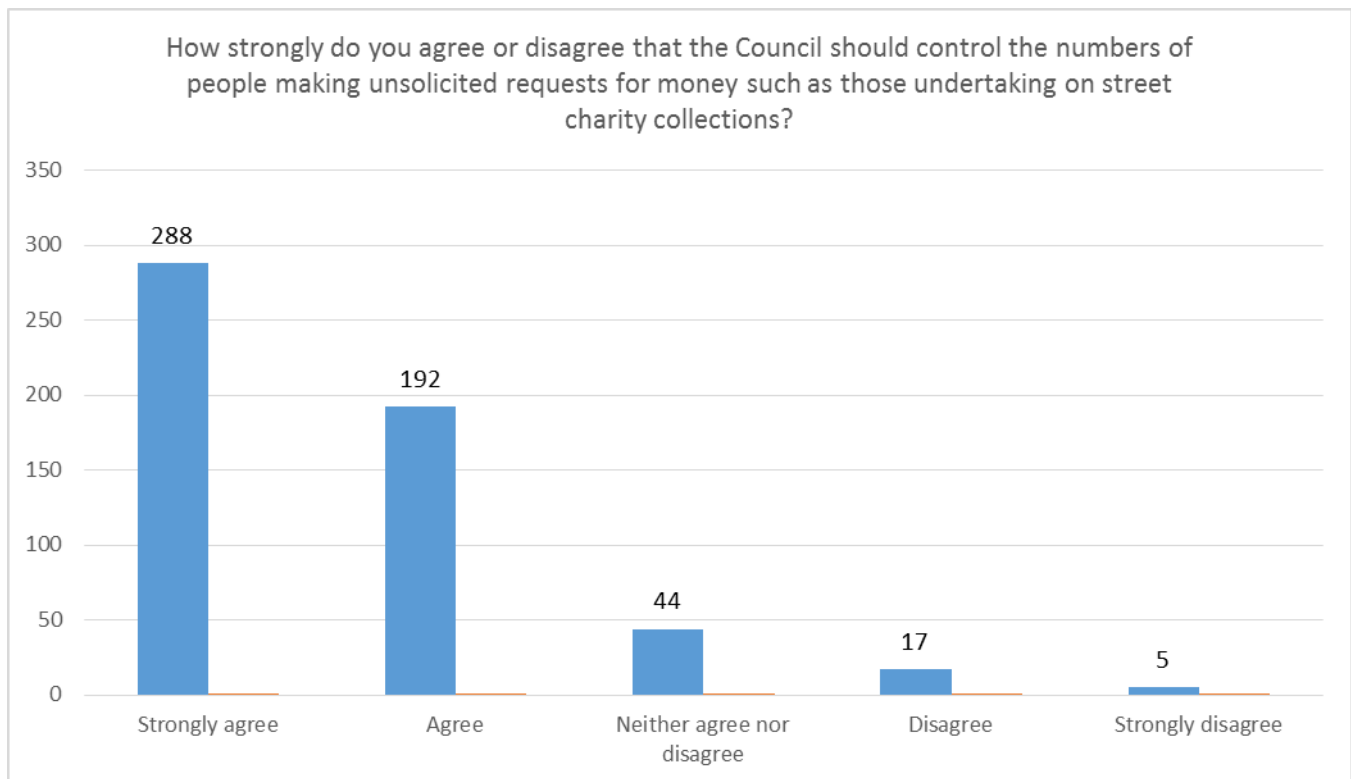
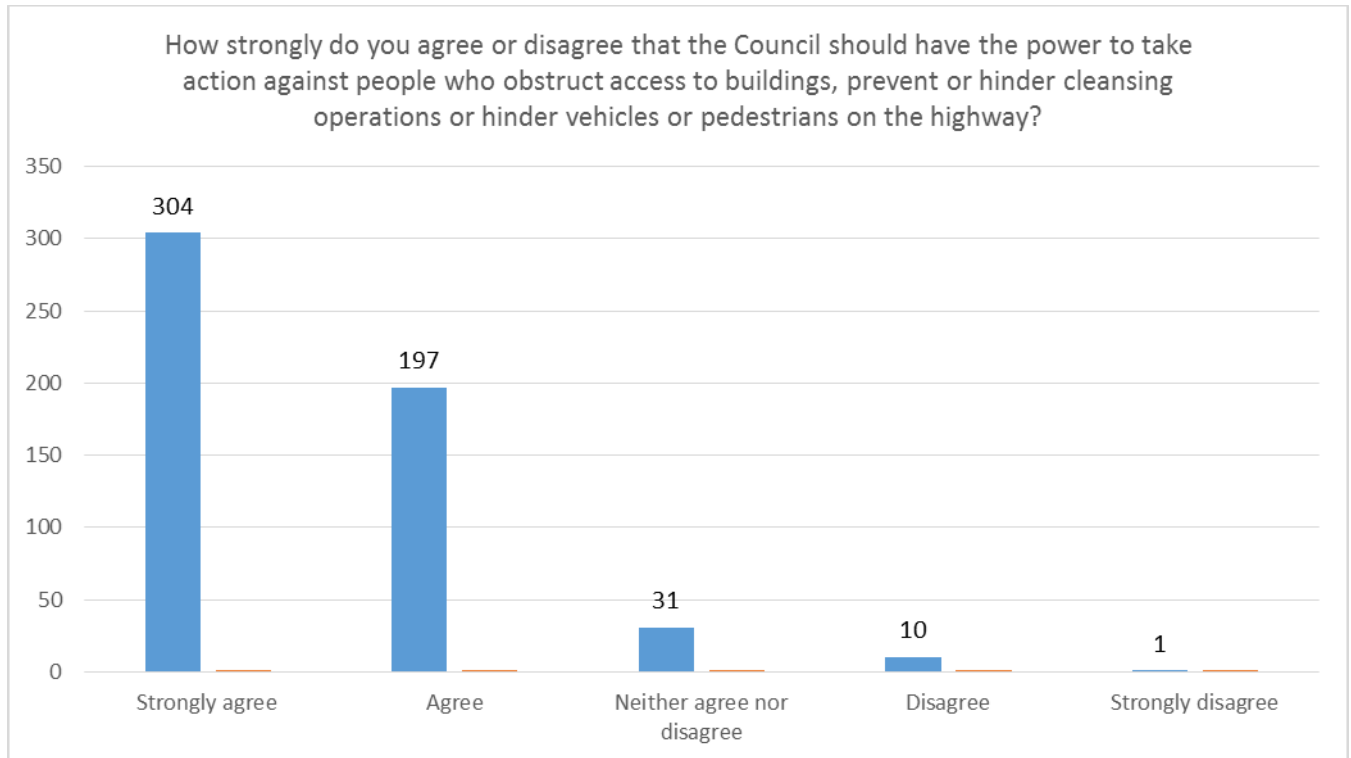
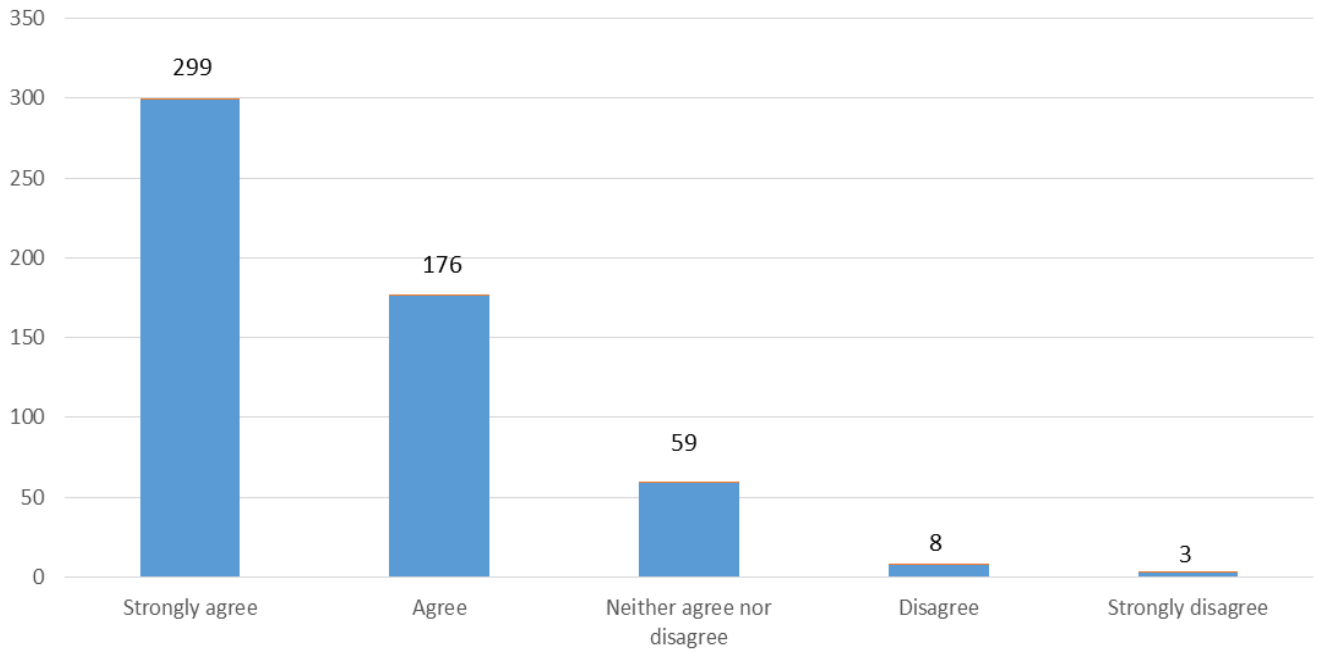


