

Public Spaces Protection Orders: a critical policy analysis

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Public Spaces Protection Orders: a critical policy analysis

Structured Abstract

Purpose

The purpose of this paper is to critically appraise the Public Spaces Protection Orders (PSPOs) policy that was introduced by the Anti-Social Behaviour, Crime and Policing Act (2014). Within a designated area assigned by the local council, PSPOs can prohibit or require specific behaviours to improve the quality of life for people inhabiting that space. Those who do not comply face a fixed penalty notice of £100 or a fine of £1000 on summary conviction. However, the practical and theoretical impact associated with the development of these powers has yet to be fully explored.

Design/methodology/approach

Using Bannister and O'Sullivan's (2013) discussion of civility and ASB policy as a starting point, we show how PSPOs could create new frontiers in exclusion, intolerance and criminalisation; as PSPOs enable the prohibition of *any* type of behaviour perceived to negatively affect the quality of life.

Findings

Local councils in England and Wales now have unlimited and unregulated powers to control public spaces. We suggest this has the potential to produce localised tolerance thresholds and civility agendas that currently target and further marginalise vulnerable people, and we highlight street sleeping homeless people as one such group.

Originality

There has been little academic debate on this topic. This article raises a number of original, conceptual questions that provide an analytical framework for future empirical research. We also use original data from Freedom of Information requests to contextualise our discussions.

Key Words

anti-social behaviour, civility, criminalisation, exclusion, governance, tolerance

Introduction

Anti-social behaviour (ASB) policy in England and Wales¹ has rapidly evolved since it was first introduced in 1998. The objective of this article is to critically analyse the interpretation and potentially far-reaching consequences of one of the main policy developments enacted by the Conservative-Liberal Democrat Coalition government through the Anti-Social Behaviour, Crime and Policing Act (2014), namely Public Spaces Protection Orders (PSPOs). Created as part of the drive to 'put victims first' (see Heap, 2014; Duggan and Heap, 2014; Heap, 2016), part four of the Act affords local councils flexible powers to combat ASB in public places, which negatively affects the quality of life. Adopting a quality of life classification² moves away from the Crime and Disorder Act (1998) definition of ASB, which is underpinned by notions of harassment, alarm or distress. Lowering the threshold for the point at which behaviour 'becomes' ASB broadens the range of behaviours that can be considered anti-social, resulting in a greater spectrum of behaviour that can be sanctioned. Controlled and initiated by local councils, PSPOs can *prohibit* specific behaviours from being undertaken or *require* specific behaviours to be undertaken in a particular space, or do both of these things (Home Office, 2014). Essentially, PSPOs are a spatial version of anti-social behaviour orders (ASBOs) as they create a unique penal code for the designated area; however their powers control the behaviour of *anyone* using that space not just those deemed 'anti-social'. The new policy broadens the Dispersal Order power created by the Anti-Social Behaviour Act (2003), where groups of two or more people could be dispersed from a designated zone, or the police could return any unaccompanied young person under the age of 16 to their home address between 9pm and 6am. PSPOs also extend and replace other powers such as Dog Control Orders, Gating Orders and the Designated Public Place Orders (which restrict alcohol consumption). The extent of behaviours restricted by PSPOs is *unlimited* so long as: the behaviour has a detrimental effect on the quality of life, is

¹ The ASB legislation relates specifically to England and Wales, but throughout this article we refer to the UK context about a range of issues, because of the broader cultural environment PSPOs are situated within.

² The Act does not define what 'quality of life' is, the guidance simply states that the behaviour has (had) 'a detrimental effect on the quality of life of those in the locality' (Home Office, 2014: 46).

persistent, unreasonable, and justifies the restrictions imposed (Home Office, 2014). Consequently, like much previous ASB legislation, PSPOs can prohibit non-criminal behaviours that are criminalised upon breach of the order. Individuals that do not comply with a PSPO can receive a fixed penalty notice (FPN) of up to £100 or a fine not exceeding £1000 on summary conviction. PSPOs can be created without being initiated by a public complaint, but the local council must consult with the police and whatever community representatives they deem appropriate (Home Office, 2014).

