

March 2017

The Council would like to consult residents on introducing Public Spaces Protection Orders (PSPO) to help the police and Council tackle anti-social behaviour on public land. A PSPO is a new measure, created by the Anti-Social Behaviour, Crime and Policing Act 2014, that replaces some existing legislation that the Council uses and introduces wider discretionary powers to deal with any particular nuisance or problem that is detrimental to the local community's quality of life. They seek to ensure that the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour. The Orders can be enforced by fixed penalty notices or prosecution, by police or Council officers.

The Council has drafted proposed orders based on the issues we hear most about from residents and invites comments and alternative suggestions in this four-week consultation from anyone who lives, works or visits the areas concerned.

This document sets out the background to the decision to propose Public Spaces Protection Orders and gives details of the suggested provisions.

Existing enforcement and approach

Anti-social behaviour on public land in Richmond is currently managed using a number of pieces of legislation, including:

- Littering on land open to the air is an offence under the Environmental Protection Act 1990 and offenders can be served with a Fixed Penalty Notice for £80 or face prosecution and a maximum fine of £2,500 on conviction. Web link: www.richmond.gov.uk/litter.
- Dog Control Orders come from the Clean Neighbourhoods and Environment Act 2005 and give councils the power to make regulations regarding dogs in their area. In Richmond the orders require that dog walkers clean up after their dog fouling; keep the dog on a lead or stop their dog entering specific locations; and, limits the maximum number of dogs that can be walked to six. The Orders apply to all land in the London Borough of Richmond upon Thames which is open to the public, including roads, footpaths, pavements, alley ways and towpaths, all grass verges, and parks and open spaces including wooded areas. Anyone failing to comply may be issued with a Fixed Penalty Notice for £80 or face prosecution, which could lead to a fine of £1,000. Website link: www.richmond.gov.uk/dog_control_orders
- The borough has two sets of byelaws applying to open spaces – one for common land and one for all other spaces, although the two are very similar, and they were enacted in 1988 and 1985 respectively. There is no provision for Fixed Penalty Notices – offences must be prosecuted through the courts. In practice this means they are used as a deterrent but prosecutions are reserved for the most serious cases, due to the duration and cost of the process. Offences on commons carry a lower maximum fine of £500 upon conviction whereas the level in other spaces is £1,000. Website link: www.richmond.gov.uk/pdf-byelaws-2.pdf.
- A new byelaw was introduced in 2015 to control the mooring of boats to Council land. A number of offenders have been prosecuted; the maximum fine is £500 for each offence. There is no provision for Fixed Penalty Notices. Website link: www.richmond.gov.uk/byelaws_related_to_mooring.pdf
- Designated Public Place Orders are implemented by councils to address alcohol-related crime and disorder and give police officers discretionary powers to require a person to stop drinking and confiscate alcohol in public places. These orders have been used in areas of Richmond and Twickenham. Failure to comply with alcohol restrictions can result in a fine of up to £500.

In the London Borough of Richmond upon Thames, the Street Scene Enforcement team are responsible for helping ensure the borough remains as clean, green and safe as possible, using the legislation above as well as dealing with other highway and environmental issues. Four officers each cover a number of wards and they liaise closely with the Police Safer Neighbourhood Teams.

The Council's enforcement approach is educational rather than punitive. Behaviour which constitutes an offence will be challenged with an explanation and an opportunity for it to be corrected. Officers can use their discretion, but if the individual does not comply, or if it is a repeat offence, a Fixed Penalty Notice will be issued if applicable or a warning will be given for a byelaw offence. Persistent offenders are discussed with other Council officers, the Police or other agencies if relevant to deal with the behaviour, including by prosecution.

Other officers and Council contractors without enforcement powers may witness an offence. In these circumstances, again a friendly explanation and an opportunity to correct the issue will be given. If the individual does not comply or behaves offensively, a warning will be given and details of the incident will be passed to the Street Scene Enforcement team for follow-up or future reference.

Public Spaces Protection Orders: background and purpose

Making local enforcement more effective has been under discussion at a national level for several years. The Local Government and Public Involvement in Health Act 2007 included provision for more byelaws, including those for open spaces, to be enforced through Fixed-Penalty Notices as well as prosecution, but was not enacted.