Appendix 4  
Consultation Responses

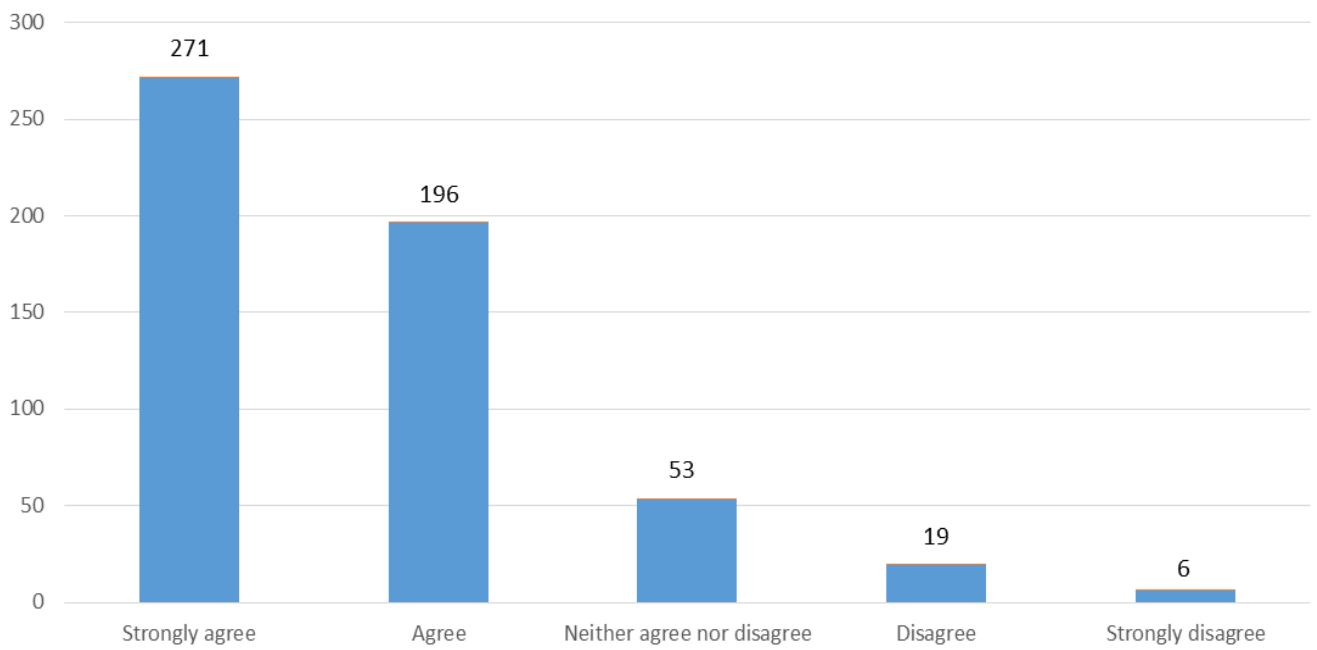
## 1. Survey Responses



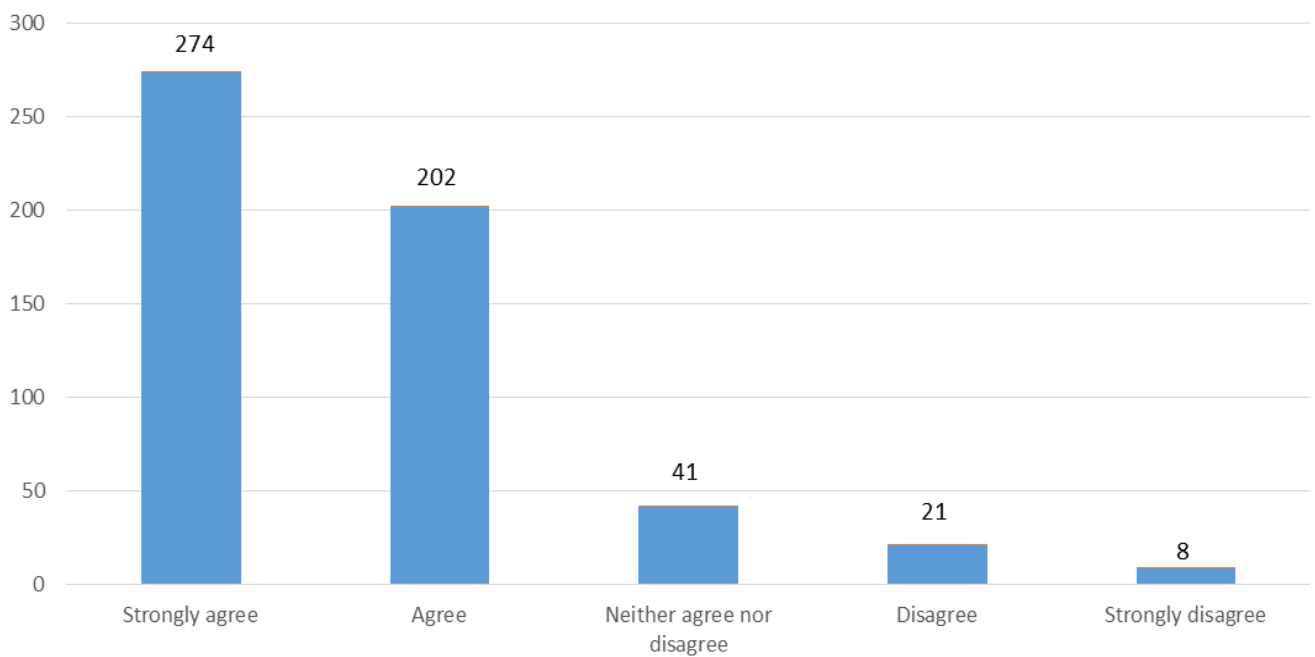
How strongly do you agree or disagree that Big Issue sellers should only sell from approved pitches, and wear appropriate means of identification?



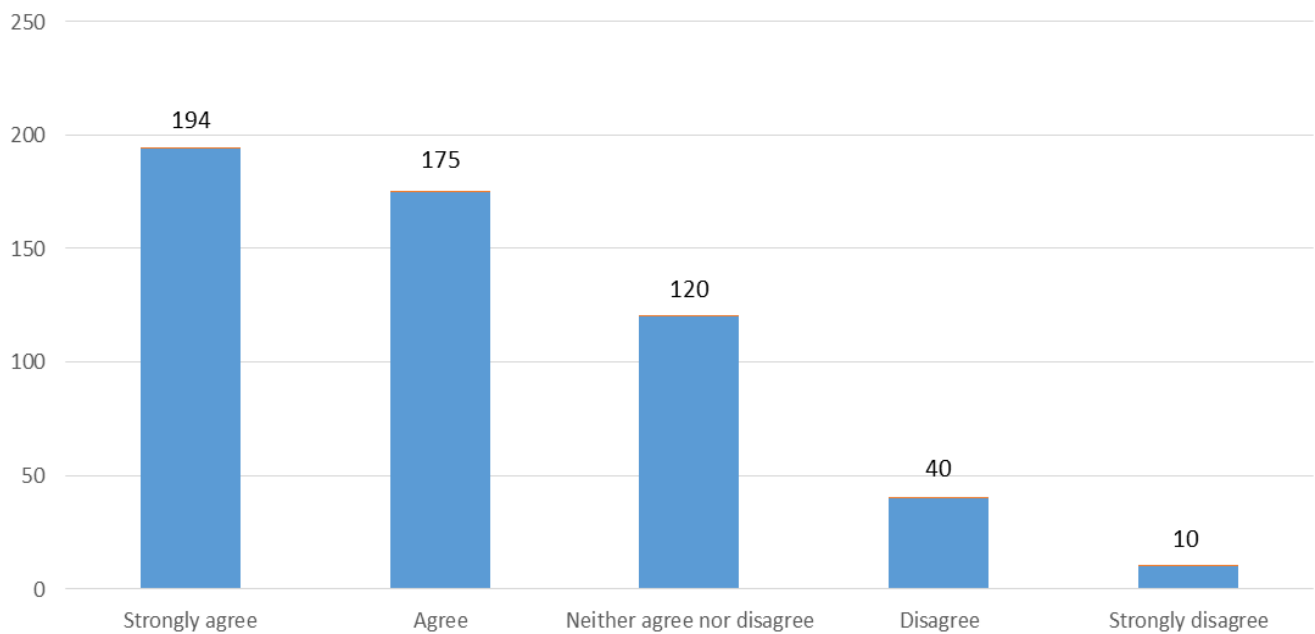
How strongly do you agree or disagree that the Council should have the power to ask those busking to cease if they are causing an unreasonable disturbance to others in the locality?



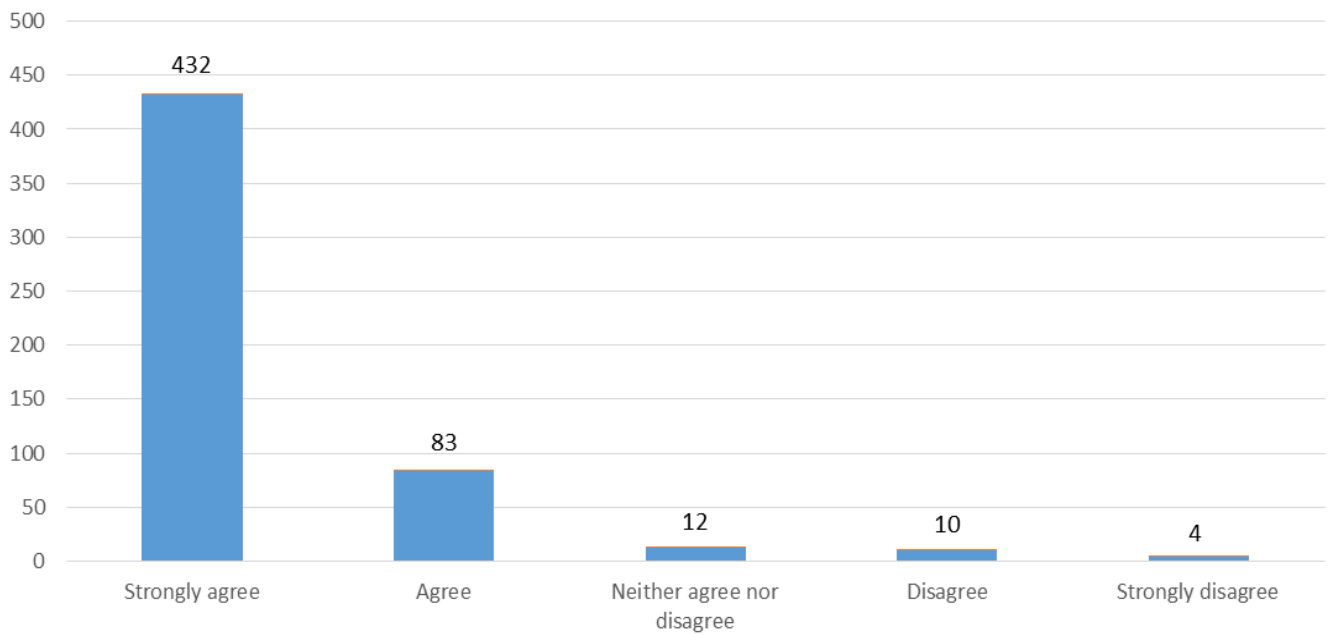
How strongly do you agree or disagree that the Council should require those who distribute free material in the City Centre to obtain permission prior to doing so, to enable us to ensure that, for example, they clean up after any distribution?



