



SAFER CAERPHILLY PARTNERSHIP

Public Spaces Protection Orders – Explanatory Notes

1. What are Public Spaces Protection Orders?

Public Spaces Protection Orders (PSPOs) were introduced by the Anti-Social Behaviour, Crime and Policing Act 2014. PSPOs are intended to deal with problems in a geographical area by imposing conditions that apply to the use of that area. They are designed to ensure that the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour.

PSPOs replace a number of existing orders, Designated Public Place Orders, Gating Orders and Dog Control Orders.

PSPOs can prohibit a wider range of behaviours than existing orders complementing the existing 'good rule and governance bye laws' but with a fixed penalty available on breaches.

There is less government oversight than with bye laws and less reporting requirements. The consultation and publication of orders are intended to be more cost effective with no requirement to use newspapers.

There is, however, a right of appeal to the High Court within 6 weeks of an order being made or varied. The grounds are that there was no power to make the order, or its restrictions, or that it was improperly made.

2. Who can make a Public Spaces Protection Order?

The Local Authority is responsible for all existing and new orders including gathering evidence of continuing need and consulting adequately with the community.

The enforcement of PSPOs can be the responsibility of Authorised Officers of Caerphilly County Borough Council, Police Constables and Community Support Officers (if designated).

PSPOs can apply on any public space to which the public, or any section of the public has access, whether or not payment is required to enter, and whether or not provision to enter is expressed or implied e.g. a shopping centre.

3. What Sort of Activity can Public Spaces Protection Orders Prohibit?

The definition in the Act is very wide and allows, subject to the proper consultation, that PSPOs be issued for activities such as:

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- Drinking in a public place
- Ensuring dogs are kept on a lead
- Allowing access to certain areas by residents (and legitimate callers) only
- Preventing access to a certain place for a limited time to prevent crime
- Prohibiting access to areas other than for intended purposes e.g. bus stations and interchanges

In the instance of drinking in a public place breach of a PSPO only occurs if asked to stop drinking by an Authorised Officer and the person refuses to do so. This is to allow discretion where the consumption of alcohol is not associated with anti-social behaviour e.g. a family picnic in a public park where a small amount of alcohol is being consumed. PSPOs do not apply to premises covered by the Licensing Act 2003.

A PSPO will identify:

- The activities referred to
- The area covered
- The duration of the order
- The effect of Sections 63 or 67 of the Act

4. How long do Public Spaces Protection Orders Last?

PSPOs last for a maximum period of 3 years. They may be renewed for a further 3 year period (or such shorter time as required) provided they are reviewed, assessed and remade before they expire.

PSPOs will be made based on evidence of need and an initial consultation and publicity. In order to be renewed or extended there must be a continuing need. Some orders e.g. those preventing the consumption of alcohol are likely to be reviewed and renewed over an extended period of time.

Existing orders (Designated Public Place Orders, Gating Orders and Dog Control Orders) will continue for a period of 3 years after which time it is expected that it will be reviewed and converted to PSPOs.

Public Spaces Protection Orders can be varied by:

- Increasing the area covered
- Altering, reducing or removing a prohibition/requirement
- Adding a new prohibition/requirement

Public Spaces Protection Orders may be discharged such that they cease to have effect. Any variation or discharge must be published.

5. What is the Process for making a Public Spaces Protection Order?

The Local Authority must be satisfied that two conditions are met;

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- i. That activities are having a detrimental effect on the quality of life of those in the locality, or it is likely that activities in that area will have such an effect; and
- ii. The effect will be of a persistent or continuing nature, is unreasonable and justifies the restrictions imposed by the order.

If the Local Authority is satisfied that the necessary conditions are met, it will define that restricted area and will prohibit the activity, restrict the activity, or both, in the terms of the order.

Before making, varying, extending or discharging a PSPO the Local Authority must consider the European Convention on Human Rights with regards to article 10 (freedom of expression) and article 11 (freedom of assembly). The Local Authority must also consult with the Chief Officer of Police and the Office of the Police and Crime Commissioner. As well as whatever community representative the Local Authority considers necessary, and the owners/occupiers of any land in the restricted area, if it is practical to do so.

The Local Authority must also notify parish councils and community councils.

A prohibition/requirement may be framed so that it applies to everybody or specified categories of people; so that it applies all the time or at specified times; so that it applies in all circumstances or only in specified circumstances.

A PSPO, or variation, must be published on the Local Authority's website, and by notices placed in the vicinity of the restricted area. Similar notices must be placed when the order is discharged. Notices must be sufficient to draw attention to the fact an order is in place and the effect it has.

Orders may last for a maximum of 3 years, however, they can be extended before they expire if it is necessary, based on reasonable grounds, to prevent a recurrence of the behaviour that originally supported the order. An extension can only be for a maximum of 3 years. Extensions must be published in the same way as original orders i.e. on the Local Authority website and by notices placed in the area.

6. What About Rights of Way?

A restriction on a public right of way on a highway can only be made after considering;

- The likely effect on nearby occupiers of premises
- The likely effect on other persons in the locality
- If the highway is a through route, the availability of convenient alternative routes

Before making PSPOs that affect rights of way there must be a consultation with local affected persons who can make representations that must be considered.

Such PSPOs are restricted in that;

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- Occupiers access from the highway cannot be restricted
- They can't affect access to dwellings where no other access exist
- They can't affect access to businesses or recreational facilities
- They can't affect rights of way on special roads, trunk roads, classified or principal roads, strategic roads and highways

A barrier may be erected and the PSPO may authorise the operation and maintenance of such barriers.

7. What Happens if I Breach a Public Spaces Protection Order?

An offence is committed under Section 67 of the Act to do anything that is prohibited, or fail to do anything that is required by a Public Spaces Protection Order.

On conviction the maximum fine is set at Level 3 (£1,000).

Consuming alcohol in contravention of an PSPO is only an offence under Section 63 if asked not to do so, or if failing to surrender the alcohol on request. On conviction the maximum fine is set at Level 2 (£500).

A constable or authorised person may issue a Fixed Penalty Notice under Section 63 or 67. If accepted as an alternative to prosecution it will discharge any liability for the offence.

The Fixed Penalty Notice amount is set a £100, or £75 if paid within 7 days, and is payable to the Local Authority.