

Cheltenham Borough Council

Cabinet 13 November 2012

Application from Police for Local Authority Consent for a Dispersal Order – Cheltenham Town Centre]

Accountable member	Cabinet Member, Housing and Safety
Accountable officer	Sonia Phillips, Director, Well Being & Culture
Ward(s) affected	Lansdown
Key Decision	No
Executive summary	<p>In response to growing concerns about current levels of anti-social behaviour in Cheltenham town centre and in accordance with the provisions of Part 4 Section 30 of the Anti-Social Behaviour Act 2003, Police wish to exercise powers to disperse groups and remove persons under 16 from Cheltenham Town Centre for the period from 00:01 hours on 30 November 2012 to 23:59 hours on 24 May 2013. The consent of the local authority is required for the creation of a dispersal order. Because of the potential public interest and community safety issues involved in the issue, such an application should be considered by Cabinet.</p>
Recommendations	<p>It is therefore recommended that:-</p> <p>Cabinet consent be given to the Relevant Officer of Gloucestershire Constabulary that powers conferred by section 30 of the Anti Social Behaviour Act 2003 are to be exercisable (subject to the Dispersal Order Protocol attached at appendix C) for the period from 00.01 hours on 30 November 2012 to 23:59 hours on 24 May 2013 in respect of the area as outlined on the map at appendix B.</p>
Financial implications	<p>There are no financial implications arising from this report.</p> <p>Contact officer: Sarah Didcote</p> <p>Sarah.Didcote@cheltenham.gov.uk, 01242 264125</p>

<p>Legal implications</p>	<p>The Legal provisions regarding dispersal orders are set out in sections 30 to 36 of Part 4 of the Anti-Social Behaviour Act 2003.</p> <p>In summary, section 30 provides that where a police superintendent or above rank has reasonable grounds for believing that members of the public have been (1)(a) intimidated, harassed, alarmed or distressed in public places in a relevant locality in his/her police area <u>and</u> (1)(b) that anti-social behaviour is a significant and persistent problem in that relevant locality, that he may make a written authority (with the consent of the local authority section 31(2)) allowing uniformed constables to disperse groups of 2 or more people (Section 30(4)) and to remove persons under the age of 16 between the hours of 9pm and 6am to their place of residence from the relevant locality (unless the child is likely to suffer significant harm) (Section 30(6)).</p> <p>The written authority from the police superintendent or above rank should give a relevant concise summary of the material that gave rise to the officer's belief that the authorisation was required (<i>Sierney v DPP</i> [2006]).</p> <p>A plan of the relevant locality clearly defining boundaries should be attached to the authorisation. The period of authorisation cannot exceed 6 months (section 30(2)) although an extension may be applied for and authorised at a later date. An authorisation may not be given without the consent of the Local Authority (section 31(2)).</p> <p>Contact officer: Sultana Begum , Sultana.Begum@tewkesbury.gov.uk, 01242 272695</p>
<p>HR implications (including learning and organisational development)</p>	<p>No Comment</p> <p>Contact officer: Julie McCarthy Julie.McCarthy@cheltenham.gov.uk, 01242 264355</p>
<p>Key risks</p>	<p>Refuse to consent to the Dispersal Order</p> <p>Statement on Risk</p> <p>The Cabinet is entitled to refuse consent to the Police if it is not confident that the proposed Dispersal Order is an appropriate or proportionate response to the current reported problems of anti-social behaviour in the area. Cabinet faces the risk of adverse public reaction either for supporting a measure which will be seen in some quarters as a draconian restriction on the rights of young people to socialise, or alternatively for failing to support a reasonable response to an issue which is known to be at the top of most residents' priorities.</p>
<p>Corporate and community plan Implications</p>	<p>Consent to the Dispersal Order would support the current Council Business Plan and the Cheltenham Community Safety Partnership working towards reducing levels of crime, anti-social behaviour and the fear of crime.</p>
<p>Environmental and climate change implications</p>	<p>None</p>

1. Background

- 1.1 The area concerned is part of the main town centre area within the boundaries of Clarence Street, Ambrose Street and the High Street, Cheltenham. This area includes all open spaces, highways up to building lines and car parks within the area defined. This proposed dispersal order zone incorporates 4 of the Town Centre's main anti-social hotspots i.e. St Mary's Churchyard, Outside McDonalds, High Street, Jenner Gardens and bench outside Hutchinson's.
- 1.2 Figures show that year on year for 2011 and 2012 up to July 2012 a large percentage increase in incidents of anti-social behaviour.

