



## Consultation information:

Introducing a Public Spaces Protection Order (PSPO) for use Pyschoactive Substances such as Nitrous Oxide linked to antisocial behaviour

# Introduction

We are consulting on proposals to introduce a Public Spaces Protection Order (herein referred to as PSPO) to deal with antisocial behaviour and nuisance linked to the possession and recreational use of psychoactive substances (nitrous oxide) in a public space.

The Psychoactive Substances Act 2016 introduced legislation to deal with substances often referred to as ‘legal highs,’ and known as Novel Psychoactive Substances (here after known as NPS).’ This legislation though only made it a criminal offence to supply or be in possession with intent to supply psychoactive substances such as nitrous oxide and made no provision to deal with possession and recreational use.

The Anti-Social Behaviour Crime and Policing Act 2014 introduced a range of tools and powers. One of those powers relates to PSPOs. A PSPO is an order that identifies a public place and prohibits specified things being done in the restricted area and/or requires specified things to be done by persons carrying out specified activities in that area. Anti-Social Behavior (known as ASB) is defined as 'behaviour by a person which causes, or is likely to cause, harassment, alarm or distress to persons not of the same household as the person' ([Antisocial Behaviour Act 2003](#) and [Police Reform and Social Responsibility Act 2011](#)).

Orders are intended to deal with problems that are detrimental to the local community’s quality of life. According to the statutory guidance, behaviour being restricted must ‘be having, or likely to have, a detrimental effect on the quality of life of those in the locality’; ‘be persistent or continuing in nature’; and ‘be unreasonable’. Introducing a PSPO requires extensive consultation. Any prohibitions need to be carefully thought through to ensure no one group is disproportionately impacted, for example the vulnerable or the homeless. Once introduced the orders are normally valid for up to three years subject to an annual review after which a further consultation exercise is required to either extend, vary or discharge the order.

We are seeking your views on whether the council should introduce a PSPO to tackle the antisocial behaviour and nuisance linked to the possession and recreational use of psychoactive substances (e.g. nitrous oxide gas cylinders ). Simple possession and use are not in itself a criminal offence. The intention though is not to criminalise individuals unless their behaviour causes or likely to cause harassment, alarm, distress, nuisance or annoyance.

This consultation will run from Friday 7<sup>th</sup> May 2021 for a 6 week period. After which your views will be presented to the Councils Cabinet. A proposal of the PSPO will then be agreed and published on the Council’s website – there will be a 14 day period for

comments on the prohibitions. All residents will then be informed about the new PSPO and its prohibitions. A copy of the survey results will also be published on our website.

If you need this information in a different format, please email [Communitysafety@harborough.gov.uk](mailto:Communitysafety@harborough.gov.uk)

## Background information

### Why is the council considering a Public Spaces Protection Order?

During a recent Community safety partnership meeting, Leicestershire Police raised concerns about the increase level of reporting about the misuse of Psychoactive substances, mainly in the form of complaints about the finds of the silver canisters containing Nitrous Oxide. Council also notes a rise in collections of such finds in our Waste services department and complaints to community safety about ASB associated.

Harborough district already has two PSPOs in Place, one around ASB associated to alcohol misuse in public spaces of the town areas of Market Harborough and Lutterworth, the second is district wide about Dog Fouling.

Alongside of this public consultation we are doing a review of all incidents logged with police and council to understand the current level and impact of psychoactive substances in the area. As part of this process, we urge you to get in touch via 101 or the councils community safety team to report any concerns about ASB and littering associated with psychoactive substances.

### Have you been impacted by Psychoactive Substances misuse?

The survey seeks to understand the impact of Psychoactive Substances misuse on our communities. Question 4 asks for your help in identifying the kinds of impacts in our public spaces, for example We have seen an increase in the littering mainly that of discarded Nitrous Oxide gas canisters, as illustrated below.

You may also see recognise people using substances in public places such as town centres and parks, or maybe you have experienced users becoming rowdy and inconsiderate in their behaviour.



## Why do we specifically refer to Nitrous oxide use?

Whilst there are many different types of Psychoactive substances on the open market, we are concerned about an increased preference of Nitrous Oxide by young people as the legal high of choice, and the amount of litter and therefore concern its use causes. The term legal high still has a misunderstanding that it is deemed safe.

