

## APPENDIX 1D

### **Proposed Public Spaces Protection Order for Exeter City Centre**

#### **Frequently Asked Questions about prohibitions and requirements contained in Public Spaces Protection Order.**

##### **What are Public Spaces Protection Orders (PSPO)?**

These are areas that can be designated by Exeter City Council where anti-social behaviour has been causing a nuisance or annoyance. In these areas, police, police community support officers and council officers (where designated) have certain powers to help tackle such behaviour.

The PSPO will be in force all hours of the day, every day. The PSPO will last for three years and can be extended following a review.

##### **Will there be any extra policing to enforce the PSPO?**

No.

Police Neighbourhood Teams will continue to patrol and respond to incidents as part of their community response.

##### **What are the benefits of a PSPO?**

The main benefits of a PSPO are to help tackle anti-social behaviour associated with street drinking or the taking of other intoxicating substances, urinating in the street, aggressive or intimidating behaviour of groups or individuals, and aggressive begging.

##### **What will the PSPO control?**

The PSPO will seek to control the following forms of anti-social behaviour:

##### **Consumption of alcohol and other intoxicating substances in a public place.**

The Order will stipulate that person(s) within this area, whilst situated in the street or other public space where the public have access without payment shall:

##### **A. Surrender any intoxicating substance in their possession to an authorised person (e.g. Police) on request, if:**

- a) they are found to be ingesting, inhaling, injecting, smoking or otherwise using intoxicating substances, or,
- b) they are in possession of such intoxicating substances with the intent of using such intoxicating substances within this area, or,
- c) the authorised person has reasonable grounds to believe that such person is using or intends to use the intoxicating substance within the said area.

*Intoxicating Substances is given the following definition (which includes Alcohol and what are commonly referred to as 'legal highs'): Substances with the capacity to stimulate or depress the central nervous system.*

*Exemptions shall apply in cases where the substances are used for a valid and demonstrable medicinal use, given to an animal as a medicinal remedy, are cigarettes or vaporisers (tobacco products), or are food stuffs regulated by food safety legislation, or where the use of the intoxicating substances fall within the curtilage of a premises licenced for the sale and consumption of alcohol, and within the operating hours of such.*

*An authorised person shall be a Police Constable, Police Community Support Officer or authorised Exeter City Council Officer, who must be able to present their authority upon request.*

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### **What are the concerns and issues with street drinking?**

Street drinking is sometimes associated with anti-social behaviour, causing high levels of noise, rowdy and nuisance behaviour, harassment and intimidation of passers-by, as well as the littering of cans and bottles. People taking other intoxicating substances such as new psychoactive substances (commonly called Legal Highs), can also exhibit the same types of unpredictable anti-social behaviour.

### **How will the PSPO work?**

Officers can request people to stop drinking alcohol in the designated public places and ask to surrender their drink, including unopened containers of drink being carried. They can also request people to stop using other intoxicating substances and ask them to surrender such substances if they believe that they will be consumed in a public place within the PSPO area. If people refuse they can be issued a fixed penalty notice with a penalty of up to £100, or a zero penalty with an option to commit to an acceptable behavior contract (ABC), and a maximum of £1000 upon prosecution.

A PSPO is not an outright ban on street drinking. It is not an offence to consume alcohol in a public place; the offence is failing to comply with an officer's request.

### **Can I be stopped or arrested for carrying alcohol or legal highs in public spaces?**

A PSPO does not make it illegal to carry alcohol or to drink alcohol in a public place. So long as drinking is done responsibly a PSPO will only be used to tackle alcohol related anti-social behaviour or disorder. Under these circumstances authorized persons (e.g. Police) will have the power to stop people drinking alcohol and seize or confiscate alcohol within the controlled area. If you fail to comply with an officer's request to stop drinking and/or dispose of alcohol, you could be issued with a Fixed Penalty Notice (FPN).

