



NORTHAMPTON
BOROUGH COUNCIL

CABINET AGENDA

Wednesday, 10 May 2017

The Jeffrey Room, St. Giles Square, Northampton,
NN1 1DE.

6:00 pm

Members of the Cabinet:

Councillor: Jonathan Nunn (Leader of the Council)

Councillor: Phil Larratt (Deputy Leader)

Councillors: Mike Hallam, Tim Hadland, Stephen Hibbert, Brandon Eldred and Anna King.

Chief Executive David Kennedy

If you have any enquiries about this agenda please contact
democraticservices@northampton.gov.uk or 01604 837722

PORTFOLIOS OF CABINET MEMBERS

CABINET MEMBER	TITLE
Councillor J Nunn	Leader
Councillor P Larratt	Deputy Leader
Councillor M Hallam	Environment
Councillor B Eldred	Finance
Councillor T Hadland	Regeneration, Enterprise and Planning
Councillor S Hibbert	Housing and Wellbeing
Councillor A King	Community Engagement and Safety

SPEAKING AT CABINET MEETINGS

Persons (other than Members) wishing to address Cabinet must register their intention to do so by 12 noon on the day of the meeting and may speak on any item on that meeting's agenda.

Registration can be by:

Telephone: (01604) 837722
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In writing: Democratic Services Manager
The Guildhall, St Giles Square, Northampton NN1 1DE
For the attention of the Democratic Services Officer

By e-mail to democraticservices@northampton.gov.uk

Only thirty minutes in total will be allowed for addresses, so that if speakers each take three minutes no more than ten speakers will be heard. Each speaker will be allowed to speak for a maximum of three minutes at each meeting. Speakers will normally be heard in the order in which they registered to speak. However, the Chair of Cabinet may decide to depart from that order in the interest of hearing a greater diversity of views on an item, or hearing views on a greater number of items. The Chair of Cabinet may also decide to allow a greater number of addresses and a greater time slot subject still to the maximum three minutes per address for such addresses for items of special public interest.

Members who wish to address Cabinet shall notify the Chair prior to the commencement of the meeting and may speak on any item on that meeting's agenda. A maximum of thirty minutes in total will be allowed for addresses by Members unless the Chair exercises discretion to allow longer. The time these addresses take will not count towards the thirty minute period referred to above so as to prejudice any other persons who have registered their wish to speak.

KEY DECISIONS

 denotes the issue is a 'Key' decision:

- Any decision in relation to the Executive function* which results in the Council incurring expenditure which is, or the making of saving which are significant having regard to the Council's budget for the service or function to which the decision relates. For these purpose the minimum financial threshold will be £250,000;
- Where decisions are not likely to involve significant expenditure or savings but nevertheless are likely to be significant in terms of their effects on communities in two or more wards or electoral divisions; and
- For the purpose of interpretation a decision, which is ancillary or incidental to a Key decision, which had been previously taken by or on behalf of the Council shall not of itself be further deemed to be significant for the purpose of the definition.

NORTHAMPTON BOROUGH COUNCIL

CABINET

Your attendance is requested at a meeting to be held:
in The Jeffrey Room, St. Giles Square, Northampton, NN1 1DE.
on Wednesday, 10 May 2017
at 6:00 pm.

D Kennedy
Chief Executive

AGENDA

1. APOLOGIES

2. MINUTES

(Copy herewith)

3. INTENTION TO HOLD PART OF THE MEETING IN PRIVATE

4. DEPUTATIONS/PUBLIC ADDRESSES

5. DECLARATIONS OF INTEREST

6. ISSUES ARISING FROM OVERVIEW AND SCRUTINY COMMITTEES

None

7. UPDATING THE WHISTLEBLOWING POLICY AND PROCEDURE

🔗 Report of the Borough Secretary and Monitoring Officer (Copy herewith)

8. PUBLIC SPACES PROTECTION ORDER - MARBLE ARCH

🔗 Report of the Director of Customers and Communities (Copy herewith)

9. EXCLUSION OF PUBLIC AND PRESS

THE CHAIR TO MOVE:

“THAT THE PUBLIC AND PRESS BE EXCLUDED FROM THE REMAINDER OF THE MEETING ON THE GROUNDS THAT THERE IS LIKELY TO BE DISCLOSURE TO THEM OF SUCH CATEGORIES OF EXEMPT INFORMATION AS DEFINED BY SECTION 100(1) OF THE LOCAL GOVERNMENT ACT 1972 AS LISTED AGAINST SUCH ITEMS OF BUSINESS BY REFERENCE TO THE APPROPRIATE PARAGRAPH OF SCHEDULE 12A TO SUCH ACT.”

SUPPLEMENTARY AGENDA

**Exempted Under Schedule
12A of L.Govt Act 1972
Para No:-**

NORTHAMPTON BOROUGH COUNCIL

CABINET

Wednesday, 12 April 2017

PRESENT: Councillor Nunn (Chair); Councillor Larratt (Deputy Chair); Councillors Eldred, Hadland, Hallam, Hibbert and King

1. APOLOGIES

There were none.

2. MINUTES

The minutes of the meeting held on the 15th March 2017 were agreed and signed by the Leader.

3. INTENTION TO HOLD PART OF THE MEETING IN PRIVATE

There were no items to be considered in private.

4. DEPUTATIONS/PUBLIC ADDRESSES

Mr F Guilnard (Vice-Chair of the DAPT board) - addressed Cabinet in respect of Item 10 - Funding support to Delapre Abbey Preservation Trust (DAPT) and thanked the Councillors and Officers for their hard work. He reported that the café had been opened to the public and that the feedback from visitors had been very positive and noted the increasing number of volunteers helping with the project and explained the positive impact the completed Abbey would have on Northampton and surrounding areas.

5. DECLARATIONS OF INTEREST

Councillor Eldred declared a personal and pecuniary interest in Item 9 - St Crispin's Community Centre and Sports Fields as a Trustee of Northampton Town Football in the Community Charity.

Councillor Hadland declared a personal non pecuniary interest in Item 10 - Funding support to Delapre Abbey Preservation Trust (DAPT) – as a former Director of DAPT.

6. ISSUES ARISING FROM OVERVIEW AND SCRUTINY COMMITTEES

There were none.

7. ENVIRONMENTAL SERVICES RE-PROVISION

Councillor Smith addressed Cabinet and expressed concerns that the Scrutiny Working Group would be looking at the process retrospectively as the report had been brought to Cabinet prior to the scrutiny process of the panel.

Councillor Stone commented that there was a lack of clarity with regards to the impact of a Unitary Authority being established and the impact of this on the contract. She further suggested that the administration should examine their current assets and questioned whether a 10 year contract was a necessity.

Councillor Hallam as the relevant Cabinet Member, submitted his report and explained that there would be wholesale changes to the services offered by the provider. In response to questions raised, he further explained that a 10 year contract was 'industry standard' and

that the wagons provided would be newer than those currently used by the service providers. It was noted that the selection questionnaire would not include any detail of the impact of a Unitary Authority especially as part of a procurement exercise as the report contained a summary of responses received and that the desired outcome of a new contract would be a move towards a fortnightly co-mingled service.

The Leader noted that the consultation process undertaken had been the largest ever done by the Borough Council.

The Deputy Leader, in response to the comments of Councillor Smith, commented that he welcomed the report and suggested the scrutiny panel should amend their timetable accordingly to ensure that they were synchronised with the work of the administration. He noted that any agreement would include numerous clauses to ensure that the best service would be delivered and failure to do so would not leave the Council vulnerable.