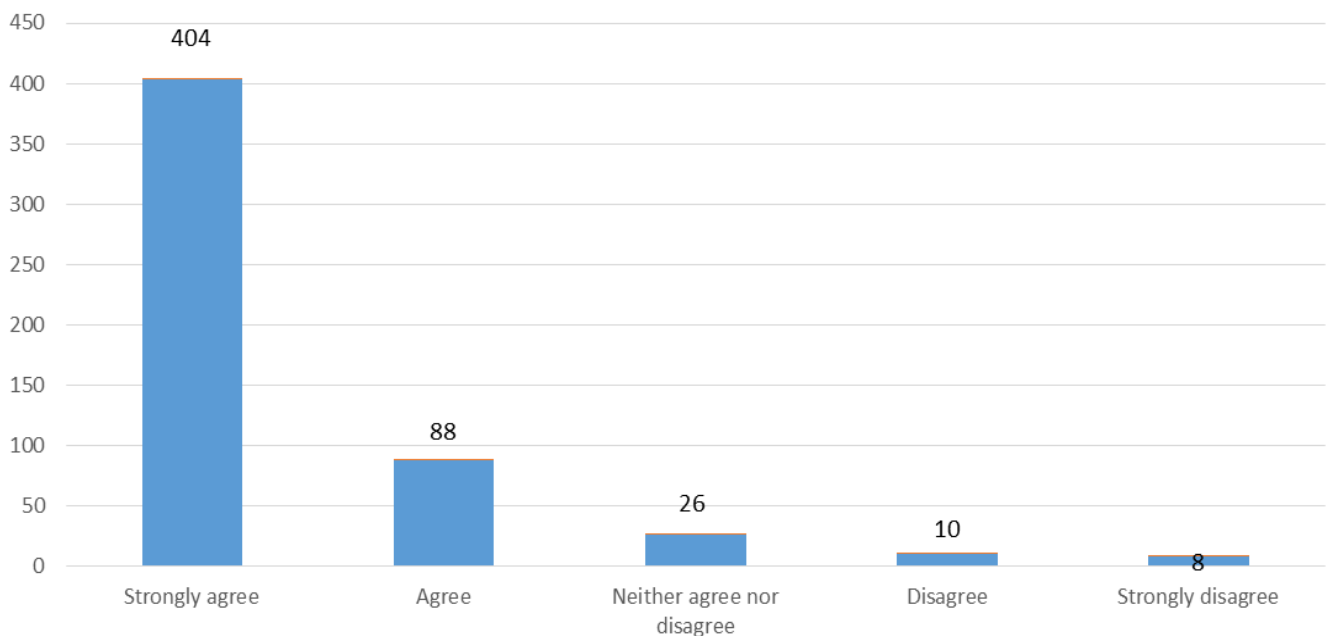
How strongly do you agree or disagree that the Council should require those using mobile advertisements such as placards or human A Boards to obtain permission prior to doing so?



How strongly do you agree or disagree that the Council should issue fines to anyone who urinates or defecates in the street?



How strongly do you agree or disagree that the Council should take more action against people who use psychoactive substances (Mamba/Spice) in the City Centre?



## 2. Demographic Information of survey respondees

### Capacity in which you are responding

	Count	%
Resident living in Nottingham city centre	92	19.00%
Local resident living outside Nottingham city centre	90	18.60%
City centre business owner	46	9.50%
Person who works in Nottingham city centre	209	43.30%
Visitor to Nottingham city centre	40	8.30%
Local Councillor	1	0.20%
Representative of charitable organisation, local community or voluntary organisation	3	0.60%
Other – please specify below	2	0.40%

### Gender

	Count	%
Male	251	47.00%
Female	233	43.60%
Prefer not to say	50	9.40%

### Please tick the statement which best describes you. I am:

	Count	%
Under 16	1	0.20%
16-24	99	18.40%
25-34	125	23.20%
35-44	103	19.10%
45-54	86	16.00%
55-64	68	12.60%
65-74	28	5.20%
75+	7	1.30%
Prefer not to say	22	4.10%

### Please tick the statement which best describes you. I am:

	Count	%
I consider myself to be disabled	34	6.40%
I consider myself not to be disabled	411	76.80%
Prefer not to say	90	16.80%

Please tick the statement which best describes you. I am:

	Count	%
White - English, Welsh, Scottish, Northern Irish, British	348	64.80%
White - Irish	8	1.50%
White - Gypsy Traveller	8	1.50%
White - Other	17	3.20%
Mixed - White & Black Caribbean	17	3.20%
Mixed - White & Black African	6	1.10%
Mixed - White & Asian	8	1.50%
Mixed - Other	7	1.30%
Asian - Indian	17	3.20%
Asian - Pakistani	16	3.00%
Asian - Bangladeshi	5	0.90%
Asian - Kashmiri	2	0.40%
Asian - Chinese	10	1.90%
Asian - Other	3	0.60%
Black - African	15	2.80%
Black - Caribbean	14	2.60%
Black - Other	1	0.20%
Arab	1	0.20%
Prefer not to say	34	6.30%

### **3. Summary of other responses received in support of the PSPO**

#### **Police**

“I have read the attached PSPO and viewed the map. I fully support the proposed PSPO within the geographic area outlined within the map. I believe this will assist in supporting our Officers and staff to deal effectively with and reduce incidents of anti-social behaviour and drug use. This will have a positive effect on those living, working and visiting the City Centre to ensure they feel safe”.

#### **Police and Crime Commissioner**

“On behalf of the Commissioner having reviewed this PSPO I conclude that it will support the commissioner’s Police and Crime Plan objectives and therefore support the PSPO”.

#### **Nottingham Business Improvement District**

“Regarding the Nottingham City Council’s application for a Public Spaces Protection Order we are aware that anti-social behaviour, chugging, begging, unregulated busking and other issues are a significant concern for the business community of Nottingham.

The organisations primarily responsible for these issues, Nottinghamshire Police and Nottingham City Council need to have the maximum tools at their disposal that in their professional judgement are necessary and proportionate. On the basis that in their judgment the Public Spaces Protection Order is necessary and proportionate we wholeheartedly support their application”.

#### **City Centre Church**

“We would like the Council to take into account the following when considering this issue:-

1. The churchyard surrounding our church is one of the very few green spaces available to the public within the limits of this order. With the closure of the Castle and grounds, there are currently even fewer. Also, our churchyard is free to enter, unlike some other green spaces within the city
2. This land is owned by the Church, but is maintained by the Council, so we have a shared interest in enabling the residents of Nottingham to make the best use of the space.
3. For some years now we have had problems with the behaviour of certain people who, being under the influence of either alcohol or some other drug, make use of the grounds during the day.
4. These problems have manifested themselves on a growing trajectory over this past summer, possibly due in part to the unusually hot weather we had, but also for other, unrelated reasons.
5. The area behind the church is well shielded from the road, and has become a favourite place for some to indulge in smoking and / or injecting various substances

The result of these persons being present is that:-

- a. The churchyard is not a place where ‘ordinary’ people would choose to spend time, either quietly reflecting, eating their lunch, or going about any other valid and lawful purpose.



- b. The detritus left behind causes a mess, and in some cases a danger, to both other people and themselves.
- c. This detritus includes, but is not limited to:- used drug-taking paraphernalia; discarded cans and bottles (some of which still contain a liquid of unknown heritage); used prophylactics and general rubbish; and also not inconsiderable amounts of human excrement, which is a public health issue in itself.
- d. The presence of such persons and rubbish causes a reticence for others to enter the space, and can make those who need to (i.e. young mums coming to our Parents and Toddler Group) feel apprehensive on the approach to the building.
- e. The amount of discarded material which, when found by a passing Community Support Officer, resulted in the church being served with an Improvement Notice, which cost us £3,554.40 to comply with.
- f. The aroma from smoking drugs behind the church is a regular feature within the Church Office, and during the hot weather the aroma from the drug-taking left our staff with the choice of either a) opening the door and breathing in even more of the 2<sup>nd</sup> hand marijuana (and whatever else it was on that day as well) or b) keeping the door closed. The preferred option, of being able to open the door and breathe cool, fresh air, was not available to them. Even though the grounds belong to the church.
- g. Sadly, last year, one such person took an overdose, and being out of sight of the road, was not visible to anyone who might have been able to offer assistance, and had passed away by the time he was found.
- h. The job of picking up such detritus and (worrying about the possibility of) finding another dead person, has sadly become a regular job in the life of the church.

Therefore we would be in agreement with any plan that:-

- 1) Gives an Authorised Person the ability to enter this space and deal effectively with such demeanors as may be found.
- 2) Provides enough Authorised Persons to patrol this area with a frequency that discourages these persons from indulging in these activities.

Simultaneously, we would ask the Council to:-

- a) Provide direct lines of access from the Authorised Person to the various agencies that are able to help and resolve the underlying issues faced by these people.
- b) Ensure that funding is obtained and provided for this help to be given.
- c) To work with us in making this area one which can be to the benefit and pleasure of the wider population of Nottingham.

Finally:-

We are a very large and busy church with over a thousand people using our facilities each week and the presence of such people and all their detritus in close proximity makes it rather unpleasant for these folk, many of whom make a considerable contribution to the wellbeing of Nottingham residents throughout the year via all sorts of voluntary activities, feel much less safe and happy to be within the confines of their own church.

