

PSPO Feedback,
Environmental Directorate,
Exeter City Council,
Civic Centre,
Paris Street,
Exeter.
EX1 1JN.

██████████
██████████
Exeter,
Devon,
██████████

Tel: ██████████

20 JAN 2016

15

14th. January 2016

Public Space Protection Order (PSPO) - Exeter City Centre

Dear Sirs,

I enclose a completed questionnaire in relation to your public consultation on the above PSPO. I have disagreed with all of your proposed prohibitions and list below my comments and some questions.

Comments

I note that it is not even necessary to exhibit anti-social behaviour to fall foul of PSPO requirement 1.

I doubt that any homeless persons will be permitted to use toilets in any of the establishments that you list in relation to PSPO requirement 2 and you state that there are no public toilets open at night.

Some homeless persons may feel more comfortable outdoors than in an enclosed or 'institutional' environment. Those persons would fall foul of PSPO requirement 3 and I feel that the enforcement you propose would be a form of harassment to them.

Begging would be a last resort for me. The PSPO allows no option to ask the person to stop their behaviour that is perceived as begging, or direct them to a source of help. It seems that a Fixed Penalty Notice or Police prosecution are the only options allowed in PSPO requirement 4.

Alarm and intimidation are very much a matter of opinion. Authority could easily be abused by Requirement 5.

PSPO requirement 6 specifies the application of a time an individual may be prohibited from the area. This could also be abused if it does not fairly take account of an individual's personal life requirements.

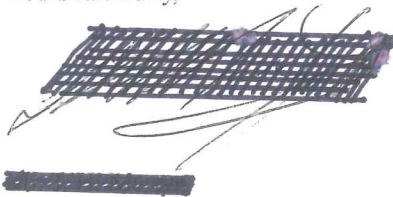
The main questions that arose in my mind while dealing with your questionnaire are listed below: -

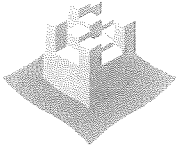
- 1) Why is the consultation period so short? The occurrence of Christmas and New Year (with educational establishment holidays removing potential student respondents) in the allotted time reduces the period considerably. Consider also that some families may visit relatives abroad during the festive period.
- 2) What organisations and groups have been directly approached by the Council to encourage inclusion of their feedback in the consultation process?
- 3) When were any such groups given notice of the consultation exercise?
- 4) Will the additional comments in the returned questionnaires, and any queries that they include, be taken into account in any analysis of the total responses?
- 5) What measures are currently undertaken to educate people about the need to understand that their behaviour in public may offend or intimidate other persons trying to enjoy the public space?
- 6) Do schools and further education establishments present any facts to their students and encourage debating of the issues involved to raise awareness of the need for consideration of other people in our daily lives?
- 7) Are any official bodies e.g. Emergency Services, Health Authority representatives, invited into educational establishments to present information that may raise awareness?
- 8) Is there any evidence to suggest any linkage between the undesirable behaviours and Devon County Council's extreme reduction of youth facilities?
- 9) Is it not possible to manage some of the undesirable behaviours by reinforcing support measures for the vulnerable persons who may exhibit them?
- 10) What is the justification for the necessary infringement of several Articles of the Human Rights Act if the PSPO provisions are introduced and implemented?
- 11) Is the introduction of the proposed PSPO a prelude to the creation of a Privately Owned Public Space in the City centre, similar to those recently introduced in London?

