



Newcastle Green Party
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Draft Public Space Protection Order

Consultation response from Newcastle Green Party

'One size fits all' approach is wrong for our city

Newcastle City Council's draft Public Space Protection Order (PSPO) covers the whole Newcastle upon Tyne local authority area. This includes village communities in the west of the city, countryside to the north, a major city centre, leisure-oriented quayside, numerous parks and diverse residential areas to the north, west and east. To claim that the causes of anti-social behaviour in all parts of the city are the same, or can be usefully tackled using the same regulations, is wrong. Newcastle's neighbourhoods already suffer from an emphasis on its city centre, and the proposed PSPO is another instance of the perceived needs of the city centre driving policy for our neighbourhoods.

Insufficient evidence is offered for the 'whole local authority area' approach, which seems more a matter of convenience than regulatory need. There is almost certainly no intention to enforce all parts of the proposed PSPO in all parts of the city (this is admitted in relation to the alcohol ban, within the Background Information document). As such, the PSPO fails its own 'necessary and proportionate' test (paragraph 3).

Newcastle City Council has recently endorsed the Human Rights Act (HRA), setting out the rights and freedoms enshrined in the act, and asserting that "these fundamental rights & freedoms are crucial for a fair, free & democratic society & that everyone in the UK is entitled to have these rights respected, even when we disagree with their beliefs or actions" (City Council, 3 June 2015). To introduce regulation which is so broadly-worded and widely-applicable undermines this endorsement, and suggests that the Council's commitment to human rights only applies when it is in opposition to government plans to abolish the HRA. We call on the Council to apply a 'human rights test' to all parts of the proposed PSPO, including but not limited to the 'Restricted Area', to judge whether the curbs on freedom of expression, assembly and association (articles 10 and 11) are truly "prescribed by law and necessary in a democratic society" (HRA, schedule of European Convention Rights and Freedoms).

Deceptive consultation documents

The Background Information states that the PSPO will address, in addition to existing powers over the consumption of alcohol in public places and controls over dogs, three new behaviours, viz begging, chugging and supply/provision/possession/taking of New Psychoactive Substances (NPS, formerly known as 'legal highs'). This document later qualifies the chugging controls with the phrase “aggressive or assertive,” and highlights “the most persistent and problematic beggars in the city centre.” In relation to begging, the draft order itself states that its regulated activities relate to “aggressive begging” (paragraph 4(v)).

However, the proposed PSPO goes much further than the Background Information or its own introductory paragraphs suggest. The provisions against chugging omit any reference to “aggressive or assertive.” Paragraph 16, although headed 'aggressive begging', in fact outlaws any kind of begging (16(ii)), or the possession of bedding materials (16(iii)). Liberty, in its response to the proposed PSPO, states, “Newcastle City Council seems to be attempting to sneak the criminalisation of homelessness into law by disingenuously advertising its proposals as simply a ban on aggressive begging.” We agree.

Prohibitions on consuming alcohol in a public place

Newcastle Green Party does not object in principle to controls on alcohol consumption in specific streets or parts of the city, where this has been associated with anti-social behaviour, has risked creating 'No Go' areas for other residents and families, or has jeopardised support services being provided to vulnerable people.

Our only objection to this section (paragraphs 8-9) is one of principle, in as much as applying it formally to the whole local authority area (including parks and other open spaces) is both unenforceable and undesirable.

Provisions taken over from existing Dog Control Order

Newcastle Green Party has no objections to this section (paragraphs 10-13). Notably, and unlike the other sections, it includes sensible safeguards against over-use, for instance in paragraph 13(i) (“... may only give a direction ... if such restraint is reasonably necessary to prevent a nuisance or behaviour by the dog that is likely to cause annoyance or disturbance to any other person”). Similar safeguards should be added to all other parts of the PSPO, if our more fundamental objections are not accepted by the Council.

Intoxicating substances (NPS, formerly 'legal highs')

Despite the headline within the Background Information document, the draft Order does not address the supply/provision of NPS (already now criminal offences), but only their possession or use. The same document suggests that inclusion of these provisions “would allow a graded response to be employed when it was felt criminal prosecution may not be the most appropriate response.”

Unfortunately, the PSPO is a very blunt instrument, allowing only the use of Fixed Penalty Notices (non-payment of which quickly becomes a criminal offence subject to prosecution), in addition to criminal prosecution. As has become evident with other forms of drug-taking, especially involving Class B drugs, criminalising users has too often driven usage underground, prevented effective

educational programmes and limited treatment options. The City Council (and Northumbria Police) have been right to recognise the harm and devastation being inflicted by NPS, especially on people who are already homeless or vulnerable, but their inclusion within a PSPO is more likely to prevent than assist effective measures to educate, treat and tackle NPS addictions.

Provisions against begging and homelessness

As mentioned above, these are headed 'aggressive begging', but in fact go much further. We will address each part of paragraph 16 within the draft Order separately.

