

Report to:	Executive Cabinet Member		
Date of meeting:	16/03/2020		
Report of:	Director of Place	Report number:	ECMSC/730
Contact officer:	John Morrissy	Telephone number	
Report title:	Renewal of Public Spaces Protection Orders (previously Gating Orders)		
Not confidential			
This report does not contain information which warrants its consideration in the absence of the press or members of the public.			
PDG reports – Not for wider circulation			
Purpose:	To seek approval for proposals regarding the renewal of Public Spaces Protection Orders (previously Gating Orders) prior to 20 October 2020.		
Recommendations:	<p>The Executive Cabinet Member/Cabinet is recommended to:</p> <p style="margin-left: 40px;">1.1 Approve the proposals for seeking renewal of all applicable PSPOs (previously Gating Orders) as outlined in this report.</p> <p style="margin-left: 40px;">1.2 Authorise the Borough Solicitor to carry out all necessary legal formalities.</p>		
Decision:			
Background documents:	APPENDIX A: list of Public Spaces Protection Order (previously Gating Orders).		
Signed:	Leader/Executive Cabinet Member	Monitoring Officer	
Date:			

Consultation with other officers		
Finance	No	
Legal	Yes	Nicola Raby
HR	No	
Equality Impact Assessment required?	No	

(a) Pre-consultation reports Is there a need to consult on the proposals?		No
(b) Post consultation reports Please confirm that the consultation response has been taken into consideration in making the recommendations.		N/A
Vision outcomes Please identify the appropriate Vision outcome(s) that this report relates or contributes to by putting a cross in the relevant box.	1. Start Well	
	2.Live Well	✓
	3.Age Well	
	4.Prosporous	
	5. Clean and Green	✓
	6.Strong and Distinctive	

1. INTRODUCTION & BACKGROUND

1.1 Under Section 59, 64, 72, and 75 of the Anti-Social Behaviour, Crime and Policing Act (2014) local authorities have been able to make Public Spaces Protection Orders (PSPOs) in response to crime and anti-social behaviour. In Bolton, a policy regarding the making of such orders was approved in December 2014. Since this time, Bolton Council has sought to make PSPOs relating to numerous different locations across the borough.

1.2 PSPOs have multiple applications, but in Bolton they have primarily been used to restrict access over the highway by installation of gates or barriers. This is often referred to as 'alley gating'.

1.3 PSPOs replaced Gating Orders which local authorities were able to make under provisions contained within the Highways Act (1980; Gating Orders Regulations – 2006). Existing Gating Orders automatically became PSPOs three years from the commencement of the 2014 Act (as of 20 October 2017).

1.4 A PSPO can last for up to three years, after which it must be reviewed. If the review supports an extension and other requirements are satisfied, it may be extended for up to a further three years. There is no limit on the number of times an Order may be reviewed and renewed.

1.5 The review should take into consideration whether the PSPO is still necessary to prevent the original behaviour from recurring. The review should also include consultation with the police, GM Mayor, and any community representatives the Council think appropriate.

2. ISSUES

2.1 On 20 October 2017, 47 Gating Orders transitioned to PSPOs in Bolton (see APPENDIX A for a full list). To ensure all regulations relating to the renewal of PSPOs are complied with, all 47 Orders must now be reviewed, consulted on, and renewed prior 20 October 2020 with the renewed orders published after this date.

2.2 Gating Orders in Bolton were all secured by the Council between 2007 and 2011. To review these orders with any degree of validity will be difficult. Legitimately establishing that each Gating Order is still necessary to prevent the original behaviour from recurring is almost impossible given the time periods which have passed since these orders were first secured.

2.3 Consulting on the renewal of these orders will also potentially be problematic, given the large number of potential consultees.

3. MAIN BODY OF THE REPORT

3.1 Section 75 of the Anti-Social Behaviour, Crime and Policing Act (2014) set out that where an existing Gating Order was still in force three years from commencement of the Act (i.e. on 20 October 2017) the provisions of such an order would automatically be treated as if they were provisions of a Public Spaces Protection Order. The transitioned Order would then remain in force up to a maximum of three years from the point of transition i.e. up to 20 October 2020.

