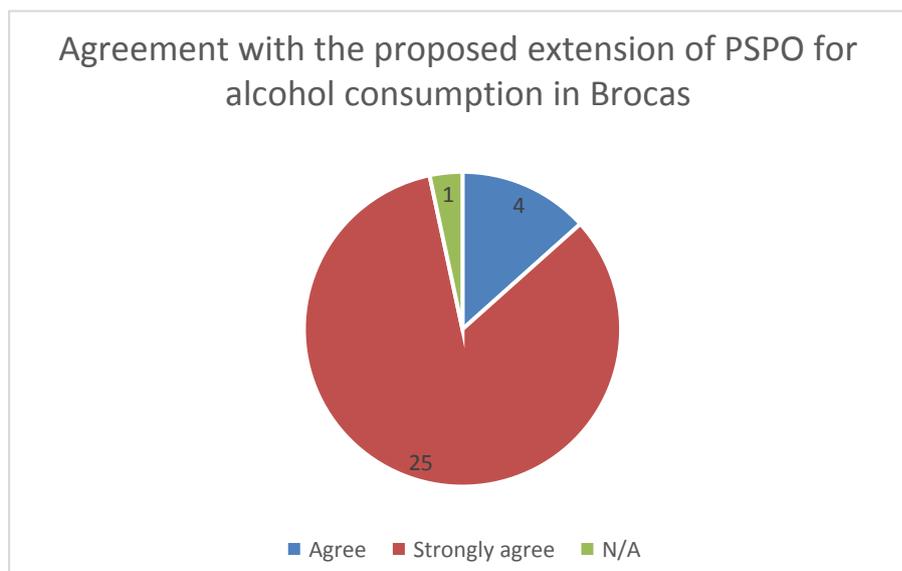
In total 30 people responded to the consultation, three of the responses were via paper survey and submitted via the post. 27 of the responses were via the online survey accessed through the RBWM webpage. All responses can be seen in Appendix III.

For each PSPO, residents were asked the following question:
“How far do you agree or disagree with the proposed extension of Public Spaces Protection Order (PSPO) for Windsor, Maidenhead and Ascot?”

In relation to PSPO 1, 27 respondents agreed or strongly agreed to the proposed extension. Only 2 respondents disagreed, no one strongly disagreed and 1 respondent did not give a response (this has been categorised as N/A)

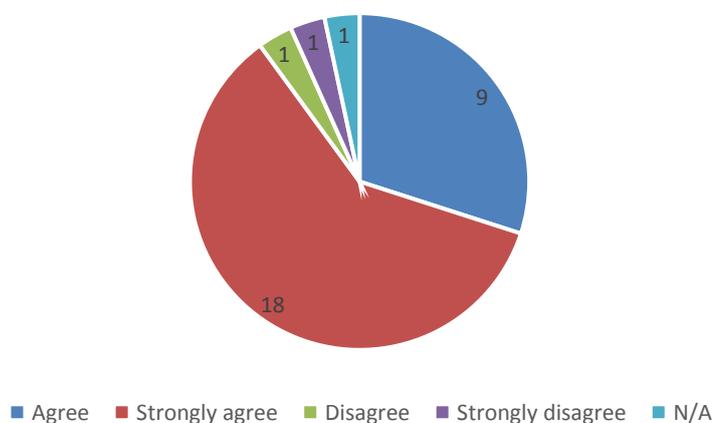


In relation to PSPO 2, 29 respondents agreed or strongly agreed to the proposed extension. None of the respondents disagreed and one respondent did not give a response (this has been categorised as N/A).



In relation to PSPO 3, 27 respondents agreed or strongly agreed to the proposed extension. Only two respondents disagreed or strongly disagreed, and one respondent did not give a response (this has been categorised as N/A)

Agreement with the proposed extension of PSPO for gating order on footpath 51



Residents were also asked the following question:

“Are there other issues in relation to anti-social behaviour in public spaces that you think could be addressed by using a PSPO?”

