



## Mayor and Cabinet

### Implementation of a Public Space Protection Order

**Date:** 8<sup>th</sup> May 2024

**Key decision:** Yes

**Class:** Part 1

**Ward(s) affected:** Boroughwide

**Contributors:**

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## **Outline and recommendations**

Following agreement at Mayor and Cabinet in November 2022, the London Borough of Lewisham has undertaken a statutory consultation on the introduction of the Borough-wide Public Space Protection Order (PSPO) to help tackle anti-social behaviour (ASB).

This report recommends that the Mayor and Cabinet agree to introduce a Public Space Protection Order (PSPO) with some geographical restrictions on certain powers. The PSPO will introduce several new powers for the Council and partners to address anti-social behaviour (ASB) within the Borough. Public consultation with people living, working, and visiting Lewisham has supported all proposed measures.

It is recommended that Mayor and Cabinet:

- note the evidence base for the introduction of the PSPO
- approve the making of the PSPO related to anti-social behaviour and disorder linked to the consumption of alcohol/drugs and psychoactive substances limited to the wards set out in section 6 of the report
- approve the making of the PSPO on a boroughwide basis with regards to amplified music and speech, anti-social behaviour in public spaces and parks that involves dog/s, illegal encampments and public urination on land open to the air in the areas defined in section 6 of the report and appendix 2
- agree that the PSPO will come into force on 1 June 2024 and will have effect for a period of 3 years
- agree that the PSPO is subject to regular monitoring and evaluation, including after 6 months in the first instance
- agree the consequences of breach as being a Fixed Penalty notice of £100 as an alternative to prosecution which carries a maximum fine of £1000
- delegate authority to the Executive Director for Community Services to agree the final wording of the order
- delegate approval of signage to the Executive Director for Community Services

## **Timeline of engagement and decision-making**

02 November 2022: Mayor and Cabinet Public Space Protection Order Consultation

27 February 2023 – 1 May 2023: Consultation period

## 1. Summary

- 1.1 Following agreement at Mayor and Cabinet in November 2022 the London Borough of Lewisham has undertaken a statutory consultation on the introduction of a Borough-wide Public Space Protection Order (PSPO) to help tackle anti-social behaviour (ASB).
- 1.2 The public consultation strongly supported the introduction of the proposed measures, but the Council's Safer Stronger Communities Select Committee has raised questions regarding the need for further powers and highlighted several risks regarding their use. This reports sets out the outcome of the consultation as well as the issues highlighted by the Committee and the responses to those concerns.
- 1.3 The report recommends the introduction of the PSPO with a geographical restriction to certain powers and a 6 month review period.
- 1.4 It is recommended that Mayor and Cabinet:
- note the evidence base for the introduction of the PSPO
  - approve the making of the PSPO related to anti-social behaviour and disorder linked to the consumption of alcohol/drugs and psychoactive substances limited to the wards set out in section 6 of the report
  - approve the making of the PSPO on a boroughwide basis with regards to amplified music and speech, anti-social behaviour in public spaces and parks that involves dog/s, illegal encampments and public urination on land open to the air in the areas defined in section 6 of the report and appendix 2
  - agree that the PSPO will come into force on 1 June 2024 and will have effect for a period of 3 years
  - agree that the PSPO is subject to regular monitoring and evaluation, including after 6 months in the first instance
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## 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 give local Councils and the Police additional powers to tackle anti-social behaviour in specific locations.

- 2.2 The powers 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.
- 2.3 The powers contained in the Act will assist the Council in meeting its priority to 'Build Safer Communities', whereby every resident feels safe and secure living within the borough, working towards a borough that is free from the fear of crime, as set out in the Council's Corporate Strategy.
- 2.4 Building Safer Communities is one of Lewisham's current Corporate Priorities and the proposed PSPO is intended to support the delivery of this priority specifically relating to the commitments that we ensure there is/are:
- Less crime and less fear of crime
  - Fewer young people involved in, or impacted by criminal behaviour
  - Communities and individuals empowered and supported to work in partnership with the Council and the Police

### **3. Background**

- 3.1 The Mayor and Cabinet agreed to undertake a public consultation on the proposed PSPO in November 2022. The paper agreeing the consultation is attached as Appendix 1 and the PSPO evidence pack on which the consultation was based is attached as Appendix 2.
- 3.2 The exact details of any 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 the prosecution.
- 3.3 Activities in scope of the proposed PSPO are: alcohol-related anti-social behaviour and disorder, amplified music and speech, anti-social behaviour in public spaces and parks

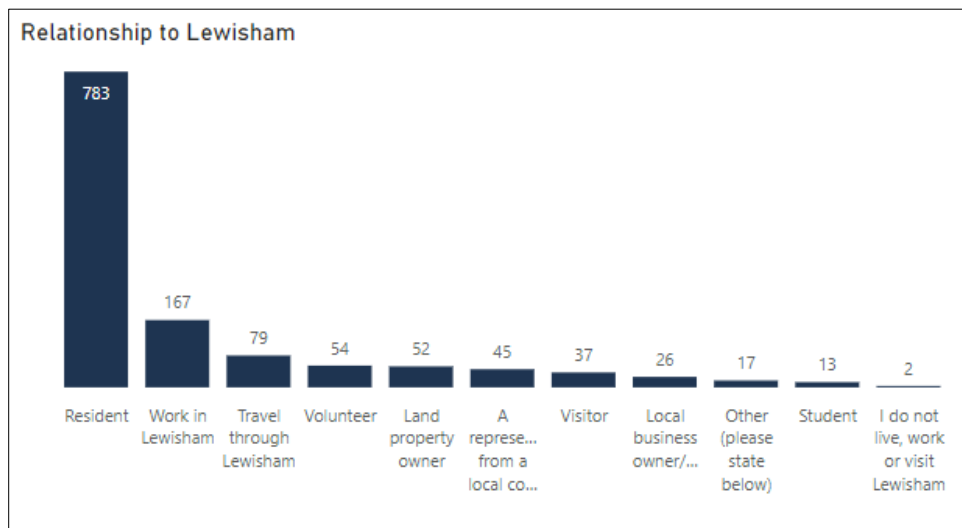
that involves dog/s, consumption of drugs and psychoactive substances, illegal encampments and public urination on land open to the air. The full powers that were consulted on are set out in the PSPO Evidence Pack which is attached as Appendix 2.

## 4. Findings of the public consultation

4.1 The consultation included a public survey, which took place between 27 February 2023 and 1 May 2023, and consideration at the Council's Safer Stronger Communities Select Committee on the 27 of June 2023. The public survey sought the views of those living, working, and visiting Lewisham on the proposed PSPO. The Council's consultation was undertaken via a survey, which was promoted using several channels. These included the external Lewisham residents newsletter, Lewisham Council's social media, internal staff newsletters, and social media adverts.

4.2 Most of those consulted with supported each proposed restriction, although in varying proportions.

4.3 Overall, 866 people responded to the public survey. Of the respondents, 90.4% (783) were Lewisham residents; 19.3% (167) worked in Lewisham, and 9.1% (79) travelled through Lewisham.

