

## **EDDC Environmental Health December 2016**

### **General Guidance : Introducing a new PSPO.**

#### **1. The Test.**

A PSPO can only be made if East Devon District Council is satisfied on reasonable grounds that the activities carried out or likely to be carried out in a public space:

- Have had, or are likely to have, a detrimental effect on the quality of life of those in the locality

And that the effect or likely effect of the activities:

- Is, or is likely to be, persistent or continuing in nature
- Is, or is likely to be, unreasonable
- Justifies the restrictions imposed.

The restrictions can be blanket restrictions or requirements, or they can be targeted against certain behaviours by certain groups at certain times.

The Council can make a PSPO for any public space. A public space is one to which the public have access, on payment, as of right or by virtue of express or implied permission.

The council should consider whether the land falls into the following categories: Registered common land, registered town or village green, or open access land. If land is registered green, it receives considerable statutory protection under the 'Victorian Statutes'. In terms of open access land, there are various national limitations on which activities are included in the access rights.

#### **2. Incorporating requirements into proposed PSPOs.**

The Environmental Health team are leading on the introduction of new PSPOs for the council and intend to incorporate existing dog control orders together with some new controls which relate to activities that are currently unregulated and yet have a detrimental effect on the quality of life of people living in the district. An example of this is a control on feeding seagulls on the beaches and promenades of the seaside towns across the district.

#### **3. Configuration of PSPOs.**

There will be a number of PSPOs introduced over time. The first two will be :

- A PSPO covering the whole of East Devon and including most dog controls.
- A PSPO covering seashores and promenades and incorporating controls on responsible dog ownership and feeding seagulls.

#### **4. Consultation.**

Before making a PSPO, the Council must consult with the local police. This must be done formally through the Chief Officer of the police and the Police and Crime Commissioner.

The Council must also consult whichever community representatives they think appropriate. In East Devon this will include at least all district councillors and all Town and Parish councils.

The Council should discuss any proposed PSPO which might affect a public right of way with the highway authority in advance. The local highway authority can also advise on user rights on the right of way and on which user groups should therefore be consulted.

The Council must publish the draft order on their website.

When the final measures are agreed, the PSPO must be published in accordance with regulations made by the Secretary of State and must:

- Identify the activities having the detrimental effect
- Explain the potential sanctions available on breach
- Specify the period for which the PSPO has effect.

The maximum duration of a PSPO is three years but they can last for shorter periods of time if appropriate.

At any point before expiry, the Council can extend the PSPO by up to three years if necessary. If an extension is carried out, the Council must consult with the local police before this is done.

#### **5. Transitioning from an existing public place order or dog control order.**

Where a designated order is already in force, it will be treated as a PSPO from 20<sup>th</sup> October 2017 and will be valid for a period of three years following commencement of the new power. EDDC intends to introduce PSPOs before that date in order to incorporate amendments to the requirements in the existing orders.

#### **6. Penalties for breach.**

It is an offence for a person, without reasonable excuse, to:

- Do anything that the person is prohibited from doing by a PSPO
- Fail to comply with a requirement to which the person is subject under a PSPO.

A person guilty of an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Enforcing officers are more likely to issue a fixed penalty notice of £80 as the most appropriate sanction to discharge any liability to conviction for the offence. If the fixed penalty notice is not paid within the required timescale, court proceedings can be initiated.

A PSPO may be introduced in the future to control drinking in certain areas. It is not an offence to drink alcohol in a controlled drinking zone. However, it is an offence to fail to comply with a request to cease drinking or surrender alcohol in a controlled drinking zone. This is also liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### **7. Enforcement of PSPOs.**

Enforcement is the responsibility of a wide group of officers, including council officers, people accredited under the community safety accreditation scheme, police officers and PCSO's. Members of these groups and the local community will be encouraged to provide evidence of breaches for Environmental Health officers to pursue.