

## Public Space Protection Order: Touting

**To:**

Cllr Alice Gilderdale, Executive Councillor for Community Wealth Building and Community Safety and Deputy Leader (Statutory)

Environment and Communities Scrutiny Committee, 29/06/2023

**Report by:**

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**Wards affected:**

Newnham, Market, West Chesterton

Not a key decision

### 1. Executive Summary

- 1.1 The Anti-social Behaviour, Crime and Policing Act 2014 (“2014 Act”) gives local authorities the power to make Public Space Protection Orders (PSPOs).
- 1.2 The Cambridge City Council Public Spaces Protection Order (Touting) 2016 is due to lapse on 14<sup>th</sup> September 2023. The activities prohibited by the Touting 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. A breach of a PSPO is a criminal offence and those in breach can receive a Fixed Penalty Notice (FPN) fine. The areas covered by the current PSPO can be found in Appendix A.
- 1.3 Before the order lapses, Cambridge City Council must decide to either:
  - a) extend the period of the order for up to three years, b) vary the order or c) discharge the order.

- 1.4 As per legislation this decision should be informed by consultation with:
- The Police and Crime Commissioner,
  - Cambridgeshire Constabulary (the local policing body),
  - Relevant community representatives,
  - Ward Councillors, and
  - The owner/occupier of land the PSPO covers.

In addition to these groups, the Council sought the views of local people via the Council's Citizen Lab consultation platform. 240 people completed the consultation. The consultation questions can be found in Appendix B.

- 1.5 The evidence and consultation results have been used to inform consideration about whether to a) renew the PSPO; b) vary it; or c) discharge it. The report highlights why options B is proposed to be implemented, as summarised in section 2. The EQIA for this report is in Appendix C.

## **2. Recommendations**

The Executive Councillor is recommended to:

- 1) Extend the PSPO for a period of 3 years on the grounds of:
  - Consultation feedback highlighting concerns about nuisance re-occurring if the order is discharged
  - Support from residents and businesses, including punt operators, for the continuation of the PSPO
  - The need to address the disparity between low reporting to the council and ongoing community concerns about prohibited behaviours. It is proposed that updated signage is put in place to make clearer how people can report punt touting in the prohibited areas.
- 2) Increase the Fixed Penalty Notice issued for breaches of the order from £75 to £100, so that it is in line with all other Fixed Penalty Notices issued by Cambridge City Council as outlined in section 3.17 – 3.25.

## **3. Background**

- 3.1 Between 2006 and 2016 the Council received 268 complaints about punt touting and anti-social behaviour. During this time both licenced and unlicensed organisations and individuals were punt touting in the city.
- 3.2 In 2012 the City Council developed a Voluntary Code of Practice for the Visitor Industry, including punt touts. The aim of this was to address nuisance behaviour from licensed punt touts within the city.

- 3.3 In 2016 the PSPO was introduced to address nuisance punt touting. At the time it was introduced there was an increased number of operators and individuals selling punt tours by way of touting in the city centre. Much of the touting took place in Market Square, King's Parade and the surrounding streets.
- 3.4 The Order is enforced by Cambridge City Council officers who have the power to issue fixed penalty notices to those who breach the PSPO. The number fixed penalty notices issued per year are:

<b>Year</b>	<b>Fixed Penalty Notices Issued</b>
2016/17	27
2017/18	41
2018/19	24
2019/20	3
2020/21	2
2021/22	7
2022/23	2
2023/24	0
<b>Total</b>	<b>106</b>

- 3.5 On 25 May 2018, the Council was granted an Injunction against named and unnamed parties from engaging in unlicensed commercial punt operations, including touting, on Council-owned land. This resulted in operators being unable to punt from Garret Hostel Lane and had a significant impact on illegal touting in King's Parade and the city generally.
- 3.6 The injunction does not have an end date. The wording of the 2018 injunction stipulates that it can be challenged any time, but those challenging the order would need to inform the Council before going to court.
- 3.7 In 2019 the PSPO was renewed for a further 3 years. Covid-19 had a significant impact on the number of visitors to the city during 2020/21 and consequently on the number of people seeking punt tours, again reducing the opportunities to tout for business. In 2022 a decision was made to extend the PSPO for 12 months to assess if punt touting increased as the tourism resumed in the city. The PSPO covers areas of both Council-owned land and non-Council owned land.

