Gloucester Faith & VCS Homeless & Vulnerable Forum

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27/03/18

Emily Jones,

Lead Officer re proposed PSPO

Community Wellbeing Officer (Community Engagement)

Community Wellbeing Team,

Neighbourhood Services

Gloucester City Council

Herbert Warehouse

The Docks

Gloucester GL1 2EQ

Dear Emily Jones,

**City Council proposed Public Space Protection Order (PSPO) - Consultation Response 2.**

**Faith & VCS Homeless & Vulnerable Forum.**

We have been asked to send a further follow up to our Consultation Response which was dated the 16th March 2018. This latest Consultation Response has been identified as Consultation Response 2.

This is re concerns that were initially generally raised in our response of the 16th and as now being updated, clarified and firmed up, with the view of taking further action. These clarifications/concerns are identified as 1 – 5 as follows: -

1. **Statutory Guidance**. That the proposed PSPO as drafted does not comply with latest Guidance, being not in accordance with either the latest Local Government Association Guidance OR the Home Office Anti-social Behaviour, Crime and Policing Act 2014: Reform of anti-social behaviour powers – Statutory Guidance for frontline professionals dated Dec 2017.

.... links as follows:

<https://www.local.gov.uk/sites/default/files/documents/10.21%20PSPO%20guidance_06_1.pdf>

<https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/679712/2017-12-13_ASB_Revised_Statutory_Guidance_V2.1_Final.pdf>

Statutory guidance sets out what local authorities must do to comply with the law.

Hence, we therefore consider that the PSPO as drafted is non-compliant, meaning it does not conform to the so said statutory Guidance. Regulatory compliance is therefore in question re ensuring that the Council is aware of and take steps to comply with relevant laws, policies and regulations.

The specific sections of the Statutory Guidance that are believed to apply re the Councils proposed PSPO Restrictions, being said to be non-compliant, are as follows: -

1. Statutory Guidance makes clear that orders should only target the specific behaviour that is causing nuisance or harm, rather than activities that are in themselves harmless; the PSPO doesn’t.
2. The Statutory Guidance states that ‘councils should ensure that the Order is appropriately worded so that it targets the specific behaviour or activity that is causing nuisance or harm and thereby having a detrimental impact on others quality of life’…
3. That any Order defines precisely the specific activity or behaviour that is having the detrimental impact on the community…..the PSPO doesn’t.
4. ‘Consideration should be given to how the use of this power might impact on the most vulnerable members of society….’ The Council have said that the homeless and rough sleepers wont be included in the PSPO, which was welcomed, but it is obvious that they will be impacted indirectly. This ‘error’ is seen as a result of not undertaking an Impact Assessment.
5. …‘Councils should consider carefully the nature of any potential Public Spaces Protection Order that may impact on homeless people and rough sleepers’….we say the PSPO will impact on rough sleepers and homeless people. The City Council has therefore been said to be ‘misleading’ when they say rough sleepers and homeless are not referred to or included in any restrictions, which they aren’t, and so wont be impacted in any way in the proposed PSPO; which they will be.
6. The PSPO does not address related anti-social behaviour in relation to the blanket ban on begging.
7. A PSPO must be proportionate to be lawful. The proposed PSPO is disproportionate as it is a blanket ban on begging that will target vulnerable members of society.
8. The PSPO does not appear to fulfil the statutory conditions required under Section 59.

Failure to comply relate specifically to the following proposed PSPO Restrictions: -

1. **Begging**. Any person is prohibited from, at any time, placing himself in a position to receive alms (charity from individuals on the street).
2. **Nuisance or anti-social behaviour**. Any person shall not behave in a manner that is likely to cause a nuisance, harassment, alarm or distress to any other person.
3. **Unattended items**. Any person is prohibited from leaving items or belongings unattended within the designated area. Unattended items will be removed at the direction of a constable or an authorised person.

2. **Consultation**. That the PSPO consultation is hence in question as it does not comply with the above on say the consultation questions relating to 'Begging',  'Unattended items', 'Nuisance or Anti-social behaviour' and 'direction to leave'. It is said that data from the responses to the consultation re the above should therefore be disregarded as being considered to be flawed or at least treated with extreme caution.

While recognising the importance in seeking the views of the community through this consultation, the Council has put the community in a difficult position and caused consternation as to how this consultation should be approached in being able to make an intelligent response. It has been said in part, in relation to homelessness, that the process does not have an overriding requirement for appearance of fairness and is unclear. How can you expect a member of the public to fill in the questionnaire, say on ‘begging’, when there are questions re non-compliancy?

3. **Council Statement**. That the welcome promise made by the City Council to the community, in that rough sleepers and homeless people are not included or implicated in any way with this proposed PSPO, can be seen to be unfortunately, ‘misleading’…..what is the Councils reasoning for this? Rough sleepers and homeless people will be indirectly impacted through the blanket restrictions such as 'begging' and clearing their 'unattended items' such as sleeping bags, food and clothing, with particular concerns in the winter…we do not want to see a rise in attendance at A&E.

4. **Impact Assessment and Risk Assessment**. It is considered that: -

(i) The Impact Assessment, as required by law, should have been undertaken because the PSPO statutory guidance says, ‘Consideration should be given to how the use of this power might impact on the most vulnerable members of society….’. City Council guidance to employees says…’PIAs mean you will assess more rigorously the policies which are likely to have a significant impact on the local community’.

PSPO legislation says a PSPO can be made where the activity specified has had or likely to have a ‘detrimental effect’, meaning causing ‘significant public harm’ i.e. significant impact. (City Council Person Impact Assessment (PIA) Template....read [HERE](https://e-voice.org.uk/fvcshomelessforum/assets/documents/pia-template).)

(ii) Because an IA has not been undertaken, has the Council considered the impact of and consequences of ‘displacement’ of rough sleepers and homeless people away from support services and to other Districts. Has there been any strategic dialogue with adjacent authorities?

(iii) That the Impact Assessment and Risk Assessment process be made clear in accordance with Council guidance and policy.

(iv) It would be very helpful, and ask again, if the completed IA, as required by law, can be shared with the Forum through a further consultation.

It is reiterated that Councils must ‘consider carefully the nature of any potential PSPO that may impact on homeless people and rough sleepers’….from the Statutory Guidance.

5. **Advice Sought**. Homeless Link have also raised concerns, their letter refers, and we have now written to Sarah Scott, Director of Public Health, re concerns about health and wellbeing issues and risk to life when taking away sleeping bags and clothes, especially in the winter. It has therefore been proposed and recommended that there is a delay of any PSPO pending a requested Review of the Councils Enforcement Strategy and consideration of the high number of deaths in Gloucester, being said to be a suicide ‘hot spot’.

A Key Extract from the Public Health England 'Evidence Review, Adults with complex needs (with a particular focus on street begging and street sleeping)' ...link [HERE](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/680010/evidence_review_adults_with_complex_needs.pdf), refers to the use of enforcement as a ‘high risk strategy’ due to the unpredictability of the outcomes for specific street users.

PHE state in their report 'The relationship between street begging and street sleeping is a complex one, but what is clear from the literature is that those who street beg and/or are street sleepers, are some of our most vulnerable individuals. They have a range of complex needs and experience severe and multiple deprivation over long periods of time'.

**Future Action**. Having considered the above in relation to issues of particular importance to the Forum, we have been asked to look to initiate the Councils complaints process/procedure. It is made clear that this is with great reluctance but hope that this could be used as a positive learning process for everyone on how we can do things better, especially following on so soon after the Councils problem ‘posters’ campaign. It is also hoped that concerns raised can be addressed by the Council in dialogue with the Forum, hopefully outside the complaints procedure. You may understand this approach, when there are concerns that any challenge or appeal now has to be made to the High Court within 6 weeks of any implementation.

While looking to take this action, the excellent work of staff and officers who are working hard to deliver improvements for Gloucester, is recognised.

Kind Regards

Tony Hipkins  
Faith & VCS Homeless & Vulnerable Forum

Cc: Richard Graham MP

Cc: Cllr Colin Organ