

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

CABINET

19th DECEMBER 2017

**PUBLIC SPACE PROTECTION ORDER
(INTOXICATING SUBSTANCES INCLUDING ALCOHOL)**

**REPORT OF THE DIRECTOR OF PUBLIC HEALTH, PROTECTION AND
COMMUNITY SERVICES, IN DISCUSSION WITH THE RELEVANT
PORTFOLIO HOLDER, COUNCILLOR R LEWIS**

**AUTHOR: Louise Davies, Head of Environmental Health,
Trading Standards and Community Safety**

1. PURPOSE OF THE REPORT

- 1.1 The purpose of the report is to seek authority to consult on the proposal to retain the Public Space Protection Order to control alcohol related anti social behaviour in Rhondda Cynon Taf and to extend the Order to include two defined exclusion zones to control intoxicating substance use in Pontypridd and Aberdare Town Centres.

2. RECOMMENDATIONS

It is recommended that the Cabinet:

- 2.1 Undertakes an 8 week public consultation exercise on the proposal to retain the Public Space Protection Order (PSPO) to control alcohol related anti social behaviour in Rhondda Cynon Taf and to extend the Order to include two defined exclusion zones to control intoxicating substance use in Pontypridd and Aberdare Town Centres, specifically to:
- Retain the PSPO designating the **whole County Borough as a Controlled Drinking Zone** with the power for police constables and authorised officers to require any person to stop drinking and surrender alcohol or any alcohol containers if they are causing or likely to cause anti-social behaviour (ASB).
 - Vary the PSPO to include **Intoxicating Substance Exclusion Zones in the Pontypridd (including the lower Graig) and Aberdare Town Centres only** which will prohibit people in public places from the taking of intoxicating substances, including alcohol and other

substances capable of stimulating or depressing the central nervous system.

- Authorise consumption of intoxicating substances in the Exclusion Zones only where that activity is undertaken at a premises or within the curtilage of a premises which is authorised to be used for the supply of alcohol by licence or club premises certificate or permission granted under section 115E of the Highways Act 1980.

2.2 Receive a further report detailing the responses to the public consultation and any recommendations for amendments to the proposed PSPO for alcohol and intoxicating substance controls.

3. REASONS FOR RECOMMENDATIONS

3.1 In 2014, new powers to create PSPOs came into force as part of the Anti Social Behaviour, Crime and Policing Act 2014. The PSPO replaces the Designated Public Place Order (DPPO), Gating Orders and Dog Control Orders. Under the Act, existing DPPOs, Gating Orders and Dog Control Orders remained in force until 19th October 2017 or until they were discharged by the Council, whichever was earliest. The legislation and associated statutory guidance states that any DPPOs still in force at 20th October 2017 will be automatically treated as if they were provisions of a PSPO from that date. While the transition is automatic, there is an expectation that a Local Authority satisfy itself that the retained PSPO meets the required legal tests.

3.2 Rhondda Cynon Taf CBC approved a County wide Designated Public Place Order (DPPO) in 2011 which came into force in RCT on the 8th March 2012. The County wide DPPO set out to achieve a reduction in alcohol related anti social behaviour in all public places within the County Borough. An evaluation of the DPPO has identified a need to retain the alcohol controls afforded by the DPPO and therefore that there are reasonable grounds to retain the PSPO which came into force on the 20th October 2017. There are also reasonable grounds to extend the PSPO to include two specific Exclusion Zones to prohibit people in public places from taking intoxicating substances in order to reduce the incidence and public perception of related anti social behaviour and crime in Pontypridd and Aberdare Town Centres only.

4. BACKGROUND

4.1 In October 2014 the Anti-Social Behaviour, Crime and Policing Act was enacted, introducing new powers including the use of PSPO. The new orders are more flexible and can be applied to a much broader range of issues, with local authorities having the ability to design and implement their own prohibitions or requirements where certain conditions are met. The Home Office's statutory guidance on the ASB tools and

powers in the 2014 Act states that PSPOs should be used responsibly and proportionately, only in response to issues that cause ASB, and only where necessary to protect the public.

