



Safer Stronger Communities Select Committee

Public Space Protection Order

Date: 27 June 2023.

Key decision: Yes.

Class: Part 1.

Ward(s) affected: The entire borough of Lewisham.

Contributors: Safer Communities Service – Daniel Fish-Halvorsen and Monika Lesniewska; Communities, Partnerships and Leisure - Karen Kemsley.

Outline and recommendations

The purpose of this paper is to provide the Safer Stronger Communities Select Committee with the consultation findings of the Public Space Protection Order (PSPO) Consultation and provide the Committee with an overview of the next steps in the implementation process. The PSPO (if agreed by Mayor and Cabinet on 19th July 2023) will introduce several new powers for use by the Council and partners to address anti-social behaviour (ASB) within the Borough. Public consultation with people living, working and visiting Lewisham evidenced strong support for all measures proposed.

Local issues in scope of the consultation are as follows; alcohol related anti-social behaviour and disorder, amplified music and speech, anti-social behaviour in public spaces and parks, which involves dogs, consumption of drugs and psychoactive substances, illegal encampments and public urination/defecation.

Timeline of engagement and decision-making

02 November 2022: Mayor and Cabinet Public Space Protection Order Consultation – attached as Appendix A

27 February 2023 – 1 May 2023: Consultation period

27 June 2023 – Safer Stronger Communities Select Committee

19 July 2023: Mayor and Cabinet Public Space Protection Order Implementation Paper

August 2023 – December 2023: (If agreed) Implementation of an electronic enforcement equipment

August 2023 – December 2023 (If agreed) Joint action days with police and Council officers

1. Summary

- 1.1. A public consultation on the introduction of a Public Space Protection Order (PSPO) found that people living, working and visiting Lewisham supported the proposed restrictions. As such officers recommend that Mayor and Cabinet agree to the implementation of the PSPO (as defined in the evidence pack) on 19th July 2023. The PSPO will introduce new powers for use by the Council and partners to address anti-social behaviour (ASB) within the Borough.
- 1.2. This report outlines the findings of the public consultation and provides an overview of the implementation approach and the high level equalities implications. A full EAA is being prepared to accompany the Mayor and Cabinet report and the Committee's comments on this aspect of the proposals are particularly welcomed.

2. Policy Context

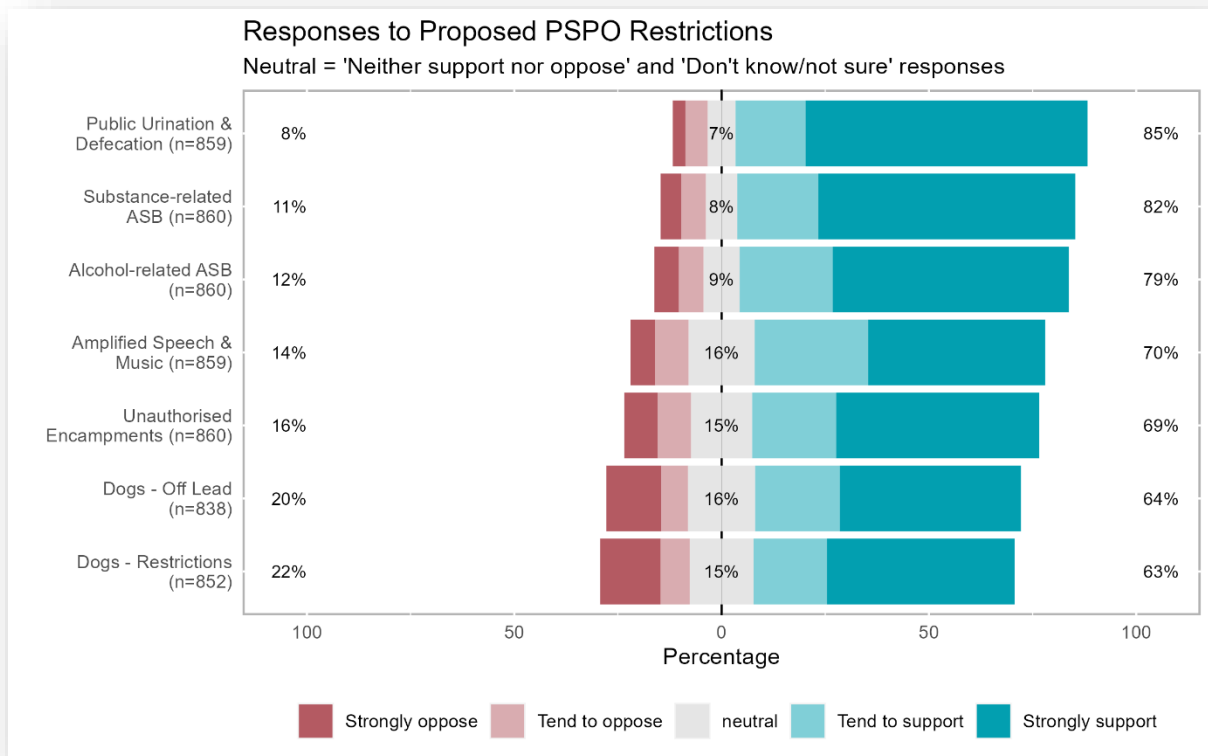
- 2.1. The Anti-Social Behaviour, Crime & Policing Act 2014, places a duty on local authorities to tackle anti-social behaviour by working in partnership with the police, social landlords and other agencies. The Act makes provision for a PSPO, which is intended to be used to control and restrict anti-social behaviour in public spaces. It can also help by giving local Councils and the Police additional powers to tackle anti-social behaviour in specific locations.
- 2.2. The powers contained in the Act will assist the Council in meeting its priority to 'make Lewisham a place for everyone', helping to create visible improvements in parks and high streets by reducing ASB across the borough.

