City of Westminster

DRAFT OFFICER DECISION REPORT

Date	10 OCTOBER 2024
Classification	Official
Title or report	Proposals for Renewing PSPOs in 2024 – Nuisance Vehicles
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1. Executive Summary

1.1. Public Spaces Protection Orders (PSPO) can be enacted for up to 3-years and extended after further public consultation. Westminster has enacted four PSPOs, two of which have recently been renewed, one is due to expire at the end of the year and one is due to expire in December 2025.

1.2. This report sets out the proposed timeline for making decisions on whether to renew the PSPO for Nuisance from Vehicles.

2. Recommendation(s)

2.1. That the Executive Director for Environment & Communities, having consulted with the Cabinet Member for Communities, Children and Public Protection on the 9 October notes:

a) The proposed timetable for renewing the Nuisance from Vehicles PSPO over the coming months.
b) The recommendation to consult on the inclusion of one or more new areas in the PSPO to control Nuisance from Vehicles.

And further authorises:

c) The commencement of formal consultation and engagement on both the grounds for renewing and the areas to be included in a possible PSPO to allow for a formal decision to be determined at a future date.

3. Background

3.1. The Anti-Social Behaviour (ASB), Crime & Policing Act 2014 (‘the Act’) established six powers designed to provide better protection for victims and communities, in place of nineteen powers commonly utilised by Local Authorities and Police to manage ASB issues.

3.2. One of these powers was the establishment of Public Spaces Protection Orders (PSPO), of which Westminster has four. Each PSPO is enacted for up to 3-years and

due to the different times they were created, one of these orders, the Nuisance from Vehicles PSPO, may be renewed in December 2024.

3.3. The Nuisance from Vehicles PSPO, alongside proactive policing operations, has proven an effective tool in the enforcement of nuisance relating to car meets in two key locations. There is recent though sporadic evidence of nuisance caused by individual vehicles in other locations, there is also likely to be sufficient evidence to justify the expansion of these zones.

3.4. Since 2021, 204 Fixed Penalty Notices (FPNs) have been issued for breaches of the PSPO. The payment rate is healthy, though this may be partially due to the maximum FPN for a PSPO being £100 (other FPNs, such as those for fly tipping can be £600).

3.5. Evidence relating to nuisance vehicles and car meets primarily relates to the locations where we have carried out enforcement and policing operations over the last three years – Waterloo Place/Park Lane and Exhibition Road. Media reports, policing operations and WCC statements have focused on these locations throughout the PSPOs existence.

3.6. The concerns raised in areas not covered by the current PSPO may warrant consideration (please see table 1 below) in making changes that should be consulted on, at the same time as consulting on the renewal of existing areas.

Consideration for expansion of the Nuisance from Vehicles PSPO

3.7. Consideration has been given to making changes to the areas covered by the NV PSPO. The following areas have been highlighted by Police, Neighbourhood Coordinators, the New West End Company, Members and Residents.

Table 1 - Potential areas to expand PSPO to

Area	Summary
New Bond Street	Complaints highlighted by Police and NWEC BID of often 100-200 vehicles driving erratically, causing noise nuisance, triggering multiple commercial business alarms and associated ASB. These vehicles may relate to car meets at our other hotspot locations (though not proven)
Connaught Village	Sporadic complaints received around individual vehicles creating noise nuisance in the Edgware Road area, specifically Connaught Village.
Grosvenor Road	Sporadic reports via Ward Councillor of noise nuisance from vehicles in area (though also relates to speeding). Grosvenor Road is a TFL Red Route and TFL are the responsible Highways Authority.

Area	Summary
Soho	Regular concerns raised about noise nuisance in the Soho area some of which relates to vehicle related noise. However, the concern around vehicle noise in Soho relates to wider concerns around a wide range of noise sources in Soho, particularly late at night. Given the amount and range of traffic in Soho at busy times it may not be feasible to use acoustic cameras to identify potential offences. There is limited evidence recorded to highlight deliberate 'nuisance' through revving of engines, stunts, and other examples of poor driving.

3.8. Whilst these areas have received differing numbers of reports and complaints regarding anti-social behaviour from vehicles, the drivers and the crowds, evidence will need to be gathered in more detail both to identify the specific restrictions and/or requirements necessary to mitigate the concern.

3.9. Depending on evidence available, the option that could be pursued in consulting on a PSPO would be to treat new areas as we would existing areas and consult on adding discretely defined areas to the PSPO that have evidence to support such expansion.

4. Process for Renewal

4.1. Statutory guidance accompanying the Act requires that councils consult with the Police, Police & Crime Commissioner, the owner or occupier of land in the restricted area and other community representatives as appropriate, when creating, varying, or renewing an order.

4.2. Although the guidance does not specify minimum timeframes over which consultation should take place, current guidance identifies a consultation period of 2-6 weeks.

4.3. The original PSPO received little public comment at the time and no negative comments about our proposal to introduce a new PSPO.

4.4. To ensure adequate oversight of decisions to impose PSPO requirements and restrictions, a three-stage decision process is proposed:

1. **Decision 1: Initiation** – having initiated a review of the existing PSPO and evidence in August 2024 there is sufficient belief that a renewed/revised PSPO may continue to be necessary to address behaviours that cause alarm and distress to residents, businesses, and visitors. It is therefore recommended to trigger a further process of inviting/gathering/testing evidence to support a new or renewed PSPO, to help produce draft orders and/or to determine that the PSPO should lapse as no longer needed.

2. **Decision 2: Consultation** – This decision which is the subject of this report will authorise consultation to be conducted on draft orders after reviewing the available evidence and legal advice.

3. **Decision 3: Formal Decision to vary/renew PSPOs (or allow to expire)** – analysing the results of public consultation on draft orders and deciding whether to enact, vary and/or renew a PSPO or allow the PSPO to expire. This will be consolidated into a formal decision-making report, and, in consultation with the Cabinet member, referred to the Executive Director for a formal decision under the Constitution's delegated powers.

4.5. Following that approach, table 2 below outlines the recommended minimum timescales for the PSPO due to expire 30th December 2024.

Table 2 - Proposed renewal timetable 2024

Order	Initiation	Consultation	Decision	Enactment (if appropriate)
Nuisance Vehicles	24/08/2024	07/10/2024	13/12/2024	30/12/2024

5. Financial Implications

5.1. The costs of consultation and engagement will be managed from existing resources. In the event that areas covered by PSPOs are expanded it will be necessary for the Council to extend the noise-camera network to enable effective monitoring and enforcement for which additional resource applications will be necessary and to be agreed before making of any PSPO.

5.2. Proceeding to develop and consult on a PSPO will primarily incur legal costs in reviewing evidence and producing draft orders, with potentially some additional costs to support the consultation process.

5.3. Beyond that, most of the costs of establishing this PSPO are in the marketing and signage of orders once they have been agreed. Proceeding with the existing PSPO area would have minimal financial requirements.

5.4. However, expanding the existing PSPO area may require additional acoustic cameras and officer resource to manage them. Additionally, any new cameras whether purchased (approx. £20,000) or rented would require regular and ongoing maintenance.

5.5. A small proportion of the costs of implementing a PSPO will be recovered through the issuance of fines to enforce the order. The maximum fine amount is £100.

6. Legal Implications

6.1. PSPO's took effect from 20 October 2014 under the Anti-Social Behaviour, Crime and Policing Act 2014 ("the 2014 Act") enabling the Council to follow prescribed procedures to seek to declare a PSPO.

6.2. PSPO's are intended to deal with a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone.

6.3. The Statutory Guidance issued in July 2014 gives guidance on the applicable test for the making of a PSPO, the Guidance provides that:

"The test is designed to be broad and focus on the impact anti-social behaviour is having on victims and communities. A PSPO can be made by the Council if they are satisfied on reasonable grounds that the activities carried out, or likely to be carried out, in a public space.

- have had, or are likely to have, a detrimental effect on the quality of life of those in the locality.
- is, or is likely to be, persistent or continuing in nature.
- is, or is likely to be, unreasonable; and
- justifies the restrictions imposed".

6.4. Before making a PSPO, the Council must consult with the local police and whatever community representatives the Council considers appropriate. The Council will need to decide how best to identify and consult with interested persons and can include the use of newspapers, the Council's own website and other social media.

6.5. It is an offence for a person, without reasonable excuse, to:

(i) do anything that the person is prohibited from doing by a PSPO.
(ii) fail to comply with a requirement to which the person is subject under a PSPO.

6.6. A person guilty of an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

The validity of a PSPO can be challenged on two grounds:

(i) that the Council did not have the power to make the PSPO, or to include prohibitions or requirements; or
(ii) that one of the requirements, for instance consultation, had not been complied with.

6.7. The High Court can suspend the operation of the PSPO in part or in whole as well as uphold the PSPO, quash it, or vary it.

6.8. The maximum duration of a PSPO is 3 years. A PSPO can be for a shorter period.

7. Consultation

7.1. A paper will be taken to or shared with the Consultation Forum outlining the approach to consulting the order.

7.2. Consultation will be undertaken via the Council's preferred online consultation tool, Commonplace. Community Safety and corporate teams will provide support to develop the online questionnaire and help manage the consultations.

7.3. In general, the approach would be to carry out consultation for the NV PSPO, focussed on sharing an online questionnaire with residents and businesses (encouraging businesses to share with their staff).

8. Next Steps

8.1. If the decision is made to proceed with the process of renewing, officers would begin:

- gathering evidence to support orders and justify going to public consultation.
- Commence community engagement activities to promote the upcoming, formal consultation, and capturing feedback.
- commission legal services to produce the draft orders; and
- work with the strategy and intelligence team to develop the online survey via Westminster's consultation hub, Commonplace.

8.2. This will take place over the preferred timetables outlined in table 2 above. Public consultation will commence on the 13 October.

8.3. A decision as to whether the NV PSPO is to be renewed will be presented to the cabinet member for consultation on or after 20th November 2024.

8.4. This will be a key decision and be required to be published and on the forward plan, prior to the Executive Director being asked to take the formal decision.