- 4.2 Of the 22 local authorities in Wales, Rhondda Cynon Taf ranks second highest for the rate of alcohol use. In relation to drug use, Rhondda Cynon Taf ranked 11th (slightly below the Wales average). Alcohol accounts for 62% of referrals to substance use treatment services in Cwm Taf, with other drugs making up the remaining 38% of referrals.
- 4.3 Cwm Taf has the highest rate of alcohol related deaths in Wales. According to Public Health Wales (2015), Cwm Taf had the highest incidence of alcohol related deaths in both males and females and the second highest rate of hospital admissions in Wales due to alcoholic liver disease.
- 4.4 Safer Town Centres is one of priorities for Rhondda Cynon Taf Community Safety Partnership. Over recent years the local authority and partners have run proactive operations designed to disrupt ASB, detect licensing offences, deter environmental criminal activity, enforce parking restrictions and address perceived problems within the Town Centres of Pontypridd and Aberdare. A crime perception survey is carried out annually in Aberdare and Pontypridd Town Centre to assess the impact we are having in our towns. The 2016/17 Town Centre Survey was carried out in Aberdare and Pontypridd and of 326 responses, 89 (27%) of those saw alcohol as the single biggest cause of crime and disorder within the town centres.
- 4.5 Specific comments made by the Public during the Town Centre Survey 2016/17 indicate the perceived problem of alcohol related ASB:

"It's so normal it seems part of the normal working day. Little is done about it even when reported. It is good to see town centre bans being used, however it does appear that they are not strictly enough enforced"

"People walking through town drinking alcohol during the day are so commonplace I could be constantly complaining to the authorities! Also people sit in the park drinking and this never seems to be stopped."

"Almost a daily issue in Pontypridd, youths who are drunk / substance misuse"

"It's a regular occurrence to see drunk/drugged members of the public in the town, it's not often that I see them causing any trouble; it's just not appealing to see whilst using the town"

“It’s a general issue which I haven’t specifically reported. It is the case that groups of drunk/ intoxicated individuals persistently hang about in Town, near the Park entrance from Taff Street, so others including the Police would be aware of this. It’s a particular issue in the late afternoon/ early evening most days.”

- 4.6 In terms of survey data, most people **feel** crime and antisocial behaviour has remained the same in the last 12 months. However, overall, ASB in the South Wales Police Northern BCU has seen a reduction (of on average 1% per year) since 2012/13 but with some variance by area. Specifically, the data for alcohol related ASB shows it has remained at over 5% of reported incidents in the last two years.

2015-16 5.5% of ASB incidents were alcohol related
2016-17 5.1% of ASB incidents were alcohol related

- 4.7 Appendix 1 shows recorded incidents of alcohol related crime and alcohol related ASB. Public perception currently is that the 2012 DPPO was a ban on alcohol consumption in public places, which it was not. The original DPPO legislation did not permit the Council to adopt such a ban. The current order does allow for greater control of drinking where it is of a problematic nature – e.g. large groups of drinkers intimidating residents/passers-by; and gives police additional powers within a designated area to tackle street-drinking where there is associated anti-social behaviour (ASB).
- 4.8 Public perception remains that alcohol consumption in public is a problem, particularly in the two principal town centres of Aberdare and Pontypridd, and misuse of other substances is also reported. The tables in Appendix 1 highlight the levels being experienced in Aberdare and Pontypridd Town Centres and, along with our town centre perceptions surveys, the evidence supports the need for Pontypridd and Aberdare Town Centres to be subject to more stringent controls than the rest of the County Borough. The proposed areas to be subject to an Intoxicating Substance Exclusion Zone are defined in the maps in Appendix 2. The proposed Pontypridd exclusion zone includes the lower part of The Graig. Having regard to the pre-requisites for a PSPO, there is very limited evidence to support such additional, restrictive controls in other areas of RCT. The County-wide controls over alcohol use in public places will continue to provide reassurance to residents and powers to the Police and authorised officers to deal with any ASB displaced from the Exclusion Zones.
- 4.9 The proposed prohibitions of the varied PSPO will not apply to premises which are licensed for the supply of alcohol so would not impede these legitimate business functions; this would include any curtilage (e.g. a beer garden or permitted pavement seating area). The prohibition could also include a wavering option to allow for public

drinking at organised events within these locations (e.g. The Big Bite, Christmas Markets) via applications made for temporary event notices through the Council's Licensing Team.