To appraise PSPOs this article will engage with, and extend, Bannister and O'Sullivan's (2013) discussion of civility, community cohesion and ASB policy. They consider the extent to which community cohesion and ASB policies support an improvement in the quality of community relations, using civility as an analytical framework. By examining PSPOs through a critical criminological lens, we develop their propositions that ASB policy is: constructed on sparse evidence, not aimed at creating social harmony, and based on reinforcing an inequality of status. To achieve this, two core topics will be discussed. Firstly, we will analyse and question the regulatory and enforcement challenges associated with the implementation of PSPOs in practice. Secondly, as these practical concerns do not operate in a vacuum, we consider that PSPO legislation has the capacity to influence behavioural tolerance thresholds, which have the potential to create and promote new local civility agendas.

PSPOs in Practice

The Home Office introduced new ASB powers in 2014 as part of the programme of measures to make ASB policy more victim-focused (Home Office, 2012). This marked a clear change in emphasis from previous perpetrator-focused New Labour ASB policies that espoused the importance of rights and responsibilities (Home Office, 2003) and respect (Respect Taskforce, 2006a; 2006b), demonstrating the politically-driven nature of ASB policy (Garrett, 2007; Heap, 2016) Bannister and O'Sullivan (2013: 95) note the overarching rhetoric of civility contained in these policies, with their definition of civility being 'a code of *superficial* behaviours necessary to enable diverse populations to coexist in harmony' [original emphasis]. However, the explicit focus on perpetrators of ASB ultimately resulted in creating division in communities by highlighting a virtuous 'us' and anti-social 'them'

(Millie, 2009). The new ASB legislation has a similar weakness because although attention has shifted towards victims, it still only focuses on one 'side' of ASB rather than taking a holistic approach. This has the potential to reinforce division, as communities are made more aware about the wider impact of ASB upon victims. The introduction of victimisation as a focal point overpowers any coexistence-type narratives. The divisive rhetoric of the new policy appears to have translated into practice, and is demonstrated by the wide-ranging PSPO prohibitions that have been created by local councils to date.

In addition to ASB legislation focusing on either perpetrators or victims, the type of ASB is also considered. Much of the new legislative focus centres on 'personal' ASB, implementing policies such as the Community Trigger (see Heap, 2016) and Community Remedy, following several high-profile incidents involving repeat and vulnerable victims, such as Fiona Pilkington who took her own life and that of her disabled daughter after suffering persistent ASB (Independent Police Complaints Commission, 2011). In contrast, PSPOs focus chiefly on 'nuisance' and 'environmental' ASB, which the Office for National Statistics (2012) describes as behaviour that causes a problem to communities rather than individuals, and has an impact on the surroundings. From a statistical perspective, such a focus is justified given that these types of incidents total more than double the number of personal incidents and have replicated this trend over a sustained period (Office for National Statistics, 2014; 2015). Examining the interpretation of PSPO policy in practice provides an opportunity to investigate their composition, enforcement and regulation with a view to understanding how nuisance and environmental ASB is perceived and tackled by local councils. The most recent figures, published by freedoms campaign group the Manifesto Club (2016), showed that 130 PSPOs have been implemented by 79 local councils since October 2014. The quantity and diversity of conditions vary between location, reflecting local ASB issues, with the examples presented below typical of the PSPOs enacted to date.

Composition

City of Lincoln Council (2015) was the first local council to implement a PSPO in April 2015, with the main purpose of prohibiting the use of new psychoactive substances (NPS)³

³ This action preceded the 'ban' on NPS through the Psychoactive Substances Act (2016).

