

Parish Partnership Panel - Thursday 15 February

Raised questions and answers

Points of reference

The current PSPO will end in April 2020, in order to ensure continuity; TMBC has begun the process of reviewing the operation of the current Order with a view to adopting a new PSPO well in advance of the end date for the current Order.

On Tonbridge & Malling Borough Council web site, there is a page in respect of PSPOs - <https://www.tmbc.gov.uk/services/community-and-living/community-advice/community-safety/pspo-consultation>, including a set of "Frequently Asked Questions".

Power to make a PSPO

The power to make a PSPO is with the Local Authority, which for the purposes of the PSPO legislation means Tonbridge & Malling Borough Council. Likewise the decision on what goes into a PSPO is for the Local Authority, based on the evidence it holds at the time an Order is made or a review of existing Orders carried out.

Fixed Penalty Notices (FPN)

A FPN can be issued by a Police constable or Authorised Person (that is, a person authorised by the local authority to issue FPNs under the legislation).

Extract from the FAQ's on the TMBC web site -

https://www.tmbc.gov.uk/_data/assets/pdf_file/0005/357134/PSPO-FAQ.pdf

"6. Who will enforce the PSPO?"

There has been a lot of concern about the ability of the Borough Council to enforce these new restrictions. There will be no additional officers available to enforce any breaches of the PSPO. However, the Borough Council is looking at how it can use its staff to effectively enforce the PSPO.

A number of authorised officers within the Council are being trained on how to identify a breach of the PSPO and what to do if they witness someone committing a breach. The officers who will be used will include our current Enforcement Officers but will also involve other officers who travel around the borough during their day to day work.

The officers will take down the details of the breach (where safe to do so) and will then complete a PSPO incident reporting form. This will then be investigated by the appropriate Borough Council department (e.g. if it is a dog related breach then Street Scene and Leisure Services will deal with this). If the evidence supports a breach of the PSPO then a Fixed Penalty Notice will be sent by post to the individual.

At present, we want to ensure that this system works first before looking at whether or not we could use other people, such as appropriately trained Parish Council officers. However, this could be something that we might consider using in the future as it might give us additional resources to enforce the PSPO.

We are also working with Kent Police to identify whether their officers are able to provide evidence to support a breach of some of the restrictions, particularly those around the controlled alcohol zone and public urination/defecation.”

Gathering Evidence for a FPN to be issued

A PSPO incident form needs to be completed by a Police constable or Authorised Person detailing the evidence of the breach of a PSPO. These forms are then sent to the Community Safety Partnership (CSP).

Once the form has been assessed, if the evidence is sufficient an FPN will be issued. In broad terms, the Council has to have the same level of evidence to issue an FPN as it would need to take a prosecution, including sufficient details of the offender and the circumstances of the offence (i.e. how a relevant provision of the PSPO has been breached by that person).

Bye Laws and Dog Control Orders (DCO)

If a Parish Council has a bye-law in place then these will remain, but to the extent that they regulate activities which are covered by the PSPO, they will be of no effect for the duration of the PSPO.

Any existing Dog Control Orders are superseded by the PSPO to the extent that the PSPO regulates the activity which would otherwise be regulated by the DCO, and this applies to any Dog Control Orders whether they were put in place by the Borough Council or by Parish Councils.

Where a Dog Control Order is in place that is not covered by a PSPO, then that DCO will continue to have effect, but as if it was a PSPO, so enforcement falls to the Borough Council.

In summary any existing Dog Control Orders have been superseded by the Public Spaces Protection Order, so enforcement falls to the Borough Council.

On-going review of current PSPO

With the current PSPO's ending in April 2020, during 2018 we will need to start looking at evidence for continuing the existing PSPO, and evidence for whether the Order should include any new provisions to address current recurring issues of antisocial behaviour. The points for consideration when gathering evidence for this process is to understand if there have been any continuous behaviours which are having an adverse effect on the quality of life of residents.

In addition during 2018 the Borough Council is reviewing how Parish Councils can provide evidence of breaches of existing PSPO's.