- 12) Section 66 of the Sexual Offences Act 2003 defines 'indecent exposure' as "Section 66 makes it an offence for a person intentionally to expose his genitals where he intends that someone will see them and be caused alarm or distress." Why do you falsely claim (requirement 2) that a criminal offence of 'indecent exposure' is committed if a person is forced to urinate in the street?
- 13) Why are there no safeguards to prevent 'appointed persons' from abusing their powers? Requirement 1 would allow them to confiscate unopened drinks for their personal consumption or to harass a person that they disliked.
- 14) Your 'Frequently Asked Questions' for requirement 3 state "There are support services and temporary accommodation available to people who sleep rough, but some chose not to access this support . . .". Has the person who prepared that response experienced the support services provision personally and decided from that experience that they could happily recommend them to homeless persons?
- 15) I know that you encourage support services to help homeless persons who are sleeping rough, but what, if anything, are you doing to prevent homelessness existing in the first place?
- 16) Your statement that even an "impliedly requested by conduct" request for money will contravene requirement 4, suggests that a person could be accused of this offence if they are seen by members of the public to be short of funds for a public transport fare. Will you qualify that PSPO requirement to eliminate potentially accusing innocent persons?
- 17) PSPO requirement 5 is said not to be used to stop a lawful picket or protest. How do you inform people of the lawfulness or otherwise of their public protest activity before applying PSPO requirement 5 to them?
- 18) Although a caution is not a criminal conviction, I understand that it can appear on a Disclosure and Barring Service (DBS) check. If that is so, it may prevent the cautioned individual from being employed in a large range of vocations. Are the PSPO warnings recorded in a way that makes them appear in DBS checks?
- 19) Who is going to bear the cost of the Fixed Penalty Notices and/or fines that any homeless accused would be unable to pay because of their homeless condition? It seems unreasonable to penalise bodies that assist the homeless, charities, volunteer groups and, in turn, the people who donate to them because a person is so deprived that they fall foul of the proposed PSPO. People may be discouraged from providing essential financial support to those support groups if it is perceived as a further 'tax' imposed on them by the Council or any company contracted to enforce the PSPO.
- 20) How will any enforcing contractor be paid?
- 21) How will any enforcing contractor be monitored?
- 22) What process will there be to allow complaints about the enforcers to be independently investigated and how will that process be financed?
- 23) What will it cost to administer the proposed PSPO, if it is introduced?
- 24) How will the administrative costs be funded?

I hope that my responses, comments and questions help you to determine how best to manage the behavioural problems in the city centre.

Yours faithfully,





Exeter
City Council

Councillor Percy Prowse

Councillor for Duryard Ward

Direct Dial: 01392 209024

Email: cldr.percy.prowse@exeter.gov.uk

Our ref:

Your ref:

Date: 22nd January 2016

Public spaces protection order

Exeter City.

To whom it may concern.

As a result of the consultation document in respect of the above residents in the New North Rd., area have asked for consideration of the following.

It is their desire that the current area be extended to include that area on the attached map to further have control over drinking in public places and more importantly to combat anti-social behaviour.

Background.

The two routes of Cowley Bridge Road and New North Road are major routes to and from the City. They are well used student corridors. It is likely that the Estate Patrol Office of the University are likely to hold statistics of calls from the public at these locations than those that may be held by both Licensing and the Police.

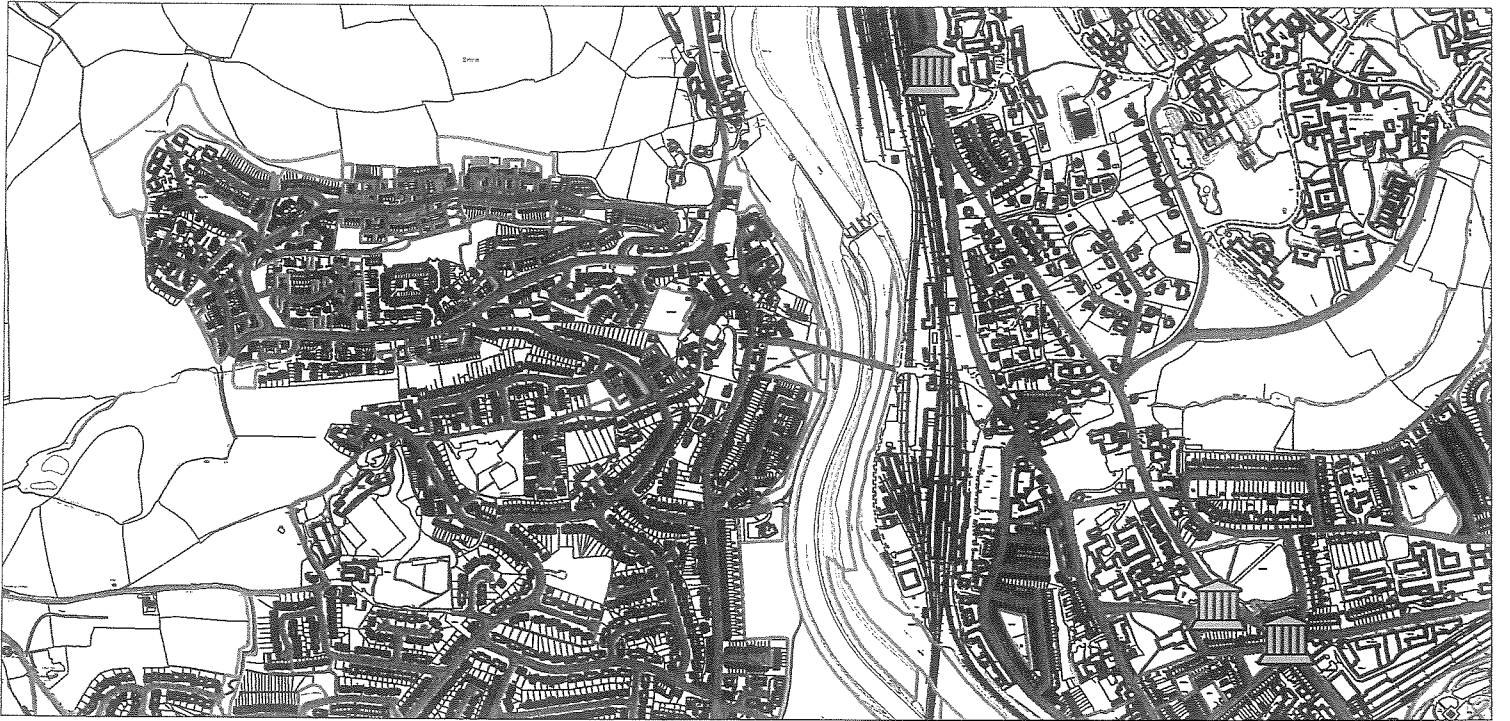
We do hope that serious consideration be given.

