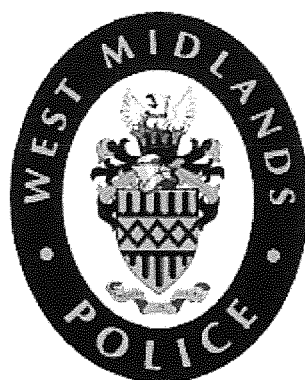


Birmingham City Council & West Midlands Police



PUBLIC SPACE PROTECTION ORDER (PSPO)

ROOKERY ROAD & SURROUNDING AREA OF HANDSWORTH, BIRMINGHAM

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The Anti-Social Behaviour, Crime and Policing Act 2014

BIRMINGHAM CITY COUNCIL (Rookery Road, Handsworth)
PUBLIC SPACE PROTECTION ORDER 2016

PUBLIC SPACE PROTECTION ORDER

The Order shall come into force on ~~the~~ *Monday 29th* of ~~.....~~ *Feb*
2016 at ~~..10..~~ *10* o'clock

If you do not obey the order you will be committing a criminal offence and may be prosecuted by the Council within a Magistrates' Court for an offence under Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014

THIS ORDER is made by Birmingham City Council ("the Council") under section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 (the Act), because the Council is satisfied on reasonable grounds that there are a number of activities, carried out or likely to be carried out in a public space, namely the area of Rookery Road and surrounding area shown outlined on the map attached (the restricted area) that have had or are likely to have a detrimental effect on the quality of life of those in the locality. The effect or likely effect of these activities is of a persistent or continuing nature such as to make these activities unreasonable, and justifies the restrictions imposed by this order.

These activities include:

- **Anti-social behaviour caused by groups of young people and young adults and adults in public spaces;**
- **verbal abuse and / or intimidating behaviour;**
- **damage or destruction of property (including graffiti);**
- **anti-social use of mechanically propelled vehicles (includes Motorbikes, Quad Bikes and Mini-Motos);**
- **littering;**
- **spitting in a public place;**
- **being under the influence of controlled drugs and/or other psychoactive substances and / or alcohol while in a public place;**
- **threatening or using violence.**

DEFINITIONS

- “Authorised Person”** means a Police Constable, Police Community Support Officer or Council Officer, and must be able to present their authority upon request.
- “Intoxicating Substances”** means substances with the capacity to stimulate or depress the central nervous system but does not include alcohol, tobacco or vaporisers.
- “Restricted Area”** shown outlined on the map attached (see figures 1 & 2 in appendix)

PROHIBITIONS

THIS ORDER PROHIBITS the following things being done in any public space in the restricted area AND REQUIRES specified things to be done by persons carrying on specified activities in the Restricted Area.

(1) Within the area designated by the Public Space Protection Order it is prohibited for people to engage in activities that are likely to cause nuisance, annoyance, harassment, alarm or distress. Including, but not limited to: verbal abuse and / or intimidating behaviour; damage or destruction of property (including graffiti); anti-social use of mechanically propelled vehicles; littering; spitting in a public place; drug or alcohol related activity (including being under the influence of controlled drugs and/or other psychoactive substances and / or alcohol while in a public place); threatening or using violence.

- Groups
 - a. A person is prohibited from congregating in a group of three or more people within the Restricted Area after an Authorised Person has requested that the group disperse.
 - b. An Authorised Person may request that a group within the Restricted Area disperse where he reasonably suspects any person in that group to be causing or likely to cause nuisance, alarm, harassment or distress to any other person.
- Verbal abuse
 - a. A person is prohibited from being verbally abusive to any other person within the Restricted Area.
- Violence
 - a. A person is prohibited from using or threatening to use violence against any person or property within the Restricted Area.
- Alcohol

