

## DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	ENVIRONMENT, HEALTH AND HOUSING COMMITTEE	9 MARCH 2021	5
<b>STREET BEGGING</b>			

### PUBLIC ITEM

This item is for consideration in the public part of the meeting.

### SUMMARY

The report is intended as a discussion paper regarding the issue of street begging in the town centres. It presents options available to deal with street begging and lays out the evidential thresholds required.

### RECOMMENDATIONS

1. To continue with the approach of responding to street begging through Community Protection Notices (CPN's) and to collate any evidence to demonstrate that street begging is having a detrimental effect on quality of life; is both continuing in nature and unreasonable, to justify restrictions being considered through a Public Spaces Protection Order
2. That a further report be brought back on this matter in six months to update on the position.

### SUMMARY OF PREVIOUS DECISIONS

None arising

### CORPORATE PRIORITIES

Economy – To create a vibrant and healthy economy	
Environment – To deliver services customers expect	
Efficiency – By spending money in the most efficient way	
Tourism – To create a great place to live and visit	v

### REPORT

#### Introduction

1. Over the last ten years or so, there has been a noticeable increase in the numbers of people begging in streets and public places in the Fylde area. Though the numbers overall are small, the individuals concerned often beg from prominent locations in town centres.
2. Officers have been asked to produce a report setting out the formal powers that are available to tackle street begging.

## Street begging and homelessness

3. Street begging is often associated with homelessness but not all street beggars are homeless with many having a home to go to. Street beggars who are homeless are less likely to be deterred by formal action than street beggars who are not homeless.
4. Homelessness in the UK is increasing with projections indicating that number will continue to rise with individuals affected by the lack of availability and affordability of housing as well as changes to the benefits system (Public Health England: Adults with Complex Needs).
5. There are several reasons why people experience homelessness, and this can be due to a highly complex mix of issues ranging from early childhood experiences through to the development of substance misuse and mental health problems.
6. Local housing authorities have a duty to provide accommodation to those who fall within certain categories of priority need, and a related duty to help individuals, by providing them with help and assistance to find them accommodation.

## Street begging and the law

7. Under the Vagrancy Act 1824, a person "*wandering abroad, or placing himself or herself in any public place, street, highway, court, or passage, to beg or gather alms...shall be deemed an idle and disorderly person*" and may be fined on conviction. A person who is deemed to be an idle and disorderly person and who offends again may be deemed to be a rouse and vagabond and fined again. The former provisions under which a person deemed to be a rouse and vagabond could be deemed to be an incorrigible rouse, while not repealed, may no longer be enforced.
8. The legislation is almost 200 years old and the police will often prefer to refer a street beggar to the local authorities on the grounds that the individuals concerned are genuinely homeless and require assistance, but that is not always the case.
9. The more recent Anti-Social Behaviour, Crime and Policing Act 2014 provides powers to tackle a range of anti-social behaviours, giving broader powers that are designed to be faster and more efficient to use to address vagrancy or street begging.
10. The main tools in the 2014 act that can be used in relation to street begging are community protection notices (CPN's) and Public Space Protection Notices (PSPO's). Further information about each is set out below in the context of street begging.

## Options

### Community Protection Notices (CPN)

11. A CPN is issued to an individual and can include requirements stop doing specified things, requirements to do specified things or requirements to take reasonable steps to achieve specified results. The specific measures can be tailored to an individual recipient, for example accessing treatment or keeping out of a specified area.
12. S43 of the Anti-Social Behaviour, Crime and Policing Act 2014 provides the authority to issue such orders and states that; "*An authorised person may issue a community protection notice to an individual aged 16 or over,...if satisfied on reasonable grounds that:*
  - (a) *the conduct of the individual...is having a detrimental effect, of a persistent or continuing nature, on the quality of life of those in the locality, and*
  - (b) *the conduct is unreasonable*"
13. Statutory guidance states that "*Agencies should have sufficient evidence to satisfy themselves that the behaviour in question is genuinely having a detrimental effect on others' quality of life, in terms of the nuisance or harm that is being caused to others, rather than a behaviour that others may just find annoying... Decisions on whether behaviour is persistent or continuing in nature should be taken on a case by case basis*"<sup>1</sup>.

---

<sup>1</sup> Anti-social Behaviour powers – statutory guidance for frontline professionals, February 2021, p.50

It is generally considered necessary to obtain several pieces of valid and appropriate evidence (i.e. not just hearsay/ opinion) to warrant applying the legislation.

