

	<b>REPORT TO CABINET TO BE HELD ON 18 October 2016</b>				
	<table> <tr> <td><b>Key Decision</b></td> <td><b>YES</b></td> </tr> <tr> <td><b>Forward Plan Ref No</b></td> <td><b>N/A</b></td> </tr> </table>	<b>Key Decision</b>	<b>YES</b>	<b>Forward Plan Ref No</b>	<b>N/A</b>
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<b>Corporate Priority People and Place</b>	<table> <tr> <td><b>Cabinet Portfolio Holder</b></td> <td><b>Cllr. Sandra Turner</b></td> </tr> </table>	<b>Cabinet Portfolio Holder</b>	<b>Cllr. Sandra Turner</b>		
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**REPORT OF: DIRECTORS (TW) – 16/208**

**WARDS AFFECTED: CASTLE, NORTH BAY, SOUTH CLIFF  
RAMSHILL, WEAPONNESS, NORTHSTEAD & CENTRAL**

**SUBJECT: INTRODUCTION OF A PUBLIC SPACE PROTECTION  
ORDER FOR SCARBOROUGH**

**RECOMMENDATION (S):**

Cabinet is recommended to approve that:

- a) officers undertake an 8 week consultation period with local residents and stakeholders in relation to the proposed introduction of a Public Space Protection Order (PSPO) for the areas of Castle, North Bay, South Cliff, Ramshill, Weaponness, Northstead and Central identified on the map attached as Appendix One.
- b) Subject to consultation, the level of the fixed penalty notice be proposed as £100, which would be reduced to £75 if paid within 14 days.
- c) Following the period of consultation the decision as to whether to introduce the PSPO and the level of the fixed penalty notice be delegated to the Portfolio Holder for Democracy, Neighbourhoods, Stronger and Safer Communities, taking into account the outcome of the consultation with local residents and stakeholders and also consultation with the relevant ward Members.
- d) If a decision is taken to introduce a PSPO following consultation, that further work is undertaken to consider the range of staff within the Council for whom it may be appropriate to have designated powers to enforce the PSPO and issue fixed penalty notices.

## **REASON FOR RECOMMENDATION (S):**

To provide an additional tool to address the issue of anti-social behaviour in the proposed areas.

## **HIGHLIGHTED RISKS:**

Failure to use all the tools available may reduce the Council's ability to effectively tackle anti-social behaviour, a key local concern for communities.

### **1. INTRODUCTION**

- 1.1 This report sets out proposals for consulting on the introduction of a Public Space Protection Order for identified areas within the Castle, North Bay, South Cliff, Ramshill, Weaponness, Northstead and Central

### **2. CORPORATE AIMS/PRIORITIES AND THE COMMUNITY PLAN**

- 2.1 The Plan supports the Safe and Healthy aim of the Sustainable Community Strategy and the People and Place themes of the Corporate Plan.

### **3. BACKGROUND AND ISSUES**

- 3.1 The Anti-Social Behaviour, Crime and Policing Act 2014 came into force on 20 October 2014, and changed the powers available to local authorities and the police to deal with anti-social behaviour (ASB) in our communities.
- 3.2 The Act introduces a new power, a PSPO, which is granted by the Local Authority but which can be enforced by either the local authority or the Police. This new power replaces Designated Public Place Orders, Gating Orders and Dog Control Orders and brings the powers together as one power. The PSPO can be used to address a number of different types of behaviour in one order and so can deal with anti-social behaviour in a clearer, more effective and streamlined way than previously.
- 3.3 The PSPO is intended to protect a public space from persistent or continuing anti-social behaviour by individuals or groups which are having a detrimental effect on the quality of life in the designated area. Orders last for a period of up to three years, with provision for extensions for further three year periods.
- 3.4 If the provisions of a PSPO are not adhered to then it is open to those authorised to enforce the order to consider whether to prosecute for a breach, or whether to issue a Fixed Penalty Notice (FPN). The Act allows for Local Authorities to set a local level for FPNs to a maximum of £100.
- 3.5 The proposed area for the PSPO are shown on the map attached as Appendix one. This covers areas within the Castle, North Bay, South Cliff, Ramshill, Weaponness, Northstead and Central wards. These areas have been selected as they do suffer from issues such as street drinking, urinating,

begging, rough sleeping and associated problems of anti-social behaviour. The Community Impact Team takes a multi-agency proactive approach to such issues and has worked to 'clean up' the areas and has engaged and offered support to individuals including help to find accommodation, support with alcohol and substance misuse and signposting to various agencies depending on the needs identified. It is considered that the PSPO will provide an additional power to tackle persistent and recurring problems. The orders will be used alongside the provision of advice, assistance and encouragement to access appropriate and available support programme, where individuals are vulnerable.

## **4. CONSULTATION**

- 4.1 Consultation is required to be undertaken prior to the establishment of a PSPO. This aims to take feedback on the perception of the issue by local residents and businesses and to identify the level of support for the introduction of the order. It is proposed that consultation is undertaken by the multi-agency Community Impact Team with local residents, businesses and community groups. This will include a survey which will be placed on the Council's website and publicised locally. Local community groups will be encouraged to disseminate information and to complete the survey.
- 4.2 North Yorkshire Police are in support of the proposal. During the consultation period the views of other stakeholders from the statutory and voluntary sector will be sought.
- 4.3 Local Ward Members have been consulted about the proposals. We know from the Place Survey and other resident surveys undertaken that issues relating to anti-social behaviour are a key concern for local residents.

## **5. ASSESSMENT**

- 5.1 PSPOs are intended to prohibit behaviour that is having or is likely to have a persistent and/or continuing detrimental effect on the quality of life of people going about their lawful business in the specified areas. Orders can be enforced by Police Officers, Police Community Support Officers or Local Authority Officers.
- 5.2 Initially it is proposed that the order be enforced by Police staff, as part of multi-agency working. However, it is proposed that further work be undertaken to consider options for other groups of Council staff to take on the enforcement role. This will be the subject of further work and consultation.
- 5.3 The Home Office guidance makes it clear that evidence is required around nuisance and annoyance to the public in the proposed PSPO area and that the provisions contained within a PSPO must be necessary to address the identified and evidenced problems. The area for the PSPO has been selected as there have been identified issues in the area, particularly with street drinking, rough sleepers and begging, including incidents of verbal abuse and intimidating behaviour. Overall reported levels of anti-social behaviour are

higher in the areas proposed, with over 900 cases reported each year. There are regular reports received of rough sleeping and street drinking in the South Cliff Gardens area. Whilst there are some existing powers that can be used to tackle these issues the PSPO will improve the range of powers available to tackle such issues effectively.

- 5.4 It is proposed that the range of behaviours covered by the PSPO includes the following:

<b>Proposed Restriction</b>	<b>Problem Being Addressed</b>	<b>Comments</b>
Begging	<p>Intimidation of members of the public in areas of high foot traffic in the centre of the town.</p> <p>Accumulation of rubbish and offensive behaviour associated with those engaging in this activity.</p>	<p>Begging is an offence under the Vagrancy Act 1824 however any restriction contained in the proposed PSPO would be such as to address the ASB arising from begging (for example aggressive begging and intimidation of passers by) rather than the simple act itself.</p>
Drinking alcohol	<p>Street Drinking is an ongoing issue in the areas identified and we get regular complaints from visitors, residents and businesses about the issue, including loud, abusive and intimidating behaviour.</p>	<p>There is some mitigation of the issue provided by the existing DPPO and the provisions of DPPO will be incorporated into new PSPO.</p> <p>Under the new legislation, the existing DPPO will automatically become a PSPO on 21 October 2017. This being the case, it is appropriate to take the opportunity to review and consult on the same provisions now so that the DPPO can be combined into the new PSPO and run in conjunction with the other provisions. A PSPO is designed to be significantly wider than a DPPO.</p> <p>Whilst the current DPPO is thought to be a useful tool, it has not always possible to act under its provisions however the new set of tools available to the Council as a result of the new legislation will mean that these provisions can more usefully be used alongside other anti-social behaviour legislation.</p>

		<p>It is often necessary, when taking action against prolific offenders, that we can demonstrate to the court that lower level action has been attempted. Including the DPPO provisions in the PSPO will assist with this.</p> <p>The order would be used alongside support and advice to individuals and encouragement to access support programmes in place to deal with substance misuse and other issues</p>
Pitching of tents on SBC or private land	Complaints are received by the public that individuals are pitching tents on SBC or private land and sleeping in them.	<p>This would address the ASB associated with rough sleeping such as the accumulation of rubbish, odour, and potential intimidation of passers-by.</p> <p>The order would be used alongside support and advice to individuals, including housing related advice and support and encouragement to access support programmes where appropriate.</p>
Lighting bonfires on beaches	Complaints are received from members of the public and beach superintendents that individuals light fires and drink alcohol and leave lit bonfires on the beach which are dangerous for other members of the public using the beaches	<p>Current bylaws allow BBQs (and similar) in designated areas and allow bonfires with the consent of SBC.</p> <p>The PSPO would not be a blanket ban but would enable enforcement action to be taken where the lighting of fires is causing a danger or nuisance to others.</p>
Drug paraphernalia and possession of psychoactive substances	Visitors, residents and businesses are complaining that individuals are using illegal drugs including psychoactive substances and are causing alarm and distress by their	<p>Supply and consumption of drugs is addressed under the criminal law. Possession of drugs is, in many cases, also addressed by criminal law.</p> <p>The provisions of the PSPO would seek to address the possession, in a public place, of paraphernalia</p>

	associated behaviour.	associated with drug use and also the possession of substances that have the effect of stimulating or depressing the central nervous system (previously known as new psychoactive substances) the production and supply of which is now prohibited by criminal law albeit that possession for personal use is not.
Urinating and defecating	Complaints are received in relation to street homeless and in relation to those intoxicated in the Night Time Economy	This is already an offence, however, this adds strength to any prosecutions by the Police as we have explicitly stated it is not permitted.
Street Trading	Complaints are received regarding problems arising from street traders. A licensing regime is in place but it is generally considered that provision needs to be made to deal with the ASB arising from certain traders' activities in addition to the permissive regime that is already in place.	The licensing of street trading is dealt with under the Local Government (Miscellaneous Provisions) Act 1982 and some byelaws.  The provisions of the PSPO would seek to address trading that is offensive, obstructive or noisy, giving rise to ASB, rather than banning it or regulating it in its entirety.
Peddling	Complaints are received regarding problems arising from pedlars. A permit regime is in place (not managed by SBC) but it is generally considered that provision needs to be made to deal with the ASB arising from certain pedlars' activities.	Peddling is regulated by the Pedlars Act 1871 and a PSPO would not seek to ban peddling but seek to address peddling that is offensive, obstructive or noisy behaviour arising from some peddling and which gives rise to ASB.
Service Provision and Street Entertainment	Complaints are received regarding problems arising from service provision and street entertainment. No licensing or permit regime is in place at	This is currently unregulated and no licence or permission is required to engage in these activities. The provisions of the proposed PSPO would seek to address any offensive, obstructive or noisy behaviour arising from

	present.	these activities and which gives rise to ASB.
Busking	<p>There have been complaints about busking which have been dealt with by use of the byelaws in an informal manner.</p> <p>Lack of signage has made the byelaws difficult to enforce as has the reference to Police Constable (not including Police Community Support Officers) and the fact that the byelaws are now somewhat dated.</p> <p>Complaints are addressed and ASB powers can be used to deal with offensive busking however it has become apparent, in dealing with these issues, that these powers do need streamlining.</p>	<p>Byelaws are in place to address busking that is amplified and which causes offence and annoyance to residents or people working in the locality.</p> <p>The byelaws are archaic and difficult to enforce, particularly due to a lack of signage and understanding. A PSPO would not seek to ban busking, which is an important part of the street scene, but would seek to address busking that is offensive and/or obstructive and which gives rise to ASB.</p>
Rough sleeping to be prohibited between 7am and 9pm or where alternative accommodation is available	Complaints are regularly received regarding rough sleepers.	<p>To address the ASB associated with rough sleeping such as the accumulation of rubbish, odour and other issues.</p> <p>There is already work undertaken to support and encourage rough sleepers to access help available. The order would be used alongside support and advice to individuals, including housing related advice and encouragement to access support programmes where appropriate.</p>
Dog Control Orders		To replace the current dog control orders within the DPPO

## **6. IMPLICATIONS**

### **6.1 Policy**

The provisions in this report support the implementation of the Community Safety Partnership Plan, which is part of the Council's policy framework.

### **6.2 Legal**

Under section 17 of the Crime and Disorder Act 1998, the Council has a duty to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment) and the misuse of drugs alcohol and other substances and re-offending in its area.

The Council's Legal Services Department has provided training to officers in relation to the Act and has provided advice on an ongoing basis in relation to the new powers. Advice has also been provided in relation to the new PSPO powers and assistance has been given in the drafting of all of the paperwork required to deal with these powers.

Legal Services have advised that a number of the provisions sought to be contained within the PSPO are covered in part by byelaws and by the DPPOs. The byelaws are, in some cases, historical and do not necessarily address the issues being experienced today.

The issues experienced are also often dealt with by way of Community Protection Notice or Injunction or under the law of trespass. Equally, some matters are dealt with under the Highways Act 1980 or the Local Government (Miscellaneous Provisions) Act 1982.

In respect of some of the problems being experienced, there is no legal redress, or no effective legal redress, due to the archaic nature of the enforcement powers available.

The number of different sources of enforcement power provides for a disjointed approach to ASB which does not holistically address the problems that are being felt in the town centre and does not accord with the modern approach taken by the multi-agency Community Impact Team.

The PSPO would replace some powers already available to the Council and should be utilised for this purpose.

A failure to properly implement ASB provisions available to the Council could give rise to challenge from victims seeking solutions to problems concerning anti-social behaviour.



### **6.3 Financial**

SBC will be required to put up signage in the designated areas and as such the cost is estimated at £500 plus fitting. This can be accommodated within existing service budgets.

In the event that Council Officers take on an enforcement role in the future this will incur some small additional costs for accreditation and uniforms.

£100 is the maximum at which the fixed penalty notice can be set. Officers may choose this enforcement route rather than prosecute the original offence in court. There is also provision for a lower amount to be set for payment within 14 days and it is proposed this is set at £75.

### **6.4 Equalities and Diversity**

No identified implications

### **6.5 Staffing Implications**

The PSPO will be managed by the Community Safety Team and initially enforcement will be undertaken by staff from North Yorkshire Police. Further work and consultation will be undertaken to establish potential groups of staff within the Council who may be able to take on an enforcement role and issue fixed penalty notices.

There will be implications in terms of staff time dealing with the enforcement, processing and administration of the FPN, although this is to some extent mitigated by the time spent dealing with such issues currently.

Where FPNs are unpaid by the recipients then the proper recourse is by application to the court. This would have an impact on Legal Services as it would be necessary to liaise with the client department, make the application and represent the Council at court. This will be mitigated by the fact that use of sanctions under the PSPO would be in conjunction with other ASB powers that are already being used and which the Legal Department do already advise on. It is likely that some breaches of the PSPO will be by persons known to the Community Impact Team and in relation to whom advice is already being sought. This being the case, the PSPO simply provides another tool for the Legal Department to use as an alternative or as a precursor to more draconian action which may assist in obtaining other orders at a later stage.

### **6.6 Planning Implications**

There are no planning implications arising from this report.

## 6.7 Crime and Disorder Implications

The provisions within this report will provide an additional tool through which anti-social behaviour with Scarborough can be tackled.

## 6.8 Health and Safety Implications

No identified implication.

## 6.9 Environmental Implications

The provisions in this report will improve the local environment through more effectively controlling behaviour which is unsightly and impacts negatively on the physical appearance of the area.

## 7. ACTION PLAN

- 7.1 Subject to the outcome of the consultation it is proposed that the new order be in place by 1 March 2017.

Consultation undertaken	1 November 2016 to January 1 2017
Decision on PSPO by Portfolio holder	January 2017
PSPO in place	April 2017



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**Background Papers:**  
None

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS, PLEASE CONTACT Jo Ireland ON 01723 384315, e-mail [jo.ireland@scarborough.gov.uk](mailto:jo.ireland@scarborough.gov.uk)

## Risk Matrix

<b>Risk Ref</b>	<b>Date</b>	<b>Risk</b>	<b>Consequences</b>	<b>Mitigation</b>	<b>Current Risk Score</b>	<b>Target Score</b>	<b>Service Unit Manager/ Responsible Officer</b>	<b>Action Plan</b>
1	22/08/ 2016	Incidents of anti-social behaviour are not effectively managed.	Reduced quality of life for local residents. Negative experience for visitors.	Consult on the implementation of the additional PSPO powers	C3	B2	Jl	