Public Spaces Protection Orders were created through the Anti-Social Behaviour, Crime and Policing Act 2014. Public Spaces Protection Orders replace Gating Orders, Dog Control Orders and Designated Public Place Orders and are intended to deal with a particular nuisance or problem in a specific area, where this adversely affects the local community's quality of life, by imposing conditions on the use of that area which apply to everyone. They are designed to ensure the law-abiding majority can use and enjoy public spaces without having to experience anti-social behaviour and anti-social activities. Restrictions and requirements can be placed on an area where activities have, or are likely to have, a detrimental effect on the quality of life of local people, are persistent or continuing in nature and is unreasonable. In a significant departure from the previous legislation, requirements on different types of behaviour can be included within one single order.

The definition of public space with respect to a PSPO is very broad and can comprise any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission.

Councils are responsible for making the new Public Spaces Protection Orders although enforcement powers will be much broader, with police officers and Police Community Support Officers able to enforce the order. Breaching a Public Spaces Protection Order is an offence which can be dealt with through prosecution or by the issue of a Fixed Penalty Notice. The Fixed Penalty Notice is a fixed fine of up to £100.00. There is also a power to accept a lower amount within a specified period of less than 14 days. The proposed penalty amounts are £80 with a reduced payment of £50, as per current Fixed Penalty Notices.

Transition

The legislation came into force on 20th October 2014. Existing Gating Orders, Dog Control Orders and Designated Public Place Orders remain in force for three years beyond that and automatically become Public Spaces Protection Orders at that time. However, Councils need not wait for this to happen and can decide to review the need for current orders within the transition time period.

Grounds for introducing Public Spaces Protection Orders

The Council may make a Public Spaces Protection Order if it is satisfied on reasonable grounds that two conditions are met:

- (1) activities in a public place have had a detrimental effect on the quality of life of those in the locality or it is likely that such activities will be carried on and have that effect;
and
- (2) The effect/likely effect of the activities:
 - (a) is/likely to be of a persistent or continuing nature;
 - (b) which will make the activities unreasonable; and
 - (c) justifies the imposition of the restrictions.

Proposed new Public Spaces Protection Orders for Richmond

The Council proposes the creation of new Public Spaces Protection Orders to create updated provisions similar to the current Dog Control Orders and open space byelaws and apply these to the highway, rights of way, open spaces and cemeteries as appropriate, with the aim of reducing low-level anti-social behaviour that reduces enjoyment of these areas by the majority.

This updating of provisions includes adding new powers introduced to the Department of Communities and Local Government's (DCLG) model byelaws for local authority open spaces since the Council adopted its byelaws in the 1980s, to better protect the borough's public spaces against modern problems and trends.

The enforcement personnel options would be widened to include police officers and the Council's parks patrol contractor but the approach will not change – it will remain one of education, with penalties used with discretion based on the offender's response and behaviour when challenged.

The proposed Public Spaces Protection Orders include restrictions that overlap with the existing Council byelaws and other laws, in order to strengthen them and improve enforcement through issuing Fixed Penalty Notices where appropriate in addition to having the option to prosecute at Magistrate's Court. Where Public Spaces Protection Orders overlap with the byelaws, Section 70 states that "a byelaw that prohibits an activity regulated by a PSPO is of no effect in relation to the restricted area during the currency of the order." As the Explanatory Notes confirm, a PSPO will take precedence over a pre-existing byelaw. Whilst the PSPO is in force any enforcement action must be taken through the PSPO and not the byelaw (though there is no need to revoke the byelaw).

The designation process

To introduce Public Spaces Protection Orders, the Council must carry out a consultation. Alongside the public consultation, the Council is also consulting with the local police and owners of land managed but not owned by the Council. The Council's Regulatory Committee approved these consultations in October 2016.

Once the consultations close, the Council will collate and analyse all the responses in order to prepare a consultation summary and appropriate recommendations based on the for the Council's Regulatory Committee to discuss in May 2017. If a decision is taken to implement any Order, it will then subsequently be published on the Council website ahead of its introduction.

The proposed Public Spaces Protection Order conditions

This section sets out the details of the proposed conditions, the location each might apply to and the draft legal wording. Where changes or new suggestions are made, the background is outlined.

The draft wording may need to be amended depending on the consultation responses and which geographical areas the final prohibitions and requirements are to apply to in the Borough.