14. The process starts with the issue of a community protection warning letter which should be handed directly to the individual. The warning outlines that their behaviour is considered to be anti-social with the rationale as to why it is considered anti-social, there is a clear timeline given to abide by requirements under the warning and that failure to do so will result in the issue of a CPN.
15. The CPN itself can and should specify requirements tailored to deal with the specific circumstances of the behaviour and/or the individual. For example, it can require the recipient to access specified treatment or keep out of a specified area. If breached, the individual commits a criminal offence. Sanctions can include a fine of up to £100 and forfeiture of items in the possession of the individual. A fixed penalty notice can also be issued.
16. Fylde's constitution allows a CPN to be authorised by the Chief Executive or Director of Resources, after consultation with the Chairman of the Environment, Health and Housing Committee.
17. If an individual is convicted of failing to comply with a CPN, a *Criminal Behaviour Order* can be issued by the Magistrates Court. To issue the order, the Court must be satisfied beyond reasonable doubt, that the offender has engaged in behaviour that caused or was likely to cause harassment, alarm or distress to any person and consider that making the order will help in preventing the offender from engaging in such behaviour. Breach of a criminal behaviour order can lead to imprisonment.

### **Public Spaces Protection Orders (PSPOs)**

18. Unlike a CPN, which is targeted at and tailored to an individual, a PSPO prohibits specific behaviours within a area. The criteria for issuing a PSPO is set out in the legislation and are the subject of statutory guidance and are analogous to those for the issue if a CPN. The activity or behaviour to be controlled must:
  - have had, or is likely to have, a detrimental effect on the quality of life of those in the locality;
  - be, or be likely to be, persistent or continuing in nature;
  - be, or be likely to be, unreasonable; and
  - justify the restrictions imposed (i.e. the restrictions must be proportionate).
19. Before a PSPO is issued, the council must consult the police and appropriate representatives of the local community. Certain information must be published before making an order.
20. A PSPO could be subject to legal challenge for a period of six weeks after it is made. It is important that any report which is relied on to support the making of a PSPO contains evidence which supports the restrictions to be imposed in terms of those criteria. This is particularly important where a PSPO is expected to impact on individuals that are likely to be vulnerable. In particular, the statutory guidance advises that councils should "*consider carefully the nature of any potential [PSPO] that may impact on homeless people or rough sleepers*"<sup>2</sup>.
21. A breach of a PSPO can be addressed by the issue of a fixed penalty notice, or prosecution in the magistrates' courts.
22. Any PSPO would only be able to address behaviours rather than individuals. It will be necessary to identify the behaviours and frame the orders to address the behaviours directly and unequivocally. PSPOs stay in force for three years.
23. PSPOs are an option, if the report proposing a PSPO includes enough and appropriate evidence to meet the statutory criteria and that the guidance is complied with. It would need to be clearly stated which behaviours are unacceptable (and why) that the PSPO should prohibit together with an evidence base sitting behind this.

---

<sup>2</sup> Ibid, p.65

## 24. Comparison

	CPN	PSPO
<b>Criteria</b>	<ul style="list-style-type: none"> <li>• Conduct of individual that has have had, or is likely to have, a detrimental effect on the quality of life of those in the locality;</li> <li>• is, or be likely to be, persistent or continuing in nature;</li> <li>• is, or be likely to be, unreasonable.</li> </ul>	<ul style="list-style-type: none"> <li>• Behaviour that has have had, or is likely to have, a detrimental effect on the quality of life of those in the locality;</li> <li>• is, or be likely to be, persistent or continuing in nature;</li> <li>• is, or be likely to be, unreasonable.</li> </ul>
<b>Issued to</b>	Individual	Community at large
<b>Tailored to recipient?</b>	Yes	No
<b>Expires</b>	No	Three years
<b>Consultation and publicity</b>	No	Police, community representatives, publicity
<b>Warning letter?</b>	Yes	No
<b>Penalty</b>	£100 fixed penalty, prosecution, possible criminal behaviour order	£100 fixed penalty, prosecution, possible criminal behaviour order

IMPLICATIONS	
Finance	No direct implications at this time
Legal	The legal powers are fully set out within the report
Community Safety	The Police and community representatives should be consulted if a PSPO was to be considered
Human Rights and Equalities	Statutory guidance advises that councils should “ <i>consider carefully the nature of any potential [PSPO] that may impact on homeless people or rough sleepers</i> ”.
Sustainability and Environmental Impact	PSPO’s must be reviewed every three years.
Health & Safety and Risk Management	No direct implications at this time.

LEAD AUTHOR	CONTACT DETAILS	DATE
Tracy Manning	<a href="mailto:tracy.manning@fylde.gov.uk">tracy.manning@fylde.gov.uk</a> Tel 01253 658521	24 February 2021

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection