

Public Spaces Protection Order

Human Rights and Equalities Assessment 2016

Human Rights considerations must be taken into account fully in balancing anti-social behaviour issues. Members will be aware Article 1 relates to the protection of property and the peaceful enjoyment of possessions and property (holding a Pedlars Certificate/Consent would be considered a possession). Article 8 relates to the right to respect for private and family life, home and correspondence this would include social activities such as drinking in public. Article 6 relates to the right to a fair trial this would include a right to a fair process for enforcing the PSPO.

These are however qualified rights and can be deprived of “in the public interest”. Interference is permissible if what is done:

- Has its basis in law;
- Is necessary in a democratic society to fulfil a pressing need or pursue a legitimate aim,
- Is proportionate to the aims being pursued; and,
- Is related to the prevention of crime or, the protection of public order or health or the protection of the rights and freedoms of others

Considering the equalities issues below against the above criteria officers view is that the PSPO has a basis in law, is necessary and proportionate and is specifically related to the prevention of crime, and protection of public order, health and reasonably required to protect the rights of others.

Equalities Assessment

There are eight “protected characteristics” which will need to be considered against each PSPO regulated activity. These are taken from the Equality and Human Rights Commission advice:

Age

Where this is referred to, it refers to a person belonging to a particular age (e.g. 32 year olds) or range of ages (e.g. 18 - 30 year olds). Current age restrictions apply against individuals obtaining a Pedlars Certificate and/or purchasing alcohol. Control of underage drinking maybe improved by this PSPO and it may therefore have a disproportionate affect upon younger persons however this is considered to be proportionate and necessary as set out above.

Disability

A person has a disability if s/he has a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities. It is considered that the PSPO will not have any disproportionate impacts on this group, however, there may be a positive impact where obstruction of the highway and shop entrances is prevented.

Gender reassignment

The process of transitioning from one gender to another. It is considered that the PSPO will not have any disproportionate impacts on this group

Marriage and civil partnership

There is no obvious link between marriage and the activities covered by this PSPO.

Pregnancy and maternity

Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding. It is considered that the PSPO will not have any disproportionate impacts on this group.

Race

Refers to the protected characteristic of race. It refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins. It is considered that the PSPO will not have any disproportionate impacts on this group.

Religion and belief

Religion has the meaning usually given to it but belief includes religious and philosophical beliefs including lack of belief (e.g. Atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition. It is considered that the PSPO will not have any disproportionate impacts on any person or group due to their religion or beliefs.

Sex

A man or a woman. It is considered that the PSPO will not have any disproportionate impacts on any person or group due to their sex.

Sexual orientation

Whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes. It is considered that the PSPO will not have any disproportionate impacts on this group.