

**RECORD OF DECISION TAKEN UNDER
DELEGATED AUTHORITY FROM
EXECUTIVE/COUNCIL/COMMITTEE
DELEGATED POWERS OUTLINED IN
THE CONSTITUTION**



DELEGATED OFFICER DECISION TAKEN BY:	Strategic Director of Adults and Health
DELEGATED BY:	Executive (date of delegation)
IN CONSULTATION WITH:	Executive Member
PORTFOLIO AREA: Adults Services and Prevention	

SUBJECT: Wildfires Public Space Protection Order

1. DECISION

That the Strategic Director of Adults and Health implements a Public Space Protection Order (PSPO) under the powers set out in the Anti-Social Behaviour, Crime and Policing Act 2014. This is to control behaviour on the moorland (FIRE RELATED ACTIVITIES), and prevent the significant impact of wildfires upon the community and services.

2. REASON FOR DECISION

Blackburn with Darwen Borough Council, Bolton and Chorley Council are working together with Lancashire and Greater Manchester Fire & Rescue Services, Lancashire and Greater Manchester Police and United Utilities to develop a response to the growing number of moorland fires. A Public Space Protection Order (PSPO) would help prevent and disrupt high risk activities across moorland where boundaries cross all three authorities. The following is proposed within the PSPO:

- 1) The activities which are prohibited at all times by this order will be:
 - i) The lighting of fires, barbeques, fireworks, Chinese Lanterns
 - ii) Using any article/object which causes a naked flame which poses a risk of fire
- 2) Persons are required to surrender anything in their possession which an authorised officer reasonably believes to be an article that has been used OR is likely to be used in conjunction with the prohibited activities referred to in this order

A copy of the draft PSPO is included as Appendix 1.

If granted, the PSPO would be valid for three years, after which it must be reviewed. If the review supports an extension, it can be extended for a further three years, and there is no limit on the number of times a PSPO can be renewed.

In order to comply with the statutory legal requirements, the Local Authority must consult with the local Chief Officer of Police and the Police and Crime Commissioner, as well as owners and occupiers of the land within the Restricted Area where reasonably practicable, and appropriate community representatives. This Statutory Consultation commenced on 18th January 2023 and ended on 15th February 2023. The outcome of this consultation is discussed in Appendix 2.

The Anti-Social Behaviour, Crime and Policing Act 2014 policy has been approved by the Council and authorises the use of PSPO's to assist in reducing ASB in public places.

A PSPO can be made if the local authority is satisfied that the following conditions are met:

- that there is evidence of activity which has had / likely to have a detrimental effect on the local community's quality of life;
- that the impact of this activity justifies the restrictions;
- that the activities are, or are likely to be, of a persistent and continuing nature, and unreasonable.

Officers from the Community Safety Team sit on a working group chaired by Lancashire Fire and Rescue Service which is looking at the response to this issue as a whole. The implementation of a PSPO has been requested through this group with strong support from partners, in order to prevent further decimation of moorland. The PSPO is justified because in the past five years alone, there have been two major Moorland fires in the Darwen Moor/Winter Hill area, which have cost local landowners over £1,000,000. This is not factoring in the cost of the response effort from Police, Fire and Rescue, etc. These wildfires ravaged over 2000 hectares of SSSI land (Sites of Special Scientific Interest) and released over 15,000 tons of carbon into the environment. The fires were also massively damaging to local wildlife, destroying over 300 nests/broods, killing over 1200 young birds, and killing millions of small mammals, invertebrates and frogs. An impact statement from the Lord's Hall Estate who owns part of the Moorland is included as Appendix 3. An impact statement from United Utilities who own part of the Moorland is included as Appendix 4. An impact statement from Natural England is included as Appendix 5.

Unfortunately, there have been more than just these two fires affecting Moorland within the Borough; Lancashire Fire and Rescue Service have provided a heat map for the past five years, which shows outdoor fires that have occurred around Darwen Moor, Winter Hill and Anglezarke. This data was used to determine the Proposed Area and a copy of it is included as Appendix 6. Lancashire Fire and Rescue Service also provided a spreadsheet containing further information relating to outdoor fires in Darwen Moor. This is included as Appendix 7.

To help reduce the risks from moorland fires, Blackburn with Darwen Borough Council, Bolton Council and Chorley Council are proposing to each bring in a PSPO to protect an area of moorland from wildfires given the areas crosses all 3 local authority boundaries.

There are certain exemptions to the PSPO required to allow legitimate land management practices and organised events. Such circumstance would require permission of the landowner or council, and for that permission to be available for inspection by an enforcing officer. Failure to provide evidence of such permission would be considered a breach of the PSPO.

Due to the nature of the moorland, a PSPO would need to be adopted by all three councils in order to be effective due to the contiguous land border. If adopted the orders would all ban the same behaviours and start from the same date.

