



*previous year. By 2012 the number of deaths had risen to 97, with more than 60 young people losing their lives.*

*Given the rapid increase in the number of associated problems caused by the proliferation of NPS, the City Council instructs the City Solicitor to prepare a report on the introduction and enforceability of Public Space Protection Order (PSPO) as in Lincoln.*

*The report would detail any associated costs and how this order would prevent the ingestion of NPS in all public spaces, in particular, all open spaces, on the street or on any Council owned property.*

- 3.2 A PSPO is a new power under the Anti-Social Behaviour, Crime and Policing Act 2014. The details of how to secure a PSPO are laid out in appendix 1.
- 3.3 Although there are concerns across the country about the nature of the products sold and the effects on an individual's health in relation to the use new psychoactive substances, there are no legislative powers currently in place that will allow authorities to adequately address the manufacture and sale of them. The only powers that currently exist are aimed at addressing the behaviours arising after the consumption of these products.
- 3.4 After much lobbying by locally elected members and communities, it was announced in the Queen's Speech that new legislation, the Psychoactive Substances Act, will be introduced to tackle the sale of new psychoactive substances. It will seek to create a blanket ban on new psychoactive substances, which would prohibit and disrupt the production, distribution, sale and supply of new psychoactive substances in the UK. A psychoactive substance will be any substance intended for human consumption that is capable of producing a psychoactive effect, with alcohol, tobacco, caffeine, food and medical products excluded from the scope of the offence. It is expected that this new legislation will be available for use early in 2016. The detail contained in the new act is outlined in appendix 2.
- 3.5 A number of locations, including Lincoln, have used the new PSPO to deal with behaviours, which often result from individuals taking new psychoactive substances in public spaces, but they are often linked to prohibitions for alcohol as well.
- 3.6 Although Portsmouth does not have a PSPO in place, the city council and police have adopted a very proactive approach and as a result of complaints from local residents about anti-social behaviour, successfully applied for a premises closure order in respect of one particular premise. This immediately resolved the issue for residents and allowed police to speak to the premises owner about a more responsible approach both to selling new psychoactive substances and operating their retail premises. The premises had been closed for 3 months and the proprietor has agreed voluntarily to remain closed for a further 6 weeks. When it reopens it will have made many changes to the manner of its operation.

- 3.7 The information in appendix 1 clearly states that in order to secure a PSPO there must be evidence of anti-social behaviour being carried out in an identified public space:
- be having, or likely to have, a detrimental effect on the quality of life of those in the locality;
  - be persistent or continuing in nature; and
  - be unreasonable.

The evidence solely in relation to a citywide PSPO for new psychoactive substances would be difficult to meet the PSPO test based on current evidence. There is evidence to support a wider PSPO to include alcohol but there is currently a citywide DPPO for Portsmouth which provides for action around alcohol related anti-social behaviour already.

- 3.8 Given the time taken to conduct the extensive 28 day consultation associated with securing a PSPO, and that the council and police already have used powers to address anti-social behaviour, such that complaints have greatly reduced, it is suggested that the most appropriate enforcement will be derived from using the new Psychoactive Substances Act that is enacted in the New Year

#### **4. Reason for recommendations**

- 4.1 The city council and police, whilst frustrated by the lack of wholly appropriate legislation, have worked proactively to minimise the impact of new psychoactive substances on local communities. Although there is currently no legislation in place to prevent the sale of new psychoactive substances, the council and partners have used other elements of the new Anti-social Behaviour and Crime and Policy Act 2014, to close premises associated with new psychoactive substances related anti-social behaviour and tackle individuals using new psychoactive substances in public areas.
- 4.2 The new legislation specifically aimed at controlling the sale and distribution of new psychoactive substances will be the best means of solving the problem; at present our powers only permit the mitigation of impact.
- 4.3 Since partner agencies have taken action to tackle overt cases of new psychoactive substances in public, it is difficult to show that the PSPO powers would have been used since April 2015.

#### **5. Equality impact assessment (EIA)**

- 5.1 An EIA has not been completed as an initial review indicates that a PSPO to tackle new psychoactive substances will not have an impact on Equality groups.

#### **6. Legal Implications**

- 6.1 The Psychoactive Substances Bill 2015 legislation progressing through Parliament is designed to tackle the production and supply of psychoactive substances.

6.2 If a PSPO was to be considered then it is a necessity to comply with the requirements of an appropriate and accurate consultation exercise in addition to the other requirements of the Anti-Social Behaviour, Crime and Policing Act 2014.

## 7. Director of Finance's comments

7.1 The recommended use of the new primary legislation will be cost neutral for the authority as there is no requirement for consultation and support for those using new psychoactive substances.

7.2 The introduction of a new Public Space Protection Order (PSPO) would incur costs associated with the implementation will include the cost of consultation, signage and putting in place appropriate outreach support. This could amount to around £15,000 in the first year and around £10,000 in subsequent years. There is no capacity in existing budgets to absorb this level of spend.

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Signed by Director of Regulatory Services, Community Safety and Troubled Families

## Appendices:

### Appendix 1 Public Spaces Protection Order (PSPO) Guidance

### Appendix 2 Psychoactive Substance Bill 2015

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 Anti-Social Behaviour, Crime and Policing Act 2014	<a href="http://www.legislation.gov.uk/ukpga/2014/12/contents/enacted">http://www.legislation.gov.uk/ukpga/2014/12/contents/enacted</a>
The Anti-Social Behaviour Crime and Policing Act	<a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/352562/ASB_Guidance_v8_July2014_final_2_.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/352562/ASB_Guidance_v8_July2014_final_2_.pdf</a>

<b>2014 Guidance</b>	
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The recommendation(s) set out above were approved/approved as amended/ deferred/  
rejected by .....on.....

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Signed by Cabinet Member for Environment and Community Safety