

Title of meeting: Cabinet Member for Environment and Community safety

Date of meeting: 23 March 2016

Subject: The Psychoactive Substances Act 2016

Report by: The Director of Regulatory Services, Community Safety and Troubled families

Key decision: Yes

Full Council decision: No

1 Purpose of Report

- 1.1 To brief the Cabinet Member for Environment and Community Safety that the Psychoactive Substances Act 2016 comes into force on 6th April 2016 and enables relevant enforcement officers defined as being the police, customs officers or 'an officer of a local authority' to exercise powers under the Act relating to any premises including, prohibition, entry by warrant, search and seizure.
- 1.2 To advise the Cabinet Member for Environment and Community Safety that the Psychoactive Substances Act 2016 also creates powers to 'stop and search' persons, enter and search vehicles, board and search vessels but these powers are specific to the police and customs officers

2 Recommendation

- 2.1 That the Cabinet Member for Environment and Community Safety agrees that the Director of Regulatory Services, Community Safety and Troubled families is delegated to deliver these new enforcement powers on behalf of the City Council, in respect of retail business premises in conjunction with the police, and may authorise appropriate officers within the directorate to carry out these new enforcement functions.

3 Background

- 3.1 This report is further to the cabinet decision of 11th November 2015 where it was recommended that the Cabinet Member for Environment and Community Safety agrees to use primary legislation, due to be enacted in early 2016, to address the concern around new psychoactive substances in the city.
- 3.2 The Psychoactive Substances Act 2016 (the Act) has received royal assent and will come into force on 6th April 2016.

- 3.3 The act contains substantive regulation about the possession and supply of psychoactive substances, which are defined as 'any substance which is capable of producing a psychoactive effect in a person who consumes it and is not an exempted substance', examples of exempted substances being caffeine and alcohol.
- 3.4 A web link to the act is provided in the background list of documents at the end of this report
- 3.5 The Act sets out clear powers for police and customs officers to stop and search persons, enter and search vehicles, board and search vessels.
- 3.6 The act also sets out powers in respect of premises the definition of which is wide and will include domestic as well as retail business premises. 'Relevant enforcement officers', being the police, customs officers or 'an officer of a local authority' can with a justices warrant enter premises to search and seize any item.
- 3.7 A senior officer of police, customs or the local authority may also use notices and prohibition powers in relation to prohibited activity on premises.
- 3.8 Portsmouth City Council is a 'local weights and measures authority' and has various statutory duties placed upon the authority to enforce consumer law and regulations, and consequently trading standards officers are authorised to enforce these duties on behalf of the City Council.
- 3.9 To enforce these consumer laws officers can exercise powers, within the constraints of an enforcer's code which give them power to enter business premises to carry out inspections and make appropriate seizures of goods and documents. Dwellings are specifically excluded.
- 3.10 The Act contains various provisions in respect of 'premises' which are not specific to businesses and can therefore apply to both business and domestic premises.
- 3.11 These provisions include premises notices relating to prohibited activity, premises orders where notices have not been complied with, and offences for failing to comply with orders.
- 3.12 Relevant enforcement officers have no routine power of entry to premises under the act but may apply for a justice's warrant to enter and search premises.
- 3.13 There are a number of retail premises in the city commonly known as 'head shops' which have been linked with the supply of psychoactive substances and would be subject to the new provisions when they are in force.
- 3.14 There is already a partnership in place with the City Council, and the police working with these shops to reduce anti-social behaviour and tackle individuals using psychoactive substances in public areas. As a consequence of these actions the proprietors of these shops have been made aware that the act will create serious criminal offences should they be in possession of these substances or supply them.

All 'head shops' shops have been visited and advised that the new law will take effect on 6th April 2016.

- 3.15 Whilst the City Councils enforcement policy sees compliance as its objective, and legal action as the last resort the supply of psychoactive substances is a matter of serious concern to public health. The City Council will work with partners to ensure that the most appropriate course of action is taken to address the issue of psychoactive substances including powers in the new act

4 Reason for recommendations

- 4.1 The City Council has lobbied for new laws to tackle the supply of psychoactive substances from high street shops. The Director of Regulatory Services, Community Safety and Troubled Families is considered best placed to deliver these new enforcement powers on behalf of the City Council since the directorate contains a range of expertise in both civil and criminal enforcement particularly the trading standards team which has considerable criminal enforcement experience in tackling illegal practices in retail environments. These enforcement activities however should be limited to the retail trading environment.
- 4.2 The Act should stop the supply of psychoactive substances from shops but the effect on the overall supply of psychoactive substances is unknown therefore the Director of Regulatory Services, Community Safety and Troubled Families should continue to advise the Cabinet Member for Environment and Community Safety of emerging trends that may need further consideration

5. Equality impact assessment (EIA)

- 5.1 A preliminary EIA has been completed. A full EIA is not required.

6. Legal Implications

- 6.1 Enforcement of the act by the City Council will impact on existing resources both in officer time, costs of testing products and legal costs which could be substantial should actions be defended.

7. Director of Finance's comments

- 7.1 The new Psychoactive Substances Act 2016 will place additional powers and responsibilities on the local authority from the 6th April 2016, as set out in the report above. These powers and responsibilities will need to be delivered by the Directorate within the existing resources, as currently no additional funding has been made available for this purpose.
- 7.2 Whilst the Directorate will use existing staff resources to give advice and conduct any required visits, any intervention that triggers criminal enforcement action will incur additional testing and legal costs.

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Signed by:

Appendices:

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
The Psychoactive Substances Act 2016	http://www.legislation.gov.uk/ukpga/2016/2/pdfs/ukpga_20160002_en.pdf

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by on

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Signed by: