

MINUTES OF THE OVERVIEW AND SCRUTINY COMMITTEE (CALL-IN)

Tuesday, 21 May 2024 at 4.00 pm

IN ATTENDANCE: Councillors Rudi Schmidt (Chair), Mark Jackson (Vice-Chair), Joan Millbank, Stephen Penfold, James Rathbone and Liam Shrivastava

APOLOGIES for absence were received from Councillor James Royston, Councillor Aliya Sheikh, Councillor Luke Sorba and Councillor Eva Stamirowski.

PRESENT VIRTUALLY: Councillor James-J Walsh - Cabinet Member for Culture, Leisure and Communications)

ALSO PRESENT: Councillor Juliet Campbell (Cabinet Member for Safer Lewisham, Refugees and Equalities), Nazeya Hussain (Executive Director Place), Patrick Dubeck (Director of Inclusive Regeneration), James Lee (Director Community Services) Kplom Lotsu (SGM Capital Programmes), Jeremy Chambers (Director of Law and Corporate Services) and Benjamin Awkal (Scrutiny Manager)

NB: Those Councillors listed as joining virtually were not in attendance for the purposes of the meeting being quorate, any decisions taken or to satisfy the requirements of s85 Local Government Act 1972

1. Declaration of Interests

Councillor Shrivastava declared that Milwall Football Club is in his ward.

2. Call-In Items Report - Part 1

- 2.1 The Chair advised those present that he had informed the Monitoring Officer on 13 May 2024 of his intention to call-in a decision taken at the Mayor and Cabinet meeting on 10 May 2024 relating to the Public Space Protection Order (PSPO). He introduced Councillor Campbell, Cabinet Member for Safer Lewisham Refugees and Equalities who was in attendance for this item.
- 2.2 The Chair said that this Committee welcomed pro-active support on anti-social behaviour. He outlined the role of this Committee for this call in-and invited Councillor Campbell to speak.
- 2.3 Councillor Campbell informed members about the purpose of the PSPO and the role of the PSPO Officer. Implementation of the PSPO had not been taken lightly; it had been requested by the public and ward councillors based on feed-back from residents. It was a Council initiative with an approach of support first, followed by enforcement. There would be a 6-month trial.

2.4 Discussion on the implementation of the PSPO were first held 16 months ago. There had been several consultations and members had helped to shape the PSPO. Councillor Campbell was surprised, therefore, when it was called in, particularly because there had been so much support from members of the public. Along with officers, she was happy to answer members' questions.

2.5 Councillor Shrivastava said that the seriousness of anti-social behaviour was not being questioned. However, there were a number of concerns that had been raised by Safer Stronger Communities Select Committee last year that had not been addressed. The Committee had criticised the unrepresentative nature of the consultation. Only 900 people had responded, and this did not endorse the claim that the PSPO had community support. He then asked several questions; the responses from the Director of Community Services were as follows:

- Final wording was still being considered for the draft order for the PSPO. Work had been paused pending the result of the decision of this Committee. It was possible that the proposed implementation date of 1 June 2024 could be put back if any changes were recommended. They would need to be referred to the Mayor and Cabinet.
- The Safer Neighbourhood Team, and those working on the report and the Equalities Analysis Assessment (EAA), had read all the Safer Stronger Communities Select Committee papers including the public submissions made by stakeholders, experts and interested parties.
- Officers had engaged with internal colleagues including the Prevention Inclusion and Public Health Commissioning Team who have oversight of the support services likely to be necessary for the implementation of the PSPO. They had given their commitment to provide support. There would be an education and advice implementation phase. Relevant support services would be available.
- Police officers can enforce PSPOs independently of Council officers but will not. Council officers can enforce PSPO but there was no intention for them to do so. Initially there would be a joint operation between Police and Council Officers, as well as support services. If enforcement was required, only Council Officers would be issuing the fines.
- The EAA identified that there may be a negative impact on groups with particular characteristics. It was known that anti-social behaviour and other behaviours do have an adverse effect on people with particular characteristics. The people most at risk were the young, old, women and people from minority groups. The main thrust of mitigation was support first, enforcement with professional partners and the opportunity for everyone to engage with support services. Enforcement was a last resort.
- Officers considered removing illegal encampments from the PSPO but decided to pause implementation whilst this Council's legal position was reviewed. There had not been any further consultation with London Gypsies and Travellers (LGT) beyond that submitted to the Committee.
- Enforcement and fines were a last resort. Only a few fines were expected in the first 3-6 months. Fines would be issued if behaviours continued to fall foul of the order. In these cases, fines would be justified regardless of the social/economic status of the individual. Officers would have discussions with

the support services if the individual was homeless and completely without means.

