

## **Delegated Officer Report**

<b>Decision Maker:</b>	<b>Cllr Arooj Shah, Deputy Leader and Portfolio Lead - Social Justice and Communities Carol Brown, Director – Environmental Management</b>
<b>Date of Decision:</b>	<b>27th June 2019</b>
<b>Subject:</b>	<b>Proposed Commencement of Consultation Exercise to Consider Making of a Public Spaces Protection Order in Response to Moorland Fires</b>
<b>Report Author:</b>	<b>Lorraine Kenny, Community Safety Manager</b>
<b>Ward (s):</b>	Saddleworth North Saddleworth South Saddleworth West and Lees Shaw St James

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**Reason for the decision:** To commence a statutory consultation exercise as the first stage of consideration of the use of the powers contained within the Anti-Social Behaviour Crime and Policing Act 2014 to implement a Public Spaces Protection Order in order to control behaviour on the moorland (FIRE RELATED ACTIVITIES) and prevent the significant impact of wildfires upon the community and services.

**Summary:** On 24 June 2018, a fire broke out on Saddleworth Moor. Within 2 days, the fire covered an area of approximately 2000 acres & a major incident was declared. The fire continued to grow and became the most disruptive & widespread moorland fire in living memory. The fire eventually destroyed approximately 4500 acres of moorland, resulted in approximately 150 residents being evacuated from their homes in Carrbrook, Tameside.

Firefighters from 15 Fire & Rescue Services, together with over 100 army personnel from the Royal Regiment of Scotland, and many other

partner agencies were involved in fighting the fire. The fire resulted in destruction of wildlife, farm animals and vegetation over a large area.

The air quality across the entire North West of England was impacted upon due to the smoke caused by the fire. Colleagues from Tameside have advised that at its height, smoke from the fire was visible from space and could clearly be seen to affect the area between Saddleworth Moor, Wirral and Morecambe Bay.

Moorland fires are not uncommon. The 2018 fire was exceptional in its size and impact on local communities, but wildfires on moorland areas occur every year, and each fire runs the risk of developing into a disruptive and damaging incident which, like the 2018 fire, could cost many millions of pounds to deal with.

It is often difficult to identify the causes of such fires – by the nature of these incidents, vital evidence is often destroyed. Arson can never be ruled out, but alongside blatant deliberate acts, there is strong evidence to suggest that many moorland wildfires are caused by careless and/or inconsiderate behaviour, such as the lighting of camp fires and bonfires, the use of charcoal and disposable barbecues, fireworks and “Chinese lanterns”.

In the last two years there have been a significant number of wildfires reported and responded to on moorland across Oldham and Tameside. Between June 2018 and May 2019 Greater Manchester Police received 27 reports of moorland fires across various areas on Saddleworth Moor in Oldham. Some of the reports related to fires which were already being attended to by the emergency services and military personnel, but which had spread, or fires which had previously been extinguished but had re-ignited. During the same period 10 reports were made to police of people having barbecues on the moorland.

The fires have caused major loss to the land, the death of wildlife and damage to property. Without any further fires occurring, it is estimated that the land will take at least five years to recover and approximately ten years for the wildlife to return.

Oldham Council and Tameside Council are

working together with the Greater Manchester Fire and Rescue Service, Greater Manchester Police and United Utilities, who own a significant portion of the moorland, to develop a response which would prevent and disrupt high risk activities, including lighting of fires, possession and use of barbecues, fireworks, Chinese lanterns and other open flame heat sources upon the moorland.

In addition to the impact of such fires on land and local communities, there is significant concern relating to the demand which further fires will place upon services. It is also recognized that in the event of further fires demand is likely to be placed on neighbouring authorities as part of mutual aid arrangements. This by its very nature reduces the resources available locally to respond to need.

The Anti-Social Behaviour, Crime & Policing Act 2014 introduced a number of measures which are available to the police & local authorities in dealing with a wide range of matters which have a negative impact on local communities. One of the options available to local authorities is the introduction of Public Spaces Protection Orders (PSPOs) which can be used to prohibit certain activities which have had a detrimental effect on the quality of life of those in the locality.

Oldham Council is working in partnership with Tameside Council and United Utilities, which is a major landowner of some of the moorland area, to develop a response which will reduce the likelihood of further fires. Tameside Council are undertaking their own statutory consultation exercise, and should it be determined that a Public Spaces Protection order is appropriate, then both Oldham Council and Tameside Council intend to make identical Orders. This will reduce the possibility of confusion of the terms of any Orders along the contiguous land border.

***What are the alternative option(s) to be considered? Please give the reason(s) for recommendation(s):***

1. To undertake a communications exercise to inform the public of the risk of fires due to specific activities. This would be the provision of information only and would not result in any enforceable activity unless a substantive criminal offence e.g. arson or criminal damage was proven to have occurred
2. Not to consider making a PSPO and to

respond to fires as they occur.

**Consultation: including any conflict of interest declared by relevant Cabinet Member consulted.**

A statutory consultation exercise pursuant to s72 of the Anti-Social Behaviour, Crime and Policing Act 2014 would be undertaken.

The exercise would include consultation with;

- statutory stakeholders (Chief Constable and Police and Crime Commissioner
- local elected members
- identifiable interested community groups (e.g. Ramblers Association, Moorland User Groups)
- identifiable landowners (subject to exceptions within the legislation)
- residents and visitors (through website and printed literature in the locality of the proposed Restricted Area)

**Recommendation(s):**

To support the commencement of the statutory consultation exercise in accordance with the provisions of the legislation.