Research however suggests using nitrous oxide could present the following health risks:

- nitrous oxide is more water soluble than oxygen which decreases oxygen delivery to the brain and can lead to asphyxia (Ehirim, Naughton, Petróczi; 2017);
- Abuse of nitrous oxide can lead to a vitamin B12 deficiency. Low or low-normal levels of B12 are associated with psychiatric effects such as psychosis, peripheral neuropathy and other medical effects relating to blood flow (Ehirim, Naughton, Petróczi; 2017);
- Severe negative impact on mental health from Novel Psychoactive Substance (NPS) misuse includes; agitation, insomnia, catatonia, anxiety, aggression, psychosis, hallucinations and suicidal ideation (Public Heath England; 2017);
- NPS affect many physical systems in the body, such as; the cardiovascular system, leading to conditions like tachycardia, hypertension, and cardiac arrest; the central nervous system, resulting in seizures, collapse, dystonia; the pulmonary and the renal system; the musculoskeletal system and many more (Karila L, et al.; 2015).

## Our proposal

We propose to introduce a district wide PSPO prohibiting individuals who ingest, inhale, inject, smoke, possess or otherwise use psychoactive substances (e.g. nitrous oxide) and then cause or are likely to cause harassment, alarm, distress, nuisance or annoyance to members of the public. The reason we have suggested the order is district wide is to enable the police and council to respond in the event of displacement which has in the past been an issue in relation to responsible drinking.

## Who do we want to hear from?

We want to hear from everyone who lives, works, visits or who has an interest in the district (e.g. owns property or operates a business).

## How to respond

Our consultation and supporting information, will be available on the council's Website and a questionnaire through Survey monkey.

In addition to the online consultation, we will be publicising the consultation via the following channels;

- Neighbourhood Link
- Ward Councillors
- Information in resident e-newsletter
- Community Safety Newsletter
- Via the schools network
- Facebook and Twitter
- Harborough District Council website
- Police beat newsletter

This is to ensure that anyone potentially impacted can let us know how the proposals might affect them.

## Appendix 1

### Frequently asked questions

### **Who will be impacted by these proposals?**

Individuals who ingest, inhale, inject, smoke, possess or otherwise use psychoactive substances (e.g., nitrous oxide) and who causing or are likely to cause harassment, alarm, distress, nuisance or annoyance to members of the public. Simple possession and use are not in itself a criminal offence.

The intention is not to criminalise individuals unless their behaviour causes or likely to cause harassment, alarm, distress, nuisance or annoyance.

### **What would be the penalties for breaching the order?**

A breach of the PSPO is a criminal offence which can be dealt with by either a fixed penalty notice (FPN) fine of £100 or by way of a prosecution. If prosecuted an individual could be liable to a fine of up to £1000.

### **What happens if the person is under 18 years of age?**

A fixed penalty notice would not be issued to a person under 18. If the situation arose, the young person would be referred to partners to be dealt with through the Anti Social Behaviour Incremental approach . However, if the behaviour is repeated, work could be done with partners in the council and other tools and powers would be looked at to deal with the issue focussing on diversion.

### **What other options are available?**

Not to introduce a PSPO on nitrous oxide. This would mean the only powers available to police and council enforcement officers would be to issue a fixed penalty notice for littering, where evidence is available.

To introduce a PSPO for just possession and/or use. This would criminalise those who are in possession but not committing any anti-social behaviour.

To limit the geographical location in which the PSPO applies. This could create a problem with displacement.

### **What does psychoactive substances mean?**

“Psychoactive substance” means any substance which is capable of producing a psychoactive effect in a person who consumes it and is not an exempted substance.

For the purposes of this prohibition 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.

For the purposes of this prohibition 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.

### **Are there any exemptions?**

Exemptions shall apply in cases where the substances are used for a valid and demonstrable medicinal use, given to an animal as a medicinal remedy, are cigarettes (tobacco) or vaporisers or are food stuffs regulated by food health and safety legislation.

### **When will any changes come into effect?**

Once consultation has been completed and responses analysed, a decision will then be made by the Council’s Cabinet. There is a legal requirement to publicise the notice and signage will need to be displayed on and within the boundary to which the PSPO applies setting out the details of the order and penalties.

### **How long does the consultation last and who will make the final decision?**

The consultation will run from Friday 7th May for a period of 6 weeks, closing on the 18<sup>th</sup> June 2021.

The council will review all responses and the final decision will be made by the council Cabinet.

The final decision will also be publicised on the council’s website.