



To: The Leader and Executive Councillor for Strategy and Transformation: Councillor Lewis Herbert

Report by: Head of Community Services

Relevant scrutiny committee: Strategy & Resources
4/07/2016
Scrutiny
Committee

Wards affected: Abbey Arbury Castle Cherry Hinton Coleridge
East Chesterton King's Hedges Market Newnham
Petersfield Queen Edith's Romsey Trumpington
West Chesterton

PUBLIC SPACES PROTECTION ORDER - PUNT

AND TOUR TOUTING

Not a Key Decision

Executive summary

This report considers the statutory consultation exercise conducted by the Council in relation to the proposal to introduce a Public Spaces Protection Order ('PSPO') to restrict the advertising or soliciting for custom of a punt tour, walking tour, hire or use of punt boats or similar craft. In this report this behaviour is referred to, generally, as 'touting'.

The responses to consultation and main substantive issues raised during the consultation process are examined. Recommendations are made for the Executive Councillor to approve at 2.1 in this report.

The Council received 941 responses to the consultation which were analysed by Measurement Evaluation Learning ('MEL'). The report produced by MEL can be found at Appendix G of this report and the full consultation responses are available as background papers for the Executive Councillor to view. In addition, fuller details on the consultation process can be found in section 4 of this report.

The Council has given careful consideration to the responses to the consultation exercise. As a result of this, a number of changes to the text of the draft PSPO as consulted upon, are proposed, specifically that:

1. The public space subject to the PSPO (the 'restricted area') has been significantly reduced to focus on those areas where the frequent presence of touts, often in large numbers, is causing a detrimental effect on the quality of life of those in the locality. Whilst the focus has been on these areas, consideration has also been given to the risk of displacing the behaviour to neighbouring streets and allowance has been made for that risk when deciding the scope of the restricted area. Market Square has been added to the restricted area.
2. The proposed prohibition to exclude touting for walking tours (where the tour does not include any punting element whatever) is not proceeded with.
3. The precise wording has been amended to enhance clarity and certainty.
4. The quantity of signage initially proposed for the PSPO is to be reduced. Alternative means of promoting the PSPO will also be used in addition to signage in order to ensure that the organisations and

individual whose activities will be affected by the PSPO are fully aware of its terms.

1. Introduction

- 1.1 PSPOs are designed to place controls on the use of public space and everyone within it. The orders have effect for up to three years and can be extended. Only local authorities can make PSPOs. 'Public place' means any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission.
- 1.2 The Council can make a PSPO if satisfied on reasonable grounds that two conditions are met.
- 1.3 The first condition is that:
 - (a) activities carried on in a public place within the Council'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.

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.
- 1.4 A PSPO is an order that identifies the public place in question and which
 - (a) prohibits specified things being done in that public place

- (b) requires specified things to be done by persons carrying on specified activities in that place; or
- (c) does both of those things.

- 1.5 The only prohibitions or requirements that may be imposed are ones that are reasonable to impose in order to prevent or reduce the risk of the detrimental effect continuing, occurring or recurring.
- 1.6 Prohibitions may apply to all persons, or only to persons in specified categories, or to all persons except those in specified categories.
- 1.7 The PSPO may specify the times at which it applies and the circumstances in which it applies or does not apply.
- 1.8 Unless extended the PSPO may not have effect for more than 3 years. In the instant case, the Council is also suggesting a review of the proposed order after a 12 month period.
- 1.9 Breach of a PSPO without reasonable excuse is a criminal offence. The Police or a person authorised by the Council can issue fixed penalty notices. A person can also be prosecuted for breach of a PSPO and on conviction the Magistrates' Court can impose a fine not exceeding level 3 on the standard scale (currently £1000).
- 1.10 In deciding to make a PSPO the Council must have particular regard to Article 10 (Right of Freedom of Expression) and Article 11 (Right of Freedom of Assembly) of the European Convention on Human Rights.
- 1.11 The Council must also carry out the necessary prior consultation, notification and publicity.

- 1.12 On 18 January 2016 the Executive Councillor approved in principle the proposal to make a PSPO in relation to touting for punt tours and hire and walking tours. Authorisation was given for the necessary statutory consultation to be carried out prior to any decision being made on whether or not to make such a PSPO.
- 1.13 Fuller information on the consultation process can be found at section 4 of this report.
- 1.14 The purpose of this report is to inform the Executive Councillor of the results of the consultation (in summary form) and to highlight the main substantive issues that have been raised and how these have been taken into account in formulating the proposed PSPO. This report asks the Executive Councillor to (i) note the responses to consultation, (ii) consider whether he wishes to make a PSPO at all, (iii) decide whether to approve the proposed wording of the terms of the PSPO and (iv) decide the area(s) that it will cover, (v) delegate authority to officers to implement appropriate signage.
- 1.15 Following a careful consideration of the consultation responses officers are recommending the following changes to the draft Order.
- i. That the area subject to the PSPO is reduced to focus on those areas where the frequent presence of touts, often in large numbers, have had a detrimental effect on the quality of life of those in the locality. When defining the restricted area consideration has also been given to the risk of displacing the behaviour to neighbouring streets. Market Square is to be added to the restricted area, for

reasons explained below. The revised map of the area subject to the PSPO is at Appendix A of this report

- ii. It does not prohibit touting for walking tours (where the tour does not, genuinely, offer comprise or include any punting element). This recognises some concerns expressed in the consultation.
- iii. Some amendments are made to enhance clarity and certainty. This includes making clearer: (a) those areas where touting is not prohibited; and (b) that the prohibition is concerned with touting by individuals by verbal means, and not, for example, by a fixed, static, billboard advertisement on a wall. Such an activity, subject to any other permissions that may be required for it, is unaffected by the PSPO. The proposed Order is at Appendix B.

1.16 In this report the reference to “unlawful” “illegal” or “unlicensed” punt operators means those operators whose punts are not licensed by the Conservators of the River Cam (the ‘Conservators’) and who are committing offences under the Conservators’ byelaws by using their punts for commercial punt tours. “Licensed” or “registered” punt operators means those operators whose punts are licensed with the Conservators and who operate from punt stations recognised by the Conservators.

2. Recommendations

2.1 The Executive Councillor is recommended:

2.1.1 To approve the proposed PSPO as now worded at Appendix B.

2.1.2 To approve the area of the PSPO as indicated on the map at Appendix A

2.1.3 To delegate to officers authority to implement signage appropriate to any PSPO that may be agreed.

3. Background

3.1 On 18 January 2016, the Executive Councillor approved in principle the proposal to make a PSPO in relation to the area marked red on the map (Appendix C).

3.2 In proposing the PSPO the Council seeks to address the issues presented by touts who sell punt tours. There have been an increasing number of operators and individuals offering punt tours over the past 10 years or so. In turn, there has been an increase in the numbers of people seeking to sell those tours by way of touting in the city centre. Much of the touting takes place in the areas of Market Square, King's Parade and the surrounding streets.

3.3 Since 2006, the Council has received and recorded complaints about the behaviour of the touts. The complaints range from concern about the number of touts gathering together and obstructing pavements, to harassment of residents and visitors including rude and aggressive behaviour.

