

TAMWORTH COMMUNITY SAFETY PARTNERSHIP – PSPO PROCESS

STAGE 1 - IDENTIFICATION OF POTENTIAL PSPO

This will come from a variety of routes – including, but not exclusively:

- Partnership problem solving – daily meetings, hotspots, intelligence
- Recorded complaints from the public
- Public consultation
- Elected members
- Residents Groups
- Neighbourhood meetings
- Recorded crime (Staffordshire Police)
- Review of existing bye-laws
- Issues resulting from the management of public open space

The process to be followed is below. Responsibility for overseeing this process will vary depending upon the focus of the PSPO.

It is important that the PSPO is used proportionately and that it is not seen to be targeting behaviour of the children/young people where there is a lack of tolerance and understanding by local people. Consideration must also be given to the Equality Act when setting out restrictions or requirements.

When making a PSPO, the impact on other areas and the level to which displacement is likely to occur should be included.

OVERSEEING THE PROCESS

The officers who will contribute to that the process and from whom evidence will be gathered, will vary depending upon the type of behaviour to be addressed but will include (but not exhaustive):

- Tamworth Community Safety Partnership (TCSP) officers
- Neighbourhood Services Officers
- Community Wardens
- Streetscene
- Environmental Health Officers
- Housing Officers
- Police officers
- Ward Councillors
- Community Groups
- Destination Tamworth (Town Team)
- Relevant Tamworth Borough Council departments
- Townsafe member (PABCIS)
- Chamber of Commerce
- Trading Standards
- Residents in the area proposed
- Businesses in the area proposed
- Staffordshire Highways
- The owner of the land (if not the Council)

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The TCSP will collate and share all record all complaints, obtain crime evidence, ensure that the tests are met and produce appropriate risk assessments.

Tamworth Police (via the Chief Inspector) will be a statutory consultee in all cases.

Information must include:

- A map of the defined area that is subject of the PSPO
- Explain the activities that are having the detrimental effect
- Explain the sanctions available on breach
- Specify the period of time the PSPO will be in effect for (maximum 3 years before review)

The evidence will be presented with a recommendation to move draft a PSPO and proceed to consultation or not based on the evidence.

STAGE 2 - AUTHORISATION FOR PUBLIC CONSULTATION

A summary of the problems and proposed draft PSPO (where applicable) will be presented by the nominated Portfolio Holder (ASB) at Cabinet who will agree to the consultation process being undertaken.

This should include a copy of the determination sheet to ensure the relevant tests are met.

The relevant Cabinet report will be presented by the originating department who will lead on implementation.

CONSULTATION

The consultation that is undertaken will depend on the location and the particular issues to be addressed. The consultation will be proportionate but not excessive. At least 28 days will be allowed for the consultation process.

The consultation on the draft PSPO will be via

- Press release to the newspapers
- Tamworth Borough Council website
- Social Media
- Notices in the relevant area
- Via Ward Councillors

Details on how to appeal against the proposed PSPO will be included in all communications,

PROCESS TO APPROVE PSPO IMPLEMENTATION

The decision will be taken by elected members in the most expedient manner. Proposed process Tamworth Borough Council:

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- Cabinet to approve (or not) the public consultation on draft PSPO based on evidence received
- Evidence of appeal (or not) from the consultation to be presented at Scrutiny Committee to endorse PSPO or refer back to TCSP to consider appeals
- Portfolio Holder to sign off PSPO under Delegated Authority powers

All reports will include relevant risk assessments, equality impact assessments, enforcement options and financial implications (including signage and publicity costs and long term maintenance liability for any fixed assets)

STAGE 3 - PUBLIC NOTIFICATION OF NEW PSPO

The processes used will vary from case to case but will ensure the following principles are followed in accordance with regulation:

- The publicity is proportionate and cost effective
- It takes account of the different languages spoken in the area

General publicity may include:

- Press release
- Council website
- Residents' newsletters (where appropriate)
- Leaflets (where appropriate)
- Social media

All notices must contain the prescribed information:

- A map of the defined area that is subject of the PSPO
- Explain the activities that are having the detrimental effect
- Explain the sanctions available on breach
- Specify the period of time the PSPO will be in effect for
- Details and time limits for appeals

The lead responsible officer will issue a final letter to all Partner Agencies and the source of the original referral (if a private person) informing them of the implementation of the PSPO and its terms.