- 3.8 The PSPO will lapse in September 2023. Prior to it lapsing the Council must decide whether to renew, vary or discharge the order. All options require some form of consultation.
- 3.9 Renewing the order requires a partial consultation involving Police and Crime Commissioner, the local policing body, relevant community representatives, ward councillors and the owner/occupier of land the PSPOs covers.
- 3.10 Varying the order requires a full public consultation which could be completed using the Citizenlab consultation platform.
- 3.11 Once finalised there is a 6-week period where a varied order may be subject to a High Court challenge on the grounds that the local authority did not have the power either to make the Order or include particular prohibitions or requirements, or that proper processes had not been followed as prescribed by the legislation. The High Court can uphold, quash or vary the PSPO and may decide to suspend the operation of the PSPO pending the verdict.
- 3.12 Discharging would require a partial consultation involving Police and Crime Commissioner, the local policing body, relevant community representatives, ward councillors and the owner/occupier of land the PSPOs cover.
- 3.13 If the order is discharged the City Council would be required to erect signage stating that the order is no longer in place.
- 3.14 A consultation with the public and key stakeholders (as outlined in section 5) was launched on 10<sup>th</sup> May and ran until 4<sup>th</sup> June. The consultation has been used alongside evidence to inform the recommendation of this report.
- 3.15 The results of key evidence and consultations are broken down below:
- Complaints about punt touting received by the Council have decreased since the injunction has been in place.

<b>Year</b>	<b>No. of complaints</b>	<b>Average complaints per year</b>	<b>Order / Injunction</b>
2006 – 2016	268	26.8	Order – 15 September 2016
2016 – 2018	164	82	Injunction – 25 May 2018
2018 – 2021	19	6	
2021 – 2023	24	8	

- The Covid-19 pandemic greatly impacted tourist in Cambridge. Evidence from Centres for Cities showed that by April 2022 footfall and spending had returned to pre-pandemic levels.

- The Citizen Lab consultation showed:
  - 197 respondents had witnessed people touting for punt tours in Cambridge in the last 12 months.
  - Most respondent who witnessed punt touting saw it in areas it is prohibited, however 99% of respondents did not report it to the Council.
  - 81.7% (196 respondents) supported the extension of the PSPO.
  - Of those who supported the extension:
    - The majority were residents (83%, 162 respondents)
    - Over a quarter were people who worked in the city (34%, 67 respondents)
    - Most of the business community supported the extension (19 of 22 businesses). This included 4 punt operators that supported the extension.

3.16 The evidence shows that whilst issuing of fixed penalty notices and complaints about punt touting in the prohibited areas have decreased, the consultation showed there remains a persistent presences of unreported nuisance punt touting in the city centre.

3.17 Breach of a PSPO, without reasonable excuse, is a criminal offence. The Police, or a person authorised by the council, can issue an FPN (fixed penalty notice). 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). Alternatively, the opportunity to pay a fixed penalty (currently set at £75 for breaches of the Order) is offered by the council in place of prosecution. An FPN is an 'on the spot' fine for committing criminal offences, such as breach of the Order. Payment of a FPN means that no further action will be taken for that offence, it does not constitute an admission of guilt by the offender, but it does mean that such cases are diverted away from the Magistrates Court, thereby avoiding the risk of the offender receiving a larger penalty fine of up to £1000 and a criminal record.

3.18 Previously there was no requirement for anyone committing an offence to provide their name and address if requested to do so by an authorised officer. Legislation for other environmental offences such as littering makes it an offence to fail to provide details to an authorised officer when the officer proposes to issue a fixed penalty notice. Therefore, a section requiring suspects to provide their name and address when they have breached the requirements has been added to the Order.