3.4 Walking along the streets where the touts operate has been described in a response to the consultation as "walking the gauntlet". Members of the public report having been stopped numerous times and asked if they wished to purchase a punt tour by touts. People have described feeling intimidated by the number of touts and their behaviour. Touts have obstructed the pavement, particularly outside King's College.

3.5 The Council's own officers have witnessed some of the problems detailed above and specific complaints have also been received. In addition, the responses to consultation contain numerous examples of people who have been caused a nuisance or annoyance by the behaviour of touts. The Council considers that touting for punt tours is having a detrimental impact on the quality of life of those in the locality.

3.6 There are already some controls on punting and/or touting for punt tours:

a. The Conservators of the River Cam:

- i. Punting on the River Cam (as opposed to the touting for punt tours) is subject to regulation by the Conservators, who are responsible for managing the River. Their powers include the ability to take steps to improve the river and to licence the making of piers, jetties, wharfs, banks and quays. They have the power to make byelaws for the purposes of: (a) regulating and managing the river and waters; (b) regulating vessels boats and other craft on the river and waters and the traffic on the towpath; and (c) requiring the registration of pleasure boats of any class, including receiving fees for registration and determining the period of registration.
- ii. Byelaws made by the Conservators require pleasure boats using the river to be registered. The two conditions of commercial registration are: (1) a requirement that the punts be registered to, and operated from, an officially recognised operating station; and (2) that the applicant must demonstrate that they have the permission of the relevant land owner to occupy that operating station.

There are six stations recognised by the Conservators: Granta Mill Pond, Mill Pit West; Mill Pit East; Trinity College Frontage; Quayside and La Mimosa. The punts operated from unrecognised punt stations have not been licensed by the Conservators for use on the river and are operating in breach of the byelaws. There were some successful prosecutions for breach in June 2015. The byelaws were also challenged in judicial review proceedings as being outwith the powers of the Conservators but that challenge failed at the permission stage (including a renewed oral hearing of that refusal of permission).

- iii. Despite the existence of the byelaws and the successful prosecutions the unlicensed operators have continued to operate punts on the River. Many of those operators seek customers by touting in the city centre.
- b. The Voluntary Code of Practice for the Visitor Industry 2013:
- i. In addition to the byelaws, there are controls on touting by the registered punt operators through their leases and a Voluntary Code of Practice for the Visitor Industry. The Code allows the registered operators to tout in defined areas (all very close to the river), and there are restrictions on the maximum number of touts allowed and on their behaviour. The only licensed operator who is not signed up to the Code is Granta Punts operating from the Granta Mill Pond. Granta Punts withdrew from the Code several years ago following discussions about it touting on King's Parade. The Code has proved effective in limiting the areas where registered companies who have signed up to the Code can tout.

- ii. However, unlicensed operators (and also Granta Punts) continue to tout without any restriction on their touting activities.
- c. Previous enforcement action and the provision of an additional punt station:
- i. On 8 February 2008 the Council approved enforcement action to prevent land which the Council owned from being used for the purpose of commercial punt operation without its express written consent. The Council provided a punt station beside Jesus Green (known as 'La Mimosa') and invited applications for a space. Seven operators were granted licences to operate from this location.
 - ii. Punt operators without a licence (because they were unsuccessful, did not apply, or are new operators) continue their commercial operations from various locations including Jesus Green, Laundress Green and Garret Hostel Lane. These are not stations recognised by the Conservators. Garret Hostel Lane ('GHL') has been the focus of most of the unlicensed punt activity. The slipway and stone walkway at the river's edge at GHL is owned by the Council and the operators do not have its permission to use this area.
 - iii. The Council considers that the continued use of GHL without its permission amounts to a trespass. In addition, officers consider GHL to be unsuitable as a punt station for a number of reasons, including that it is too small to accommodate the number of boats operating from here, the lack of a jetty or pontoon to allow for safe embarkation and disembarkation, congestion on the river in the vicinity of GHL, insufficient space for storing equipment such as

safety aids, congestion due to waiting and queuing passengers on a busy pedestrian and cycle route, the use blocking access to the river for other users and the number of touts operating from the city centre.

- 3.7 In setting out this background, officers stress, and the Executive Councillor is asked specifically to note, that the proposed PSPO is not put forward as a means of driving the unlicensed operators out of business. Nor is it a basis on which the PSPO may be made by the Executive Councillor. The reason for making the PSPO is the detrimental effect on the quality of life of those in the locality caused by the touting for punt tours in the centre of Cambridge. Indeed, the proposed reduction in the area covered by the PSPO, following the consultation, excludes some areas of the river where the unlicensed operators currently ply their trade. It does not, therefore, criminalise the continuance of their businesses.

4. Consultation

- 4.1 The Council has carried out an extensive consultation which included the necessary consultation required by statute. It has ensured that the consultation was carried out at a stage when the proposal was at a sufficiently formative stage and with an open mind as to what the responses may be. The Council believes this is amply demonstrated by the proposed alterations made to the terms of the PSPO, resulting from the consultation and detailed consideration to the responses to it.
- 4.2 The Council was required to consult with the Chief Officer of Police the Police and Crime Commissioner, the local policing body and whatever community representatives the Council thought appropriate to consult. The Council was also required to consult with the owner or occupier of

land within the restricted area (to the extent that this was reasonably practicable).

4.3 It was recognised that the proposed PSPO could be of interest to many sections of the community, including the public and special interest groups. Accordingly, the Council has consulted widely. The list of consultees is at Appendix F. The consultation included:

- i. A survey on the Council's website (Appendix E)
- ii. A drop-in session for information and an opportunity to complete the consultation survey took place at the Guildhall on 3 February.
- iii. A meeting between the Executive Councillor and some unregistered punt operators took place on 8 February.
- iv. A meeting between the Executive Councillor and some registered punt operators took place on 11 February.
- v. Letters were sent out to statutory consultees and to any individual, organisation or business on request.
- vi. The local newspaper ran a press release from the Council informing people of the consultation and giving links and addresses for responses.
- vii. A number of colleges of the University were emailed separately, as landowners in the restricted area and asked for their responses.
- viii. A large number of businesses in the City were made aware of the consultation through CAMBAC (Cambridge Business Against Crime).

4.4 The consultation period ran from 20 January to 17 February 2016. A number of questions were asked to establish if touting for tours was affecting the quality of life of people and whether they supported the introduction of a PSPO as set out in the draft Order. A list of the questions asked is attached as Appendix E.

4.5 The Council received 941 responses to the consultation. To collate and analyse the responses to the online consultation and the other methods of response (save for the responses in the form of legal representation) the Council commissioned a research and consultancy practice, MEL. MEL's report is at Appendix G of this report and the full consultation responses are available to the Executive Councillor to view and consider.

4.6 The Council is also required to publish the text of the proposed Order on its website. The then draft Order, in the form attached in Appendix D, was published on the Council's website between 20 January and 17 February.