3.2 Section 75(3) of the Anti-Social Behaviour, Crime and Policing Act (2014) treats transitioned orders as Public Spaces Protection Orders that have already been made. The consultation, notification and publicity requirements in section 72(3) of the Act apply before a Public Spaces Protection Order has been made; the obligation under section 59(8) of the Act to publish arises once a Public Spaces Protection Order has been made.

3.3 Councils were therefore not required to undertake any new consultation (or associated publications, and notifications, set out in section 72(3) of the Act) where a Gating Order, automatically transitioned to a Public Spaces Protection Order after October 2017.

3.4 However, any extension of a transitioned Public Spaces Protection Order after 20 October 2020 would require a local council to carry out the necessary review, consultation and publication as required under section 72 (3) of the Anti-Social Behaviour, Crime and Policing Act (2014).

How are PSPOs Reviewed and Consulted On?

3.5 There is no detailed statutory guidance or requirements regarding the exact nature of the review and consultation process regarding a PSPO. Local authorities can determine for themselves what an appropriate consultation process might entail.

3.6 In Bolton, the consultation period for a proposed PSPO (or extension) generally lasts for 28 days where the draft PSPO and notice will be published on the Bolton Council website; publicised via Bolton Council website and social media (where appropriate); and posted in the vicinity of the highway in question. Representations from users of the highway in question or any other interested parties can be made to Community Safety Services / Legal Services.

3.7 Statutory consultees including: Chief Officer of Police; the Greater Manchester Mayor; any community representatives the local authority deems appropriate; and, as far as reasonably practicable, owners or occupiers of land within the restricted area will all be directly consulted regarding the proposals.

3.8 Similarly, the nature of the evidence used to justify a PSPO, or its review when seeking an extension, and how it should be weighted, is largely down to councils to determine. However, obtaining a range of data from different sources as part of this process is particularly useful and may help to avoid challenge further down the line.

3.9 The review of evidence for a proposed PSPO (or extension) in Bolton includes analysis of the issues highlighted for the location using at least twelve months data. This highlights the area proposed to be gated and a buffer zone surrounding it (generally 100m) in which an assessment the number and type of police recorded crimes and police recorded incidents of ASB will be assessed.

3.10 Council data will also be assessed, including reported ASB, fly-tipping, dog nuisance, as well as fire data (if appropriate). Testimony from officers who are members of the Local Area Partnership (LAP) will also be sought regarding proposals for a PSPO or renewal.

4. OPTIONS

Reviewing PSPOs (previously Gating Orders) for Extension

4.1 Because all of the problems which were assessed as part of pursuing the 47 Gating Orders made between 2007 and 2011 are historic, and the way crime and ASB are recorded

and responded to have changed since this period, no meaningful comparison of data from before and after the installation of gating can be made as part of any required review for extending these PSPOs (previously Gating Orders) prior to 20 October 2020.

4.2 The review cannot determine with any validity whether the PSPO is still necessary to prevent the original behaviour from recurring. Any review would be unable to control the numerous extraneous variables which would have to be accounted for; and it would therefore not be possible to identify the gates as an explanatory variable in predicting the number and type of incidents which they may have prevented.

4.3 It is therefore proposed that an *absence* of current evidence should inform the review. Where problems have *not* been reported or records of crime, ASB or other unreasonable and detrimental behaviour are *no longer* evident then the gates should be seen as having had a sustainable impact and still necessary. It is therefore reasonable to state that not seeking to renew a PSPO and subsequently removing the gates may also lead to the possibility of problematic activities recurring.

4.4 The proposals detailed here should ensure that the requirements under Section 59 of the Act – regarding the justification for the restriction – have been fulfilled. It is proposed that this review will be conducted by Community Safety Services in consultation with partner services and organisations.