RESOLVED:

- 2.1 That in response to the OJEU notice and Selection Questionnaire issued on 13th February 2017, nine responses were received and evaluated, leading to the five highest scoring bidders being selected for the Invitation to Submit Initial Tenders.
- 2.2 That the outcome of the public consultation exercises undertaken to inform this procurement process be noted.
- 2.3 That it be agreed (having noted the indicative relative cost increase (set out in section 4.2.5 of the report) and subject to affordability that the following requirements for service design be included in the service specification
 - Fortnightly co-mingled dry recycling collection service
 - Free green waste collection service
 - Kitchen food waste collection service
- 2.4 That authorisation be given for the advertisement of the proposed disposal of land designated as public open space in accordance with the requirements of the Local Government Act 1972 (as amended) to facilitate the grant of leases referred to in paragraph 3.1.9 and 3.1.10 of the report.
- 2.5 That it be agreed to a request from Northampton Partnership Homes that it be excluded from the Council's environmental services re-procurement and, instead, be permitted to independently procure grounds maintenance services for the land within the curtilage of the properties for which it is responsible.

8. ABINGTON PARK CAFÉ: REVISED LEASE AND LICENCE

Councillor Stone commented that she had a number of concerns about what proposal would mean and questioned whether there was a favoured status of the current tenant whom she suggested had a monopoly on the provision of catering services in the park. She further suggested that this was being done by stealth with table and chairs gradually creeping onto public open space.

Councillor Hallam stated that Abington Park had 4 licensed locations and therefore the licensee did not have a monopoly.

Councillor Hadland, as the relevant Cabinet Member submitted a report and noted that

additional information had been circulated in the addendum (attached in an updated agenda available on the website). He noted that 286 individual representations had been received in response to the Notice of the proposed disposal of open space, with over 96% of respondents not raising objections. Councillor Hadland stated that the property had been leased to an operator for many years and the lease would expire in 2029. He noted that the revised lease and licence would allow the tables and chairs to be governed and that there was no monopoly in the park; it was a park that was used by many across the spectrum and was of benefit to all residents and park users.

RESOLVED:

- 2.1 That the representations arising from the advertisement of the proposed disposal of public open space in accordance with the requirements of Section 123 (2A) of the Local Government Act 1972 be received and considered.
- 2.2 That the leasing to the existing tenant of an additional area of the Park upon which an extension to the Café has been built and agree that this be effected by the surrender of the existing lease of the Abington Park Café and the grant of a new lease of an extended area shown edged red on the Plan at Appendix 1 of the report, to the existing tenant be approved.
- 2.3 That the grant of an annually determinable licence, with conditions, for the placement of tables & chairs within the area shown edged blue on the Plan attached at Appendix 1 of the report be approved.
- 2.4 That the Director of Regeneration Enterprise and Planning, acting in consultation with the Borough Secretary be authorised to agree terms based on a commercial arrangement for a new lease and for a licence for the Abington Park Café.

9. ST CRISPIN'S COMMUNITY CENTRE AND SPORTS FIELDS

At this juncture of the meeting, Councillor Eldred, having declared a personal and pecuniary interest in Item 9 - St Crispin's Community Centre and Sports Fields as a Trustee of Northampton Town Football in the Community Charity left the room.

Councillor King, as the relevant Cabinet Member, submitted a report and elaborated thereon. It was noted that Cabinet were being asked to re-consider its decision of 16th November 2016 to grant a lease to and enter a management agreement with Community Spaces Northampton (CSN). She thanked the ongoing work of CSN.

RESOLVED:

- 2.1 That it be noted that the land at St Crispin's Community Centre and Sports Pitches, shown edged red on the plan at appendix 1 of the report, was public open space.
- 2.2 That in light of recommendation 2.1, Cabinet re-considered its decision of 16th November 2016 in respect of the lease and management agreement for the new St Crispin's Community Centre and Sports Pitches, and:
 - 2.2.1 Approved in principle the disposal of land designated as public open space and agrees to the advertisement of the proposed disposal of public open space in accordance with the requirements of the Local Government Act 1972 as amended by the Local government Planning and land Act 1980.

- 2.2.2 Approved in principle the grant of a 30 year lease to Community Spaces Northampton, at a notional rent, without review.
- 2.2.3 Agreed to enter into a management agreement with Community Spaces Northampton, in accordance with the policy framework approved by Cabinet in December 2010.
- 2.3 That authority be delegated to the Director of Regeneration, Enterprise and Planning, in consultation with the cabinet member for Regeneration, Enterprise and Planning (further to recommendation to 2.2.2) to approve the final terms of the lease.
- 2.4 That authority be delegated to the Director of Customers and Communities, in consultation with the cabinet member for Community Engagement, (further to recommendation 2.2.3) to approve the final terms of the management agreement.

Councillor Eldred, as this point, re-entered the room.

10. FUNDING SUPPORT TO DELAPRE ABBEY PRESERVATION TRUST (DAPT)

Councillor Birch commented that she had concerns about the funding and noted that whilst there was support for the recommendations, there was concern about the project management and suggested that the Trust had repeatedly requested financial assistance. She asked that in future there be better transparency to ensure that projects did not overrun and were carefully financially managed.

The Leader stated that Cabinet Member for Regeneration, Enterprise and Planning had been, until recently, a Trustee of Delapre Abbey Preservation Trust (DAPT) who had acted as a representative of the Council and thanked him for his crucial role. Councillor Nunn noted that funding from the Heritage Lottery and the capital investment from the Council would assist in making the Trust a sustainable, successful and viable business. He explained that the renovation work had been an enormous heritage experience and that the conclusion of such projects often led to extra funding being required. He noted that the financial monitoring process had been sound.

RESOLVED:

1. That up to £400k of revenue support for DAPT over the next four years to support HLF grant funding requirements, the delivery of DAPT Business Plan and assist in securing the future financial sustainability of DAPT be approved.
2. That it be agreed that any funding to assist with estimated deficits over the next four years whilst DAPT reaches financial maturity should be subject to regular oversight and reporting arrangements to ensure that DAPT's business plan and financial monitoring is focussed on delivering financial sustainability by 2021/22.
3. That the revenue support would be provided subject to formal sign up of the Council's requirements for the oversight and reporting arrangements by the DAPT Board of Trustees be agreed.
4. That funding to DAPT would be met from corporate earmarked reserves be agreed.

11. CORPORATE PERFORMANCE - ALL MEASURES REPORT DECEMBER 2016

The Leader, as the relevant Cabinet Member, submitted a report and elaborated thereon and noted that in the future it was hoped that the information contained within the report be more up to date and to include fuller explanations to accompany the information provided. He thanked officers of the Council for their level of performance.

The Deputy Leader commented that extra narrative was needed to explain why some information had not been detailed and why, and suggested that before the report be presented to the Audit Committee further work be done to ensure that simple and accurate information be used to ensure transparency and succinctness for members and the general public.

RESOLVED:

- 2.1 That the contents of the performance report be reviewed.
- 2.2. That it be approved for the performance report to be presented to Audit Committee.

The meeting concluded at 6.52pm

Appendices: 1



NORTHAMPTON
BOROUGH COUNCIL

CABINET REPORT

Report Title	Updating the Whistleblowing Policy and Procedure
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AGENDA STATUS: PUBLIC

Cabinet Meeting Date:	10 th May 2017
Key Decision:	YES
Within Policy:	YES
Policy Document:	YES
Directorate:	Borough Secretary & Monitoring Officer
Accountable Cabinet Member:	Leader
Ward(s)	All

1. Purpose

- 1.1 The purpose of this report is to ask Cabinet to recommend that Full Council approve the draft revised Whistleblowing Policy which includes the provision of an external whistleblowing hotline.

2. Recommendations

It is recommended that Cabinet:

- 2.1 recommend to Full Council that the Council retain an external provider to operate an external whistleblowing hotline for the Council;
- 2.2 recommend the draft Whistleblowing Policy and Procedure attached at Appendix 1 to Full Council for approval;
- 2.3 approve the expenditure on an external whistleblowing hotline as detailed in paragraph 4.2.1 of this report, subject to Full Council approving a revised Whistleblowing Policy and Procedure that includes use of an external whistleblowing hotline;

- 2.4 delegate authority to the Borough Secretary & Monitoring Officer in consultation with the Leader of the Council, to select an external whistleblowing provider and determine the specific level of expenditure within the range approved by Cabinet, following a process conducted in accordance with the Contract Procedure Rules; and
- 2.5 recommend to Full Council, that upon adoption of a new Whistleblowing Policy and Procedure, training on whistleblowing is provided to Councillors and Council staff, alongside a campaign to raise awareness of whistleblowing arrangements.