The consultation responses

4.7 The headline results from the MEL Analysis are:

- There were 941 responses to the consultation.
- Just over half of respondents (54%) said they supported the use of a PSPO.
- 7% supported the use of a PSPO in part.
- 39% said they did not support the use of a PSPO.

4.8 A number of respondents explained how touting was having a detrimental impact on the quality of their lives. The most common views of touting were that touts are a nuisance, aggressive, intimidating or similar (32% of respondents).

4.9 Consideration is given later in the report, to particular responses made by consultees not supportive of a PSPO. So far as concerns those who were supportive, the following are some of the comments made by them.

4506897938	That there are far too many! At certain points in the city it is difficult to navigate through the crowds of touts, it does not feel like a public space but one in which you are crossing through their business particularly when having to duck and weave through the clipboards!
4504741925	Because it is becoming so competitive the touts are using ever more pushy/aggressive tactics. I have been asked 6 times just walking the length of King's Parade & it is embarrassing to see the way the touts are so pushy with tourists, they follow them up the street and don't let them say no.
4504673634	There's far too many touts, many of whom are cocky or even quite aggressive in their approach. I'm tired of having to avoid them as I go about my business, especially on the walk between my home and place of work. It's like walking the gauntlet, and is sometimes very unpleasant as a female to have to pass a pack of them.
4503235851	The presence of the touts does nothing for the image of Cambridge. The sheer numbers employed to tout are enough to put you off walking in the areas concerned. The touts are annoying to those just trying to pass by or enjoy a visit without being hassled numerous times to take a punt. At times I have heard them give misleading information to those they are trying to sell tickets to and at other times seen them argue in the street. They drink and smoke while touting and use a litter bin as a desk and as mentioned do not give a good impression of Cambridge to visitors.

4493086318	I feel annoyed and intimidated by the number of touts that are all over the city centre. As my route home is along Bridge St I am constantly asked if I want to go punting. And now this harassment has spread in recent years to cover more streets in the city in locations a great distance from the river.
4489999832	I think it is awful. Cambridge is a wonderful city, it should be a world heritage centre and yet it is blighted every summer (and now becoming all year round) by punt sellers literally on every street. I decided to have a leisurely walk in Cambridge on a Sunday last July and I was asked 9 times if I would like to hire a punt, three of these occasions I was in the Market Square, nowhere near the river. The practice reminds me of timeshare sales and I personally believe it will and does give Cambridge a poor reputation around the world. If every business was selling on the streets it would be chaos, why do we allow the punts to do it? I have also witnessed arguments and brawls in the street between punt operators, amazing to witness, sad to hear the bad language and a demonstration of very poor behaviour in our streets.

The consultation responses from statutory consultees

4.10 The response from Brian Ashton, Deputy Police and Crime Commissioner on behalf of the then Police and Crime Commissioner,

Sir Graham Bright, supports the PSPO as this abstract from his letter demonstrates:

'I fully support Cambridge City Council and the Constabulary's call to have powers available to them through a PSPO. This will enable them and partners to deal with the root cause of this crime and disorder. If the PSPO comes into effect the terms of the restrictions will allow and enable enforcement officers to take positive action against the touts who cause a misery to people in the City Centre.'

4.11 Sergeant Ian Wood, responding on behalf of Parkside Police, said:

'Having read through the documentation, I believe that the proposed conditions will be both effective and proportionate in our joint bid to make this local pastime an enjoyable experience once more.'

4.12 Andhika Caddy, Policy and Regulation Engineer, Cambridgeshire County Council, in a letter responding on behalf of the County Council, said:

'The County Council has the studied the proposal in depth. Please consider this letter as a formal response that the Highway Authority supports your proposal.'

The full responses are attached as Appendix H.

5. Issues raised during the consultation process:

5.1 Before undertaking the consultation, the Council had a broad evidence base consisting of officers' knowledge and the specific complaints in Appendix B of the 18 January 2016 report, all of which demonstrated the detrimental impact on the quality of life of those in the locality. The consultation process resulted in a large number of responses which sustained the view that the requisite detrimental effect existed, as set in the table above.

5.2 However, 39% of respondents did not support a PSPO, and a number of specific grounds of objection were raised by these respondents. Separately from the online survey, specific representations were received from, inter alia, Traditional Cambridge Tours Limited ('TCT'), Granta Punts, the Manifesto Club and Black Shuck Cambridge Ghost Tours and in a petition signed by some owner/managers of commercial premises in the city centre. These are in Appendices L to O

The Council has carefully considered all of the responses to the consultation in deciding whether to continue with its proposal. The main points raised in opposition, and the Council's responses to them, are as follows.

Effectiveness of the consultation

5.3 TCT suggested that the consultation materials were biased in that (for example) they made reference to irrelevant matters such as the licensing/insurance of punts, whether punt operators paid tax, whether customers were asked if they could swim, the criminal convictions of the punt operators. Specific points were also made about the 33 incidents in Appendix B of the January 2016 report.

5.4 The Council has been careful to ensure that the only matters taken into account when considering the making of the PSPO are those that

are relevant to the two statutory conditions (as set out above). The issue for the Council is whether the requisite detrimental effect exists for the purposes of the first condition, whether the effect or likely effect of the activities meets the second condition, and how that detrimental effect might be prevented by the making of a PSPO.

5.5 The Council acknowledges that the summary of the 33 formal complaints did not always contain the detail that would allow identification of individuals or companies involved in the anti-social or obstructive behaviour. It is also accepted that not all of the 33 incidents related to touting or to unlicensed touts. It is also recognised that formal complaints have been fewer than in previous years. However, complaints continue to be received. In deciding whether there has been a detrimental effect of the quality of life of those in the locality there is no minimum number of complaints required, it is for the Council to assess whether such an effect exists when taking account of the whole situation. The list of 33 incidents was intended to be a list of all of the formal complaints the Council had received in a given period. The Council has been careful to ensure that it has taken into account the impact of touting on those in the locality.

5.6 In so far as some of the consultation materials made reference to matters which were not specifically relevant to the statutory conditions for making a PSPO (as raised in TCT's representations), the Council has not taken these matters into account and has focused on the statutory requirements. It was not our intention to mislead the public with the background evidence that we provided for the consultation but to give a rounded picture of the issues that have been presented to us by the community in regard to punt tours.

- 5.7 The Council notes that Question 1 of the survey was an open question: “what is your view of touting?” with a text box allowing respondents to complete their response. The MEL report states that nearly one third of respondents (32%) made comments which described their experience of touts in a negative manner. Further, over half the respondents (54%) supported the use of a PSPO to prohibit touting. Some of those comments have already been set out in this report.
- 5.8 The fact is that the Council for many years now has received complaints about the number of and behaviour of touts and the impact of their behaviour, including the nuisance of having to pass and be approached by several touts in a short space of time and location in the city. It is clear that many people find the mere presence of numerous touts to be annoying and others are caused a nuisance/annoyance by being repeatedly approached by touts. This, quite understandably and rationally, has a continuing negative impact on their ability to walk the streets, go about their daily business and enjoy life in Cambridge. Those concerns have been borne out by the comments of a number of the respondents to the consultation.
- 5.9 The formal complaints and officers’ own knowledge of the situation were sufficient to formulate the initial proposals for a PSPO to regulate touting. The consultation responses have confirmed that the majority of respondents think touting is a problem and the responses contain numerous examples of how touting is having a detrimental effect on the quality of life of those in the locality. Taking account of all of the circumstances, the Council is satisfied that the requisite detrimental effect exists. The Council is also satisfied that the detrimental effect of touting is of a persistent or continuing nature, that it is such as to make

the activities unreasonable and the effect justifies the restrictions imposed by the PSPO.

