



## Report to Policy Committee

### Authors of Report:

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**Report of:** *Ajman Ali*  
*Executive Director Neighbourhood Services*

**Report to:** *Communities, Parks, and Leisure Policy Committee*

**Date of Decision:** *29<sup>th</sup> January 2024*

**Subject:** *City Centre Public Spaces Protection Order (PSPO)*

Type of Equality Impact Assessment (EIA) undertaken Initial  Full

Insert EIA reference number and attach EIA **2266**

Has appropriate consultation/engagement taken place? Yes  No

Has a Climate Impact Assessment (CIA) been undertaken? Yes  No

Does the report contain confidential or exempt information? Yes  No

If YES, give details as to whether the exemption applies to the full report / part of the report and/or appendices and complete below:-

*"The (**report/appendix**) is not for publication because it contains exempt information under Paragraph XX of Schedule 12A of the Local Government Act 1972 (as amended)."*

### Purpose of Report:

The purpose of the report is to set out the current position regarding anti-social behaviour (ASB) in the city centre and seeks approval of a draft Public Spaces Protection Order (PSPO) and approval to consult the public and other stakeholders on the introduction of the PSPO.

**Recommendations:**

It is recommended that Community, Parks and Leisure Policy Committee:

1. Approves the draft Public Spaces Protection Order (PSPO) and;
2. Approves carrying out public and stakeholder consultation on the introduction of a PSPO in Sheffield City Centre and on the draft PSPO.

**Background Papers:**

Appendix A – Draft PSPO order for consultation

Appendix B – [Local Government Association - Public Spaces Protection Orders: Guidance for Councils](#)

Appendix C – [Anti-social Behaviour, Crime and Policing Act 2014: Anti-social behaviour powers - Statutory guidance for frontline professionals \(revised March 2023\)](#)

Lead Officer to complete:-		
1	I have consulted the relevant departments in respect of any relevant implications indicated on the Statutory and Council Policy Checklist, and comments have been incorporated / additional forms completed / EIA completed.	Finance: <b>Adrian Hart</b>
		Legal: <b>Rebecca Lambert</b>
		Equalities & Consultation: <b>Ed Sexton</b>
		Climate: <b>Kathryn Warrington</b>
	<i>Legal, financial/commercial and equalities implications must be included within the report and the name of the officer consulted must be included above.</i>	
2	<b>SLB member who approved submission:</b>	Ajman Ali Executive Director Neighbourhood Services
3	<b>Committee Chair consulted:</b>	Richard Williams
4	I confirm that all necessary approval has been obtained in respect of the implications indicated on the Statutory and Council Policy Checklist and that the report has been approved for submission to the Committee by the SLB member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.	
	<b>Lead Officer Name:</b> Lorraine Wood	<b>Job Title:</b> Director of Communities
	<b>Date:</b> 19.1.2024	

# 1 PROPOSAL

## 1.1 Introduction

Everyone wants a safe and inviting city centre and Sheffield, like all major towns and cities, is working to make sure that its city centre is the very best that it can be so that local residents and visitors always have positive experiences when they visit.

In the centre of Sheffield, ambitious and exciting plans are coming to fruition and taking shape, all adding to the rich experience that visitors should expect when they visit the city.

Sheffield is one of the safest cities in the UK. Sheffield City Council (the Council) and its partners have seen many successes in using their existing powers to deal with the small number of people who behave in a way that impacts negatively on visitors, businesses and members of the public.

The Anti-social Behaviour, Crime and Policing Act 2014 provides the police and Local authorities with a number of enforcement tools and powers to address anti-social behaviour (ASB) including:

- Community Protection Notices – these are designed to stop a person aged 16 or over, business or organisation from committing ASB which spoils the community's quality of life.
- Criminal Behaviour Orders – these are issued by any criminal court against a person convicted of an offence to tackle the most serious and persistent offenders where their behaviour has brought them before a criminal court.
- Civil Injunctions – can be granted against a person aged 10 or over and can offer fast and effective protection for victims and communities by setting a clear standard of behaviour for the perpetrator.

These powers are used where appropriate; however, they are limited to tackling the behaviour of identified individuals, businesses or organisations. The act also gives local authorities the power to make Public Spaces Protection Orders (PSPOs) which target specified types of anti-social behaviour and apply to everyone equally.

## 1.2 What is a PSPO?

Public Spaces Protection Orders provide additional powers for enforcement agencies to deal with a particular nuisance or problem in a specific 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. They are intended to help ensure that the people can use and enjoy public spaces, safe from anti-social behaviour.

The behaviour being restricted must meet the following legal 'test':

- have, or be 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.

The restrictions can be 'blanket' (applying to everyone at all times) or targeted at specific behaviours at certain times (for example 'alcohol is not to be drunk in a particular location between specific times'). Special care must be made to ensure a PSPO doesn't disproportionately affect vulnerable members of our community and they should not be used to target a specific group or individual. In all cases a PSPO must be reasonable and proportionate to the problem it seeks to address. The Human Rights Act and Public Sector Equality Duty must be fully considered.

Prior to making a PSPO the Local Authority must consult with a range of stakeholders. This includes the Police, the Police Crime Commissioner, community representatives, owners/occupiers of land in the restricted area, and other people who may be affected by the order.

Breaching a PSPO is a criminal offence which can result in a Fixed Penalty Notice (FPN) or fine on prosecution. A FPN may be issued by an authorised Council officer or a police officer; the fixed penalty is paid to the Council. The approach in Sheffield will be to ensure that an 'enforcement strategy' is part of a PSPO and linked to the Harm Reduction Enforcement Pathway set out in the City Centre Action Plan.

The order can last a maximum of 3 years, after which it must be reviewed and, if appropriate, extended for up to 3 more years. There are no limits on the number of times it can be extended but it must be reviewed each time.

Ultimately, a PSPO could be a useful enforcement tool that Council officers and South Yorkshire Police (SYP) would be able to use to maintain Sheffield as one of the safest cities in the country.

### 1.3 Evidence of ASB in the City Centre

Initial evidence has been gathered from some stakeholders and partners to understand the scale of the issues and identify the key areas in the City Centre affected by ASB.

#### 1.3.1 South Yorkshire Police

The 'Central' policing district encompasses the City Centre including much of the City political ward. An overview of Police data relating to ASB for the whole of 2022 shows that Central had 1,240 out of 10,427 (12%) of all Sheffield's ASB reports in 2022. Three key types of ASB where the proportion of that ASB type is higher in the Central area, than for the average across Sheffield identified are:

- **Begging/Vagrancy** –124 of the 308 reports across Sheffield (40%).
- **Rowdy/Inconsiderate Behaviour** – 813 of the 3928 reports across Sheffield (21%).
- **Street Drinking** – Sheffield Central recorded 21 of the 38 reports across Sheffield (55%)

The nighttime economy will contribute to these figures, therefore a dataset relating to the time period 06:00-17:59 was also considered to avoid impact from nighttime economy

related incidents. There were 555 daytime reports of ASB in the City Centre in 2022, accounting for 11% of all daytime reports across Sheffield.

Within the analysis, and only for reports between 06:00 – 17:59, the central area accounted for:

- 16% (91) of reports for Begging/Vagrancy ASB
- 55% (303) of reports for Rowdy/Inconsiderate Behaviour ASB.
- 23% (88) of reports which were flagged as alcohol related.