APPEALS

From the date the PSPO becomes active, those with an interest in the defined area, such as, Local Residents or members of the Public who regularly use the defined area, have the right to appeal.

Any appeal must be made in directly to the High Court. And on the grounds that the Local Authority has failed In its consultation process or that the two required grounds have not been met.

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Any appeal must be made within 6 weeks (42 days ending on a Sunday) of the PSPO becoming live.

All appeals should be directed to the Lead Officer for appropriate action.

STAGE 4 - ENFORCING THE PSPO

The power to enforce the PSPO will be given to under the following agencies when requested and agreed memorandum of understanding and delegation:

- Police officers
- PCSOs
- Designated Council officers (inc Housing)
- Designated RSL officers (if appropriate)
- Trading Standards Officers (if appropriate)

It will be for the Council delegated officer to ensure that the PSPO is effectively enforced. This Head of Service together with the Chief Executive and other members of the Corporate Management Team are the Council's Proper Officers for PSPO enforcement and can delegate other officers accordingly.

In enforcing a PSPO, it is an offence for a person, without reasonable excuse, to:

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

Where any person is in breach of PSPO or is requested to desist from consuming alcohol forthwith and **fails** to comply: **

- Staffordshire Police will secure a Witness Statement in an agreed form and pass to Tamworth Borough Council (Neighbourhood Services) for recording.
- TBC officers will complete a (prescribed incident ticket) and return to TBC Environmental Management

For a first offence, an officer duly authorised by Tamworth Borough Council will issue a **Fixed Penalty Notice** to the person concerned.

Where a Fixed Penalty Notice is issued and paid within the timeframe prescribed, no further action will be taken and the offence will have been discharged. Where a Fixed Penalty Notice is not duly paid, the Council will consider all of the recovery options open to it in accordance with the Law and its Corporate Enforcement Policy.

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Should any person found in breach of a PSPO or fail to desist drinking alcohol in a PSPO controlled drinking zone by an authorised Council officer or from Staffordshire Police for a **second** time within any **six month** period, a duly authorised officer from Tamworth Borough Council will consider issuing a **formal prosecution** against the individual in accordance with the Law and the Council's Corporate Enforcement Policy.

Those who are found to be breaching the PSPO will be given the opportunity to discharge the offence by way of a Fixed Penalty Notice. The arrangements for doing this will be agreed locally:

- The level of the FPN will be £100
- Agreement will be reached with Staffordshire Police about issuing FPN on behalf of the Council and how this will be done

Notwithstanding any failure to comply PSPO restrictions, Staffordshire Police retain all other prevailing powers to deal with anti-social behaviour and public order offences.

**** Alcohol Restrictions**

In the case of an alcohol restriction PSPO the person will be requested to desist drinking in the first instance. The officer(s) providing the request will use their discretion about confiscation and disposal of alcohol.

Where any person is requested to desist from consuming alcohol forthwith and immediately complies, Staffordshire Police will verify the details of the person and pass them to Tamworth Borough Council for recording. A warning letter will be sent to the person which will contain suitable narrative.

Although it is only an offence to continue drinking alcohol in a controlled drinking zone when told not to do so by an authorised officer, who, in the case of the proposed PSPO would be a Police Officer, Staffordshire Police and the Police and Crime Commissioner have been very clear that they would adopt a zero tolerance approach to anyone caught consuming alcohol in the controlled drinking zone. Tamworth Police will be fully consulted on this approach.

VARIATIONS

The Local Authority can choose to vary the PSPO at any time within its' lifespan. Should variations be required, the Lead Officer must repeat stages 1 – 3. Once completed, the varied terms should be assimilated into any public notices as per stage 3.

EXISTING ORDERS

There are a number of current orders which will be replaced by the PSPO:

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- Designated Public Place Order – Alcohol Restricted Zones
 - Town Centre
 - Amington
- Tamworth Borough Council (2012) Dog Control Orders:
 - Fouling of land
 - Dogs on lead at all times
 - Dog on lead by request
 - Dogs prohibited
- Gating Orders
 - Maldale
 - Ludgate

There is the ability to replace existing orders with a PSPO at commencement. Alternatively they can continue for 3 years when they will transfer over to a PSPO.

Each local area will decide whether:

- To leave as the current order and allow to move over in 3 years
- To replace immediately with PSPO
- To discharge the existing order as no longer needed

These orders will be reviewed as per the agreed process before 20 October 2017.