- 4.10 Failure to comply with a PSPO without a reasonable excuse is an offence liable on conviction to a maximum fine of level 3 on the standard scale (currently £1000). Police Constables and authorised officers will have discretion to deal with offences by way of issuing a fixed penalty notice of up to £100. The suite of new powers available in the 2014 Act also allow officers to utilise a range of measures for those identified as persistently breaching the order, for example, Community Protection Notices could be issued or a Civil Injunction could be sought from the Courts. Breach of the PSPO is an offence and upon conviction, individuals could be made subject to a Criminal Behaviour Order. This carries both tougher sanctions, along with the ability to implement positive conditions requiring support for substance misuse issues.
- 4.11 The Council can retain or vary the PSPO in consultation with the Police and other relevant bodies who may be affected. The order will have effect for a period of up to 3 years. However, the Council may extend the order for a further 3 years if there are reasonable grounds for doing so.

5. CONSULTATION

- 5.1 The legislation and Statutory Guidance places an expectation on local authority that they are satisfied that a retained PSPO, following transition from a DPPO, meets the required legal tests for a PSPO. In addition, where a local authority wishes to vary an existing PSPO, it must have reasonable grounds as defined in the Act and carry out the necessary consultation, the necessary publicity and the necessary notification as follows.
- 5.2 The “*necessary consultation*” means consulting with:
- a) The Chief Officer of Police for the area;
 - b) Whatever community representatives the local authority thinks it appropriate to consult;
 - c) The owner or occupier of land within the restricted area (this does not apply to land that is owned and occupied by the local authority).
- 5.3 The “*necessary publicity*” means:
- a) In the case of the varied order, the publishing of the text of it;
- 5.4 The “*necessary notification*” means notifying the following authorities of the proposed order:

- a) The parish or community council (if any) for the area that includes the restricted area.
- 5.5 It is proposed that the Council undertake a comprehensive consultation exercise with the public, relevant bodies and other interested parties on the proposal to retain the County wide PSPO to control alcohol related anti social behaviour in public spaces and to vary the order to introduce a prohibition on taking of intoxicating substances in public spaces in defined Exclusion Zones in Pontypridd and Aberdare Town Centres:
- a) County Wide Alcohol Control Area – applicable to all public places in the County Borough of Rhondda Cynon Taf. This does not ban or make it illegal to carry alcohol or to drink alcohol in a public place as long as drinking is done responsibly.
- b) Intoxicating Substance Exclusion Zone – applicable in defined areas of Pontypridd and Aberdare Town Centre (refer to the Maps in Appendix 1 of this report). This prohibits persons within the Exclusion Zone from ingesting, inhaling, injecting, smoking or otherwise using intoxicating substances in public places. The prohibition shall not have any effect in relation to an activity, premises or curtilage authorised to be used for the supply of alcohol by licence or club premises certificate or permission granted under section 115E of the Highways Act 1980.
- 5.6 **Intoxicating Substances** will be given the following definition (which includes alcohol and what are commonly referred to as “legal highs”): *substances with the capacity to stimulate or depress the central nervous system*. Exemptions shall apply where the substances are used for a valid and demonstrable medical use, given to an animal as a medicinal remedy, are cigarettes (tobacco) or vapourisers or are food stuffs regulated by Food, Safety or Health legislation.
- 5.7 The **County-wide** alcohol controls **will not** make it an offence to drink alcohol in a public place however failure to comply with a request by a Police Constable or authorised officer in relation to public drinking or to surrender alcohol, without reasonable excuse, is an offence.
- 5.8 In relation to the Exclusion Zones proposed for **Pontypridd and Aberdare Town Centres**, where a Police Constable or authorised officer reasonably believes a person has been or intends to take intoxicating substances in breach of the prohibition they will be committing an offence.
- 5.9 A Police Constable or authorised office may issue a fixed penalty notice to anyone believed to have committed an offence in relation to a PSPO. The Council, in varying the PSPO, may specify the amount of fixed

penalty fine payable in respect of relevant offences at no more than £100.

- 5.10 The consultation exercise will include relevant stakeholders such as the Trustees of the Ynysangharad War Memorial Park.

6. EQUALITY AND DIVERSITY IMPLICATIONS

- 6.1 The Council must be able to demonstrate that a PSPO is a necessary and proportionate response to the problems caused by people under the influence of intoxicating substances in public places in the authorities area and that those activities have had or are likely to have a detrimental effect on the quality of life of those in the locality.
- 6.2 The Council is required to balance the interests of the population which is adversely affected by the anti social behaviour of people under the influence of substances in our communities with the reasonable expectation of those who wish to take intoxicating substances or enjoy alcohol responsibly without undue controls.
- 6.3 An Equality Impact Assessment will be required prior to making the Order. This will be included in a further report to Cabinet, taking into consideration the outcomes of the public consultation.