Analysis of data for January to July 2023 demonstrates that these issues are persistent. 6118 ASB incidents were recorded across Sheffield of which 621 (10%) were in the City Centre area. Comparing the City Centre area against the whole of Sheffield:

- 77 of 237 (32%) begging/vagrancy ASB reports
- 417 of 2048 (20%) Rowdy/Inconsiderate Behaviour ASB reports
- 6 of 14 (43%) street drinking reports.

Key locations within the City Centre by behaviour type are:

- *Begging/vagrancy*: West Street, Castle Square, Moorfoot, underpass near St Mary’s Gate
- *Alcohol related*: Arundel Gate, Sheffield Interchange

### 1.3.2 Survey of city centre businesses

As part of the investigation and evidence gathering into ASB in the City Centre the ASB Team carried out a pre-engagement survey with businesses operating in the City Centre. 100 businesses returned the survey of which 97 had experienced ASB in the last year with 79 reporting seeing ASB on a daily basis. 71 businesses felt that ASB in the City Centre has increased. The survey also showed ASB occurring throughout the City Centre with hot spots around The Moor, Fargate/High Street, Division Street.

The key types of ASB cited by businesses were:

Type of behaviour	Number reporting
Drinking – street drinking	52
Shoplifting/theft/selling stolen goods	51
Abuse to staff/customers	46
Drugs – use/dealing/paraphernalia	43
Fighting/arguing	36
Public urination and defecation	10

Anecdotally, businesses also raised concerns about how the behaviours could impact their customer. Similarly, businesses on The Moor have also reported issues relating to ASB around begging and street drinking. The majority had experienced ASB from people drinking in the street and begging and also raised their concerns about the potential impact on their customers.

### 1.3.3 **British Transport Police**

British Transport Police (BTP) are based at Sheffield Train station and report frequently experiencing passive and aggressive begging, drinking and associated ASB. BTP recorded 181 incidents of ASB between January 2022 and January 2023. Of these, 12% related to 'public order' such as drunk and disorderly and 54% related to nuisance behaviours causing harassment, alarm and distress.

The station and its surrounding area is a key gateway into Sheffield and ASB is experienced both in front of the station and to the rear in South Street Park.

### 1.3.4 **Evidence Summary**

The evidence indicates that the City Centre, including the train station and South Street Park, are impacted by ASB that is persistent and is having or is likely to have a detrimental effect on the quality of life of those who live, work and visit the City Centre. The key types of ASB identified above are:

- Alcohol on the streets
- Begging
- Loitering
- Drug use
- Urination and/or defecation

The evidence also indicates that, compared to the rest of the city, the City Centre is disproportionately affected by these behaviours.

Existing powers can only be used where the behaviour is by an identified individual or is a criminal act. Although enforcement shouldn't be seen as the only option, a PSPO could be a useful mechanism that Council officers can use to tackle ASB and to keep Sheffield as one of the safest cities in the country.

## 1.4 **Engagement, Education and Enforcement**

In 2023 a best practice guide was launched for groups, charities and individuals supporting people who are vulnerable, begging, or homeless on the streets in Sheffield. A graduated, harm reduction approach is taken to enforcement action, which focusses initially on helping people to change behaviours and access support services. This approach to ASB is set out in the City Centre Action Plan. The Action Plan encompasses three themes of engagement, education and enforcement.

### 1.4.1 **Engagement**

Specialist outreach work supporting people on the streets is provided by several organisations to engage with and provide support to rough sleepers including:

- [Street Outreach \(Sheffield\) - Framework Housing Association \(frameworkha.org\)](https://www.frameworkhousingassociation.org/)
- [Housing First | Homeless Link](#)
- Home At Last Team (HALT) – a specialist team of substance misuse workers

In addition, the Sheffield Street Outreach Network has been established, which brings together community & faith groups offering food/support on the streets and South Yorkshire Police has a dedicated Police Community Support Officer (PCSO) who operates early morning patrols and works in partnership with other agencies.

A weekly, multiagency meeting discusses individuals where concerns around risk, vulnerability and ASB are raised and addressed. The Community Safety Team also coordinate fortnightly multiagency outreach sessions. During 2021, more than half of those found on the streets already had accommodation and were known to services.

Changing Futures Sheffield (CFS) aims to improve outcomes for adults experiencing multiple disadvantage – including combinations of homelessness, substance misuse, mental health issues, domestic abuse and contact with the criminal justice system.

There is significant support available in Sheffield which also includes voluntary and various drop-in centres which are available to provide real time help, to help move them away from the streets and support them in their tenancies

#### 1.4.2 **Education**

The Community Safety Team are working in partnership with local businesses and a guide has been launched to increase more accurate reporting of ASB related incidents and, alongside Sheffield BID, the City Centre Management team and SYP to help support businesses manage ASB related disorder inside and outside their venues.

[Help Us Help](#) is a collaboration of local charities and other partners to share information about the support available to people rough sleeping and begging in Sheffield, along with providing advice and guidance for businesses and the general public about how to best support people on the streets.

#### 1.4.3 **Enforcement**

One of the key challenges for partners is the visible presence of people loitering whilst intoxicated which isn't a crime unless they are committing ASB. There is a small minority of clients who, despite the ongoing work of services, remain at significant risk and vulnerability. Although allocated to relevant workers, some clients do not engage. They frequently become involved in risky and persistent low-level crime and ASB placing themselves and others at risk and often present as chaotic and aggressive. Under the theme of Enforcement, partners have developed a new Harm Reduction Pathway based on local and national best practice. The pathway incorporates the key principles from MEAM model (making every adult matter) and adults who are experiencing multiple disadvantage.

The aim of the Harm Reduction Pathway is to build a multi-agency long-term problem-solving package for each client. It includes consideration around a range of enforcement options and incorporates ongoing care plans post enforcement. Due to the intensity of this approach only a small cohort of the most at risk and vulnerable of the Street Cohort are adopted and put through this model with intensive pre and post enforcement plans and, therefore, there are others that remain who cause ASB in the City Centre and cannot be

dealt with through the Harm Reduction Pathway. They include those who live in Sheffield and those who travel to the city specifically to beg and engage in ASB.

Some of the activities, whilst anti-social, are not criminal so immediate Police action and response is not always possible. Officers from within enforcement and support professions are working to deter people from the streets and to engage with support, alongside taking action where proportionate. Despite this, issues persist with people and businesses reporting persistent ASB in the City Centre.

Agencies who provide support in the City Centre also report people are travelling to Sheffield to beg as the towns and cities where they live are subject to PSPOs and they are unable to beg on their home ground. Whilst this shows that PSPOs may disperse people, it also demonstrates that they provide a strong deterrent and prevent ASB from occurring.

## 1.5 **Draft PSPO**

The evidence provided in section 1.3 demonstrates that, within the City Centre there is behaviour that is having or is likely to have a detrimental effect on the quality of life of those in the locality, is persistent and continuing in nature and is unreasonable and may justify the introduction of restrictions through a PSPO.

When considering the introduction of a PSPO, it is important to understand both the impact of the behaviour and the potential impact of introducing a PSPO on those who live, work and visit the area and those affected by the PSPO. A draft PSPO is proposed that has 5 restrictions directly relating to the types of ASB evidenced above so that consultation can be carried out in line with the principles set out in section 4.3.