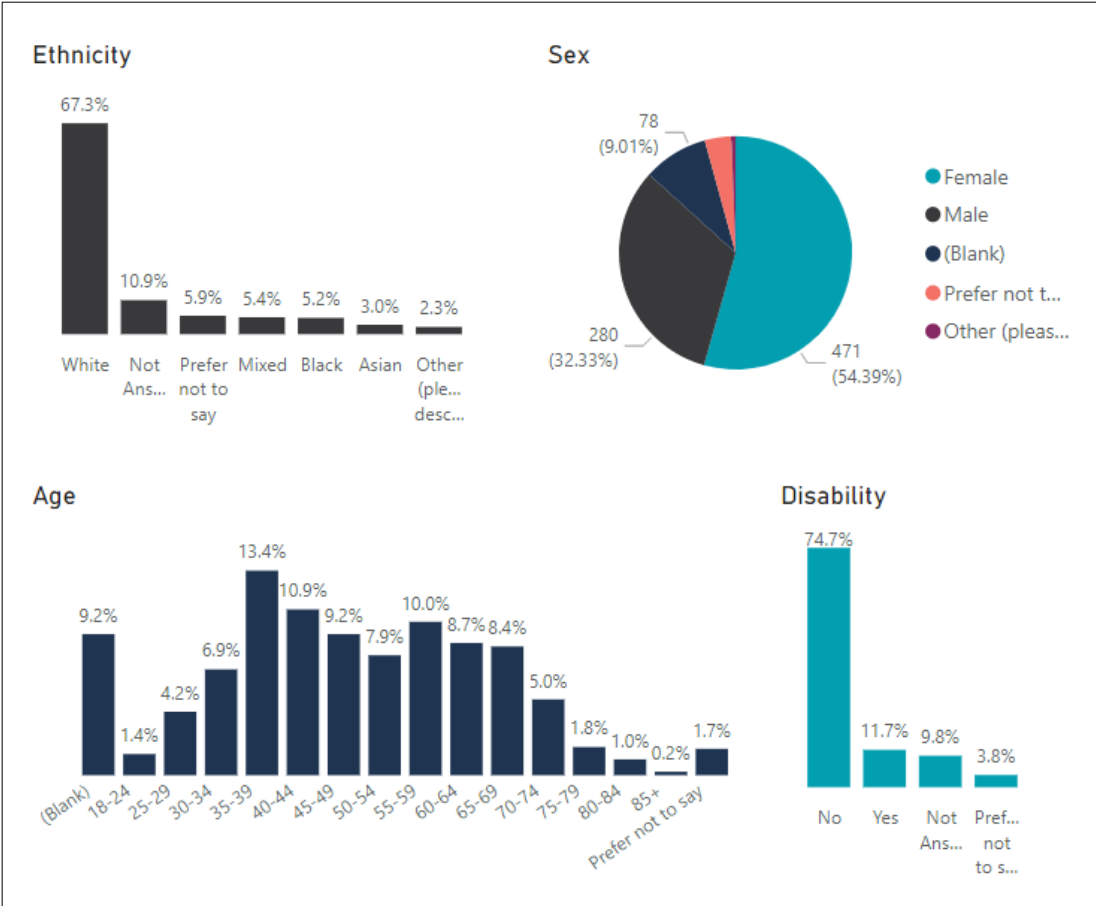


4.4 There was a higher response from those who identified as female and white. Age was distributed evenly between 30 and 69 years. However, responses from age groups outside this range were low. Due to this, Facebook adverts were used to target those who may not usually engage with Council communication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

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

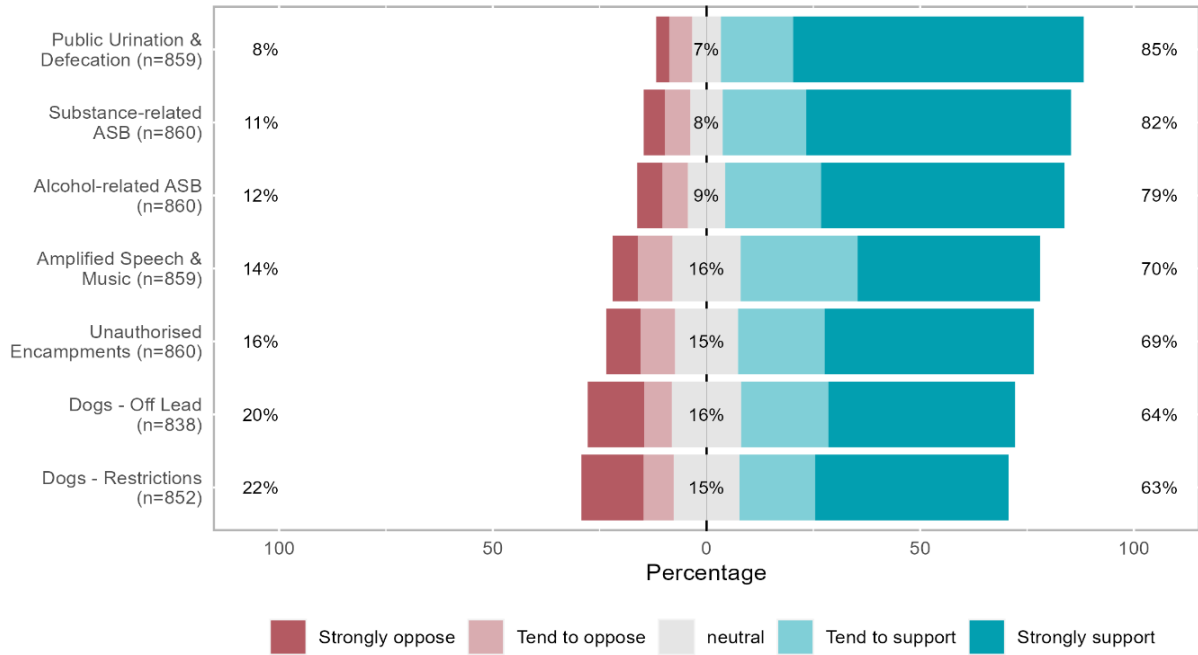
- Ethnicity: 67.3% selected White, 5.4% selected Mixed, 5.2% selected Black, 3% selected Asian, and 2.3% selected Other.
- Gender: 54.3% selected female, 32.3% selected male, 0.6% selected other.
- Age: Just over 20% were aged 30-39, a similar proportion to the 40-49 age group. 17.9% were aged 50-59 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.



