

# Delegated Decisions report



29 November 2022

## EXTENSION OF THE PUBLIC SPACE PROTECTION ORDER - VEHICLE RELATED ANTI-SOCIAL BEHAVIOUR

Name of Cabinet Member	<b>Councillor Jenny Wilson-Marklew</b> (Cabinet member for Climate and Sustainability)
Report sponsor	<b>Sarah Gonsalves</b> Director - Customer and Community Services

Exempt / confidential / not for publication	<b>No</b>
Council Plan reference	<b>Not in Council Plan</b>
Wards affected	<b>All</b>

### Executive Summary

The existing Car Cruising Public Space Protection Order (PSPO) which prohibits vehicle related anti-social behaviour is due to expire on 21 January 2023. A three-year extension to this PSPO is being sought. The full detail of the PSPO, which was put in place under section 59 of the Anti-social Behaviour, Crime and Policing Act 2014 can be found in **Annex A** to the report.

#### 1. Decisions to be Made

- 1.1 That the Public Space Protection Order that is currently in place for vehicle related anti-social behaviour be extended for a period of three years, under section 60 of the Anti-social Behaviour, Crime and Policing Act 2014.
- 1.2 That the vehicle related anti-social behaviour, carried out in a public place has a detrimental effect on the quality of life of those in the locality; that vehicle related anti-social behaviour is, or likely to be, of a persistent nature, is or is likely to be unreasonable and justifies the restrictions imposed by the notice found in **Annex B** to the report.

## 2. Why is the Decision Needed?

- 2.1 The existing Car Cruising PSPO is due to expire on 21 January 2023. The PSPO gives the police the power to issue a fixed penalty notice (FPN) to anyone believed to have committed an offence in relation to the order. FPNs for breaches of the car cruising PSPO are issued by the police and administered by Milton Keynes City Council, including any subsequent court action. The fine for a breach of the PSPO is currently £100, discounted to £75 if paid within fourteen days.
- 2.2 The PSPO applies to public spaces, which for the purpose of this order means any place to which the public or any section of the public has access to, on payment or otherwise, as of right or by virtue of express or implied permission.

### **Consultation**

- 2.3 The power to make the order rests with local authorities, in consultation with the police and other relevant bodies who may be affected. A full public consultation has taken place for this extension, and the following bodies / individuals have been consulted:
- Police and Crime Commissioner; and
  - Thames Valley Police.
- 2.4 A public consultation on the extension of the car cruising PSPO for a further three years ran for a period of three months (June to August). The consultation was available on the Council's website and was widely promoted on the council's social media. The posts were shared by various partners and agencies including the SaferMK account. In total, 52 email responses were received.
- 2.5 The consultation revealed a significant level of support for the proposed PSPO extension with 69% of respondents in agreement. This included support from local councillors, CMK Parish Council and Bucks Fire and Rescue Service. A document outlining analysis of the public consultation can be found in **Annex C**.
- 2.6 Four respondents were against the extension of the PSPO, citing a perceived ineffectiveness of the current order and a lack of enforcement. Thames Valley Police (TVP) have provided a supporting statement to the extension of the PSPO which can be seen in **Annex D** and demonstrates that the PSPO is enforced, albeit sometimes retrospectively or using warnings.
- 2.7 Respondents used the consultation to highlight the impact of car cruising including noise nuisance and anti-social use of motorcycles. Both of these issues are covered by the existing PSPO.

## **Evidence in Support of the PSPO**

- 2.8 Thames Valley Police (TVP) have provided evidence as presented in **Annex E** demonstrating the persistent and ongoing nature of car cruising incidents. There have been 158 car cruise and street racing occurrences in 2022 so far (January to October). Overall, this is a 7% increase on 2021 figures.
- 2.9 A reduction in these activities in the early part of 2021 could be attributed to the Covid-19 lockdown in January 2021. Furthermore, there may be complaints associated with anti-social use of vehicles that are not included in these figures due to how they have been recorded, for example noise nuisance is a common complaint associated with loud exhausts that may not be recorded as a car cruise or street racing incident.
- 2.10 This summer there has been targeted action from TVP which may have resulted in successful prevention of certain car cruise or street racing events. However, this level of police intervention although impactful is not sustainable over a prolonged period. Due to the continued level of activity, it is proportionate to extend this order to give officers the tools to police car meets and to deter organisers from holding events in Milton Keynes.
- 2.11 Although relatively low numbers of fixed penalty notices have been issued, the PSPO is part of a suite of powers available to tackle car cruising offences. It is not always appropriate to issue a PSPO breach where stronger powers can be used. It does give officers the power to enforce when no other offences have been committed.
- 2.12 A sample of complaints received in 2022 by the Community Safety Team and TVP are outlined in **Annex F**. The complaints demonstrate the impact of vehicle related anti-social behaviour across the city of Milton Keynes. The Community Safety Team also received a community trigger request in respect of vehicle related anti-social behaviour. Although this case did not meet the threshold at the time, this was escalated within the partnership and informed TVPs bid for additional resources.
- 2.13 Considering the evidence, the overall picture indicates that extending the order as set out in **Annex B** fits the criteria laid out in the Act. If the Order is extended, the impact on residents, visitors and businesses is expected to be positive, as it will act as a deterrent to vehicle related anti-social behaviour across Milton Keynes and continue to give police powers to issue fines to people in breach of the order.