The full draft PSPO, including a map of the area where restrictions would apply, and additional notes and definitions is included in Appendix A.

### 1.5.1 Restriction 1 – Alcohol on the streets:

Proposed wording for this restriction is as follows:

*No person within the restricted area may consume alcohol and/or be in possession of an open container of alcohol or purporting to contain alcohol in a public space.*

*Prohibitions and requirements relating to alcohol contained in this Order do not apply to premises authorised to be used for the supply of alcohol under the Licensing Act 2003, a place within the curtilage of such premises, or to premises or places otherwise exempt from the operation of this Public Spaces Protection Order by section 62 of the Anti-social Behaviour, Crime and Policing Act 2014.*

#### **REQUIREMENTS**

*Where a constable or an authorised officer reasonably believes that a person is or has been consuming alcohol or intends to consume alcohol in breach of this Order the person must when required to do so by the constable or authorised officer:*



*(a) stop consuming alcohol or anything which the constable or authorised officer reasonably believes to be alcohol.*

*(b) surrender anything in their possession which is, or which the constable or authorised officer reasonably believes to be alcohol or a container for alcohol (to the relevant constable or authorised officer).*

The purpose of this restriction is:

- To prevent people from consuming alcohol on the streets,
- To protect the city centre and ensure visitors to the city centre continue to feel safe,
- To reduce anti-social behaviour related to alcohol consumption.

#### 1.5.2 Restriction 2 - Begging

Proposed wording for this restriction is as follows:

*No person within the restricted area shall make verbal, non-verbal, or written request(s) for money, donations or goods including the placing of hats, clothing, signage, or containers, in a manner that causes or is likely to cause harassment, alarm, distress, nuisance, or annoyance.*

The purpose of this restriction is:

- To encourage vulnerable people to access support services to change behaviour and address underlying or unmet need,
- To encourage visitors to the city centre,
- To enable visitors to feel safe and not be harassed.

#### 1.5.3 Restriction 3 - Loitering

Proposed wording for this restriction is as follows:

*No person within the restricted area shall loiter, in any temporary structure, in or adjacent to doorways, cash machines, banks or supermarkets in a manner that may cause or is likely to cause harassment, alarm, distress, nuisance, or annoyance to any person within the city centre.*

The purpose of this restriction is:

- To stop people loitering at cash machines or doorways,
- To encourage vulnerable people to access support services to change behaviour and address underlying or unmet need,
- To enable visitors to enter/exit buildings and use cash machines without fear of harassment.

#### 1.5.4 Restriction 4 - Drug use

Proposed wording for this restriction is as follows:

*No person within the restricted area will ingest, inhale, inject, smoke, or otherwise use a psychoactive substance (as defined in the Psychoactive Substances Act 2016 section 2 paragraph 1).*

##### **REQUIREMENTS**

*Where a constable or an authorised officer reasonably believes that a person is or has been using a psychoactive substance or intends to use a psychoactive substance in breach of this Order, the person must, when required to do so by the constable or authorised officer:*

- (a) stop using the psychoactive substance or anything which the constable or authorised officer reasonably believes to be a psychoactive substance.*
- (b) Surrender anything in their possession which is, or which the constable or authorised officer reasonably believes to be a psychoactive substance, or which will be used in connection with taking psychoactive substances (to the relevant constable or authorised officer).*

The purpose of this restriction is:

- To stop or prevent people using intoxicating substances/drugs, which are not covered by existing legislation,
- To encourage vulnerable people to access support services to change behaviour and address underlying or unmet need.

#### 1.5.5 Restriction 5 - Urination and/or defecation

Proposed wording for this restriction is as follows:

*No person within the restricted area will urinate and/or defecate in any public space (this does not include public toilets).*

The purpose of this restriction is:

- To stop people urinating and defecating on the public streets
- To protect the public from infectious diseases linked to 'open' defecation and urination.

#### 1.6 **Area to be included in the proposed PSPO.**

Analysis of SYP data indicates that ASB is reported and occurring across the City Centre. The key locations for both daytime and nighttime ASB in the City Centre are Moorfoot and along the tram route from Fitzalan Square to West Street as shown in figure 1 below.

**Key Locations for Total ASB  
Sheffield Central**

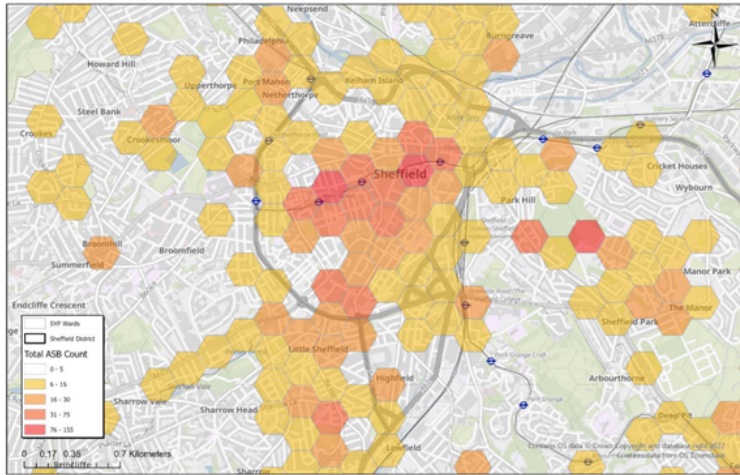
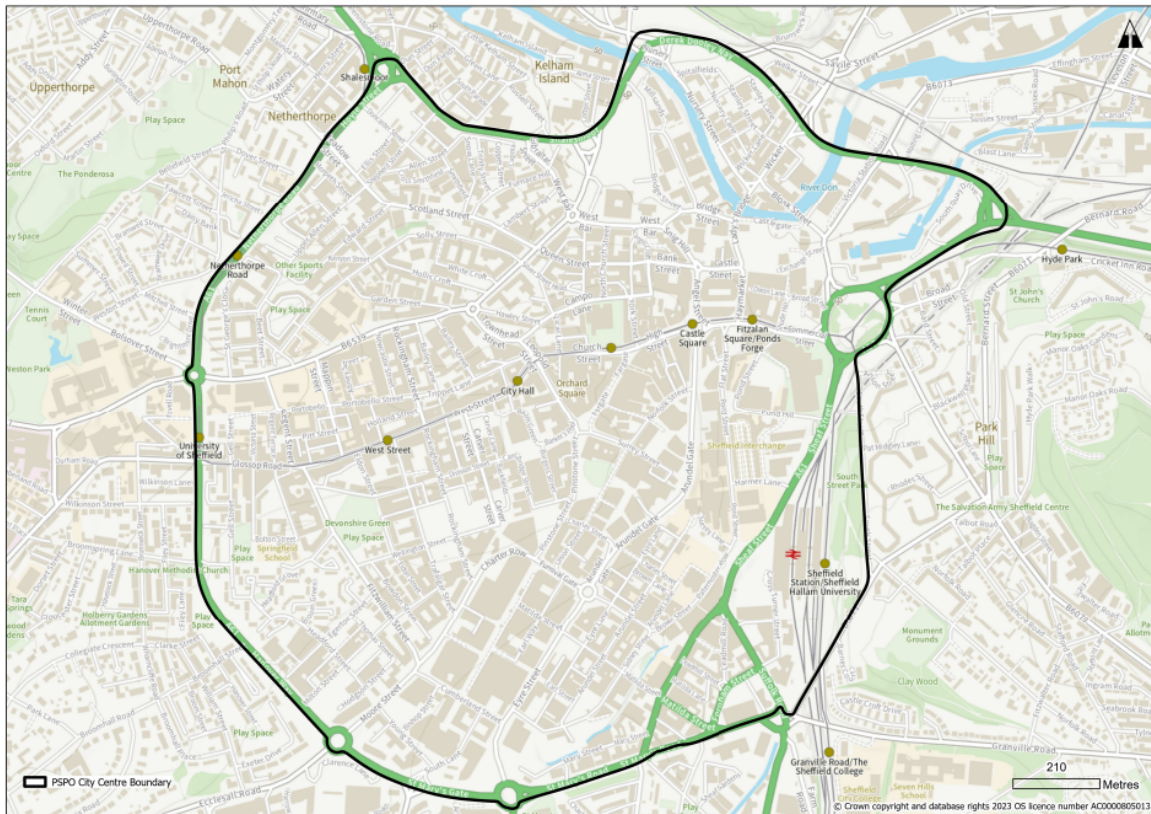