Kind regards,

A handwritten signature in black ink, appearing to read 'Percy Prowse'.

Signed on behalf of both Councillors Prowse & Mottram.

copies to concerned residents.



Mr Robert Norley
Exeter City Council
Civic Centre
Paris Street
Exeter, EX1 1JN

Your Ref RN/JW

Date 2nd February 2016

Dear Mr Norley

With reference to your recent letter concerning the Proposed Public Spares Protection Order for Exeter city centre, I am writing to confirm that I fully support your plan,

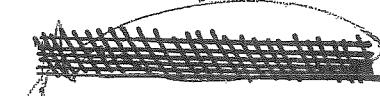
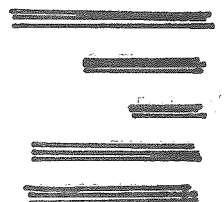
At Cowick Street we have a regular problem with homeless people begging for money and bedding down outside Marks & Spencer Food Hall at Exebridge Retail Park also under the railway bridge in Cowick Street, and under the subway which joins Exebridge with New Bridge Street and Renslade House.

This problem is also particularly bad in Fore Street & High Street during the evenings and it can make you feel pretty intimidated when they target areas such as Nat West Bank & BHS Entrance next to the ATM's when you want to use them, Also outside the front doors to Tesco Metro & McDonalds Restaurant,

As for the problem with the excessive consumption Alcohol & Drugs in the evenings, I must advise you that speaking as a resident of Mint Court (Just off Fore Street) I feel that the situation has improved since the Mint Tavern closed on 31st December 2015 and I have heard on the grape vine that the current tenants Greenvile Lesuire Ltd do not plan to reopen it, However if another company decides to take over the lease these problems would soon return, So you might want to advise the Licensing Department not to grant a new Alcohol Licence if someone submits an application in the future for the Mint Tavern.

I hope all the information I have given you is helpful and of use to you, I look forward to hearing from you.

Yours Sincerely


Store Manager

Norley, Robert

From: [REDACTED]
Sent: 05 February 2016 12:22
To: Norley, Robert
Subject: Public Spaces: RN/JW

Dear Robert,

Many thanks for your letter regarding the proposed public spaces protection order for Exeter city centre.

I am writing from [REDACTED] After speaking to staff, there are not any majorly concerning issues. Something we have recently noticed is special brew bottles littered on our steps and surrounding green area. We are also aware of a homeless couple who are currently based in the subway up to town from the Quay. They haven't been anti-social in behaviour but we have raised concern for their well-being.

Please do not hesitate to get in touch if you have any queries.

Kind regards,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Tel: [REDACTED]

XCentre: [REDACTED]

Fax: [REDACTED]

[REDACTED]

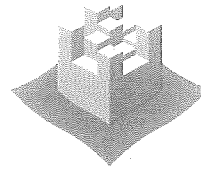
a company limited by guarantee

[REDACTED]

[REDACTED]

[REDACTED]





10
Exeter
City Council

17/11/2/16

Dear Rob, here are my submissions concerning the proposed P.S.P.O.

I have somewhat mixed feelings about this and fear it is too much of a hybrid cobbling together that will end up piling to achieve any very significant change/improvement while being hit by more with a specific agenda concerning the homeless.