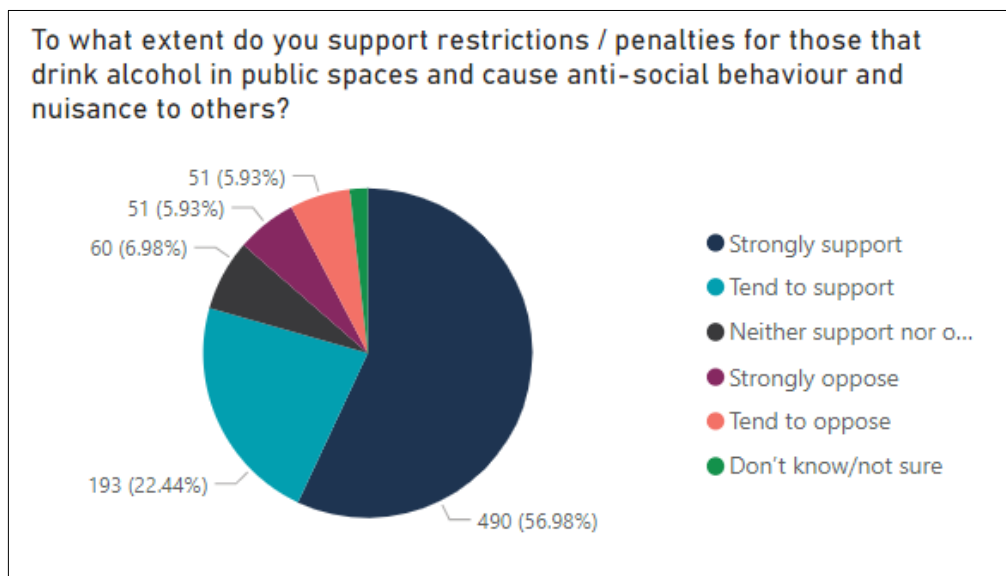
4.7 Restrictions related to dogs had the most opposition, while those pertaining to public urination and defecation had the least. The full details and analysis can be found in Appendix 3; however, a summary follows.

### Responses to Proposed PSPO Restrictions

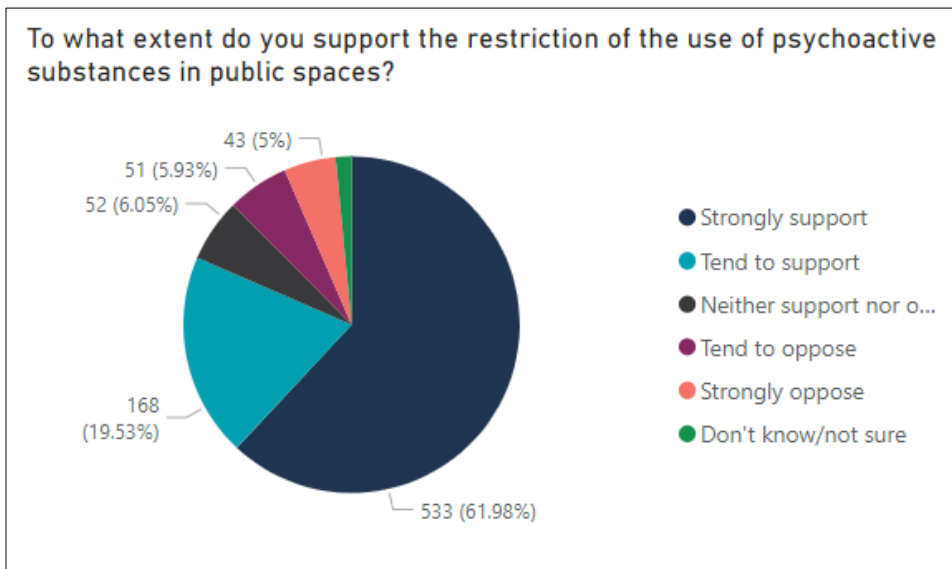
Neutral = 'Neither support nor oppose' and 'Don't know/not sure' responses



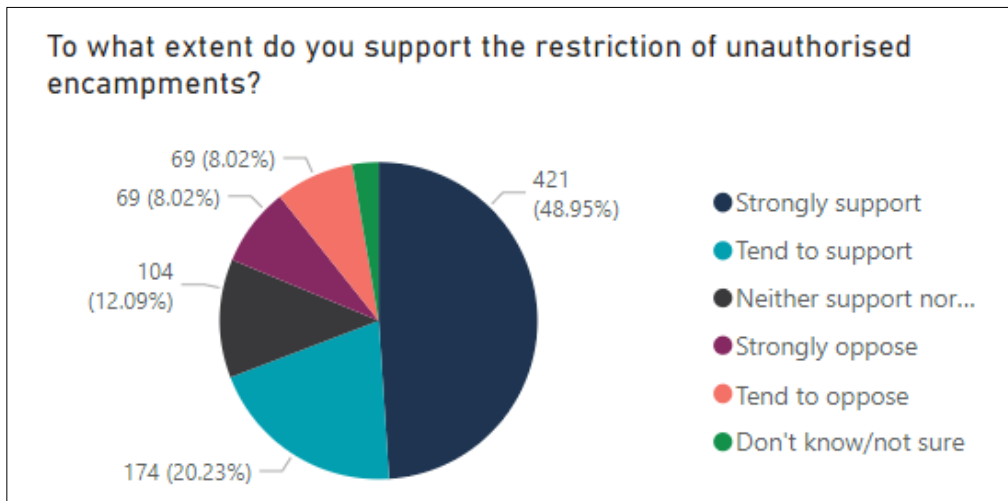
4.8 79.4% (683) of respondents strongly supported or tended to support restrictions/penalties for those that drink alcohol in public spaces and cause anti-social behaviour and nuisance to others; 11.9% (102) of respondents strongly opposed or tended to oppose.



4.9 81.5% (701) of 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.

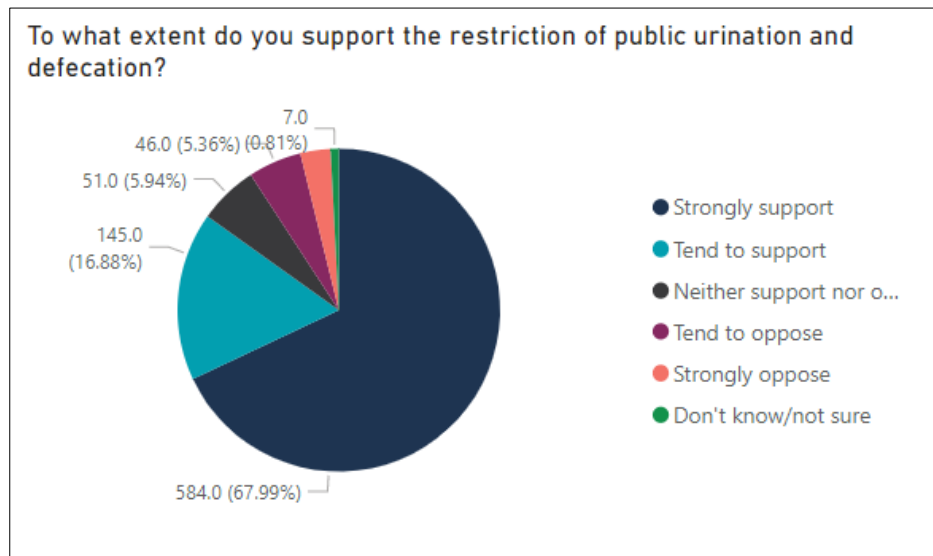


4.10 69.2% (595) of respondents strongly supported or tended to support the restriction of unauthorised encampments; 16.0% (138) strongly opposed or tended to oppose.