3. Issues and Choices

3.1 Report Background

- 3.1.1 The Council currently has a Whistleblowing Policy in place as part of its overall Anti-Fraud and Corruption Policy and Strategy.
- 3.1.2 Whistleblowing refers to the act of reporting or exposing wrongdoing either internally, within the organisation, or externally, for example to a regulator.
- 3.1.3 The purpose of the Council's Whistleblowing Policy is to enable those who work for the Council to disclose allegations of malpractice and be confident that the matter will be effectively investigated and that they will not be left vulnerable to any form of victimisation, or be subject to reprisal as a result of "blowing the whistle".
- 3.1.4 The following lists examples of types of malpractice that might be reported/disclosed under the Council's Whistleblowing Policy:
- Conduct which is a criminal offence or a breach of law
 - Dangerous procedures risking the health, safety or welfare of other employees or members of the public
 - Damage to the environment
 - Unauthorised use of public funds
 - Fraud or corruption
 - Sexual or physical abuse of customers
 - Disclosures related to miscarriages of justice
 - Other unethical conduct
- 3.1.5 Whistleblowing is an important aspect of good governance within organisations. Maintaining an effective Whistleblowing Policy contributes to an organisational environment where the prevention of fraud and malpractice is encouraged and where its detection is promoted.
- 3.1.6 A full review of the Whistleblowing Policy is being undertaken as part of the implementation of the Council's Governance Action Plan (that was considered by Audit Committee on 5th December 2016).
- 3.1.7 The Council's Standards Committee has a role in promoting good governance within the organisation. Therefore, the Standards Committee has in

accordance with its Work Plan, participated in the preparation of a revised draft Whistleblowing Policy (at Appendix 1). On 2nd March 2017, a Working Group of the Standards Committee considered the broad principles of the draft Whistleblowing Policy at Appendix 1 and also considered in detail the principle of the Council having an external whistleblowing hotline. The draft Whistleblowing Policy was then considered by the Standards Committee on 20th March 2017, who resolved to recommend it to Cabinet.

3.2 Issues

3.2.1 The draft Whistleblowing Policy at Appendix 1 is based broadly on a good practice example. It is intended to be relatively short to encourage those who may need to access the Policy to use it.

Introducing an external whistleblowing hotline

3.2.2 Organisations sometimes provide the option for their staff to blow the whistle to an external provider, in addition to the ordinary routes for whistleblowing disclosures to be made within the organisation. The draft Whistleblowing Policy at Appendix 1 includes the provision of an external whistleblowing hotline. The Council's current Whistleblowing Policy does not include an external hotline.

3.2.3 The draft Whistleblowing Policy encourages staff to raise any concerns they may have through standard Line Management initially, to allow those in positions of responsibility to address the issue and seek an explanation for the behaviour or activity. The draft Policy states that if the individual with the concern does not feel that Managers within their area have addressed the concern, or they prefer not to raise it with their own managers for any reason, they can also contact either the Monitoring Officer, the Chief Executive or the confidential external whistleblowing hotline.

3.2.4 The draft Policy does not provide for the external whistleblowing hotline provider to deal with or investigate the subject of any disclosures. It is anticipated that an external provider would receive and log any disclosures made and report them back into the relevant part of the Council, taking into account any potential conflicts of interest arising from the subject matter of the disclosure. It is expected that an external whistleblowing hotline would include alternatives to making a telephone disclosure, for example the ability to report a concern to a secure online area.

3.2.5 There are a number of potential advantages of using an external whistleblowing hotline in addition to the Council's ordinary internal whistleblowing routes. For example:

- People who work for an external hotline who are trained in talking to individuals who may want to make a disclosure can build rapport with those individuals and successfully gather relevant information.
- Hotline can be covered outside of ordinary office hours.

- The existence of an external hotline can assist in allaying any suspicions that staff may have about how the organisation treats whistleblowing and can demonstrate that the organisation is completely committed to hearing any concerns that its staff may have.
- It can provide an alternative route for staff who do not wish to use internal reporting options, but does not need to replace the existence of those internal reporting options.
- Generally, being able to report to an external whistleblowing hotline may lead to a more positive perception by Council staff of whistleblowing arrangements and lead to a higher number of reports being made. (If an organisation receives a very low number of disclosures or no disclosures, this could indicate a lack of confidence in the organisation's whistleblowing arrangements rather than indicating that there are no matters of concern within the organisation).

Protection for whistleblowers

3.2.6 The law on whistleblowing is contained in the Employment Rights Act 1996 ('ERA') as amended by the Public Interest Disclosure Act 1998 ('PIDA'). The ERA was amended by PIDA to introduce protection for workers (including employees) who "blow the whistle" on wrongdoing at work. Workers have a right not to be dismissed or suffer detriment at work as a consequence of making a "protected disclosure". The draft Whistleblowing Policy explains that whistleblowers must not suffer any detrimental treatment as a result of raising a concern. (Detrimental treatment includes dismissal, disciplinary action, threats or other unfavourable treatment connected with raising a concern).

Whistleblowing disclosures by members of the public

3.2.7 The draft Policy explains that people who are not Council employees can still contact the Council to report any concerns or disclosures over wrongdoing. This is to ensure that those who come into contact with the Council or its services have a mechanism through which to report concerns, and to ensure that all information about suspected malpractice or wrongdoing reaches the appropriate individuals within the Council, who can then investigate further. The protections available under PIDA, in certain circumstances, to employees who have made a whistleblowing disclosure, do not extend to disclosures made by members of the public.

Training

3.2.8 The Standards Working Group discussed the importance of training to ensure that all Councillors and staff are aware of the Council's whistleblowing arrangements. When a revised Whistleblowing Policy is formally adopted by the Council, it will be important to ensure that there is a campaign to raise awareness of the Policy and Procedure and ensure that training takes place.

3.3 Choices (Options)

Option 1 (recommended)

3.3.1 That Cabinet:

- recommend to Full Council that the Council retain an external provider to operate an external whistleblowing hotline for the Council;
- recommend the draft Whistleblowing Policy and Procedure attached at Appendix 1 to Full Council for approval;
- approve the expenditure on an external whistleblowing hotline as detailed in paragraph 4.2.1 of this report, subject to Full Council approving a revised Whistleblowing Policy and Procedure that includes use of an external whistleblowing hotline;
- delegate authority to the Borough Secretary & Monitoring Officer in consultation with the Leader of the Council, to select an external whistleblowing provider and determine the specific level of expenditure within the range approved by Cabinet, following a process conducted in accordance with the Contract Procedure Rules; and
- recommend to Full Council, that upon adoption of a new Whistleblowing Policy and Procedure, training on whistleblowing is provided to Councillors and Council staff, alongside a campaign to raise awareness of whistleblowing arrangements.

3.3.2 Adopting the draft Whistleblowing Policy is recommended as it is based on current good practice and it is important that this Policy is reviewed and refreshed regularly to ensure it is up to date and operating effectively. The potential advantages of introducing an external whistleblowing hotline are summarised in paragraph 3.2.5.

3.3.3 A potential disadvantage of using an external hotline is that it adds another stage or layer into the process for dealing with whistleblowing concerns when they are raised. However, any contract with an external provider would include service levels to cover timescales within which reports back to the Council need to be made. Further, the Council's operational processes used to deal with whistleblowing disclosures can be easily modified to integrate the use of an external hotline.

3.3.4 The advantages of training staff and Councillors about whistleblowing are that it will ensure that staff are aware of the relevant avenues for raising concerns, that they gain an understanding of how whistleblowers are protected by legislation, and have confidence that the Council takes whistleblowing seriously.