Of the 30 responses to the consultation, 11 respondents answered this question. All responses can be seen in Appendix IV.

We received a number of comments reporting drug use:

How about all the local areas where drug use is rife. Or is this only for alcohol?

“Drug selling under the large tree on the Brocas is rife. It would be great to clarify whether it's just for alcohol or for anything else. Dedworth has an extremely bad drug culture, the police don't want to know so what do we do, just let these scum deal to our youngsters?”

Drug related offences have not been considered for inclusion in the PSPO as they are already covered under existing criminal legislation which holds larger consequences than PSPO legislation.

Summary Responses

Do you have any comments or suggestions on the proposed extension of Public Spaces Protection Orders for Windsor, Maidenhead and Ascot?

It would be great to clarify whether it's just for alcohol or for anything else. Dedworth has an extremely bad drug culture, the police don't want to know so what do we do, just let these scum deal to our youngsters?

I feel that the following sites should be included in the PSP. Osgood Park, Sutherland Grange, Play park behind the Spencer Denny centre, plat park in Knights Close and Victoria Park.

PARTICULAR EMPHASIS SHOULD BE PLACED ON ENFORCING THE PSPO ON THE WINDSOR -ETON BRIDGE; TOWPATHS AND THE BROCAS AREA

This PSPO has helped improve the amount of anti-social behaviour - we have particularly noticed this improvement on The Brocas and in and around the Windsor-Eton Bridge Area. Why cannot the PSPO be put in place permanently - or if not, then reviewed only every 5 or 10 years.

I have noticed since the Protection Order was put in place that the anti-social behaviour mainly due by consumption of alcohol on the Brocas has reduced significantly.

No

Anything that can help support the police and community wardens to deal with anti-social behaviour is welcomed.

I think there are areas in Windsor & Maidenhead which are similarly affected by drunken behaviour, particularly at night. One aspect of having a PSPO in place is probably that the Police/PCOs are more aware of patrolling these areas and it makes a real difference. I would support extensions. It is hard to find good reasons why behaviour of this type should not be discouraged, really.

Can we have a consultation on other public spaces that might/should be covered by PSPOs in the borough?

They don't go far enough!

The Brocas Resident Group campaigned for a number of years previously for a DPPO and then a PSPO on the Brocas. We feel that it has made a considerable difference since it was applied 3 years ago and strongly support its continuation.

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Are there other issues in relation to anti-social behaviour in public spaces that you think could be addressed by using a PSPO?

How about all the local areas where drug use is rife. Or is this only for alcohol?

I would like drug use added to this as I consider the use and selling of these to actually be greater than the problems with alcohol

Can it be extended to smoking in public places?

Dogs must not be exercised on marked sports pitches. Fires including barbecues must not be lit or used in public open spaces unless expressly permitted

Loitering around people's houses.

I think that drug use should be included as well as alcohol consumption as this is a problem in Maidenhead town centre. There should also be greater powers made available to deal with individuals who refuse to engage with help from service providers and continue to be a nuisance/ threat to the general community.

We do see frequent drug taking in many areas of Eton and often smell cannabis in the air at night. Occasionally there are fishermen who fish at night across FP51 (is that allowed?) and last week our 2 year old granddaughter got tangled in some discarded fishline and nearly tripped into the Thames! However, it is clear that the incidences of drunkenness, aggression and night time incursion which was a huge problem on FP51 in particular has markedly declined and I am sure this must be because of the PSPOs and particularly the gating of FP51, for which we are hugely grateful. It has made a great difference to safety and life in the areas.

There is anti-social behaviour on the recreation ground in Datchet. This includes young people with catapults and people riding motorbikes.

Yes ; Gypsies parking on the Town Moor ; Our town centre public spaces need protection from their anti-social behaviour including : dogs barking all night; dumping their rubbish on these lovely parkland spaces and driving vehicles on the grass churning up the surfaces making them unusable for Us, the locals who use this area.

More police on PCSO presence on the Brocas, we do not have any.

PSPOs are a good idea but require enough officials to enforce them.