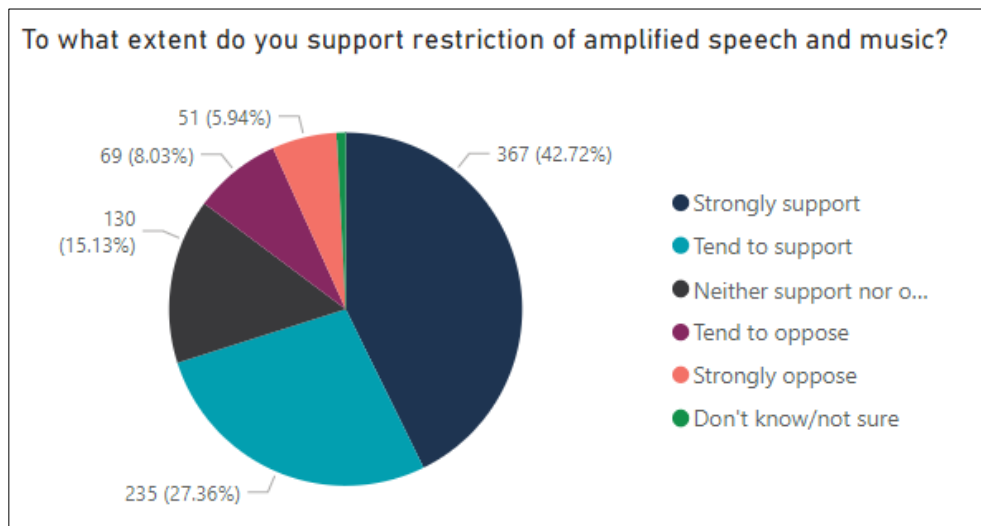


4.11 84.9% (729) of respondents strongly supported or tended to support the restriction of public urination and defecation; 8.4% (72) strongly opposed or tended to oppose.

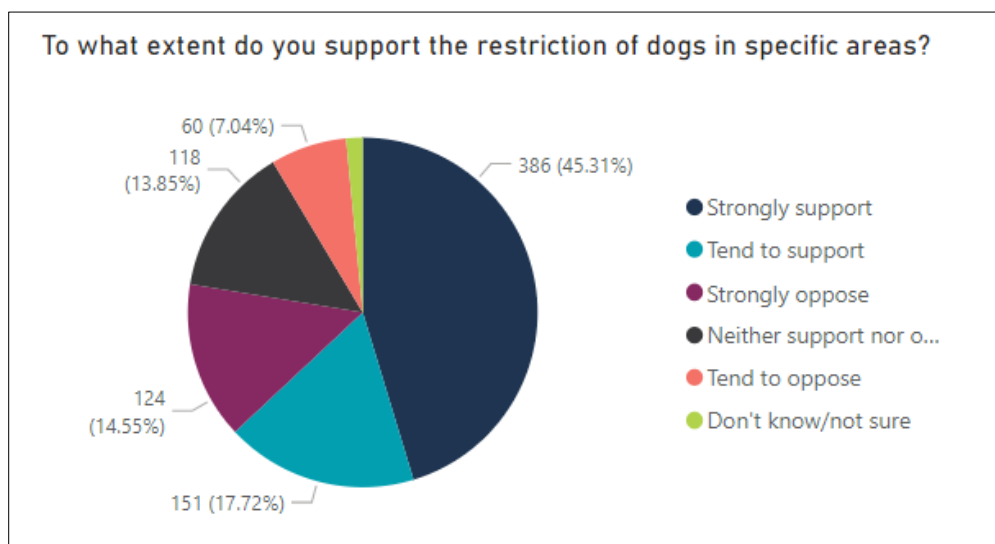




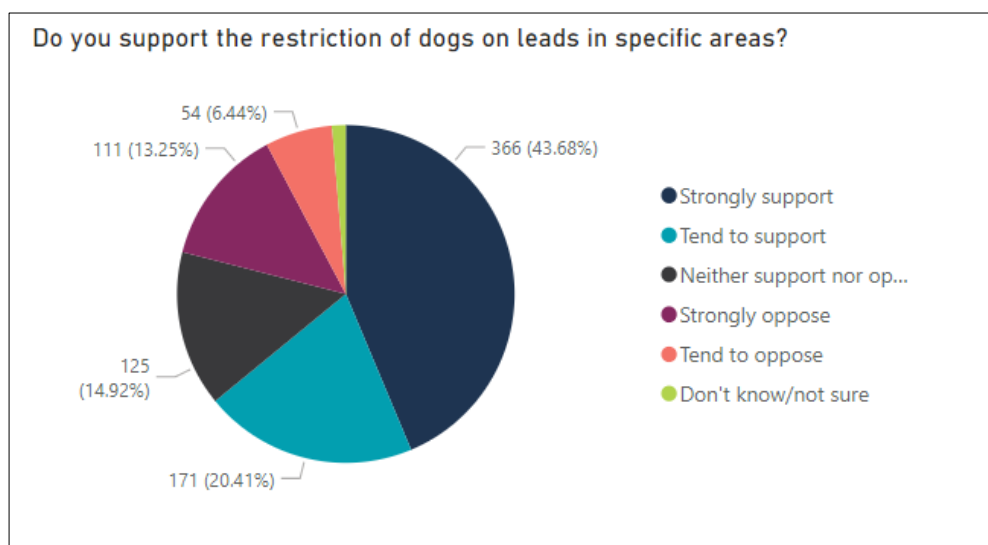
4.12 70.1% (602) of respondents strongly supported or tended to support the restriction of amplified speech and music; 14.0% (120) strongly opposed or tended to oppose.



4.13 63.0% (537) of respondents strongly supported or tended to support the restriction of dogs in specific areas; 21.6% (184) strongly opposed or tended to oppose.



4.14 64.1% (537) of 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.



4.15 The consultation asked respondents to explain why they opposed or supported the restrictions proposed. Those who opposed the restrictions made the following observations;

- Enforcement by Council & Police Officers 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.

- 4.16 These objections were broadly echoed at the Council's Safer Stronger Communities Select Committee and are explored in more detail in section 5 below.
- 4.17 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, using electronic scooters, vehicle-related ASB, 'begging', graffiti, vandalism, parking on pavements, engine idling, and disruptive congregations. These areas of focus will form part of the ongoing review of the PSPO as well as other Council powers.
- 4.18 Overall, the outcome of the consultation strongly supported the implementation of the PSPO, albeit it to varying degrees across the measures. The overall support is taken to be a material part of the evidence base for the recommendations within this report. Further details of the outcome of the consultation can be found in appendix 3.