7. FINANCIAL IMPLICATION(S)

- 7.1 The Council must consider how it will enforce the prohibitions and requirements introduced under the PSPO, as the failure to enforce the Order will undermine its effect. This is particularly the case for the Town Centres subject to Intoxicating Substance Exclusion Zone controls.
- 7.2 In order to enforce the prohibitions of the Exclusion Zones, the Council will need to provide signage to the main entry points to the boundary of the area where the prohibitions apply. This is estimated will cost less than £5000. To ensure the Order is monitored effectively there will be a need to ensure existing enforcement officers are duly authorised to monitor and enforce compliance alongside Police Constables. It is not anticipated that additional Council staff will be required to enforce the proposed PSPO.

8. LEGAL IMPLICATIONS OR LEGISLATION CONSIDERED

- 8.1 Under section 59 of the Anti-social Behaviour, Crime and Policing Act 2014 (the 'Act'), a local authority may make or vary a PSPO if satisfied on reasonable grounds that two conditions are met.
- 8.2 The first condition is that:

- a) Activities carried on in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality, or
 - b) It is likely that activities will be carried on in a public place within that area and that they will have such an effect.
- 8.3 The second condition is that the effect, or likely effect of the activities –
- a) Is, or is likely to be, of a persistent or continuing nature,
 - b) Is, or is likely to be, such as to make the activities unreasonable, and
 - c) Justifies the restrictions imposed by the notice.
- 8.4 A PSPO is an order that identifies the public place referred to in the restricted area and,
- a) Prohibits specified things being done in the restricted area,
 - b) Requires specified things to be done by persons carrying on specified activities in that area, or
 - c) Does both of those things.
- 8.5 The only prohibitions or requirements that may be imposed are ones that are reasonable to impose in order:
- a) To prevent the detrimental effect referred to in 8.2 above from continuing, occurring or recurring, or
 - b) To reduce the detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.
- 8.6 A PSPO order must identify the activities referred to in 8.2 above, detail the offence of non-compliance with it, and specify the period for which it has effect. It may not have effect for a period of more than 3 years.
- 8.7 The Act requires that before it can make or vary a PSPO the Council must carry out the *necessary consultation*, the *necessary publicity* and the *necessary notification*.

9. LINKS TO THE COUNCILS CORPORATE PLAN / OTHER CORPORATE PRIORITIES

- 9.1 The proposals in this report are consistent with the priorities of the Council's Corporate Plan 2016-2020, in particular "*Place- creating neighbourhoods where people are proud to live and work*":
- *Rhondda Cynon Taf will be amongst the safest places in Wales, with high levels of community cohesion, and residents feeling safe.*

- 9.2 These proposals are also consistent with the Well-being Goals under the Wellbeing of Future Generations (Wales) Act 2015:

A healthier Wales- a society in which people's physical and mental well-being is maximised and in which choices and behaviours that benefit future health are understood.

A Wales of cohesive communities- attractive, viable, safe and well connected communities.

10. CONCLUSION

- 10.1 There remains a problem in RCT with alcohol related anti social behaviour and crime and disorder and the reported perception of the public is that this is a significant issue that warrants specific controls. Having regard to the legal tests, there are reasonable grounds for the Council to retain the controls that transitioned from the previous DPPO into a PSPO and to vary that PSPO to include additional prohibitions on intoxicating substance use, including alcohol, in public places in the Town Centres of Pontypridd and Aberdare only. The proposals will be subject to a comprehensive public consultation to ensure the views of all parties are properly considered.

Other Information:-

Relevant Scrutiny Committee

Health and Well-being Scrutiny Committee
Crime and Disorder Scrutiny Committee

LOCAL GOVERNMENT ACT 1972

AS AMENDED BY

THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

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(ALCOHOL AND INTOXICATING SUBSTANCES)**

Background Papers

- a) Anti Social Behaviour, Crime and Policing Act 2014- Chapter 12
- b) Anti Social Behaviour, Crime and Policing Act 2014: Reform of anti social behaviour powers: Statutory Guidance for Frontline Professional (Home Office, July 2014)
- c) Public Spaces Protection Orders- Guidance for Councils (Local Government Association, May 2017)

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Appendix 1- Rhondda Cynon Taf Incidence of Alcohol Related ASB and Crime
2015-2017