	2011	2012	
March	1	12	1100% increase
April	9	13	44% increase
May	14	12	14% decrease
June	17	23	35% increase
July	14	14	No change
August	19	10	47% decrease
September	11	14	27% increase
October	12	14	17% increase

The figures show that ASB within the proposed dispersal zone continues to be an issue. The most common location these incidents occur is outside McDonalds on the High St.

In May 2009, Cheltenham Town Policing Team obtained a dispersal order covering the whole of the Town Centre. This was aimed at a specific group of youths who were causing problems across the town centre. Shortly after the dispersal order was put in place the group dispersed and the order never had to be implemented and used against any group. This was extremely positive as the incidents decreased sharply and the community felt safer. The group of offenders no longer caused problems in the Town Centre.

If the Cabinet consents to the police request, the powers given to the police are quite extensive. The police will have to publicise the authorisation.

If a constable (or PCSO) in uniform has reasonable grounds for believing that the presence or behaviour of a group of two or more persons in the proposed area of public place has resulted or is likely to result in any members of the public being intimidated, harassed, alarmed or distressed he/she can: require the group to disperse; require any member of the group who does not live in the locality to leave, and/or prohibit their return their within a period up to 24 hours.

If between the hours of 9pm and 6am, the officer finds a person under the age of 16 and not under the effective control of a parent or responsible person over the age of 18, he/she has the power to remove that young person to their place of residence unless there is a significant risk of harm to that young person.

2. Reasons for recommendations

- 2.1 If agreed, the Dispersal Order will give police the means to reduce such anti-social behaviour from this area of the town centre which will improve the quality of life for staff, residents and visitors to the town, which would support the current Council Business Plan working towards reducing levels of crime, anti-social behaviour and the fear of crime.

Cabinet members are well aware of the importance which residents and visitors to Cheltenham attach to issues of public safety, and will, I am sure, wish to support the Police and other partners in any efforts to achieve a safe and prosperous town centre where people of all ages can feel comfortable in going about their lawful business without fear of intimidation or harassment. Members will also be aware of earlier successful deployments of Dispersal Orders.

The current proposal is for a Dispersal Order on a significant scale, encompassing an area which would be recognised as part of the town centre of Cheltenham, and Cabinet will wish to feel confident that the size of the proposed area is proportionate to the scale of the problem.

3. Alternative options considered

- 3.1 Cabinet members may question why the Police believe that the powers which flow from a Dispersal Order should be any more effective than other powers already available, such as Anti Social Behaviour Orders or Acceptable Behaviour Contracts. To understand the police rationale, a Dispersal Order Protocol is attached as Appendix C, (but I have also agreed with the Leader that the Police Superintendent for the Town Centre (or a nominated representative) should be invited to address the Cabinet meeting so that members may question them about it).

4. Consultation and feedback

- 4.1 Community engagement has been completed within the proposed area to get a better understanding. Community groups, businesses, councillors and residents have been spoken to get their views and opinions.
- 4.2 The Town Centre Neighbourhood-Coordination Group discussed the proposed dispersal order on the 9th August 2012. At the meeting the group decided to support the dispersal order application. The group recognised the issues that were occurring within the proposed area. These issues were not just incidents that had been reported to Police but also community concerns raised to the local Councillor, local businesses, friends of groups, Neighbourhood Watch Co-ordinators, Community Ambassadors and the West End Partnership. The group raised concerns that the dispersal order may give the opinion the area is not safe place to go however overall stated that they wanted the dispersal order on the basis that it will be used to target offenders that disrupt the area for members of public going about their daily business.
- **Chair Town Centre NCG** – Believes the ASB is bringing down the area. It's around the bus stop for the train station so would put visitors off coming back to Cheltenham.
 - **Cheltenham Ambassador for People and Services (Champs)** – An individual feels intimidated by groups of youths in the area and has witnessed people shouting, swearing and using threatening behaviour in St Mary's Churchyard.
 - **Friends of Jenner Garden and St Mary's Churchyard** have both discussed the dispersal order. There is currently an action group set up looking at improving St Mary's Churchyard over the next year to link it in with the various other developments in the area. Due to the ASB that occurs in the churchyard they were very supportive of the dispersal order and believed that by tackling the ASB more people would want to use the Churchyard. The Friends of Jenner Garden have previously resorted to locking the garden in order to stop groups of street drinkers gathering there. They have seen less and less people walking through the garden and they believe it is due to the issues that are happening there.