Taking the suggested proposals first, it seems pretty clear that numbers 1, 2, 4, 5 & 6 are all pretty well covered by current legislation anyway. I am not clear what extra impact item 3 would make in dealing with any of these issues. I know only too well from many years as a J.P. how very difficult it is to achieve any fair just and effective disposal in many such cases given the circumstances of so many of the offenders.

That leaves item 3 which, so far as I know, is not covered by any current legislation or wch. Here it does seem quite heavy handed and I can see why there has been a groundswell of opposition. Again there is no easy solution but considering seems wrong when a homeless person's few possessions can be seized in a manner such as this. If there has been national pressure to

provide sites for travellers - which do not
support - how much more reasonable and less
expensive to provide designated areas for
rough sleepers?

Rough sleepers are not above nor
outside the law so if they offend against
the law then due process applies - but I am
wary of creating river extra borders.

Moving on to the designated area, I
simply cannot see why this is necessary or
has any validity. An offence is an
offence wherever it is committed ergo the
same should apply right across the city.
How that might be policed is another matter
but in principle I would strongly argue that any
artificial boundary is just that and
should not exist but offences treated alike
wherever they occur.

Yours Sincerely
Chris Norman Street

Brooks, Germaine

From: Norley, Robert
Sent: 23 February 2016 12:25
To: PA to Assistant Director
Subject: FW: proposed publicspacesprotection order exeter city centre

Please print off

Robert Norley
Assistant Director Environment
Exeter City Council
Tel. 01392 265170
Mobile: 07792213180

From: [REDACTED]
Sent: 23 February 2016 11:19
To: Norley, Robert <robert.norley@exeter.gov.uk>
Subject: proposed publicspacesprotection order exeter city centre

Hi my name is [REDACTED], & I have owned & run [REDACTED] for over 20 years. I feel I must have some input into all the problems we have in the city centre, though not in Princesshay, & particularly in Sidwell St. There is a constant group of drinkers/druggies/homeless/beggars people hanging around day & night. When you phone 101 it can take 20 minutes to get through, & if we manage to get a PCO up here it can take hours, & all that happens they move them on, & within a short space of time they or others are back. I thought this area is supposed to be an alcohol free zone, this is not enforced. People are sleeping in doorways up & down the street, when they wake up & move on all their rubbish is left behind. There are always beggars scrounging @ various spots up & down the street. There is also an obvious situation of a group of local lads selling drugs openly to homeless people in the street. I have never known this street to be as bad as it now is. Something needs desperately to be done. We have a lot of students living in all the new flats all around here, particularly foreign students, heaven knows what they must think. We are in desperate need of some actions regards [REDACTED]

Begin forwarded message:

From: [REDACTED]
Date: 4 February 2016 at 12:55:59 GMT
To: <community.safety@exeter.gov.uk>
Cc: <cllr.keith.owen@exeter.gov.uk>, <cllr.stella.brock@exeter.gov.uk>
Subject: Fwd: Proposed PSPO

To Whom it may concern re PSPO consultation

I have filled in the on-line submission form but would wish to

1. Draw your attention to e-mail correspondence between myself and Councillors below
2. Add some further comments

I am very much in favour of the proposal for many reasons:

- The Express and Echo have recently put out a couple of biased articles - 16th Jan and 4th February 2016 and are trying to make this issue entirely about "criminalising the homeless".
- Whilst no one can deny we have a huge issue in Exeter, this PSPO is about law and order from ASB from any source not about the homeless. The fact that an on-line petition is started by someone in Yorkshire beggars belief - has he had his Exeter home invaded and the carpet defecated on? Has he had rough sleeper with drug paraphernalia in his garden who wakes up and urinates up his wall?? Has he had drug takers leaving blood splatters up his stairwell (so thankful that one isn't in our home)???
- Those from the homeless community do not have to sleep rough in Exeter as I understand it - no second night out policy, immense amount of support from various agencies, various hostels or am I being over naive here? Some just choose this option - why?
- Yes, the homeless are I am afraid, tarred with the brush of aggressive behaviour and drug taking. These are the people the ordinary, law abiding citizens of Exeter have to try to avoid in their daily traffic around our City and plan our routes to avoid. Milk Street is the no-go area at this present time but Market St, Fore St, Gandy St and others have their turns.
- I have found uncapped syringes with needles on the main through footpath in Notherhay Gardens, legal high packets up under the castle walls and strewn around the town centre. Going into Rougemont Gardens is often unpleasant as you feel like you are trespassing in there. A couple of months ago there was a whole group ensconced under the very large tree which had requests to stay away from it's roots. It was a very menacing experience.
- Our city workers and residents should not have to wade through piles of human faeces, drug paraphernalia and copious amounts of litter on a daily basis.
- Our independent businesses who have a struggle to survive should not have their trade impaired - think Fore Street, Milk St at present.
- The vicar of St Davids should not have to put up gates nor the Yorkshire building society. The residents near the Quay and in St Thomas' nor in any other area of Exeter should not be blighted by all this ASB
- Every underpass and public toilet in the city is an absolute no-go area, I would rather dance with the traffic than enter one of those caverns of horror.

