



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

Report by: Debbie Kaye, Head of Community Services

Relevant scrutiny
committee: Strategy & 9/10/2017
Resources
Scrutiny
Committee

Wards affected: All Wards

**PUBLIC SPACES PROTECTION ORDER (TOUTING) 2016: FIRST YEAR
OPERATION REVIEW
Not a Key Decision**

1. Executive summary

1.1 This report reviews the impact of the Public Spaces Protection Order (PSPO) (Touting) 2016 since its implementation in September last year. It considers the successful enforcement outcomes and also the challenges and perceptions encountered in enforcing the order. It also looks at the complaints and observations received from the public and the public perception of what the order could achieve to address the issues of punt touting. The report examines the way forward to address the public concerns over touting. It also looks at the enforcement of the PSPO and makes recommendations on the options for the future.

2. Recommendations

- 2.1 The Executive Councillor is recommended:
- To continue with the PSPO as it is, and;
 - To increase and improve the levels of enforcement ,
 - To improve the communications to the public around successful prosecutions and further raise awareness around the purpose and intent of the PSPO,
 - To look at the potential to amend and expand the restricted area,
 - To review in full the impact of the increased enforcement next October.

- 2.2 The Executive Councillor is asked to note the wider injunction action underway by the Council with the intention to remove the ability of unauthorised punt companies to operate from Garret Hostel Lane and other areas on the river, which if successful, will lead to a reduction in the number of punt touts in nearby city areas and cut levels of unnecessary punt touting.

3. Background

- 3.1 In seeking to address the issues presented by touts who sell punt tours, the Executive Councillor approved a Public Spaces Protection Order (Touting) 2016 on 4th July 2016 (Appendix A).

- 3.2 The activities prohibited by the order are verbally:

- i) advertising or
- ii) soliciting for custom or
- iii) otherwise touting for

a punt tour or the hire or use of punts boats or similar craft on the River Cam (including any walking tour which includes or involves, whether or not for consideration, a punt tour or hire or use of punts boats or similar craft on the River Cam). The order applies within a restricted area as shown on the map labelled 'The Restricted Area' (Appendix A).

- 3.3 The order does not apply to those cross-hatched shaded areas as identified on the attached map labelled 'Excepted Areas' provided that the activities are carried out with the authority of, and by or on behalf of, a punt operator whose vessels are licensed for commercial purposes by the Conservators of the River Cam (Appendix A).
- 3.4 The order was approved, following extensive public consultation, to address the issues presented by touts who sell punt tours. The details of both the consultation and the issues the order is intended to address are contained in the report Public Spaces Protection Order - Punt and Tour Touting to Strategy and Resources Committee in July 2017.
- 3.5 The Executive Councillor requested a review of the impact of the order after a twelve month period. This report reviews the impact of the PSPO (Touting) 2016 from its implementation on 15th September 2016 and makes recommendations for the future.

Public perceptions, complaints and observations – post implementation

- 3.6 The Council received 121 complaints, inquiries and observations about touting since the implementation of the PSPO. The contacts cover a range of issues relating to touting including, the number of touts present in certain areas, aggressive behaviour of touts, perceived inadequate or lack of enforcement of the order and displacement of touts. An anonymised summary of the contacts with the Council in relation to the PSPO is contained in Appendix B.
- 3.7 The majority of the contacts were reporting the presence and number of touts in King's Parade and around Great St Mary's Church. Many of these included complaints about blocking the pavement and harassing the public. There were 16 complaints of aggressive or rude touts. There were 15 complaints or observations about the perceived lack of enforcement and a number of questions about how the enforcement should work. Displacement to the station area was also of concern.
- 3.8 It has not been widely understood that the order prohibits verbal touting only and does not prohibit the actual presence of touts. The methods of communication to the public explaining what the order prohibits and what areas it covers have been largely unsuccessful in conveying the message.

