**Revisions to Restrictions contained in Public Spaces Protection Order (PSPO)**

**Introduction**

The Council consulted on a proposed Public Spaces Protection Order for an extended period of approximately 4 months running from 6 November 2015 to 29 February 2016. A total of 1,237 completed survey responses were received during the consultation period, which is a substantial number, with another 19 public responses received in letter format. In a minority of cases, not all of the proposed Restrictions from 1 to 6 were responded to.

In addition, under S.72 of the Act, there is necessary consultation, publicity and notification to take place with the Chief Constable, the Police & Crime Commissioner, County Council, any community representatives the Council thinks appropriate, and the owner or occupier of land within the restricted area of the Order. This was duly carried out, together with representative bodies for the community and business being consulted.

**Revisions following Consultation**

Following the extensive public consultation from November 2015 to February 2016, the anti-social behaviours that the proposed Order would now seek to control within the defined area of public space have now been revised to only include:

* the taking of intoxicants (alcohol, new psychoactive substances commonly known as ‘legal highs’ and other stimulants);
* individuals or groups causing anti-social behaviour;
* urinating in the street; and
* aggressive begging

In addition, it is proposed that a positive/restorative option, coupled with a zero penalty fee, will be provided within the majority of fixed penalty notices, and that these notices will be served retrospectively (i.e. not on-the-spot) in the vast majority of cases.

An explanation for the revisions in the proposed restrictions are given below.

**Street Encampments**

The original proposals for a PSPO included a restriction on street encampments. Whilst there is evidence of problematic anti-social behaviour associated with street encampments, it is clear from the public consultation that currently there is insufficient public support for the inclusion of powers to control such within any Order, with only 17% of responses in favour of restrictions on street encampments. Whilst the original restrictions were deliberately crafted to distinguish between those that are sleeping rough (which in itself is not anti-social) and instead attempted to focus on the anti-social manifestations of encampments when they interfere with the lawful use of a public space by other members of the public or property owners (e.g. obstructing access to a building or deterring use of part of a park), it is apparent that many respondents felt that this was specifically aimed at members of the street community as a means of removing them from the streets, rather than dealing with the anti-social behaviour that can manifest when other lawful users seek to use that space. It is important that there is general public support for the introduction and implementation of any PSPO, therefore, the prohibitions and restrictions regarding street encampments that were originally included in the proposed Order for consultation, have now been removed from the set of controls contained in the revised proposals.

**Begging and Aggressive Begging**

In relation to the proposed control over begging in general, there was insufficient public support for this proposal to be included in its entirety. However, on further examination, it is accepted by officers and partners of the Community Safety Partnership that there is a distinction between ‘passive begging’ (e.g. where someone is sat at a shop entrance collecting money from a hat), and someone who purposefully places themselves beside a pay-point or cash-point, where members of the public have to take out their money or bank cards in order to use the facility, or someone who proactively walks up to a person to demand money in an intimidating manner; these latter two examples may be described as ‘aggressive begging’ due to their intimidating nature and higher likelihood to cause fear, alarm or distress to a member of the public so approached. Therefore, the proposals have been revised to restrict aggressive begging.

**Revised PSPO Restrictions following Public Consultation**

**Person(s) within this PSPO area, whilst situated in the street or other public space where the public have access without payment, shall:**

1. **Surrender any intoxicating substance in their possession to an authorised person on request, if they are found to be ingesting, inhaling, injecting, smoking or otherwise using intoxicating substances, or are in possession of such intoxicating substances with the intent of using such intoxicating substances within this area, where the authorised person has reasonable grounds to believe that such person is using or intends to use the intoxicating substance within the said area.**

***Notes***

*Intoxicating Substances is given the following definition (which includes Alcohol and*

*new psychoactive substances [NPS] that are commonly referred to as ‘legal highs’): substances with the capacity to stimulate or depress the central nervous system.*

*Exemptions shall apply in cases where the substances are used for a valid and demonstrable medicinal use, given to an animal as a medicinal remedy, are cigarettes or vaporisers (tobacco products), or are food stuffs regulated by food safety legislation, or where the use of the intoxicating substances fall within the curtilage of a premises licenced for the sale and consumption of alcohol, and within the operating hours of such.*

*An authorised person shall be a Police Constable, Police Community Support Officer or authorised Exeter City Council Officer, who must be able to present their authority upon request.*

1. **Not urinate in a street or public open space.**

*The term ‘street’ includes any road, footway, beach or other area to which the public have access without payment. It also includes a service area as defined in Section 329 of the Highways Act 1980. Other areas will include parks and retail car parks to which the public have access to without payment.*

*Exemptions shall apply where authorised temporary public urinals/toilets have been provided in accordance with any specification issued by Exeter City Council, and with its agreement.*

**C. Not carry out aggressive begging.**

*Aggressive begging is defined as behaviour that a reasonable person would regard as intimidating and which is designed to cause a member of the general public to offer money to a person not known to them.*

*Exeter City Council would define that behaviour as:*

*(1) clearly intimidating, i.e. through the use of threatening language or gestures, or*

*(2) intimidating by being passive aggressive, such as standing or sitting in close proximity (i.e. within 5 metres) to a cash machine or pay station either singly or in a group of two or more, where people expect privacy and/or feel vulnerable with their money, bank cards, wallets or purse on display.*

1. **Not behave (either individually or in a group of two or more people) in a manner that has caused or is likely to cause a member of the public to suffer harassment, alarm or distress by that behaviour.**
2. **Persons within this area who breach Prohibition D while in a group shall** **when ordered to do so by an authorised person disperse either immediately or by such time as may be specified and in such a manner as may be specified.**

*The manner specified by the authorised person may include a requirement not to re-enter a defined zone within the PSPO area until a certain time, which shall be no later than 6 hours from the time that an authorised person orders persons in a group to disperse.*