### **City Centre Churches**

"I am writing on behalf of the churches of....., in Nottingham City centre, with our response to the proposed PSPO.

Our overall view is that we fully endorse what the City Council are trying to do through the

PSPO and recognise that an enhanced police presence is vital to keeping the area safe for staff and visitors.

Responding to particular paragraphs in the draft PSPO:

4. We have repeatedly experienced people blocking the access to (our) church and parish centre; the PSPO would help address this problem.

5. There are implications for the selling of the Big Issue at the bottom of the steps to our church which encourages people to congregate therefore impeding access. Also recently there have been sellers near the church who are not wearing the official tabard.

7. The problem with buskers (we have complained continuously for 10+ years) is that they do not use the allocated location, their amplification is too loud and they have a limited repertoire of songs. They disturb people meeting and worshipping in the centre and church. When working in the church office, it is difficult to hear people on the telephone when the busking is too loud. There are sometimes very loud street preachers shouting at passers-by in..... Their approach is often aggressive and their proximity to the church suggests that they might be endorsed by us. It would be good if the PSPO were able to help in addressing these problems.

14.(The) church yard and steps are used for all manner of human waste which causes a health hazard to members of our staff who have to deal with the cleaning. We would value any measures which would enable these problems to be addressed.

15. The current taking of Mamba/Spice causes people to collapse on the steps and in the church yard. They very often then refuse help from paramedics when they do regain consciousness. People are openly dealing drugs in the area and use the back of the church to dispose of needles. It is well known that this is a massive problem and we have been collaborating with the Police and other agencies in their attempts to combat these challenges”.

### **Big Issue**

“We are really keen to continue working with the council, police etc as we always have done and I think some of the proposed plans, for example the busking spots, will benefit us and our vendors in the future”.

## **4. Summary of/Excerpts from other responses received opposed to the PSPO**

### **Local Resident**

“I'm a resident of Nottingham City who frequently uses the City Centre (several times per week).

I'd like you to record my objection to the proposed PSPO. I think it's an example of the council overreaching itself. The issues that you are attempting to address are, in reality, not having a detrimental impact as to justify the imposition of a PSPO and in one case (Distributing Free Material) are an outrageous imposition to impede commendable everyday activity.

Per the act, you are required to conclude that activities "have had [or are likely to have] a detrimental effect on the quality of life of those in the locality".

In the cases of obstruction, busking, begging or Big Issue selling, it is hard to see how these are problems that require action here. That they may take place from time to time is neither here

nor there: it is scarcely a nuisance above many others in daily life and there are already provisions to deal with illegal activity.

Urination/defecation and taking Psychoactive Substances are similarly neither having a detrimental effect on peoples' quality of life any more so than any number of other things which are to remain permitted - such as smoking - nor required in this order, since they are already appropriately illegal.

The proposed prohibition which reads "No person shall Distribute Free Matter in the Restricted Area to a person or persons not known to the Distributor" is a really shocking thing to read. I suspect you intend to stop (e.g.) nightclub promoters distributing leaflets, which again is not detracting from anyone's quality of life except for any resulting litter, but if you stop and think for just a second you will realise that you will be prohibiting anybody giving anything away to somebody they don't know. To my reading this quite clearly fails 59(2)(b) and (c) - since the activities you will be covering are not unreasonable and the measures proposed (banning people giving things to each other) are totally unjustified - and therefore you would be rightly open to legal challenge on this point"

### **Local Resident**

#### **"Distribution of Free Matter**

The PSPO, as it currently stands, restricts the "Distribution of Free Matter". The way this is defined is overly broad, to the extent that it could apply to anyone giving anything to anyone else. While I don't believe it is the intention to apply this beyond commercial distribution of promotional items, it has the potential to be applied much further. We cannot simply trust those enforcing the order to be lenient or reasonable, so this needs to be clarified.

It is important that in protecting "public space" with the PSPO, the city centre remains a public space in the true sense of the word - a place where people can come together, interact, share, and freely exchange ideas. It should not require the permission of the City Council in order to engage in such activity.

Distribution of Free Matter, as it is currently defined, may apply to leaflets. To protect free speech and exchange of ideas in the public space, there must be an explicit exception made for distributing leaflets, newsletters, or other similar materials - at least where they pertain to matters of politics, current affairs, philosophy, or religion.

Distribution of Free Matter could also be applied to people sharing food with each other, or individuals giving money, food, or other items to others who ask for it. While the City Council may not agree that giving in this way is a good idea, and it certainly doesn't resolve any fundamental issues that lead to people asking for help, this well intentioned behaviour by individuals should not be criminalised or in any way restricted.

The draft order states:

"12. No person shall Distribute Free Matter in the Restricted Area to a person or persons not known to the Distributor unless they are authorised by law permit licence or the written consent of the Council for that Distribution"

The scope of this should be limited to people distributing the free matter on behalf of a commercial or charitable organisation. An additional statement should explicitly allow leafleting. An example of how this clause can be changed follows:

"12. No person, working on behalf of a commercial or charitable organisation, shall Distribute Free Matter in the Restricted Area to a person or persons not known to the Distributor unless they are authorised by law permit licence or the written consent of the Council for that Distribution; or the Distribution is in order to promote ideas or information pertaining to matters of politics, current affairs, philosophy, or religion."

## Obstruction

The draft order states:

"4 No person shall remain in the Restricted Area so as to  
4.1 obstruct ingress to or egress from any building; or  
4.2 prevent or hinder the street cleansing activity of the Council; or  
4.3 hinder the free passage of pedestrians or vehicles along a Highway"

I worry that this may be used to criminalise rough sleepers. People in such a state of desperation should not have the PSPO used against them, or potentially be hit with a fine that they are unlikely to be able to pay. A qualification should be added that this clause must not be used on people who are rough sleeping.

## Unauthorised Requests

The draft order contains a clause on Unauthorised Requests, which includes begging, and asking for donations on behalf of a charity. While some people can find such activity a nuisance, they are also free to ignore it. It certainly is not helpful to criminalise people who beg out of desperation due to their circumstances, so this order should not be applied to them. It is unlikely that they will be able to pay any fine levied against them

This clause should ideally be removed in its entirety. If it is retained it should only be applied to those working on behalf of a charity, and any fines or other legal action should be taken against the organisation they work for NOT the workers themselves, who are often heavily exploited "self employed" workers, working for commission

## Psychoactive Substance

Psychoactive Substances are already dealt with, harshly, in the law, so this clause is unnecessary. If the clause does have any effect it should be clarified that drug users should not be fined or further criminalised. Instead, they should be put in touch with the relevant health and support services".

## Busker

"Further to our conversation about the proposed PSPO in Nottingham these are the main points in relation to busking

1. There are already existing laws that adequately deal with 'nuisance' buskers, including the environmental protection act. We support the use of these existing laws to protect

- residents, local businesses and members of the public from 'extreme' busking.
2. We do not support the use of PSPO as this could give unreasonable powers to officers to sanction buskers after a single complaint has been made. The Home Office guidance specifically states that the PSPO should not be used against buskers.
  3. We do not support the idea of fixed pitches as this limits the number of available pitches, creating problem 'hot spots'. As long as public space is being used reasonably by buskers, there is no need for designated pitches.
  4. We believe that a system of self regulating buskers, backed by Keep Streets Live and the Musician's Union is more cost effective for councils than relying on police powers. For this to work, an effective printed guidance needs to be issued giving clear advice to buskers, as well as local residents and businesses on how best to deal with any issues that may arise. Often, simple communication between parties can resolve the issue and no further escalation or involvement of council / police is needed. In those instances where further official involvement is needed, for example where a busker is disregarding the guidance and causing a serious nuisance, there are clear guidelines to be followed that if necessary will result in enforcement action against the busker".

### **Manifesto Club:**

#### **“Restriction on busking:**

We do not think that it is justified to make it a criminal offence to busk outside of authorised busking locations. These locations are a small proportion of the available and conducive spots for busking within the city, and therefore artificially restrict performance to a few official spots. This stifles creative opportunities for buskers, and also limits the role of music in the street scene of the city. The act of busking outside of official locations is not per se an activity that causes nuisance or harm, which, under the [Statutory Guidance](#) on PSPOs, is the required basis for introducing PSPO conditions.

We also object to your authorisation of officers to move on a busker if, in their view, the busker is causing an 'unreasonable disturbance'. There are already statutory nuisance powers to govern noise nuisances; a broader power will give officers carte blanche to move on buskers whenever they feel like it

#### **Restriction on begging and charity collection:**

We note that you seek to ban anybody from making 'an unauthorised request for money, personal items, charitable and or other donations whether expressly or impliedly requested by conduct'. This would prohibit everything from someone from sitting on a floor and putting out a hat, to people collecting money for a local charity. This restriction therefore entirely prohibits charitable appeal from one citizen to another in the City of Nottingham, unless the council has given its express permission. This is a drastic restriction upon the realm of free civic activity, which will do great damage to the city's lively culture of political organisations and charitable causes - as well as making it impossible for homeless people to make money in order to eat.

We judge that this violates the Statutory Guidance, which made it very clear that PSPOs should not be targeted at homelessness, but only at detrimental behaviour:

Public Spaces Protection Orders should not be used to target people based solely on the fact that someone is homeless or rough sleeping, as this in itself is unlikely to mean that such

behaviour is having an unreasonably detrimental effect on the community's quality of life which justifies the restrictions imposed. Councils may receive complaints about homeless people, but they should consider whether the use of a Public Spaces Protection Order is the appropriate response. Councils should therefore consider carefully the nature of any potential Public Spaces Protection Order that may impact on homeless people and rough sleepers. It is recommended that any Order defines precisely the specific activity or behaviour that is having the detrimental impact on the community. Councils should also consider measures that tackle the root causes of the behaviour, such as the provision of public toilets

### **Restriction on leafleting:**

We also disagree with your prohibition of the distribution of all free printed matter, without written consent from the council. The current powers to licence leafleting (under the Clean Neighbourhoods and Environment Act 2005) do not allow councils to restrict leafleting that is religious, charitable or political. This is in order to avoid impacting on freedom of speech and public debate. Defra has also [advised](#) that councils run exemption schemes for small-scale events, in order that these not be adversely affected.