The community impact statement of Police Sergeant Woods

5.10 Some consultees said that this statement contained incorrect and misleading statements. Sergeant Woods has responded that he has made a statement of fact and has faithfully recorded what he believes to be the impact of touting on the community. No evidence was provided to rebut Sergeant Woods' statement, which he reaffirms. His statement reflected his view of the community impact of touting but also included some wider issues related to punting and these are dealt with below.

5.11 The following points were made:

The wording in italics is taken from Sergeant Woods' statement

"Since 2012 it is a legal requirement for a punt tour company to be licensed by the Cam Conservators"

Comment from respondents -"It is not the case the companies have to be licensed by Cam Conservators. Rather the boats deployed by the companies must be licensed. Accordingly any reference made to illegal companies in this statement is incorrect"

Council's response: It is accepted that it is the boats that must be licensed. As set out in section 3.6 of this report, the operators working from unrecognised punt stations do not have licenses for their boats and are in breach of the Conservators' byelaws. Breach of the byelaws is a criminal offence.

“There are currently six authorised punt stations in Cambridge – based at Jesus Green, Quayside, Trinity College, Mill Pond, Mill Lane and Granta Mill Pond and tickets can also be purchased from the Tourist Information Centre”

Comment from respondents-“Only one punting company can have their tickets bought from the Tourist Information Centre which is a company called Scudamores. The statement makes it sound as if all punting companies can have their tickets purchased there”

Council’s response: Ticket Sales over the counter at the Tourist Information Centre are sold on behalf of Scudamore’s Punting, Cambridge Chauffeur Punts and Magdalene Bridge Punting Company (a collaborative group comprising independent punt operators working from the La Mimosa punt station). Tickets Sales via the website have previously been for Scudamore’s Punting but due to a ticket booking system upgrade, online ticket sales for Scudamore’s are currently unavailable. Online ticket sales will be available to all of the above punt operators, subject to certain operating criteria, once the new system upgrade is complete.

“I would question how well customers are triaged in respect of their ability to swim or navigate a large cumbersome punt through unfamiliar and congested waterways”

Comment from respondents: “The same question applies to all punt companies, especially as it is only companies with registered boats who offer self hire”

Council’s response: Sergeant Wood was stating his concerns about safety. However, whether or not customers are triaged for ability to

swim or navigate is not a relevant consideration in relation to whether to make a PSPO to control touting.

“Our research has also discovered that the large majority of the known punt touts have criminal convictions for a wide variety of offences – ranging from drug possession, theft, serious assaults and sexual offences”

Comment from respondents: “No evidence has been provided in this regard and its inclusion in the statement is gratuitous and arguably defamatory”

Council’s response Officers have seen evidence to support Sergeant Wood’s assertion. Of a list of 51 known touts only 7 had no criminal convictions. The information is sensitive personal information and has therefore not been published. Nonetheless, the Executive Councillor is advised not to take into account the fact of convictions.

“Despite some of the touts claiming they are adequately insured to carry passengers, this is unlikely due to the fact they are not appropriately licensed”

Comment from respondents: The respondents are subject to full insurance with a third party insurer – which is not subject to the terms of licensing from the Cam Conservators. Further, this is a matter for the river authority and does not provide any basis for the imposition of the PSPO

Council’s response: It is accepted that whether or not the operators have insurance is not a relevant consideration in relation to whether to make a PSPO to control touting.

Proposed activities covered by the revised PSPO

- 5.12 As consulted upon, the draft PSPO would prohibit (subject to the exceptions set out in the draft Order) advertising or soliciting custom within the marked areas for a punt tour, walking tour, hire or use of punts boats, or similar craft.
- 5.13 The responses to the consultation show that the detrimental effect with which the PSPO is concerned, is caused by touting for punt tours. It is not caused by touting for genuine walking tours of the City, not least because few walking tour operators tout for business in the same way as for punt tours. The reason for including a “walking tour” in the proposed PSPO was because officers were aware that some punt operators had previously sold walking tours with a “free” punt tour at the end or during the course of it. This was possibly an attempt to avoid breach of the Conservators’ byelaws. However, some responses, including from Black Shuck Cambridge Ghost Tours, claimed that it would be unfair for providers of walking tours (which did not have a punting element) to be included in the prohibitions and these have been considered.
- 5.14 Officers have given careful consideration to the precise restrictions to be covered by the PSPO. As the complaints received relate to punt tours, not genuine walking tours, it is proposed to change the wording so that the prohibition does not apply to genuine walking tours that have no punting element whatsoever. Consideration has been given to removing the restriction on ‘advertising’ but it is strongly believed that in relation to punt tours, advertising will inevitably lead to solicitation. However, the wording does make clear that what is

restricted is verbal advertising or soliciting. There is no intention to prevent, for example, billboard advertisements for punting, where the necessary permissions have been obtained.

- 5.15 It is therefore recommended that the PSPO does not prohibit touting for genuine walking tours that do not have any punting element.

The Cam Conservators

- 5.16 The Council acknowledges that the responsibilities of the Council and the Conservators are different: the Council is seeking to address the issue of the detrimental effect on the quality of life of people in the locality caused by touting on the streets and the Conservators, as the Navigation Authority, are concerned with managing the river in an effective way. The Conservators have had a series of legal battles with the unlicensed punt operators that have been costly with no real outcomes for them.

- 5.17 In the meeting between the Leader of the Council and some of the unlicensed punt operators, the Conservators' representative said that the number of unlicensed punts had remained stable at around 20 for many years. He also stated that when there had been problems the unlicensed punts usually responded well and that *'it would be better to have the 20 unlicensed punts licensed but that this is not possible under the current arrangements'*. It was confirmed that the Conservators' representative thought that having more punt stations on the river was unlikely to have a negative impact on the river and that they would be willing to consider new punt station locations. The Council is giving consideration to the introduction of a new punt station and this is addressed in the report entitled 'Punting Provision in Cambridge'.

5.18 At present it is not known whether the Council will approve the creation of an additional punt station. However, even if an additional punt station is created, it would not deal with the detrimental impact that touts are having on those in the city centre. Those operators that did not apply for a licence or were unsuccessful would still need to be prevented from touting in order to address the detrimental impact that touting has (as would any licensed operators, notwithstanding the Voluntary Code).

Relevance of the financial interests of the Council in punt and walking tours

5.19 Some respondents said that the Council has a financial interest in increasing tour sales from certain companies, namely those for whom it sells tickets through the Destination Management Organisation.