### 3. Implications of the Decision

Financial	Y	Human rights, equalities, diversity	n
Legal	Y	Policies or Council Plan	n
Communication	Y	Procurement	n
Energy Efficiency	N	Workforce	n

#### (a) Financial Implications

The financial outlay will primarily lie with parish / town councils if they decide to put up new signage. Signage is currently used in hotspot locations however the Council and TVP may incur additional costs if new locations are highlighted and in need of signage.

FPN income is expected to be small, but all monies paid will be re-invested into Community Safety initiatives. There may be some costs associated with the prosecution of non-payment of Fixed Penalty Notices by the Council's Legal Team.

#### (b) Legal Implications

Part 4, S.59 (and specifically S67 and S75 for transition of Order) of the Anti-Social Behaviour, Crime and Policing Act 2014 relates to PSPOs. A PSPO lasts for three years and can be extended or varied before the end of that period.

Regulations under the Act govern the publication of Public Space Protection Orders after they are made. The Order must be placed on the website of the Local Authority. Signage must be placed on or adjacent to the public space to which the Order relates to enable enforcement. The sign design is shown in **Annex G**.

Failure to comply with a PSPO is a criminal offence and can be punished, on conviction, with a fine of up to £1000. However, liability can be discharged if the person guilty of the offence pays the fixed penalty notice.

#### (c) Other Implications

There are some limitations set out in the legislation regarding behaviours that can be restricted by PSPOs. Under the 2014 Act, local authorities must have regard to the freedoms permitted under **articles 10 and 11 of the Human Rights Act 1998** when drafting, extending, varying, or discharging an Order. Due regard was taken to any equality implications. There are no anticipated negative impacts to any groups of people within Milton Keynes because of the PSPO extension.

## 4. Alternatives

4.1 If the Order is not extended, it will lapse on 21 January 2023. Officers consider it reasonable to assume that vehicle related anti-social behaviour in Milton Keynes would reoccur and/or increase in frequency and seriousness if the order is not extended.

4.2 To consider the use of:

(a) **Civil Injunctions (CI)** Introduced under Part 1 of the Anti-social Behaviour, Crime and Policing Act, CIs replaced Anti-Social Behaviour Injunctions and Anti-Social Behaviour Orders in 2014. CIs are issued by the courts and can be applied for by a range of agencies, such as police, local councils, or landlords. They are designed to address specific anti-social behaviours. CIs can include both an order to stop engaging in a particular behaviour, or a 'positive requirement' to take steps to address the cause of anti-social behaviour. Breach of a CI is punishable by an unlimited fine or up to two years in prison.

(b) **Community Protection Notices (CPN)** were introduced under Part 4 of the Anti-social Behaviour, Crime and Policing Act 2014. A Community Protection Notice (CPN) is aimed to prevent unreasonable behaviour that is having a negative impact on the local community's quality of life. Any person aged 16 years or over can be issued with a notice, whether it is an individual or a business, and it will require the behaviour to stop and if necessary reasonable steps to be taken to ensure it is not repeated in the future.

Both alternatives would require significant amount of evidence before they could be used, which may be difficult to obtain in most circumstances, whereas the PSPO can be enforced instantly using a Fixed Penalty Notice if a recipient fails to comply.

(c) **Section 59** Police Reform Act 2002 c. 30 Part 4 Chapter 2 Seizure of motor vehicles. A Section 59 warning can be issued if an officer believes that a motor vehicle being used is causing, or is likely to cause, alarm, distress or annoyance to members of the public. If the motor vehicle is caught again after a warning has been issued, officers have the power to seize and remove the motor vehicle.

## 5. Timetable for Implementation

5.1 Once the Order has been authorised, the Council's Legal Team will ensure the administration of the Order is carried out before the expiry date on 21 January 2023.

5.2 Refresher training for Police Officers is ongoing to ensure up to date knowledge of the PSPO.

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## List of Annexes

Annex A	Existing PSPO documents
Annex B	New draft PSPO
Annex C	Public Consultation Analysis
Annex D	Supporting statement from Thames Valley Police
Annex E	Thames Valley Police evidence
Annex F	Select summary of complaints received in 2022 by Community Safety Team and TVP
Annex G	Photo of car cruise PSPO signage

## List of Background Papers

<https://www.legislation.gov.uk/ukpga/2014/12/part/4/chapter/2/enacted>

<https://www.gov.uk/government/publications/designated-public-place-orders-guidance>

<https://www.local.gov.uk/public-spaces-protection-orders-guidance-councils>

[Police Reform Act 2002 \(legislation.gov.uk\)](#)