Figure 1: Map of central area showing key locations for anti-social behaviour.

Evidence in section 1.3 also indicates that the train station and South Street Park are affected by ASB as are some of the underpasses into the city centre around the inner ring road.

The area proposed is, therefore, the outer edge of the inner ring road plus the station and the whole of South Street Park as shown in the map in section 1.7. Using the outer edge of the ring road will ensure that the underpass gateways into the city centre are also included in the area.

**1.7 Map of the area to be covered by the proposed PSPO**



## 1.8 Enforcement of the PSPO

An enforcement framework will be developed alongside and be informed by the consultation with stakeholders. The key principles of the framework will include:

- Enforcement will enhance and not work against current initiatives such as the Harm Reduction Focused Enforcement Pathway.
- Enforcement will be used to identify and address the support needs of people breaching the PSPO.
- Fixed Penalty Notices will be used where appropriate but will not be the default response.
- Enforcement resources will be deployed dynamically to prioritise ASB hot spots within the PSPO area.

### 1.8.1 Displacement of ASB from the City Centre

There is a risk that introducing prohibitions in the City Centre area could displace ASB to other locations adjacent to the City Centre. Kelham Island, 'Little Sheffield', Burngreave, and the Ecclesall Road area have been identified as the most likely areas to be affected by displacement. SYP and the Council are already aware of some ASB issues in these areas and are already actively working to deal with these issues.

The enforcement framework will aim to mitigate some of the risk of dispersal by aiming to understand and address underlying and unmet need as per the harm reduction approach.

If displacement does occur, existing means of enforcement as detailed in section 1.1 will be employed but the approach will also include engagement and support, through a harm reduction focussed approach where the first steps are to understand the causes.

## 2 HOW DOES THIS DECISION CONTRIBUTE?

### 2.1 ***Strong and connected neighbourhoods which people are happy to call home.***

*Sheffielders live in clean, vibrant, and caring communities where people feel safe and are treated with respect. More people have access to good homes, reliable transport, and the key local amenities they need to live their day-to-day lives.*

The introduction of a PSPO will support the City Centre Vision to create a thriving and sustainable city centre that is a safe and welcoming place for people to live, work and visit.

The PSPO is designed to address ASB that is having a detrimental impact on those in the City Centre. As well as being a place for retail and commerce, the City Centre is also home to around 23,400 people.

A more attractive and safer city centre will bring economic benefits to the city, where people feel safe shopping and socialising.

### 2.2 ***Healthy lives and wellbeing for all***

*Sheffielders all have the opportunity to lead long, healthy, active and happy lives and can connect to the right health and wellbeing support at the right time.*

The harm reduction enforcement approach, which will be the framework to enforcing the PSPO, promotes supporting and safeguarding vulnerable people, to address any underlying issues that ASB is often a symptom of, to bring about longer-term change, which will ultimately make the City Centre a safer place.

### 2.3 ***Sheffield Crime and Disorder Reduction Strategy 2021-24***

It is a core requirement of the Safer Neighbourhood Team to lead on the delivery of the City's statutory and strategic partnership priorities for reducing crime and disorder. The introduction of a PSPO will contribute to many of the key priorities identified in the Safer Sheffield Partnership's Crime and Disorder Reduction Strategy:

- Protect vulnerable people.
- Address the impact of drug supply.
- Address the impact of crime and anti-social behaviour.
- Create safer communities.

## **3 HAS THERE BEEN ANY CONSULTATION?**

3.1 As detailed in section 1.3, initial consultation has already taken place with several key stakeholders.

This report seeks a formal committee decision to approve the draft PSPO and consult with the public and other stakeholders on the introduction of a PSPO in Sheffield City Centre and on the draft Order. It is a statutory requirement under section 72(3) of the Anti-social Behaviour, Crime and Policing Act 2014 that before making a PSPO a Local Authority must carry out the necessary consultation. (These requirements are set in full at sections 4.3.2 and 4.3.3 of the report). If agreed, consultation will meet the necessary statutory requirements and will follow the appropriate principles and involvement set out in the Anti-social Behaviour, Crime and Policing Act 2014: Anti-social behaviour powers – Statutory Guidance for frontline professionals (the Government's Statutory Guidance) attached at Appendix C and in line with national best practice on PSPOs to consult with the public, businesses, stakeholders, and partners.

## **4 RISK ANALYSIS AND IMPLICATIONS OF THE DECISION**

### 4.1 Equality Implications

4.1.1 The restrictions contained in a PSPO apply equally to everyone. However, it is possible that certain groups of people may be more likely to breach the order than others due to circumstances such as addiction. Enforcement of a PSPO will be fair, reasonable, and focused on a holistic problem-solving approach, including addressing support needs where necessary.

#### The Public Sector Equality Duty

The Equality Duty was created under the Equality Act 2010. In summary, those subject to the equality duty must, in the exercise of their functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.

- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

The Act explains that having due regard for advancing equality involves:

- Removing or minimising disadvantages suffered by people due to their protected characteristics.
- Taking steps to meet the needs of people from protected groups where these are different from the needs of other people.
- Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The Equality Duty covers the nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Council also takes into account additional interests when assessing equality and inequality: carers, health, poverty & financial inclusion, social cohesion, armed services, voluntary, community & faith sector and partners.

An Equality Impact Assessment (EIA number 2266) has been completed considering the impact of introducing a PSPO on each of the protected characteristics. This is attached to this report and summarised below.

In summary, the assessment is of likely positive impacts primarily in relation to:

- Age (including younger and older aged people), Disability, Religion (including places of worship), Sex, Pregnancy/Maternity.
- Health, Poverty & Financial Inclusion, Social Cohesion and Partners (businesses).

Other, less direct, impacts were also identified.

The EIA also notes that people who would potentially be subject to PSPOs also share protected characteristics and other inequalities, which may be exacerbated by vulnerable circumstances. These are primarily assessed to be Disability (physical or mental impairments), Health, Poverty and Age.