The general definitions used to describe the locations involved are as follows:

Borough	All open public land owned, adopted or managed by the London Borough of Richmond upon Thames including roads, footpaths, pavements, alley ways and towpaths, all grass verges, and parks and open spaces including wooded areas.
Highway	All roads, footpaths, pavements, alley ways, towpaths and grass verges maintained at public expense.
Highway land	Land maintained by the Council which adjoins footways, cycle tracks or carriageways, including grass verges.
Right of Way	A way over which the public have a right to pass and repass – on foot, on (or leading) a horse, on a pedal cycle or with a motor vehicle, depending on its status.
Parks	All parks and open spaces, including commons, grounds and wooded areas, managed by the London Borough of Richmond upon Thames. Details of these sites can be found at www.richmond.gov.uk/parks_and_open_spaces .
Open cemeteries	East Sheen Cemetery, Richmond Cemetery, Hampton Cemetery, Twickenham Cemetery, Old Mortlake Cemetery and Teddington Cemetery.
Closed cemeteries	St Andrew’s Church, Ham; St James’s Church, Hampton Hill; St Mary Magdalene, Richmond; St Mary’s, Hampton; St Mary the Virgin, Mortlake; St Mary the Virgin, Twickenham; St Mary with St Alban, Teddington; Vineyard Passage, Richmond.
Site specific	The order applies only to the areas and sites stated.

1. Dogs

The following provisions are proposed to replace the existing Dog Control Orders, with some updated requirements.

Proposal 1A	Dog fouling is prohibited.
Where it will apply	Borough
Change from existing	None – remains as current. All park litter bins can be used for disposal, not just dog bins.
Draft legal wording	<p>(1) If a dog defecates at any time on any land detailed, a person who is in charge of the dog at that time must remove the faeces from the land forthwith, unless –</p> <p style="padding-left: 40px;">(a) he has a reasonable excuse for failing to do so; or</p> <p style="padding-left: 40px;">(b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.</p> <p>(2) Placing the faeces in a receptacle on the land which is provided for the purpose, or for the disposal of waste, shall be a sufficient removal from the land.</p> <p>(3) Being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having a device for or other suitable means of removing the faeces shall not be a reasonable excuse for failing to remove the faeces.</p>

Proposal 1B	Dogs are excluded from Barn Elms (playing fields) at all times and Petersham Meadows between 1 April – 1 November.
Where it will apply	Site specific
Change from existing	Similar to the existing Dog Control Order but now applied to fewer sites. Alpha Road Gardens and Buckingham Road (fenced football area) are removed from any restriction as the prohibition is no longer required. The open cemeteries and Kings Field are changed to dogs on a lead only.
Draft legal wording	(1) A person in charge of a dog must not, at any time, take the dog onto, or permit the dog to enter or to remain on, any land detailed, unless – (a) he has a reasonable excuse for failing to do so; or (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

Proposal 1C	Dogs must be on leads at Crane Park Island, Leg o’ Mutton Reservoir, Terrace Gardens, York House Gardens (including Champions Wharf), Kings Field, Diamond Jubilee Gardens, Ham Common Pond, Kew Pond, Barnes Pond, open cemeteries and closed cemeteries.
Where it will apply	Site specific
Change from existing	Crane Park Island and Leg o’ Mutton Reservoir remain protected areas as at present to protect wildlife from disturbance or harm. Terrace Gardens and York House Gardens (with a new specific reference to Champions Wharf) remain protected due to their horticultural and heritage value. The open cemeteries and Kings Field are downgraded from excluded sites. The closed cemeteries maintained by the Council on behalf of the Church are suggested new additions and we will be consulting with the dioceses and churches on this aspect. Diamond Jubilee Gardens is a suggested addition due to the unfenced sand play area. The ponds are suggested additions to protect wildlife on the water and in the margins from disturbance or harm. The order is proposed to apply inside the fence at Kew Pond, inside the path around the pond on Barnes Green and within 5m of Ham Common pond but other suggestions are welcome.
Draft legal wording	(1) A person in charge of a dog on any land detailed must, at all times, keep the dog on a lead, unless – (a) he has a reasonable excuse for failing to do so; or (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

Proposal 1D	The maximum number of dogs in a person's sole charge is four.
Where it will apply	Parks and Highway
Change from existing	It is proposed to reduce the current maximum of six dogs to four. This is due to the rise in the number of professional dog walkers using Richmond's public spaces to walk dogs in recent years. The majority of neighbouring areas to Richmond and the Royal Parks within the borough have limits of four dogs. The impacts of this are fouling, large groups of dogs in busy areas and lack of control and attention by the dog walker.
Draft legal wording	(1) A person must not take more than four (4) dogs at the same time onto the land detailed, unless – (a) he has a reasonable excuse for failing to do so; or (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