## **5. Safer Stronger Communities Select Committee**

- 5.1 The findings of the public consultation were reviewed by the Council's Safer Stronger Communities Select Committee on 27 June 2023. The Committee noted that, while broadly in line with the nature of responses to other Council consultations, the demographics of those who responded to the survey did not reflect those of the borough, so urged caution in placing too much weight on them.
- 5.2 The Committee raised, alongside a number of the public consultation respondees, a number of questions and issues to be addressed ahead of the implementation of the PSPO and made a referral to Mayor and Cabinet on 19 July 2023 outlining these. The full details of the referral can be found here:  
<https://councilmeetings.lewisham.gov.uk/documents/s110795/Scrutiny%20referral%20PSPO%20SSCSC.pdf>
- 5.3 Overall these concerns/questions can be summarised as:
- Is there a need for PSPO given other powers?
  - What partnership work will take place alongside the team administering the PSPO with other services, or is already taking place to address anti social behaviour?
  - How will the Council ensure that equalities implications are fully considered during the implementation and utilisation of the PSPO and how will issues of disproportionality be monitored?

- Has there been a further data review to justify the PSPO?
- How will data be collected, and how will the effectiveness of the PSPO will be monitored?
- Has any more engagement with partner agencies taken place in the impact of the PSPO? (Specifically homelessness charities)
- Which team will carry out the PSPO, and how will they be qualified and supported in this work, both for their own welfare and the welfare of potentially vulnerable members of the public?

5.4 Many of the above concerns were raised in the context of the implementation of other enforcement measures such as Police Stop and Search powers and, as such, concerns centred primarily on the use of powers directly against individuals in possession of drugs and alcohol rather than some of the other powers. In light of this the majority of officers responses and mitigations has focused on those areas and these are set out below.

5.5 *Is there a need for PSPO given other powers?* In response to this question officers have undertaken a further review of existing powers to ensure that the rationale underpinning the initial consultation was sound i.e. that PSPO powers were needed to enable the Council to proactively tackle ASB in Lewisham.

5.6 The full review is attached as Appendix 4 - Review of existing powers and justification for a PSPO. The conclusion of this review is that the current powers and processes used by the team in managing and addressing ASB are generally cumbersome and time consuming which means that active enforcement takes considerable resource and reduces the teams ability to handle day to day cases. This means that, in a significant number of cases, enforcement action is not taken until the situation has become very serious and residents have been unnecessarily suffering for too long.

5.7 The PSPO does not grant the Council new powers per se (they are already able to issue Community Protection Notices, fines etc), but simply reduces bureaucracy required for their use and allows for a more pro-active stance to be taken. The Council is seeking to implement this ASB tool in accordance with their duty of care and statutory guidance.

5.8 The Anti-Social Behaviour, Crime and Policing Act 2014 was in part designed as a response to call from local Councils to streamline enforcement processes and to provide further powers, i.e. PSPOs, in areas with high levels of ASB. The review has

reiterated the need for that streamlining and officers are assured that the powers are required. However, in recognition of concerns raised by the Committee regarding the proportionate deployment of such powers, further work has been undertaken to ensure that they are only granted in areas with the highest levels of ASB – see Appendix 6 and section 6 below.

- 5.9 *What partnership work will take place alongside the team administering the PSPO with other services, or is already taking place to address anti social behaviour?* The Council is already involved in significant partnership work to address ASB, in all its forms, across the borough. This includes joint action days with officers from a range of departments including ASB, environmental crime, environmental health, parking/ planning enforcement and licensing as well as support services for those experiencing homelessness or addiction and mental health difficulties. Each of these departments also undertake specific targeted work, including work with the Police where required.
- 5.10 In terms of the the potential use of the PSPO the Council has already established an interim implementation group to consider which Council services need to be involved, how and when. This includes public health commissioning services who oversee both the network of support services in the borough and also the Council’s statutory safeguarding functions in this regard. Direct work is also ongoing with the support services themselves – see paragraphs 5.23 - 5.25 below.
- 5.11 Arguably the most important partnership with regards to the use of the PSPO will be between the Council and the Police. In recognition of this, a bespoke Memorandum of Understanding (MOU) has been developed between the Council and the Police regarding the use of the PSPO – this is attached as Appendix 7.
- 5.12 Full details of the arrangement are set out in the MOU but the premise is that the approach to the implementation of the PSPO will be cautious and proportionate with penalty notices issued in extreme circumstances for the first three months. There will be a focus on education and engagement in the first instance in all circumstances. A fortnightly review meeting will consider any and all engagements, advice and warnings given and ultimately any fines issued. Where individual or areas are subject to continued attention there will be detailed action planning meetings undertaken.
- 5.13 *How will the Council ensure that equalities implications are fully considered during the implementation and utilisation of the PSPO and how will issues of disproportionality be monitored?* Officers are extremely mindful of the potential equalities implications

regarding any enforcement action, particularly given the concerns raised by the Safer Strong Communities Select Committee regarding the use of stop and search powers in recent years.

- 5.14 It is important to reiterate that the purpose of a PSPO is to deal with ASB related to an activity, not the activity itself. The PSPO is not designed to focus on the drinking of alcohol or drug taking, or indeed the ownership of a dog, per se. The PSPO is aimed to be used only when those involved in these activities are engaged in ASB, which current powers are not able to address immediately. 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.
- 5.15 As such, it is expected that the use of the powers, and the warnings related to them, will be used on a relatively small and targeted number of occasions and will be the result of persistent ASB in the area. There is potential that the PSPO could have a significantly higher impact on the activities of those with alcohol or drug dependency, those from the traveller communities, and possibly those with mental health issues. In mitigation it is important to note that the PSPO will not be used to target rough sleepers for both moral and legal reasons, indeed the Home Office has stated a PSPO should not be used for this purpose and is a matter that can give rise to a claim for Judicial Review.
- 5.16 However, the introduction of a PSPO also has the opportunity to impact positively on the Council's 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. A full EAA has been completed (attached as Appendix 8) which highlights that the range of potential impacts, both positive and negative, and measures designed to mitigate and enhance these respectively.
- 5.17 *Has there been a further data review to justify the PSPO?* Following discussions at the Safer Stronger Communities Select Committee, officers undertook a supplementary data analysis exercise focusing on the drug and alcohol powers as these were the ones highlighted as presenting greatest concern. This supplementary data pack provides significant justification for the powers and that these be applied at

boroughwide level – see Appendix 6.

5.18 However, critical examination of this data also presented justification for the powers to be limited to certain wards which experienced the highest level of ASB as recorded by the Council and Police. By ranking these data sources there was a point which showed a clear gap between the 11 wards most impacted and the remaining 8. Therefore, recognising the need for proportionality in the application of the PSPO, it is only the top 11 wards which are now recommended for the drug and alcohol related ASB restrictions – see section 6 below.

5.19 *How will data be collected, and how will the effectiveness of the PSPO will be monitored?*

Data will be collected from a number of sources with a view to provide a rounded picture of the implementation of the PSPO. The ultimate measure of success of the policy is whether ASB has been reduced against the counterfactual position of the same period without the PSPO. This measure is framed in this way as the PSPO could still be considered a success if ASB were rising in a particular area, but at a significantly slower rate than in areas without the interventions. As such data will be collected on the period of implementation based on the baseline sources used in the data pack and compared both against the same period the previous year (or, subsequently, years) as well as comparing against Londonwide trends and activities in wards or neighbouring boroughs – see section 8 below.

