

Southend-on-Sea Borough Council

Report of Strategic Director (Legal and Democratic Services)

To
Cabinet

On
6 November 2018

Report prepared by: Elsie Anakwue, Solicitor

Agenda
Item No.

Southend Town Centre & Seafront Public Spaces Protection Order

Relevant Scrutiny Committee- Policy and Resources
Cabinet Member: Councillor Flewitt
Part 1 (Public Agenda Item)

1. Purpose of Report

- 1.1 To invite Members to consider and agree the proposed approach to dealing with certain behaviours identified in this report and to consider whether the Council should commence statutory consultation on the making of a Public Spaces Protection Order (“PSPO”) under Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 (“the 2014 Act”).
- 1.2 The purpose of a PSPO would be to assist the Council and its partners to provide an appropriate and robust response to various behaviours taking place in Southend Town Centre and Seafront areas, that existing enforcement powers have been unable to resolve. It would help ensure that the law-abiding majority can use and enjoy these public spaces, safe from anti-social behaviour (“ASB”).
- 1.3 It should be noted that Members are not being asked to decide whether a PSPO should be made but to approve the commencement of statutory consultation. A further report on the next steps will be made once the consultation process has been completed. At that future stage, Members may be asked to make a PSPO if the statutory criteria are met and it is thought to be a necessary and proportionate response to the issues that have been identified. No decision or recommendation is made on that at this stage.

2. Recommendations

- 2.1 That consultation be undertaken into the possibility of the Council making a Public Spaces Protection Order (PSPO) under Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 in respect of the area and activities detailed in Appendix 2
- 2.2 That the proposed consultation process be as set out in section 3.5(e) of this report.

2.3 That the consultation process should also cover the revocation of the existing DPPO/PSPO as outlined in section 3.5(g) of this report.

3. Background

3.1 Introduction

Local Authorities have a key role to play in helping to make local areas safe places to live, work and visit. Tackling behaviour which has a detrimental impact on the quality of life of those in the locality is a key element of this role. These behaviours are sometimes called anti-social behaviour ('ASB'); it is noted that behaviour which has a detrimental impact can be broader than that which has traditionally been described as ASB.

Two of Southend-on-Sea Borough Council's current 15 corporate priorities include commitments to '*create a safe environment across the town for residents, workers and visitors*', and '*to work in partnership with Essex Police and other agencies to tackle crime*'.

In addition, the emerging ambition, themes and desired outcomes of the Council's Southend 2050 Programme, includes the aim of developing a re-imagined, thriving town centre with an inviting mix of shops, homes, culture and leisure.

The Council's Southend Central Area Action Plan, adopted by the Council in February 2018, outlines a vision for the Southend Central Area '*as a prosperous and thriving regional centre and resort, it will be an area that is vibrant, safe and hospitable, rich in heritage commerce, learning and culture and an attractive, diverse place where people want to live, work and visit for both day trips, overnight and longer stays*'.

This aspiration for a vibrant and successful Town is currently being undermined by a number of activities taking place particularly in the Town Centre and Seafront areas.

Despite enforcement activity by the Police, the Council and others, the problems have persisted and significant damage is being caused to the appeal and reputation of Southend-on-Sea as a place to live, shop, visit and invest.

This report provides details of the particular types of activities that are believed to be having a detrimental impact on the quality of life of those in the locality, are unreasonable and are causing problems – and identifies additional and alternative measures for consideration.

3.2 Activities which are having a detrimental effect on the impact of the quality of life of those in the locality

Parts of Southend-on-Sea have been experiencing a growing level of ASB over the past 12 – 18 months. Reports and feedback are received from various sources, including the general public (residents and visitors to the town), businesses often via the Business Improvement District (BID), and proactive

reporting from various services including the Council's CCTV team. A Scrutiny Project on Additional Enforcement Resources for Southend in 2017/18 also identified significant evidence of ASB in the Town Centre and Seafront areas.

Southend Town Centre and Seafront in particular have seen an increase in reports relating to ASB and other types of behavioural activity. Due to growing pressure to tackle the issues, a Summit Meeting was called by Council Members in September 2018 to urgently consider with a wide range of stakeholders and partners, what actions could be taken to improve the situation.

As part of the preparation for the Summit Meeting in September 2018, Southend BID provided feedback and information covering the issues of aggressive begging, rough sleeping, street drinking, drug taking and all associated ASB, and the impact this is having on businesses.

Other Stakeholders at the Summit meeting also provided their perspective of the issues and challenges currently impacting on the Town Centre and Seafront.

Feedback from Southend BID describes the impact these issues are having on the Town Centre and Seafront areas, including safety issues from discarded drug paraphernalia and human faeces in some cases, as well as impacts on businesses from reduced footfall in the Town Centre, and individuals begging outside premises, which impacts on shoppers entering those premises.

Southend BID also reported that high numbers of incidents were occurring and that begging, ASB resulting in disturbance, and drug related activity being by far the highest recorded issues; with multiple reports on many individual days.

Appendix 3 contains a series of slides with graphical data displayed, from other records relating to ASB including begging, street drinking, substance dealing and substance misuse, and other issues gathered from the Council's UniForm data base used by the Anti-Social Behaviour Team (SMAART) as well as other relevant information sources.

The first slide show incidents recorded between May and October 2018, detailing issues mainly around the Town Centre and central Wards, but also demonstrates that issues are experienced in other parts of the town and along the Seafront area.

The second slide shows the specific hot-spots of data gathered by the Council. Again this is mainly concentrated around the Town Centre, but also highlights issues around Westcliff-on-Sea, Leigh-on-Sea, Shoeburyness, and the Seafront area.

