

Scrutiny Report

Overview and Scrutiny Management Committee

Date: 12th April 2021

Subject: Pill PSPO - 2021-2024 (Public Spaces Protection Order)

Author Rhys Thomas – Acting Regulatory Services Manager

The following people have been invited to attend for this item:

- Councillor Ray Truman – Cabinet Member for Licensing and Regulation
- Gareth Price – Head of Law and Regulation
- Rhys Thomas – Regulatory Services Manager
- Michelle Tett – Community Protection Manager
- Inspector Stefan Williams – Gwent Police

1.0 Recommendations to the Committee

At this meeting, the Committee is asked to

- 1.1 Note the Consultation responses consisting of 167 Electronic online responses and 1 via written submission direct to NCC Officers.
- 1.2 Note that the Police no-longer wish restriction 8 be included.
- 1.3 Agree (or otherwise) that the consultation process has been completed in accordance with the previously agreed consultation plan presented to Scrutiny in February 2021
- 1.4 Confirm (or otherwise) the need for these restrictions imposed by the draft PSPO following consultation
- 1.5 If satisfied to the above, recommend that the Council considers and adopt this PSPO at its next meeting in June 2021

2.0 Context and History

2.1 Scrutiny Committee previous hearing – February 2021

2.1.1 In February 2021, Scrutiny committee reviewed evidence from Newport Officers and Gwent Police. The wording of the draft PSPO was scrutinised and committee requested amendments to wording of one restriction, and the addition of questions in the proposed consultation plan. The committee identified additional consultees to invite for comment. The committee was at that time satisfied on the proposed geographical area on which the PSPO will be effective.

2.1.2 Pending minor amendments to the consultation questionnaire, the committee agreed to proceed to 1 month's consultation on the proposed PSPO and to hear the result of that consultation in its April meeting.

2.1.3 Following Scrutiny Committee in February 2021, proposed restriction number 7 regarding littering was removed due to there being a regulatory regime specifically aimed at this issue. As such and in consideration to the Home Office guidance on PSPO implementation, this restriction was removed.

“No person shall engage in littering; it is an offence to throw down, drop or otherwise deposit and then leave, litter in any place in the open air within the Restricted Area.

2.1.4 The consultation process ended on 31 March 2021. The full consultation responses are included in the appendices 1 and 2 of this report.

3.0 Proposed Pill PSPO (2021 – 2024)

3.1 The proposed content of the PSPO is below pending Scrutiny agreement and presentation at full council in June 2021.

ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014 SECTION 59 PUBLIC SPACES PROTECTION ORDER 2021 PILGWENLLY, NEWPORT

NEWPORT CITY COUNCIL in exercise of its powers under Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 (“the Act”) hereby makes this Order, being satisfied on reasonable grounds that activities in a public space, namely in the PILLGWENLLY area of Newport, have had or are likely to have a detrimental effect on the quality of life of those in the locality and that these activities involved various anti-social behaviours. Further, Newport City Council believes that the effect, or likely effect, of the said activities is, or is likely to be, persistent or continuing in nature, such as to make the activities unreasonable and justifies the restrictions imposed by this Order:-

This Order shall come into operation on _____ xxxx _____ 2021 and shall have effect for a period of 3 years thereafter, unless extended by further Orders under the Council’s statutory powers.

This Order relates to the public place in the City of Newport as shown edged red on the Plan, annexed 1 to this Order (“the Restricted Area”) commonly referred to as “Pill”.

The effect of the Order is to impose the following prohibitions in the Restricted Area at all times and will be enforced by Police Constables, Police Community Support Officers with delegated authority or an authorised Local Authority Council Officer.

PROHIBITIONS:-

1. Refusing to stop drinking alcohol or hand over any containers (sealed or unsealed) in their possession, which are believed to contain alcohol, when required to do so by an authorised Officer within the Restricted Area.
2. No person shall behave (either individually or in a group) in a manner that has caused or is likely to cause harassment, alarm or distress to a member of the public within the Restricted Area. Persons who breach this prohibition shall, when ordered to do so by an authorised Officer, disperse immediately and not return within 24hours, unless for a lawful reason.
3. No begging in a manner which is aggressive or intimidating or is likely to cause someone to feel harassed, alarmed or distressed.
4. No person shall urinate or defecate in a public space or in public view except in a premises designated for that purpose within the Restricted Area.
5. No person shall within the Restricted Area:
 - Ingest, inhale, inject, smoke, possess or otherwise use intoxicating substances*.
 - Sell or supply intoxicating substances*.

Persons who breach this restriction shall surrender any such intoxicating substance in his/her possession when asked to do so by a Police Constable.**

***“Intoxicating substances” (commonly referred to as “legal highs”) is given the following definition: substances with the capacity to stimulate or depress the central nervous system (does not include alcohol).*

***Exemptions shall apply in cases where the substances are used for valid and demonstrable medicinal use, given to an animal as a medicinal remedy, are cigarettes (tobacco) or vaporisers or are food stuffs (to include drinks) regulated by food health and safety legislation.*

6. Cyclists, or users of scooters, E-scooters, E-bikes, skateboards and hover boards, are to dismount if requested to do so by an authorised officer, if they are of the opinion that the operator is riding in an unsafe manner which is causing or is likely to cause a danger to the public in the Restricted Area.
7. No person shall spit saliva or any other product from their mouth onto the ground within the Restricted Area.

FIXED PENALTY NOTICES AND OFFENCES:-

8. It is an offence for a person without reasonable excuse to engage in any activity that is prohibited by this Order.
9. In accordance with section 63 of the Act, a person found to be in breach of this Order by consuming alcohol or by refusing to surrender alcohol to an authorised person is liable on summary conviction to a maximum penalty of a Level 2 fine (currently £500) or to a Fixed Penalty Notice up to £100.
10. In accordance with section 67 of the Act, a person found to be in breach of this Order other than by consuming alcohol or by refusing to surrender alcohol to an authorised person is liable on summary conviction to a maximum penalty of a Level 3 fine (currently £1000) or to a Fixed Penalty Notice up to £100.