- a. A person is prohibited from having in his possession open cans, bottles, or other unsealed containers of alcoholic beverages (even if empty) in the Restricted Area.
 - b. A person is required to surrender any alcohol in his possession when asked to by an Authorised Person in the Restricted Area.
- Intoxicating Substances
 - a. It is prohibited for any person to:
 - i. ingest, inhale, inject, smoke, possess or otherwise use Intoxicating Substances; or
 - ii. sell or supply Intoxicating Substanceswithin the Restricted Area.
 - b. A person is required to surrender any Intoxicating Substance in his possession when asked to by an Authorised Person in the Restricted Area.
 - c. A person will not commit an offence under subsections (a)(i) or (b) where the substance is used for a valid and demonstrable medicinal use.
 - Graffiti
 - a. A person is prohibited from carrying out any form of graffiti on any surface within the Restricted Area.
 - b. A person is required to surrender any goods, items or materials to an Authorised Person where that Authorised Person reasonably suspects that any goods, items or materials are being used, or are likely to be used, by a person to engage in any graffiti related activity within the Restricted Area.
 - Anti-Social use of Motor Bikes, Quad Bikes, Mini Moto's
 - a. A person is prohibited from riding a motor bike, quad bike or mini moto in a manner deemed by an Authorised Person to be anti-social and he reasonably suspects that person to be causing or likely to cause nuisance, alarm, harassment or distress to any other person.
 - b. A person is prohibited from wearing face coverings in an attempt to conceal their identity; this includes scarves, balaclavas and masks but excludes motorbike helmets while riding a motor bike, quad bike or mini motor when deemed by an Authorised person to be riding in an anti-social manner and he reasonably suspects that person to be causing or likely to cause nuisance, alarm, harassment or distress to any other person.
 - c. A person is required to surrender the motor bike, quad bike or mini moto to an Authorised Person where that Authorised Person reasonably suspects that Motor bikes, quad bikes or mini moto's are being used, or are likely to be used, by a person to engage in any anti-social activity within the Restricted Area.

REQUIREMENTS

(1a) Any person aged 18 years or over who is engaged in any activity prohibited by section (1) within the area designated by the Public Space Protection Order will be required to attend a needs assessment with a police officer, PCSO and / or council officer and adhere to a number of conditions for a period not exceeding four months, including, but not limited to: an agreement not to further engage in any activity prohibited by section (1) and an agreement to participate in a restorative justice process if requested to do so by any individual affected by that person's behaviour.

(1b) Any person aged under 18 years who is engaged in any activity prohibited by section (1) within the area designated by the Public Space Protection Order will be required to attend a needs assessment with the Youth Offending Service / Youth Crime Officer and adhere to a number of conditions for a period not exceeding four months, including, but not limited to: an agreement not to further engage in any activity prohibited by section (1) and an agreement to participate in a restorative justice process if requested to do so by any individual affected by that person's behaviour.

(1c) Any person who fails to attend an assessment when required to do so under section (1a) or section (1b) will be in breach of the Public Space Protection Order.

(1d) Any person who fails to adhere to any conditions when required to do so under section (1a) or section (1b) will be in breach of the Public Space Protection Order.

(2) It is prohibited to consume alcohol in a public place within the area designated by the Public Space Protection Order.

(2a) Any person aged 18 years or over who consumes alcohol in a public place within the area designated by the Public Space Protection Order will be required to attend a needs assessment with a police officer, PCSO and / or council officer and adhere to a number of conditions for a period not exceeding four months, including, but not limited to: an agreement not to consume alcohol in a public place within the area designated by the Public Space Protection Order and an agreement to participate in a restorative justice process if requested to do so by any individual affected by that person's behaviour.

(2b) Any person age under 18 years who consumes alcohol in a public place within the area designated by the Public Space Protection Order will be required to attend a needs assessment with the Youth Offending Service / Youth Crime Officer and adhere to a number of conditions for a period not exceeding four months, including, but not limited to: an agreement not to consume alcohol in a public place within the area designated by the Public Space Protection Order and an agreement to participate in a restorative justice process if requested to do so by any individual affected by that person's behaviour.

(2c) Any person who fails to attend an assessment when required to do so under section (2a) or section (2b) will be in breach of the Public Space Protection Order.

(2d) Any person who fails to adhere to any conditions when required to do so under section (2a) or section (2b) will be in breach of the Public Space Protection Order.

(3) It is prohibited to be in possession of an open container of alcohol in a public place within the area designated by the Public Space Protection Order.

(3a) It is prohibited to be in possession of an unopened container of alcohol in a public place within the area designated by the Public Space Protection Order in such circumstances that would lead a reasonable person to suspect that such a container is likely to be opened and consumed in a public place within the area designated by the Public Space Protection Order.