- The playing of amplified music or speaking over a megaphone would not automatically be in breach of the PSPO. There would only be a breach if it was persistent in nature. There would be grey areas in terms of what of what was being said, the volume, when and for how long. Decisions made would be at officers' discretion.
- The report was iterative; some of the appendices had been part of other reports. There was a degree of ambiguity in the report submitted to Mayor and Cabinet. Wording for the final order was sought from the Director and any ambiguity had been struck out. Anything in the appendix had been overwritten by the recommendations in the report. References to confiscation of substance and 24-hour powers had been removed. Police powers to stop and search remained. The order had narrowed to the ceasing of the anti-social behaviour. The likely wording of the rules regarding the consumption of alcohol was read out at the meeting; consultation was on-going and a final decision on this wording was still to be made. References to extraneous noise had been removed and replaced with behaviour and activity undertaken. The consumption of alcohol was not banned but anti-social behaviour as a result of this consumption would be banned.

2.6 Councillor Shrivastava was assured on many issues but still had concerns about potential negative impact on travellers and the LGT community. He asked for assurance that the implementation of the PSPO, with the illegal encampment measure, the Council would not be at the risk of a legal challenge. The Director of Community Services said that he could not be sure that there would be a legal challenge. He had been in contact with legal colleagues and was confident that the PSPO was robust, and this would continue to be monitored.

2.7 Members of the Committee had further questions and were answered as follows:

- Training had already been diarised for officers when the PSPO was ready for implementation.
- The ambiguity of language and intended approach was discussed. The playing of music was given as an example of how people have different tolerance levels which was difficult to manage when there was no legal limit. Any decision made would always be at the discretion of officers. There would always be 'grey areas' in the enforcement of any restrictions. However, members were reassured that the scrutiny received in developing and devising the policy and the level of scrutiny that was expected to continue, meant that where these 'grey areas' existed, members would be able to understand it, and be able to judge whether officers were on the right side of 'reasonable'. Officers had noted members' concerns and were confident that the PSPO would mitigate any negative impacts.
- The Chair asked for more information about the education and advice element of the PSPO. He was advised that it would be based on common sense. People would be reminded that the PSPO was in place, and that their behaviour fell foul of it. Support would be offered to cease their behaviour; partner agencies would be able to assist and offer professional advice.

- 2.8 Although all members agreed that questions had all been answered with clarity, some members continued to have concerns about the LGT community and whether this Council could be open to legal challenge. The Director of Community Services confirmed that enforcement action would not be taken until the legal position had been clarified and wording adjusted, if necessary. He also confirmed that the issues raised by members on the LGT community, would be submitted to the next meeting of Safer Stronger Communities Select Committee.
- 2.9 Two points were discussed. The first was the lack of sites for the travelling community in Lewisham, which should be discussed at a future meeting of the Safer Stronger Community Select Committee and the legal concerns that members had as a result of the lack of traveller sites. The Director of Law and Corporate Governance clarified that the ability to seal the public space protection order and give it lawful effect rested with him. He would not be applying the Council's seal to this if he considered potential actions to be unlawful.
- 2.10 It was MOVED and SECONDED that the report be noted and that there should be no further action. With two members voting in favour, 3 voting against and one abstention the motion fell.
- 2.11 It was MOVED and SECONDED that the Chair refer comments to the Mayor and Cabinet. With four members voting in favour and two against, the motion was carried.
- 2.12 The following comments were MOVED and SECONDED: *The Overview and Scrutiny Committee believes that there should be consultation with Gypsy, Roma and Traveller (GRT) groups regarding encampments to really understand how this will impact them and that the plans that come out of the next stage of the development of the PSPO come to the Safer Stronger Communities Select Committee.*

3. Exclusion of Press and Public

RESOLVED

In accordance with regulation 4 (2) (b) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 and under Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 1 and 3 of Part 1 of Schedule 12(A) of the Act, and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Millwall Football Club

The following is a summary of the item considered in the closed part of the meeting:

4. Call-In items Report - PART 2

The Director of Inclusive Regeneration summarised the report. Following members' questions, it was:

RESOLVED: that no further action be taken. The Director of Law and Corporate Governance advised that the decision would take effect at the conclusion of the meeting.

The meeting ended at 5.30pm.

Chair