Option 2 (not recommended)

3.3.5 That Cabinet does not recommend the draft Whistleblowing Policy to Full Council for approval, or recommends an alternative to Full Council.

4. Implications (including financial implications)

4.1 Policy

- 4.1.1 If Full Council accepts Cabinet's recommendations, this will result in a policy change as detailed in this report.

4.2 Resources and Risk

- 4.2.1 Cabinet is asked to approve the expenditure on an external whistleblowing hotline subject to Full Council approving the draft Whistleblowing Policy and Procedure. It is estimated that costs of retaining an external whistleblowing hotline will be between £1000 and £9000 per year depending on the provider and package selected.
- 4.2.2 The Council's Whistleblowing Policy is an important part of the Council's overall governance framework and its strategy to prevent fraud and corruption. Strengthening and improving the Policy therefore assists in identifying and managing certain types of risks that may exist in the organisation.

4.3 Legal

- 4.3.1 The legal implications are set out in the body of this Report.

4.4 Equality and Health

- 4.4.1 Full regard will be had to equality and diversity considerations in the implementation of a revised Whistleblowing Policy and any associated awareness raising campaign.

4.5 Consultees (Internal and External)

- 4.5.1 Standards Committee have been consulted and have recommended the draft Policy to Cabinet.

4.6 How the Proposals deliver Priority Outcomes

- 4.6.1 Adopting a revised Whistleblowing Policy which incorporates an external whistleblowing hotline to strengthen current arrangements contributes to the priority set out in the Council's 2017-2022 Corporate Plan to 'improve our governance' and implement the Governance Action Plan.

4.7 Other Implications

- 4.7.1 None

5. Background Papers

- 5.1 Report to Standards Committee of 20th March 2016 – *Updating the Whistleblowing Policy and Procedure*

Francis Fernandes
Borough Secretary and Monitoring Officer



NORTHAMPTON
BOROUGH COUNCIL

WHISTLEBLOWING
POLICY AND PROCEDURE

[] 2017

1. ABOUT THIS POLICY AND POLICY STATEMENT

- 1.1 The Council is committed to conducting its functions with honesty and integrity. This Policy forms part of the Council's Anti-Fraud and Corruption Strategy and is intended to provide an effective means of confidential reporting and detection.
- 1.2 It is the Council's expectation that Members and employees will lead by example, acting in a proper manner at all times and abiding by the procedures, rules and safeguards put in place to protect the interests of the Council and those it serves. This expectation extends to contractors, suppliers and other external agencies with which the Council deals, and any failures by such agencies to meet the standards required by the Council in this respect will be dealt with in a rigorous manner.
- 1.3 However, all organisations face the risk of things going wrong from time to time, or of unknowingly harbouring illegal or unethical conduct. A culture of openness and accountability is essential in order to prevent such situations occurring and to address them when they do occur.
- 1.4 The aims of this Policy are:
- (a) To encourage staff to report suspected wrongdoing as soon as possible, in the knowledge that their concerns will be taken seriously and investigated as appropriate, and that their confidentiality will be respected.
 - (b) To provide staff with guidance as to how to raise those concerns.
 - (c) To reassure staff that they should be able to raise genuine concerns without fear of reprisals, even if they turn out to be mistaken.
- 1.5 This Policy covers all employees, officers, consultants, contractors, volunteers, casual workers and agency workers.
- 1.6 This Policy does not form part of any employee's contract of employment and we may amend it at any time.

2. OFFICERS RESPONSIBLE FOR THE POLICY

- 2.1 The Monitoring Officer has day-to-day operational responsibility for this Policy.
- 2.2 The Monitoring Officer, should review this Policy from a legal and operational perspective at least once a year.
- 2.3 All staff are responsible for the success of this Policy and should ensure that they use it to disclose any suspected danger or wrongdoing. Staff are invited to comment on this Policy and suggest ways in which it might be improved. Comments, suggestions and queries should be addressed to the Monitoring Officer.

3. WHAT IS WHISTLEBLOWING?

3.1 **Whistleblowing** is the disclosure of information which relates to suspected wrongdoing or dangers at work. This may include:

- (a) criminal activity;
- (b) failure to comply with any legal or professional obligation or regulatory requirements;
- (c) miscarriages of justice;
- (d) danger to health and safety or welfare of other staff or members of the public;
- (e) damage to the environment;
- (f) bribery under the Anti-Fraud and Corruption Policy and Strategy;
- (g) financial fraud or mismanagement;
- (h) unauthorised use of public funds
- (i) breach of the Council's internal policies and procedures including the Employees' Code of Conduct;
- (j) conduct likely to damage the Council's reputation;
- (k) unauthorised disclosure of confidential or exempt information;
- (l) negligence;
- (m) sexual or physical abuse of Council clients/customers;
- (n) other unethical behaviour
- (o) the deliberate concealment of any of the above matters.

3.2 A **whistleblower** is a person who raises a genuine concern relating to any of the above. If you have any genuine concerns related to suspected wrongdoing or danger affecting any of the Council's activities (a **whistleblowing concern**) you should report it under this Policy.

3.3 This Policy should not be used for complaints relating to your own personal circumstances, such as the way you have been treated at work. In those cases you should use the Grievance Resolution Procedure or the Dignity at Work Framework as appropriate.

3.4 This Policy should not be used in cases where there has been a failure of service delivery, which should be dealt with using the Council's standard Complaints Procedure.

3.5 If you are uncertain whether something is within the scope of this Policy you should seek advice from the Monitoring Officer, whose contact details are at the end of this Policy.

4. RAISING A WHISTLEBLOWING CONCERN

- 4.1 As a first step, the Council encourages you to raise concerns through standard line management with your Line Manager or your Head of Service or Director, to allow those in positions of responsibility and authority an opportunity to address the issue and seek an explanation for the behaviour or activity. You may tell them in person or put the matter in writing if you prefer. They may be able to agree a way of resolving your concern quickly and effectively. In some cases they may refer the matter to the Monitoring Officer.
- 4.2 However, where the matter is more serious, or you feel that your Line Manager or other managers within your area have not addressed your concern, or you prefer not to raise it with them for any reason, you should contact one of the following:
- (a) the Monitoring Officer, Francis Fernandes;
 - (b) the Council's Chief Executive; David Kennedy; or
 - (c) the confidential external telephone whistleblowing hotline.

Contact details are set out at the end of this Policy.

- 4.3 Concerns raised under this Policy should, where possible, be submitted in writing, setting out the background, giving names, dates and places, and the reason why you are concerned about the situation. Individuals who do not feel able to put their concerns in writing can telephone the Monitoring Officer who will take down a written summary of your concern. The Monitoring Officer can be contacted on his office extension number. Alternatively, he can be contacted on the **internal** confidential whistleblowing hotline.

5. CONFIDENTIALITY

- 5.1 The Council hopes that staff will feel able to voice whistleblowing concerns openly under this Policy. However, if you want to raise your concern confidentially, we will make every effort to keep your identity secret. If it is necessary for anyone investigating your concern to know your identity, we will discuss this with you.
- 5.2 The Council does not encourage staff to make disclosures anonymously. Proper investigation may be more difficult or impossible if we cannot obtain further information from you. It is also more difficult to establish whether any allegations are credible. Whistleblowers who are concerned about possible reprisals if their identity is revealed should come forward to the Monitoring Officer and appropriate measures can then be taken to preserve confidentiality. If you are in any doubt you can seek advice from Public Concern at Work, the independent whistleblowing charity, who offer a confidential helpline. Their contact details are at the end of this Policy.