APPEALS:-

11. If any interested person wishes 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 6 weeks from the date on which this Order is made.

Dated:

THE COMMON SEAL of)
NEWPORT CITY COUNCIL was)
here unto affixed in the presence of:-)
)

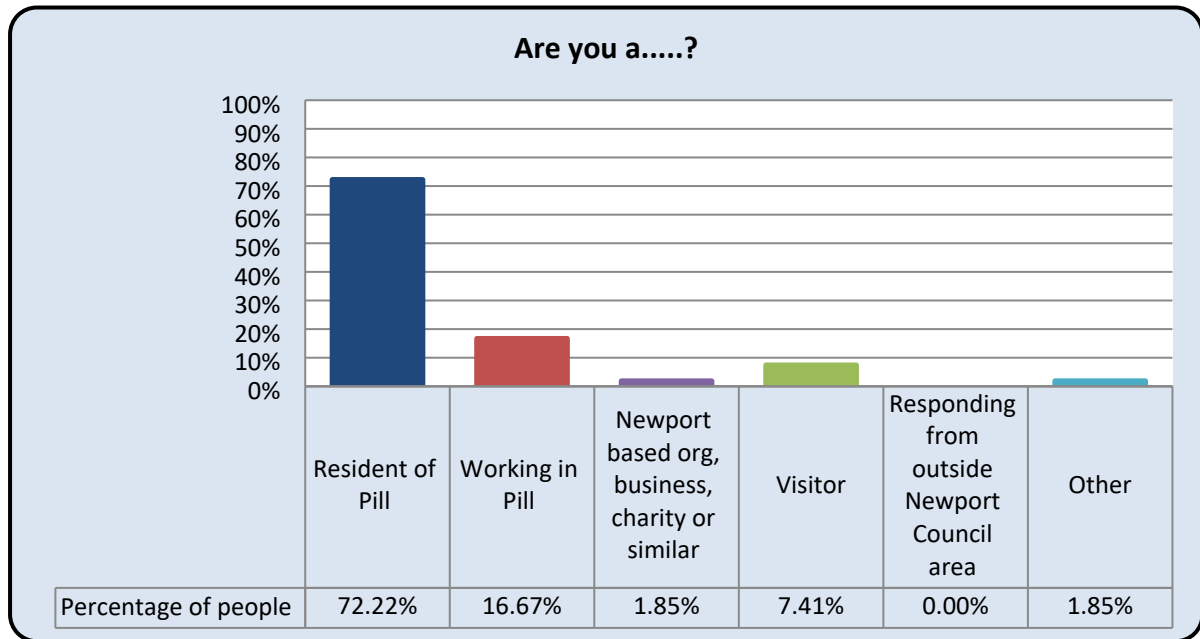
ANNEX 1 – Pillgwenlly, Newport Public Space Protection Order Restricted Area



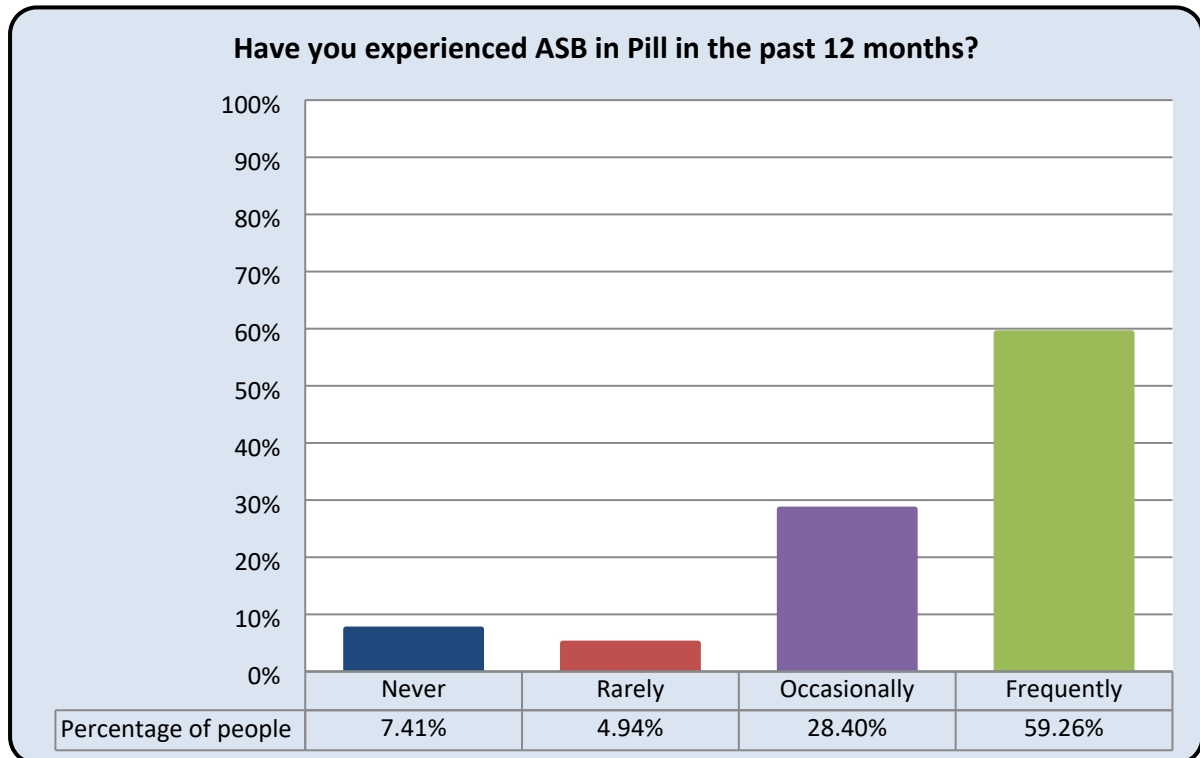
4.0 Consultation feedback

4.1 For each of the restrictions and the geographical location of the PSPO, the consultees were asked to agree or disagree with the need for the control and also provide 'free text' feedback or additional comment. The graphical results of this consultation are presented, by question, below. The full results are at Appendix A.