Norley, Robert

From: [REDACTED]
Sent: 17 February 2016 12:25
To: Norley, Robert
Subject: PSPO

Dear Robert

I am replying to your letter regarding proposed public spaces protection order for Exeter City centre. My business is [REDACTED]

We have had great problems over the past year with the homeless from begging outside are shop, sleeping outside the empty shop which used to be the hairdressers and sometimes we have to wake them up in the morning just so we can access are shop. They can block the path leading up to are shop which means people with pushchairs or wheelchairs can't access are shop.

They also gather in large groups which always ends up in shouting and swearing, and we have had many customers tell us they will not come in if they are outside.

They also gather in the alley way in Milk Street and set up camp and when they do leave the rubbish they leave behind is terrible.

We agree with the PSPO 100% and I ask people who don't to spend a day in are shop so they can witness what we have to put up with. If the problems persist then I worry for are business.

I hope this enough information for you but if you need anything else then please feel free to contact me by email or on [REDACTED]

Kind regards
[REDACTED]

Sent from my iPad

From: Norley, Robert
Sent: 16 February 2016 07:54
To: PA to Assistant Director
Subject: Fwd: PSPO consultation

(S)

Please print off and place in cardboard tray on cabinet.

Robert Norley
Assistant Director Environment
Exeter City Council
01392 265170 or 07736727979

Begin forwarded message:

From: [REDACTED]
Date: 15 February 2016 at 12:46:27 GMT
To: "robert.norley@exeter.gov.uk" <robert.norley@exeter.gov.uk>
Subject: PSPO consultation

Dear Mr Norley,

Thank you for your correspondence regarding the proposed PSPO in central Exeter. Please note, the views below are my own and not those of the [REDACTED]

Whilst it is generally welcomed as a good thing to solve the current influx of anti-social behaviour in the centre with a PSPO, I would also strongly urge the council to review and place in measures to run side by side with the introduction of a PSPO to tackle the following:

- What has contributed to the increase in anti-social behaviour? Is there a lack of mental health assistance?
- A specific area/building made available for drug users/addicts to convene in order that the substances can be taken safely and any paraphernalia destroyed safely but also allow them to have access to social works etc. that can possibly help them or provide support they are obviously lacking
- Ensure that the PSPO does not push the problem to other parts of the City, which would lead to an increase in crime in areas not patrolled as intently by the Police force as the areas currently assigned in the proposed PSPO

In short any introduction of a PSPO to the centre of Exeter should be implemented with other measures to ensure the anti social problems are not merely 'moved on' resulting in a detrimental affect on the rest of the City. They should be tackled head on and measures implemented to make the whole of Exeter a better place to live rather than just the centre.

Kind regards

[REDACTED]

[REDACTED]
Office Manager
Exeter

(15)

Norley, Robert

From: [REDACTED]
Sent: 15 February 2016 15:52
Cc: Norley, Robert
Subject: PSPO

Thank you for your letter regarding proposed public spaces order etc.

I have been unable to find the plans on your website.

I,m hoping this end of Sidwell Street ie beyond the Duke of York has not been left out of your plans.The city centre still extends beyond the DoY.

Current rules corral the down at outs to this end of town where they sleep in shop door ways,beg from passers by and buy extra strong booze from the Turkish shop.

They use Townsend court as a toilet. At certain times of year the smell can turn your stomach.By the afternoon they are often legless and rowdy. They often have dogs

which fight while their owners F & blind. I have often had to call the Police ,but it's only a short term solution. They tell them they are naughty and then disappear.

Sidwell Street has become quite squalid in recent years as we have become the poor relations .The king William car park has been renamed causing confusion .It is not John Lewis's

car park,it is a council car park available to all our customers. Who came up with that daft idea?

Paving slabs are in a terrible state.If they don't up end you they squirt water up your leg.

Then to add insult to injury they put a disabled parking bay right outside my shop. I'm running a furniture shop not a museum, things have to come and go.

Some of the beggars and drunks live in the flats above the shops which belong to Exeter city council.What kind of council houses such people so close to their source of income?