3. Background

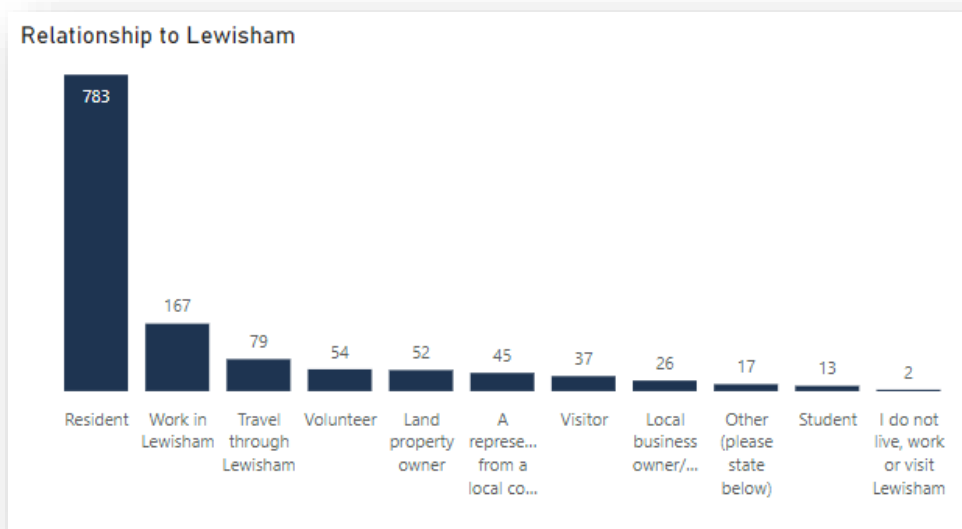
- 3.1. Mayor and Cabinet agreed to undertake a public consultation on the introduction of the PSPO in November 2022.
- 3.2. The exact details of a local PSPO are defined by a local Council, which can include Borough-wide restrictions, a focus on certain types of behaviour at particular times of the day and control of access to public spaces (including some highways) or routes being used to commit anti-social behaviour. Failure to comply with any restricted activity is a criminal offence, subject to a fine not exceeding £1,000 upon prosecution.
- 3.3. The recommendation to deliver this as a borough-wide will allow both the police and council officers the powers to address these issues if and when displacement of ASB occurs, as this has been an issue which has occurred within other boroughs where a targeted approach was used.
- 3.4. Activities in scope of the proposed PSPO are as follows; alcohol related anti-social behaviour and disorder, amplified music and speech, anti-social behaviour in public spaces and parks that involves dog/s, consumption of drugs and psychoactive substances, illegal encampments and public urination on land open to the air.
- 3.5. This paper should be read in conjunction with the evidence pack (attached as Appendix B), which provides detailed analysis of the data utilised to decide on the activities in scope of the proposed PSPO.

4. Findings of the public consultation

- 4.1. The aim of the public consultation was to seek the views of those living, working and visiting Lewisham on the proposed PSPO. The consultation was undertaken via a survey, which was promoted using a number of channels. These included the external Lewisham residents newsletter, Lewisham Council's social media, internal staff newsletters and social media adverts.
- 4.2. The majority of respondents supported each restriction proposed, although in varying proportions.



4.3. Overall, 866 people responded to the consultation, which took place between 27 February 2023 and 1 May 2023. Of the respondents, 90.4% (783) were Lewisham residents; 19.3% (167) worked in Lewisham; and 9.1% (79) travelled through Lewisham.

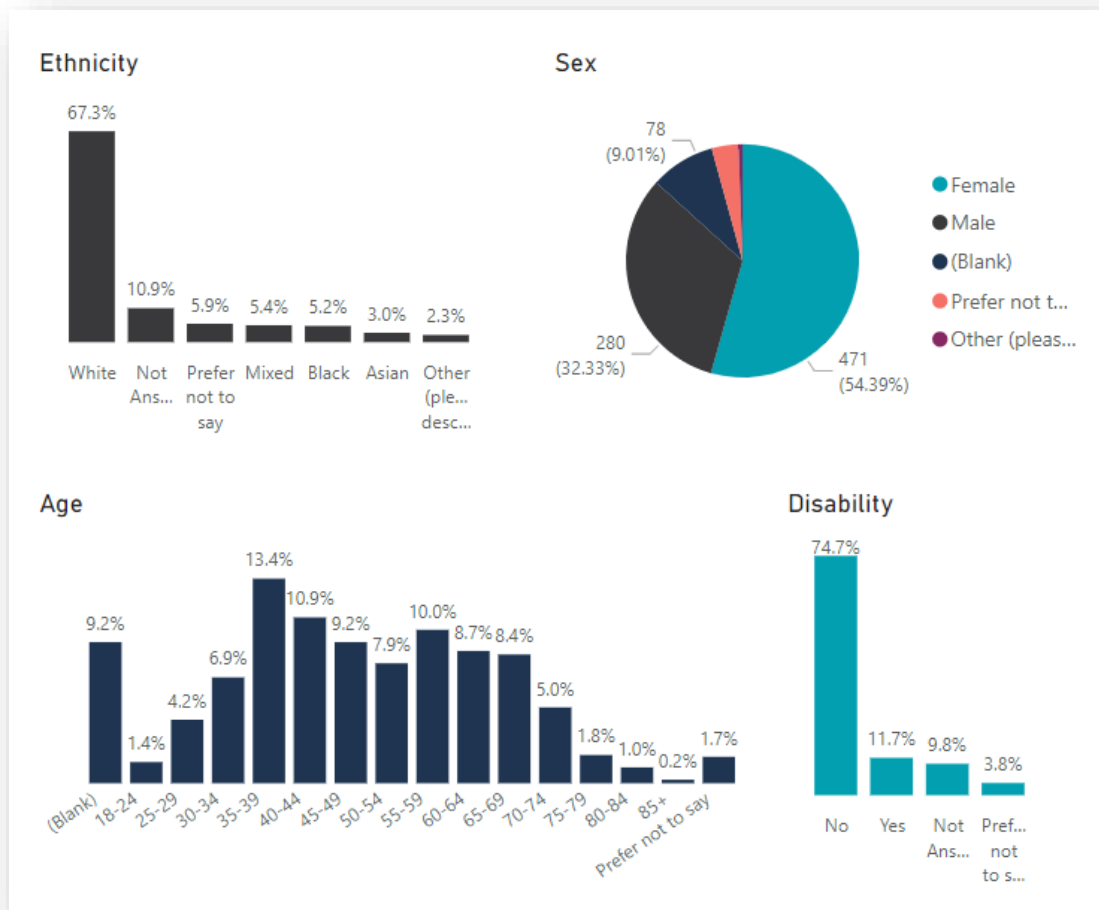


4.4. There was a higher response from those that identified as female and white. Age was distributed evenly between 30-69 years, however responses from age groups outside this range were low. Due to this, Facebook adverts were used to target those who may not usually engage with Council communication channels. The additional targeted adverts reached 21,396 people and engaged 3,042 to click on the advert link and be taken to the consultation page. We do not have the data to

ascertain how many of those who engaged with the advert completed the consultation survey.

4.5. In person 'pop up' events in the Borough were used also to diversify the response demographic. Three pop up events were conducted in Lewisham Central, Sydenham and Deptford. The final response rate was as follows;

- Ethnicity: 67.3% selected White, 5.4% selected Mixed, 5.2% selected Black, 3% selected Asian, 2.3% selected Other.
- Gender: 54.3% selected female, 32.3% selected male, 0.6% selected other.
- Age: Just over 20% were aged 30-39, a similar proportion to the 40-49 age group. 17.9% were aged 50-59 and 17.1% aged 60-69. Respondents from younger and older age groups were lower (18-29 6.4%; 70+ 8%).
- Sexual Orientation: 63% selected heterosexual, 10% selected Bisexual, Gay or Lesbian, 11% preferred not to say and 16% did not answer.
- Disability: 11.7% of respondents recorded a disability.