5.20 It was suggested that the Council would gain a financial benefit from introducing the PSPO as it may reduce competition for walking and punt tours. By way of background, the Council previously provided tourism services in Cambridge from its Visitor Information Centre at the Guildhall and through its 'Visit Cambridge' website. This service provided approved 'blue badge' guided walking tours and sold punt tickets for licensed punt operators.

5.21 The tourism service was partly funded by the Council but this funding had been reduced over several years. In the 2016/17 financial year it is £51,780 and will reduce to zero by 2019/20. To improve tourism services across the wider Cambridge region and to reduce the funding required, the Council established Visit Cambridge and Beyond, a not for profit, arms-length Destination Management Organisation (DMO) which started trading in February 2016. The DMO aims to increase

income from its wider activities as well as benefitting from efficiencies by operating as a private company.

5.22 The extent that the Council could be argued to benefit financially from the PSPO would be the current funding level which declines year on year to zero by 2019/20. The DMO, as a not for profit organisation, will be required to reinvest any surplus back into providing tourism services and the Council will not benefit from this in any way.

5.23 The DMO also occupies space at the Guildhall for which it pays the Council rent of £65,900 + VAT under a 5 year lease. After that time, the DMO will be able to move to alternative premises or renegotiate the lease terms. The DMO does not tout for walking or punt tours, relying on sales through the Visitor Information Centre or its website. It is open to any punt operator (licensed or unlicensed) to find office or shop premises from which to sell their services, in the same way as sold by the DMO. Indeed, they would most likely be able to find more visible, higher profile premises than the Guildhall.

Ticket sales through the Visitor Information Centre

5.24 Some of the respondents said that the Council (now through the DMO) has a biased approach to the sale of tickets for punt and walking tours.

5.25 The requirements for selling punt tour tickets through the Visitor Information Centre (VIC) are that the punt company must be a member of Visit Cambridge, agree to pay commission on those tickets sold by the VIC and, have signed the voluntary Code of Practice for the visitor industry and must be working from a legitimate punt station as identified by the Conservators. These are considered reasonable

requirements and would be expected of any tourism organisation promoting punting, be it the Council or a DMO.

5.26 Ticket Sales over the counter are currently on behalf of Scudamore's Punting, Cambridge Chauffeur Punts and Magdalene Bridge Punting Company (a collaborative group comprising 7 independent punt operators working from the La Mimosa punt station). Tickets Sales via the website have previously been for Scudamore's Punting but due to a ticket booking system upgrade, online ticket sales for Scudamore's are currently unavailable. Online ticket sales will be available to all of the above punt operators, subject to certain operating criteria, once the new system upgrade is complete. Customers are presented with information on the various companies including the price, duration of tour and departure point. They can then make an informed choice and purchase a ticket for the company that best meets their requirements.

5.27 Tickets for walking tours sold from the Visitor Information Centre and the Visit Cambridge website are for Visit Cambridge Branded Walking Tours of Cambridge. These are official tours that are recognised by the University Colleges of Cambridge. There is a national standard for tourist guides and it is a requirement that any walking tours sold through Visit Cambridge should use guides who have reached this standard (Institute of Tourist Guiding Level 3). This is considered to be a reasonable requirement. In the light of the proposal to exclude genuine walking tours from the scope of the PSPO, this would not be a relevant issue in any event.

6. Proportionality of the PSPO and consideration of alternative measures

- 6.1 The statutory provisions state that the only prohibitions or requirements that may be imposed by a PSPO are ones that are reasonable to impose in order to prevent or reduce the detrimental effect which has been identified. In deciding what is reasonable, the Council is aware that it should adopt measures which are both justified, and also proportionate to the detrimental effect sought to be addressed by the PSPO. The Council has examined whether there may be other ways of controlling the detrimental effect caused by punt touts, rather than a PSPO, but does not believe that to be the case.
- 6.2 The Council is aware of the existing controls on the activities of the unlawful punt operators as set out at section 3 of this report. These have not proved effective in reducing the number of touts in the city centre or the detrimental effect of their behaviour.
- 6.3 In the past the Council has tried several measures to try and reduce the impact of punt touting.

Restrictions within leases/licences

- 6.4 In its capacity as landowner, more recent Council leases and licences (since about 2009) have included restrictions on where its licensees and tenants can tout, including both locations and tout numbers. The punt stations where such controls have been introduced are at Quayside (Scudamore and La Mimosa independents), La Mimosa (La Mimosa independents) and Mill Pit West (Cambridge Chauffeur Punts). The lease of Granta Mill Pond does not currently include tout restrictions but the Council intends to seek such restrictions when the lease comes up for renewal in 2019.

Voluntary Code of Practice for the Visitor Industry

6.5 A Voluntary Code of Practice in relation to punt touting was introduced in 2013. The Code requires, among other things, that the operator in question must have a valid commercial punt licence from the Conservators and must also abide by any relevant byelaws or legislation. It is then designed to cover matters such as behaviour, touting locations and tout numbers connected with each approved punt station and visible display of prices. With the exception of Granta Punts (see above), all licensed operators are signed up to the Code and, apart from a few occasional minor issues, comply with its terms. The Code has worked well.

Byelaws

6.6 A byelaw was introduced in 2005 to deal with aggressive punt touting which had become a problem. The byelaw prohibits touting in such a manner as to cause obstruction or give reasonable grounds for annoyance to any person within the area covered by the byelaw (effectively the city centre). This has proved very difficult to enforce due to the need to evidence breach of the byelaw by identified individuals. Visitors to Cambridge and punt customers do complain at times but often are not able to identify individuals or do not want to spend their limited time in Cambridge (or after) providing a statement about what happened.

Injunctions

6.7 There are similar difficulties with the use of injunctions to control touting. Visitors to Cambridge and punt customers do complain at times but often are not able to identify individuals or do not want to spend their limited time in Cambridge (or after) providing a statement about what happened. The Council is also conscious that the Conservators' attempts to use their byelaws have been a slow and costly process for them. Even if one individual is prevented from

touting, there are many others who can and will take his/her place. Injunctions are not considered to be an effective method for dealing with the problem of touting.

- 6.8 The punt touting on King's Parade is primarily connected with GH L and, to a lesser degree, Granta Mill Pond. The use of GH L is by unlicensed operators. The PSPO is not about ceasing the illegal use of GH L itself (that can ultimately be dealt with by other legal means) but the touting issue and use of GH L are undeniably linked as, without the other, neither would happen on the same scale.
- 6.9 The Council has served numerous notices on the GH L operators informing them the Council does not permit use of its land for commercial punt tours and requesting they stop. It has also installed fencing and a gate at GH L to improve safety there but this has not prevented its use. Although the seeking and obtaining of an injunction based on trespass might have a knock-on effect of reducing the numbers of touts in the city centre, this is (a) by no means clear and (b) is predicated on applications for injunctive relief being swift, straightforward, all embracing, and easy to enforce. The Council does not, however, believe this to be the case. The making of a PSPO, by contrast, addresses the problem of touts in the city centre, head on and centrally.
- 6.10 The Council considers that it has taken reasonable and proportionate measures to try to reduce the impact of punt touting in the city centre but the problem still persists, hence the consideration of the PSPO.