Enforcement Outcomes

- 3.9 The Council has 6 enforcement officers on the streets who monitor the behaviour of punt touts and who can issue fixed penalty notices on breach of the order. Police patrols can also issue fixed penalty notices for breaches. Enforcement officers are working at weekends and other peak times, but enforcement officers have a range of demanding responsibilities not limited to punt touting.
- 3.10 As at 1st September there have been 60 fixed penalty notices for breach of the order, of which: 54 have been paid; 2 were withdrawn; and 2 are on-going. There were two successful prosecutions for repeat offences and there are 4 prosecutions pending. Operators are now using 16/17 year olds in hot spot areas, and adult touts are operating outside the PSPO area. Police have not issued any fixed penalty notices as they have found that the touts leave the area when they see a uniformed police officer approaching.

Public perception of enforcement and purpose of the PSPO

- 3.11 The PSPO is intended to address the anti-social behaviour linked to touting including aggressive touting and numbers of touts blocking the pavements and causing nuisance through harassing the public. It

was never the intention to completely stop touting in the restricted area; however, it is clear from the feedback that the public perception was that the PSPO would limit the number of touts or completely prohibit the presence of touts particularly in King's Parade.

There has been some dissatisfaction from the public and from businesses, particularly around King's Parade with the enforcement of the order. Initially there was improvement with the number of touts reducing and the consequent perception that harassment of the public had lessened. However, it is necessary to have proof that touting for punt tours has taken place and a fixed penalty notice can only be issued when there is clear evidence that the order has been breached. Touts began to find ways of touting for punt tours without verbally touting by, for example, carrying a clipboard directing people to places where they could book a trip and pay. Gradually the touts returned in greater numbers and generally they are prepared to breach the order and pay the fines.

- 3.12 There does not appear to be widespread understanding or concern among the touts of the seriousness of failing to comply with the order. It is a criminal offence to breach the order and a person found in breach of the order is liable to a fine. Repeat offending or non-payment of fines can result in a criminal record for the offender. This can have long term and serious consequences for a young person.
- 3.13 The touts have also dispersed to areas that are not covered by the PSPO and in particular have gathered in some numbers at the railway station area. A number of commuters and businesses in that area have complained about their presence.
- 3.14 It is acknowledged that there are some anomalies in the map denoting the restricted areas. In particular, there is some ambiguity with regard to the area on the corner of John Lewis at the intersection of St Andrew's Street and Downing Street and also at the Metro Bank and Christ's Lane. This has resulted in complaints from the public particularly in regard to the corner of John Lewis. The law is as yet unclear as to the extent to which 'variations' to a PSPO require consultation. We are currently taking advice on whether we can amend the maps to denote the areas as originally intended to be included within the restricted area.

Injunction application to stop unlicensed punt activity on Council Land

- 3.15 Independently from the PSPO, the Council is seeking an injunction from the High Court to ban punt businesses from using its land to

access the River Cam without its consent. The unauthorised use has escalated beyond Garret Hostel Lane to the City's open spaces at Laundress Green and Sheep's Green with significant punting operations taking place in these locations. These locations are not authorised punt stations and do not have planning permission or approval from the Cam Conservators.

An injunction from the court would close off these locations in the city centre area where unlicensed punt businesses operate from. Unlicensed businesses are responsible for much of the indiscriminate punt touting away from the river in the city centre, removing their ability to operate from the Council's land on the river should reduce the number of punt touts and levels of unnecessary punt touting.

Options available to continue to address the issues of punt touting

3.16 Changing the terms of the PSPO

If a new issue arises in an area where a PSPO is in force, the council can vary the terms of the order at any time. This can change the size of the restricted area or the specific requirements or restrictions by altering or removing a prohibition or requirement included in the order, or by adding a new one. Therefore the council can decide to extend the area of the order to those hotspot areas impacted by the displacement of the touts. It can also decide to change the wording of the order.

