

From: Katie Morris <Katie.Morris@shropshire.gov.uk> **On Behalf Of** Les Pursglove

Sent: 20 April 2023 14:52

To: ts enforcement <ts.enforcement@shropshire.gov.uk>

Subject: PSPO Consultation response from Health, Environmental Protection and Healthy Place

Dear Mr Tunnadine,

I am writing to you as manager of the Trading Standards and Parking Enforcement service responsible for receiving representations to the consultation "Renewal of the Shrewsbury Town Centre Public Spaces Protection Order (No.1) 2017"

I have the following comments to each of the questions posed:

1. Do you believe the existing order should be extended for three years. Please provide any further information to help justify your response.

I support the extension to the order as, subject to the comments I make below, it allows those with the powers to enforce the provisions to intervene in certain situations where it would be more difficult to do so otherwise. The Environmental Protection service includes Officers who investigate whether noise from premises, or from equipment such as amplifiers in the street, amounts to a Statutory Nuisance as defined in Section 79 of the Environmental protection Act 1990. It is however a high threshold for noise to be classed as a nuisance in law meaning that these powers sometimes can't be used to deal with, for example, buskers who are both loud (maybe using amplified equipment) and persistently using a particular location.

The Statutory Nuisance provisions also can't be used where the effect of the noise is on the ability of a shop or other company to carry out its lawful business rather than interfering with a person's enjoyment of their home. There may therefore be examples where buskers behaving in this way could be moved on by an Officer in Uniform who is appropriately trained to deal with such potentially confrontational situations using the PSPO powers.

2. Do you think the existing PSPO has helped to reduce instances of anti-social behaviour. Please provide any further information to help justify your response.

No comment

3. Do you think the existing PSPO should be amended to include any of the proposed new provisions. Please state which, if any, of the 4 provisions should be included and provide any further information to help justify your response.

Firstly, "To extend the persons able to enforce the PSPO to 'any person authorised by Shropshire Council'."

I do not support this provision in so far as it relates to any of the functions in my area. When the PSPO was originally enacted, and then extended, it was accepted that it was not appropriate for Officers in the Council to enforce the provisions and it seems to me that there are two reasons why this was the case. Environmental Health officers are trained to investigate whether businesses and individuals are complying with various regulations relating to the health of people or the environment. If there are contraventions found they can attempt to get compliance by using informal advice and guidance type approaches in line with the Council's Better Regulation and Enforcement policy. If those approaches fail and it is appropriate they are able to gather evidence and if necessary instigate proceedings at court to prosecute the person in order to achieve compliance. This does not extend to powers of arrest and does not generally involve requiring people to behave in certain ways immediately. When carrying out investigations, they can apply to a Justice of the Peace for a warrant to enter premises but in the circumstances of executing such a warrant would always have the police with them. In short they are not trained or expected to be in confrontational situations where people could potentially react aggressively to being told to change their behaviour forthwith. There are Council Officers who do have to deal with such situations, such as the Civil Enforcement Officers who enforce parking provisions, and they have body worn cameras as part of the control measures in place to protect them, as of course do the Police.

The second reason is that Shropshire Council is currently under enormous financial pressure and working to concentrate on Statutory Duties where they align with The Shropshire Plan – such as the Statutory Nuisance provisions mentioned above. The resourcing situation is now worse than it was when the PSPO was originally enacted, and the Environmental Protection service, for instance, has single points of failure with statutory functions identified in recent internal audits and does not have any capacity at all to take on additional discretionary work such as enforcing any of the provisions of the PSPO.

If the persons able to enforce the PSPO was extended to "any person authorised by Shropshire Council", then for these reasons that could not include any Officers in Health, Environmental Protection and Healthy Place.

Secondly "To include a wider enabling provision to require a person to stop sitting or lying within the area if causing anti-social behaviour i.e. - 'No person, who is sitting or lying on any footpath or pedestrian area or in any fire escape, stairway or other entrance or exit to any premises within the protected area, shall refuse to move when required to do so by an authorised officer, provided that officer has reason to believe that that person is causing or likely to cause nuisance, alarm, harassment or distress to any other person or in order to prevent public disorder.'"

No comment as this sort of behaviour does not fall within my service remit.

Thirdly "To include a wider enabling provision to require a person to leave a public toilet if causing antisocial behaviour namely - 'No person shall refuse to leave a public toilet when required to do so by an authorised officer, provided that officer has reason to believe that that person is causing or likely to cause nuisance, alarm, harassment or distress to any other person or in order to prevent public disorder.'"

No Comment as this sort of behaviour does not fall within my service remit.

Fourthly “To include a wider enabling provision to require a person to stop using a sound amplifier if causing anti-social behaviour namely - “No person shall refuse to stop using a device intended to amplify sound when required to do so by an authorised officer, provided that officer has reason to believe that that person is causing or likely to cause nuisance, alarm, harassment or distress to any other person or in order to prevent public disorder.”

I support this provision as it will allow intervention where loud noise from e.g. busking is affecting residents or businesses but existing powers are difficult or impossible to use. Officers in Environmental Protection (as well as others such as the Town Centre Rangers) could approach buskers in such circumstances and explain that this provision was in place and if they felt that the noise levels were unreasonable could then advise the person that they should cease using the amplifier. If the busker refused then a person authorised to do so, such as a member of the Police if available, could be called to enforce that this happens.

Kind regards,

Katie Morris

PA to Les Pursglove – Assistant Director of Health, Environmental Protection & Healthy Place

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