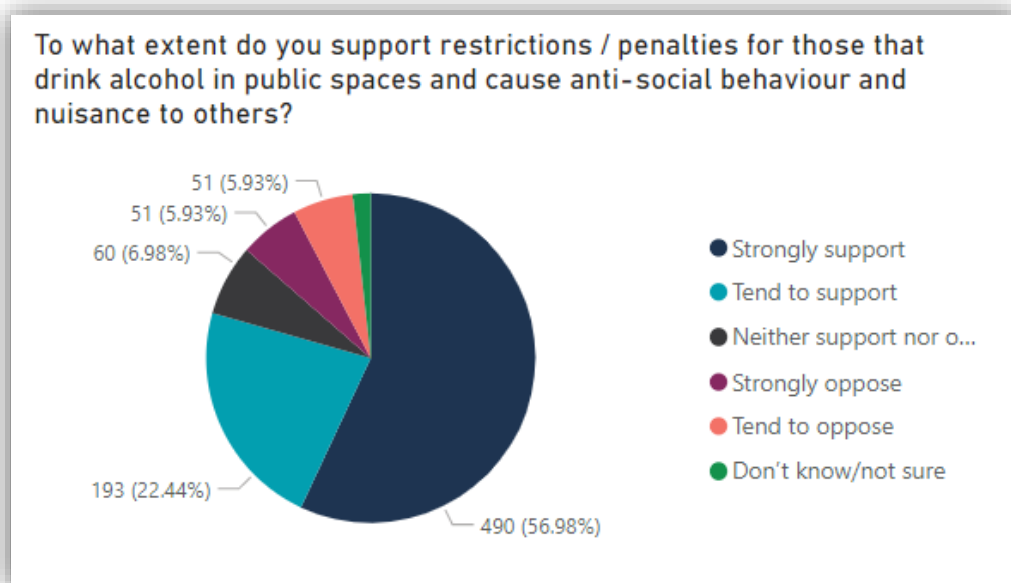


4.6. Officers are mindful that, despite best efforts, the respondents to the consultation do not fully represent the demographics of the borough. The underrepresentation of certain groups who already experience disproportionality within enforcement activity is noted and the implementation approach is designed to be as focused as possible to avoid further exacerbating these issues. The use of the powers will be

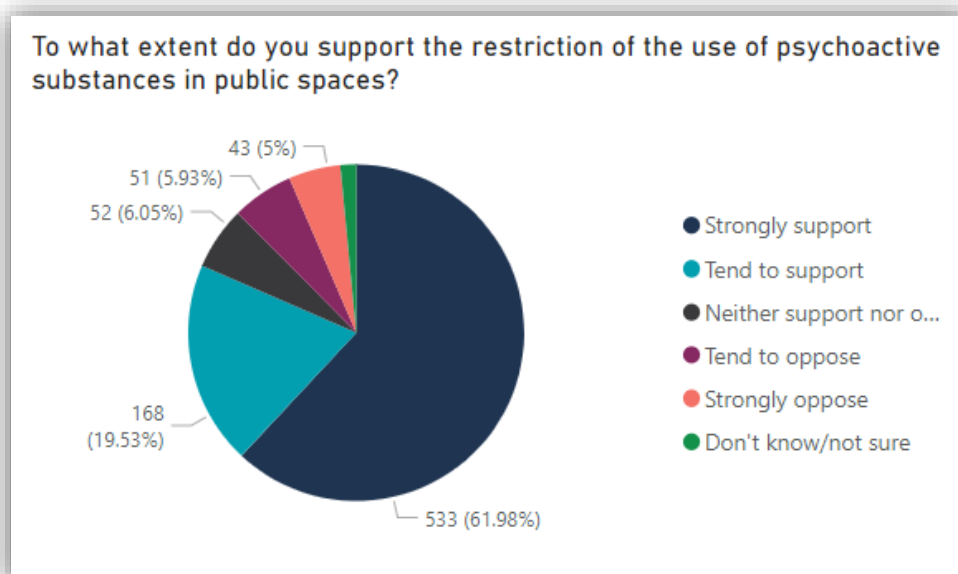
closely monitored and any disproportionality promptly investigated.

4.7. Restrictions related to dogs had the most opposition, whilst those relating to public urination and defecation had the least. The full details and analysis can be found in Appendix C, however a summary follows.

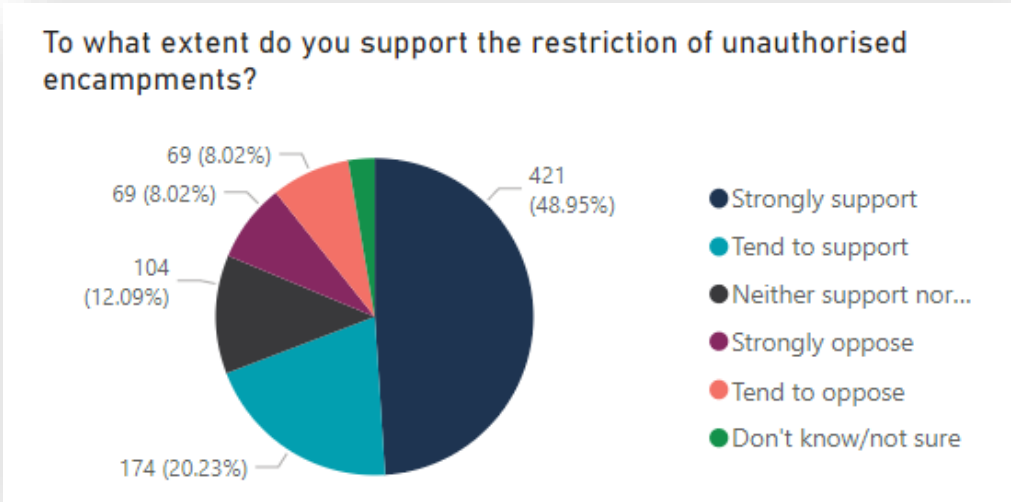
4.8. 79.4% (683) respondents strongly supported or tended to support restrictions/penalties for those that drink alcohol in public spaces and cause anti-social behaviour and nuisance to others; 11.9% (102) respondents strongly opposed or tended to oppose.