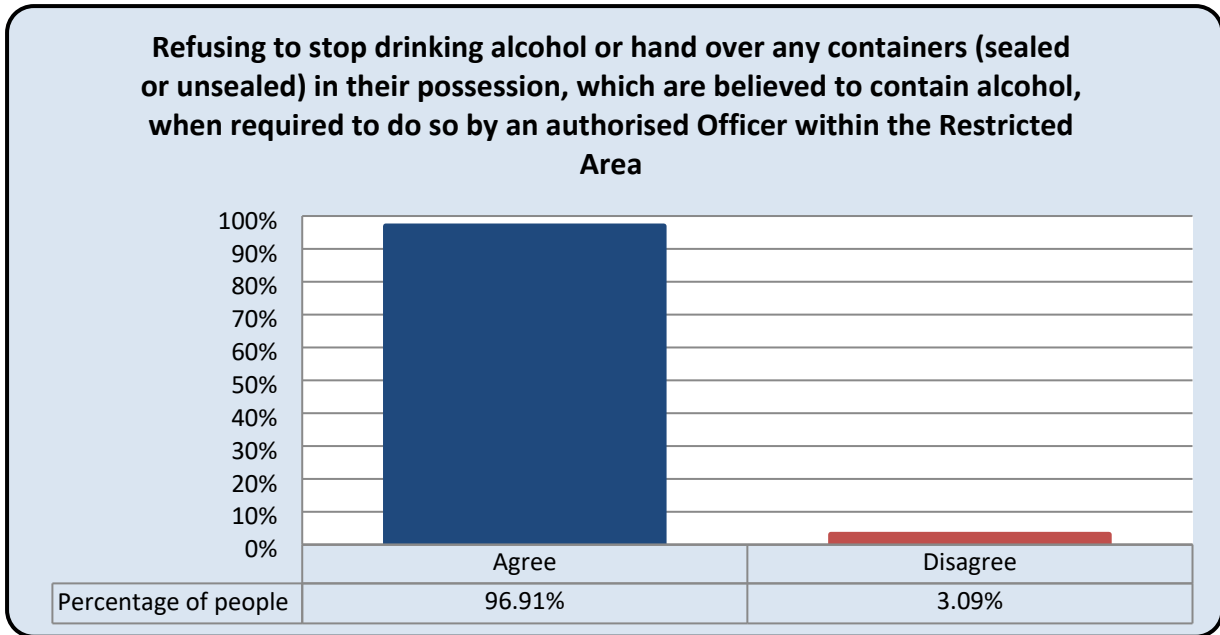
4.1.1 Question 1



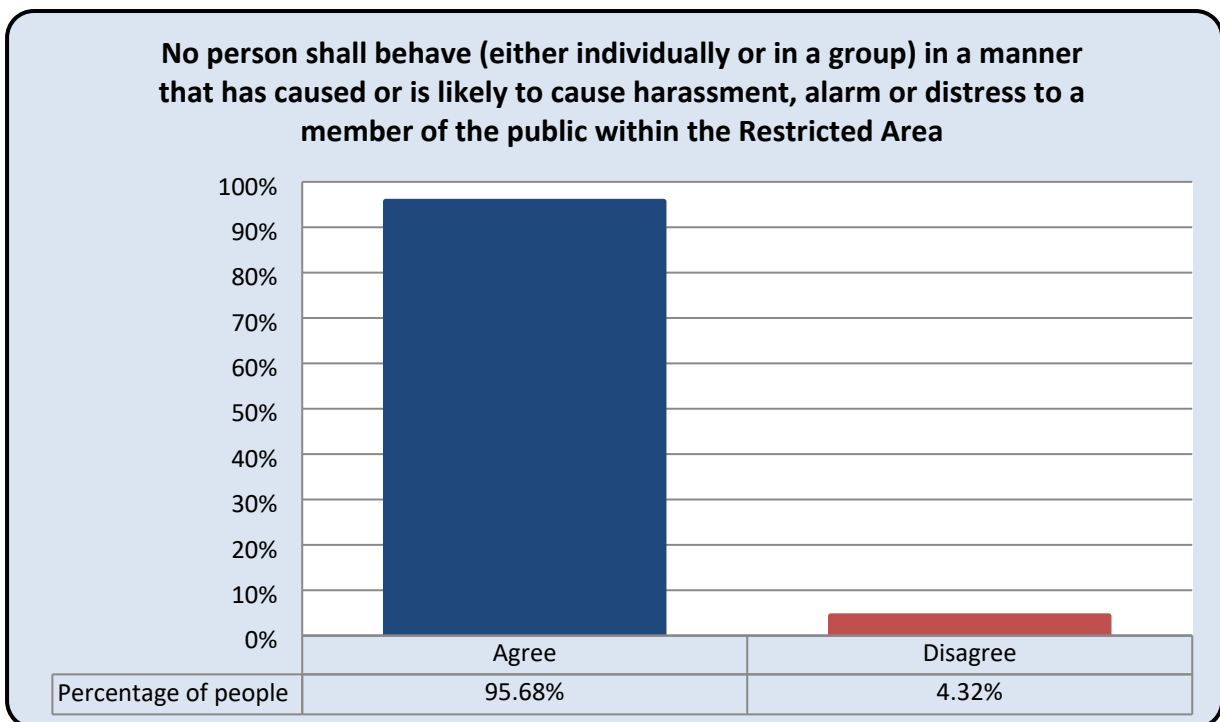
4.1.2 Question 2



4.1.3 Question 3

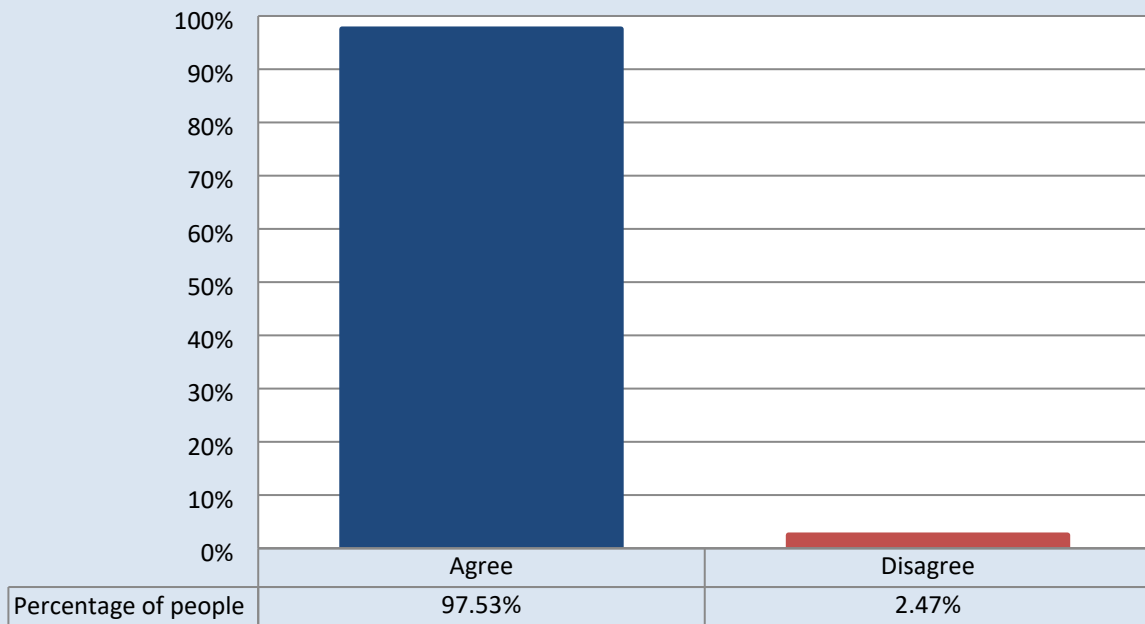


4.1.4 Question 4



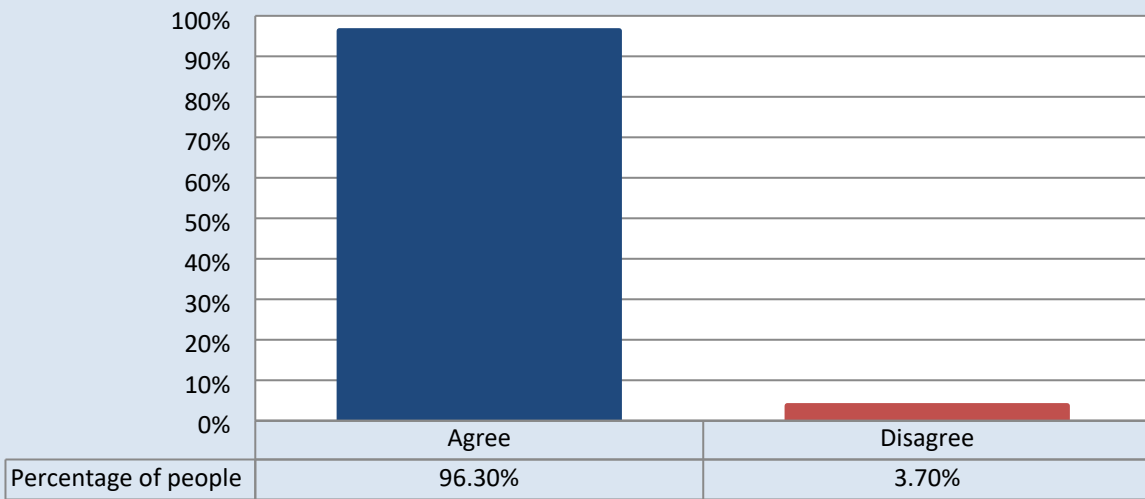
4.1.5 Question 5