**Implications:**

*What are the financial implications?*

There are no additional costs with commencement of a statutory consultation exercise. Any future costs that may be incurred as a result of the decision to go ahead with the Public Spaces Protection Order will be covered in a subsequent report. C. Holdaway

*What are the legal implications?*

Before making a Public Spaces Protection Order, the Council must be satisfied on reasonable grounds that two conditions are met.

The first condition is that-

- a) activities carried on in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality, or
- b) it is likely that activities will be carried on in a public place within that area and that they will have such an effect.

The second condition is that the effect, or the likely effect, of the activities-

- a) is, or is likely to be, of a persistent or continuing nature,
- b) is, or is likely to be, such as to make the activities unreasonable, and
- c) justifies the restrictions imposed by the Order.

Before making a Public Spaces Protection Order the Council must consult the Police, appropriate community representatives and the owners or occupiers of land within the area covered by the order. However, the requirement to consult owners or occupiers of land applied only to the extent that it is reasonably practicable to do so.

It is an offence under section 67 of the Anti-Social Behaviour, Crime and Policing Act 2014 for any person without reasonable excuse to do anything that the person is prohibited from doing by a public spaces protection order or to fail to comply with a requirement to which the person is subject under a Public Spaces Protection Order. A person guilty of an offence under section 67 is liable on summary conviction to a fine not exceeding £1000. (A. Evans)

There are no procurement implications for the consultation exercise.

What are the **procurement** implications?

What are the **Human Resources** implications?

Not Applicable

**Equality and Diversity Impact Assessment** attached or not required because (please give reason)

A specific EIA has not been completed. During the consultation period, analysis of all the available information will be included and there will be exploration and full consideration of the impact upon persons with protected characteristics as defined within the Equality Act 2010.

What are the **property** implications?

There are no property implications for the consultation exercise.

**Risks:**

There are no identifiable risks in relation to the consultation exercise. If a PSPO is subsequently implemented then this will reduce the risk of harm to life, land and property through fire.

**Co-operative agenda**

The making of the Public Space Protection Order is fully aligned with the Council's Co-operative agenda in creating safe neighbourhoods.

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Has the relevant Legal Officer confirmed that the recommendations within this report are lawful and comply with the Council's Constitution?

Yes

Has the relevant Finance Officer confirmed that any expenditure referred to within this report is consistent with the Council's budget?


Yes

Are any of the recommendations within this report contrary to the Policy Framework of the Council?

No

**List of Background Papers under Section 100D of the Local Government Act 1972:**

<b>Title</b>	<b>Available from</b>
Anti-Social Behaviour, Crime and Policing Act 2014	Community Safety Services Officer Name: Mrs Lorraine Kenny Contact No: 0161 770 1582

<b>Report Author Sign-off:</b>	
Lorraine Kenny	
<b>Date:</b>	27th June 2019

Please list and attach any appendices:-

<b>Appendix number or letter</b>	<b>Description</b>
A	Proposed Restricted Area Map
B	Proposed Draft Order
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In consultation with:

Deputy Leader and Portfolio Lead – Social Justice and Communities

Signed :  Date: 27<sup>th</sup> June 2019

Director/~~Executive Director~~

Signed :           *Heaven*           Date: *27<sup>th</sup> June 2019*

## RECORD OF INDIVIDUAL EXECUTIVE DECISION MADE BY AN OFFICER

Decision Maker	Decision Type	Date
Cllr Arooj Shah Carol Brown	Administrative Decision	27 <sup>th</sup> June 2019

### PROPOSED CONSULTATION FOR PUBLIC SPACES PROTECTION ORDER – SADDLEWORTH MOOR

Exempt/Confidential Report		No
Key Decision		No

#### Decision (s) <sup>1</sup>

The proposed Extension of the Public Spaces Protection Order is approved.

#### Reasons for the decision(s) <sup>2</sup>

To commence a statutory consultation exercise as the first stage of consideration of the use of the powers contained within the Anti-Social Behaviour Crime and Policing Act 2014 to implement a Public Spaces Protection Order in order to control behaviour on the moorland (FIRE RELATED ACTIVITIES) and prevent the significant impact of wildfires upon the community and services.

#### Options/Alternatives considered <sup>3</sup>

To undertake a communications exercise to inform the public of the risk of fires due to specific activities. This would be the provision of information only and would not result in

<sup>1</sup> Brief details of the decision should be inserted. This note must set out the substance of the decision, options considered and the reason for deciding on the chosen option, although care must be taken not to disclose any confidential or exempt information. Please include proposed timescales for commencement and / or completion of implementation as appropriate.

<sup>2</sup> Reasons for the decision must be given.

<sup>3</sup> Options must be given.





any enforceable activity unless a substantive criminal offence e.g. arson or criminal damage was proven to have occurred

Not to consider making a PSPO and to respond to fires as they occur.

**Conflict of Interest declared<sup>4</sup>**

None

  
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**(Signature of ~~Executive Director~~/Director)**

  
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**(In consultation with relevant Cabinet Member if required)**

**Decision made pursuant to:**

- a) General delegation under the Council's officer scheme of delegation. Non-contract decisions up to £250k.**

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<sup>4</sup> If none, please state none. No Member having a disclosable pecuniary interest or officer having an interest in any matter (whether pecuniary or otherwise required to be declared) should take a decision in relation to that matter. Other interests of a non-disqualifying nature should be recorded here. Any dispensation in place in relation to the matter should also be recorded here. This may include other elected Members, officers, stakeholders and the local community.

<sup>5</sup> The signatory must be duly authorised by Executive Director to make a decision in accordance with the relevant sub-delegation scheme. It is not acceptable for the signature to be 'pp' for the authorised signatory.