The EIA notes the intention within the PSPO 'To encourage vulnerable people to access support services to change behaviour and address underlying or unmet need.' It is likely that some people who may be subject to PSPOs would themselves also be vulnerable to other people's ASB, potentially at a more serious level. The assessment therefore of who may or may not come under the scope of a PSPO is not binary.

#### 4.1.1 *Human Rights Act*

When deciding whether to make a PSPO the Anti-Social Behaviour, Crime and Policing Act 2014 requires that particular regard has been given to the rights and freedoms set out in the European Convention on Human Rights, as incorporated into UK legislation under the

Human Rights Act 1998 (the Human Rights Act), detailing freedom of expression (Article 10) and freedom of assembly (Article 11).

It is a statutory requirement under section 72(1) of the Anti-Social Behaviour, Crime and Policing Act 2014 that the local authority has particular regard to these Articles of the European Convention on Human Rights as incorporated in the Human Rights Act when making a PSPO. In particular, any restrictions on the rights to freedom of expression (Article 10) and freedom of assembly (Article 11) are lawful only insofar as they comply with the qualifications on those freedoms within the Convention: they must be necessary in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.

In addition to these specific considerations, it must be noted that a breach of the conditions of a PSPO is a criminal offence, so that making a PSPO has the effect of criminalising behaviour that would not otherwise be an offence. Regard must be had to the necessity and proportionality of any proposed conditions.

#### 4.2 Financial and Commercial Implications

There are no direct financial or commercial implications of this decision other than staffing resources for the consultation process which will be contained within the current financial resources.

If, following consultation, it is recommended that a PSPO be made, the financial implications of implementing a PSPO will be considered in a further report to the Policy Committee.

#### 4.3 Legal Implications

- 4.3.1 The Council has the power to make a PSPO under section 59 of the Anti-social Behaviour, Crime and Policing Act 2014 (the 2014 Act). In order to be able to make a PSPO the Council must be satisfied under section 59(1) that on reasonable grounds the following two conditions are met:

##### **Condition 1**

‘S59 (2) The first condition is that –

- (a) activities carried on in a public place within the authority’s area have had a detrimental effect on the quality of life of those in the locality, or
- (b) it is likely that activities will be carried on in a public place within that area and that they will have such an effect.’

##### **Condition 2**

‘S59 (3) The second condition is that the effect, or likely effect of the activities –

- (a) is, or is likely to be, of a persistent or continuing nature,
- (b) is or is likely to be, such as to make the activities unreasonable, and
- (c) justifies the restrictions imposed by the notice.’

Section 59(4) of the 2014 Act defines a PSPO as an order that identifies the public place referred to under condition 1 (the restricted area) ‘and

- (a) prohibits specified things being done in the restricted area
- (b) requires specified things to be done by persons carrying on specified activities in that restricted area, or
- (c) does both these things’

4.3.2 Section 72 of the 2014 Act places a duty on the Council to carry out the necessary consultation, publicity, and notification before making, varying or extending a PSPO e.g.

Section 72(3) states:

‘A local authority must carry out the necessary consultation and the necessary publicity, and the necessary notification (if any), before –

- (a) making a public spaces protection order,
- (b) extending the period for which a public spaces protection order has effect, or
- (c) varying or discharging a public spaces protection order’

4.3.3 ‘The Necessary Consultation’ is defined under section 72(4) of the 2014 Act. E.g.

‘In subsection (3) –

“the necessary consultation” means consulting with –

- (a) the chief officer of police, and the local policing body, for the police area that includes the restricted area;
- (b) whatever community representatives the local authority thinks it appropriate to consult
- (c) the owner or occupier of land within the restricted area.

The Council is therefore required to consult the following 3 groups before making a PSPO:

- Chief Police Officer for South Yorkshire and the Police and Crime Commissioner for South Yorkshire
- Such Community Representatives as the Council think appropriate
- The Owner / Occupier of the land

Section 72 (5) of the 2014 Act confirms that the requirement to consult with the owner occupier of the land within the restricted area ‘*does not apply to land that is owned and occupied by the local authority*’.

Section 74 of the 2014 Act defines ‘Community Representative’ ‘*as any individual or body appearing to the authority to represent the views of people who live in, work in or visit the restricted area.*’ The Local Government Association Public Spaces Protection Order – Guidance for Councils (LGA Guidance for Councils) attached at Appendix B states that this definition gives Councils the freedom to determine who best to contact given local circumstances and the scope of the proposals. Those who will be directly affected by the Order, or groups representing their interests, should be directly approached. Alongside residents, users of the public space and those likely to be directly affected by the order other



relevant stakeholders may include residents' associations, local businesses, commissioned service providers, charities and relevant interest groups.

4.3.4 The LGA Guidance for Councils states that, '*local authorities can determine for themselves what an appropriate consultation process might entail.*' It is therefore up to the Council to decide how it wishes to carry out its consultation process for a PSPO. It does however go on to say that in carrying out a consultation a Council should:

- Use a range of means to reach out to potential respondents, some of whom may be unable to feedback in certain ways, e.g. online. Local demographics and the characteristics of those who may be most affected by the ASB or the Order can also help to identify the best mechanism for ensuring a comprehensive consultation process. Similarly different tools may be used in different ways to enrich the information gathered.
- Provide an overview of what the local issues are, set out why a PSPO is being consulted, and what its impact would be. Publishing details of the extent of the problem behaviour can assist respondents to understand why a PSPO is being considered and help inform views on whether it would therefore be an appropriate response.
- Provide sufficient means for respondents to oppose the proposals and may also be used to elicit views on alternative approaches. Achieving a healthy response rate, with considered responses will help support the evidence base for introducing an Order and refuting challenge.

4.3.5 There are no statutory requirements specifying the minimum or maximum length of a PSPO consultation period, but the time frame given should allow sufficient time to meaningfully engage with all those who may be impacted by the Order and should be both reasonable and proportionate to the issues under consideration.

The Government's Statutory Guidance set out at Appendix C states that '*the appropriate length of the consultation will depend on the particular circumstances of the PSPO being sought and it is important to ensure that the consultation is reasonable and proportionate to the issues under consideration. In general, a consultation is expected to take no longer than two weeks. If a matter is particularly urgent, a shorter consultation period is likely to be proportionate. However, if it is less pressing or more complex factors to consider, then a longer consultation may be appropriate.*'

However, consideration should be given to the LGA Guidance for Councils which gives the following advice regarding consultation, '*There are no statutory requirements about the length of the consultation process. However, it should be ensured that its duration allows sufficient time to meaningfully engage with all those who may be impacted by the Order, taking into account for instance any holiday periods that may affect response rates – this may take several weeks or even months. Some issues may require time to fully explore and understand – councils should not be reluctant to extend the initial consultation period if it is clear that this would be beneficial in the longer-term.*'

4.3.6 A list of examples of consultation methods used when consulting on a PSPO as set out in the LGA Guidance for Councils is set out below:

- Online questionnaire
- Postal surveys
- Face-to-face interviews
- Contact with residents' association
- Focus groups with stakeholders and interest groups representing those who will be affected
- Discussions with service providers working directly with affected groups
- Discussions at ward panel meetings
- Publicity via local press or social media
- Publications in libraries and other public buildings
- On-street surveys
- Drop-in sessions in the area subject to the PSPO

The LGA Guidance for Councils also provides examples of questions which could be included as part of the consultation:

- What effect the activities in question have on residents, businesses and visitors – and whether this is detrimental?
- how safe respondents feel and what impacts on this?
- how often problem behaviours are personally encountered by individuals?
- when and where problems occur?
- whether the behaviour is so unreasonable that it should have been banned?