Proposal 1E	Dogs are not permitted within enclosed / fenced play or sports areas (including Multi Use Games Areas, basketball and tennis courts, outdoor gyms, bowling greens and skate parks).
Where it will apply	Parks
Change from existing	Dogs are currently excluded from fenced playgrounds under the Dogs Exclusion Order 2007. This provision has now been separated and described in more detail for clarity.
Draft legal wording	(1) A person in charge of a dog must not, at any time, take the dog onto, or permit the dog to enter or to remain on, any land detailed, unless – (a) he has a reasonable excuse for failing to do so; or (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

Proposal 1F	Dogs causing annoyance to any person or animal, or damage to any Council structure, equipment, tree, plant or turf is prohibited.
Where it will apply	Borough
Change from existing	This requirement is suggested to clarify the existing byelaw requiring dogs to be under "proper control" and introduces the possibility of using a Fixed Penalty Notice as well as prosecution.
Draft legal wording	(1) A person in charge of a dog on any land detailed in Schedule 6 below must not cause or permit the dog to – (a) cause annoyance to any other person or animal; or (b) cause damage to any Council structure, equipment, tree, shrub, plant, turf or other such Council property.

2. Other animals

Proposal 2A	Birds and animals must not be fed in a manner which causes or is likely to cause nuisance or harm.
Where it will apply	Borough
Change from existing	Currently dealt with ineffectively via littering legislation, this provision is suggested not to stop the typical enjoyment of feeding pigeons or ducks but is directed at individuals tipping large quantities of food at once, which attracts large numbers of birds and animals for long periods as well as vermin, or the feeding of inappropriate food that could cause harm.
Draft legal wording	Birds and animals must not be fed in a manner which causes or is likely to cause nuisance or harm.

Proposal 2B	Equines including horses/ponies must not be ridden or led apart from on public or permissive highways/bridleways without express consent of the Council. Where consent is granted for other areas, any dung deposited must be removed within 24 hours.
Where it will apply	Parks and Rights of Way
Change from existing	An existing byelaw already prohibits horse riding in open space areas where no public rights to exercise horses exist. This suggested provision translates the byelaw into a Public Spaces Protection Order and adds the provision that where consent is given for exercise or grazing on open spaces, the dung must be promptly removed to protect the grassland from nutrification.
Draft legal wording	<p>(1) No person shall ride or lead a horse except:</p> <p style="padding-left: 40px;">(a) in the exercise of a lawful right or privilege;</p> <p style="padding-left: 40px;">(b) with the express prior written consent of the Council;</p> <p>(2) Any dung deposited by a horse being walked or ridden pursuant to a lawful right or privilege or by virtue of a consent, must be removed from the ground within 24 hours.</p>

3. Bicycles and similar

In this part:

- “Self-propelled vehicle” means a vehicle other than a cycle, invalid carriage or pram which is propelled by the weight or force of one or more persons skating, sliding or riding on the vehicle or by one or more persons pulling or pushing the vehicle.
- “Electric powered vehicle or skateboard” means a vehicle other than an invalid carriage or pram which is propelled by one or more electric motors.

Proposal 3A	Bicycles, tricycles, scooters, other pedal or electric powered skateboards devices and skateboards must not be used in a manner which causes or is likely to cause nuisance or damage.
Where it will apply	Parks and Rights of Way
Change from existing	An existing byelaw currently prohibits bicycles and other devices in open spaces except where expressly permitted, but this is out of date and counter to promoting healthy recreation and green travel. Instead, this provision is proposed to encourage responsible use of bikes and similar in parks and on Rights of Way. Inconsiderate cycling on paths is a common complaint received

	by the Council and we advocate giving way to pedestrians.
Draft legal wording	No person shall cycle skate, slide or ride on bicycles, tricycles, skateboards, scooters, or other self-propelled vehicle or electric powered vehicle or skateboard in such a manner as to cause danger or damage or give reasonable grounds for annoyance or nuisance to other persons.

Proposal 3B	Bicycles, tricycles, scooters, other pedal or electric powered skateboards devices and skateboards are prohibited from being used in enclosed play or sports areas.
Where it will apply	Parks
Change from existing	This is a new provision; whilst the byelaw on use of bicycles and other devices being relaxed, the Council believes that preventing useage of such devices within enclosed pay and sports areas is important for preventing nuisance and injury.
Draft legal wording	No person shall cycle skate, slide or ride on bicycles, tricycles, skateboards, scooters, or other self-propelled vehicle or electric powered vehicle or skateboard within the boundaries of an area designated as a children’s play area or as a sports playing area.