No begging in a manner which is aggressive or intimidating or is likely to cause someone to feel harassed, alarmed or distressed



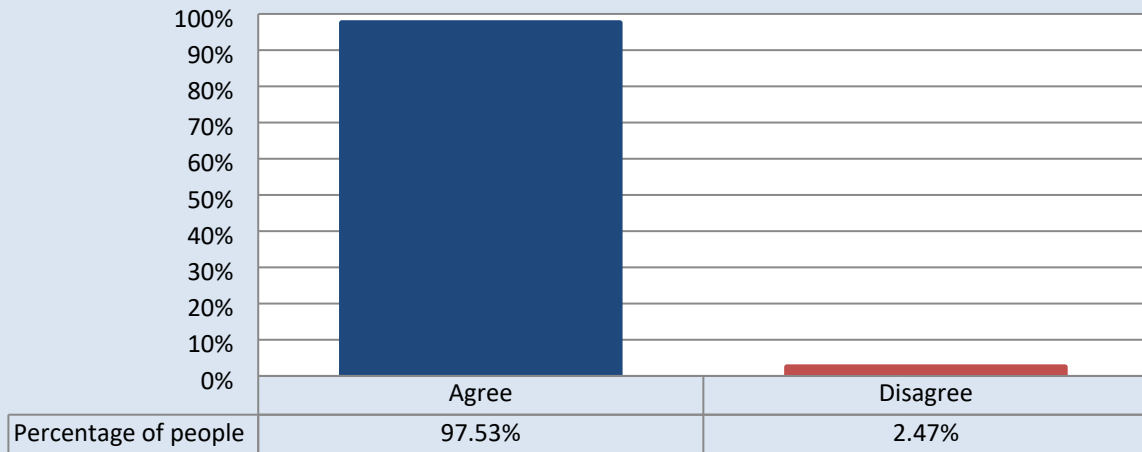
4.1.6 Question 6

No person shall urinate or defecate in a public space or in public view except in a premises designated for that purpose within the Restricted Area



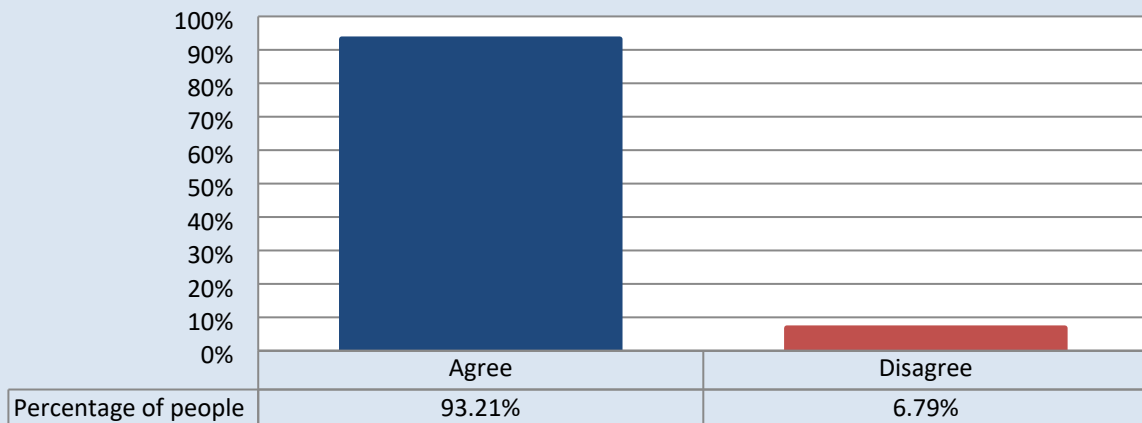
4.1.7 Question 7

No person shall within the Restricted Area: Ingest, inhale, inject, smoke, possess or otherwise use intoxicating substances; or Sell or supply intoxicating substances