4.3.7 When undertaking a consultation the Council should have due regard to the Government's Consultation Principles 2018 and case law establishing the principles of lawful consultation.

### **Consultation Principles**

Consultation should:

- a) be clear and concise
- b) have a purpose
- c) be informative
- d) Be seen as only part of the process of engagement
- e) should last for a proportionate amount of time
- f) should be targeted
- g) should take account of the groups being consulted
- h) should be agreed before publication
- i) should facilitate scrutiny
- j) Ensure that Government responses to consultations are published in a timely manner
- k) not generally be launched during local or national election periods

The case of *R v London Borough of Brent ex parte Gunning (1985) 84 LGR 168* established the 'Gunning Principles' which defined that a consultation is only legitimate when the following four principles are met:

1. **Proposals are still at a formative stage** – A final decision has not yet been made or predetermined by the decision makers.
2. **There is sufficient information to give ‘intelligent consideration’** – The information provided must relate to the consultation and must be available, accessible and easily interpretable for consultees to provide an informed response.
3. **There is adequate time for consideration and response** – There must be sufficient opportunity for consultees to participate in the consultation.
4. **‘Conscientious consideration’ must be given to the consultation responses before a decision is made** – Decision-makers should be able to provide evidence that they took consultation responses into account.

The Gunning principles were reinforced in 2001 by the case of *R v North and East Devon Health Authority ex parte Coughlan [2001] Q.B. 213 (16 July 1999)* which confirmed these principles applied to all consultations, and then in the supreme Court case of *R (ex parte Moseley) v London Borough of Haringey [2014] UKSC 56 LBC* which endorsed the legal standing of the 4 principles.

- 4.3.8 As part of the consultation process for a PSPO the Council must ensure that it complies with its Public Sector Equality Duty under the Equality Act 2010 (as detailed in section 4.1 of the report). The Council must also have particular regard to Articles 10 and 11 of the European Convention of Human Right as incorporated into UK Legislation under the Human Rights Act when considering making a PSPO (as detailed at section 4.1.1 of the report).
- 4.3.9 The decision to approve a draft PSPO and to go out to consultation on the introduction of a PSPO is reserved to the Communities, Parks and Leisure Policy Committee under Part 3.3.1 of the Constitution.

#### 4.4 Climate Implications

A rapid climate impact assessment has been carried out and concluded that there would be no significant climate impact.

#### 4.5 Other Implications

There are no other implications of approving the draft PSPO or consulting the public and other stakeholders.

### 5 **ALTERNATIVE OPTIONS CONSIDERED**

#### 5.1 **Not to consider a PSPO and continue with the current response to ASB in the city centre.**

This is the ‘do nothing’ option.

The current approach is to target the most entrenched individuals, initially to engage and support and if unsuccessful to seek legal orders. This approach is limited to those identified and recognised as complex or entrenched and does not allow for immediate intervention or enforcement action on unknown persons. The current approach does not allow for wider prevention work.

A PSPO would support the identification of individuals requiring essential support or safeguarding. Additionally for those individuals against whom legal action is being sought, for example, a CBO or injunctions, the mapped PSPO zone could form part of the exclusions or restrictions of those orders.

The evidence provided in section 1.3 demonstrates that the ASB issues identified are persistent and have a detrimental effect on the quality of life of those in the locality. An alternative approach is needed to effect a reduction in the level of ASB and therefore the do nothing option has been discounted.

## **6 REASONS FOR RECOMMENDATIONS**

- 6.1 The evidence demonstrates a need to change the existing approach to controlling anti-social behaviour in the City Centre. The introduction of a PSPO would give the Council and SYP Officers additional powers to adopt a new approach.

The introduction of a PSPO alongside an enforcement framework that focuses on harm reduction could have positive outcomes for some of the City's most vulnerable residents.

The Government's Statutory Guidance recommends that councils engage in an open and public consultation to give the users of the public space the opportunity to comment on whether the proposed restriction or restrictions of a PSPO are appropriate, proportionate or needed at all. The Council should also ensure that specific groups likely to have a particular interest are consulted.

A further report will be produced in due course with recommendations about whether or not to make a PSPO based on the outcomes of the consultation.

## **Appendix A: Draft PSPO**

### **Sheffield City Council Public Spaces Protection Order 2024 (City Centre)**

This order is made by Sheffield City Council (“the Council”) and shall be known as the Sheffield City Council City Centre Public Spaces Protection Order 2024 (“this Order”).

The Council in exercise of its powers under section 59 of the Anti-social Behaviour, Crime and Policing Act 2014 is satisfied on reasonable grounds that the conditions below have been met:

- that activities carried on in a public place within the Council’s area have had a detrimental effect on the quality of life of those in the locality, or it is likely that activities will be carried on in a public place within that area and that they will have such an effect; and
- the effect, or likely effect, of the activities is, or is likely to be, of a persistent or continuing nature, is, or is likely to be, such as to make the activities unreasonable, and justifies the restrictions imposed by this Order.

The Council is satisfied that the prohibitions imposed by this Order are reasonable to impose in order to prevent the detrimental effect of these activities from continuing, occurring, or recurring or to reduce that detrimental effect, or to reduce the risk of its continuance, occurrence, or recurrence.

The Council has had regard to the rights and freedoms set out in the European Convention on Human Rights incorporated into UK legislation under the Human Rights Act 1998. The Council has had particular regard to the rights and freedoms set out in Article 10 (Right to Freedom of expression) and Article 11 (Right to freedom of assembly) of the European Convention on Human Rights and has concluded that any restrictions on such rights and freedoms imposed by this Order are lawful, necessary and proportionate.

<b>PROHIBITIONS</b>	
<b>1</b>	<p>Alcohol on the streets:</p> <p>No person within the restricted area may consume alcohol and/or be in possession of an open container of alcohol or purporting to contain alcohol in a public space.</p> <p>Prohibitions and requirements relating to alcohol contained in this Order do not apply to premises authorised to be used for the supply of alcohol under the Licensing Act 2003, a place within the curtilage of such premises, or to premises or places otherwise exempt from the operation of this Public Spaces Protection Order by section 62 of the Anti-social Behaviour, Crime and Policing Act 2014.</p> <p><b>REQUIREMENTS</b></p> <p>Where a constable or an authorised officer reasonably believes that a person is or has been consuming alcohol or intends to consume alcohol in breach of this Order the person must when required to do so by the constable or authorised officer:</p> <p>(a) stop consuming alcohol or anything which the constable or authorised officer reasonably believes to be alcohol.</p> <p>(b) surrender anything in their possession which is, or which the constable or authorised officer reasonably believes to be alcohol or a container for alcohol (to the relevant constable or authorised officer).</p>
<b>2</b>	<p>Begging:</p> <p>No person within the restricted area shall make verbal, non-verbal, or written request(s) for money, donations or goods including the placing of hats, clothing, signage, or containers, in a manner that causes or is likely to cause harassment, alarm, distress, nuisance, or annoyance.</p>
<b>3</b>	<p>Loitering:</p> <p>No person within the restricted area shall loiter, in any temporary structure, in or adjacent to doorways, cash machines, banks or supermarkets in a manner that may cause or is likely to cause harassment, alarm, distress, nuisance, or annoyance to any person within the city centre.</p>
<b>4.</b>	<p>Drug Use:</p> <p>No person within the restricted area will ingest, inhale, inject, smoke, or otherwise use a psychoactive substance (as defined in the Psychoactive Substances Act 2016 section 2 paragraph 1).</p> <p><b>REQUIREMENTS</b></p> <p>Where a constable or an authorised officer reasonably believes that a person is or has been using a psychoactive substance or intends to use a psychoactive substance in breach of this Order, the person must when required to do so by the constable or authorised officer:</p>