Proposal 3C	Bicycles, tricycles, scooters and other devices are prohibited from being chained or fastened to trees, and also to lamp columns, benches and railings or similar in a manner which causes damage or restricts passage or use.
Where it will apply	Parks and Highway
Change from existing	This new provision is designed to prevent damage to trees and user facilities from chained up bicycles or similar. It will also prevent use of such facilities or passage along the highway from being restricted by inconsiderately fastened devices.
Draft legal wording	(1) No person shall cause any bicycle, tricycle, skateboard, scooter, or other self-propelled vehicle or electric powered vehicle or skateboard to be chained or fastened to any tree. (2) No person shall cause any bicycle, tricycle, skateboard, scooter, or other self-propelled vehicle or electric powered vehicle or skateboard to be chained or fastened to any lamp column, bench, railing or similar in a manner which causes damage or restricts useage or passage.

4. Fires and barbeques

Proposal 4A	It is prohibited to light a fire, barbeque (including disposable barbeques) or stove of any type or other except where approved for an event with the express consent of the Council.
Where it will apply	Parks
Change from existing	This provision reflects current policy but there is no legal enforcement. A prohibition against fires is included in more modern byelaw models but Richmond’s pre-date its inclusion. This provision would remedy this.
Draft legal wording	No person shall light a fire, barbeque (including disposable barbeques) or stove of any type without the express written consent of the Council.

Proposal 4B	No person shall place, throw or drop any thing likely to cause a fire.
Where it will apply	Parks
Change from existing	Similar to 4A, this provision is included in more modern byelaw models but Richmond's pre-date its inclusion. This provision would remedy this.
Draft legal wording	No person shall place, throw, or drop any thing likely to cause a fire.

Proposal 4C	No person shall release a lighted sky lantern into the atmosphere.
Where it will apply	Parks
Change from existing	This is a new provision for the borough. Sky lanterns, also known as Chinese lanterns, have been the cause of several significant fires nationally and pose risks to property, countryside, trees and livestock when they land whilst still alight in addition to the potential impact on the environment. The Department for Communities and Local Government has developed model wording for local authorities to adopt as part of the byelaw set.
Draft legal wording	No person shall release a lighted sky lantern from the land.

5. Fireworks and missiles

Proposal 5A	Use of explosives and fireworks is prohibited except where approved for an event with express consent of the Council.
Where it will apply	Parks
Change from existing	It is already an offence under section 80 of the Explosives Act 1875 to use fireworks in any highway or public place. A penalty notice for disorder for persons aged 18 or over can be given by the police. Translating this into a Public Spaces Protection Order will strengthen enforcement through Council officers and reduce the risk and litter from unauthorised fireworks.
Draft legal wording	No person shall set off fireworks unless part of a licensed display.

Proposal 5B	No person shall throw or use any device to propel or discharge any object which is liable to cause nuisance or injury to a person, animal or structure.
Where it will apply	Parks
Change from existing	This proposed provision is new to the borough and is taken from the DCLG model byelaws.
Draft legal wording	No person shall throw or use any device to propel or discharge any object which is liable to cause nuisance, injury or damage to any other person, animal or structure.

6. Alcohol

With Public Spaces Protection Orders replacing the alcohol restrictions used through Designated Public Place Orders, the two provisions below are designed to replicate and strengthen this function across the borough.

These powers do not make it criminal offence to consume alcohol in public places and are not designed to disrupt peaceful activities, for example having a glass of wine with friends in a park. The aim of the provision is only to enable challenge of alcohol consumption where individuals are causing a nuisance.

In this part, an “authorised person” means a Local Authority Employee, a person designated by the Local Authority, a Police Officer or a Police Community Support Officer.

Proposal 6A	Drinking alcohol (other than in premises licenced for the sale of alcohol or at a venue where a Temporary Event Notice is in place) after having been required to stop by an authorised person is prohibited.
Where it will apply	Borough
Change from existing	Designed to replicate and strengthen the powers available until October 2017 through Designated Public Place Orders, when they are replaced by Public Spaces Protection Orders. Complaints about anti-social behaviour in public places accompanied by alcohol consumption are received regularly by the Council throughout the borough.
Draft legal wording	No person shall drink alcohol (other than in a premises licensed for the sale of alcohol or at a venue where a Temporary Event Notice is in place) after having been required to stop by an authorised person.

Proposal 6B	Users must hand over any alcohol when required to do so by an authorised person who believes that the above condition will be breached.
Where it will apply	Borough
Change from existing	Designed to replicate and strengthen the powers available until October 2017 through Designated Public Place Orders, when they are replaced by Public Spaces Protection Orders. Complaints about anti-social behaviour in public places accompanied by alcohol consumption are received regularly by the Council throughout the borough.
Draft legal wording	A person is required to immediately surrender any alcohol, whether in an open or closed container, in his possession when required to do so by an authorised person who reasonably believes that the person has consumed, is consuming, or intends to consume alcohol in breach of the prohibition at 6A above.

7. Camping, fishing and overnight sleeping

Proposal 7A	Camping and overnight sleeping with or without tents is prohibited without the express consent of the Council.
Where it will apply	Borough
Change from existing	<p>The use of tents for camping is prohibited under the existing park byelaws. This proposed provision adopts the wider definition used in modern versions of the byelaws and also extends it to sleeping without cover and over the whole borough. Camping in public spaces causes issues with litter, toileting, disturbance and intimidation.</p> <p>It is important to note that this proposed provision is not for use with people who are homeless. The borough already has a multi-agency process in place to engage with homeless individuals, working to help their welfare and support them where possible. Using penalty notices and moving people on – usually only to different public spaces – would severely hinder this process. Where a homeless person is sleeping in an inappropriate location and engagement has not resolved the situation, the Council uses a different legal process over a longer time scale to require them to move.</p>
Draft legal wording	No person shall camp or sleep overnight with or without a tent, or using a vehicle, caravan or any other structure [in a public place to which the public or a section of the public has or is permitted to have access, whether on payment or otherwise] without the express prior written consent of the Council.

Proposal 7B	Fishing without an Environment Agency rod licence is prohibited.
Where it will apply	Parks
Change from existing	This is already an offence under section 27 of the Salmon and Freshwater Fisheries Act 1975, enforceable by Environment Agency staff and the police who may issue an FPN under section 37A. Enacting this as part of a Public Spaces Protection Order will enable Council officers to also check for rod licences where fishing occurs in parks.
Draft legal wording	No person shall fish unless in possession of a valid rod licence.

Proposal 7C	Day shelters or bivouacs with at least one completely open side are permitted when actively fishing where permitted for periods of not more than 24 hours and a maximum of one night in any period of seven consecutive days (beginning with the time at which the shelter was first erected). Shelters being used for sleeping will be treated as tents and are prohibited at all times without express consent.
Where it will apply	Parks
Change from existing	This reflects current policy but there is no legal enforcement. The aim of this provision is to prevent long periods of fishing and camping taking place disguised as fishing. Long stays on site produce issues with litter, toileting, disturbance and intimidation.
Draft legal wording	<p>No person shall erect or use any bivouacs, day shelters or other similar structures that are completely open on at least one side while engaged in active fishing at designated sites for a period exceeding 24 hours beginning with the time at which the structure was first erected.</p> <p>No person shall erect or use any such structure at the same site until a full</p>

	<p>period of 7 consecutive days have passed beginning with the day on which the structure was first erected.</p> <p>No person shall erect or use such structures for the purpose of overnight sleeping unless actively fishing.</p>
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8. Aircraft including drones

Proposal 8A	No person shall launch, fly or land any power-driven aircraft other than of the approved type in a designated area.
Where it will apply	Borough – with the exception of the designated area at Old Deer Park for combustion powered control line aircraft weighing under 7kg.
Change from existing	<p>The borough’s existing open space byelaws permit use of only model aircraft under 5kg which are combustion-powered and on a control line at the designated area in Old Deer Park, Richmond. All other aircraft use is prohibited. Legislation already exists which is enforceable by the Civil Aviation Authority (CAA) which prohibits the flying of aircraft (that weigh less than 20 kg) within 150 metres of a congested area and 50 metres of a person, vessel, vehicle or structure not under the control of the pilot.</p> <p>Adding this proposed provision to the PSPO and extending it to the Highway strengthens enforcement to help manage increasing drone activity. The Council is concerned that the vast majority of the borough’s highways and parks are uncontrolled environments that would rarely provide the safe space needed away from people, vehicles, structures or wildlife. In addition, the borough is located on the flight path inside Heathrow’s controlled airspace.</p> <p>The Council is aware of the current CAA and Department for Transport consultation on the use of drones and will monitor the outcome in relation to the proposed provision.</p>
Draft legal wording	<p>(1) In this Part:</p> <p>“model aircraft” means any ‘Small Unmanned Aircraft’ used for sporting and recreational purposes which weighs not more than 20 kilograms without its fuel;</p> <p>“power-driven” means driven by:</p> <p>(a) the combustion of petrol vapour or other combustible substances;</p> <p>(b) jet propulsion or by means of a rocket, other than by means of a small reaction motor powered by a solid fuel pellet not exceeding 2.54 centimetres in length; or</p> <p>(c) one or more electric motors or by compressed gas.</p> <p>“radio control” means control by a radio signal from a wireless transmitter or similar device</p> <p>(2) No person except as provided by section (3) shall cause any power-driven model aircraft to:</p> <p>(a) take off or otherwise be released for flight or control the flight of such an aircraft in the ground; or</p> <p>(b) land in the ground without reasonable excuse other than in a designated area for flying model aircraft.</p> <p>(3) Where any part of a ground has been set apart by the Council for the flying of power-driven model aircraft, no use of such is permitted unless –</p>

	<p>(a) the aircraft weighs not more than 7kg without its fuel;</p> <p>(b) the aircraft is driven by the combustion of petrol vapour or other combustible vapour or other combustible substances;</p> <p>(c) gives a noise measurement of not more than 82 dB(A) when measured at a distance of 7 metres from the aircraft in accordance with the Code of Practice issued under the Control of Noise (Code of Practice on Noise from Model Aircraft) Order 1981; and</p> <p>(d) where it is reasonably practicable to fit, fitted with an effectual silencer or similar device.</p>
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9. Wildlife and environmental protection

Proposal 9A	No person shall kill, injure, take or disturb any animal; cut, damage or remove any plant; or dig into, damage or disturb the ground.
Where it will apply	Borough
Change from existing	Elements of (b) and (c) are contained within the existing park byelaws. It is proposed to extend protection to wildlife and wider areas to safeguard the environment in other public places and enable penalty notices to be issued.
Draft legal wording	<p>(a) No person shall kill, injure, take or disturb any animal, or engage in hunting or shooting or the setting of traps or the laying of snares.</p> <p>(b) No person shall cut, damage or remove any plant, shrub or tree.</p> <p>(c) No person shall dig into, damage or disturb the ground or remove or displace any stone, soil or turf.</p>

Proposal 9B	No person shall install any plant, tree or structure on the land without express consent from the Council.
Where it will apply	Borough
Change from existing	The part relating to structures replicates in part an existing park byelaw. The new part of the provision is to prevent inappropriate or invasive planting which damages the landscape or nature conservation. It is proposed to extend protection to wider areas to safeguard the environment in other public places.
Draft legal wording	<p>(a) No person shall plant any tree, shrub or plant on the land without the express prior written consent of the Council;</p> <p>(b) No person shall erect or install any post, rail, fence, pole, tent, booth, stand, building or other structure without the express prior written consent of the Council.</p>

10. Sport and events

Proposal 10A	Use of a golf club or golf ball is prohibited except on land set aside by the Council as a golf course or golf driving range.
Where it will apply	Parks
Change from existing	This new proposed provision prevents damage to property and injury to users from the playing of golf in parks.
Draft legal wording	No person shall drive, chip or pitch a hard golf ball with a golf club except on land set aside by the Council as a golf course or golf driving range.

Proposal 10B	Use of land for organised events, sports club training / matches or fitness training / classes is prohibited without a booking or other express consent from the Council.
Where it will apply	Parks
Change from existing	This new proposed provision is designed to tackle the unauthorised use of parks for organised sport and physical training. This can create conflicts with other users, damage the playing surface for paying organisations and avoids the booking systems in place to manage organised activities. The organiser will be the offender rather than the participants.
Draft legal wording	No person shall use any part of the ground for events, organised sports club training/ matches, fitness training / classes without the express prior written consent of the Council.

11. Behaviour

Proposal 11A	Lewd or sexually explicit behaviour which is likely to cause harassment, alarm or distress to another person is prohibited.
Where it will apply	Borough
Change from existing	This new proposed provision is aimed at stopping lewd or sexual behaviour in full view of the public. Witnessing such activity, and the litter left behind, is a regular complaint at a number of locations in the borough. The power is only intended to be used when activity takes place in locations likely to be observed by other users, such as where ground is open in nature or close to a public path.
Draft legal wording	No person shall [in a public place to which the public or a section of the public has or is permitted to have access, whether on payment or otherwise] engage in sexual activity or engage in Lewd or sexually explicit behaviour which is likely to cause harassment, alarm or distress to another person.

Proposal 11B	Urination and defecation by any person is prohibited.
Where it will apply	Borough
Change from existing	This is a new provision designed to help tackle people relieving themselves in public places, in order to address the complaints received about health and decency considerations. Officers will use their discretion over the circumstances and person involved.
Draft legal wording	No person shall urinate or defecate in any street or public place. This includes the doorway or alcove of any premises to which the public has access.

12. Motor vehicles

Proposal 12A	Motor vehicles and unpowered towed vehicles are prohibited to be on parks, highway land, footpaths or bridleways without express consent.
Where it will apply	Borough
Change from existing	Vehicles are prohibited on open spaces under the byelaws but not on land adjoining the highway. Unauthorised use of and damage from vehicles is a regular complaint received by the Council. Having this provision within the PSPO will allow more effective enforcement against this problem. The Council

	considered whether parking a vehicle on prohibited land should be a new offence in each 24 hour period; it is not included at this time but views are welcome on this point.
Draft legal wording	No person shall without reasonable excuse bring into or drive in the ground a motor cycle, motor vehicle, trailer or caravan without express prior written consent of the Council.

13. General

Proposal 13A	Advertising of any kind is prohibited without express consent of the Council.
Where it will apply	Parks and highway land
Change from existing	This proposed provision reflects current policy but there is no legal enforcement. Advertising – including posters and notices, placards, boards and more – detracts from the aesthetic of parks and streetscape, causes damage to trees and structures and creates litter. Each week dozens of adverts are removed. Approving this provision will create a real deterrent. The Council does consent to some advertising connected with park functions with conditions on form and location.
Draft legal wording	No person shall partake in advertising of any kind without the express prior written consent of the Council. Furthermore, a person or body whose goods, trade, business or other concerns are being given publicity by the advertising shall be deemed to have partaken in the advertising in addition to any person who physically partake in the advertising.

Proposal 13B	Trading in any park is prohibited without express consent of the Council.
Where it will apply	Parks
Change from existing	Trading within 7m of a highway currently requires a Street Trading Licence but rogue trading in parks is difficult to enforce against. Unauthorised traders such as ice cream vehicles cause problems for legal traders and damage to the ground at several parks in the borough. This proposed PSPO provision will create a better deterrent to those trading without consent.
Draft legal wording	No person shall without the express written consent of the Council provide or offer to provide any service for which a charge is made or engage in trading of any kind.

Proposal 13C	Using or creating an unauthorised entrance to an open space from a neighbouring property is prohibited.
Where it will apply	Parks
Change from existing	This is a new proposal. Private entrances into public parks may be inappropriate and require a licence to be in place if approved to prevent private rights from being acquired.
Draft legal wording	No person shall create or use a means of access into the [ground] from adjoining property.

Proposal 13D	Smoking is prohibited in any enclosed play or sports area.
Where it will apply	Parks
Change from existing	This proposal reflects and extends the current policy for the borough's park play areas which is communicated through signage but there is no legal enforcement. The Council is keen to make recreation areas as healthy as possible and protect users from the effects of second hand smoke.
Draft legal wording	No person shall smoke tobacco, tobacco related products, smokeless tobacco products (Including electronic cigarettes), herbal cigarettes, or any illegal substances, within the boundaries of an area designated as a children's play area or as a sports playing area.

Proposal 13E	Causing an unreasonable disturbance to other park users or neighbours is prohibited.
Where it will apply	Parks
Change from existing	This proposal extends the current byelaw protection for park users to neighbours as well in order to better resolve problems of disturbance.
Draft legal wording	A person shall not in the [ground] intentionally obstruct, disturb or annoy any other person in or using the ground or those in neighbouring properties adjoining the [ground].

Proposal 13F	Obstructing a council officer from carrying out their duties is prohibited.
Where it will apply	Parks
Change from existing	A similar provision already exists for officers with respect to the byelaws and this proposal simply extends this to the Public Spaces Protection Order.
Draft legal wording	No person shall obstruct any officer of the Council in the proper execution of his duties under this Public Spaces Protection Order.