5.20 *Has any more engagement with partner agencies taken place in the impact of the PSPO? (Specifically homelessness charities)* As previously stated officers already work closely with a range of support services in the existing measures tackling ASB and this will continue, and intensify, as part of the implementation of the PSPO. As part of the implementation, planning meetings have been held with the borough's primarily rough sleeping service, the 999 Club, as well as the specialist drug and alcohol service, Change, Grow, Live and Council officers with responsibility for the commissioning of Public Health services, the Prevention and Inclusion team.

5.21 These relationships will form an important part of the implementation process and support services will be invited to attend all PSPO operations as well as review and planning meetings. The Safer Communities service will also work directly with individual services e.g. homelessness hostels if there is any indication that the users/residents of a particular premises is driving ASB or its users are being disproportionality targeted by the PSPO.

- 5.22 In response to feedback from these meetings, the Council is also proposing that the powers to confiscate drugs or alcohol are only used in extreme circumstances e.g. the threat of violence using a container, to reduce any potential health impacts.
- 5.23 *Which team will carry out the PSPO, and how will they be qualified and supported in this work, both for their own welfare and the welfare of potentially vulnerable members of the public?* The implementation of the PSPO will be led by the Anti-Social Behaviour/Statutory Nuisance team within the Safer Communities Service. This team is currently responsible for investigating, and enforcement against, ASB (including statutory nuisance) in public spaces in Lewisham. Lewisham Housing has an independent ASB team, which responds to ASB in LB Lewisham properties and their communal areas and other social landlords are likewise equipped.
- 5.24 The team consists of 7 officers, one operations manager, one senior officer and five officers. The team have delegated powers for enforcement functions under the Anti-social Behaviour, Crime & Policing Act 2014. The team's work is currently largely reactive as the Council does not have a warden service or other resources for preventative patrolling across the Borough.
- 5.25 In addition to this service a number of officers from other services including Lewisham Housing's ASB team, the Environment Crime Team and Parks and Bereavement services are being considered to receive delegated powers under the PSPO. These teams are likely to receive powers, if determined appropriate after initial implementation led by the Safer Communities Service.
- 5.26 All officers who are able to use the powers will receive full training from professionals experienced in the delivery of PSPOs, as well as the Police. This training will cover both the details of the law and the mechanics of its use but also engagement and conflict management and de-escalation techniques such as the Johari window. This model encourages empathy and active listening, enabling officers to identify common ground, and facilitate compromise with those they are engaging with.
- 5.27 In addition, specific equipment such as body worn cameras will be made available to ensure that risks can be effectively monitored and managed.
- 5.28 Taken together the questions and issues raised at the Safer Stronger Communities Select Committee have provided an extremely helpful and robust checklist for officers



working towards the implementation of the PSPO. The review of this checklist has led to a number of changes to the measure initially proposed, as well as the commitment to a 6 month review of the implementation. The details of the amendments as well as details regarding the implementation and monitoring of the PSPO are set out in sections 6, 7 and 8 below (as well as appendices 6, 7 and 8).

## **6. Scope of the PSPO**

6.1 There are two statutory conditions for the making of a PSPO, namely:

- activities carried on in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality, it is likely that activities will be carried on in a public place within that area and that they will have such an effect
- the effect (or likely effect), of the activities is, or is likely to be, of a persistent or continuing nature, such as to make the activities unreasonable, and justifies the restrictions imposed by the notice.

6.2 Due to the persistent nature of the incidents set out in the initial evidence pack Mayor and Cabinet considered that these criteria had been provisionally met when agreeing to the consultation on the introduction of a PSPO.

6.3 It is important to note that these data sources primarily documented instances of proactive complaint so the starting point provides evidence of a significant number of individuals considering the actions to be unreasonable. The consultation responses, notwithstanding the limitations highlighted by the Safer Stronger Communities Select Committee, demonstrated significant support for the PSPO based on the evidence provided. This further reinforced the evidence that the activities are generally considered unreasonable and/or that they have a detrimental effect on general quality of life.

6.4 Officers are mindful that some time has passed since the initial evidence pack was compiled so the exercise has been re-run to ensure that there is up to date information to satisfy the criteria that the activities are, or are likely to be, persistent. This supplementary evidence pack is attached as appendix 5 and shows that there has been an increase in almost all types of ASB assessed as part of the consultation, indeed complaints of dog fouling, doubled from 600 in 2021/22 to 1,263 in 2023/24. The only issue which showed a decrease was amplified music. However, reports of noise-related ASB calls logged by the police remain high with 962 reports in 2023

alone and there was strong support for this restriction. As such officers are satisfied that the data underpinning the PSPO remains robust and demonstrates significant issues across all areas.

6.5 However, in response to the specific feedback from the Safer Stronger Communities Select Committee, further analysis was completed to ensure that there was a strong evidence base for the use of the alcohol and drug related restrictions specifically – see appendix 6. Subsequent discussion with Council Members led to prioritising wards most impacted by these anti-social behaviours. The table below sets out the rank of anti-social behaviour for the key data sources (Police ASB and offence data and Council alcohol and drug complaints/records), where 1 indicates the highest rate and 19 the lowest – by adding these ranking together it is possible to show where, taken together, the data indicates that ASB is highest (the lower the number, the higher the reported ASB). The grey line delineates the cut-off chosen, with only the wards above this to have restrictions relating to drug- and alcohol-related behaviour.

Ward	Police ASB*	Police Offences*	Council: Alcohol*	Council: Drug*	Total
Rushey Green	1	1	2	1	5
Deptford	2	2	4	1	9
Lewisham Central	3	3	1	13	20
Bellingham	6	10	13	1	30
Brockley	4	5	14	7	30
Evelyn	7	11	10	5	33
Hither Green	13	6	9	7	35
Sydenham	5	12	12	9	38
Downham	10	8	8	13	39
Catford South	8	9	5	18	40
Ladywell	17	7	11	5	40
Blackheath	9	4	18	13	44
Crofton Park	14	19	3	11	47
Forest Hill	12	18	6	11	47
Grove Park	18	17	15	4	54
Perry Vale	11	16	17	10	54
New Cross Gate	19	14	7	18	58
Lee Green	16	15	16	13	60
Telegraph Hill	15	13	19	13	60

\*Rank, where 1 = highest rate of ASB according to the sources shown



### **Dogs on Leads by Direction**

- When required by an authorised officer of the Council, any person in control of a dog/s must place the dog/s on a lead in the areas specified in Appendix 2 of this report

### **Maximum Numbers of Dogs Under a Person's Control**

- No person is permitted to have under their control more than 4 dogs in a public place

### **Dog Exclusion**

- No person in charge of a dog is permitted to take the **dog onto or to enter or to remain** on any areas specified in Appendix 2 of this report

### **Illegal Encampments**

- When required by an Authorised Officer, any individual responsible for an illegal encampment, removes all possessions related to the encampment and leave the area. Illegal encampments include any encampment or structure being used to occupy land without permission, including vehicles, tents, yurts and any other structure

### **Amplified music or speech**

- No person shall, after being requested to desist by an authorised officer, make or permit to be made any noise which is so loud or so continuous or repeated as to give reasonable cause for annoyance to other persons in any space open to the public

### **Consumption of Alcohol**

- No person will consume alcohol so as to cause, or be likely to cause nuisance or annoyance to any other person, within public places within the 11 specified wards<sup>1</sup>

### **Consumption of Drugs & Psychoactive Substances**

- No person shall refuse to stop engaging in anti-social behaviour whilst intoxicated through the use of drugs or psychoactive substances within the 11 specified wards<sup>2</sup>

6.4 This section should be read in conjunction with the appendices 2, 5 and 6 which provides a detailed analysis of the data utilised to decide on the activities in the scope of the proposed PSPO.