These are nice flats with spectacular views yet decent people don't want to live there. The flats should be sold privately and the money raised used to house the tenants out of town.

This used to be a busy little area, look at it now. [REDACTED]

Street Exeter

Norley, Robert

From: [REDACTED]
Sent: 15 February 2016 13:29
To: Norley, Robert
Subject: Exeter City Centre PSPO - Views response

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: Anniversary

Dear Mr Norely,

I am writing in response to a letter requesting views on the proposed PSPO in Exeter City centre. I am the store manager of [REDACTED] and views expressed are those of the management team in this store.

We fully support the proposed plans to deal with the issues of antisocial behaviour in the city centre.
As a business we often find problems from outside affect us, including high level of use of drugs / needles both on and near our premises – especially near the bins at the back of the store. Hopefully more power to deal with issues around the city would also reduce the number of issues we have from drug users coming into the store / toilets.

In terms of anti-social behaviour of groups our main issue has been concerning the large groups of teenagers, especially in the evenings who are often abusive and rude to other customers. When they hang around outside customers are often put off of coming into the store and we have been forced to close our restaurant area several hours early most evenings in an effort to discourage them as even when police are contacted it seems there is currently very little they are able to do.

Several staff have also reported feeling uncomfortable when approached by (presumably) homeless people, often intoxicated, in the evenings when they finish shifts. I don't believe any harm is usually meant, but it does create difficult situations at times. Also concerns from staff about the small groups which often form around the high street / bridge by buffet city / near smythen street car park and the underpass from south st towards the quay, these often include open drug use and smell very unpleasant.

It would be interesting to know if there are any proposals or possibility for increased support for the people being moved on, as it isn't clear where they are expected / able to go instead in many cases. I agree something needs to be done about the issues in the city, just concerned how this will work if done in isolation without support also being introduced.

Thank you for taking the time to read our views,
[REDACTED]

Please note that our email address has changed to [REDACTED] Please direct all your future emails to this address.



- 1 MAR 2016

[REDACTED]

PSPO Feedback
Environment Directorate
Exeter City Council
Civic Centre
Paris Street
Exeter
EX1 1JN

[REDACTED]

TELEPHONE [REDACTED]
FACSIMILE [REDACTED]

DIRECTOR
[REDACTED]

LEGAL DIRECTOR
[REDACTED]

LEGAL OFFICERS
[REDACTED]

Also by email to community.safety@exeter.gov.uk

29 February 2016

Dear Madam/Sir,

Proposed Public Spaces Protection Order

I write in relation to the proposed Public Spaces Protection Order ('PSPO'), in respect of which Exeter City Council ('the Council') is currently consulting the public. The purpose of this letter is to express some of [REDACTED] concerns regarding the proposed PSPO.

[REDACTED] is deeply concerned that the Council may, through Prohibitions 3 to 6 of the proposed PSPO, be poised to proceed with the creation of new criminal offences relating to rough sleeping, begging and even certain innocent group activities on the basis of insufficient evidence. Such offences could constitute an unlawful interference with Article 8 (right to respect for private life, which extends to the protection of personal autonomy, including in public spaces), Article 10 (right to freedom of expression), Article 11 (right to freedom of assembly) and Article 1 of the First Protocol (right to peaceful enjoyment of possessions) of the European Convention on Human Rights ('the Convention').

The Council's proposed PSPO has been met with considerable criticism. One online petition opposing the PSPO has, as of today, obtained 12,266 signatures. The petition makes important points and, importantly, demonstrates that measures which the Council deems 'anti-social' are not necessarily considered anti-social by the population at large. We would urge you to take proper account of such a significant level of public concern when considering whether you should proceed with these plans.

1. Insufficient evidence

One of the statutory requirements which must be met before a PSPO can lawfully be passed is that the Council must be satisfied on reasonable grounds that two conditions are met. The first is that activities carried on in the local area have had, or are likely to have, a detrimental

effect on the quality of life of those in the locality. The second condition is that the activities are, or are likely to be, of a persistent or continuing nature, that they are unreasonable, and that they justify the restrictions imposed by the notice.¹

At the point of launching the consultation, the report to the Scrutiny Committee and the Executive provided extremely limited evidence going to either of these conditions as regards their application to the proposed criminalisation of rough sleeping, begging and certain innocent group activities by Prohibitions 3 to 6 of the proposed PSPO. In fact, as becomes clear from Appendix III to the report, covering the evidence gathered:

- Only two instances of begging are mentioned for the period from July 2014 to July 2015.
- It is impossible to identify any instances of rough sleeping from the evidence, let alone whether such rough sleeping has had an unreasonable and/or detrimental effect.
- It is equally impossible to identify instances of the group activities addressed by Prohibitions 5 and 6 from the evidence (behaving in a manner to cause intimidation, etc.).