Therefore, government has made it clear that it does not wish to see leafleting unduly restricted. This blanket PSPO condition will prohibit all unlicensed printed communication between residents, which would have a devastating effect on the city's cultural and civic life".

### **Local Resident**

"I am concerned about the proposed use of the first three restrictions in the draft PSPO. Could you please confirm the problem that these provisions are designed to rectify?

Specifically, could you please confirm that the Council will not use the first three restrictions set out in the draft PSPO to move on rough sleepers or those who are street homeless who may be located on a street or within a doorway for example. This would be inappropriate and contrary to government guidance in respect of not using PSPOs for this purpose".

### **Local Resident**

"I am writing in response to the public consultation on the proposed PSPO in Nottingham city centre. As I understand it, this PSPO will most effect the night-time economy and homeless persons.

#### The night-time economy

I am not sure how a PSPO will be more effective at policing the night time economy than current Public Order offences which covers drunk and disorderly behaviour.

#### Homeless persons

While I understand citizens concern about the number of homeless people in Nottingham and the risks of anti-social behaviour this can bring, I don't think a PSPO is a viable response and Nottingham City should be focusing on providing support. This is a continuation of the posters previously seen around the city centre which advised people not to give money to beggars, dehumanising them. If people are urinating and defecating on the floor, it is likely to be because

there are few public toilets around which are open which they can use and further support and facilities would be a better use of such money, rather than moving these individuals on.

There are support services in place in Nottingham such as Framework, but their Street Outreach Teams need more support. The city should be seen to be providing this and caring about its citizens, whether or no they have a home, rather than just pushing them away to be out of sight.

It is unclear how the use of a fine will help as the individual is unlikely to be able to pay and so can be sent to prison in lieu of payment. This seems to be a means of criminalising those in need, rather than offering them support. Resources would be better spent on supporting Framework and other organisations, rather than on monitoring, prosecuting, making a court order, sentencing and imprisoning these individuals”.

### **Musician’s Union (Replicated by Equity)**

I have been contacted by MU members concerned about the council’s proposal to impose a PSPO area in the City, and in particular, impacting buskers in a negative manne

The MU represents 30,000 members nationally, and 3,000 in this region alone, many of whom are professional buskers, or use busking to supplement their self-employed income, and/or use it to develop skillsets required in their profession.

The prospect of Nottingham City Council imposing any form of PSDPO or restrictions on busking activities whether in numbers, or locations, or both, is deeply concerning to the MU and our members.

***The MU is therefore lodging a formal objection to this proposal as part of your consultation process***

### **Our Reasons For Objection Are As Follows:**

Many towns and cities have attempted this approach and met with fierce resistance from the MU and campaign groups such as “Keep Streets Live” and “Liberty”. Notably, because it is seen as a threat to freedoms and the cultural offer of our towns and cities. Indeed, the MU has worked pro-actively with many councils, who originally sought to impose such PSPO’s (eg Birmingham) following stakeholder opposition, and who we assisted to reach a far more sensible resolution that is based on self-responsibility and mutual co-operation; hinging on ‘negative impact’ actualities. The benefit of this approach has now been picked up by many UK towns and cities (eg: Liverpool, Birmingham, York, Worcester, Stratford Upon Avon, Leicester etc), saving Council’s much time, effort and money in the process and avoiding prescriptive and usually self-defeating regulations. If there is one thing that is guaranteed to reduce the attractiveness to buskers of a town or city to play, it is exactly these kind of prescriptive approaches. In consequence, such prescriptive rules then have usually attracted greater problems and a self-fulfilling prophecy of issues with ever increasing punitive approaches in an ever widening circle of pointlessness.

It is our view that regressive punitive policy is not the best way forward when dealing with issues of busking, and, if my experience of dealing with a number of council’s is anything to go by, there can be misunderstandings about what busking is, who does it, who abuses it; and a conflation of a number of social policy issues, generally around poverty, substance misuse, homelessness. Generally, made worse by Government cuts, that then unfortunately impact

sympathetic decision making in this matter exacerbating the effects of austerity for local communities and culture

As an example of our preferred policy norms, I attach a copy of the Birmingham policy drafted in partnership with the MU. I would be happy to talk to you about this approach and also suggest you contact Birmingham City Council directly to discuss the kind of issues you believe you are experiencing and the progressive route that Birmingham took. I am happy to provide the details of the senior policy officer there who is responsible.

I would also add that the Home Office guidance to this legislation (2014 Antisocial Behaviour, Crime and Policing Act) makes it clear that it “should not be used to prevent busking or other forms of street performance” unless it is the cause of genuine and serious antisocial behaviour. The problem with PSPO is it targets all performances regardless of whether any actual disturbance, harm or loss is being caused. This renders it a sledgehammer to crack a nut being neither a proportionate nor reasonable response. In consequence, the policy is completely open to legal challenge and I would refer you to my comments above about conflation of social issues, and the fact Liberty has run legal challenges against local authorities in this matter supported by the MU and other groups committed to freedom of expression, culture, and thought.

The MU accepts that our approach to this issue can appear somewhat radical to a system embedded in a reactive prescriptive rule based approach that is more used to regulation and enforcement, rather than positive engagement. The MU is therefore happy to explain to you and other stakeholders who may be applying pressure on City Leaders, that our model policy does not ultimately prevent enforcement where it is required, far from it. However, importantly, it is about self-policing, mutual respect, and based on the key element of ‘negative impact assessment’ in order to facilitate progressive steps if there is an issue, including mediation, to prevent issues escalating and court actions.

I would also ask what direct engagement you have had with the busking community in the City. Birmingham City Council held a number of meetings with the MU and buskers to develop its policy, including one they financially supported where “officialdom” was not present in order to get genuine feedback that the MU could relay.

I trust that this information is of assistance and I would urge the council (and Police) to abandon the PSPO proposal and pursue more progressive alternatives as suggested by the MU”.

### **Local Resident**

“I've just become aware of Nottingham City Council's plans to introduce a Public Spaces Protection Order (PSPO) that will effectively ban rough sleeping in shop doorways, restrict busking and selling The Big Issue, and prohibit charitable giving within most of the city. As a city resident, I'd like to register my opposition with these plans.

The council's justification for implementing the PSPO is that the behaviours in question "have had a detrimental impact on the quality of life of those in the locality". My view is that any impact caused by the behaviour of homeless people (who are obviously the target of these proposal, despite not being named in the plans) is insignificant compared with the hardships that they themselves face. More to the point, banning these behaviours will not solve the problems that homeless people face. The proposal to ban charitable giving is particularly objectionable,



especially when it is being proposed in the place made famous for the charitable acts of Robin Hood”.

## **Buskers**

“I write to request that you do not implement the proposed PSPO which will include buskers. Busking is not a criminal act, it is an unlicensed and unregulated activity.

Busking is our career, we pay tax and have an accountant we are tax paying citizens. As the late great founder of Keep Streets Live, Jonny Walker said

“Buskers act as civic lighthouses. We give directions, we break up fights, we call the police when we spot trouble. We talk to the lonely. We create moments of enjoyment between strangers, and contribute to the social and cultural enrichment of shared urban spaces. We are an integral part of the ecology of the street. We care deeply about the well-being of the places where we perform.”

Jonny strongly believed as do we that public spaces are such, spaces for the public. Regulating busking is un-necessary if you feel there is a problem with a minority of buskers there are already laws in place that the police can use to move buskers, PSPO are not a good idea, they potentially criminalise a Busker for doing their job, a job where statute law has already stated does not need to be regulated or licensed.

Please enter into consultation with members of Keep Streets Live team and work together to come up with a code of conduct similar to those already successful in Liverpool, York, Chester and other places that the authorities have worked with Keep Streets Live. Please please do not go ahead with the PSPO against buskers.

The modern world already limits people’s ability to earn a living please do not prevent buskers earning a living and the public the right to enjoy or not ;-) the variety and culture that street entertainment brings and has brought to Towns and Cities up and down the UK for centuries”.

## **Local Resident**

“I am writing object to Nottingham council proposed plans quoting "a safe, clean, vibrant and attractive environment for all". Some of the proposals are inhumane and not regarding the vulnerable of your own city as worthy of a place there. Nottingham authority has gone down a notch in my opinion, shame on you. Who needs pretty? Spend the money on the people that really need it!”

## **Busker**

“The public space and protection order are solely a law to tackle antisocial behavior.

That would not include busking in its natural form. I think you making a big mistake to misuse this law. Before you do, educate yourself first.

Busking is a unregulated activity and therefore also no licence to be needed.

If a busker resived a complaint, and refused to move on that makes it in legal terms not antisocial.

**Antisocial in legal term:**

**A person showing aggressive behaviour, or under influence of Alcohol or Drugs, swearing loudly in public, causing alarm and distress in the form of violent aggressive or threatening behaviour.**

If police received a complaint about a busker that complain alone is not a reason enough to move him on, also when he refused to cooperate. The guidelines given by the CPS are very clear..

1. The PSPO is solely a means for local authorities to tackle antisocial behaviour.!

a)

Busking and any form of street performance does not constitute a criminal offence or any form of antisocial behaviour.

,and is excluded from the remit of this law. (see PSPO, use of public space)

b)

The definition given by the CPS is very clear.

Antisocial behaviour in legal terms is:

If I play in Nottingham, I will refuse to move on in a situation where I been asked to stop or to move on by a police officer. And that will not make me behaving antisocial. PSPO is solely a law that officers can use to prevent antisocial behavior and crime only in relation that there's clear proof that those situations could appear. But someone who's busking will be never in that situation because busking is not in itself antisocial. Busking is a lawful activity.

Often PSPO will be misused by local authorities to enforce a license system,. If a busker doesn't have a licence then PSPO is not the right law to enforce a guideline or any other bylaws

And the dispersal order... I will be in breach of that order and will be contest in court... I won so far all my case in similar matter..

It would be for the good of all when that law will be thrown out because it will create confusion and misunderstanding".

**Local Resident**

"In regards to the proposed PSPO, I am concerned that this will effectively make homeless people illegal.

It doesn't do anything to actually try and solve the problem, only to move it out of the city centre so we don't have to look at it! This, in my opinion, is not humane in the slightest.