6. COUNCIL RESPONSE TO A WHISTLEBLOWING CONCERN

- 6.1 Once you have raised a concern, we will carry out an initial assessment to determine the scope of any investigation.
- 6.2 Assuming you have not reported the matter anonymously or have not requested an external agency to withhold your name from the Borough Council, we will provide written confirmation that details of your concern have been received within ten working days of receipt. You will be advised as to:
- whether or not further information is required from you and whether you may be required to attend meetings to provide additional information;
 - how the Council proposes to deal with the matter;
 - whether any initial enquiries have been made;
 - whether further investigations will take place and, if not, why not.
- 6.3 In some cases, we may appoint an investigator or team of investigators including staff with relevant experience of investigations or specialist knowledge of the subject matter. The investigator(s) may make recommendations for change to enable us to minimise the risk of future wrongdoing.
- 6.4 The amount of contact you might expect to have with the person(s) considering the issues will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided.
- 6.5 Where you are required to attend a meeting or interview this can be arranged away from your workplace if you wish and you may be accompanied by your trade union or professional association representative, colleague or friend. Your companion must respect the confidentiality of your disclosure and any subsequent investigation.
- 6.6 In the event that you are required to give evidence in any disciplinary or criminal proceedings you will be given advice about the procedure.
- 6.7 We will aim to keep you informed of the progress of the investigation and its likely timescale. However, sometimes legal constraints or the need for confidentiality may prevent us giving you specific details of the investigation or any disciplinary action taken as a result. You should treat any information about the investigation as confidential.
- 6.8 If we conclude that a whistleblower has made false allegations maliciously or with a view to personal gain, the whistleblower will be subject to disciplinary action.

7. IF YOU ARE NOT SATISFIED

- 7.1 While we cannot always guarantee the outcome you are seeking, we will try to deal with your concern fairly and in an appropriate way. By using this Policy you can help us to achieve this.

7.2 If you are not happy with the way in which your concern has been handled, you can raise it with the Council's Chief Executive. Contact details are set out at the end of this Policy.

8. EXTERNAL DISCLOSURES

8.1 The aim of this policy is to provide an internal mechanism for reporting, investigating and remedying any wrongdoing in the workplace. In most cases you should not find it necessary to alert anyone externally.

8.2 The law recognises that in some circumstances it may be appropriate for you to report your concerns to an external body such as a regulator. It will very rarely if ever be appropriate to alert the media. We strongly encourage you to seek advice before reporting a concern to anyone external. The independent whistleblowing charity, Public Concern at Work, operates a confidential helpline. They also have a list of prescribed regulators for reporting certain types of concern. Their contact details are at the end of this Policy.

8.3 Whistleblowing concerns usually relate to the conduct of our staff, but they may sometimes relate to the actions of a third party, such as a supplier or service provider. In some circumstances the law will protect you if you raise the matter with the third party directly. However, we encourage you to report such concerns internally first. You should contact your line manager or the Monitoring Officer for guidance.

9. PROTECTION AND SUPPORT FOR WHISTLEBLOWERS

9.1 It is understandable that whistleblowers are sometimes worried about possible repercussions. We aim to encourage openness and will support staff who raise genuine concerns under this Policy, even if they turn out to be mistaken.

9.2 Whistleblowers must not suffer any detrimental treatment as a result of raising a concern. Detrimental treatment includes dismissal, disciplinary action, threats or other unfavourable treatment connected with raising a concern. If you believe that you have suffered any such treatment, you should inform the Monitoring Officer immediately. If the matter is not remedied you should raise it formally using our Grievance Procedure.

9.3 You must not threaten or retaliate against whistleblowers in any way. If you are involved in such conduct you may be subject to disciplinary action.

10. WHISTLEBLOWING BY MEMBERS OF THE PUBLIC

If you are not a Council employee you can still contact the Council to report any concerns or disclosures over wrongdoing and the Council will follow the same or a similar process to that set out in this Policy. The protections available under the Public Interest Disclosure Act 1998, in certain circumstances to employees who have made a

whistleblowing disclosure, do not extend to disclosures made by members of the public.

11. MONITORING

The Monitoring Officer will regularly review the effectiveness of the Council's Whistleblowing Policy and engage elected Members in this process in accordance with the Council's governance framework.

12. CONTACTS

Monitoring Officer	Francis Fernandes 01604 837334 ffernandes@northampton.gov.uk
Monitoring Officer's internal confidential Whistleblowing Hotline	07900 052789
Chief Executive	David Kennedy 01604 837726 dkennedy@northampton.gov.uk
[External Whistleblowing hotline] <i>[insert hours of operation]</i>	<i>[insert Company name and contact details]</i>
Public Concern at Work (Independent whistleblowing charity)	Helpline: (020) 7404 6609 E-mail: whistle@pcaw.org.uk Website: www.pcaw.org.uk

Appendices

2



NORTHAMPTON
BOROUGH COUNCIL

CABINET REPORT

Report Title	PUBLIC SPACES PROTECTION ORDER – MARBLE ARCH
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AGENDA STATUS: PUBLIC

Cabinet Meeting Date:	10 th May 2017
Key Decision:	Yes
Within Policy:	Yes
Policy Document:	No
Directorate:	Customers & Communities
Accountable Cabinet Member:	Cllr Anna King
Ward(s)	Castle

1. Purpose

- 1.1 To seek Cabinet authorisation to commence the consultation process on a Public Spaces Protection Order (PSPO) as set out in the Anti-Social Behaviour, Crime & Policing Act 2014, to gate the highway known as Marble Arch, which runs from Ash Street to Barrack Road.

2. Recommendations

That Cabinet:

- 2.1 Grants approval to proceed to the consultation stage for a Public Spaces Protection Order (PSPO) to gate the public Highway known as Marble Arch, between Barrack Road and Ash Street (See Appendix 1 for Draft Order and location map).
- 2.2 Is presented with the outcome of the consultation, at a future Cabinet meeting to enable an informed decision to be made on the making of the PSPO.

3. Issues and Choices

3.1 Report Background

- 3.1.1 On 20th October 2014 the Government implemented the Anti-Social Behaviour, Crime and Policing Act 2014. The purpose of the Act is to give local authorities and the Police more effective powers to tackle anti-social behaviour (ASB), providing better protection for victims.
- 3.1.2 Amongst these new tools and powers are Public Spaces Protection Orders (PSPO's), which are designed to stop all individuals or a specific class of persons committing anti-social behaviour in a public space. It is for each individual Council to determine what behaviour(s) they want to make the subject of a Public Space Protection Order however the overarching consideration when considering a Public Space Protection Order is whether the activity will have detrimental effect on the quality of life of those in the locality and that the activity is likely to be persistent or continuing in nature or that the activity is unreasonable and any restriction is justified.
- 3.1.3 There is a requirement to undertake a public consultation exercise, the statutory requirement is to consult with the chief officer of police, and the local policing body, for the area that includes the restricted area, whatever community representatives the local authority thinks it appropriate to consult and the owner or occupier of land within the restricted area. There is also a requirement to publish the text of the proposed Order and to notify the parish council or community council (if any) for the area that includes the restricted area. There is also a requirement to notify the County Council of the proposed Order.
- 3.1.4 PSPO's will provide Councils with a flexible power to implement local restrictions to address a range of anti-social behaviour issues in public places in order to prevent future problems.
- 3.1.5 It is important that PSPO's are used proportionately and that they are not seen to be targeting behaviour of the children/young people where there is a lack of tolerance and understanding by local people.
- 3.1.6 The following conditions have to be met before making an Order:
- Activities carried out in a public place within the local authority's area have a detrimental effect on the quality of life of those living in the locality OR
 - It is likely that activities will be carried out in a public place within the area that will have such an effect

The effect, or likely effect of the activities:

- Is, or is likely to be, of a persistent or continuing nature OR
- Is, or is likely to be, such as to make the activities unreasonable

- and that the activity justifies the making of an Order

3.1.7 A PSPO replaces existing provisions such as stopping up orders to gate areas of the highway. Under the new Act, if not reviewed earlier, these will continue to be valid for a period of three years from the commencement of the new provisions.

3.1.8 A Public Space Protection Order can be made for a maximum of three years. The legislation provides they can be extended at the end of the period, but only for a further period of up to three years. However, orders can be extended more than once. Local authorities can increase or reduce the restricted area of an existing order, amend or remove a prohibition or requirement, or add a new prohibition or requirement. They can also discharge an order but further consultation must take place for varying or discharging orders.