- **Secretary Friends of Jenner Gardens** feels frightened and distressed about walking through Jenner Garden due to the current issues.
- **McDonald's** As identified in the application McDonald's suffer a lot of ASB incidents in the dispersal order zone. Manager of McDonald's has been contacted and explained that on a daily occurrence her staff are suffering verbal abuse from young people in the area. This has made staff feel very intimidated and is impacting on business as customers do not feel safe going to the restaurant. She fully supports the dispersal order and the action Police have taken before now.
- **Businesses** Approximately 40 businesses in the area have been spoken to in the area and no one contested the dispersal order. Of those spoken to 11 completed surveys which are attached to the application. Below are some of the key comments: Also please see 'Press Release' below re businesses in Clarence Street.
- **Children's Library** – customers are put off visiting due to alcoholics, homeless and drug takers hanging around the area.
- **Brewery** – experienced criminal damage to shops from groups of youths.
- **Total LTD** – Staff have had to watch daily males urinating in front of their office windows. They have also witnessed sexual acts and drug taking.
- **Bon Appetite** – Customers feel intimidated by the groups of youths.

Posters

Over 20 posters were displayed in shop windows around the border of the proposed dispersal order zone. These posters informed the public of the intention to apply for a dispersal order and how to contact the Police to raise their views and opinions. No response to the posters.

Press Release

A press release was put out by Gloucestershire Police on 1st October 2012 which Ward Councillor Barbara Driver was also quoted in supporting the application. The release explained the area and reasons for the dispersal order and how to contact the Police to give any views or opinions. Following this publication an email was received from a group of businesses in the Clarence St area who said they were against the dispersal order. Police tried to contact them to explain the dispersal order and how it works however they were not interested in this.

- 4.3** Feedback is very much in favour of this action being taken to reduce incidents of anti-social behaviour which is having a very negative effect on the quality of life for individuals and communities alike within this area. It is also believed that by having the Order in place it will not only help to reduce the incidents of anti-social behaviour in the area but that those causing anti-social behaviour will see that the police and community are taking the issue extremely seriously and that their behaviour will not be tolerated.

5. Performance management –monitoring and review

5.1 If agreed, the Dispersal Order will be monitored by police throughout and a full review undertaken at it's conclusion.

Report author	Contact officer: Trevor.Gladding@cheltenham.gov.uk, Tel No:- 01242 264368
Appendices	A. Risk Assessment B. Map outlining the proposed Dispersal Order Area
Background Papers	<i>None</i>

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	Refusal to agree to Dispersal Order may lead to unacceptable escalation of anti-social behaviour in this area	Trevor Gladding	13.11.12.	2	2	4	Accept	None required at present			

Explanatory notes

Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)

Likelihood – how likely is it that the risk will occur on a scale of 1-6
(1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)

Control - Either: Reduce / Accept / Transfer to 3rd party / Close

Guidance

Types of risks could include the following:

- Potential reputation risks from the decision in terms of bad publicity, impact on the community or on partners;
- Financial risks associated with the decision;
- Political risks that the decision might not have cross-party support;
- Environmental risks associated with the decision;
- Potential adverse equality impacts from the decision;
- Capacity risks in terms of the ability of the organisation to ensure the effective delivery of the decision
- Legal risks arising from the decision

Remember to highlight risks which may impact on the strategy and actions which are being followed to deliver the objectives, so that members can identify the need to review objectives, options and decisions on a timely basis should these risks arise.

Risk ref

If the risk is already recorded, note either the corporate risk register or TEN reference

Risk Description

Please use “If xx happens then xx will be the consequence” (cause and effect). For example “If the council’s business continuity planning does not deliver effective responses to the predicted flu pandemic then council services will be significantly impacted.”

Risk owner

Please identify the lead officer who has identified the risk and will be responsible for it.

Risk score

Impact on a scale from 1 to 5 multiplied by likelihood on a scale from 1 to 6. Please see risk [scorecard](#) for more information on how to score a risk

Control

Either: Reduce / Accept / Transfer to 3rd party / Close

Action

There are usually things the council can do to reduce either the likelihood or impact of the risk. Controls may already be in place, such as budget monitoring or new controls or actions may also be needed.

Responsible officer

Please identify the lead officer who will be responsible for the action to control the risk.

For further guidance, please refer to the [risk management policy](#)

Transferred to risk register

Please ensure that the risk is transferred to a live risk register. This could be a team, divisional or corporate risk register depending on the nature of the risk and what level of objective it is impacting on