

CONSULTATION RESPONSE

Proposed Management of Nottingham City Centre Public Spaces Protection Order 2026

Submitted by the Campaign for Freedom in Everyday Life (formerly the Manifesto Club)

freedomineverydaylife.org

1. Introduction

The Campaign for Freedom in Everyday Life (formerly the Manifesto Club) is a civil liberties organisation that has monitored, researched, and engaged with the use of Public Spaces Protection Orders (PSPOs) since the power was introduced by the Anti-Social Behaviour, Crime and Policing Act 2014. We have submitted responses to more than 50 PSPO consultations across England and Wales, produced the only national statistical research into PSPO use, and provided evidence to Parliament and the Home Office on the operation of these powers.

We write to set out our concerns about the proposed Management of Nottingham City Centre Public Spaces Protection Order 2026. We have engaged with Nottingham City Council on a previous iteration of this order, and we welcome the Council's decision to consult more extensively than is strictly required by law. We take note of the four-week consultation period, the Council's stated commitment to an Equality Impact Assessment, and the decision not to carry over the psychoactive substances possession provision from the 2019 order.

We do not object to all elements of the proposed order. We recognise that genuine, evidenced anti-social behaviour can justify targeted restrictions in specific locations. However, several provisions in the proposed order are, in our view, either insufficiently defined, excessively broad, or not adequately supported by the evidence set out in the consultation documentation. We urge the Council to narrow or remove these provisions before the order is made.

2. The Legal Test and Statutory Guidance

Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 requires that before making a PSPO the Council must be satisfied on reasonable grounds that:

- activities carried on in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality, or it is likely that activities will be carried on and that they will have such an effect;
- the effect, or likely effect, of those activities is persistent or continuing in nature;
- the activities are unreasonable, justifying the restrictions imposed by the order.

The Home Office Statutory Guidance (2023) adds that restrictions must be proportionate: the restriction should be no more than is necessary to address the identified behaviour. It explicitly states that PSPOs 'should not be used to target particular groups' and that 'activities should not be restricted simply because some members of the community may find them unpleasant or undesirable.' The Guidance

also makes clear that freedom of expression and freedom of assembly must be specifically considered for each prohibition.

We assess each proposed prohibition against this framework below.

3. Analysis of Individual Prohibitions

3.1 Obstruction of Entrances, Highways and Street Cleansing

We do not object in principle to Article 4, which is more tightly drafted than many comparable provisions. Article 4.1 requires that a person "remain in the Restricted Area so as to" obstruct ingress to or egress from a building, prevent or hinder the Council's street cleansing, or hinder the free passage of pedestrians or vehicles along a Highway. This is framed by reference to specific obstructive conduct rather than mere presence, which is the correct approach, and Articles 4.2 to 4.5 require an officer to explain the breach and give the person an opportunity to stop before any offence arises. We welcome this structure.

Our one concern is that "obstruct" and "hinder" are not defined, and in practice a homeless person sheltering in a doorway may be treated as obstructing ingress or egress even where there is ample room to pass. We would not wish the conduct-based framing of Article 4.1 to be undermined by an enforcement practice that treats the presence of a rough sleeper as itself an obstruction. The safeguard in Articles 4.2 to 4.5 (a requirement to stop, with an offence only on non-compliance) mitigates this, but does not remove it.

Recommendation:

The Council should confirm, either on the face of the order or in published enforcement guidance, that a person sheltering in a doorway does not obstruct ingress or egress for the purposes of Article 4.1 unless they are actually preventing or significantly impeding access. This would give effect to the Council's stated intention not to criminalise rough sleeping.