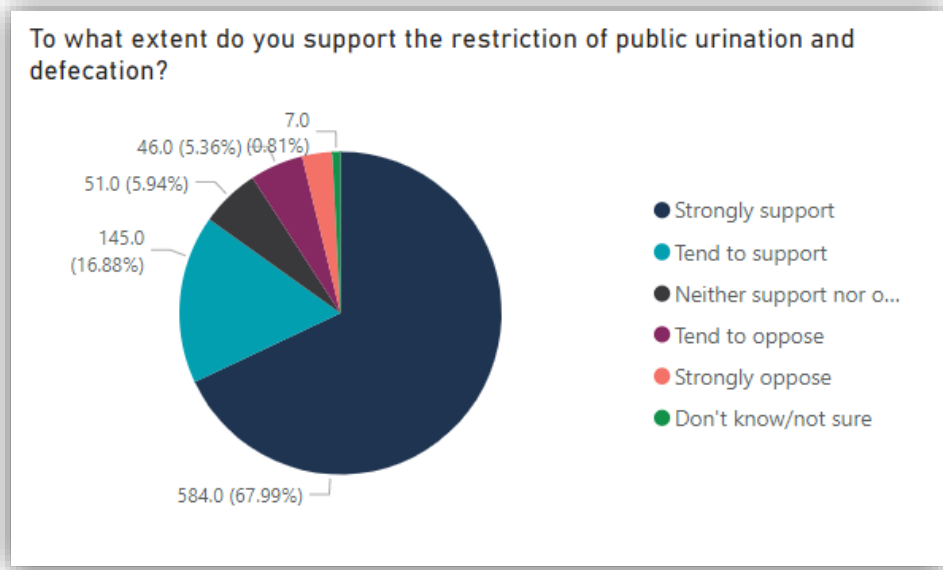
4.9. 81.5% (701) respondents strongly supported or tended to support the restriction of the use of psychoactive substances in public spaces; 10.9% (94) strongly opposed or tended to oppose.



4.10. 69.2% (595) respondents strongly supported or tended to support the restriction of unauthorised encampments; 16.0% (138) strongly opposed or tended to oppose.

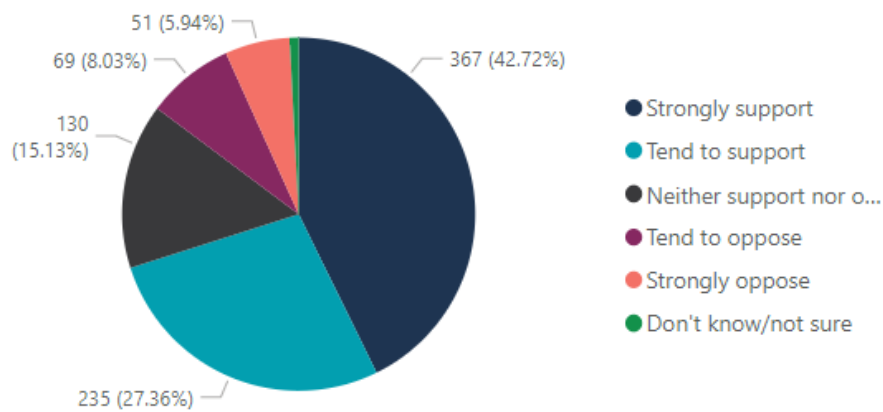


- 84.9% (729) respondents strongly supported or tended to support the restriction of public urination and defecation; 8.4% (72) strongly opposed or tended to oppose.