Consulting on PSPOs (previously Gating Orders) for Extension

4.5 Consulting residents individually on all 47 PSPOs (previously Gating Orders) will be onerous and, once again considering the time which has passed since the gates were installed, may be unmeaningful in terms of addressing residents' concerns about crime and ASB.

4.6 It is therefore proposed that, following review, statutory consultees are directly consulted on proposals to renew all applicable PSPOs (previously Gating Orders), and that an overarching notice and draft order(s) are published on the Bolton Council website and publicised via the Council website, social media and local press to communicate proposals to the public and encourage representations from any interested parties regarding the proposals. Notices will also be placed in the vicinity of each of the gated areas setting out the effect of the proposed order(s).

4.7 If approved and renewed, the made order(s) will be published on the Bolton Council website and signs will also be erected on or adjacent to the place the Order relates to, to draw attention, setting out the effect of the order(s) following renewal.

4.8 Finally, it is proposed to standardise the approach detailed in this report for all future extensions to PSPOs (restricting access) sought by Bolton Council.

5. IMPACTS AND IMPLICATIONS:

5.1 Financial

None

5.2 Legal

5.2.1 Legal Services have been consulted on the contents of this report. It is requested that the Borough Solicitor is authorised to carry out all necessary legal formalities.

5.3 HR

None

5.4 Other

None

6. **EIA**

6.1 At this stage it is not anticipated that the proposals will have a disproportionate impact on any of Bolton's diversity groups.

7. **CONSULTATION**

7.1 Consultation will be undertaken as part of the proposals detailed in this report.

8. **VISION 2030**

8.1 Pursuing the renewal of all applicable PSPOs (previously Gating Orders) should assist in supporting stronger, cohesive, more confident communities in which people feel safe, welcome and connected.

8.2 The proposed approach should also have benefits in ensuring that our environment is protected and improved, so that more people enjoy it, care for it and are active in it.

9. **RECOMMENDATIONS**

The Executive Cabinet Member/Cabinet is recommended to:

9.1 Approve the proposals for seeking renewal of all applicable PSPOs (previously Gating Orders) as outlined in this report.

9.2 Authorise the Borough Solicitor to carry out all necessary legal formalities.

APPENDIX A: list of Public Spaces Protection Order (previously Gating Orders)

Year Order Made	Gating Order
2007	Barwell Square
2007	Back Ainsworth Lane
2007	Back Bromwich Street
2007	Back High Street / Back Peabody Street
2007	Back Hilden Street (B)
2007	Gregson Field
2007	Melbourne Road
2007	Ruskin Avenue, Kearsley
2007	Tulip Avenue, Kearsley
2007	Walton Court
2008	Finch Avenue, Kearsley
2008	Lee Lane / Cooper Street
2008	Lower Makinson Fold
2008	Martin Avenue, Farnworth
2008	Richmond Gardens
2008	Starcliffe Street
2009	Back Bromwich Street
2009	Cartmel Crescent
2009	Dove Walk
2009	Forton Avenue
2009	Glaisdale Close
2009	Hartfield Walk
2009	St Williams Avenue
2009	Wellington Street, Farnworth
2009	Whitehead Crescent, Kearsley
2010	Abingdon Road
2010	Archer Avenue / Turner Bridge Road
2010	Crawford Avenue
2010	Greenland Road
2010	Greenroyd Avenue
2010	Lowther Street
2010	May Street / Back Crescent Road
2010	Ruins Lane / Back Viola Street / Mill Croft
2010	Sulby Street, Kearsley
2010	Woodfield Street
2011	Back Castle Street
2011	Back Chorley Old Road North
2011	Back Darwen Road South
2011	Back Hilden Street (A)
2011	Garstang Avenue
2011	Great Lever Area 1
2011	Great Lever Area 2

2011	Rear of Bolton Road, Kearsley
2011	Savick Avenue
2011	Singleton Avenue
2011	Victoria Road, Horwich
2011	Willows Close