It also seems to prevent me from giving food or money to people that I believe are in need in the city centre. This infringes on my rights as a citizen.

I am more than happy to support the authorised locations for buskers and big issue sellers, but the provisions in Article 9 seem to give a wide range of powers to a wide range of people. These people should not be able to act without at least a complaint, made in the normal manner

with the details of the complainant recorded.

This proposal has almost certainly cost money to produce, and would cost money to enforce. That money would be better spent on helping homeless people in the city centre to get them into jobs and housing”.

### **Local Resident**

“I am writing, as a resident of Nottingham and regular visitor to the city centre, with respect to the City Council's proposals for a PSPO.

Whilst the issues the proposal seeks to address are very real, I am concerned that some of the most vulnerable in society will be impacted the most by the PSPO, if it were to be enforced. If the PSPO is intended to be enforced only selectively, I feel this is an inappropriate way to implement legislation and it should be redrafted to reflect the ways in which it is actually intended to be applied.

I accept that the council has limited resources to spend on assisting the homeless but criminalising them is not the answer.

Please consider the likelihood of this legislation being challenged in court and the prospect of wasting taxpayers' money defending poorly-designed legislation”.

### **Local Resident**

“Regarding your plans for a public spaces protection order... I don't think ever seen a more insensitive and hateful piece of legislation suggested.

I'm sure that the work you have done and the council is purely on the punitive side of dealing with the homeless without any understand of just how hard it is to obtain accommodation nowadays.

Just because you have framework in Nottingham does not mean there is a abundance of accommodation for the homeless in Nottingham to occupy. Primarily framework provides hostel spaces but as there is now no move on accommodation for those already in the hostel you would find there are no new spaces for people to move in.

Your suggestions are heartless and illinformed people will not get extra help simply because you look to ban them from rough sleeping. Maybe you hope for a return of the days where we would put the poor in workhouses?”

### **Local Resident**

“I initially became aware of the consultation process when I picked up a paper version of the attached document (questionnaire) in a city café. Firstly, I would like to make the point that the questionnaire is a very poor example of consultation since there is no detail of when the consultation closes, it only says Consultation Closes XXXX 2018. Further, there is no address where the completed document should be sent. These alone render the consultation process invalid since potential respondents might miss the cut-off date or fail to send their response to an appropriate address.

To seek clarification, I tried the Nottingham City Council website. On 2/10/18 (today) the page

for Open Consultations <https://www.nottinghamcity.gov.uk/open-consultations/> does not include any reference to this consultation. I even checked on the page with all consultations <https://www.nottinghamcity.gov.uk/engage-nottingham-hub/> just in case it had been moved to closed consultations a day early, but it wasn't there either. Again, a consultation that is not included on the NCC consultation pages cannot be claimed to have any validity. How would people know about the consultation process or how they can respond?

Eventually I found details of the consultation at <https://www.nottinghamcity.gov.uk/community/community-protection/public-spaces-protection-orders/consultation-regarding-nottingham-city-centre-public-spaces-protection-order/> by searching Public Spaces on the NCC website. Interestingly the questionnaire that initially alerted me to the consultation was not there, although the page includes a link to the proposed PSPO and a statement that:

The views of those who live in, work in or visit the city centre are important to us, and we want to hear whether you support the terms of the proposed PSPO, and to understand whether there are other behaviours that are a cause of concern in the city centre.

Since respondents to this request may not have seen the questionnaire they are unlikely to respond to the specific questions asked, further limiting the possibility of any meaningful results from the process.

This is a flawed process, but I would like to respond nevertheless.

I am concerned that many of the proposals, whilst written in general terms, could be applied to homeless people. For example:

I agree that people in general should not block the highway or doorways, but if applied to a homeless person bedding down for the night the effect would be to criminalise them for sleeping.

Similarly, in relation to 'unsolicited requests for money', the example on the questionnaire refers to street collections, but it could equally be applied to homeless people asking for money for a coffee. I agree that begging is a problem, and of course not all beggars are homeless, but once again this could criminalise the homeless.

I find it quite amusing that there is a contrast made between 'good quality and respectful busking' and 'busking that causes nuisance and annoyance'. Who determines whether busking is 'good quality' or 'nuisance'? I wonder how Frank Robinson (Xylophone man) would be described. Certainly his busking was not good quality, yet the City Council commemorated his pitch after his death (I enclose a link in case those writing the proposals have short memories) [http://www.bbc.co.uk/nottingham/content/articles/2005/09/05/xylophone\\_man\\_update\\_feature.shtml](http://www.bbc.co.uk/nottingham/content/articles/2005/09/05/xylophone_man_update_feature.shtml)

I agree that urinating and defecating in the streets is unsanitary. However, are people to be criminalised for a lack of safe public toilets? Again, homeless people who cannot access the toilets in bars and cafes will fall foul of this"

### **Local Resident**

"I am concerned that the implications of the PSPO proposals will have a significant detrimental effect on the most vulnerable citizens of Nottingham, the homeless. Support services, adult

social care have already been cut to the bone.

Seeking to hide the homeless, out side the city zone because they are considered as unsightly or some kind of nuisance is without compassion. The real problem is a lack of housing, the people who are to be most affected by these proposals need to be housed, not harassed, hidden or criminalized.

Nottingham does not need PSPO's it needs the Labour council to address the issues around the lack of real social housing and challenge TORY cuts.

I would not even be aware of these proposals or consultation only by accident at a local Labour Party branch meeting, so would question how genuine these consultations are if no one knows about it!"

### **Local Residents**

"We believe it has the potential to lead to cleansing the streets of people who, for a variety of reasons, are homeless and/or vulnerable; people who the council for many reasons will consider anti-social and a nuisance. People need support not harassment, demonization, and criminalization. Furthermore, the proposal could lead to the privatization of public space, potentially limiting freedom of speech and association, the right to gather and protest, because it is so widely drawn it could lead to criminalizing activity that is deemed not to fit into its often vague parameters, it also ramps up the potential for policing public spaces more intensely.

We don't see the need to introduce a PSPO. Other councils have considered then scrapped plans to introduce these orders. We do see the need to develop more support for the homeless and vulnerable, strengthen organizations like Housing Aid and Emmanuel House who work with the homeless and vulnerable. Maybe they could consider the compulsory purchase of empty homes to create additional capacity to house the homeless, particularly in empty buy to let accommodation and the overcapacity of older privately owned student accommodation? We also see the importance of public space not just as a commercial opportunity, or a route from shop to shop but as a living space where people are encouraged to gather and assemble for lots of reasons formal and informal, where the council doesn't prohibit but encourages flexible use and doesn't penalize those who just seek temporary refuge.

We also note that human rights group, Liberty have objected to the PSPO, and in response Cllr Neal has made public assurances that it will not be used to target the homeless. We are not reassured by Cllr Neal' s statement as it is our experience that once a power exists it is always deployed as widely as possible (for example RIPA anti terror laws being used to police correct wheelie bin usage). The correct place to restrict a power is at the drafting, not enforcement stage.

We've had years of cuts and austerity, and many have faced difficulties as a consequence, including homelessness, problematic mental health, and addiction. We urge the council to consult and engage more widely with citizens and key organizations regarding this proposal".

### **Keep Streets Live**

"As one of the directors of the Keep Streets Live campaign am reaching out to say we would certainly welcome the opportunity to meet with yourselves and the council to discuss the matter further.

Keep Streets Live is one of the leading advocacy groups for street performance in the UK, and has worked successfully in York, Liverpool, Birmingham and several dozen other towns/cities across the country to introduce guidance that both protects the spontaneous and cultural aspects of busking, whilst ensuring that concerns of local businesses and residents are also met. We also support the proper and robust use of existing legislation in individual cases where necessary and when no other solution can be found.

As you may be aware, the Home Office guidance to this legislation (2014 Antisocial Behaviour, Crime and Policing Act) makes it clear that it 'should not be used to prevent busking or other forms of street performance' UNLESS it is the cause of genuine and serious antisocial behaviour. For this reason we strongly believe that a PSPO is not fit for purpose as it targets ALL performance regardless of whether any actual disturbance, harm or loss is being caused. For this reason the policy is completely open to legal challenge, and our partners in the Musicians' Union, Equity and Liberty have both the resources and the interest in pursuing this if necessary.

We also strongly believe, in our professional experience as performers, that elements of the PSPO will inevitably cause more problems. For example limiting busking to a small number of 'authorised' locations will serve to create more conflict between performers, make it considerably more difficult to make a living, and also concentrate noise and activity over longer periods of time rather than allowing it to naturally disperse across a fairly large city centre.

KSL fully believe that a sensible policy can be achieved in Nottingham, maintaining the fine cultural reputation of the city, involving all stakeholders in dialogue, and finding solutions to any problems that arise".

### **Local Resident**

"I have just read the survey the council is proposing, asking for people's views regarding PSPO's. I was shocked by the nature of the questions. It is well known in academic circles that you have to be very careful in drafting surveys to avoid getting the answers your survey points people towards. It appears that the answer the council wants is to get people off the streets at any cost! Why is there no question asking if people think that homelessness is a national scandal? Where is the question that asks if we should do all we can to support those who are homeless? Where is the question asking if those who sleep rough in our city are people who badly need our compassion, help & support to find accommodation and turn their lives around?"

Furthermore, we are disappointed that, given the Council's decision to work in partnership with the voluntary sector, why weren't they involved in drafting such a document?

I do hope this document will be redrafted with the help of representatives from Emmanuel House, The Friary and similar organisations".

### **Emmanuel House**

#### **"PSPO survey**

At the top of the survey it states that it is for people who "work" in the City centre. While a significant pile were located in a specific premises, no copies were delivered to Emanuel House which would imply that it has not been distributed with equality of opportunity in mind.

I have a number of concerns about the general design of the survey. Firstly it is designed to hook the readers Critical Parent, a tactic that all tabloid newspapers use. It's worded in the kind of way that I would expect to find in the Sun newspaper. Secondly and related to this point, it has been designed with psychological bias. The usual setting out of indicators is to go from left to right with strongly disagree on the left to strongly agree on the right. The combination of hooking someone's Critical Parent and the setting out of the indicators as they are is likely to bias a response in favour of punitive measures, namely permission from the public to take action on the various issues in the survey.