(3b) Any person in a public place within the area designated by the Public Space Protection Order may be required by a police officer, PCSO or council officer to surrender any container of alcohol to which section (3) and / or section (3a) apply.

(3c) Any person who refuses to comply with any request made under section (3b) will be in breach of the Public Space Protection Order.

(4) It is prohibited to congregate in a group of three or more people in a public place within the area designated by the Public Space Protection Order.

(4a) A police officer, PCSO or council officer may direct any person congregating in a group of three or more in a public place within the area designated by the Public Space Protection Order to leave the area designated by the Public Space Protection Order and not return for a specified period, up to 48 hours.

(4b) A direction given under section (4a) may be given verbally by a police officer, PCSO or council officer but any such direction must specify clearly the area to which it relates.

(4c) A police officer, PCSO or council officer may impose requirements as to the time by which the person must leave the area and the manner in which the person must do so (including the route).

(4d) Any person who fails to comply with a direction made under section (4a) and / or a requirement made under section (4c) will be in breach of the Public Space Protection Order.

THIS ORDER WILL BE IN FORCE FOR A PERIOD OF 36 MONTHS AND WILL EXPIRE ON THE

.....DAY OF

2019 AT 10' O'CLOCK.

28th FEBRUARY

PENALTY ON BREACH (S67 OF THE ACT)

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

- Do anything that the person is prohibited from doing by a PSPO (other than consume alcohol - see below); or
- Fail to comply with a requirement to which the person is subject under a PSPO.

A person does not commit an offence by failing to comply with a prohibition or requirement that the Council did not have power to include in the PSPO.

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

Consuming alcohol in breach of a public space protection order is not an offence under s67 of the Act. However, under s63 of the Act it is an offence to fail to comply with a request by a constable or authorised person to cease drinking or surrender alcohol that a person is or has been or intends to drink in breach of the prohibition in the PSPO. This is also liable on summary conviction to a fine not exceeding level 2 on the standard scale. If alcohol is confiscated, it can be disposed of by the person who confiscates it.

Depending on the behaviour in question, the enforcing officer could decide that a fixed penalty notice (FPN) would be the most appropriate sanction. The FPN can be issued by a police officer, or other authorised person. In making the decision to issue a FPN, the officer should consider that if issued, payment of the FPN would discharge any liability to conviction for the offence. However, where the FPN is not paid within the required timescale, court proceedings can be initiated (prosecution for the offence or failing to comply with the PSPO).

With reference to the above paragraph and in consultation with the BCC ASB Team, WMP Criminal Justice Team and Senior Leadership Team for Birmingham West & Central LPU the decision has been made to deal with the majority of breaches relating to this PSPO by way of a conditional disposal (see figure 3 for flow chart of enforcement).

The legislation covering PSPO's allows agencies to issue a fixed penalty notice (FPN) for persons breaching any prohibitive condition, however, evidence informs us that FPN's and fines administered at courts offer little in the way of justice for victims and nothing in the way of rehabilitation for offenders. The UK is quickly moving to a more sophisticated, evidence based approach in using conditional cautioning to provide offenders with a requirement to complete activities that will address identified criminogenic needs and divert them away from an ineffective criminal justice system for low level or first time offenders.

Although it is a criminal offence for a person to breach a prohibitive or positive condition of a PSPO, the prosecuting agency will be the council making that order. Therefore, should a breach of PSPO be made out there will be a need for WMP and BCC to work together to package any evidence and decide on the most appropriate outcome based on each individual breach. All breach cases will be managed and governed through the existing Safer Communities Group (SCG) monthly meeting.

WMP and BCC have agreed that in most instances a FPN **will not** be an appropriate disposal for breaches of this PSPO. Handsworth and the affected PSPO area is a particularly diverse area of Birmingham with many communities suffering disproportionately compared with other areas in respect of social deprivation. Given the evidence from police data and community consultation many of the issues present may be driven by alcohol misuse, use of controlled drugs, mental health and the absence of employment or education. It is unlikely that the targeted use of FPN's will provide the desired deterrent effect within this area.