	<p>(a) stop using the psychoactive substance or anything which the constable or authorised officer reasonably believes to be a psychoactive substance.</p> <p>(b) Surrender anything in their possession which is, or which the constable or authorised officer reasonably believes to be a psychoactive substance, or which will be used in connection with taking psychoactive substances (to the relevant constable or authorised officer).</p>
5.	<p>Urination and/or defecation:</p> <p>No person within the restricted area will urinate and/or defecate in any public space (this does not include public toilets).</p>

#### **Additional notes and definitions for the purpose of the Order**

- i) **Alcohol** – has the meaning given to it under section 191 of the Licensing Act 2003. This is set out in full at Schedule 2.
- ii) **Authorised Officer** – means an ‘authorised person’ as defined under section 68(11) of the Anti-social Behaviour, Crime and Policing Act 2014 namely *‘a person authorised for the purposes of this section by the local authority that made the order (or authorised by virtue of section 69(2)).’*
- iii) **Constable** – means constable as referred to under the Anti-social Behaviour, Crime and Policing Act 2014 and includes a Police Community Support Officer.
- iv) **The Council** – means Sheffield City Council.
- v) **Premises** – has the meaning given to it under section 193 of the Licensing Act 2003 and *‘means any place and includes a vehicle, vessel or moveable structure.’*
- vi) **Psychoactive substance** - has the meaning given to it under section 2 paragraph 1 of the Psychoactive Substances Act 2016 subject to the exemptions set out at section 3 and schedule 1 of this Act. These sections of the Psychoactive Substances Act 2016 are detailed in full at Schedule 3.
- vii) **Section 62 of the Anti-social Behaviour, Crime and Policing Act 2014** - details the exemptions to the alcohol prohibition under a PSPO and is detailed in full at Schedule 4.

## **PERIOD FOR WHICH THIS ORDER HAS EFFECT**

This Order applies to a public place within the authority's area. The public place is delineated by the black line on the plan annexed at Schedule 1. The effect of this Order is to impose the prohibitions and requirements detailed herein, at all times, save where specified exemptions apply. This Order will come into force at **XXX** and will expire at midnight on the **XXX**. At any point before the expiry of this three year period the Council can extend the Order by up to three years if they are satisfied on reasonable grounds that this is necessary to prevent the activities identified in the Order from occurring or recurring or to prevent an increase in the frequency or seriousness of those activities after that time. The Council may extend this Order more than once.

## **FAILURE TO COMPLY WITH THIS ORDER?**

Section 67 of the Anti-social Behaviour Crime and Policing Act 2014 says that it is a criminal offence for a person without reasonable excuse – (a) to do anything that the person is prohibited from doing by a public spaces protection order, or (b) to fail to comply with a requirement to which the person is subject under a public spaces protection order. A person guilty of an offence under section 67 is liable on conviction in a Magistrates' Court to a fine not exceeding level 3 on the standard scale.

## **FIXED PENALTY**

A constable or an authorised officer may issue a fixed penalty notice to anyone s/he believes has committed an offence under section 67 of the Anti-social Behaviour, Crime and Policing Act. You will have 14 days to pay the fixed penalty of £100. If you pay the fixed penalty within the 14 days you will not be prosecuted.

## **APPEALS**

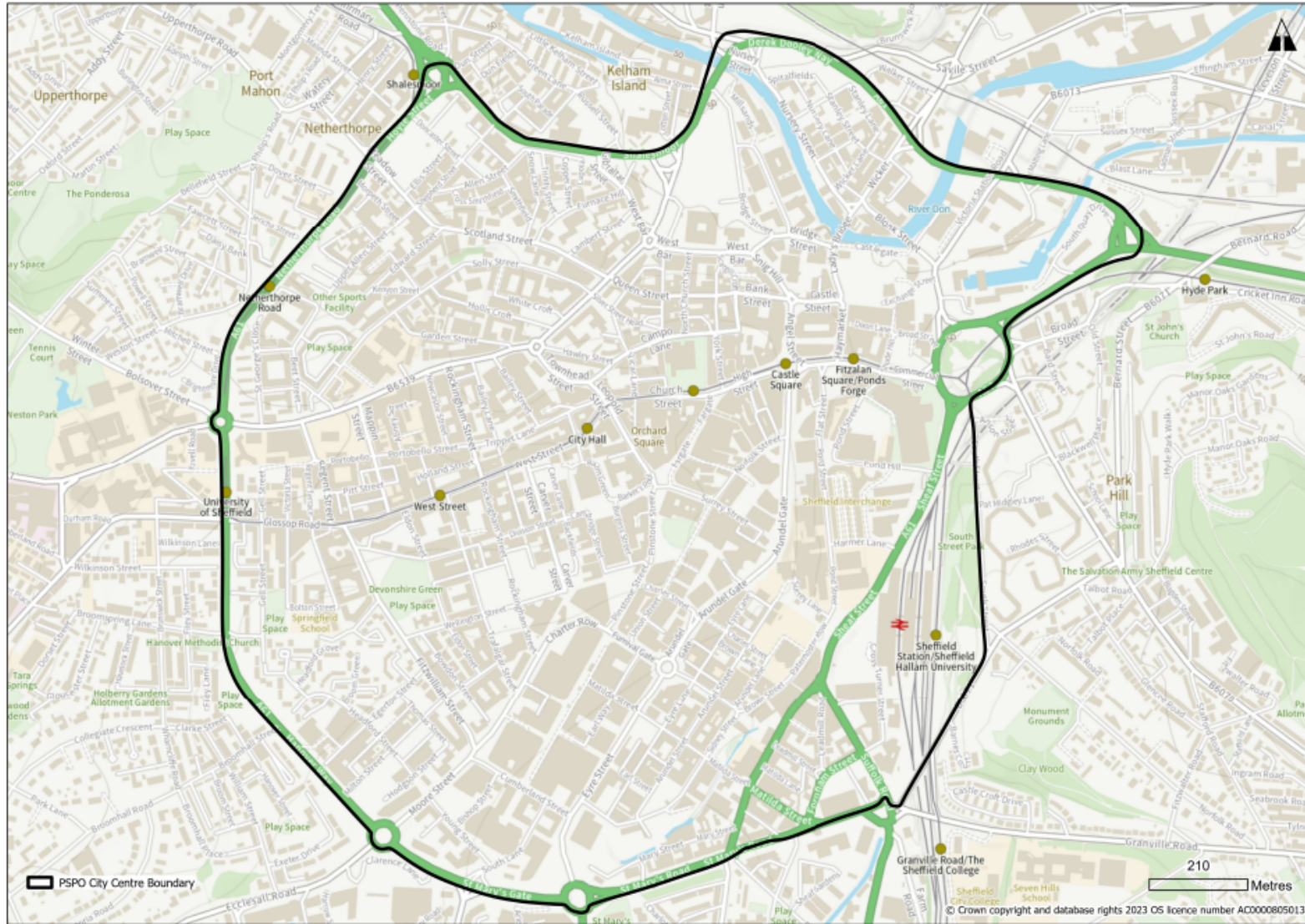
Any challenge to this Order must be made in the High Court by an interested person within six weeks of it being made. An interested person is someone who lives in, regularly works in, or visits the area. This means that only those who are directly affected by the restrictions have the power to challenge. The right to challenge also exists where an order is varied by the Council. Interested persons can challenge the validity of this Order on two grounds: that the Council did not have power to make the Order, or to include particular prohibitions or requirements; or that one of the requirements of the legislation has not been complied with. When an application is made, the High Court can decide to suspend the operation of the Order pending the Court's decision, in part or in totality. The High Court has the ability to uphold the Order, quash it, or vary it.

