

This Briefing Note will be made public on 13 November 2020



BRIEFING NOTE: **JTB/20/05**

To: Joint Transformation Board
Date: 23 November 2020
Responsible Officer: Jess Harman – Community Safety Specialist

SUBJECT: PUBLIC SPACES PROTECTION ORDER (PSPO)

SUMMARY: Overview of the Public Spaces Protection Order – Measure 7

At the last JTB held on 21 September 2020 members requested information around the benefits of a PSPO over a Traffic Regulation Order (TRO). (See Appendix 1 PSPOs vs TROs).

This briefing note provides members with information of the PSPO in regards to what can be enforced and the areas.

1. The Public Spaces Protection Order

During 2018 -19 Folkestone & Hythe District Council undertook an extensive public consultation to renew its existing PSPO. Following public consultation the new PSPO was implemented in June 2019 and covers seven measures that address antisocial behaviour being experienced, covering bespoke areas of the District.

Under this Order, Kent Police and Folkestone & Hythe District Council are able to move on anyone who continues to act in an anti-social manner having been asked not to do so within the criteria of the Order.

Under the PSPO measure 7 is - Unauthorised camping

- No person shall position any vehicle, caravan, tent or other temporary structures that are designed or intended to provide shelter or accommodation for the purpose of overnight stay within the Restricted Area without prior express consent of the owner or person in lawful control of the land, proof of which shall lie with the person remaining in any such vehicle, caravan or other temporary structure.
- If instructed to do so by an Authorised Person a person with responsibility for or utilising any vehicle or temporary structure shall remove the same and / or any associated equipment, animals or paraphernalia from the Restricted Area without delay.

As an example a clear breach of measure 7 would be that a vehicle is positioned for the purpose of overnight stay and that they do not have the prior express consent of the owner or person in control such as FHDC, KCC or other land owners.

2. Enforcement

In terms of enforcement we have a number of options when we are able to request that a person leaves the area/moves on with immediate effect.

We are able to issue a warning which can be either immediately or within a certain period of time, depending on the situation and severity (see Appendix 2), or we can go straight to the issue of a, Fixed Penalty Notice (FPN).

FPNs are designed to give an offender the opportunity to discharge any liability to conviction for an offence - which means that by admitting the offence and paying the penalty notice, an offender can avoid being prosecuted further for the offence.

The FPN is fixed at £100. The offender should make the full payment of £100 within 14 days as failure to do so will result in their case being passed to the Legal Team for further action to be taken.

There is no formal appeal process for FPNs – if you disagree that you have committed an offence, you can decide not to pay the penalty notice and the matter will be dealt with at Court.

3. Areas covered by the PSPO

The PSPO applies to the restricted areas within the boundaries of the maps covering the district. Please note some measures are to specific areas which need to be referenced to the schedule in the final Order (see Appendix 3).
Schedule below –

Schedule 1

| Map no | Area | Prohibited activities |
|--------|------------------------------|-----------------------|
| 1 | Folkestone | 1, 2, 3, 4, 5, 6, 7 |
| 2 | Cheriton | 1, 2, 3, 4, 7 |
| 3 | Sandgate & Seabrook | 1, 2, 3, 4, 7 |
| 4 | Hawkinge | 1, 2, 3, 7 |
| 5 | Hythe - High Street/Oaklands | 1, 2, 3, 4, 7 |
| 6 | Littlestone & Greatstone | 1, 2, 3, 7 |
| 7 | St Marys Bay & Dymchurch | 1, 2, 3 |
| 8 | New Romney | 1, 2, 3, 4, 7 |
| 9 | Lydd | 1, 2, 3, 7 |
| 10 | All district Play Areas | 7 |

| | | |
|----|---|---|
| 11 | All district Churchyards and cemeteries | 7 |
|----|---|---|

Other than St Mary's Bay, Dymchurch and Hythe, Measure 7 is across the majority of the district.

It is important to note that it would not be advisable to have a blanket district-wide PSPO on measure 7 as the Courts may consider it to be unfair and rule against it completely should any case be taken to Court and overturn the PSPO.

Legal advice was obtained from a Barrister, David Armstrong, who warned that listing specific areas or roads would be more advantageous to ensure the PSPO could not be challenged in Court, as it allowed for the right to travel.

The detailed maps can be found at the following link from our website - <https://www.folkestone-hythe.gov.uk/residents/community/community-safety/Summary-of-Public-Space-Protection-Order-2019---2021>

4. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this information should contact the following officer prior to the meeting.

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Appendices:

Appendix 1: PSPOs vs TROs
Appendix 2: PSPO Measure 7 warning letter
Appendix 3: PSPO Final Order 2019 – 2021