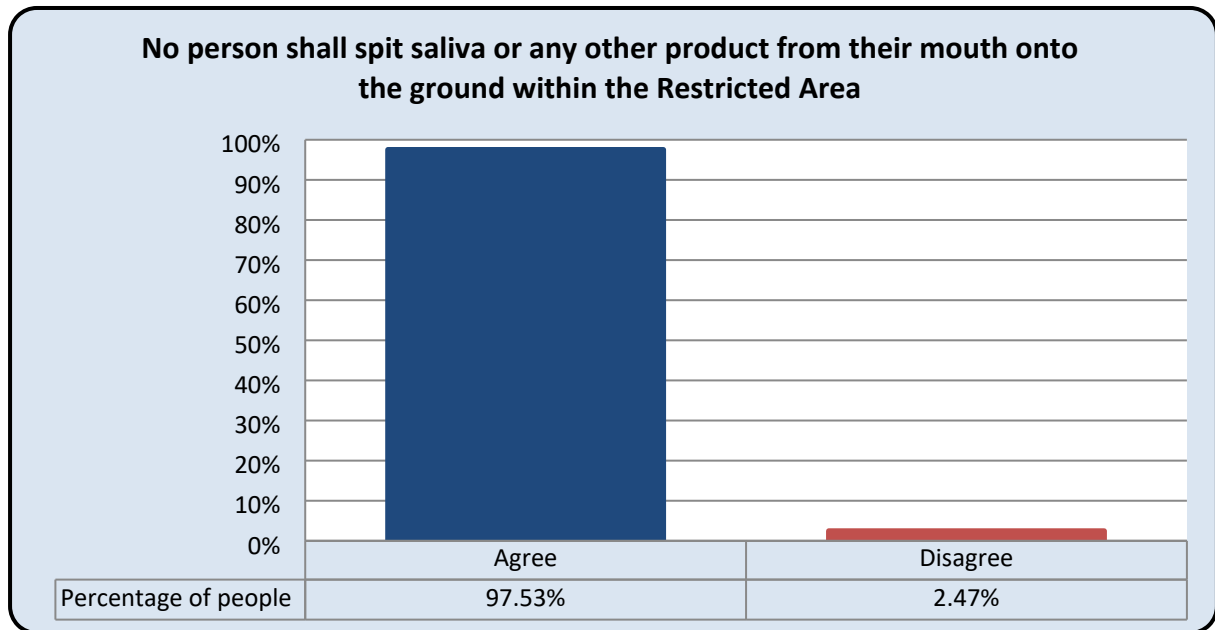


Question 8

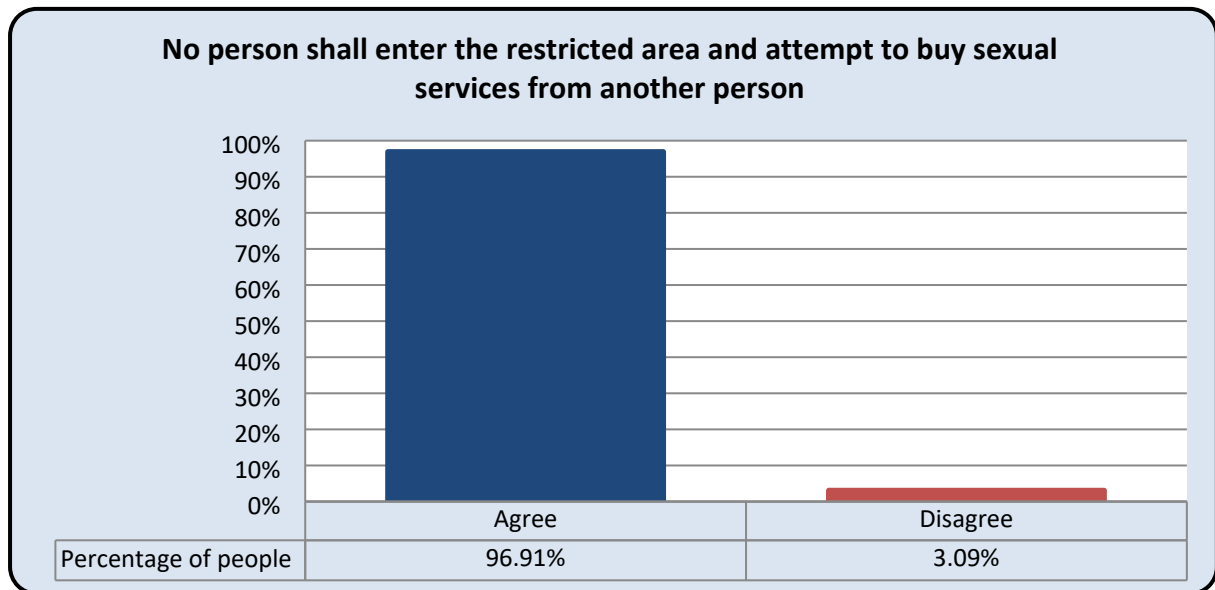
Cyclists, or users of scooters, E-scooters, E-bikes, skateboards and hover boards, are to dismount if requested to do so by an authorised officer, if they are of the opinion that the operator is riding in an unsafe manner which is causing or is likely to