3.1.9 Enforcement will be shared between the Council and the police. Breach of a requirement to desist in a particular activity is a criminal offence which can result in the issuing of a Fixed Penalty Notice (FPN) or a prosecution resulting in a fine of up to £1,000 on conviction. Enforcement can be undertaken by Council Officers, Police and other designated groups, including officers under the Community Safety Accreditation Scheme.

3.1.10 Before making the order the local authority must notify potentially affected people of the proposed order, inform those persons of how they can see a copy of the proposed order, notify them of how long they have to make representation, and consider any representations made.

3.1.11 The consultation will be via the website on Survey Monkey. Adjacent properties, businesses and local residents groups will be directly contacted to raise awareness. Others will be notified via the Council's website, Facebook and Twitter. Posters will also be put up on site.

3.2 Issues

3.2.1 Marble Arch has been a hotspot for street drinking, fly tipping and anti-social behaviour for many years. A Police Environmental Audit carried out in 2010 recommended gating this highway, however at that time it was not viable due to previous legislation making it cost prohibitive. However, the issues remain, the recommendation still stands and since the introduction of the Anti-Social Behaviour, Crime and Policing Act 2014 gating of a highway is now covered by a PSPO, simplifying the process and significantly reducing the financial outlay.

3.2.2 Police have difficulty with dealing with the street drinkers in the area due to the layout and with another route being available (Temple Bar) a few hundred yards away, making it easy for the drinkers to evade the police (see Appendix 1).

- 3.2.3 Marble Arch has easy access through Ash Street making it an ideal place for fly tippers.
- 3.2.4 In order to make a PSPO the legislation states that the Council needs to consult with anyone who could legitimately use that highway as well as those who live nearby.
- 3.2.5 A PSPO can only be made for a period of 3 years. At any time before expiry the Council can extend a PSPO by up to 3 years following consultation with the local Police and community representatives as the Council thinks appropriate.

3.2 Choices (Options)

- 3.3.1 Do nothing - street drinkers are causing anti-social behaviour by drinking in the street and littering the area. The location enables them to hideaway and easily avoid police/wardens as there are several routes they can take. This is not an option that would meet the needs of the wider community and address the anti-social behaviour issues that are being experienced on a regular basis.
- 3.3.2 Implement a PSPO for the gating of this area. Gating the alley would take away a gathering and drinking place, an escape route for offenders, and a hot spot for litter & fly tipping. The gating will also enable more effective policing of the area. Legitimate users of this highway can use the alternative route of Temple Bar which is approximately 100 yards away.
- 3.3.3 Disadvantage of this option is the initial outlay for the installation of the gates.

4. Implications (including financial implications)

4.1 Policy

- 4.1.1 The approach supports the multi-agency Countywide Anti-Social Behaviour Policy that Northampton Borough Council is signed up to.

4.2 Resources and Risk

- 4.2.1 A PSPO can be enforced by both the Police and Council. The Council will be the agency to process the Fixed Penalty Notices (FPN's), regardless of which agency issues them. The approach to this will be agreed with the Police.
- 4.2.2 There is a financial implication for the gates and ongoing maintenance. A quote has been obtained for a fence and double vehicle access gate at the Ash Street end and a fence and pedestrian gate access at the Barrack Road end. This quote is for £2,700 + VAT. This cost will come from within existing budgets and the maintenance costs, which are anticipated to be minimal, from revenue from PSPO FPN's.

4.2.3 Any income generated by payment of FPN's must be directed back into management of the PSPO process.

4.3 Legal

4.3.1 A PSPO is in effect an enforceable form of byelaw with fixed penalty notice powers attached. A PSPO has the potential to enhance local control over a range of matters thus returning greater control to District Councils. PSPO'S replace previous gating orders. Such orders remain in place for 3 years following commencement and are then subject to renewal as if made as a PSPO.

4.3.2 A Public Spaces Protection Order can be made by a Local Authority (section 59) if satisfied on reasonable grounds that two conditions are met. Firstly, that

- (i) 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; and
- (ii) 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, of the activities is, or is likely to be of a persistent or continuing nature such as to make the activities unreasonable and therefore justifies the restrictions imposed by the notice.

4.3.3 Under the Act there is a requirement for a local authority to carry out necessary consultation and the necessary publicity and the necessary notification before the making of a PSPO.

Necessary consultation means consulting with –

- (a) The chief officer of police, and the local policing body for the police area that includes the restricted area
- (b) Whatever community representatives the local authority thinks it appropriate to consult
- (c) The owner or occupier of land within the restricted area

Necessary publicity means –

- (a) In the case of proposed or variation, publishing the text of it

Necessary notification means notifying the following authorities of the proposed order

- (a) The parish council or community council (if any) for the area that includes the restricted area
- (b) In the case of a public spaces protection order made or to be made by a district council in England, the county council (if any) for the area that includes the restricted area

- 4.3.4 The implementation of the PSPO can be challenged by any interested person within 6 weeks of the making of the Order, the challenge is made at the High Court. Anyone who is directly affected by the making of the PSPO can challenge the order.
- 4.3.5 A challenge can be made on the basis that the Council does not have the power to make the order, or that the particular prohibitions or requirements are unnecessary or that procedurally the order is defective.
- 4.3.6 When making a PSPO the Council must have particular regard to the rights of freedom of expression and freedom of assembly set out in the European Convention on Human Rights
- 4.3.7 Having due regard to the responses of the consultation exercises; Cabinet considers the recommendation that the Public Spaces Protection Order to gate the highway known as Marble Arch is implemented.
- 4.3.8 The text of the Order when made must be published.
- 4.3.9 The Order must be notified to
 - (a) In the case of a Public Spaces Protection Order made or to be made by a district council in England, the county council (if any) for the area that includes the restricted area.

4.4 Equality and Health

- 4.4.1 Incidents of ASB will continue to be dealt with in line with our equalities framework.
- 4.4.2 These legislative changes are designed to have a significant community impact in preventing and limiting anti-social behaviour.
- 4.4.3 An Equality Impact Assessment has been carried out, see Appendix 2

4.5 Consultees (Internal and External)

Director of Customers & Communities, NBC
Legal Services
Environmental Health & Licensing Manager, NBC
Community Safety Partnership Manager
Northants Police
Cabinet Member for Community Safety, NBC
Highways Authority/ KIER WSP

Initial consultation has been undertaken with the Highways Authority on the proposed PSPO, and they are supportive of the closing of Marble Arch, recognising that there is a suitable alternative route.

4.6 How the Proposals deliver Priority Outcomes

4.6.1 One of the Council's priorities is "invest in safer, cleaner neighbourhoods" and the PSPO has the potential to contribute towards this priority.

4.7 Other Implications

4.7.1 Information technology - use of the Council's website and social media channels to undertake part of the consultation.

5. Background Papers

5.1 Anti-Social Behaviour, Crime & Policing Act 2014

5.2 Anti-Social Behaviour, Crime and Policing Act 2014: Reform of Anti-Social Behaviour Powers Statutory Guidance for Frontline Professionals

Julie Seddon
Director of Customers & Communities
Ext 7379

APPENDIX 1

DRAFT ORDER

NORTHAMPTON BOROUGH COUNCIL (Marble Arch) PUBLIC SPACES

PROTECTION ORDER

Northampton Borough Council in exercise of its powers under Section 59, 64 and 72 of the Anti-Social Behaviour, Crime & Policing Act 2014 ('the Act') hereby makes the following Order:-

1. This Order shall come into operation on (...) and shall have effect for a period of 3 years thereafter, unless extended by further orders under the Council's statutory powers.

2. This Order relates to Marble Arch, which runs from Ash Street to Barrack Road as shown in the attached plan ('the Restricted Area').

3. The effect of this Order is to restrict the public right of way over the Restricted Area 24 hours, 7 days a week.

4. The alternative route for pedestrians will be along Temple Bar.

5. Responsibility for the maintenance of the gates will lie with Northampton Borough Council, The Guildhall, St Giles Square, Northampton, NN1 1DE.

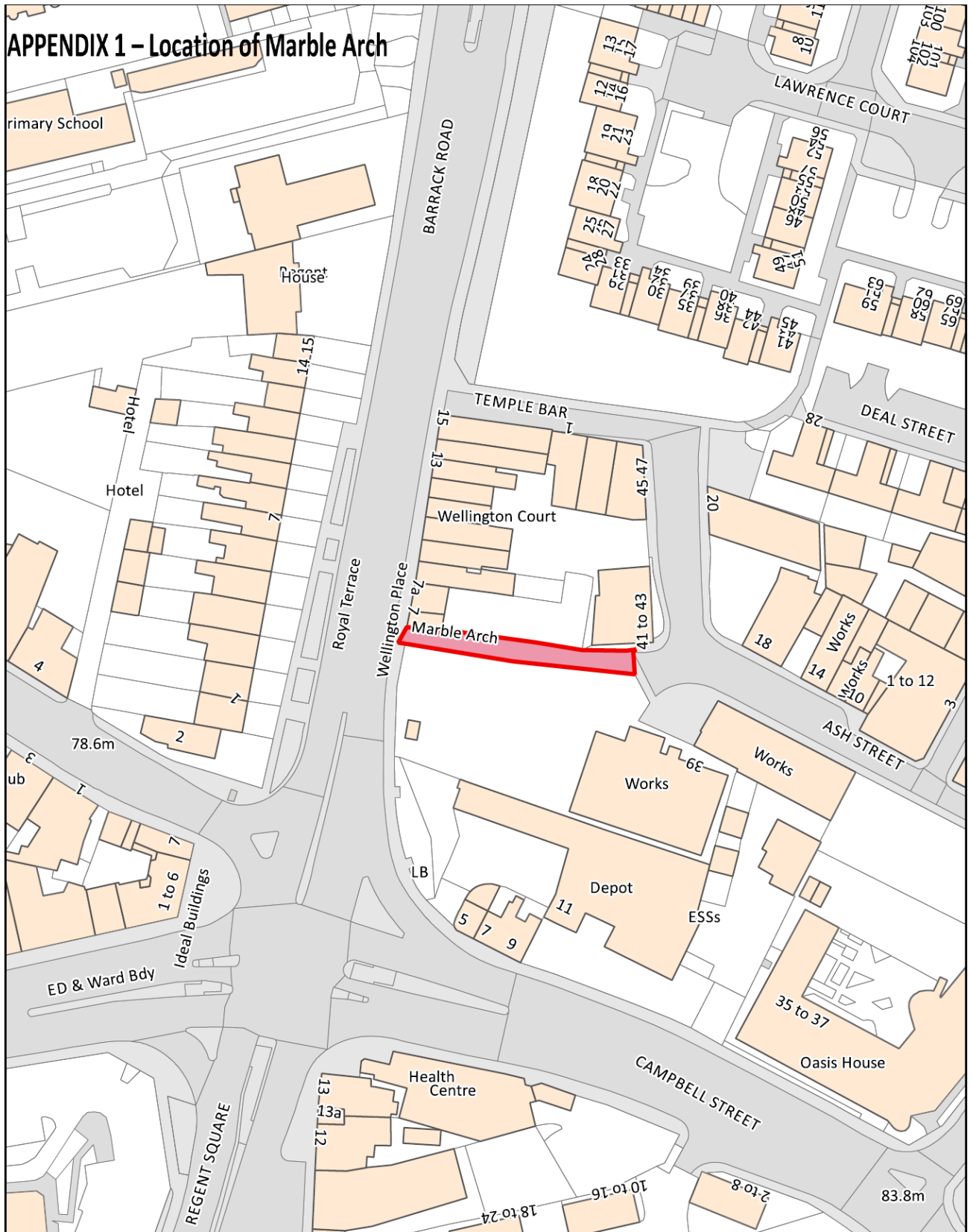
6. Police, Fire and Ambulance emergency services, statutory undertakers with equipment situated under, over, along or in the highway, council officers and other persons authorised by the Council, including the business premises adjacent to the highway, shall be exempt from the provisions of this Order.

7. The Council is satisfied that the conditions set out in Sections 59, 64 and 72 of the Act have been satisfied and that it is in all the circumstances expedient to make this

Order for the purposes of reducing anti-social behaviour, specifically street drinking, drug taking and fly tipping in the restricted area. The Council makes the Order because the anti-social behaviour has had a detrimental effect on the quality of life of those in the locality. The effect or likely effect of this is of a persistent or continuing nature such as to make this unreasonable and justifies the restrictions imposed by the Order.

8. If any interested person desires to question the validity of this Order on the grounds that the Council had no power to make it or that any requirement of the Act has not been complied with in relation to this Order, he or she may apply to the High Court within six weeks from the date on this this Order is made.

APPENDIX 1 – Location of Marble Arch



Title: **Marble Arch, Northampton**

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Date: 06-03-2017

Scale: 1:1,000 @A4

Drawn by: -----

APPENDIX 2 – Equality Impact Assessment

Equality Impact Assessment

Part 1: Screening

When reviewing, planning or providing services Northampton Borough Council needs to assess the impacts on people. Both residents and staff, of how it works - or is planning to – work (in relation to things like disability). It has to take steps to remove/minimise any harm it identifies. It has to help people to participate in its services and public life. “**Equality Impact Assessments**” (EIAs) prompt people to think things through, considering people’s different needs in relation to the law on equalities. The first stage of the process is known as ‘screening’ and is used to come to a decision about whether and why further analysis is – or is not – required. EIAs are published in line with transparency requirements.

A helpful guide to equalities law is available at: www.northampton.gov.uk/equality. A few notes about the laws that need to be considered are included at the end of this document. Helpful questions are provided as prompts throughout the form.

1 Name of policy/activity/project/practice	Public Places Protection Order – Marble Arch
---	--

2. Screening undertaken (please complete as appropriate)	
Director of Service	Julie Seddon
Lead Officer for developing the policy/activity/practice	Debbie Ferguson
Other people involved in the screening (this may be people who work for NBC or a related service or people outside NBC)	Director of Customers & Communities, NBC Legal Services Finance, LGSS Environmental Health & Licensing

	<p>Manager, NBC</p> <p>Environmental Services Manager, NBC</p> <p>Northants Police</p> <p>Cabinet Member for Community Safety, NBC</p> <p>Highways, KIER WSP</p>
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3. Brief description of policy/activity/project/practice: including its main purpose, aims, objectives and projected outcomes, and how these fit in with the wider aims of the organisation.

- A Public Spaces Protection Order (PSPO) allows a local authority to introduce a series of measures into a defined locality.
- The proposed PSPO will allow gating of the highway known as Marble Arch, a hotspot for anti-social behaviour for many years.
- Gating Marble Arch will make it more difficult for offenders to evade the police.
- This is a legal order that can last for up to three years and it will prohibit a number of anti-social behaviour activities in the area including street drinking and fly-tipping.
- If an element of this order is breached, the outcome could be that the individual is issued with a fixed penalty notice for £100 or fined up to a maximum of £1000 if at court.

4 Relevance to Equality and Diversity Duties

A Public Spaces Protection Order is designed to stop all individuals or a specific group of persons committing anti-social behaviour in a public space. This Order allows gating of a highway known as Marble Arch. This highway is currently for pedestrian through access only. There is a parallel pedestrian through access only highway, known as Temple Bar, 100 yards away.

If you have indicated there is a negative impact on any group, is that impact:

No – all individuals/sections of the community will be dealt with in the same manner. Incidents of ASB will continue to be dealt with in line with our equalities framework

Legal?

N/A

Please explain:

5 Evidence Base for Screening

Equality Human Rights Commission

<http://www.equalityhumanrights.com/resources/case-studies-of-how-organisations-are-using-the-duties/case-studies-equality-impact-assessments/>

Section 72 of the Anti-Social Behaviour and Policing Act 2014 requires the Cabinet as decision maker to pay particular regard to rights of freedom of expression and freedom of assembly set out in articles 10 (the right to freedom of expression) and 11 (freedom of assembly and association) of the European Convention on Human Rights in considering the making any such order. The making of the said order is considered to be proportionate and will fulfil a legitimate aim of curbing anti-social behaviour in public places for the benefit of the law abiding majority and hence will not infringe article 11 ECHR.

6 Requirements of the equality duties:

(remember there's a note to remind you what they are at the end of this form and

more detailed information at www.northampton.gov.uk/equality)

Will there be/has there been consultation with all interested parties?

- If Cabinet authorises the consultation period the following will be consulted:-
 - A 12 week online public consultation via an open access online survey using 'Survey Monkey' Councils social media accounts
 - Businesses adjacent to Marble Arch
 - Councillors
 - Businesses
 - Community Safety Partnership
 - Council Officers
 - Northamptonshire Office of Police & Crime Commissioner
 - Northamptonshire Police
 - Northamptonshire County Council
 - Community Forums
 - Residents Panel
 - Members of the public
 - Local press and media channels
 - Town Centre BID
 -

Are proposed actions necessary and proportionate to the desired outcomes?

Yes/No Public Spaces Protection Order is designed to stop all individuals or a specific group of persons committing anti-social behaviour in a public space

Where appropriate, will there be scope for prompt, independent reviews and

appeals against decisions arising from the proposed policy/practice/activity?

Yes/No The implementation of the PSPO can be challenged by any interested person within 6 weeks of the making of the Order, the challenge is made at the High Court. Anyone who is directly affected by the making of the PSPO can challenge the order

Does the proposed policy/practice/activity have the ability to be tailored to fit different individual circumstances?

Yes/No Public Spaces Protection Orders provide the opportunity to address specific problems in specific areas and create an ‘Order’ to enable appropriate and proportionate action to be taken.

Where appropriate, can the policy/practice/activity exceed the minimum legal equality and human rights requirements, rather than merely complying with them?

The making of the said order is considered to be proportionate and will fulfil a legitimate aim of curbing anti-social behaviour in public places for the benefit of the law abiding majority and hence will not infringe article 11 ECHR.

From the evidence you have and strategic thinking, what are the **key risks** (the harm or ‘adverse impacts’) **and opportunities** (benefits and opportunities to promote equality) this policy/practice/activity might present?

	Risks (Negative)	Opportunities (Positive)
Race		There is no evidence that the ‘Order’ will impact on any specific person based on their race
Disability	Mental Health issues and physical disability will be	The ‘Order’ may well have the opposite effect and

	<p>taken into account by officers.</p> <p>The restriction on the consumption of alcohol could also affect those that are alcohol dependant. The proposed 'Order' will not bring in any new powers in this area and will simply replace the existing Designated Public Spaces Protection Order.</p>	<p>encourage those that are drug/alcohol dependant to engage with the support that is available and this in turn will deliver health benefits.</p>
Gender or Gender Identity/Gender Assignment		<p>There is no evidence that the 'Order' will impact on any specific person based on their gender</p>
Pregnancy and Maternity (including breastfeeding)		<p>There is no evidence that the 'Order' will impact on any specific person based on pregnancy or maternity. If required pregnant women will be referred into safeguarding mechanisms</p>
Sexual Orientation		<p>There is no evidence that the 'Order' will impact on any specific person based on their sexual orientation</p>
Age (including children, youth, midlife and older people)		<p>Young people will be referred into safeguarding mechanisms. In some cases parent/guardian of under 16's will be spoken to</p>
Religion, Faith and Belief		<p>There is no evidence that the 'Order' will impact on any specific person based</p>

		on their beliefs or religion
Human Rights	Some people may feel The consultation process will provide the opportunity to capture their views.	The 'Order' has been proposed due to the volume of incidents that are occurring that are having a significant impact on the peoples quality of life. The introduction of this 'Order' will have a positive impact on residents, businesses, and visitors to the town.

7 Proportionality

All cases will be treated on an individual basis, and any decisions reached will be within existing legislative guidelines. Use of the PSPO powers and advice given will be recorded in pocket note books and on ECIN's data base. The information will be analysed to determine whether the implementation of the powers has had a disproportionate effect upon the equality factors.

Enforcement action will always be seen as a last resort. Through the multi-agency groups and individual case management, support and intervention will continue to be offered.

8 Decision

Set out the rationale for deciding whether or not to proceed to full impact assessment

Full Equality Impact Assessment is not required as all sections of the community are treated the same. The proposed restrictions will impact positively on people whose protective characteristics are impacted upon by the anti-social behaviour the order is

designed to address

Date of Decision:

We judge that a full impact assessment is not necessary since there are no identified groups affected by these changes.

1. Equality Duties to be taken into account in this screening include:

Prohibited Conduct under The Equality Act 2010 including:

Direct discrimination (including by association and perception e.g. carers); Indirect discrimination; Pregnancy and maternity discrimination; Harassment; third party harassment; discrimination arising from disability.

Public Sector Duties (Section 149) of the Equality Act 2010 for NBC and services provided on its behalf: (due to be effective from 4 April 2011)

*NBC and services providing public functions must in providing services have due regard to the need to: **eliminate unlawful discrimination, harassment and victimisation; advance equality of opportunity and foster good relations between different groups.** 'Positive action' permits proportionate action to overcome disadvantage, meet needs and tackle under-representation.*

Rights apply to people in terms of their "Protected Characteristics":

Age; Gender; Gender Assignment; Sexual Orientation; Disability; Race; Religion and Belief; Pregnancy; Maternity. But Marriage and Civil Partnership do not apply to the public sector duties.

Duty to "advance equality of opportunity":

The need, when reviewing, planning or providing services/policies/practices to assess the impacts of services on people in relation to their 'protected characteristics', take steps to remove/minimise any negative impacts identified and help everyone to participate in our services and public life.

***Equality Impact Assessments** remain best practice to be used. Sometimes **people have particular needs** e.g. due to gender, race, faith or disability that need to be addressed, not ignored. NBC must have due regard to the **duty to make reasonable adjustments** for people with disabilities. NBC must **encourage people who share a protected characteristic to participate in public life** or any other activity in which their participation is too low.*

Duty to 'foster good relations between people'

*This means having due regard to the need to **tackle prejudice** (e.g. where people are picked on or stereotyped by customers or colleagues because of their ethnicity, disability, sexual orientation, etc) and **promote understanding**.*

***Lawful Exceptions to general rules:** can happen where action is proportionate to achieve a legitimate aim and not otherwise prohibited by anything under the Equality Act 2010. There are some special situations (see Ch 12 and 13 of the Equality Act 2010 Statutory Code of Practice – Services, Public Functions and Associations).*

2. National Adult Autism Strategy (Autism Act 2009; statutory guidelines) including:

3. to improve how services identify and meet needs of adults with autism and their families.

4. Human Rights include:

5. *Rights under the European Convention include not to be subjected to degrading **treatment**; **right to a fair trial** (civil and criminal issues); **right to privacy** (subject to certain exceptions e.g. national security/public safety, or certain other specific situations); **freedom of conscience** (including religion and belief and rights to manifest these limited only by law and as necessary for public safety, public order, protection of rights of others and other specified situations); **freedom of expression** (subject to certain exceptions); **freedom of peaceful assembly and to join trade unions** (subject to certain exceptions); **right not to be subject to unlawful discrimination** (e.g. sex, race, colour, language, religion, political opinion, national or social origin); **right to peaceful enjoyment of own possessions** (subject to certain exceptions e.g. to secure payment of taxes or other contributions or penalties); **right to an education**; **right to hold free elections by secret ballot**. The European Convention is given effect in UK law by the Human Rights Act 1998.*