



Standing Committee for Youth Justice

Councillor Russell Roberts
Leader of the Council
Kettering Borough Council

By email: russellroberts@kettering.gov.uk

21 December 2015

Dear Cllr Roberts

I am Chair of the Standing Committee for Youth Justice (SCYJ), an alliance of charities working to improve the youth justice system in England and Wales. I write to express serious concern about Kettering Borough Council's proposed Public Space Protection Order (PSPO) prohibiting anyone under the age of 18 being in Kettering Town Centre between 11pm and 8am. We believe this proposal is unlawful, disproportionate, may contravene children's human rights and, ultimately, be counterproductive.

The rationale for the relevant PSPO is as follows: "A small number of very young people unaccompanied by an adult are regularly found by the police in the town centre very late at night. Currently there is very little that can be done. This would enable these young people to be safely returned to their homes and would address safeguarding and Child Sexual Exploitation concerns."

However, the evidence provided relates to alleged anti-social behaviour (ASB). This includes over 100 call outs to McDonalds (at unspecified times) over a twelve month period, "an increase in youths being in the town centre late at night causing ASB and starting fights with people who are using the late opening restaurants and shops", and reported concerns about 'teenagers hanging round the town in big gangs and drinking' (at unspecified times). In addition, it is said that "currently the police have 10 vulnerable young people ranging from the age of 10-16 years old who are all on court ordered referral orders to prevent the youths from coming into Kettering Town centre."

Under the Anti-social Behaviour, Crime and Policing Act 2014 (section 59(2-3)), a PSPO may only be made if two conditions are met, namely: activities carried out in the area have, or are likely to have, a detrimental effect on the quality of life of those in the locality; and that activity is, or is likely to be, unreasonable, of a persistent or continuing nature, and justifies the restrictions imposed by the PSPO.

SCYJ believes that the proposed PSPO does not meet those conditions. In particular, the activity it is said is carried out in the area does not justify the restrictions imposed.

Firstly, no evidence has been provided that anti-social behaviour is a particular problem at the specified times (11pm-8am). Though it is said that children are causing problems amongst people using late opening restaurants and shops, it would be surprising if these establishments were open throughout the specified hours. We cannot see how the fact children have referral orders preventing them from entering the town centre supports the case for the PSPO. Since these children are already prohibited from entering the town





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centre under the terms of their referral orders, there is no need to introduce a PSPO to prevent them.

Secondly, and most importantly, the alleged activity does not justify the restrictions imposed by the PSPO. That is, the behaviour of a minority of children has been used as a reason to prohibit anyone under the age of 18 coming into the town centre during specified hours, regardless of how they behave. This is entirely disproportionate and unjustifiable. The liberty of the majority of law-abiding children should not be restricted because of the alleged behaviour of a small minority. It is unreasonable, and potentially discriminatory, to impose restrictions on children who have done nothing wrong (and where there is no suggestion that they will do so) purely because of their age. Children may have good reason for being in the town centre after 11pm or before 8am, they may for instance be finishing a late shift at work, or be making their way to an early morning event or even to school. It is bizarre that the proposed PSPO includes no possible exemptions to the exclusion (other than a child's residence being in the area).

The rationale that has been provided for introducing the PSPO ("addressing safeguarding and Child Sexual Exploitation concerns"), though laudable, does not meet the conditions set out in the Act.

Furthermore, SCYJ is concerned that the proposed PSPO contravenes children's human rights under the Human Rights Act, particularly: Article 5 (the right to liberty); Article 8 (respect for private life); Article 11 (freedom of assembly and association); and Article 14 (which prevents discrimination). Restrictions on Article 5, 8 and 11 rights must be proportionate to be lawful. However, we would argue that the restrictions imposed by the proposed PSPO are not proportionate because they exclude all children from the given area unnecessarily. It cannot be proportionate to prohibit a child from a given area to prevent behaviour they are not alleged to have displayed, and where there is no suggestion they will display in the future.

We are further concerned that such a broad-brush PSPO is counterproductive in the long term. The experience of ASBOs shows that over-zealous use of anti-social behaviour orders can damage relations between authorities and children, and their parents. Though the document setting out the proposal says that PSPOs do not criminalise people, breach of the order is an offence, and a fixed penalty notice will be recorded by the police. There is evidence to show that any contact with the criminal justice system increases the chances of a child offending, and this is a danger of the proposed order.

We hope you will reconsider your decision to introduce this worrying PSPO.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Penelope Gibbs', written over a light blue circular stamp.

Penelope Gibbs
Chair, Standing Committee for Youth Justice
a.boehm@scyj.org.uk; 020 7843 6079