- 3.19 To ensure consistency with all other FPNs currently issued by the council, officers are recommending that the FPN for breaches of the Order is increased from £75 to the maximum legal level of £100, and to give a discount of 40% (i.e., discounted fine value) of £60 for early repayment provided payment is made within 10 days of the date the FPN was issued.
- 3.20 There is a set legal standard payment period of 14 days for the payment of fixed penalties. Once an FPN has been issued, an authority cannot prosecute for the alleged offence if the fixed penalty is paid within this period, and this must be stated on the notice itself. For this reason, the period during which a discount for early payment is offered must be less than 14 days and in line with the Regulations cannot be more than 10 days. Again, this will be consistent with the standards set by other local authorities and the approach already in place for other environmental crime fixed penalty notices.
- 3.21 The council will continue not to accept payment by instalments or payment plans. Payment for FPNs can only be accepted by the council for the full amount. However, in cases of financial difficulties, officers will continue to have discretion to be able to extend the lower threshold payment period (subject to legal restrictions) and will work together with those issued fixed penalties to avoid prosecution where possible.
- 3.22 The intention is that the increased level of FPN will function as a deterrent to offenders; and that the council will see a decrease in the number of incidents and the number of prosecutions for these offences.
- 3.23 FPN's are an effective and visible way of dealing with low level environmental crime and will be supported by the public, provided they are used sensibly, enforced fairly, and are seen as a reasonable response to genuine problems.
- 3.24 The council has already approved the use of FPNs as an alternative to prosecutions when dealing with other environmental crimes including littering, illegal advertising, and abandoned vehicles. These FPNs are issued by authorised council officers in accordance with the council's Corporate Enforcement Policy.
- 3.25 FPNs are not appropriate for repeat offenders, for those who are non-compliant or those who do not wish to be issued an FPN. These types of offences will continue to be enforced by prosecution in line with the Corporate Enforcement Policy.

## **4. Implications**

### **a) Financial Implications**

If an extension to the order is agreed the Council must 'cause to be erected on or adjacent to the land in relation to which the public spaces protection order has been made such notice or notices as it considers sufficient to draw the attention of any member of the public using that land to –

- (i) the fact that a public spaces protection order has been made; and
- (ii) and the effect of that order being made.

The current signs can remain in place and the City Council will be required to publicise the extension which can be done through press release and publication on our website.

Due to the disparity in witnessed to reported prohibited punt touting, the Council will arrange for updated signage, this can be covered within the Community Safety budget.

### **b) Staffing Implications**

The order is currently enforced by Cambridge City Council officers, this can continue as at present.

### **c) Equality and Poverty Implications**

The impact on residents, visitors and businesses is expected to be positive overall, as the PSPOs should continue to act as a deterrent to touting within the relevant areas. This is expected to reduce anti-social behaviour.

The Equality Impact Assessment for this report is in Appendix C.

### **d) Net Zero Carbon, Climate Change and Environmental Implications**

A climate change rating tool has been completed which shows no net impact on the council's net zero carbon target.

### **e) Procurement Implications**

Costs are highly unlikely to fall within the procurement criteria.

## f) Community Safety Implications

The extension of the PSPOs will continue to have a positive effect on community safety in the concerned areas.

## 5. Consultation and communication considerations

More in depth information about the consultation:

- a) Before considering discharge of the order the Council needs to consult with:
- Police and Crime Commissioner,
  - The local policing body,
  - Relevant community representatives,
  - Ward councillors, and
  - The owner or occupier of land within the restricted area

The Council widened the scope of the PSPO consultation, by making it public and involving key stakeholder such as Cambridge BID, several University of Cambridge colleges, local businesses and punt operators. There were 240 responses the consultation – this is 206 response increase from last year. The consultation questions can be found in Appendix B.

- b) Evidence showed that complaints about punt touting received by the Council have decreased since the injunction has been in place.

Year	No. of complaints	Average complaints per year	Order / Injunction
2006 – 2016	268	26.8	Order – 15 September 2016
2016 – 2018	164	82	Injunction – 25 May 2018
2018 – 2021	19	6	
2021 – 2023	24	8	

- c) The Order is enforced by Cambridge City Council officers who have the power to issue fixed penalty noticed when they witness people breaching the PSPO. The number fixed penalty notices issued per year are:

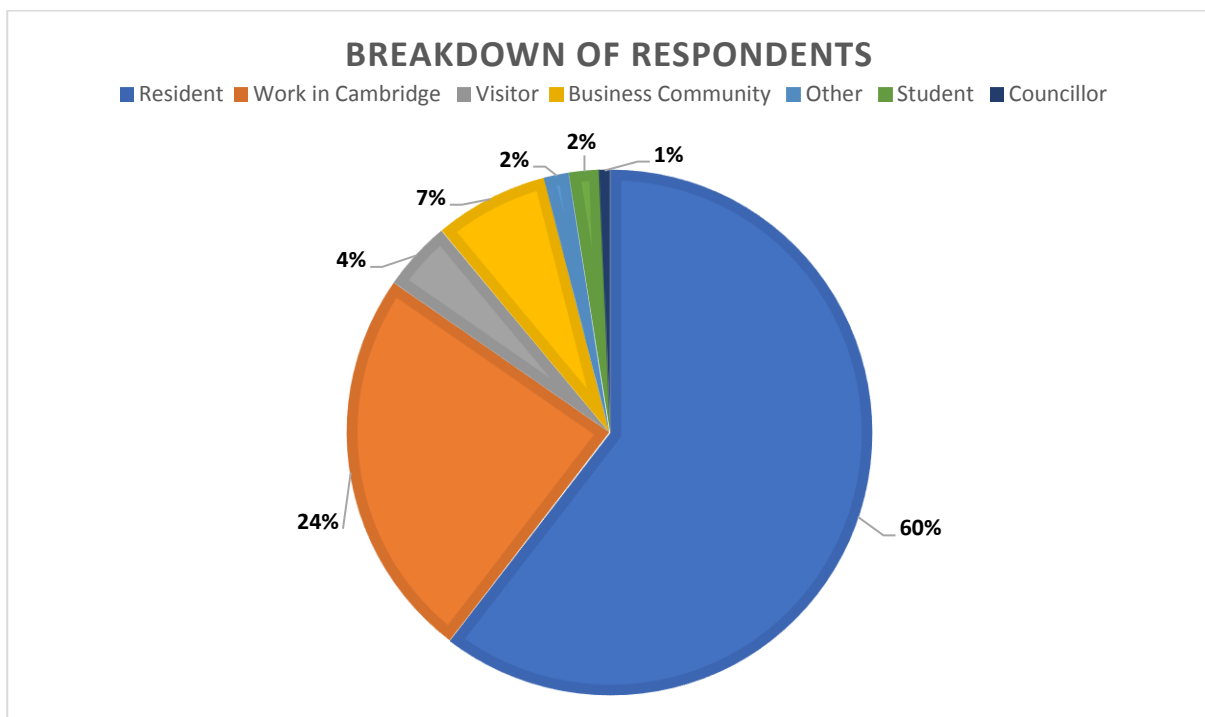
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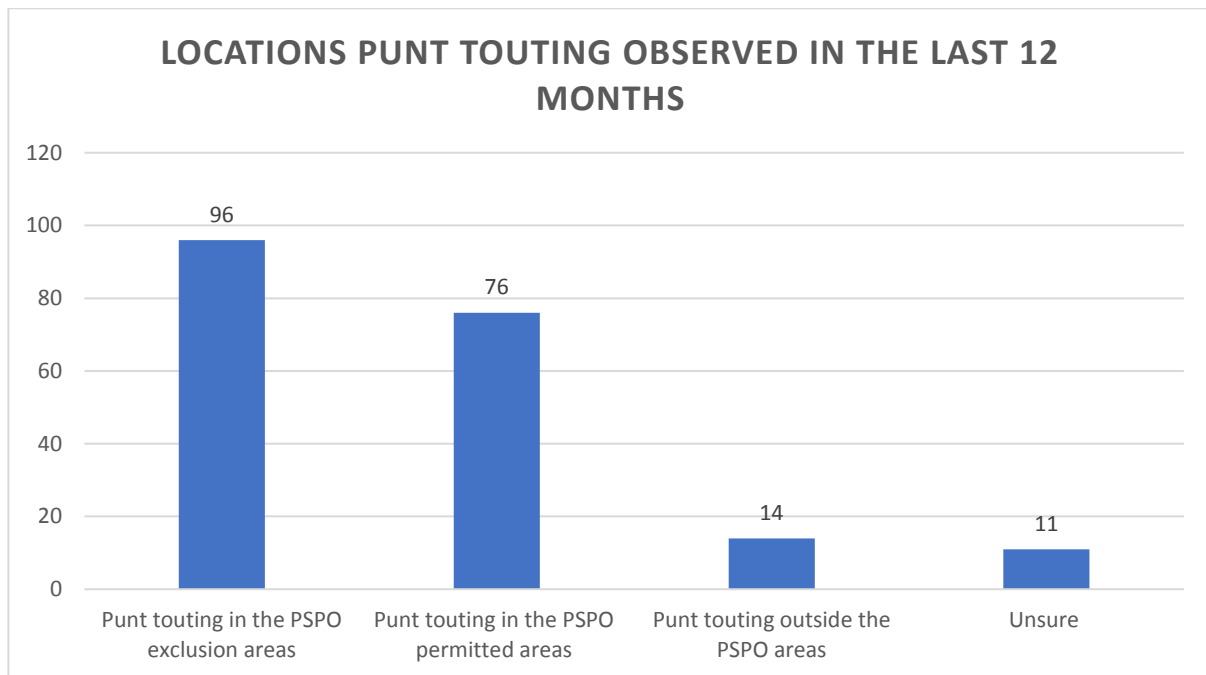
2020/21	2
2021/22	7
2022/23	2
2023/24	0
<b>Total</b>	<b>106</b>

- d) The Covid-19 pandemic greatly impacted tourist in Cambridge. Evidence from Centres for Cities showed that by April 2022 footfall and spending had returned to pre-pandemic levels.
- e) A consultation with the public and key stakeholders (as outlined in section 5) was launched on 10<sup>th</sup> May and ran until 4<sup>th</sup> June. The following are findings from consultation responses received.