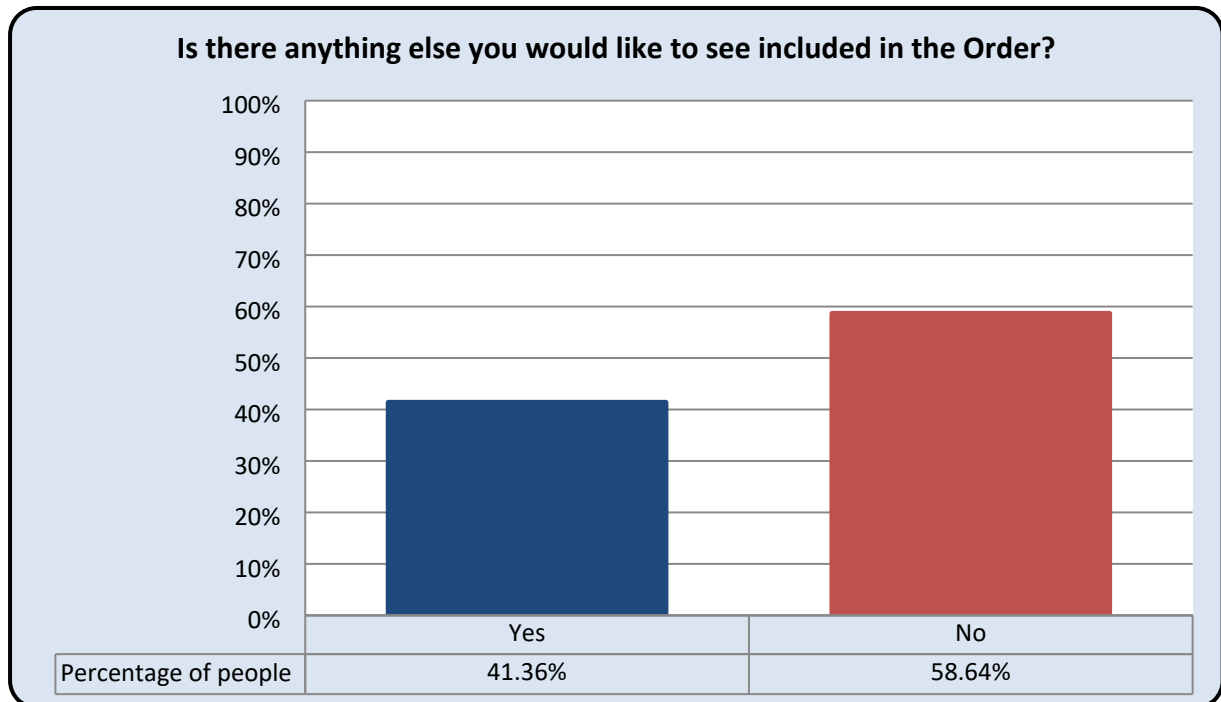
Question 9



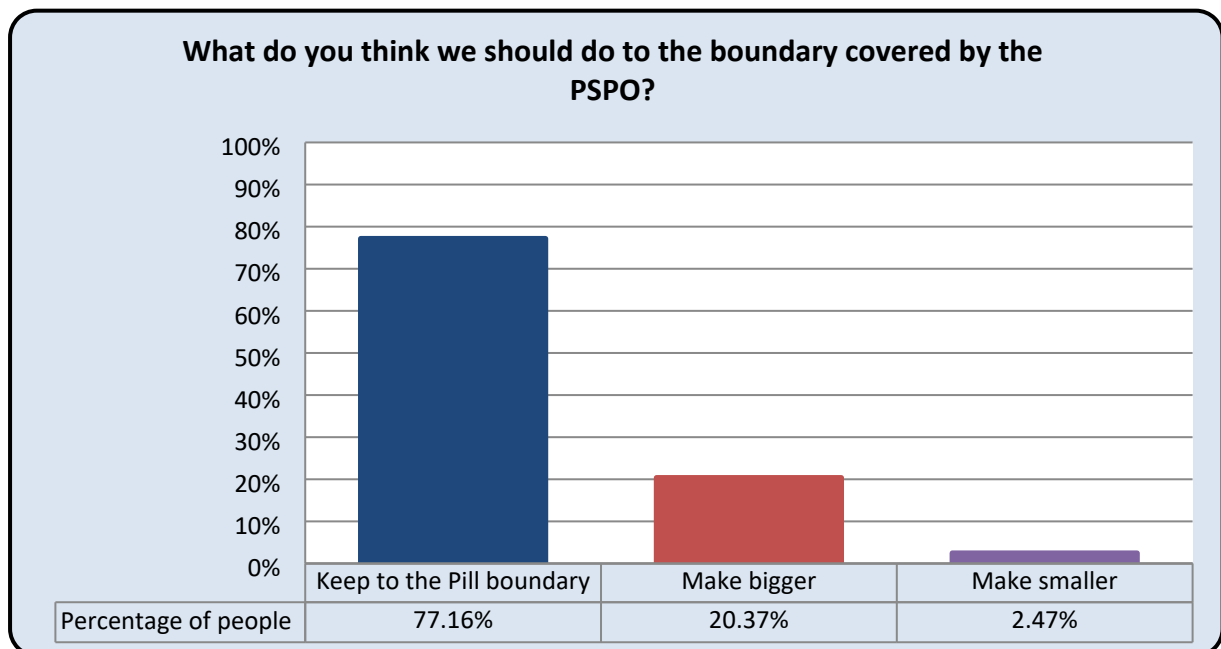
Question 10



Question 11



Question 12



5.0 Initial assessment of the results

5.1 Summary of outcomes.

167 electronic responses were received. There was notable support across these electronic responses for the restrictions contained in the proposed PSPO. Over 70% of respondents were residents of Pill and 16% worked in the area. Over 80% of respondents indicated they had experienced Anti-Social Behaviour. Every restriction had over 93% agreement for inclusion and almost 60% of respondents said they felt no additional controls were needed in the order. 77% of people were satisfied with the proposed boundary, while 20% wished to increase the boundary.

- 5.2 Gwent Police requested after the previous Scrutiny Meeting that restriction No8 in the draft PSPO. This restriction was inserted at their request, and was for enforcement solely by the Police. They have re-considered and confirmed in writing on 14th April 2021 that they will not use the PSPO to deal with these issues.

"If it can be removed we will be using alternative means in any case to deal with the issue."

The removed restriction is below for clarity:

No person shall enter the Restricted Area and attempt to buy sexual services from another person.

- 5.3 It is noted that in a number of comments associated with various questions, many related to littering and fly tipping.

"Fly tipping and littering is also not acceptable, need to put in more CCTV and fine people for doing this."

"Fly tipping restrictions."

"Littering. The area is filthy."

"Address the fly tipping issue especially people coming into the area to dump their rubbish."

"The begging and ASB in Pill from individuals and groups is atrocious as well as the fly tipping. The streets are filthy."

- 5.4 A number of response called for all parties to work more closely in dealing with issues in and around Pill and for increased enforcement associated with the PSPO.

"More patrolling of the park."

"Increased police presence on the streets (Bobby's on the beat)"

"Police to do their duty and not exclude any groups or political factions due to race or religion."

"Enforcement should be active, if it is just a piece of paper it's just window dressing"

- 5.5 A number of comments supported extension of the PSPO controls into the City Centre (Already a City Centre PSPO in place), Maesglas (Already a PSPO) and other areas.

5.6 A small number of comments were made across the response indicating concern that the restrictions may be too draconian.

“It’s a free country and drinking is not illegal. Stop being so pathetic.”

“Way to broad, what does it mean? Basically very authoritarian.”

Section B – Supporting Information

7.0 Links to Council Policies and Priorities

7.1 These have already been considered in the initial report to Scrutiny Committee in February 2021.

8.0 Risks

8.1 These have already been highlighted in the initial report to Committee in February 2021.

9.0 Financial Implications

9.1 There are no financial implications to the Scrutiny committee reviewing the need for the PSPO, consultation process or proposed amendments to the PSPO. There are no financial costs associated with undertaking the consultation.

10.0 Background Documents

10.1 These have already been provided in the report to Committee in February 2021.

Report Completed: 12April 2021

Appendix 1: Electronic copy of full feedback



Copy of Results -
Pill PSPO Survey 202

Appendix 2: The Wallich Written Response

The Wallich – our response to the consultation on a new PSPO for Pillgwenlly

The Wallich would like to put on record our thanks to the Police and Community Safety Teams in Newport for the supportive and constructive way in which they have engaged with partners throughout the Coronavirus pandemic. We believe that these successful working relationships have been key in protecting individuals experiencing homelessness over the last 12 months, and we very much hope for these to continue as society begins to open back up once again.

As an organisation, we remain broadly sceptical of PSPOs as a tool to address anti-social behaviour and to make sure our communities are pleasant places to live, however we recognise that this particular PSPO in Pillgwenlly has broad support from both the Police and Newport City Council, and in particular from the local elected ward members.

With this in mind, the thrust of our response to this consultation is that we ask for each of these new powers to be exercised pragmatically and compassionately. In particular, people living street-based lifestyles, such as the clients we support through our Newport projects, must not be disproportionately impacted by this PSPO. People living street-based lifestyles may be experiencing homelessness, suffering from physical or mental ill health, and may well have suffered significant trauma or adverse childhood experiences (ACEs). Officers should exercise restraint and empathy as far as possible, so as not to exacerbate the experience of trauma, and particularly, to attempt to divert away from further contact with the criminal justice system.

Finally, we would urge extreme caution when issuing Fixed Penalty Notices (FPNs), and their ability (and likelihood) to pay should be considered carefully before issuing. As we note in the response to the consultation, the people we support who are experiencing homelessness typically have very little disposable income with which to pay fines, and often have complicating factors such as substance addiction, poor financial skills, or other outstanding debts.