Possibility of using kiosks/pods

- 6.11 Consideration has been given to the use of kiosks or pods for selling punt tours. This is not considered necessary, as the licenced punt operators operating from approved punt stations currently and historically have been successful without trading in prominent locations away from the river. Ticket sales are a combination of sales at the riverside, online/telephone sales, tour party sales and through outlets such as the Visitor Information Centre. Kiosks could possibly be considered at a later date immediately adjacent to the river and approved punt stations.
- 6.12 Many day visitors to Cambridge arrive by coach and are dropped off at Queens' Green along The Backs. Many visitors therefore pass over the key bridges into the historic City Centre and so are aware of where to go if they want a punt tour without the need for kiosks.
- 6.13 Given the number of punt operators in Cambridge, it would be difficult to devise a scheme that would fairly accommodate all of the operators without a significant number of kiosks/pods. This may also lead to demands for kiosks/pods for other types of use such as walking tours.
- 6.14 King's Parade is a Prohibited Street for the purposes of street trading. Although the legislation under which the Council regulates street trading does not cover sale of services the fact that King's Parade is a Prohibited Street is relevant to the consideration of whether kiosks would be appropriate. Any action taken by the Council would need to be fair to street traders. There is, of course, nothing to prevent punt operators taking alternative premises in the City Centre to promote and sell their services. The Visitor Information Centre is also willing to sell tickets both over the counter

and online subject to meeting their reasonable requirements (although it should be noted that the Council has no control over the DMO's commercial decisions).

7. Considering other alternative proposals made in response to the consultation

7.1 Some specific, alternative, proposals have been made, both by unlicensed punt operators and also by Granta Punts, which are not addressed elsewhere in this report. These were made, inter alia, during a meeting between the Leader of the Council and some of the unlicensed operators on 8 February 2016, in a subsequent submission on behalf of 'The Federation of Independent Punt Operators' dated 16 February 2016, in an email response from Granta Punts dated 16 February 2016, and within a proposal from TCT Ltd to councillors dated 2 June 2016 in relation to the wider GHF issue. Although this last document was received a long time after the consultation period ended, the Council has been willing to consider it.

7.2 The specific proposals from respondents offering alternative to a PSPO include:

- 7.1.1 Self-regulation and/or a code of conduct for the unlicensed punt operators;
- 7.1.2 Granta Punts' proposals;
- 7.1.3 Creating a new punt station at GHF.

Self-regulation/code of conduct for the unlicensed punt operators

7.3 Some operators have proposed their own code of practice or self-regulation of the way in which touts behave and where they are located within the city centre. It has been suggested that a voluntary code could be used to cover matters such as ensuring

touts wear name badges and uniforms, an offer to limit tout numbers, and the location of the touting.

7.4 These proposals have been made in 2016, some 3 years after the Voluntary Code for the Visitor Industry was put in place. Whilst it is accepted that there are some aspects of the Voluntary Code that unlicensed operators cannot meet (for example, only operating from an authorised punt station) there is absolutely no reason why all or any of them could not have abided by other aspects of the Code, including – in particular – touting only in very close proximity to that part of the river from which their punts operated. This would, in substance, have replicated the restrictions on those who have abided by the Voluntary Code. It is a fact, however, that at no time from 2013 to early 2016 did any of the unlicensed operators seek to do so.

7.5 It is also notable that specific proposals about name badges and uniforms, an offer to limit tout numbers and their location were made during the meeting with unlicensed operators on 8 February 2016. Since the meeting some touts have started to wear uniforms which display a phone number for the management. However, the Council has seen no evidence that all of the proposals have been implemented; they do not wear name tags, and without individual touts being identifiable the Council could not deal with any anti-social behaviour by them through the byelaw. Furthermore, there has not been a significant reduction in tout numbers and complaints continue to be received about touts in the city centre.

7.6 The Council does not consider that some additional, new, voluntary code, would work in practice. First, the paramount requirements for the Council in any such code would be a very strict

geographical limitation on the area of the touting (immediately adjacent to the river), as well as strict limits on numbers of touts and their conduct. Second, it would require each and every unlicensed operator (as well as Granta Punts) to sign up, and then completely comply *to the code of practice* (given that there would no means of enforcement open to the Council). Third, even if all this was achievable, which the Council does not believe, it would do nothing to prevent new operators from coming onto the scene. Fourth, it would not prevent one or more operator signing up, then withdrawing (as did Granta Punts to the Voluntary Code itself).

7.7 Indeed, it is a fact that self-regulation by the unlicensed operators has either not been undertaken or has been entirely ineffective, as evidenced by the consultation responses. The unlicensed operators have had every opportunity, both historically and more recently, to implement their proposals but have only implemented some limited, aspects since the original PSPO report in January 2016. In all the circumstances, the Council does not consider that some form of additional voluntary code or self-regulation would be an effective way of dealing with the detrimental impact of touting on the quality of life of those in the locality.

Granta Punts' proposal

7.8 Granta Punts is a licensed operator. They have proposed that they should be allowed to have their own 'regulated and recognised' touts on King's Parade. They state that this would 'support a fairer system throughout, limit touts to a minimum and disregard any monopoly concerns from unlicensed companies opposing the ban'. They consider that the Council needs to be aware of competition law and that the PSPO could be seen as a breach of this. They state that their location is off the main tourist path.

7.9 The Council accepts that Granta Punts' location is further away from the most popular part of the middle river but it is probably no further away from Silver Street Bridge than La Mimosa is from Magdalene Bridge. The Voluntary Code (which Granta Punts chose to withdraw from) allows touting for them both beside the punt station, but also presently sole touting rights at Queens' Green where many coach visitors are dropped off. This provides significant access to Granta Punts to tourists coming into the city. Added to this, other licensed operators would also, doubtless, like to tout from King's Parade and some are also in similarly 'more remote' locations, such as La Mimosa and Trinity Punts. But they have not touted there, complying properly with the Voluntary Code, and even though that has left them vulnerable to others (including Granta Punts) continuing to tout on King's Parade and Market Square to increase their profits at the expense of others. The Council cannot see any basis for conferring on Granta Punts, or any operator, some form of preference.

7.10 As this report makes clear, the PSPO is aimed at addressing unacceptable punt touting. It is not aimed at reducing competition. The other licensed punt operators operate without touting on King's Parade, competing side by side for business. This includes the La Mimosa operators, Scudamore at Quayside, Cambridge Chauffeur Punts and Scudamore at Silver Street. This competition, together with the choices on offer in places such as the Visitor Information Centre and online, and the requirements of the Voluntary Code around display of prices means that consumers have a good degree of choice in terms of location, price and company.

Proposal for a new punt station at GHL

7.11 In an email dated 2 June 2016 TCT have proposed establishing a new punt station at GHJ which could accommodate 12 punts. As stated elsewhere in this report, officers consider GHJ to be unsuitable as a punt station for a number of reasons. Another report, 'Punting Provision in Cambridge', also considers their proposal as it also relates to the use of the Council's land as well as the proposed PSPO. For reasons set out above and throughout this report, this proposal does not address the issues that warrant the making of a PSPO.