6.5 When considering the activity in scope for the Public Space Protection Order (PSPO), it is important to note that Authorised Officers should be satisfied on reasonable grounds that the activity subject to the Order:

- Has a detrimental effect on the quality of life of those in the locality (or it is likely that activities will take place and have such an impact/effect).
- Is (or is likely to be) persistent or continuing in nature.
- Is (or is likely to be) unreasonable.

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<sup>1</sup> Rushey Green, Deptford, Lewisham Central, Bellingham, Brockley, Evelyn, Hither Green, Sydenham, Downham, Catford South, Ladywell

<sup>2</sup> As above

- Justifies the restrictions being imposed.

6.6 However, it is acknowledged by the Local Government Association that 'anti-social' is a subjective concept, and similarly determining whether behaviour is detrimental and unreasonable can present some challenges and will require careful consideration.

6.7 When assessing what 'unreasonable' activity is, we will need to balance the rights of the community to enjoy public spaces without anti-social behaviour, with the civil liberties of individuals and groups who may be affected by any restrictions imposed. These issues are explored in more detail in sections 7, 8 and 11 below.

## **7. Introduction of the PSPO**

7.1 The PSPO will be enforced by any delegated Council officer with support from a Police Officer or Police Community Support Officer, and designated support services e.g. drug and alcohol or homelessness charities. These agencies will also continue to work together in targeted operations when tackling a specific issue/activity or geographical areas.

7.2 Planned collaborative action days with various partners will take place across the authority to tackle persistent ASB behaviour. The implementation of the PSPO will initially be limited to the Safer Communities service but, assuming the PSPO is successful, further Council Officers may be granted delegated powers to enforce against specific activity e.g. a Parks Officer could enforce a prohibition against dog fouling at any time.

7.7 The action days are likely to be based on intelligence received with the initial focus being on Catford Broadway and the wider Rushey Green ward. 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. It is essential that delegated powers are considered and targeted deployment of staff is prioritised.

7.8 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 be vulnerable and need support. Therefore, referral pathway where safeguarding concerns are identified will be stipulated. It must be noted that while Council Officers and the Police will enforce the Order, the planned collaborative action days will include partners whose sole responsibility it is to safeguard, i.e. homeless/drug services.

- 7.9 We will adopt a three-month 'soft launch' period once the Order goes live during which FPNS will only be issued in exceptional circumstances. This will allow a period of raising awareness within the wider community, ensuring the training of officers is complete/adequate, and allowing space to test the protocol.
- 7.10 Enforcement of the Order will be proportionate to the behaviour identified and its impact on others. The assessment would be undertaken by trained Officers utilising knowledge about recent or ongoing complaints of anti-social behaviour.
- 7.11 A breach of the PSPO is a criminal offense and can be dealt with via the issuing of a Fixed Penalty Notice (FPN) of up to £100 or a fine of up to £1,000 on the prosecution. The PSPO is designed solely to reduce 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 advertising the controls in place.
- 7.12 Once implemented, the Safer Communities Service will conduct fortnightly operational monitoring meetings with stakeholders, including members of the independent Safer Neighbourhood Board, to assess the effectiveness of the implementation and enforcement of the PSPO.
- 7.13 It is recommended that the PSPO is implemented for three years, after which it must be subject to a statutory review. 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. However, during the agreed period of operation the PSPO will be subject to regular and robust monitoring and evaluation to monitor its effectiveness and ensure that there are no unintended consequences associated with its implementation – further details are set out in section 8 below.

## **8. Monitoring and evaluation**

8.1 As a new policy it is essential that the PSPO is subject to regular and robust monitoring and evaluation. This evaluation will focus on three specific areas which will then be considered together to ensure a rounded and balanced assessment of the PSPO.

8.2 The areas that will be assessed are:

- Impact of the PSPO on the different types of ASB covered by the order
- The demographic make up of those individuals/groups engaged through the PSPO
- Quantitative feedback

8.3 *Impact of the PSPO on the different types of ASB covered by the order.* This element of the evaluation will seek to address the direct impact of the PSPO on the ASB which it is designed to reduce. As such the evaluation will focus on comparing current activity with the data that has been used to justify the PSPO as set out in appendices 2, 5 and 6.

8.4 For ease of reference the data sources used/to be used are:

- Cleaner Lewisham, a Lewisham Council website where residents can log environmental issues
- Lewisham Council Complaints Team
- Lewisham Council Enforcement Team
- Lewisham Council Dog Unit
- London Ambulance Service (LAS)
- Metropolitan Police Service (MPS) offences
- MPS Anti-Social Behaviour data

8.5 These data sources will be used to establish a baseline for each type of ASB.

Comparisons against this baseline will have to take into account:

- Natural variation in the number of complaints. Complaints may vary due to the influence of external factors such as weather (for example, more complaints are expected around warm, sunny weather than in cold wet weather). To overcome this, the baseline should be calculated from more than one year and contain where possible a 'normal range' (average and confidence intervals)
- Comparisons should also be made with overall trends of ASB in neighbouring boroughs and/or London, where possible. There may be cases where large increases are observed in all areas but the PSPO helps limit this increase locally

- It may be beneficial to compare areas which are subject to the PSPO with those that are not, such as the case for the alcohol related ASB for example. This will help check for displaced activity. This also needs to take into account PSPOs active in other neighbouring boroughs.

8.6 *The demographic make up of those individuals/groups engaged through the PSPO* will be collated and reviewed to assess whether any particular groups are being disproportionately impacted by the implementation of the PSPO and the reasons for this.

8.7 This data will be collected on all individuals or groups engaged with as part of the implementation of the PSPO and not just those issued with fines. This is a reflection of the fact that fines will be issued as a last resort and the vast majority of those that officers engage with will simply be in receipt of advice and education.

8.8 It is acknowledged that not all those who are engaged through the implementation of the PSPO will readily share their personal demographic data. In these circumstances Officers will record a subjective assessment of those spoken to in order to give a proxy record of engagement. The Council is aware that this approach is highly problematic and a clear record will be kept of which elements of the data are based on these assessments. However, it is considered that the likely alternative i.e. very limited demographic nature of any kind on which to assess the equalities impact of the PSPO is so unacceptable as to justify this approach.