Secondly, the City Council is investing substantial resources into homelessness services and yet it seems that it has come to a point where enforcement is the ultimate answer. Is the City Council raising the White Flag? Does it not raise a question about effectiveness of the services?

Thirdly, the City council is looking to engage the voluntary sector in contributing to the Homelessness Prevention Strategy and the Homelessness Charter. On the face of it there is a lot in this consultation as cited that will cut across the values and principles of organisations in the voluntary sector.

### **The questions**

Question two. Generally speaking begging is a nuisance and in many cases it would be helpful if some people who are begging did not receive money from the public. If the public are given the correct information they will make informed choices. My experience in raising a hypothetical situations with members of the public in relation to giving money to somebody who would use it to buy drugs or another who would use it to buy food elicits the question, "how do I know?" Informing people, through education, to think through these questions will empower the public to make good choices. It is also possible to provide the public with alternatives to giving money people who beg. For example in Bristol they have posts with touch card facilities and members of the public can simply donate 2 pounds homelessness charities in the City.

Question four. With the exception of busking conflicting with other events, for example somebody's wedding, taste in busking is essentially a personal choice. One person's busking is another person's nightmare. Maybe controversially, but isn't busking simply begging with a musical instrument?

Question five. What constitutes "free materials"? Is this to control the distribution of free food? The City Council needs the community to help solve homelessness. Does the City Council think this is the way to get Community on side?

Question eight. What action does the council think it will take against people are use psychoactive substances. Is it the intention that the City council to prosecute them and send them to prison? One of the causes of the rise in the use of psychoactive substances is prison where people come into contact with the substance for the first time. If it is intended that people would simply be moved out of the City it will impact on communities further afield who will begin to experience the rise and homelessness as is the case for the community of Sherwood".

### **Local Resident**

“Please, please think again. As a long term Nottingham resident who moved here from London in the early 1990's where rough sleeping and homelessness was everyday, I found it a very positive place to live and have since made Nottingham my home. I have been proud to live in a diverse and supportive city for many years. I now work in the city centre and I am broken hearted by the increase in rough sleepers and people in distress. I know it is caused by austerity and not council policy, but as a labour council, you should be extending a hand to those in need, not criminalising them.

Liberty, said: “The council’s plans ignore Home Office guidance, inappropriately dismiss poverty as antisocial behaviour and will make it near-impossible for any homeless person to avoid breaking the law.

“They will punish some of the most vulnerable people in Nottingham, pushing them into the criminal justice system for trying to survive.

“The council may try to argue that their intention is not to criminalise homelessness – but that will be the effect of this PSPO regardless. They should be helping those in need – not outlawing acts of charity in a bid to airbrush their streets. We hope they will rethink these cruel and counter-productive plans.”

I want you to know you do not do this in my name. I don't want people in need to be 'swept away' or the streets 'cleansed' of people who are suffering, just for my comfort”.

### **Local Resident**

“As a constituent of yours, I would like to hear how you feel the proposed PSPO legislation is not going to be used to criminalise people forced to sleep rough, or who are in emergency accommodation and have no place to be during the day times.

I would be appalled to think that my labour party representatives would be pushing through legislation that would penalise people for becoming homeless.

Particularly as NCC selective licensing for landlords, which has been implemented in the most ridiculous fashion, and the first phase rolled out in the area where the most tenants live in precarity, and where landlords are least able to pay the upfront costs. The result is a huge amount of additional homelessness and stress on those with the least means to deal with it.

Surely you would rather redirect the resources spent on this draconian legislation to looking at tackling the causes of homelessness.

The public consultation has been minimal, yet I was “consulted “ by the incredibly loaded questionnaire yesterday. Those questions were designed not to seek people’s opinions, but to ensure answers that could only point to one conclusion: that residents support the need to take action over antisocial behaviour. It did not ask if further powers were needed, or look at alternative ways of addressing the issues.

I agree that there are a minority of people that approach individuals, and that some people may feel intimidated. But, these individuals can be addresses with current powers.



It appears to me that the proposed legislation is hugely wide ranging and will potentially require council interaction, responses, work, and costs to administer, for so many individual activities. Do you have a budget for these resources? How many additional work hours and staff are you anticipating it will cost to administer?

Councillor Neal has suggested these will be used to target commercial and charity fundraising groups, 'chuggers', but is not the bottom line to tidy away the unsightly street homeless, the most vulnerable so their plight is less open and we can go about our lives without any concern or compassion? Then we, the more fortunate, wouldn't need to consider how these numbers have risen so hugely in the past six or so years? That the links between policies that cut resources in housing, support for people living with mental health issues, probation services, family support services, benefit systems that are disjointed and designed to save money rather than lives, and the general effects of years of living in precarious fiscal situations have impacted on people and had serious long term effects on"

### **Busker**

"This is what I have to say,

I am a street musician in Nottingham and have been now for over 3 years. This not only provides me with my main source of income, but has an incredibly positive effect on most of the people that I see walking past me. I often get told how I have made that person's day and feel so proud that I can inject some happiness and hope outwards from within the city centre.

I wholeheartedly agree with the 'Support for Buskers in Nottingham following the new PSPO (Public Spaces Protection Order)' petition and do feel very strongly that street musicians ought rightly to be allowed to distribute their music. The public makes a choice whether to purchase this music or not, so this really does not make any sense to me at all.

I am happy to hear that Nottingham City Council and Nottingham Police welcome the buskers in our fair city and it is clear to me that any anti-social behaviour in the city needs to be dealt with accordingly, but lumping all buskers together does not seem to be an appropriate method for dealing with this situation. If some buskers are being anti-social then surely they need to be dealt with on a one-on-one basis. We are not all the same! Something about babies and bath water comes to mind.

Please allow our buskers to continue doing what they are currently doing, and that is improving Nottingham city centre and the people that visit our city".

### **Institute of Fundraising**

"I am writing to you from the Institute of Fundraising – the UK's leading professional membership body for fundraising. We represent over 6,000 individuals and 600 organisations who undertake charitable fundraising activities, and our strategic goals are to lead and represent the sector, raise standards and champion fundraising as a profession. It is my understanding that a consultation is underway for a proposed Public Space Protection Order (PSPO) for Nottingham City Centre, and I would like this letter to represent the views of not only the Institute of Fundraising, but the wider fundraising community.

As you will be aware, the key legal basis for implementing a PSPO is based on an activity having a 'detrimental effect on the quality of life for those in the locality'. It is our view that the original intention of PSPOs was to restrict anti-social behaviour such as illicit drug use and the drinking of alcohol. It is extremely concerning to us that the suggested PSPO has been extended to restrict charitable donations. I would also like to emphasise that street fundraising by direct debit is a legal activity in the UK.

Donations by direct debit to charities are integral to funding great causes. Charities, both small and large, have a significant role to play in making people's lives better, and members of the public (including those who reside in Nottingham) benefit from support from charities who are funded, in part, by direct debit donations. The work of fundraisers is vital, not just in raising money that enables charities to do their work, but also ensuring members of the public have a positive and inspiring experience of fundraising and giving. Our recent research with YouGov found that:

- 60% of people reported having taken additional positive actions (such as volunteering or signing a petition) as a result of donating to charity;
- 24% of those who have donated had become regular givers to charity;
- 43% of people reported having changed their behaviour or feeling more positive as a result of donating in the past.

Moreover, we do not believe direct debit fundraising has a 'detrimental effect on the quality of life for those in the locality' – in fact we believe the opposite. If charities were not able to fundraise through this method, many great causes would lose out, including the most vulnerable people in society. However, as we currently have a Site Management Agreement in place in order to undertake diary management and control of direct debit fundraising, we would welcome an opportunity to discuss how we can alleviate any perceived concerns moving forward. I look forward to hearing from you soon".

## **Nottingham Busking Community**

To further the conversation .....on the 20th of September regarding the proposed city centre PSPO: the following are the suggestions, insights and thoughts of some of the busking community, including but not limited to musicians, street performers and supporters of local buskers. We do not agree with the PSPO but if it comes to pass our thoughts must be considered, only then can we work together to avoid infringing buskers rights.

Three areas of contention with the proposed PSPO include:

- 1. The controlled authorisation of busking pitches within the city centre**
- 2. Evening and night time busking**
- 3. A street performers right to distribute their own material, i.e CDs and business Cards**

### **1. The controlled authorisation of busking pitches within the city centre.**

The current authorised pitches that exist on the old map are not a sufficient or practical choice for the buskers of Nottingham. There are also numerous other pitches that are tried and tested as successful locations for performers. These have been successfully used for years and are so far approved by local businesses in the area. We believe that the enforcement of authorised

pitches will:

- Increase confrontation between buskers competing for space
- Increase frequency of confrontation between buskers and community officers (authorised persons) as enforcing this puts pressure on buskers to comply to the order, regardless of whether they are causing a nuisance to anyone.

We understand and respect that not all spaces are ideal for busking and performing. We suggest that rather than having authorised busking locations, that instead specific problematic areas could be designated 'No Busking' zones. For example, it has become common knowledge with the buskers in the city that the locations on Smithy Row and near the Council House are not suitable for amplified music, with the exception of Sundays, when there are no legal occasions or ceremonies. This has become a common understanding with buskers in the city and whilst there is no need to enforce this we appreciate why this area is discouraged Monday-Saturday.

We believe this is a system that will work with the support of a best practise busking guide. There are many busking guides that have been put together by the Keep Streets Live campaign. A copy of Canterbury's busking guidelines has been used as an example. This encourages buskers and performers to use common sense and courtesy to choose their locations.

We still believe that public nuisance: complaint of noise levels and anti-social or offensive behaviour should be controlled as this is for the safety of the public and the busking community too. However there are already community protection laws in place to deal with this.

If a 'No Busking' zone scheme is not approved, then we strongly suggest that the existing authorised pitches should be reassessed with the help of local buskers' experience and knowledge.

## **2. Restrictions on evening and night time busking.**

There are some buskers that choose to perform in the evening and we are aware that recently there have been disputes with residents about noise levels at antisocial hours. Whilst we believe that late night busking encourages a safe and positive atmosphere for drinkers and visitors in the city centre, we also understand and sympathise with local residents when music is playing into the early hours of the morning.

We suggest that a curfew might be put in place in any residential areas, and that night time pitches are freely available for groups and individuals who may want to perform into the late hours away from these areas. We are aware that confrontation between Community Officers and night time buskers can become dangerous situations when intoxicated members of the public get involved and this is something we should all aim to avoid.

## **3. A street performers right to distribute their own material, i.e CDs and business cards**

We are aware that the distribution of CDs and similar materials by buskers is a contentious subject. We have spoken to (the Council) in great depth about this issue and we hope that he may be able to open up a new dialogue with the council and those responsible for potentially making this feasible. We understand that there is no standing legality in place that prevents the public requesting a CD from a busker, and the busker accepting a donation in return.

As this is a common request for street performers, we know it is within our rights that if requested, we can make this material available to the public.

However, if restrictions due to the PSPO go ahead we suggest a permit or trading license scheme to enable buskers to distribute their CDs in the city centre. This scheme should be exclusive to buskers that are performing and distributing original material within their performance space. If there is a ban on performers' right to distribute CDs it will dramatically deter the higher quality and experienced buskers from the city, whilst negatively affecting the positive environment we are all trying to cultivate in Nottingham.

Thank you for taking the time to read this information, and please see additional documents and opinions that support these views. We are a strong and vibrant community and wish to work diligently and cooperatively with Nottingham City Council and Nottingham Police to move forwards in this. Whilst we actively oppose the introduction of the PSPO this proposal is a suggestion of how a compromise might work and we sincerely hope our views are considered.

## **Liberty**

“For the reasons set out below, we are against the proposed PSPO. We are concerned about the potential misuse of PSPOs, especially those that target rough sleeping and begging.

### **1. Background to Liberty’s concerns**

Liberty has been concerned about the impact of PSPOs since their inception and has successfully advised a number of local authorities in relation to their proposed PSPOs. We are particularly concerned about PSPOs that punish poverty-related issues, such as rough sleeping or begging. In relation to your PSPO, we are especially concerned by the prohibitions on: (1) obstructing ingress to or egress from any building; (2) selling or offering for sale Big Issue unless conditions are met; (3) distribution of free matter; and (4) begging, as all of these provisions target rough sleepers.

### **2. Lack of evidence**

We are disappointed that no evidence has been published on the Council website to support the PSPO. This is especially concerning given how extensive the provisions of the PSPO are, and the broad range of behaviours it seeks to prohibit.

It is stated that the proposal is based on evidence gathered predominantly “via customer surveys, customer complaints and customer service requests”. However, none of these have been published on your website.

By way of comparison, we have found that other councils have relied on data, witness

statements, police reports, surveys, impact assessments, and many other sources of information to justify the need for a PSPO before setting out a proposed order and starting a consultation. Councils can only make PSPOs in circumstances where they are “satisfied on reasonable grounds” that the conditions to implement a PSPO are met. The Council cannot be satisfied on reasonable grounds on the basis of no evidence. We therefore request that it provides evidence to demonstrate that the PSPO is necessary to prevent persistent anti-social behaviour that is having a detrimental effect on the quality of life of those in the area.

### **3. Rough Sleeping**

#### **Clause 4.1- prohibiting anyone from obstructing “ingress to or egress from any building”**

The Council is required by s. 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 to be satisfied on reasonable grounds that the conditions to implement a PSPO are met. No reasons at all have been provided here. Further, the Council can only impose PSPO requirements that it is reasonable to impose. It is clearly not reasonable to impose requirements that are simply not needed or could be addressed by more focused provisions of a PSPO.

The provision in the draft PSPO is too vague. It is unclear for instance what is meant by “obstructing” – does it have to be the person’s deliberate or malicious intention to obstruct passage?

Furthermore it might be used to wrongly target those who may be sleeping or begging in the PSPO area, with no intention of obstructing passage, causing a nuisance, or engaging in anti-social behaviour.

The governments’ statutory guidance issued on 17 December 2017 clearly advises against such targeting:

“ Public Spaces Protection Orders should not be used to target people based solely on the fact that someone is homeless or rough sleeping, as this in itself is unlikely to mean that such behaviour is having an unreasonably detrimental effect on the community’s quality of life which justifies the restrictions imposed. PSPOs should only be used to address any specific behaviour that is causing a detrimental effect on the community’s quality of life which is within the control of the person concerned.”

This provision also constitutes an interference with Article 8 of the European Convention of Human Rights (“the Convention”). Local Authorities are bound by section 6 of the Human Rights Act 1988 not to act in any way which is incompatible with any rights contained in the Convention. Article 8 of the Convention extends to the protection of personal autonomy and can apply to activities conducted in public; this is especially true of the homeless whose scope for private life is highly circumscribed.

Further the Council is effectively trying to ban poverty and this will be ineffective. As the statutory guidance suggests “introducing a blanket ban on a particular activity may simply displace the behaviour and create victims elsewhere”. The Council should consider the knock-on effects of the decision to introduce the PSPO and ensure that it is a reasonable and proportionate response to incidents of anti-social behaviour in an area. If the Council would like to effectively address the issue of homelessness, it should consider engaging with national or local homeless charities, in particular when considering restrictions or requirements which may impact on homeless people.

#### **Clause 4.2 – making it an offence to “prevent or hinder the street cleansing activity of the Council”**

This provision is also vague, and we are concerned it will be used to wrongly target rough sleepers.

What is meant by “prevent or hinder”? In the way that the PSPO is currently drafted, anyone who happens to be rough sleeping in the street, in the PSPO area when cleaning is underway, could be deemed to “hinder” the street cleaning activity. This measure is therefore also disproportionate.

If the above prohibitions are not intended to target the homeless or those begging in the street, they should explicitly say so.

#### **4. Sale of Big Issue**

##### **Clause 5 – restricting the sale of Big Issue Magazine to individuals located on an Authorised Big Issue Pitch and displaying Big Issue identification badge**

It is unclear what could be anti-social about selling Big Issue. This proviso fails to target a “specific behaviour or activity” and as a result should not be included in the PSPO.

It also unlawfully targets those who are homeless and therefore falls foul of the Home Office Guidance. This measure is also a disproportionate interference with the rights of free expression under Article 10 of the Convention, and cannot be justified as it is not necessary for national security, public safety, for the prevention of disorder or crime or the protection of health and morals.

#### **5. Charitable giving**

##### **Clause 12 – prohibiting distribution of “Free Matter” unless licensed by permit or with written consent by the Council**

Matter is defined in the PSPO as “any material substance, object or thing”. It is extremely broad and can cover sandwiches, cups of coffee and even clothes.

It is unclear how the distribution of “free matter” is in any way detrimental to the quality of life of those in the locality. The distribution of food, donations or other items to those who are homeless or begging is an activity that alleviates the plight of those who are destitute; no special permission from the council should be needed.

## **6. Begging**

### **Clause 13 – prohibiting any “unauthorised request for money...or other donations whether expressly or impliedly requested by conduct”**

This measure also wrongly targets the homeless and those who are destitute. Begging is not anti-social behaviour: it is an act of desperation. There is no evidence that the Council has considered whether this blanket ban is the least intrusive way of achieving its aims.

A PSPO is an extremely blunt measure to deal with poverty. The only method of enforcing a PSPO is by way of a Fixed Penalty Notice (“FPN”) of up to £100 or, upon prosecution, a fine of up to £1,000. A PSPO does not give council officers, police officers or Magistrates any other additional powers, including dispersal powers or powers to require engagement with substance misuse services. As a specific example, this contrasts with a prosecution for begging under the Vagrancy Act 1824, which can give rise to the imposition of a community sentence as an alternative to a fine or sentence of imprisonment. Prosecution for breaching a PSPO cannot, other than in the most exceptional circumstances, lead to the imposition of a community sentence.

We consider that the begging provision should be removed in its entirety as it will have a harmful and disproportionate effect on the most vulnerable people in Nottingham. It is unfair to penalise poverty in this way; people who resort to begging are likely to be doing so as a result of poverty, addiction and/or other mental health issues. They are also highly unlikely to be able to pay an FPN or a Magistrates’ Court fine, and a resulting criminal record will do nothing to alleviate their poverty or address the underlying causes. Furthermore, it would be particularly cruel and perverse for those caught begging in violation of the PSPO to have to pay a fine by using what little money they might have saved from the charitable donations of others.

A PSPO must be proportionate to be lawful. By contrast, even requesting money impliedly by conduct is prohibited by the PSPO. It is unclear what sort of conduct is covered. As currently drafted, this would cover acts as harmless as sitting on the side of the street with a paper cup or a cardboard sign.

The PSPO also constitutes an interference with Articles 8 and 10 of the Convention. The measure interferes with these rights in two ways: firstly, begging is arguably an expression of

poverty and disadvantage, and criminalising such conduct may undermine the right of freedom of expression under Article 10 of the Convention. Secondly Article 8 of the Convention extends to the protection of personal autonomy and can apply to activities conducted in public. Begging is a form of interaction with others and, in our view, its blanket and untargeted criminalisation falls within the scope of the right to respect for private life in Article 8.

The blanket ban proposed by the PSPO targets vulnerable members of society with financial penalties that they cannot afford. The Council should focus its efforts on finding ways to help the most vulnerable – not criminalise them.

## **7. Private enforcement**

Finally, under the Act, the Council may designate someone else (including a private company employee) to issue Fixed Penalty Notices to anyone that they reasonably believe is in breach. Liberty is aware that many councils have chosen to delegate enforcement powers to PSPOs to private companies. We are very concerned by this practice as private companies would not have the same level of training or oversight as the police or council officers. In addition, if the contract allows them to keep the revenue or makes payment proportional to the number of fixed penalties issued, there will be a huge financial incentive for the private enforcers to issue fixed penalty notices. We therefore urge the Council not to pursue this method of enforcing any provisions in the PSPO but in particular those that seek to criminalise poverty.

## **Conclusion**

Whilst we appreciate that the proposal is still at an early stage, we are concerned that the PSPO is unsupported by evidence and will have a disproportionate effect on some of the most vulnerable people in Nottingham. Liberty therefore urges the Council to reconsider its proposal”.