We note that previous iterations of this and other PSPOs have typically led to low levels of FPNs being issued, and we are optimistic that this is because issues have been successfully diffused and individuals successfully redirected to support services as necessary. We will be happy if this situation continues, however we will of course escalate our concerns should we see evidence of an increasing number of inappropriate fines being issued.

Thanks again for allowing us to contribute to this consultation, and we look forward to being able to work successfully with all partners in the future.

- 1. Refusing to stop drinking alcohol or hand over any containers (sealed or unsealed) in their possession, which are believed to contain alcohol, when required to do so by an authorised Officer within the Restricted Area?**

We agree that this provision may be necessary for authorised officers to address problem street drinking, however we believe that this power should only be exercised after a calm conversation with the individuals concerned. Effort should be taken to understand why an individual (or group of individuals) are drinking in the street, and if it is the case that they do not have anywhere else to go to socialise safely, they should not be unfairly penalised for this.

We also do not believe that issuing a Fixed Penalty Notice (FPN) will be appropriate in all cases, as the individuals affected may be unable to afford to pay and could find themselves further drawn into the criminal justice system as a result.

- 2. No person shall behave (either individually or in a group) in a manner that has caused or is likely to cause harassment, alarm or distress to a member of the public within the Restricted Area. Persons who breach this prohibition shall, when ordered to do so by an authorised Officer, disperse immediately and not return within 24hours, unless for a lawful reason.**

We do not agree that this provision is necessary, as the police already have the power to address anti-social behaviour and harassment. We believe that the wording of this provision is too broad to prevent misuse. We would highlight the fact that the people we support in Newport are also members of the public and have just as much right to use public spaces peacefully as anyone else.

We also do not believe it is a proportionate response to order individuals to disperse and not return within 24 hours, unless a specific crime (such as harassment) has been committed. Officers should make an effort to understand whether the individuals concerned have anywhere else they can go, and once again make every attempt to diffuse the situation peacefully. When individuals are asked to disperse, this creates a real risk that they may be prevented from accessing the services to address their issues in the long term.

- 3. No begging in a manner which is aggressive or intimidating or is likely to cause someone to feel harassed, alarmed or distressed.**

We do not support this provision, as once again we believe the wording is too broad to prevent misuse. We are seriously concerned that all begging activities will be judged to be 'aggressive' or 'intimidating' and will be subject to a blanket prohibition as a result. We understand and agree with the sentiment that nobody should have to resort to begging in order to support themselves financially, however it is the reality that many of the poorest people in our communities rely on begging to survive. They should not be punished for doing this safely and respectfully.

As a charity which supports people experiencing homelessness, and particularly those who have no option but to live street-based lifestyles, we do our best to support these individuals into suitable accommodation. The police and community safety teams must support this work by taking a trauma-informed, person-centred approach to individuals engaging in begging. Prohibition orders and Fixed Penalty Notices are not the best way to help people who are begging.

- 4. No person shall urinate or defecate in a public space or in public view except in a premises designated for that purpose within the Restricted Area.**

We agree that this provision is necessary to keep public spaces clean and sanitary and protect public health, however we do wish to caveat that there must be appropriate toilet facilities freely available to people living street-based lifestyles. We have noted with some concern that the coronavirus pandemic has led to many public toilets being closed, as well as toilets in shops, pubs, and restaurants, which has posed real challenges to those who are sleeping rough without their own toilet facilities. We would therefore urge police and community safety teams to bear this in mind, and act compassionately in instances where an individual has no other realistic option of toilet facilities.

- 5. No person shall within the Restricted Area:**

- Ingest, inhale, inject, smoke, possess or otherwise use intoxicating substances
- Sell or supply intoxicating substances

Persons who breach this restriction shall surrender any such intoxicating substance in his/her possession when asked to do so by a Police Constable.

We agree with the general thrust of these provisions, however note that the police already have wide-ranging powers to address the sale or supply of intoxicating substances. We have no significant objection to allowing other officers in the community safety team to further contribute to these efforts, however we would once again ask for a compassionate approach to be taken where possible, particularly where substance misuse is occurring in the context of severe addiction issues.

We support many individuals who are experiencing varying levels of substance addiction. We follow a harm-reduction approach in order to help them manage and reduce their substance intake, whilst recognising that they may be suffering from significant trauma or mental health difficulties (which in many cases led them to begin using in the first place).

We appreciate the support from community police teams for this person-led approach and reiterate that we do not believe that FPNs or other criminal sanctions, are effective tools for resolving individual substance misuse problems. Where appropriate, officers should consider making a referral to support services such as the [Gwent Drug & Alcohol Service](#) (GDAS), which is led in Newport by [Kaleidoscope](#).

- 6. Cyclists, or users of scooters, E-scooters, E-bikes, skateboards, and hover boards, are to dismount if requested to do so by an authorised officer, if they are of the opinion that the operator is riding in an unsafe manner which is causing or is likely to cause a danger to the public in the Restricted Area.**

We do not have any significant objections to authorised officers using this provision to ensure all members of the public are able to travel safely around the neighbourhood.

- 7. No person shall spit saliva or any other product from their mouth onto the ground within the Restricted Area.**

We do not have any objections to this provision. We recognise that spitting in public is unsanitary and potentially injurious to public health. However, we believe this to be a minor problem within the broader context of anti-social behaviour and suggest that this is best addressed through a polite conversation as opposed to the issuing of an FPN.

- 8. No person shall enter the restricted area and attempt to buy sexual services from another person.**

We do not oppose this provision, however we would like to see community safety officers taking a pragmatic approach to individuals selling sexual services, to ensure that they are not being exploited or otherwise having their safety put at risk. We note that sex workers can be at particular risk of becoming victims of crime themselves, including sexual harassment and assault, and can feel reluctant to inform the police if unsupported.

- 9. Is there anything else you would like to see included in the Order?**

Not at this time

- 10. Should the PSPO boundaries match the existing boundaries?**

We are content for the PSPO to follow the current Pill ward boundaries.