With other intoxicating substances such as legal highs it is not an offence to carry such in a public place, but police and council officers (where designated) will have the power to stop people consuming, injecting or smoking legal highs, and seize or confiscate legal highs within the controlled area. If you fail to comply with an officer's request to stop using legal highs, or surrender such substances, you could be issued with a Fixed Penalty Notice (FPN).

### **Do Police already have these powers?**

Currently there is a Designated Public Places Protection Order (DPPO) in force within the city centre to deal with problematic street drinking. By law, this DPPO must be replaced by a PSPO by October 2017, or ended. As the need to manage down anti-social street drinking in the city centre remains, there is a need to replace the DPPO with a PSPO, and include public areas outside of the current DPPO (such as Belmont Park and St. Thomas Pleasure Ground) where problematical street drinking continues.

The Police can make an arrest for street drinking related anti-social behaviour, or similar behaviour from intoxication by other substances. However, it is only an offence to refuse with an officer's request to stop drinking alcohol/taking legal highs or to surrender alcohol/legal highs when asked, where a PSPO is in operation. Where there is no PSPO in operation, it is not an offence alone to refuse to surrender alcohol/legal highs, although any related anti-social behaviour can give cause for arrest.

### **Will there be signs in Exeter City Centre alerting people to the new PSPO?**

Yes.

The intention is that signs will be located in Exeter City Centre to signify that this is a PSPO, very much like is in place now for the DPPO.

### **Would people still be able to drink or hold alcohol bottles outside pubs?**

Yes.

The PSPO does not make it illegal to drink alcohol in a public place. However, if a person was to drink beyond the legal boundary of a licensed premise and they do not stop drinking if asked to do so by a police officer or another authorised person, then they could be at risk of breaching the Order.

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### **Are licensed premises affected?**

Although a PSPO would restrict alcohol consumption in a public area the Act states that licensed premises are not affected.

### **What about street parties and events in parks?**

Events within a public place authorised by a premises license or a Temporary Event Notice (TEN) will be excluded from the PSPO powers.

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### Urinating

The Order will stipulate that person (s) within this area, whilst situated in the street or other public space where the public have access without payment shall:

#### **B. Not urinate in a street or public open space**

*The term 'street' includes any road, footway, beach or other area to which the public have access without payment. It also includes a service area as defined in Section 329 of the Highways Act 1980. Other areas will include parks and retail car parks to which the public have access to without payment.*

*Exemptions shall apply where authorised temporary public urinals/toilets have been provided in accordance with any specification issued by Exeter City Council, and with its agreement.*

#### **What are the problems with street urination?**

This is mainly a problem at night-time when people leave establishments after drinking, although it can also take place in the day. Apart from indecently exposing oneself, which many find offensive, people who urinate in the street often do so against premises, in car-park stairwells, or in shop fronts, making it very unpleasant for the premises owners or residents who must clean up the mess, and for employees, visitors and customers who frequent the premises and have to walk through the mess. For many, it can also add to the perception of feeling unsafe.

#### **There are no public toilets open at night?**

Although there are no public toilets open at night, all drinking establishments, clubs, pubs, restaurants and cinemas have toilets for use by patrons, so there is little excuse for not going before leaving.

### **Street Encampments**

The revised Order will no longer contain a specific restriction regarding the control of street encampments.

#### **Are rough sleepers being targeted?**

They are not being targeted, nor is any specific group or part of the community being targeted. There are good support services and temporary accommodation available to people who sleep rough, but some chose not to access this support. Sleeping rough in the city centre can place someone in a very vulnerable situation, and it is not beneficial to their health and wellbeing. Officers enforcing the Order will be briefed to signpost rough sleepers to appropriate support services.

### **Aggressive Begging**

The revised Order recognises that there is a distinction to be made between passive begging, (where someone is sat or stood on a spot with a collection receptacle) and more intimidating or aggressive begging where an active, direct approach is made requesting money in an intimidating way, or someone purposefully places themselves close to a pay point in order to request money from users of that pay point who necessarily have to visit that pay point. For that reason the proposed Order has been revised to place a restriction on aggressive begging only.

