

Public spaces protection orders

Public spaces protection orders are intended to deal with a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone. The order could also be used to deal with likely future problems.

Only a local authority could issue the order, and before doing so, they must consult with the chief officer of police, the Police and Crime Commissioner, and any representatives of the local community they consider appropriate. The test for issuing the order will be that the local authority reasonably believes that the behaviour is detrimental to the local community's quality of life, and that the impact merits restrictions being put in place. The behaviour must also be on-going or persistent (or there must be a reasonable belief that future behaviour will be on-going or persistent).

The order must clearly state what behaviour it is seeking to prevent, what the prohibitions or requirements are in the specified area (which the local authority reasonably believes will remedy the problem), the specified area itself and the consequences of not complying. The order must be in writing and it must be published. Reasonable signage should be put up in the areas affected. The order could last for up to three years and could be renewed before the three year time period expired.

Breach of the order without reasonable excuse would be a criminal offence, subject to a fixed penalty notice or prosecution. On summary conviction, an individual would be liable to a fine not exceeding level 3 on the standard scale (currently set at £1,000). Any person who consumes alcohol in an area where this has been prohibited could be required to hand over any containers believed to contain alcohol. Failure to comply would be a criminal offence which on summary conviction means an individual is liable to a fine not exceeding level 2 on the standard scale (currently set at £500). If alcohol is confiscated, it can also be disposed of by the person who confiscates it.

The public spaces protection order will be different from the powers it seeks to replace in the following ways:

- it can prohibit a wider range of behaviour, which makes the new power more like the "good rule and government byelaws" under the Local Government Act 1972, but with a fixed penalty notice available on breach. This follows feedback in the consultation from local authorities that current byelaws are hard to enforce as they do not all allow for fixed penalty notices to be issued, so the only option available to local agencies is to take an individual to court if they fail to comply, which can be costly and time-consuming;
- there would be no central government reporting requirements as with designated public place orders. This would reduce bureaucracy; and
- there will be lighter touch consultation requirements to save costs (e.g. there will be no requirement to advertise in local newspapers). This follows feedback in the consultation from local authorities that the current processes for consultation outlined in secondary legislation are costly and time-consuming.