Variations to the order can only be made if the conditions in section 59(2) and (3) are met as regards activities in that area.

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.

3.17 Although a variation of the order is permitted under the Anti-social Behaviour, Crime and Policing Act 2014, if such a variation were to be made, an interested person may apply to the High Court to question the validity of the variation. For example, if the Council were to seek to ban touting completely from certain areas, it would have to ensure that the conditions stated above have been met and would need to have the background evidence to support the variation. In effect a variation that included a change of wording and/or the extension of the restricted area would involve a process of consultation and evidence gathering and consideration by committee. In effect the process will be the same as that for introducing a new PSPO. However, as noted in paragraph 3.14 it may be possible to make minor amendments to the restricted areas without going to consultation where the areas in question were quite clearly intended to be included in the original order.

3.18 **Increased and more robust enforcement -**

Increasing the level of enforcement would go some way to addressing the concerns and perceptions that enforcement was not robust enough. This would require having enforcement officers available for more persistent patrols including at peak times of day for the tout operations and at week-ends. The current enforcement levels cover each day Monday to Friday, early evenings and weekends. Increased enforcement would include extensions to these times or other forms of patrolling. Currently there is not the resource within the Enforcement Team for this level of enforcement; therefore further resource would have to be made available with the attendant costs or impact on other areas of enforcement.

3.19 **Discharge of the PSPO**

The maximum duration of a PSPO is three years without review or new consultation, but they can last for shorter periods of time where appropriate. Short term PSPOs can be used where it is not certain that restrictions will have the desired effect. This PSPO can be discharged if it is found not to have addressed the issue. If the order is discharged, a notice identifying the order and stating the date when it ceases to have effect must be published. The order can also be left in place for the 3 year period. A discharge would mean that other ways of addressing the issues of the numbers and behaviour of punt touts would have to be found.

Conclusion

3.20 Officers have considered the issues raised by the public and businesses and the options available to address them and have made recommendations as detailed in 2.1 and 2.2.

4. Implications

(a) Financial Implications

The financial implications will change depending on which of the options for the future of the PSPO are chosen:

- Discharging the PSPO would likely result in relatively low costs to publicise the removal of the order and the signs.
- Leaving the order in place with increased enforcement would carry a staff costing, changing of priorities or reduced enforcement elsewhere in relation to increased working hours for Enforcement Officers. The estimated cost of a fixed term post to enhance the enforcement levels would be £18k for six months funded in part from fixed penalty notices.
- Extending the geographical area covered by the order and/or changing the wording of the order would be the most costly option as it would mean carrying out another consultation with attendant costs and any costs attached to new signage.

(b) Staffing Implications (if not covered in Consultations Section)
See financial implications above.

(c) Equality and Poverty Implications

An equality impact assessment was carried out during the consultation and implementation of the order. A further assessment would be needed if significant changes are made to the order. Equality and poverty implications were addressed in detail in the report to Strategy and Resources Committee in July.

(d) Environmental Implications

Climate change rating is not applicable, however, the impact on increased signage on the environment will need to be considered in the event of a change to the geographical area.

(e) Procurement

It is unlikely that the costs would reach procurement thresholds.

(f) Consultation and communication

As detailed in the report.

- (g) **Community Safety**
As detailed in the report.

5. Background papers

These background papers were used in the preparation of this report:
Public Spaces Protection Order – Punt and Tour Touting report to Strategy and Resources Committee 4 July 2016
Notes of the Strategy and Resources Committee 4 July 2016
Reform of anti-social behaviours powers – Home Office guidance for frontline professionals
Anti-social Behaviour Crime and Policing Act 2014

6. Appendices

Public Spaces Protection Order (Touting) 2016 – Appendix A
Summary of complaints since 15 September 2016 – Appendix B

7. Inspection of papers

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

Author's Name: Lynda Kilkelly
Author's Phone Number: 01223 - 457045
Author's Email: lynda.kilkelly@cambridge.gov.uk