**Signed:** .....



# SCHEDULE 1 – Proposed Sheffield City Centre PSPO zone 2024-2027

The area shown below enclosed within the black line on the map identifies the PSPO zone.



## **SCHEDULE 2**

### **Licensing Act 2003**

#### **Section 191**

#### **Meaning of “alcohol”**

S191

(1) In this Act, “alcohol” means spirits, wine, beer, cider or any other fermented distilled or spiritous liquor in any state, but does not include -

- (a) alcohol which is of a strength not exceeding 0.5% at the time of the sale or supply in question,
- (b) perfume,
- (c) flavouring essences recognised by the Commissioners of Customs and Excise as not being intended for consumption as or with dutiable alcoholic liquor,
- (d) the aromatic flavouring essence commonly known as Angostura bitters,
- (e) alcohol which is, or is included in, a medicinal product or a veterinary medicinal product,
- (f) denatured alcohol,
- (g) methyl alcohol,
- (h) naphtha, or
- (i) alcohol contained in liqueur confectionery.

(2) In this section—

“*denatured alcohol*” has the same meaning as in section 5 of the Finance Act 1995 (c. 4);

“*dutiable alcoholic liquor*” has the same meaning as in the Alcoholic Liquor Duties Act 1979 (c. 4);

“*liqueur confectionery*” means confectionery which—

- (a) contains alcohol in a proportion not greater than 0.2 litres of alcohol (of a strength not exceeding 57%) per kilogram of the confectionery, and
- (b) either consists of separate pieces weighing not more than 42g or is designed to be broken into such pieces for the purpose of consumption;

“*medicinal product*” has the same meaning as in section 130 of the Medicines Act 1968 (c. 67)

“*strength*” is to be construed in accordance with section 2 of the Alcoholic Liquor Duties Act 1979; and

“*veterinary medicinal product*” has the same meaning as in regulation 2 of the Veterinary Medicines Regulations 2006.

## **SCHEDULE 3**

### **Psychoactive Substances Act 2016**

#### **2.— Meaning of “psychoactive substance” etc**

(1) In this Act “*psychoactive substance*” means any substance which—

(a) is capable of producing a psychoactive effect in a person who consumes it, and

(b) is not an exempted substance (see section 3).

(2) For the purposes of this Act a substance produces a psychoactive effect in a person if, by stimulating or depressing the person’s central nervous system, it affects the person’s mental functioning or emotional state; and references to a substance’s psychoactive effects are to be read accordingly.

(3) For the purposes of this Act a person consumes a substance if the person causes or allows the substance, or fumes given off by the substance, to enter the person’s body in any way.

#### **3.— Exempted substances**

(1) In this Act “*exempted substance*” means a substance listed in Schedule 1.

(2) The Secretary of State may by regulations amend Schedule 1 in order to—

(a) add or vary any description of substance;

(b) remove any description of substance added under paragraph (a).

(Schedule 1 lists the exempt substances)

### **Schedule 1**

#### ***Exempted Substances***

1. Controlled drugs (within the meaning of the Misuse of Drugs Act 1971).

2. Medicinal products.

In this paragraph “*medicinal product*” has the same meaning as in the Human Medicines Regulations 2012 (S.I. 2012/1916) (see regulation 2 of those Regulations).

3. Alcohol or alcoholic products.

In this paragraph—

“*alcohol*” means ethyl alcohol, and

“*alcoholic product*” means any product which—

(a) contains alcohol, and

(b) does not contain any psychoactive substance.

4. Nicotine.

5. Tobacco products.

In this paragraph "*tobacco product*" means—

(a) anything which is a tobacco product within the meaning of the Tobacco Products Duty Act 1979 (see section 1 of that Act), and

(b) any other product which—

(i) contains nicotine, and

(ii) does not contain any psychoactive substance.

6. Caffeine or caffeine products.

In this paragraph "*caffeine product*" means any product which—

(a) contains caffeine, and

(b) does not contain any psychoactive substance.

7. Any substance which—

(a) is ordinarily consumed as food, and

(b) does not contain a prohibited ingredient.

In this paragraph—

"*enactment*" includes—

(a) an enactment contained in subordinate legislation;

(b) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament;

(c) an enactment contained in, or in an instrument made under, a Measure or Act of the National Assembly for Wales;

(d) an enactment contained in, or in an instrument made under, Northern Ireland legislation;

"*food*" includes drink;

"*prohibited ingredient*", in relation to a substance, means any psychoactive substance—

(a) which is not naturally occurring in the substance, and

(b) the use of which in or on food is not authorised by an enactment

## **SCHEDULE 4**

### **Section 62 – Anti-social Behaviour, Crime and Policing Act 2014 Premises etc to which alcohol prohibition does not apply**

- (1) A prohibition in a public spaces protection order on consuming alcohol does not apply to—
- (a) premises (other than council-operated licensed premises) authorised by a premises licence to be used for the supply of alcohol;
  - (b) premises authorised by a club premises certificate to be used by the club for the supply of alcohol;
  - (c) a place within the curtilage of premises within paragraph (a) or (b);
  - (d) premises which by virtue of Part 5 of the Licensing Act 2003 may at the relevant time be used for the supply of alcohol or which, by virtue of that Part, could have been so used within the 30 minutes before that time;
  - (e) a place where facilities or activities relating to the sale or consumption of alcohol are at the relevant time permitted by virtue of a permission granted under section 115E of the Highways Act 1980 (highway-related uses).
- (2) A prohibition in a public spaces protection order on consuming alcohol does not apply to council-operated licensed premises—
- (a) when the premises are being used for the supply of alcohol, or
  - (b) within 30 minutes after the end of a period during which the premises have been used for the supply of alcohol.
- (3) In this section—
- “club premises certificate”* has the meaning given by section 60 of the Licensing Act 2003;
  - “premises licence”* has the meaning given by section 11 of that Act;
  - “supply of alcohol”* has the meaning given by section 14 of that Act.
- (4) For the purposes of this section, premises are “council-operated licensed premises” if they are authorised by a premises licence to be used for the supply of alcohol and—
- (a) the licence is held by a local authority in whose area the premises (or part of the premises) are situated, or
  - (b) The licence is held by another person but the premises are occupied by a local authority or are managed by or on behalf of a local authority.

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