There were 240 responses to the consultation. The respondent's connection to Cambridge is broken down below:



197 respondents had witnessed people touting for punt tours in Cambridge in the last 12 months. Most witnessed in areas it is prohibited:



The most prominent location for prohibited punt touting was King's Parade.

38% (90 respondents) witnessed punt touting more than 15 times a year. 32% of which (76 respondents) witnesses it more than 20 times a year.

Of those who witnessed nuisance touting the most common types of nuisances reported by consultation respondents were obstruction of pavements and aggressive behaviours.

99% (195) of those who witnessed punt touting did not report it to the council – the most common reason given was that they did not know they could report it.

81.7% (196 respondents) supported the extension of the PSPO. Of those who supported the extension:

- The majority were residents (83%, 162 respondents)
- Over a quarter were people who worked in the city (34%, 67 respondents)
- Most of the business community supported the extension (19 of 22 businesses). This included 4 punt operators that supported the extension.

Reasons given for supporting the extension were:

- *“PSPO protects the city from nuisance touting and also other businesses from the unfair advantage that unregulated touting presents.” – Punt operator*
- *“The touting decreased after the PSPO came into effect. It will increase substantially if the PSPO is removed.” – Resident*
- *It has massively reduced the amount of harassment that visitors and residents receive – Resident*
- *“As a business we feel it is extremely important to interact professionally when touting for business, whilst adhering to the code of conduct for punting companies, set out by the City Council...If the PSPO were to cease, I'm certain that an expansion of the number of touts outside of the permitted touting zones would ensue and there would soon be a return to the days of numerous complaints of nuisance touting the city centre, with no recourse for poor behaviour.” – Punt operator*

12.1% (29 respondents) wanted to PSPO to be varied. 24 of these people were residents. 1 call for variation was from a punt operator. Reasons given for variation were:

- *“It should be better policed” – Resident*
- *“It could be made to be more strict” – Resident*
- *“Expand the allowed tout area to allow punt tour operators to tout a bit more and earn more money which supports the local economy.” – Resident*
- *“It should extend to ban "tourist information" except from official council sources” – Resident, Works in Cambridge*

There is not a strong enough or consistent reasoning to support variation of the order.

6.3% (15 respondents) wanted the PSPO to end, 11 of these people were residents. 0 punt operators who responded to the consultation said that they wanted the order to end. Reasons given for those who supported the order ending were:

- *“Not necessary people will still do the same thing whether they get a fine or not. People nowadays don't care.” – Resident*
- *“The touting was typically good natured and aimed at visitors. They weren't persistent”. – Resident*

## 6. Background papers

Background papers used in the preparation of this report:

- (a) Anti-social Behaviour, Crime and Policing Act 2014:  
<http://www.legislation.gov.uk/ukpga/2014/12/contents/enacted/data.htm>
- (b) Anti-Social Behaviour, Crime and Policing Act 2014: Anti-social behaviour powers, Statutory guidance for frontline professionals:  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/352562/ASB\\_Guidance\\_v8\\_July2014\\_final\\_2\\_.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/352562/ASB_Guidance_v8_July2014_final_2_.pdf)
- (c) Decision details: Public Spaces Protection Orders -  
<https://democracy.cambridge.gov.uk/ieListDocuments.aspx?CId=476&MId=3971&Ver=4>
- (d) PSPO – Touting 2016 – Sealed:  
<https://www.cambridge.gov.uk/media/7690/touting-pspo-sealed.pdf>

## 7. Appendices

- A Punt Touting PSPO and Exception Areas Map
- B Consultation Questions
- C Equality Impact Assessment

Inspection of papers

To inspect the background papers or if you have a query on the report please contact Keryn Jalli, Community Safety Manager, tel: 07562 308 141, email: [keryn.jalli@cambridge.gov.uk](mailto:keryn.jalli@cambridge.gov.uk)