Consequently, the evidence provided in Appendix III to the report is clearly not enough for you to be satisfied on reasonable grounds that the statutory conditions are met in relation to proposed Prohibitions 3 to 6.

However, it is particularly noteworthy that, in spite of such limited evidence, the Executive already approved the contents of the proposed PSPO at its meeting on 15 September 2015, without any notable discussion of the issues, including of the lack of evidence. While we understand that the full Council is yet to approve the proposed measures, the fact that the Executive already approved the proposed PSPO on the basis of such limited evidence, and before conclusion of the public consultation, removes an important safeguard in the legislative process and, in our view, renders the Council's process vulnerable to legal challenge.

Unless the consultation results in very significant evidence sufficient to establish reasonable grounds from which it can properly be believed that the statutory criteria are met, then it appears clear that you do not have a sufficient legal basis for proceeding with the proposals in Prohibitions 3 to 6. I would urge you to bear this in mind when this matter next comes before the Scrutiny Committee, the Executive and the full Council.

~~XXXXXX~~ further notes that the Council's draft Equality Impact Assessment ('the EIA') recognises that there will be a potential high negative impact on human rights by the proposed PSPO. The EIA goes on to state that "*there are safeguards to ensure this impact is mitigated and necessary*" without providing any explanation or evidence whatsoever on the nature of such safeguards.

2. Prohibition 3 on rough sleeping

The proposed PSPO requires individuals to "*clear away and remove from this area without delay (to the satisfaction of an authorised person) any unauthorised bivouac, bedding or encampment formed in a street together with any associated paraphernalia, when requested*

¹ See s59 of the Anti-Social Behaviour, Crime and Policing Act 2014.

to do so by an authorised person and if that person fails to clear away and remove as directed an authorised person may then or on a future date or time confiscate and dispose of any unauthorised bivouac, bedding or encampment found within this area with or without the permission of its owner”.

This proposal, while keeping clear of mentioning ‘rough sleeping’ explicitly, is shocking in its breadth. It creates an outright prohibition on rough sleeping in the whole city centre of Exeter. It puts vulnerable homeless individuals at risk of arbitrary enforcement. It endangers such individuals by threatening to have all their belongings confiscated and disposed of without their permission (a practice unfortunately already deemed appropriate by Exeter City Council, as is clear from news reports in December 2015). The above-mentioned online petition makes the important point that the PSPO’s police power to “*seize and destroy the bedding and personal possessions of homeless people [is a] [...] measure, which, especially during winter could leave them incredibly vulnerable to adverse weather*”.

This is clearly an overbroad and disproportionate discretion for the local authority to grant to its officers, in particular given that criminal sanctions would attach to breaches of the proposed PSPO. These vulnerable individuals would therefore have the cruel choice between, on the one hand, risking the loss of all their belongings and, on the other hand, being subjected to a fine which they cannot afford (putting them at risk of further adverse consequences, such as higher fines and contempt of court).

The Council’s FAQ published in respect of the proposed PSPO states that rough sleepers are not being targeted because support services and temporary accommodation are available to those who sleep rough. However, it must be questioned why individuals would choose to sleep rough when suitable temporary accommodation is in fact available. It is possible, for instance, to imagine a situation where some form of accommodation is available, including temporary Council accommodation, but it is nonetheless wholly unsuitable for the particular individual; for example, they may be seeking to avoid exposure to alcohol and drugs in the accommodation or they may have mental health problems that cause them to avoid shared accommodation.

The current wording of the proposed PSPO is open to arbitrary enforcement, overbroad and disproportionate, and may be in breach of Articles 8 and 10 and Article 1 of the First Protocol of the Convention. ~~XXXXXX~~ urges the Council to discard Prohibition 3 in its entirety.

3. Prohibition 4 on begging

Similarly, without mentioning ‘begging’ as such, the proposed PSPO potentially criminalises any activity to “*make unsolicited and or unauthorised request(s) for money (whether expressly requested or impliedly requested by conduct) in a public place from persons not known to the perpetrator*” (sic).

The scope of Prohibition 4 is striking insofar as it creates an outright prohibition on begging in the whole city centre of Exeter. It even goes so far as to potentially criminalise conduct which merely ‘implies’ that the person is begging. No explanation or examples are given as to what conduct is meant by this provision, which leaves not only potentially vulnerable individuals, but even ordinary passers-by, at risk of being criminalised for ‘appearing’ to be begging. In providing such a power without any objective and enforceable standard, the

Council, once again, would give its officers an overbroad and disproportionate discretion, which runs the serious risk of arbitrary enforcement.

This provision must also be read against the evidence presented to the Council which included only two references to begging in respect of the period from July 2014 to July 2015. Surprisingly, the Council's FAQ states that "*many people*" feel uncomfortable or intimidated by people begging, despite there being no evidence to this effect in any of the publicly available documents on this issue before the Council to date. As a result, ████████ considers that Prohibition 4, by creating an outright prohibition on begging, is clearly a disproportionate response to the evidence considered.

4. Prohibitions 5 and 6 on certain public gatherings

Prohibition 5 criminalises those who "*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*".

Prohibition 5 contains no definitions of the terms 'intimidated', 'harassed', 'alarmed' or 'distressed' and sets a very low threshold by taking 'any member of the public' as the relevant benchmark. As such, anyone's perception of a group's activities being intimidating, harassing, alarming or distressing, however sensitive or unreasonable, will be enough to justify enforcement action under the PSPO. This is clearly an overbroad and disproportionate discretion for the local authority to grant to its officers, in particular given that criminal sanctions would attach to breaches of the proposed PSPO.

It is not difficult to imagine, for example, an instance where a group of youths gathering for perfectly legal and legitimate purposes may appear intimidating or alarming to some particularly sensitive members of the public. The Council's FAQ states that if a group of friends having a picnic or playing 'catch' in the park is not causing alarm or distress to others then it will be perfectly acceptable for those activities to take place. As a result, the Council seems to accept that even innocent activities such as picnics and games may in the future be criminalised under the PSPO as soon as they cause alarm or distress to anyone, no matter how sensitive or irrational.

It is also not difficult to imagine that a lawful and peaceful protest may intimidate, alarm and/or distress some people (particularly if it relates to a controversial issue) and, as a consequence, risk breaching the PSPO. The mere assertion that the police would not in such circumstances seek to enforce the overbroad PSPO (put forward in the Council's FAQ) does not represent a sufficient safeguard to the right to freedom of expression of the individuals concerned. As a reminder, local authorities must have "*particular regard*" to the rights of freedom of expression and freedom of assembly set out in Articles 10 and 11 of the Convention before implementing a PSPO.²

In addition to Prohibition 5, Prohibition 6 allows an authorised officer to order "*persons within this area who breach Prohibition 5 while in a group to [...] disperse either immediately or by such time as may be specified and in such a manner as may be specified*". Worryingly, by including this provision within the PSPO the Council appears to be seeking to circumvent the specific safeguards that Parliament has debated and provided in relation to the

² See s72(1) of the Anti-Social Behaviour, Crime and Policing Act 2014.

separate dispersal power contained in the Anti-Social Behaviour, Crime and Policing Act 2014.

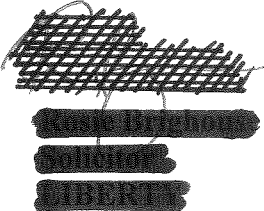
Together, Prohibitions 5 and 6 effectively put the determination of the scope of the fundamental right of the people of Exeter to assemble freely at the discretion of the police.

5. Conclusion

The wisdom of using Fixed Penalty Notices and Magistrates' Court fines, via PSPO provisions, to punish poverty-related issues such as rough sleeping and begging has been doubted by numerous local authorities in recent months. Hackney City Council withdrew similar measures after local uproar at their introduction (including a petition similar to the one in relation to the Exeter PSPO). Oxford City Council decided against including rough sleeping in a PSPO before even consulting on it, and significantly narrowed its provisions on begging following consultation. Councillors at Liverpool City Council rejected similar plans on the basis that they were "*a bit daft*". Newport City Council backed down on criminalising rough sleeping and significantly amended its begging proposals following local and national outcry, and Cheshire West and Chester Council has conducted a similar reversal on its highly controversial plans to criminalise rough sleepers.

I encourage you to ensure that Exeter City Council follows the example of these local authorities and, in doing so, upholds the rights of the people of Exeter not to be subject to disproportionate, counter-productive and potentially unlawful criminalisation.

Yours faithfully,

A large, irregularly shaped area of the document is completely redacted with black ink, obscuring the signature and any text that might have been present.

Tel:

Email:

The contact information, including a telephone number and an email address, is redacted with black ink. The email address is partially visible as "@liberty-human-rights.org" before being cut off.