3.2 Unauthorised Requests for Money, Donations, or Goods

We have serious concerns about Article 12, as we did in our 2018 response to Nottingham's previous order. Article 12.1 prohibits making "an Unauthorised Request for money, personal items, charitable and or other donations whether expressly or Impliedly Requested By Conduct." The order then defines "Impliedly Requested By Conduct" to include "standing, sitting, lying or loitering in the vicinity of an automated teller machine, taxi rank or public transport stop except in circumstances where they personally intend to forthwith use the same." This is precisely the passive-presence formulation we objected to in 2018. It criminalises a person simply for sitting or standing near a cash machine or bus stop, with no requirement that they say or do anything at all, and no requirement that any other person is harassed, alarmed or distressed.

If Article 12 were limited to genuinely harassing or intimidatory requests for money, that would be capable of proportionate justification. As drafted, it is not so limited. We are concerned about three aspects:

- Article 12.1 expressly extends to "charitable and or other donations," and Article 12.2 covers stopping or approaching a person to ask them to enter into future charitable payment arrangements or to provide contact details for that purpose. On its face this catches charity street fundraisers and chuggers, as well as anyone collecting for a charitable cause. Charity collection is a protected form of expression and assembly, and a prohibition that can be enforced against charitable solicitation without a high threshold of proven harassment would be vulnerable to challenge under Articles 10 and 11 of the European Convention on Human Rights.
- Because Article 12.1 covers requests "Impliedly Requested By Conduct," and the definition of busking in this same order expressly contemplates entertainment "with the aim of ... receiving payment [or] donation," a busker performing with an open instrument case in the Restricted Area could fall within Article 12. The interaction between the busking provisions and Article 12 should be clarified so that lawful busking is not also caught by the begging prohibition.
- The "Impliedly Requested By Conduct" definition will disproportionately affect people experiencing homelessness, who may sit or rest near cash machines or transport stops without making any request at all. The "except in circumstances where they personally intend to forthwith use the same" qualification offers little protection, since it turns on the person's intention as judged by an officer on the spot, and effectively requires a homeless person to justify their presence in a public place.

Recommendation:

The "Impliedly Requested By Conduct" definition should be removed, so that Article 12 applies only to an actual request and not to mere presence near a cash machine, taxi rank or transport stop. Article 12 should be limited to requests that cause harassment, alarm or distress, defined in the order itself to require actual, persistent or threatening conduct directed at a specific individual. The reference to "charitable ... donations" in Article 12.1, and the future-arrangements provisions in Article 12.2, should be amended so that lawful charitable collection is not caught. The Council should confirm in its consultation response whether the homelessness charities it consulted have been specifically asked for their views on Article 12.

3.3 Busking Restrictions

We welcome the fact that the draft order does not impose a general ban on busking. Article 7 prohibits busking only in three named Prohibited Busking Locations (Long Row between its junctions with King Street and High Street; Smithy Row; and Cheapside/Poultry). A geographically specific restriction of this kind, limited to identified locations, is the correct approach in principle, and we do not object to Article 7 provided the Council can demonstrate a persistent and unreasonable problem at each of those three locations.

Our objection is to Article 8. This goes well beyond the three named locations and gives an Authorised Person the power to require any busker anywhere in the Restricted Area to stop busking where, in the opinion of that officer, the busker "is or has been ... causing an unreasonable disturbance to persons in that locality." This is a broad, subjective power resting entirely on a single officer's opinion, with no

defined threshold for what constitutes "unreasonable disturbance" and no requirement that the disturbance be persistent or that any complaint has been made. In practice this allows officers to move on any street performer in the city centre at will, and breach of the requirement is a criminal offence under Article 14. The narrow, location-specific approach of Article 7 is undermined by the breadth of Article 8.

Recommendations:

- Article 8 should be removed. The location-specific prohibition in Article 7 is sufficient to address busking at the three identified problem locations; a discretionary power to stop busking anywhere in the Restricted Area is neither necessary nor proportionate.
- If Article 8 is retained, "unreasonable disturbance" must be defined on the face of the order, and the power should require a persistent problem and evidence of actual disturbance to identified persons, not merely an officer's opinion.
- The Council should publish the evidence of persistent and unreasonable disturbance at each of the three Prohibited Busking Locations named in Article 7, and should consult Keep Streets Live and the Musicians' Union, who were constructive participants in the 2018 consultation process.

3.4 Unauthorised Distribution of Free Printed Material

We welcome the fact that the exemptions for charitable, political, religious and belief-related distribution appear on the face of the order. Article 11.2.1 exempts distribution by or on behalf of a Charity where the free printed matter relates to or is intended for the benefit of the Charity, and Article 11.2.2 exempts distribution "for political purposes or for the purposes of a religion or belief." This is the correct approach and meets the requirements of Article 10 of the European Convention on Human Rights. We make two observations to ensure the exemption operates as intended.

Recommendation:

First, the exemption in Article 11.2 applies only to "Free Printed Matter" as defined, and only where distribution is to "a person or persons not known to the Distributor." The Council should confirm that campaign groups, trade unions and other civil society organisations distributing non-charitable, non-party-political material about their work (which may not fall squarely within "political purposes or ... a religion or belief") are not inadvertently caught. Second, the exemption should not be narrowed in any future revision, and any officer guidance should reflect the breadth of Article 11.2 rather than reading it down.

3.5 Regulation of Big Issue Sales

Article 5 requires Big Issue vendors to sell only from an Authorised Big Issue Pitch and to display a valid vendor identification badge. The consultation document states that no formal complaints were received about Big Issue sales during the period of the previous order, attributing this to the operation of pitch controls. This is precisely the wrong basis on which to renew this provision: the absence of complaints suggests the restriction is unnecessary, not that it should be continued.

The Big Issue is a legitimate, socially beneficial commercial activity that provides income to people experiencing homelessness. A requirement to sell from authorised pitches with displayed identification imposes a condition on lawful work not placed on other street traders. We note that the Big Issue Foundation should be consulted on this provision, as stated in the consultation document; we would ask the Council to publish that consultation's outcome.

Recommendation:

If there is no evidence of harm from Big Issue sales – as the consultation document suggests – Article 5 should not be included in the 2026 order.

3.6 Mobile Advertising Restrictions

Article 6 prohibits displaying Mobile Advertisements without the written consent of the Council. "Mobile Advertisement" is defined as an advertisement "comprising of or included on a placard borne by or a sandwich board or costume worn by a person or animal." This is primarily a planning and highways matter. There is existing legislation – notably the Town and Country Planning (Control of Advertisements) Regulations 2007 and the Highways Act 1980 – under which councils can address unauthorised advertising that obstructs public space. Imposing criminal liability through a PSPO for activity that is more appropriately dealt with through existing licensing or planning controls risks duplication and overreach. We also note that a person wearing a costume bearing a political or campaigning message could fall within this definition, which raises a freedom of expression concern.

Recommendation:

The Council should set out in the final consultation response why existing powers under highways, planning or licensing law are insufficient before including this provision in a criminal enforcement order.

3.7 Public Urination and Defecation

We do not object to Article 13 in principle, which addresses conduct that already may constitute an offence and causes genuine public health and dignity concerns. We note that Article 13 extends to "a doorway or alcove of any premises to which the public has access." We note, however, that the adequacy of public toilet provision in Nottingham city centre is directly relevant to whether this prohibition can be enforced proportionately. If there is insufficient toilet access – particularly at night – then the prohibition will disproportionately affect people with no realistic alternative, including street-based homeless people.

Recommendation:

The Council should publish alongside the order information about available public toilet facilities in the covered area, and should commit to not enforcing this provision against individuals who cannot reasonably access those facilities.

4. Process, Equality, and Evidence

4.1 Equality Impact Assessment

We welcome the Council's commitment to an Equality Impact Assessment following consultation. However, we note that the assessment should be completed before the order is made, not merely after consultation closes. An EIA conducted after the text of the order is substantially settled has limited utility: it can only identify problems that may be difficult or embarrassing to address in the final text. We request that the EIA be published and made available for comment before the Executive Board makes its decision.

We draw the Council's attention to the Sheffield City Centre PSPO, introduced in April 2025, where civil liberties lawyers wrote to that council to warn that a disability impact assessment had not been completed at the time of approval. Several of the provisions in Nottingham's draft order – particularly Article 12 (requests for money, including the "Impliedly Requested By Conduct" definition) and Article 4 (obstruction) – will disproportionately affect people experiencing homelessness, many of whom have disabilities. This is not a hypothetical concern: academic research published in 2026 by Dr Benjamin Archer of Sheffield Hallam University confirms that PSPO enforcement disproportionately affects people experiencing street homelessness.

4.2 Evidence Base

The consultation document references 3,000 anti-social behaviour calls to Nottinghamshire Police over 18 months, 78 doorway obstruction reports, and 43 busking complaints. We make the following observations:

- 3,000 ASB calls across 18 months in an entire city centre is not, of itself, evidence of a persistent, unreasonable problem of a kind not addressable through existing police powers. The relevant question is how many of those calls related to conduct that would not already be addressed by existing criminal law (Public Order Act 1986, Criminal Justice Act 1988, Environmental Protection Act 1990, Vagrancy Act 1824 as amended), and could only be addressed by the specific restrictions in this order.
- 78 doorway obstruction reports over 14 months does not demonstrate a persistent, unreasonable problem across the entire proposed PSPO area. The Council should consider whether a geographically narrower order – focused on the specific entrances and areas with a demonstrated recurring problem – would be proportionate.
- 43 busking complaints over 14 months across a city centre with many thousands of daily visitors is a very low rate of complaint. The legal test requires not merely that some people find busking undesirable, but that the activity is persistent, unreasonable, and causes detriment to the quality of life in the locality. 43 complaints does not satisfy this test as applied across the entire city centre.

4.3 Consultation Duration and Accessibility

We note that the Council's legal advice supports a four-week consultation on the basis of the complexity of the proposed order. We support this approach and would note that where orders contain multiple distinct provisions – as this one does – a longer consultation is necessary to allow affected groups to engage substantively. We note that groups likely to be disproportionately affected by these provisions, including homeless people, buskers and charitable organisations, may have less

capacity to respond to online consultations and urge the Council to ensure its face-to-face engagement reaches these communities.

5. Summary of Recommendations

We ask the Council to address the following before making the final order:

- **Article 4 (obstruction):** Confirm on the face of the order or in published guidance that a person sheltering in a doorway does not obstruct ingress or egress unless actually preventing or significantly impeding access, giving effect to the stated intention not to criminalise rough sleeping.
- **Article 12 (requests for money):** Remove the “Impliedly Requested By Conduct” definition; limit the prohibition to requests causing harassment, alarm or distress; and amend the references to charitable donations so lawful charitable collection is not caught.
- **Articles 7 and 8 (busking):** Remove Article 8, which allows officers to stop busking anywhere in the Restricted Area on the basis of their own opinion of “unreasonable disturbance.”
- **Article 11 (leaflet distribution):** Confirm that campaign groups, trade unions and other civil society organisations distributing material about their work are not inadvertently caught, and do not narrow the existing exemptions in Article 11.2.
- **Article 5 (Big Issue):** Remove this provision in the absence of any evidence of harm, as the consultation document itself indicates no complaints were received.
- **Article 6 (mobile advertising):** Explain why existing planning and highways powers are inadequate before creating a criminal offence, and address the freedom of expression concern where a costume bears a political or campaigning message.
- **Equality Impact Assessment:** Complete and publish the EIA before the Executive Board takes its final decision.
- **Evidence:** Publish the breakdown of which of the recorded ASB incidents relate to conduct not already covered by existing criminal law.

6. Contact

The Campaign for Freedom in Everyday Life is happy to discuss the above concerns further and to attend any stakeholder engagement sessions the Council organises.

Please contact us at:

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