(commonly known as legal highs) through the following condition: 'Persons within the Exclusion Zone will not: ingest, inhale, inject or smoke or otherwise use intoxicating substances'. Alcohol is included in the ban, but a list of exemptions was also provided, which includes items such as tobacco cigarettes. Research conducted by the Manifesto Club and published in the *Independent* (2016a) suggests that eleven other local councils have PSPOs with similar prohibitions. With a slightly different remit, the PSPO in Salford Quays prohibits, amongst other things, using foul and abusive language (Salford City Council, 2015). Another notable example of a PSPO stems from Oxford City Council, who enforced a PSPO covering the central shopping space in the city from October 2015. It showcases the wide range of behaviours that one PSPO can sanction by prohibiting: aggressive begging, remaining in a public toilet without reasonable excuse, urinating or defecating in a public place, cycling on specific streets, street entertainment, trading as a pedlar in certain circumstances, the refusal to stop drinking alcohol or surrender containers believed to contain alcohol, not keeping dogs on leads, being in charge of more than four dogs at the same time, allowing dogs to foul and failing to remove the waste, and allowing dogs to enter covered public space (Oxford City Council, 2015a). Several of these prohibitions target the behaviours associated with street sleeping homeless people.

This is a notable shift in ASB policy in several ways. Firstly, pre-existing spatial ASB powers, such as dispersal orders, have traditionally targeted behaviours associated with young people (Smithson, 2005). Secondly, street sleeping homelessness does not, per se, constitute ASB. Thirdly, it supports our suggestion that PSPOs have the potential to create new frontiers in exclusion, intolerance and criminalisation. The fact that this vulnerable and marginalised group now appears to be subject to greater behavioural scrutiny and (potential) criminalisation requires attention, and we will highlight this throughout the remainder of the article. It is an important consideration because homelessness in the UK has doubled since 2010, when the Coalition government came to power. Statistics released by the Department for Communities and Local Government (2016) show that rough sleeping has increased by 21% from 2015, with the 2015 figures having grown by 31% compared to the year before. St Mungo's (2016) suggests the increase is a result of a range of factors including: increasing housing costs and welfare reform, a shortage of supported housing,

support services and charities not having the capacity to cope with the rising numbers, and a higher incidence of rough sleepers from Central and Eastern Europe.

The commitment to financial austerity policies, which have been embraced by both the Coalition and Conservative governments, has had a major impact on public spending. Outside of protected budgets (e.g. for education, healthcare and overseas aid), public spending has been reduced by an average of 20.5% in real terms, between 2010 and 2016/17, with further cuts of up to 10.2% planned between 2016/17 and 2019/20 (Institute for Fiscal Studies, 2016). Resultantly, many local authorities have been increasingly unable to provide hostel beds, refuges and sheltered housing, with the problem expected to get worse (*Guardian*, 2017). A greater number of people sleeping on the streets increases the potential for ASB to be perceived by other people using that space, and the PSPO prohibitions that have been enacted suggest this is the case. It is worth considering that the dynamics of the situation could be reciprocal here. The application of PSPOs to street sleepers may also consolidate and validate any pre-existing negative sentiments among members of the public, or might lead to a reframing of public perceptions from empathy towards seeing these people as a problem. Shaping PSPOs to prohibit common behaviours undertaken by street sleeping homeless people is a marked shift from previous socio-spatial ASB powers, such as Dispersal Orders, which chiefly affected young people (Bannister and O'Sullivan, 2013; Bannister and Kearns, 2013a). However, it is as equally problematic as we shall go on to discuss.

Overall, the examples outlined above display the vast breadth of behaviours currently prohibited in certain public spaces by PSPOs throughout England and Wales. Creating prohibitions based on anything that negatively affects the quality of life, means that an unlimited range of behaviours can be incorporated as part of a PSPO. This demonstrates that civility is being re-shaped, by decreasing the tolerance of what is considered acceptable behaviour in public spaces.

Enforcement

PSPOs can be enforced by police officers, police community support officers and council officers (including individuals they designate powers to), with fixed penalty notices (FPNs) of

up to £100 (Home Office, 2014). FPNs have traditionally been associated with local councils, as they deal with environmental offences such as littering and fly-posting (GOV.UK, 2016a). They were not created to sanction nuisance or disorderly behaviour, which has been the remit of Penalty Notices for Disorder (PNDs), issued by the police since the Criminal Justice and Police Act (2001), for offences such as drunk and disorderly behaviour in a public place. Superficially, there appears to only be semantic differences between FPNs and PNDs, until the guidance for each power is scrutinised in relation to the types of requirements included in PSPOs. Ministry of Justice (2014) guidance states that a PND can only be given to a 'suitable person' and that 'a PND *will not* be appropriate ... where the constable has reason to believe that the person is homeless or sleeping rough' [original emphasis]. FPNs have no such restrictions, only that the individual must be over 10 years old (GOV.UK, 2016a). Therefore, issuing a FPN to a street sleeping homeless person for breach of a PSPO contradicts Ministry of Justice guidance for PNDs, which deems a very similar practice inappropriate. Fining a homeless person is inappropriate because they are extremely unlikely to be able to pay the fine. If the fine is not paid 'court proceedings can be issued and the individual prosecuted for the offence of failing to comply with the PSPO' (Home Office, 2014: 51). If prosecuted, the fine can rise to up to £1000, which for a street sleeping homeless person makes it even less likely that they will stop being homeless, the behaviour that created this situation in the first instance.

GOV.UK (2016a) provides guidance on how councils must use the income generated from FPNs, depending on the type of offence, however PSPOs are not included. We submitted a Freedom of Information request to the Home Office to determine what guidelines have been set for PSPO income. The Home Office has 'not issued any additional guidance to councils or other local agencies... telling them how the income can be used from breaches of Public Spaces Protection Orders', furthermore it is not collecting any data from these agencies about the amount of income generated by the FPNs (Home Office, 2016, pers. comm.). This has enabled some local councils to employ private security companies to enforce PSPOs, with the firm receiving a fee for each FPN they give out. This is controversial because it implicitly incentivises the issuing of fines and there have already been cases where unscrupulous officers have targeted behaviour that could only be considered a breach if taken out of context and the PSPO prohibition(s) applied 'to the letter'. For

example, in Gravesham in Kent, where a private security firm receives £45 for every correctly issued FPN, a woman was issued with a fine for littering when feeding ducks (Liberty, 2016a). This incident led to an investigation by the council and the penalty was eventually revoked (Kent Online, 2016), however it demonstrates the dangerous combination of wide-ranging prohibitions and financially incentivised methods of enforcement. Additionally, by failing to prescribe what the FPN income can be spent on, the Home Office has missed an opportunity to 'put victims first' by ensuring the funds are diverted to victims' services, or develop civility by investing in community-building programmes.

When considering breaches and FPN income, not all PSPO violations will be sanctioned anyway, due to the vast number of behaviours that could be included in the PSPO and the geographical area they cover. For example, enforcement officers will not witness every occurrence of foul or abusive language. ASBOs were similarly unenforceable at all times due to the range of individual prohibitions (Matthews et al., 2007). The consequence is that the behaviour the PSPO intends to prohibit remains. Furthermore, it may also prompt spatial displacement, a phenomenon that was also associated with another PSPO predecessor, the dispersal order (Crawford and Lister, 2007). The wording of PSPOs has already been highlighted as an issue by O'Brien (2016) who explains the difficulties associated with enforcing PSPOs due to the vague wording of some of their prohibitions, for instance using the word request instead of require, resulting in enforcement officers being unable to impose compliance. Overall, enforcing PSPOs is fraught with difficulties and inconsistencies that make their use unfair and particularly damaging, and even criminalising, for certain types of people.

Regulation

PSPOs have been particularly criticised for providing unelected local council officers with law-creation powers that are subject to 'minimal checks and balances and a very low burden of proof' (The Manifesto Club, 2016). Consequently, anti-PSPO campaigns and petitions, by groups such as Liberty and The Manifesto Club, have led to local councils retreating on initial plans to prohibit rough sleeping and busking in public spaces, such as in Chester (BBC News, 2016) and Hackney (Liberty, 2016b). However, public campaigns to hold local councils to

account have not been universally successful, as a petition containing 13,500 signatures was not enough to prevent a PSPO prohibiting rough sleeping in Worthing (West Sussex Gazette, 2016). To determine if the Home Office hold local councils to account by monitoring the creation, use and modification/amendment of PSPOs, we submitted a second Freedom of Information Request. The Home Office stated that 'we do not monitor the use of anti-social behaviour powers introduced by the Anti-Social Behaviour, Crime and Policing Act 2014, which includes the Public Spaces Protection Order' (Home Office, 2016, pers. comm.). So not only is there a worrying lack of oversight of the types of PSPO prohibitions being created given the nature of those enacted so far, there is a complete lack of scrutiny of *all* the new powers introduced in 2014. Furthermore, they also confirmed that 'the Home Office has not required the police or other local agencies to report on the use of these powers. We did not want to burden frontline practitioners with data requests to require them to tell central Government each time they use the anti-social behaviour powers' (Home Office, 2017, pers. comm.). In which case, the Home Office will have very little idea if the new powers are working effectively and 'putting victims first', as they originally intended. This directly contradicts the National Audit Office (2013: 10) who suggest that 'Departments should publish a list of significant evaluation gaps in their evidence base, and should set out and explain their priorities for addressing those gaps'. Although the lack of commitment to producing an evidence base is unsurprising, given the legacy of poor monitoring and ideologically driven policy which resulted in the recent findings from the Troubled Families Programme. This flagship ASB intervention, which cost £1billion, did not make 'any systemic or significant improvements in families' outcomes' (Day et al., 2016: 54). Overall, there appears to be no mechanism (or impetus) to compare how different areas are operationalising PSPO powers, which is likely to lead to a postcode lottery for victims dependent on where they live (similar to the Community Trigger powers, discussed elsewhere (Heap, 2016)). As evidenced, there are a variety of practical issues associated with the implementation, enforcement and regulation of PSPOs. The government do not know if their policies are truly putting victims first, or more worryingly, creating further divisions within communities.

Civility and (In)Tolerance

When revising the ASB legislation, the Home Office (2012) suggested that the new 'flexible' powers could be used to tackle a range of ASB problems, which the quality of life definition certainly allows for. However, as Flint (2009) notes, governments produce frameworks of acceptability and define what is unacceptable; by shaping PSPO powers to prohibit *anything* that affects the quality of life, the government has further extended Cohen's (1979) conception of 'thinning the mesh' and 'widening the net' of unacceptability. This net was already cast wide, with Burney (2009) criticising the ASB Respect Agenda from 2006 as a vehicle for decreasing tolerance and marginalising the behaviour of those who do not meet community standards, and Bannister et al. (2006) suggesting it proposed a new emphasis on conformity. When contemplating issues of behavioural tolerance, it is important to consider the location where the behaviour takes place. Bannister and Kearns (2009: 182) suggest that 'our thresholds of tolerance are spatially specific and spatially variant'. Consequently, certain behaviours may be tolerated in a commercial urban setting that would not be tolerated in a residential area. This is an important factor when considering public spaces and the types of prohibitions evident in PSPOs because of the localised nature of their remit. Bannister and O'Sullivan (2013: 2014) suggest that ASB policy at a national level 'has cast the government and its agencies in the roles of bulwark for the protection and defence of aggrieved groups'. However, through PSPO legislation, *local councils* now have unprecedented control to set local civility agendas which signifies Conservative-driven localism and deflects central governmental responsibility (Featherstone et al., 2012). Local councils have had the opportunity to create local byelaws, which have the power to outlaw specific behaviour within a specified location, since the Local Government Act 1972. However, these cannot be implemented where alternative legislation already exists (GOV.UK 2016b), a factor which does not inhibit PSPOs. A local civility agenda is demonstrated by the Council Leader of Worthing Borough Council, Councillor Daniel Humphreys, who was quoted in the *Independent* (2016b) as saying:

I don't care, frankly, whether they are part of a street community or they are millionaires with money stashed in Panama who went to Eton. I could not give a toss. I do not want them getting drunk, acting in foul ways putting people off our town.

Humphreys was talking about proposals for a PSPO which included a condition to prohibit begging. It reflects current public hostilities towards populations considered to be a burden on the public purse, such as the unemployed, welfare recipients and irregular migrants (Tyler, 2013). It is evident that many existing PSPO prohibitions focus on the regulation, and consequent criminalisation, of street sleeping homeless people through prohibitions relating to begging and rough sleeping (e.g. remaining in a public toilet without a reasonable excuse). Allied to Humphreys' statement, it is clear that street sleeping homeless people, who previously provoked public sympathy and assistance (Ravenhill, 2016), are now treated with disdain; be that by the public who make complaints, local councils who create targeted PSPOs or both. The appetite to sanction behaviours such as begging and homelessness mirrors other elements of government rhetoric from 2010 to the present day, which appear to further exclude ostracised populations. For example, the politics of the socially marginalised have focused on the deservedness of welfare claims in the context of austerity and public sector funding cuts, as epitomised by the 'striver versus skiver' rhetoric (Valentine and Harris, 2014), which champions 'hard-working families' (*Guardian*, 2013; Cameron, 2014). Similarly, PSPOs focus on the *deservedness* of people to use public spaces and provide the opportunity to cleanse spaces of those who do not conform to social or spatial norms. What the ASB, Crime and Policing Act (2014) has done therefore, is give the power to define deservedness to local council officers who can set local thresholds of tolerance around particular behaviours. Consequently, if a local council perceives there is a specific problem with street sleeping homeless people in their area (or any other behaviour for that matter), they have the powers to increasingly lower the tolerance levels towards that behaviour and create local civility agendas; essentially problematising difference (Bannister and Kearns, 2013b).

Bannister and Kearns (2009) point out that by increasingly sanctioning lower threshold behaviours, tolerance levels are likely to decrease further by eliminating opportunities to interact with others that can build common trust and values, which creates something of a vicious circle. These substantial powers are held by local council officers, not necessarily elected officials. There is a duty on local councils to consult with the police and 'whatever community representatives they think appropriate' (Home Office, 2014: 48). However published consultations show online surveys have been used (Oxford City Council, 2015b),

which the people targeted by the PSPO (e.g. street sleeping homeless people) are exceptionally unlikely to know about or be able to access in order to represent their views. This is hugely problematic because it undermines local democracy and can have substantial and far-reaching negative consequences for those affected by the prohibitions.

Like so many deliberations about ASB, discussions inevitably return to the definitional issues associated with reporting and recording incidents (Whitehead et al., 2003; Millie et al., 2005; Heap, 2009). When considering tolerance levels and PSPO conditions, it is salient to think about the types of complaints that might prompt the prohibitions. The quality of life threshold is in place to ensure victims are put first (Home Office, 2014). However, it is perhaps quite unlikely that a victim will make a report to the police/local council based on a behaviour negatively impacting on their quality of life, which will subsequently require a judgement by the call-handler to determine the extent of the impact on the quality of life. We already know that police call-handling practices related to ASB are inconsistent (HMIC 2010; HMIC, 2012), and there is evidence the public are sometimes unclear what ASB entails, even in relation to the harassment, alarm or distress definition (Heap, 2010). Therefore, how local councils *interpret* the behaviour that has been reported is likely to have a significant impact on the types of behaviours that are put forward for prohibition in a PSPO. The Home Office guidance document suggests that witness statements are important here too (Home Office, 2014), however this relies upon a complaint being made in the first instance. Unfortunately, openly available police statistics from the online portal police.uk only show that an incident of ASB has occurred; therefore, it is unclear if PSPOs that prohibit specific behaviours are the direct result of multiple reports about that issue. Nevertheless, by making a judgement about what prohibitions to include in a PSPO, local councils decide whose quality of life is prioritised. In the case of street sleeping homeless people, this can result in them obtaining a criminal conviction for a non-criminal act, in order to, as the Home Office (2014: 49) put it 'make public spaces more welcoming to the majority of law abiding people and communities'. Fitzpatrick and Jones (2005: 397), when discussing homelessness and social justice, make the salient point that 'any policies which have a major, negative impact on the lives of an acutely disadvantaged group cannot be justified by reference to a marginal gain for a (on the whole) less disadvantaged group'. Therefore, local councils that justify prohibiting behaviours associated with street sleeping homelessness

through PSPOs are excluding and potentially criminalising some of the most vulnerable people in their community by creating new civility agendas to appease and prioritise the experiences of those in least need, which further decreases tolerance levels.

The other way local councils appear to be interpreting PSPOs, is as a mechanism to 'solve' long-standing and/or difficult problems (by providing a short-term fix), which includes prohibiting behaviours such as skateboarding and commercial dog-walking (Kettering Borough Council, 2016 and Oxford City Council, 2015a respectively), as well as street sleeping homelessness and begging. This may be due to the burden of public spending cuts, pressure from the public to secure quick results and local councillors' concerns about their prospect of re-election. Whether based on public reports or part of a strategic problem-solving solution, local councils will need to carefully manage their use of PSPOs to avoid creating unrealistic public expectations of their utility. By using PSPO powers as a quick-fix, local councils are unlikely to be *solving* the problems they face, with spatial displacement and additional public complaints the most likely outcomes. Local councils are faced with the difficult challenge of balancing victims' and the public's needs, with those of the perpetrator(s). PSPOs do not provide a suitable long-term solution for many of the behaviours prohibited. Greater work needs to be undertaken to build tolerance within and between communities to foster better community relations, what Bannister and Kearns (2013b) term 'engagement', rather than dividing communities with decreasing tolerance levels and locally defined civility agendas that exclude some of the most vulnerable members of the community. Enabling different groups to engage with each other may help to prevent hostility, thus reducing the need for ASB powers to be employed.

Conclusion

Changes made to ASB policy in England and Wales by the ASB, Crime and Policing Act (2014) were intended to create more flexible powers to tackle disorderly behaviour. By examining the far-reaching capabilities of PSPOs, this article has suggested that these developments have created a tool whereby local councils have the *potential* to exclude and criminalise vulnerable groups from public spaces; based on decreasing tolerance levels towards difference and hardening perceptions of deservedness. We have demonstrated how Bannister and O'Sullivan's (2013) conceptions of civility and ASB policy have evolved

following the introduction of the new legislation, by suggesting how civility is now increasingly conceptualised and enforced at a local level, without scrutiny.

Numerous issues with the interpretation of PSPOs have been exposed, particularly around enforcement. More ominously, information provided by the Home Office has shown a wholesale lack of regulation of the new powers. This is problematic because there is no data available to monitor the effectiveness of PSPOs, so it is unclear if, and how, such powers will assist victims of ASB; the reason why the legislation was introduced in the first place. Furthermore, the lack of scrutiny over the *types* of prohibitions being imposed, gives local councils free reign to set new local civility agendas that, at present, appear to be targeting, amongst others, the behaviours associated with street sleeping homeless people. In such a contested terrain as public space, it is difficult to balance the needs of victims, the public, and the 'perpetrator'. Local councils and other stakeholders faced with this challenge experience conflict when creating a PSPO and, due to the financial pressures of austerity on wider public services, are likely not to please everyone.

As a result of these issues, a range of empirical research is required to better understand:

- i) How local councils navigate the decision-making process for conceiving and implementing a PSPO;
- ii) How the introduction of a PSPO impacts on the amount of ASB in that area;
- iii) How PSPOs affect the perpetrators of ASB, in terms of the sanctions they receive and whether their ASB ceases or displaces;
- iv) Whether some local councils make greater/lesser use of PSPOs and why; and
- v) The effect of differing policy responses to ASB in relation to public attitudes and tolerance levels.

In sum, PSPO powers do not appear to be the mechanism to solve behavioural tensions in public spaces, as simply banning certain behaviours is likely to displace the problem and counteract efforts to integrate marginalised groups into mainstream society (Beckett and Herbert, 2009). The introduction of these powers has promulgated a new era in behavioural regulation in England and Wales, without increasing the opportunities for community

building and inclusion. Such new frontiers of exclusion and criminalisation appear to be hurting the vulnerable in our society most, rather than making life better for victims of ASB.

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