8.9 The actual PSPO enforcement will be recorded on an approved IT system, which will record and manage all FPNs which are issued, this will include, case management, and the recovery of fines. When a Fixed Penalty Notice is issued, this information will be recorded on the approved IT system and reports will be generated to share with the Council and Police, which will provide the data for who the FPN has been issued to, where this happened, what time and for what offence. The details of advice and warnings given will be recorded locally and compiled and mapped on Council systems.

8.10 *Quantitative feedback.* A third important part of the data collection will relate to complaints or other qualitative feedback on the implementation of the PSPO. It is clear that the policy cannot be considered a success if it generates significant levels of community dissatisfaction, particularly from minority or marginalised groups and it is vital that assessment of community impact is a full part of the analysis of the success, or otherwise, of the PSPO.



- 8.11 Taken together the review of incidents, and the counterfactual, the review of the direct implementation data and qualitative feedback will be taken together to make an objective assessment of the success of the PSPO. The implementation will be subject to a full review after the first 6 months, then 12 months and, subsequently annually assuming that it is retained.
- 8.12 The review will be undertaken by the Safer Communities Service but quality assured by the Council's Data and Insight Team and reviewed by the Corporate Policy Team.
- 8.13 The reviews will be presented to the Council's Executive Management Team, the Mayor and Cabinet, the Safer Lewisham Partnership, Safer Stronger Communities Select Committee and the Lewisham Safer Neighbourhood Board.

## **9. Financial implications**

- 9.1 The financial implications from the introduction of the PSPO will be addressed within existing Communities, Partnership and Leisure budgets. These primarily relate to costs of software and hardware equipment for issuing and recording actions and fixed penalty notices issued under the powers provided by the PSPO, training for internal Officers, signage, and public notices informing the public of the new PSPO restrictions. There is also an one off earmarked reserve from Ministry of Justice that can be drawn down as required.

## **10. Legal implications**

- 10.1 Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 permits a local authority to make a PSPO in the areas where a particular nuisance or problem occurs which is detrimental to local community's quality of life. In order to make a PSPO, the council must be satisfied on reasonable grounds that two statutory conditions set out in are met and that the restrictions are reasonable and proportionate. Once made, a PSPO empowers a Constable (or other authorised persons) to enforce a prohibition or requirement set out in the PSPO.
- 10.2 The first condition referred to above that must be met is that: (a) activities carried on in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality, or (b) it is likely that activities will be carried on in a public place within that area and that they will have such an effect. The second condition is

that the effect, or likely effect, of the activities (a) is, or is likely to be, of a persistent or continuing nature, (b) is, or is likely to be, such as to make the activities unreasonable, and (c) justifies the restrictions imposed by the notice. Having considered the information in this report, if Mayor and Cabinet is not satisfied that the conditions are met, the orders must not be approved.

- 10.3 The proposed Orders potentially entail an infringement of individuals' human rights. The Anti-Social Behaviour, Crime and Policing Act 2014 also requires that in deciding whether to make a PSPO the Council must have particular regard to the rights of freedom of expression and freedom of assembly and association set out in articles 10 and 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms.. Such qualified rights may be legitimately interfered with in the interests of public safety, the prevention of crime and disorder and in accordance with the law. When considering whether to make the orders the Council must balance the rights and freedoms of individuals, in relation to the proposed restrictions imposed, against the needs of the wider community.
- 10.4 The Council to carry out the necessary consultation required by the Anti-Social Behaviour, Crime and Policing Act 2014 before making a PSPO. This means consulting with "the chief officer of police, and the local policing body, for the police area that includes the restricted area" and with appropriate community representatives and those who own or occupy land within the restricted area. This report sets out the details of the consultation and the responses received which Mayor and Cabinet must conscientiously consider before arriving at their conclusions.
- 10.5 Once authorised the Council must publish the order on its website and cause to be erected on or adjacent to the public place to which the order relates such notice (or notices) as it considers sufficient to draw the attention of any member of the public using that place to i. the fact that the order has been made; and, ii. the effect of that order being made.
- 10.6 An interested person (e.g. 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. Pending the outcome of such an appeal, the High Court can suspend the PSPO in whole or part.

- 10.7 Breach of a PSPO is a criminal offence, subject to a fixed penalty or prosecution and a fine.

## **11. Equalities implications**

- 11.1 Under the Equalities Act 2010, it is unlawful to 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 unfavorably because of something connected to their disability. Therefore, these restrictions will not be applicable to persons using an assistance dog within the identified locations.
- 11.2 The PSPO could have a significantly higher impact on 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 Council's 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.
- 11.3 A full Equalities Analysis Assessment has been completed and is attached as Appendix 8.

## **12. Climate change and environmental implications**

- 12.1 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. The reduction of dog faeces in public places is expected to be the most significant environmental impact of the PSPO.

## **13. Crime and disorder implications**

- 13.1 Assuming Mayor and Cabinet agree to introduce the proposed PSPO, this would provide additional powers to the 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.

- 13.2 Following the consultation and recommendations from the Safer Stronger Communities Select Committee, Alcohol, and Drug-related anti-social behaviour and disorder will be enforced in the wards listed in section. Therefore, it is possible that after the introduction of the PSPO and its powers only being used in the approved areas, the Council, the Police, and the Public might start to see the displacement of issues relating to ASB involving Alcohol and Drug misuse, move to those wards within the Borough where enforcement cannot be undertaken. Suppose this does occur, and the Police can provide evidence to support the introduction of a new area-based PSPO that allows the same enforcement. In that case, the Council will undertake the PSPO consultation and implementation process to instigate these powers within the new ward/wards.
- 13.3 Due process will be followed, which means that the enforcement will not be immediate, but this will allow for a measured approach to be taken, as per this PSPO implementation process dictates.
- 13.4 Engagement and support will still be offered to those whom both Council and Police officers engage with outside the enforceable areas.

## **14. Health and well-being implications**

- 14.1 Existing evidence suggests ASB can result in a range of negative emotional, behavioural, social, health and financial impacts. These include adverse 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 the proposed PSPO addresses.

## **15. Glossary**

<b>Term</b>	<b>Definition</b>
EAA	Equalities Analysis Assessment
ASB	Anti-social behaviour
PSPO	Public Space Protection Order

Term	Definition
FPN	Fixed Penalty Notice

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## 17. Appendices

### Appendix 1 - Public Space Protection Order Paper for Mayor and Cabinet (November 2022)

<https://councilmeetings.lewisham.gov.uk/documents/s103503/PSPO%20Mayor%20and%20Cabinet%20Report%20-%20FINAL.pdf>

### Appendix 2 – London Borough of Lewisham Public Space Protection Order Evidence Pack

<https://councilmeetings.lewisham.gov.uk/documents/s103504/Evidence%20Pack%20October%202022%20v1.1.pdf>

### Appendix 3 – Further information on consultation results

### Appendix 4 – Review of existing powers and justification for a PSPO

### Appendix 5 - PSPO Evidence Pack 2 – all measures

### Appendix 6 - PSPO Evidence Pack 2 – drugs and alcohol specific

### Appendix 7 – PSPO MOU between the Council and the Police

### Appendix 8 – Equalities Analysis Assessment