Should a person breach one of the listed prohibitive conditions they will be required to attend an assessment (as described above). Should the person refuse to attend this assessment, agree to attend and subsequently fail to attend or following assessment fail to engage as directed or fail to complete agreed conditions this will be considered as a breach of PSPO and their case returned to SCG for a decision to summons to court. If a person is summonsed to court to appear for an offence of breaching a condition (prohibitive or positive) of a PSPO they are liable, on conviction to a fine not exceeding level 3 on the scale (£1000).


N.B. Those in breach of any of the conditions of this PSPO may also be dealt with by way of a warning or issues with a fixed penalty notice should this be deemed appropriate in the circumstances.


RIGHT TO APPEAL THIS ORDER

You have the right of appeal against this Notice to the Birmingham High Court as appropriate within a period of 6 weeks beginning with the date of service of the order by an interested person. An interested person is someone who lives in, regularly works in, or visits the restricted area. This means that only those who are directly affected by the restrictions have the power to challenge. This right to challenge also exists where an order is varied by a council.

Interested persons can challenge the validity of a PSPO on two grounds. They could argue that the council did not have power to make the order, or to include particular prohibitions or requirements. In addition, the interested person could argue that one of the requirements (for instance consultation) had not been complied with.

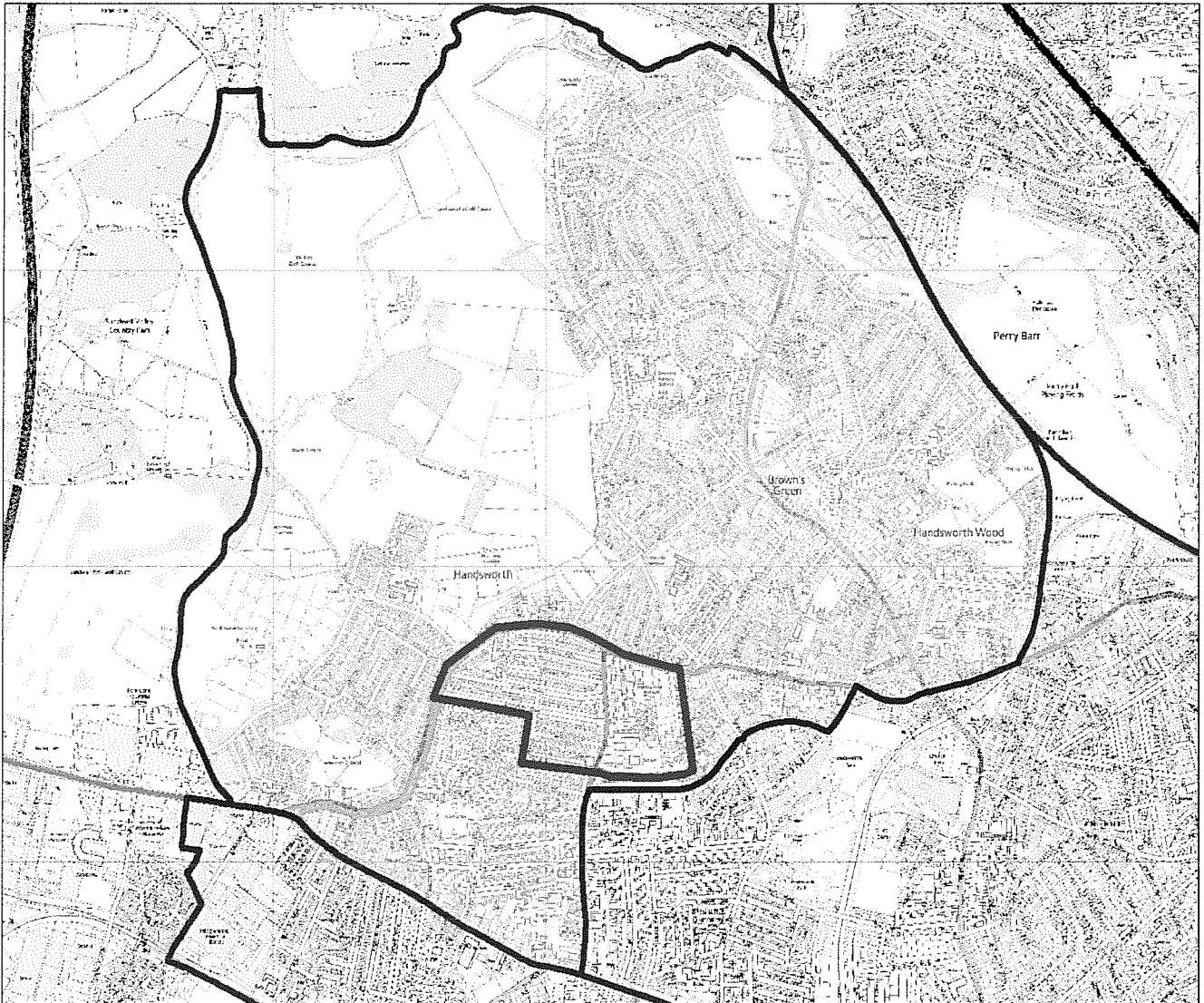
When the application is made, the High Court can decide to suspend the operation of the PSPO pending the verdict in part or in totality. The High Court has the ability to uphold the PSPO, quash it, or vary it.


