
**Decision Session for Housing & Safer
Communities**

17th December 2020

Report of the Interim Director of Place

PROTEST VIGIL AT BPAS CLINIC WENLOCK TERRACE, YORK

Summary

1. This report sets out the detail of a recent vigil by anti-abortion protestors in the vicinity of the British Pregnancy Advisory Service Clinic at Wenlock Terrace and responds to a petition by residents calling for the Council to take action against future demonstrations. The petition has been signed by 2363 people and calls for City of York Council to create Safe Zones to protect service users and residents from harassment outside abortion clinics in York.

Recommendations

2. The Executive Member for Housing and Safer Neighbourhoods is asked to consider the following actions in response to the petition:
 - a) For City of York Council to commit to engage closely with BPAS to support their service delivery in York.
 - b) Through engaging with BPAS to enable clinic users to report their experience of any future protests via BPAS and with anonymity.
 - c) To consider other ways that those effected can report their experience of any future protests in the vicinity of clinics, such as an online reporting form or contact point as other councils have used.
 - d) For City of York Council to work closely with North Yorkshire Police to monitor protest activity taking place in the vicinity of the clinic and to gather evidence that will support future enforcement action through the use of Community Protection Notice and/or a Public Space Protection Order as appropriate.

Background

3. In October 2020, a series of anti-abortion protest vigils took place outside the British Pregnancy Advisory Service Clinic on Wenlock Terrace. This was part of a nationwide anti-abortion protest with several vigils having been reported in other cities and towns across England.
4. Organisers of the vigil stated that '40 Days for Life' was a peaceful, socially distanced prayer campaign being staged outside the clinic. However, residents in the Wenlock Terrace area and other York residents were concerned by the protests which they saw as intimidating. As a result, leaflets were distributed in the area and a petition of some 2,363 signatures was presented to City of York Council calling for City of York Council to create a safe zone around the clinic.
5. Throughout the 40 days of protest, regular visits were made by North Yorkshire Police in the light of heightened community interest to observe the behaviour of those taking part in the vigil. No criminal offences were committed and the protesters remained in silent vigil throughout the period of the protest. The vigil took place daily between 8am and 8pm.
6. The clinic has been closed since 23rd March due to COVID and remains closed. Treatment is being made available using online and phone consultations and using the service of other BPAS clinics outside York.

Consultation

7. The Head of Community Safety undertook consultation to assess the impact of the protest on the local community the police and BPAS. Feedback has also been received from local ward councillors and local residents. This will be extended to take into consideration the views of the users of the GP surgery in which the clinic is based. It is clear that although these protests have been silent and not actively aggressive they have been a matter of concern for a significant number of York residents.
8. BPAS are keen to work with the City of York Council to share their experience of working with other local authorities where similar protests have impacted negatively on the local community.

Analysis

9. The London Borough of Ealing became the first local authority to introduce a Public Space Protection Order (PSPO) around an abortion clinic after overcoming legal challenge by religious activists who claimed the ban interfered with their right to freedom of expression. In August 2019 the Court of Appeal upheld the PSPO and in March 2020 the Supreme Court refused leave to appeal. It has since been appealed to the European Court of Human Rights which remains outstanding. Manchester is in the process of creating a 'buffer zone' using PSPO to ban anti-abortion protests outside a clinic in Fallowfield.
10. PSPOs are contained in the Anti-social Behaviour, Crime and Policing Act 2014, and can be used to prohibit specified activities and/or require certain things to be done by people engaged in particular activities within a defined restricted area in order to prevent or reduce any detrimental effect caused by those activities to local people. They allow Local Authorities to deal with existing and future problems. PSPOs are council led and focus on an identified problem in a specific location. A PSPO can apply to specified individuals / those within a category, specified times / all times, specified circumstances / all circumstances. In order to designate a restricted area a PSPO, the local authority must publicly consult with the community and key stakeholders including the Police and Police and Crime Commissioner, Public Health and the CCG. They must also demonstrate sufficient evidence that the behaviour the order is aiming to address is causing a detrimental impact on the community in that area, and that the PSPO prohibition(s) will prevent / reduce the risk of that behaviour continuing, occurring or recurring in the restricted area. All the terms of a PSPO must be proportionate to the behaviour. This must be evidenced by reports of criminal or anti-social behaviour causing alarm, harm or distress to the community or a section of that community. Once sufficient evidence is identified, the local authority must carry out a three week period of consultation with residents and stakeholders which must substantiate the need for an order to be granted. There must also be a consideration of necessity.
11. Both Ealing and Manchester took this course of action as a result of experiencing significant numbers of protestors outside clinics for a number of years. These protests have included continuous intimidation and harassment of the staff and patients working at and attending the clinics. Protestors have been vocal, shouting 'murderer' and have also committed offences of graffiti and flyposting in the area with anti-abortion messages. Manchester are expecting the PSPO to be challenged on the