7.12 The proposed PSPO will cover all punt operators who tout in the city centre, including existing ones and those who may come to the market in the immediate future, possibly operating at GHJ but also from other locations as has previously happened. TCT and the 'Federation' (which does not appear to have any legal status) do not represent all operators and do not have control over other operators (licensed or unlicensed) either trading now or in the future at GHJ or elsewhere. Agreement with one group of operators would not prevent other operators establishing themselves and so the same issues could continue but with a new group of individuals or operators.

7.13 The Council's response to this specific proposal is:

- ***“A reduction in touts on the street from 30 plus (current numbers) to 5 total”***

TCT is not the only operator touting in connection with its services and does not/cannot regulate others who decide to set up. This could be seen as unfair by other legitimate punt operators who would also wish to tout in such a prime location.

- ***“A brand new punt station which would be the only provider of wheelchair access in the city centre”***

Granta Punts at Granta Mill Pond has wheelchair access from Newnham Road. Garret Hostel Lane is difficult to access and is in a controlled zone via rising bollards.

- ***“A drastic improvement in both the image and behaviour of punt touts in the city centre”***

There is already a Voluntary Code of Practice for punt operators which sets out expected behaviour.

- ***“A solution which takes the burden of enforcement away from the city council and cam conservancy whilst providing a new source of revenue for them both”***

There are more unlicensed operators than TCT and their proposal is likely to see displacement elsewhere requiring enforcement. The Council is not seeking to delegate its enforcement powers in this way.

- ***“The proposal will eliminate the need for a PSPO on touting and all the associated enforcement costs”***

Again, there are more unlicensed operators than TCT touting and some other licensed operators do not have tout control or abide by the Voluntary Code. Consultation and the response to the PSPO is subject to a much wider consultation than just the unlawful punt operators and all consultation responses need to be considered.

7.14 Having looked at these proposals there is a separate report on the proposals for new stations on the agenda for this committee.

8. Defining the restricted area

8.1 The Order as originally drafted covered a wide area of the city. The rationale for covering such an area was that, due to the lucrative

nature of the trade, touts had been known to operate in most of that area at different times. It was considered from this that there would likely be displacement if the Council confined the Order to the narrower areas of most activity, i.e. King's Parade and Market Square.

8.2 Respondents were asked if they thought the area shaded on the map was the right area for the PSPO. Half the respondents (50%) agreed it was the right area for the PSPO, with a further 10% agreeing in part. Some 36% of respondents disagreed that this was the right area for the PSPO. The following areas were mentioned by respondents as being problematic with regard to touting: King's Parade, Market Square, and around the colleges. It should be noted that the shaded area consulted upon had, by error, excluded Market Square itself, although all the streets surrounding it were shaded. It was always the Council's intention to include Market Square. Some respondents to the consultation specifically responded by stating that Market Square should be included, which the Council proposes to do, correcting the initial error.

8.3 Careful consideration of the restricted area (as originally proposed) and the consultation responses has resulted in the Council proposing a far reduced area to be covered by the PSPO, as shown in Appendix A. Some allowance has been made for the risk of displacement to neighbouring areas but, overall, the area has been significantly reduced to cover those areas where there are now or have been problems in the past, or where there are likely to be problems with touting in the future. Should displacement of the problem occur, beyond what has been anticipated, the Council may need (on a later occasion, and subject to compliance with the statutory requirements) to consider variation of the PSPO.

8.4 As can be seen, the proposed restricted area has been drawn so as not to prevent unlicensed operators from continuing their trade in a part of Jesus Green, Christ's Pieces, to the south of Mill Pit, or on the GHL slipway and stone walkway itself. Nor, as now drawn, would it prevent touting very close by some of these areas. The Council's rationale in making these changes is twofold. First, these are areas where people will be walking very close to the river in any event and may, in fact, be interested in taking a punt ride. Second, it reflects the fact that the focus of the proposed PSPO is against touting activity, and its affects.

8.5 It is important to note, however, that the re-drawing of the restricted area in the ways set out in section 8.4 is neither designed to, and nor does it, confer any permission on unlicensed operators to operate their businesses on Council land. Furthermore, if this results in an increase in touting in these areas, and consequential detrimental effect on the quality of life of those in the locality, the Council may need to consider variation of the PSPO at a later date.

9. Areas within the proposed PSPO area where touting is allowed close to the river – Excepted areas

9.1 The reasons for allowing exceptions where touting can continue to take place is because all but one of the licensed operators has signed up to the Voluntary Code of Practice. The Code is attached as appendix K. The licensed operators adhere to the Code and/or tout restrictions in their leases/licences. The Code requires them to limit the numbers of touts they use and for their touts to operate within a defined area connected to their punt station, close to the riverside area where they operate their punts from. Each of the excepted areas is small in geographical size and is close to the river where the operators have a

lawful business. The excepted areas are shown cross-hatched on map No.2 at Appendix A.

10. Assessing the environmental impact including signage

10.1 If the PSPO is made the Council must publish the Order on its website and put up such notices on or adjacent to the public place to which the PSPO relates that the Council considers to be sufficient to draw the attention of any member of the public using that place to:

- i) The fact that the Order has been made;
- ii) The effect of the Order being made

10.2 Signage was an issue raised by operators and by members of the public. There were concerns about the cost, quantity and environmental/visual impact of the signage. The Council has commissioned a specialist company to survey the proposed area of the Order. Its findings and recommendations are at Appendix I. These show the maximum number of signs that could be required in the absence of other publicity or actions to make people aware of the PSPO. It is based on the original, more extensive, area that was consulted upon but is presented in a way to make it easy to decrease the area under consideration and thereby reduce the quantity of signage needed. It will be important to get the right balance between having enough signage to ensure the statutory regulations are followed and keeping the number of signs needed to a minimum.

10.3 It is not the Council's intention to put up a large number of signs in the city. Signs will be put up at appropriate junctions and attached to appropriate street furniture and the Council will widely publicise the PSPO if it is approved.

10.4 Enforcement officers and police will issue a warning if they witness touting, informing the person he/she is in breach of the PSPO and must stop or be issued with a fixed penalty notice. In this way it would not be possible for a person, who nonetheless continues, to say he/she was not aware of the PSPO.

10.5 Publicity in relation to the PSPO would also involve writing to known organisations and individuals connected with punting (both licensed and unlicensed) to make them aware of PSPO so that they and their staff are aware of its existence and the relevant areas.

11. Impact on jobs

11.1 Some people have commented that the PSPO will impact on those people currently working in touting and for punt operators connected with this touting.

11.2 As already stated, the proposed Order does not prevent the unlicensed operators from plying their trade in some areas of the river. It would, however, prevent the operators from touting in the areas covered by the prohibitions in the PSPO.

11.3 Although the effect of the PSPO may be to reduce the business of some operators, officers believe that it is likely that demand for punting would be unchanged as a result of the PSPO and customers looking for a punt tour or punt hire would simply go to the river (as customers for most every other service of shop in Cambridge would similarly go to its trading location). The city centre is not large, and the river can hardly be said to be remote from it. There is no reasoned basis for saying that the PSPO will lead to fewer jobs. However, even

if there are fewer jobs, it is likely that some of this will be offset by additional employment with the licensed operators.

