

Oxford city centre Public Spaces Protection Order

Why are we proposing the PSPO?

Oxford City Council is committed to creating a safe and welcoming city centre for residents, businesses and tourists. We are introducing a PSPO in response to complaints about persistent nuisance behaviour. It clearly sets out the standards of behaviour acceptable in our city centre and challenges those who are causing a nuisance to people going about their normal daily lives.

The PSPO addresses eight behaviours that cause particular nuisance in the city centre, identified through complaints to the police and council. These behaviours are considered to have a detrimental effect on those in the locality and are persistent and unreasonable. The behaviours are aggressive begging, inappropriate use of public toilets, illegal street trading, control of dogs, the consumption of alcohol in a public place, noise nuisance and obstruction by street entertainers, cycling in prohibited areas and urination or defecation in a public place.

The order can be enforced by local authority officers, the police and other delegated organisations, such as the City Centre Ambassadors. There are currently no plans to delegate the powers to any other organisations.

How will the PSPO work?

The PSPO is a power available to the police and council officers that gives them a formal mechanism to challenge these identified nuisance behaviours, knowing that they have a legal remedy to draw upon if necessary. Explaining to people why their behaviour is not acceptable is often enough to deal with a situation. We see this regularly in the way the police undertake their role, challenging anti-social behaviour and eliciting a positive change without the need to resort to enforcement action.

If the behaviour does continue officers have the option to use the powers set out in the Act. These are a Fixed Penalty Notice (maximum £100) or prosecution in the Magistrates Court. If the prosecution is successful, the court is responsible for deciding the action taken which could include a fine (maximum £1,000) or the granting of a Criminal Behaviour Order.

Has the new draft of the PSPO taken on board Liberty's concerns?

We have listened to the representations provided by Liberty in June and amended our report. The council has discussed the amended report with Liberty and asked them to write to us, detailing any residual concerns. Their letter and the council's response from Law and Governance will be given to City Executive Board members to assist in their deliberations at the Board meeting on the 15th October. The residual concerns do not, in the view of the Council's Solicitor, prevent the Board from lawfully adopting the proposed Order.

Fixed Penalty Notices

A £100 Fixed Penalty Notice (FPN) can be offered by an officer to a person in breach of the PSPO. It gives the person the option to pay a fine and not be reported to court, thus avoiding a criminal record if found guilty. It is at the officer's discretion whether to offer a Fixed Penalty Notice.

Prosecution at the Magistrates Court

A decision may be made to prosecute a person for the offence of breaching the PSPO. This can happen for non-payment of the Fixed Penalty Notice or where the individual is repeatedly breaching the PSPO and it is decided that the Magistrates Court is best placed to determine the matter.

When appearing at the Magistrates Court the defendant is required to pay a court fee. Guilty pleas incur a £150 charge. The charge varies depending on whether the case goes to trial and the seriousness of the offence. Depending on the circumstances, the Court may also decide to punish the defendant by use of a fine. The Court must also impose the victim surcharge which goes to the Victim and Witness General Fund used to assist support agencies.

Magistrates are able to require a person to engage in positive activities by granting a Criminal Behaviour Order (CBO), applied for by the prosecuting authority on conviction of a criminal offence. The order includes prohibitions to stop the behaviour reoccurring and/or include positive requirements. For example, there could be a requirement to engage with a support service.

Why are we tackling aggressive begging?

Begging is illegal under the Vagrancy Act 1824. Many vulnerable people use the city centre daily and they, nor any other person, should have to suffer from aggression and intimidation. One prohibition within the PSPO is designed to challenge people exhibiting aggressive or intimidating behaviour when begging.

Aggressive begging is defined in the order as behaviour “perceived to be intimidating or aggressive.” Our Scrutiny Committee has suggested the insertion of the word “reasonably” before perceived to give a sense of scale to officers using the order and the Board will be recommended to make that amendment. The order explicitly cites begging near a cash machine as aggressive. This is a situation when people expect privacy and feel vulnerable with their money, bank cards and purse on display.

Vagrancy Act 1824 and the PSPO

Only the police can use powers under the Vagrancy Act 1824 to tackle begging; the PSPO is only concerned with tackling aggressive begging. The Vagrancy Act 1824 was written for the issues of the day and is now two hundred years old. The Act talks of chapmen, incorrigible rogues and vagabonds, making its interpretation problematic. The PSPO sets the standard of behaviour for everyone in an area, clearly defining the behaviours that are not acceptable.

In Oxford the approach used by the police is that on first occurrence the beggar will be referred to a support agency. On the second occurrence the person is given a caution and asked to sign a voluntary Acceptable Behaviour Contract, which describes the behaviours that they must stop doing. On the third offence the police will arrest the person and put them before the Magistrates Court, often applying for a Criminal Behaviour Order if convicted.

The PSPO gives local authority and other designated officers, in addition to the police, a legal remedy to challenge a person whose behaviour is aggressive or intimidating. Council officers, the police, outreach services and others regularly meet to discuss the

needs of the individual and the most effective way to challenge their behaviour.

Our joint agency approach when using the PSPO will adhere to the council's Anti-social Behaviour Policy agreed by the City Executive Board in November 2014. The policy requires officers to try to resolve cases at the lowest level of intervention possible. This starts with offering the person advice and referrals to support agencies. Continuing efforts to steer people into the services they need is central to our approach. If the aggression continues Acceptable Behaviour Contracts and PSPO enforcement options are available.

Ultimately, the most appropriate course of action may be for those who are persistently aggressive, are able to understand what is being said, where repeated attempts have been made to challenge and change the person's behaviour have failed, is to let the courts determine the issue. The prosecuting authority may advocate the use of a Criminal Behaviour Order to curb future behaviour and require the person to engage with relevant support services.