Sector	Beat Name	2015-16 Total			2016-17 Total		
		All Crime	Alcohol Crime	Alcohol Crime %	All Crime	Alcohol Crime	Alcohol Crime %
		Cynon North	Aberdare East	846	166	19.6%	897
	Aberdare West	405	39	9.6%	426	27	6.3%
	Aberman North	397	66	16.6%	406	40	9.9%
	Hirwaun	224	27	12.1%	175	25	14.3%
	Penywaun	199	24	12.1%	210	7	3.3%
	Rhigos	138	9	6.5%	120	6	5.0%
	Cynon North Total	2209	331	15.0%	2234	227	10.2%
Cynon South	Aberaman South	318	27	8.5%	311	20	6.4%
	Abercynon	347	25	7.2%	502	42	8.4%
	Cwmbach	392	28	7.1%	375	18	4.8%
	Mountain Ash East	227	19	8.4%	219	21	9.6%
	Mountain Ash West	328	43	13.1%	399	35	8.8%
	Penrhiwceiber	306	41	13.4%	348	41	11.8%
	Cynon South Total	1918	183	9.5%	2154	177	8.2%
Pontypridd	Cilfynydd	149	13	8.7%	162	8	4.9%
	Glyncoch	189	12	6.3%	235	18	7.7%
	Graig	365	86	23.6%	424	102	24.1%
	Hawthorn	130	10	7.7%	171	12	7.0%
	Pontypridd	495	58	11.7%	553	56	10.1%
	Rhondda (Pwllgwaun)	227	36	15.9%	252	28	11.1%
	Rhydyfelin	509	47	9.2%	510	27	5.3%
	Taffs Well	204	31	15.2%	213	11	5.2%
	Trallwn	257	31	12.1%	291	32	11.0%
	Treforest	347	40	11.5%	468	42	9.0%
	Ynysybwl	200	16	8.0%	232	23	9.9%
	Pontypridd Total	3072	380	12.4%	3511	359	10.2%
Rhondda Fach	Cymmer (BE)	308	39	12.7%	406	53	13.1%
	Ferndale	217	16	7.4%	236	16	6.8%
	Gilfach	179	24	13.4%	217	14	6.5%
	Maerdy	265	24	9.1%	287	25	8.7%
	Porth	448	57	12.7%	438	60	13.7%
	Tonyrefail East	306	29	9.5%	353	27	7.6%
	Tonyrefail West	300	25	8.3%	296	21	7.1%
	Tylorstown	370	34	9.2%	393	31	7.9%
	Ynyshir	150	15	10.0%	207	25	12.1%
	Rhondda Fach Total	2543	263	10.3%	2833	272	9.6%

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2015-2017

Sector	Beat Name	2015-16 Total			2016-17 Total		
		All Crime	Alcohol Crime	Alcohol Crime %	All Crime	Alcohol Crime	Alcohol Crime %
Rhondda Fawr	Cwm Clydach	144	13	9.0%	190	9	4.7%
	Llwynypia	245	24	9.8%	230	15	6.5%
	Pentre	353	61	17.3%	386	58	15.0%
	Penygraig	383	38	9.9%	378	22	5.8%
	Tonypanydy	291	42	14.4%	272	24	8.8%
	Trealaw	210	24	11.4%	309	40	12.9%
	Treherbert	336	61	18.2%	385	52	13.5%
	Treorchy	377	54	14.3%	436	39	8.9%
	Ystrad	285	29	10.2%	366	29	7.9%
		Rhondda Fawr Total	2624	346	13.2%	2952	288
Talbot Green	Beddau	215	10	4.7%	266	11	4.1%
	Brynna	135	10	7.4%	151	10	6.6%
	Church Village	247	20	8.1%	344	15	4.4%
	Llanharan	183	13	7.1%	184	8	4.3%
	Llanharry	82	9	11.0%	106	8	7.5%
	Llantrisant	123	12	9.8%	142	8	5.6%
	Llantwit Fardre	117	13	11.1%	153	9	5.9%
	Pontyclun	178	6	3.4%	251	10	4.0%
	Talbot Green	447	24	5.4%	552	24	4.3%
	Tonteg	240	7	2.9%	311	11	3.5%
	Tyn y Nant	194	14	7.2%	190	5	2.6%
	Talbot Green Total	2161	138	6.4%	2650	119	4.5%
Total		14527	1641	11.3%	16334	1442	8.8%

Appendix 2a- Proposed Exclusion Zone for Intoxicating Substances – Aberdare Zone