12. Competition Law

- 12.1 The PSPO does not restrict unlicensed punt operators from offering punt rides and the Council is not seeking to restrict competition between punt operators. The unlicensed operators can continue to tout for business (without being at risk of criminal penalty) anywhere outside of the restricted area.
- 12.2 As already stated, this does not mean those operators have the permission of the Council, as land owner, to continue their businesses. The Council may take enforcement action, separately to the PSPO, in relation to any unlawful use of its land.

13. Human Rights

- 13.1 In deciding whether to make the PSPO the Council must have particular regard to the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the European Convention on Human Rights
- 13.2 Article 10 – Everyone has the right to hold opinions and express their views on their own or in a group. This applies even if the views are unpopular or disturbing. The right can be restricted only in specified circumstances.
- 13.3 The right includes the freedom to receive ideas and information and to express views. The right can be subject to restrictions, but these must have a proper legal basis. Interference with the right by a public authority must be necessary in a democratic society and pursue one of a number of recognised legitimate aims. Those aims include to

prevent disorder or crime. The interference must be necessary (not just reasonable) and it should not do more than is needed to achieve the aim desired.

13.4 The Council does not believe that the PSPO would interfere with anyone's right to hold opinions or to express their views. The PSPO would prohibit touting for punt tours and hire in certain designated areas of the city. Even if there was any arguable interference, it would be justified, necessary and proportionate.

13.5 Article 11 – Everyone has the right to assemble with other people in a peaceful way. They also have the right to associate with other people, which include the right to form a trade union. The rights may be restricted only in certain specified circumstances

13.6 Freedom of assembly applies to static meetings, marches, public processions and demonstrations.

13.7 Officers do not consider that Article 11 is engaged in relation to the proposed PSPO. Even if there was any arguable interference, it would be justified, necessary and proportionate.

13.8 Although not specifically referred to in the legislation, the Council considers that Article 1 to the First Protocol of the European Convention on Human Rights would be engaged in relation to the proposed PSPO.

13.9 This right provides that every person (including companies) has the right to the peaceful enjoyment of their possessions. Public authorities cannot usually interfere with a person's property or possessions or the way that they use them except in specified limited circumstances. In

substance, Article 1 has three elements to it: (1) a person has the right to the peaceful enjoyment of their property; (2) a public authority cannot take away what someone owns; and (3) a public authority cannot impose restrictions on a person's use of their property.

13.10 However, a public authority will not breach this right if a law says that it can interfere with, deprive, or restrict the use of a person's possessions and it is necessary to do so in the public interest. Public authorities must strike a fair balance between the general interest and the rights of individual property owners.

13.11 Possessions and property include goodwill in a business.

13.12 The Council considers that the proposed PSPO would interfere with the way in which some punt operators conduct their business. In limiting their ability to attract business through on-street touting, this might require them to attract business by other means such as online sales. Further, the proposed PSPO may well interfere with their businesses themselves, in terms of their sales, costs and ultimate profitability.

13.13 However, the Council has to balance the rights of those punt operators who are touting in the proposed prohibited areas against the wider public interest.

13.14 The PSPO legislation permits the Council to make a PSPO if certain tests are met. If those tests are met the action is lawful. It is in the public interest that activities that have a detrimental effect on the quality of life of those in the locality, are persistent or continuing in nature and are unreasonable, be controlled in a proportionate manner

13.15 The Council is satisfied that the measures proposed are necessary to prevent the detrimental effect on those in the locality or reduce the likelihood of the detrimental effect continuing, occurring or recurring. Furthermore, and for the reasons already explained (including the limitations introduced following the consultation), they are also proportionate.

14. Equality Issues

14.1 In formulating these proposals the Council has had due regard to the Public Sector Equality Duty contained in section 149 Equality Act 2010. The Executive Councillor is reminded of that specific duty. It requires the Council to have due regard to the need to: a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; b) advance equality of opportunity between those with a protected characteristic and those without; c) promote good relations between those with a protected characteristic and those without. The 'protected characteristics' referred to are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation. It also covers marriage and civil partnership with regards to eliminating discrimination.

14.2 An Equality Impact Assessment has been carried out and can be found at Appendix J. It will be noted that that there may be impacts in relation to the protected characteristic of age (both positive and negative), disability (positive), and race/ethnicity (negative, but limited to an ability to read and understand signage). The Executive Councillor is asked to pay specific regard to the mitigating measures proposed.

15. Fixed Penalty Notices

15.1 The fixed penalty notice is to be set at £75 in keeping with other fixed penalty notices used by the Council, for example, for breach of dog control orders. This will ease administration and avoid complications in issuing and following up on unpaid notices.

16. Implications

(a) Financial Implications

The Council has already incurred the cost of carrying out the consultation. If the PSPO is made the Council will incur costs in procuring and erecting signage. Further costs will be incurred in publicising the PSPO and in enforcing it.

(b) Staffing Implications (if not covered in Consultations Section)

There are not considered to be any additional staffing implications from implementing the PSPO as existing enforcement officers will be used. This will be monitored and reviewed should the tout problem persist and additional resource considered at that time.

(c) Equality and Poverty Implications

Please see Sections 11, 13 and 14 above in relation to equalities, human rights and employment implications. There are not considered to be any poverty implications.

(d) Environmental Implications

Details of the signage are attached as Appendix I and an explanation of how we will approach signage is in section 10.

(e) Procurement

No procurement issues

(f) Consultation and communication

As detailed in the report

(g) Community Safety

As detailed in the report

17. Background papers

These background papers were used in the preparation of this report:

Report to Strategy and Resources Committee Public Spaces Protection Order – Punt and Tour Touting;

Minutes for Strategy & Resources Scrutiny Committee on 18th January 2016 and;

Consultation responses

18. Appendices

Below is a list of appendices highlighted in the report:

A: Maps showing the ‘restricted area’ and the ‘exception areas’

B: The proposed PSPO

C: Maps showing original draft ‘restricted area’ and ‘exception areas’

D: The original Draft PSPO

E: Council Website Consultation – format of the questions

F: List of Consultees – those consulted separately to the main public consultation

G: MEL’s Report on the consultation responses

H: Responses from Statutory Bodies – Brian Ashton, Deputy Police and Crime Commissioner, Sergeant Ian Wood on behalf of Cambridgeshire Constabulary, Parkside, Cambridge and Andhika

Caddy, Policy and Regulation Engineer, on behalf of Cambridgeshire
County Council

I: Signage Report

J: Equalities Impact Assessment

K: Voluntary Code of Practice for the Visitor Industry 2013

Responses from those proposing alternative measures to a PSPO:

L: Response from Traditional Cambridge Tours Limited ('TCT')

M: Response from Granta Punts

N: Response from the Manifesto Club

O: Complaint from Black Shuck Cambridge Ghost Tours

19. Inspection of papers

To inspect the background papers or if you have a query on the report
please contact:

democratic.servives@cambridge.gov.uk

Phone: 01223-457013