 SIGNED DATED *29/2/2016*
 Director, Housing
 Birmingham City Council


 SIGNED DATED *29/02/16*
 T/Superintendent
 Crime & Operations

APPENDIX

Figure 1: The map below shows the Handsworth Wood neighbourhood boundary (blue) and the proposed Public Space Protection Order area (red)

**Affected Roads**

Sandwell Road, Oxhill Road, Laurel Road, Laurel Gardens, Rookery Road, Aylesford Road, Newcombe Road, Uplands Road, Farnham Road, Greenhill Road, Avenue Road, Headingly Road, Elmhurst Road, Andrew Gardens, Mount Pleasant Avenue and Mervyn Road.

Figure 2: PSPO area (enlarged)

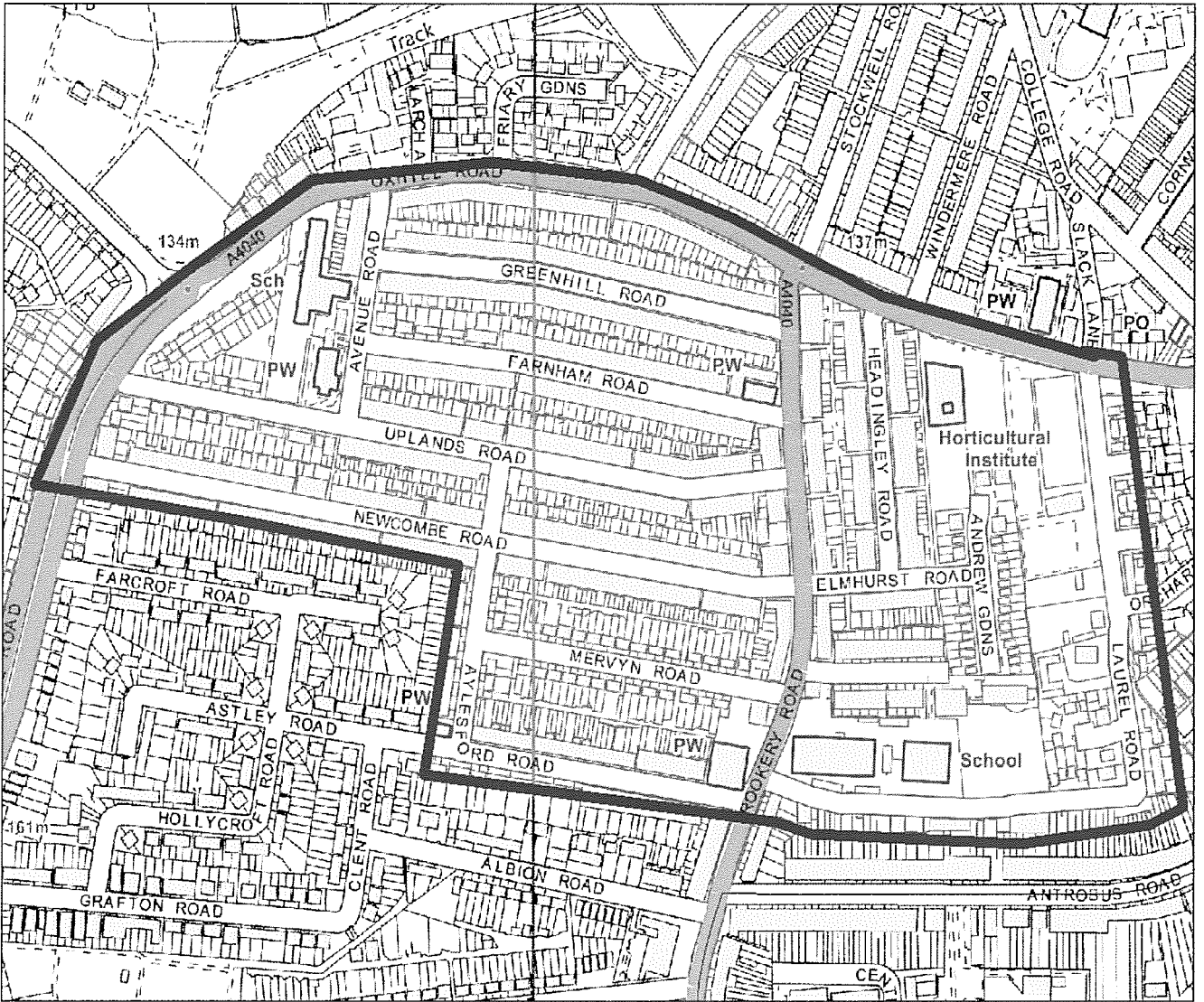
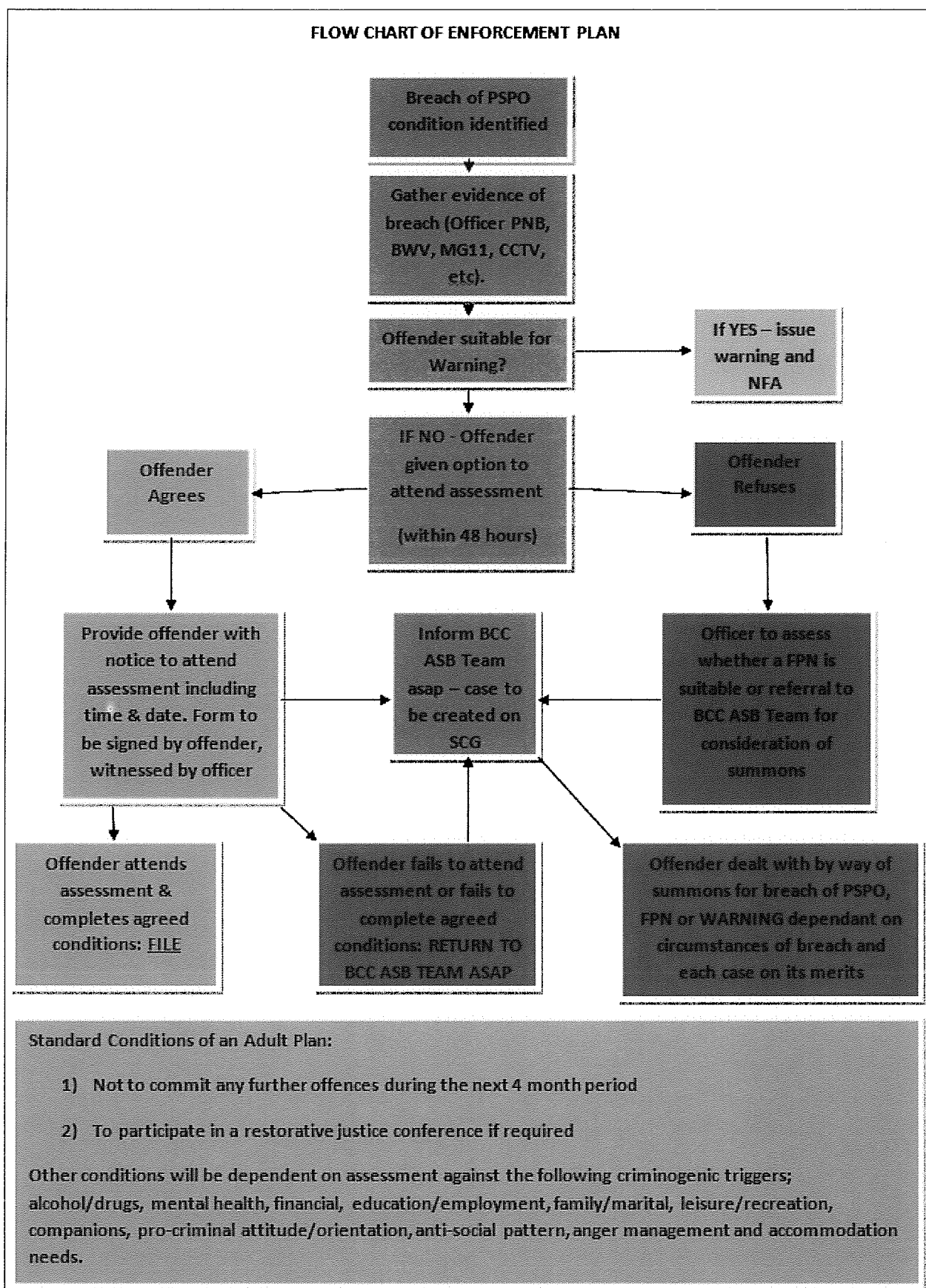