(i) concerns those who 'aggressively beg', which is defined at paragraph 5. This definition combines a broad definition of asking for money with a reference to 'nuisance or annoyance, harassment, alarm or distress'. It is too broadly defined, for the following reasons:

- It includes 'accepting money, personal, charitable or any other donations', not merely approaching people to ask for money. So if I am annoyed by a religious or political stall that includes a basket to donate unwanted clothes, that group could be deemed to be 'aggressively begging' and fall foul of this provision. Aggressive begging should not be defined to include anything beyond approaching people for money.
- There is no requirement that the offending behaviour be repeated or continuous, which is an essential ingredient for begging to be reasonably defined as 'aggressive'.

In addition, aggressive begging is already a criminal offence, under the Vagrancy Acts and potentially also s.5 of the Public Order Act 1986. Nothing useful is added to these laws by the provisions of the PSPO, except the ease of handing out a Fixed Penalty Notice (clearly meaningless for those without money to pay, and so effectively a fast track to a criminal fine), and the political 'message' that beggars are not welcome on the city's streets. This is an abuse of regulatory powers, and the wrong method of tackling increasing poverty and destitution within our city.

Sub-paragraph (ii) condemns those who "have in their possession any item for holding ... money for the purpose of begging" ('begging' itself being undefined). This effectively extends the provisions of the PSPO to all who ask for money (anywhere within the city), not just those who do so aggressively. Given the number of people who are subject to sanctions, errors or delays within the benefit system, to reductions in welfare funds, or to destitution brought about by poor housing, addictions and job cuts, this measure is reprehensible. Newcastle Green Party rejects the proposed use of a PSPO to hide the true levels of deprivation within our society, and deplores the criminalisation of those who are asking for money in our city's streets and neighbourhoods.

Sub-paragraph (iii) extends the provisions to those who "visibly have in their possession ... any materials used or intended to be used as bedding." This is an attempt to criminalise homelessness. The Council has rightly highlighted the multiple causes and needs of those who are sleeping rough, but has failed to produce a shred of evidence that a PSPO will help address any of those needs. In the debate on a former proposal for a PSPO at the City's Cabinet meeting (23 March 2016), councillors and officers spoke extensively of the 'wrap around support' available within the city, but did not mention a single instance where someone in need could have been better helped or supported if a PSPO of this kind had been in place. This regulation is the wrong approach to one of

society's worst shames – that so many people cannot access stable and secure housing, and choose (or are forced) to sleep rough.

Liberty's response also highlights that this clause is again far too loosely drawn, adding, “As it stands, the PSPO has the absurd consequence of criminalising anyone who purchases a duvet and carries it home through the city.” Absurd, dangerous and wrong.

The 'chugging' provisions

Probably nobody loves chuggers, and like much of modern society (e.g. chain stores, facebook, commuting journeys, senior management) most of us find them an irritant or a nuisance. That does not of itself justify a ban.

Our specific concerns for paragraphs 17-19 are three-fold. First, the ban is only to apply where the activities concerned breach a 'scheme' operated or approved by the Council. In effect, this is not a ban, but an attempt to enforce a code of conduct. That is reasonable enough, and might be a positive approach which we would support. However, the 'scheme' has not been published or (as far as we are aware) consulted on, and there are no hints as to what it might contain. We are being asked to sign up 'blind' to a code of conduct. This is in principle the wrong way to regulate activities, even nuisance activities. At the very least, the Council should commit to not introducing this PSPO until it has published and consulted fully on a proposed scheme or code of conduct for chugging, and should be prepared to drop this part if it cannot achieve wide agreement or consensus on such a scheme.

Secondly, the provisions are again too broadly worded. They prohibit approaching a person to ask “for any information to assist in that other person being contacted at another time with a view to making arrangements for that person to make any payment for the benefit of charitable or other purposes” (paragraph 17(ii)). This could include legitimate and normal campaigning activity (e.g. by political or religious groups), who may for instance collect signatures on a petition sheet which (subject to explicit consent) can be used to solicit donations among other purposes. An attempt (or even a threat to attempt) to regulate political or religious activity within our city's streets undermines our democratic rights and religious freedoms.

Thirdly, the provisions should be subject to at least the same safeguards as apply to street collections, which are regulated by orders under the Police, Factories etc (Miscellaneous Provisions) Act 1916. These orders explicitly exclude regulation of collections “taken at a meeting in the open air” (such as a political rally or religious gathering), or of “sales made in the ordinary course of trade, and for the purpose of earning a livelihood, [when] no representation is made ... that any part of the proceeds of sale will be devoted to any charitable purpose.”

Subject to the point made at the start of this submission about the excessive size of the 'restricted area', and these three concerns, Newcastle Green Party does not object in principle to the inclusion of 'chugging' within a modified PSPO.

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(for and on behalf of Newcastle Green Party)

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