grounds of interfering with freedom of expression and the right to peacefully protest [the 6 week deadline for the legal challenge to the PSPO should have passed around 20th Nov. The outcome is not yet known. If City of York Council were to pursue an application for PSPO without a substantial body of evidence this could be subject to a legal challenge and undermine the strong case law precedents that have now been built up in relation to this issue. This body of evidence would need to show protestors behaving in a way which has caused alarm, harm and distress. The affected persons must have links to the locality which includes residents, as well as those who visit or work in the locality. The City of York Council will continue to liaise with the clinic and BPAS and will consider the use of a PSPO in future if sufficient evidence supports it. In line with other PSPOs, this consultation would be conducted via an online survey available through the City of York Council website.

12. The Anti-social Behaviour, Crime and Policing Act 2014 also gives the local authority the power to issue a Community Protection Notice (CPN) aimed at preventing unreasonable behaviour that is having a detrimental effect, of a persistent or continuing nature, on the quality of life of those in the locality. CPNs are the final element of an escalating process of warning those responsible of the impact of their behaviour and requirements to comply with the warning. Failure to comply with the warnings may result in the issue of a CPN for which failure to comply is a criminal offence, and can be dealt with through Council enforcement processes, including the issuing of a FPN / prosecution. A CPN carries a right of appeal to the Magistrates' Court. PSPO requires a considerable period of evidence gathering and consultation to be applied. CPN is a faster resolution allowing the whole process from warning to notice within a 24 hour period if necessary.
13. The Council is keen to work closely with BPAS and North Yorkshire Police to ensure that swift action is taken to address the potential impact of any similar protests in the future.

Council Plan

14. The issue addressed within this paper falls within the Council Priority of Safe communities and also Good Health and Wellbeing.

Implications

15. All relevant implications of this report have been considered

Financial - The costs associated with delivering the recommendations can be contained within Community Safety budgets

- **Human Resources (HR)** - None
- **One Planet Council / Equalities** – These protests are targeting a specific group of people who have a right to access legally provided services without fear of intimidation. Article 11 of the Human Rights Act 1998 allows for peaceful protest subject to consideration of the rights of others.
- **Legal** –Any failure to follow council policy / legislative procedure / guidance with any of the processes discussed above will leave the Council open to reputational, financial and legal risk. All PSPO / CPN terms must be no more than is necessary, and all must be reasonable, enforceable, and proportionate. Consideration must be had of the relevant Council enforcement policy / policies. All proposed terms must be considered by Legal Services for advice prior to consultation / issue.
- **Crime and Disorder** – PSPO and CPN fall within the remit of the Community Safety Team as the lead service on addressing Anti-Social Behaviour under the Anti-social behaviour Crime and Policing Act 2014
- **Information Technology (IT)** - None
- **Property** -None
- **Other**

Risk Management

18. Taking action to support an application for a public space protection order without sufficient legal evidence could result in legal challenge by the organisers of the protests.
19. Not taking action would impact on the users of the clinic by potentially intimidating and deterring people who have a legal right to access the services provided by the clinic. It would also impact on the local residents by subjecting them to material in the form of banners, posters and flyers which may include distressing content.

Contact Details

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Report **Date** Insert Date
Approved tick

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Wards Affected: List wards or tick box to indicate all **All**

For further information please contact the author of the report

Background Papers:

None

List of Abbreviations Used in this Report

PSPO – Public Space Protection Order
CPN – Community Protection Notice