Figure 3: Flowchart of enforcement plan



Information Briefing and Overview

Public Space Protection Order (under the ASB, Crime and Policing Act 2014)

Rookery Road, Newcombe Road, Oxhill Road. Handsworth, Birmingham. B21 9NN

The above location is close in proximity to the main shopping/retail area of Soho Road, Handsworth. There is a high diverse mix of residents in a mainly Asian community with a high percentage of owner occupiers and rented properties, there are some B.C.C properties mixed in between.

Traditionally this district has always been a challenging one given the various cultures and lifestyles that vary throughout, more recently there has been an increase in those persons from Eastern European countries that have settled in the area and with that comes an extra demand and tolerance from the community.

The area is largely residential, has a thriving retail shopping center and very little in the way of industrial development, the main area of congregation for most is Soho Road which is police and patrolled daily.

This main high street area is a popular shopping area for many local residents, visitors and businesses which has suffered more recently from anti-social behaviour, including street drinking, groups of individuals loitering along the high street acting in a threatening manner to passers-by, harassment of retailers, dog fouling and generally behaviour that impacts on those people whose purpose is to enjoy their time there.

There are a variety of shops/premises where alcohol is freely obtained and is consumed regularly outside on the public highway, on private premises or more increasingly when persons are removed from the High Street they tend to move to the adjacent roads.

West Midlands Police and Birmingham City Council have recently focused their attention on a number of families that were demonstrating unacceptable behaviour and called into question how these families were coping with integration.

A multi-agency meeting with local stakeholders, businesses and other professional agencies was convened where an action plan was implemented whereby those persons that were understood to be the core perpetrators of anti-social behaviour were dealt with either through criminal sanctions of civil legislation.

A number of individuals/families have been interviewed, some of who were made subject to Acceptable Behaviour Contracts, unfortunately this has only addressed low level nuisance and organisations continue to flag instances of

community disturbance in and around those areas where most of the perpetrators live.

Additional approaches to the escalating problems include verbal and written warnings, Dispersal Orders and Premises Closure Order, I understand that throughout any period of policing support and signposting to agencies such as Aquarius and Think Family has been ongoing.

At times the groups gathering along these locations can be sporadic, which could be explained by the weather and at times there can be a dip in incidents, however all too often these same groups return and cause harassment and alarm to residents, businesses and visitors to the area

The proposal for an PSPO is seen as something long-term that introduce some control over these locations and can be managed more effectively, proactive and engagement work with continue.

With the recent introduction of the Anti-Social Behaviour, Crime and Policing Act 2014 West Midlands Police and Birmingham City Council feel that this new legislation gives further scope to deal with any emerging trends of anti-social behaviour.

The use of PSPOs, CPNs CBOs and civil Injunctions will further assist addressing the scale of anti-social behaviour provide a robust response for the public to seen.

- Congregating
- Hot spot patrols
- diversionary young peopl.
- ↳ outreach work.
- ↳ funding identified
- ↳
- Consultation
- Age.
- Nominals