3. BACKGROUND

The Anti-Social Behaviour, Crime and Policing Act 2014 provided Local Authorities with the power to tackle anti-social behaviour using Public Space Protection Orders. PSPO's are designed to stop individuals or groups committing ASB in a public space. The legislation allows for a PSPO to run for a period of up to three years. The tools and powers were approved by the Council Executive in August 2015 with delegated authority to the Executive Member and Strategic Director of Adults and Health.

Wildfires can be of varying size and intensity every year especially during dry spells and are almost invariably caused by human action either deliberate or accidental, such as unattended disposable barbecues. Wildfires destroy the fragile moorland which can take decades or longer to recover and have an impact on local communities from smoke as well as the cost to the landowner replacing fences and borders.

Moorland fires can easily develop into a major incident putting a strain on emergency services. They can have significant financial costs and cause long term damage to wildlife, livestock, habitat, farmland and property.

It is estimated that the recovery phase is no less than 5 years.

4. KEY ISSUES AND RISKS

There are no identified risks associated with the implementation of this order.

5. FINANCIAL IMPLICATIONS

A number of organisations are contributing to the cost of implementing the PSPO acknowledging its size, and range of access points affecting signage and communication needs. This includes; Lancashire Fire and Rescue Service United Utilities and the Community Safety Partnership

Approximately 60 PSPO signs will be placed in all three Proposed Areas to inform the public of the prohibitions, with an estimated cost of £3900. There could be further costs accrued if posts are required to be installed for the signs however, Lancashire Fire and Rescue Service are actively checking the proposed sign locations, in order to ensure there is a viable post or fence available and therefore prevent further cost.

The implementation of the PSPO is to be supported by literature, such as leaflets which can be used in schools to spread awareness. This will be paid for by the land owners and Lancashire Fire & Rescue.

6. LEGAL IMPLICATIONS

Section 72 of the Anti-Social Behaviour, Crime and Policing Act 2014 states that a Local Authority must have particular regard to the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the Convention. In this case, the Order is not of a type that is likely to prevent anyone from exercising their freedom of expression nor assembly.

Following the statutory notification period the Order will be approved and sealed and it must remain on file and be published on the Council website.

Breach of a PSPO is a criminal offence. An individual can be issued with a fixed penalty notice of £100 fine on the spot which must be paid within 14 days; or on summary conviction to a fine not exceeding level 3 (£1000) on the standard scale.

7. RESOURCE IMPLICATIONS

There are no resource implications as a direct result of the Order for the local authority. Lancashire Constabulary will be the primary body responsible for the application and enforcement of the conditions; there is a Rural Task Force within the Eastern Division of Lancashire Constabulary who have pledged that they will take responsibility for the enforcement of the PSPO in Darwen. The Proposed Area will be included on their patrol plan, and they will patrol the area when the weather forecasts indicates that it will be particularly hot or dry. They will also be receiving a training input about wildfires and PSPOs, which will be delivered by Lancashire Constabulary Civil Order Prevention Officers. The Rural Task Force have a strong relationship with the Lancashire Fire and Rescue Service, who will share intelligence with the Police. Also, local volunteer groups and charitable organisations are willing to offer support provide intelligence, and co-ordinate feedback as needed.

8. OPTIONS CONSIDERED AND REJECTED

After consultation with the Police, Fire Service and Local Authority, it was deemed that this PSPO would sit alongside various educational programmes, social media campaigns and advertising campaigns to raise awareness of the dangers of wildfires. However, in terms of risk prevention, this is the strongest tool available to us both in prevention terms and as a means of enforcement prior to an incident.

9. CONSULTATIONS

As part of the statutory legal process, a 4-week consultation period ran from 18th January 2023 to 15th February 2023. This was conducted in order to invite the view of interested parties around the implementation of the PSPO. Statutory and public consultees, including the local Policing body and the Police and Crime Commissioner were consulted, as were relevant community representatives, local residents and the owners and occupiers of the land within the Proposed PSPO Area.

The Local Authority must be satisfied that the introduction of such an order is both proportionate and justified. The results of the consultation are detailed in Appendix 2.

The results of the consultation are detailed in Appendix 2. Feedback has been incorporated into the conditions of the order, specifically the inclusion of permission agreed by the council or land owner for the purposes of land management and organised events.

10. DECLARATION OF INTEREST

All Declarations of Interest of the officer with delegation and any Member who has been consulted, and note of any dispensation granted should be recorded below:

VERSION:	1
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CONTACT OFFICER:	Veronica Roberts
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DATE:	23/06/2023
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BACKGROUND DOCUMENTS:	Appendix 1 – draft copy of PSPO Appendix 2 – Consultation report Appendix 3 – Lord’s Hall Estate Impact Statement (Redacted) Appendix 4 – United Utilities Impact Statement Appendix 5 – Natural England Impact Statement (Redacted) Appendix 6 – Lancashire Fire and Rescue Heat Map Appendix 7 – Lancashire Fire and Rescue Spreadsheet Equality Impact Assessment Checklist
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