The proposed Order will stipulate that person(s) within this area, whilst situated in the street or other public space where the public have access without payment shall:

#### **A. 1) Not carry out aggressive begging.**

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*Aggressive begging is defined as behaviour that a reasonable person would regard as intimidating and which is designed to cause a member of the general public to offer money to a person not known to them.*

*Exeter City Council would define that behaviour as:*

*(1) clearly intimidating, i.e. through the use of threatening language or gestures, or*

*(2) intimidating by being passive aggressive, such as standing or sitting in close proximity (i.e. within 5 metres) to a cash machine or pay station either singly or in a group of two or more i.e. where people expect privacy and/or feel vulnerable with their money, bank cards, wallets or purse on display.*

### **What's the problem with begging?**

Many people feel uncomfortable or intimidated by people begging at cash points, parking ticket machines, under-passes and shop entrances. Sometimes the person begging can be aggressive in their approach, making people fearful, particularly when on their own. They can also put people off entering a shop if they are begging by the entrance, so the shop loses trade. However, people are more concerned about being actively stopped and approached in the street by someone begging, or being obliged to use a pay-point at which someone has purposefully placed themselves to beg from users of that pay-point who necessarily need to get out their money or cash cards.

Sometimes people who have overnight accommodation at a hostel prefer to beg late at night because it can prove quite lucrative during the busy night-time. The problem with this is they may lose their accommodation and can be quite vulnerable to being picked on by night-time economy visitors.

Begging is actually a criminal offence under the Vagrancy Act, but under this act the only option is for the Police to prosecute the person begging, whereas the PSPO would allow the alternative of a fixed penalty notice to deter aggressive begging, within which there would be the option of committing to an acceptable behavior contract, giving a positive pathway rather than a punitive one.

### **What about buskers?**

The revised PSPO is designed to deter aggressive begging, rather than genuine musicians busking in the street; busking will not fall under the definition of aggressive begging. In terms of the PSPO, it will only be an offence to aggressively beg in a public place without the written consent of the land owner.

### **What about Big Issue sellers, street pedlars & vendors, and charity personnel?**

People selling periodicals (newspapers, etc.) are not covered by the PSPO, and neither are other street vendors, pedlars and charity personnel asking for donations to charity.

### **Anti-social behaviour from groups or individuals**

The Order will stipulate that person(s) within this area, whilst situated in the street or other public space where the public have access without payment shall:

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- D Not behave either individually or in a group of two or more people in a manner that has resulted or is likely to result in any member of the public being intimidated, harassed, alarmed or distressed by that behaviour.
- E Persons within this area who breach Prohibition D while in a group shall when ordered to do so by an authorised officer disperse either immediately or by such time as may be specified and in such a manner as may be specified.

### **Will this affect lawful pickets or protests?**

No.

The PSPO shall not be used to stop or interfere with a lawful picket or peaceful protest, it has been designed to deal with unruly groups that are causing a problem for other users of the public space, for example a drunken group in a park shouting at passers-by, or an intoxicated individual who is aggressively approaching people in a shopping precinct.

### **Will religious speakers or other public speakers be affected by this?**

No.

The PSPO shall not be used to curtail religious or other speakers who are making public speeches in a peaceful way in order to make a particular point.

### **What about a group of friends having a picnic, or playing a game such as 'catch', or kicking a ball around in a park?**

Parks and open spaces are there to be enjoyed by the public for such recreational purposes, and such activities are welcomed. It is difficult to see how such activities would alarm or distress other users of the public space. Unless the group start causing alarm or distress to others in some way, (e.g. by aggressively and unreasonably warning people to stay out of their space), then of course it will be perfectly acceptable for those activities to take place.

### **How long will someone have to leave the PSPO area before returning if required to do so?**

This will to be no longer than 6 hours, which should be long enough for the group dynamic to be broken, but not so long that it interferes with an individual's personal freedom, e.g. to attend work at a later hour. The period may be less than 6 hours, depending upon the judgement of the authorised person.