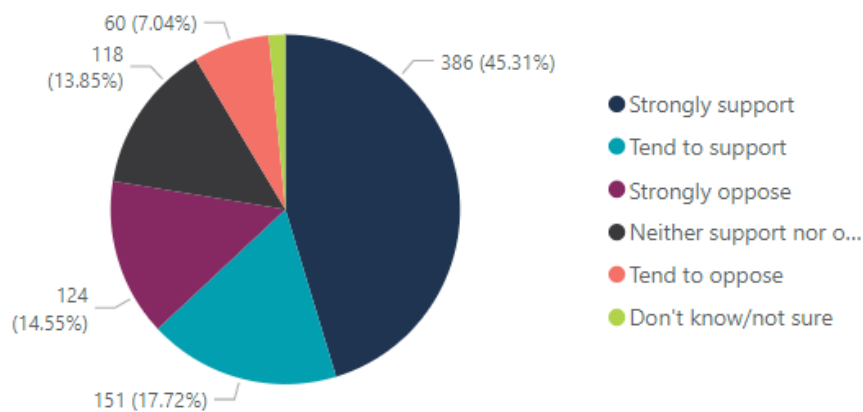
- 70.1% (602) respondents strongly supported or tended to support the restriction of amplified speech and music; 14.0% (120) strongly opposed or tended to oppose.

To what extent do you support restriction of amplified speech and music?

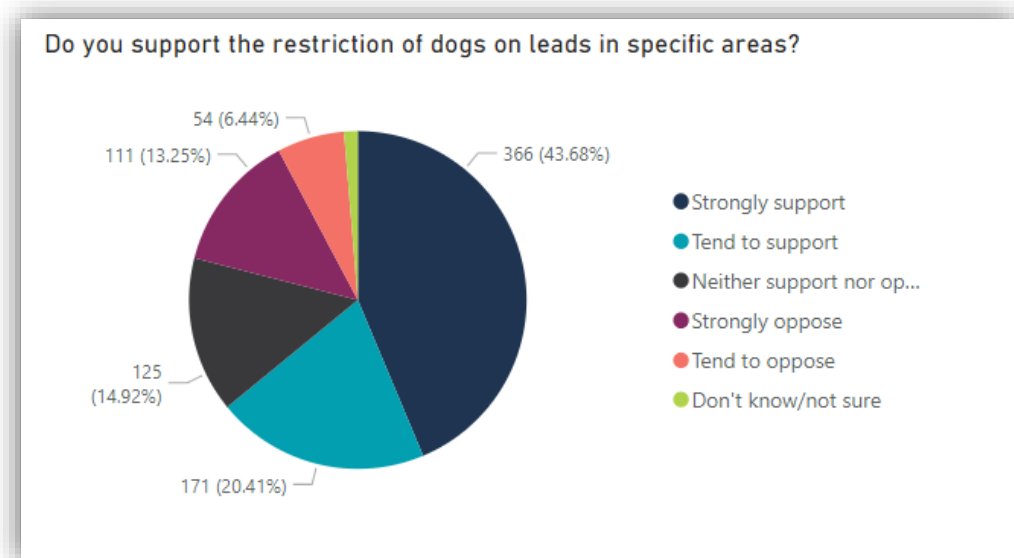


- 63.0% (537) respondents strongly supported or tended to support the restriction of dogs in specific areas; 21.6% (184) strongly opposed or tended to oppose.

To what extent do you support the restriction of dogs in specific areas?



- 64.1% (537) respondents strongly supported or tended to support the restriction of dogs off leads in specific areas; 19.7% (165) strongly opposed or tended to oppose.



- The consultation asked respondents to explain why they opposed or supported the restrictions proposed. Those that opposed the restrictions made the following observations;
 - Enforcement must be paired with safeguarding and should be a supportive approach.
 - The behaviours restricted are too broad and subjective.
 - Individuals with vulnerabilities and additional needs will be disproportionately affected.
 - The recommendations restrict liberty.
 - Laws are already in place to address these behaviours
- The consultation also sought to identify whether the public wanted other items related to ASB to be addressed. The most common suggestions were managing litter and flytipping, the use of electronic scooters, vehicle-related ASB, 'begging', graffiti, vandalism, parking on pavements, engine idling and disruptive congregations.

5. Recommendation to introduce the PSPO

5.1. The proposed PSPO includes the following restricted activities (full detail of the extent of the scope can be found in Appendix A and Appendix B):

- Alcohol related anti-social behaviour and disorder.
- Amplified music or speech.
- Anti-social behaviour in public spaces and parks involving dogs. This includes exclusion of dogs from designated areas, not allowing dogs within fenced children's play area's, requiring dog waste to be picked up by owners or any person in charge of the animal on any land, which is open to the air, to which the public have access, requiring dogs to be kept on leads in designated areas and individuals not being in control of more than four dogs at any time in any public space or highway.

- Consumption of Drugs and Psychoactive Substances.
- Illegal Encampments.
- Public Urination and Defecation.

5.2. Options available to the Mayor and Cabinet following the public consultation are as follows;

- Option 1: Do not implement the PSPO – The Police and Council continue to utilise their existing powers to manage ASB
- Option 2: Accept and implement the proposed PSPO.

5.3. Recommendation: As a result of the data analysis completed (please see evidence pack in Appendix B) and the public consultation findings, Option 2 will be recommended to Mayor and Cabinet on 19th July 2023.

5.4. Option 2 will involve Enforcement of the PSPO will be undertaken by delegated Council Officers in partnership with Police staff. The management of the Order will be intelligence led through various data sources (Police, stakeholders, council services etc).

5.5. The PSPO will be enforced by both the Police and Council officers, who will also work together in targeted operation when tackling a specific issue/activity or geographical areas.

5.6. Planned collaborative action days with various Partners will take place across the authority to tackle persistent ASB behaviour, however as specific Council Officers will have delegated powers, these can be used when carrying out day to day business as usual activity i.e. a Parks Officer could enforce a prohibition at any time. If introduced, a PSPO could be enforced by a Police Officer, Police Community Support Officer and any delegated Council officer. The actions days are likely to be monthly, and dependant on the worry this could increase. The Council does not have a warden service or any other related daily patrol service that can deploy Officers solely for the management of the PSPO, which is why it is incredibly important that delegated powers are considered, and targeted deployment of staff is prioritised.

5.7. Prior to implementation the Safer Communities Service will develop a local protocol that details enforcement action. It is recognised that some anti-social behaviour can be addressed through different options, thus guidance on the most appropriate legislative tool to use in which circumstance will be outlined. The protocol will also include breach of Order guidance and consideration of 'reasonable excuse', for breach i.e., a medical reason. It is recognised that some of those responsible for the behaviour covered in the Order may themselves be vulnerable and in need of support.

5.8. Therefore, referral pathways where safeguarding concerns are identified will be stipulated. It must be noted that whilst the Order will be enforced by Council Officers and the Police, the planned collaborative action days will include Partners whose sole responsibility it is to safeguard i.e., homeless/drug Services.

5.9. We will adopt a three month 'soft launch' period, whilst the Order becomes live. This will allow a period of raising awareness within the wider community, ensuring training of Officers is complete/adequate and allows space to test the protocol.

- 5.10. It should be noted that enforcement of the Order will be proportionate to the behaviour identified and its impact on others. All activity will be deemed as causing or likely to cause anti-social behaviour. This assessment would be undertaken by trained Officers utilising knowledge about recent or ongoing complaints of anti-social behaviour.
- 5.11. A breach of the PSPO is a criminal offence and can be dealt with through the issuing of a Fixed Penalty Notice (FPN) of up to £100, or a fine of up to £1,000 on prosecution. Any income from an FPN is likely to be used to offset the costs of managing the PSPO, for items that include, but are not limited to signage and Court fees for failure to pay fines through to communicating the controls in place.
- 5.12. Once implemented the Safer Communities Operations Manager will conduct regular operational monitoring meetings with stakeholders to assess the effectiveness of the implementation and enforcement of the PSPO. It is important to note that the PSPO is not a revenue raising measure and it is expected that its direct introduction will represent a net cost to Council budgets. However, it is anticipated that this will be offset by opportunity cost benefits across the partnership as we are better able to deal with persistent ASB more quickly and effectively.
- 5.13. Evaluating the impact of a PSPO will be important when considering extending or varying an Order, however assessing the effects, and effectiveness of the Order, will form part of ongoing performance management. Procedures to monitor the impact of the Order will take place to ascertain what is working well and where development is required. A review of the PSPO will be conducted six months post its introduction to evaluate the approach taken, or sooner if there are any concerns.
- 5.14. A PSPO can be implemented for up to three years, after which it must be reviewed. If the review identifies that the concerns remain and the requirements of the PSPO are met, an extension can be granted for a further three years. It must be noted that there is no limit on the number of times an Order may be reviewed and renewed, provided the review supports an extension and all requirements are satisfied. The recommendation to Mayor and Cabinet is that the PSPO be introduced for the full three years and subject to regular review.

6. Financial implications

- 6.1. The financial implications in the introduction of the PSPO will be addressed within already existing budgets. These primarily relate to costs of software and hardware equipment for the issuing and recording of actions & fixed penalty notices issued under the powers provided by the PSPO, training for internal Officers, signage and costs of public notices informing the public of the new PSPO restrictions. No additional funding is being requested.
- 6.2. As noted above the PSPO is not a revenue raising measure and it is expected that its direct introduction will represent a net cost to Council budgets. However, it is anticipated that this will be offset by opportunity cost benefits across the partnership as we are better able to deal with persistent ASB more quickly and effectively.

7. Legal implications

- 7.1. The Anti-social Behaviour, Crime and Policing Act 2014, gives the Council additional tools to address anti-social behaviour, provided such activities are or are likely to be of a persistent nature, unreasonable and justify the restrictions being imposed.
- 7.2. An interested person, for example a person who lives or regularly works in the restricted area, can within six weeks of the Council implementing a PSPO, apply to the High Court to challenge the validity of the PSPO or seek a variation of it on the grounds that the Council had no power to make it or on the basis that requirements had not been correctly followed.
- 7.3. Additionally, the offence of failing to comply with a PSPO requires the failure to comply with the PSPO to be without “reasonable excuse”. This in effect gives an individual the opportunity in the criminal proceedings to both argue their individual circumstances to seek to show that they had some reasonable excuse for the breach, in addition to allowing them to argue that the PSPO could not lawfully be used to prohibit or restrict a particular activity. This includes occupying an unauthorised encampment by rough sleeping, which the Home Office has stated a PSPO should not be used for and is a matter that can give rise to a claim for Judicial Review.
- 7.4. Further, in introducing and enforcing a PSPO, the Council must have regard to rights protected by the European Convention on Human Rights and the guidance to Councils by the Secretary of State that requires that restrictions imposed are focused on specific behaviours and are proportionate to the detrimental effect, and are necessary to prevent it from continuing, occurring or recurring.

8. Equalities implications

- 8.1. The proposed PSPO sets out a range of powers available to the Council and the Police and how these will be legally applied. Its use will be determined by the behaviour occurring and is not directed at any protected group. However, we acknowledge there are concerns about its enforcement and possible impact on the protected characteristics and other equalities factors.
- 8.2. It is unlawful under the Equalities Act 2010 to either directly or indirectly discriminate against a disabled person. Therefore, preventing assistance dogs from entering those places otherwise prohibited to dogs may be considered unlawful as it could be considered that someone is being treated unfavourably because of something connected to their disability. Therefore these restrictions will not be applicable to persons using an assistance Dog within the locations identified.
- 8.3. The PSPO could have a significantly higher impact upon the activities of those with alcohol or drug dependency, those from the traveller communities and possibly those with mental health issues. However, the introduction of a PSPO also has the opportunity to impact positively on the Councils duty under the Equalities Act in that the Order (PSPO), aims to tackle behaviour that causes harassment and victimisation of protected groups, such as the elderly and minoritised groups who

are often adversely affected by issues being addressed by the PSPO.

- 8.4. However, as mentioned above, referral pathways where safeguarding concerns are identified will be stipulated to ensure residents facing additional vulnerabilities are not disproportionately affected by the proposed PSPO. In addition, the proposed PSPO will not be used to target people based solely on the fact that someone is homeless or rough sleeping. A safeguarding approach in conjunction with specialist support services will be taken in those cases where safeguarding concerns arise.
- 8.5. In order to assess the full impact of the PSPO, a full Equalities Analysis Assessment is being completed and will be presented alongside the Mayor and Cabinet paper on 19th July. The Committee's observations on the potential equalities implications are particularly welcomed.

9. Climate change and environmental implications

- 9.1. There is limited impact on the environment as a result of implementing a PSPO. Some anti social behaviour and street drinking activity may be related to waste, noise or other issues that affect people's quality of life, however the PSPO is principally aimed at improving behaviour rather than the environment.
- 9.2. The introduction of a PSPO can disrupt those who are currently partaking in the restricted activities. This ranges from dog walkers, dog owners walking their dogs off lead in areas we propose are restricted, to vulnerable individuals dependant on substances. The PSPO will impact on their current life pattern and thus potentially their wellbeing. Therefore, combined with enforcement of the PSPO, will be an educational and safeguarding approach to mitigate this impact.

10. Crime and disorder implications

- 10.1. Following the consultation, if the Council decide to introduce the proposed PSPO, this would provide additional powers to Council and Police officers to take action against the restricted activities listed as part of the PSPO. This would directly support the Council in discharging its statutory duty under Section 17 of the Crime and Disorder Act 1998 to exercise its various functions with due regard to the likely effect of the exercise of those functions, and the need to do all that it reasonably can to prevent crime and disorder in its area.

11. Health and wellbeing implications

- 11.1. Existing evidence suggests ASB can result in a range of negative emotional, behavioural, social, health and financial impacts. These include negative mental health effects, avoidance behaviours and decreased economic productivity. Home Office research (2023) found that some types of ASB most likely to have a significant impact on participants' quality of life were problems with out-of-control dogs and loud music/noise, which are addressed by the proposed PSPO.

12. Glossary

Term	Definition
ASB	Anti-social behaviour
PSPO	Public Space Protection Order
FPN	Fixed Penalty Notice

13. Report author(s) and contact

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For financial implications: TBC

For legal implications: TBC

14. Appendices

Appendix A – Public Space Protection Order Paper for Mayor and Cabinet (November 2022)

Appendix B – London Borough of Lewisham Public Space Protection Order Evidence Pack

Appendix C – Public Space Protection Order Consultation Report