The third slide shows a snapshot of the work very recently undertaken by the Council's newly appointed Community Safety Team, who started work in and round Southend High Street on 15th October 2018. This shows that in one week, a high number of issues were witnessed / dealt with / reported in respect of ASB and begging and drugs incidents in particular, amongst other issues.

The final slide is a report from the Council's contractor Veolia, who are responsible for servicing and cleaning the public toilets in the town. The Council

and Police have received a growing number of reports about ASB and drug use in particular in respect of certain public toilet locations.

The Veolia report highlights the huge issues faced at one specific Town Centre location (Pitman's Close), which resulted in the Council making an unprecedented decision to close that public toilet block due to safety issues for both rough sleepers who were frequenting the block and for the general public who may use the toilets.

The Veolia report also shows high numbers of issues relating to rough sleepers and discarded drug litter at three Seafront public toilet locations (Marine Parade / Lagoon / Crowstone), showing the issue to be wider than just the Town Centre. The family friendly nature of the Seafront location in particular presents heightened risks to children who might come into contact with drug paraphernalia when using these facilities, as well as to cleaning staff when going about their roles.

While multi – agency initiatives to engage with rough sleepers over the summer period had some beneficial effects, a significant residual problem remains.

3.3 Enforcement Activity

- (a) The ASB activities set out in 3.2 above have been tackled using various legislation and local powers as set out in in (b) below. In some cases it is the Police that have taken action, in other cases it is Council Officers. Clearly the Police also deal with criminal offences, but this report is focussing on activities that are having a detrimental impact on the quality of life of those in the locality.
- (b) Types of Enforcement activity undertaken (or available) in respect of the activities occurring in the Town Centre and Seafront Areas include:
- Dispersal Powers under the 2014 Act give the Police (not the Council) the authority to require individuals or groups to leave a specified area and not to return within a specified period of not more than 48 hours. This time limit means that dispersal notices may need to be issued repeatedly in persistent cases. These powers permit the Police (only) to require an individual to leave a specific area, not a general area.
 - Civil Injunction issued under the 2014 Act to prevent people from repetitively engaging in ASB which is causing harassment, alarm or distress. The Police and the Council can apply for such an injunction to be made against an individual. It does not apply to a public space but to the individual. The court process can be slow, expensive and time-consuming and enforcement can be difficult, particularly where the effect of the ASB are not attributable to one identifiable individual.
 - Criminal Behaviour Orders issued under the 2014 Act are a direct replacement of both the ASBO made on conviction in criminal proceedings and the Drinking Banning Order, made on conviction or on application. They are designed to tackle the most serious and persistent anti-social behaviour by dealing with offenders who engage in criminal

activity. Only the prosecution in a criminal case may apply to the court for a CBO to be granted. Normally this would be the Crown Prosecution Service. Therefore it is not a procedure of general application in terms of low level ASB and is reliant on both the existence of a criminal conviction and the willingness of the CPS to pursue a CBO.

- Community Protection Notice issued under the 2014 Act are designed to provide a means for dealing with ongoing problems in a local area that are having a detrimental effect on the community. Such problems might include regular complaints relating to litter, graffiti or noise. Either the Council or the Police can issue a CPN. A written warning must be given before a CPN can be issued. It is a person-specific tool that is directed at an individual (or business) as opposed to applying to the general space in which an activity takes place. As a result, like the other person-specific tools it is necessary to identify the perpetrator to be able to issue a CPN warning and a subsequent CPN.
- Closure Powers under the 2014 Act enable to Police or the Council to close premises that are causing problems. In theory, open space can be closed, however these powers are not considered to be appropriate for the activities taking place on the street which what this report is focussed on.
- Council Byelaws. The Council has a number of old byelaws that apply to the Town Centre and Seafront (or parts thereof) covering; The Use of Public Conveniences; Prevention of Nuisances; Foreshore and Promenades; Consumption of Alcohol; Pier and Foreshore; Pleasure Grounds.
In some respects these Byelaws address some of the activities this report is concerned with, but they are generally old, outdated and difficult to enforce.
- The Council can take possession proceedings against trespassers on its land and if necessary obtain an injunction in connection with such proceedings. A possession order and injunction was obtained fairly recently against trespassers camping on the Cliffs at Westcliff. However such procedures are slow, complex and expensive. It is also worth noting that with some of the activities, the perpetrators are part of a transient group which can change from day to day, week to week. Furthermore, in many cases, ASB is caused by persons who are not trespassers in these public spaces, in which case a possession order would not be available.
- In 2002 the Council made a Designated Public Place Order (DPPO) under S.13 of the Criminal Justice & Police Act 2001. This imposed restrictions on public drinking in the Town Centre and several other areas which had experienced alcohol related disorder/nuisance. An offence is committed only if a constable requests a person to refrain from drinking and they refuse.
When the 2014 Act came into force on 20 October 2014, existing orders, of which the DPPO was one, were to remain in force for a period of three years. After three years they were to be treated as though they were PSPOs (the period October 2017 - October 2020). From October 2020

the DPPO will no longer be in force and the Council would need to consider new controls on the activities previously covered by the DPPO. The possibility of introducing a PSPO is thought to be an appropriate opportunity to consider how to control those activities currently covered by the DPPO.

- (c) While enforcement action (using the powers referred to above) has had some success, the powers are not sufficient to deal with much of the activities which are taking place. For example there are no effective powers to deal with detritus left by rough sleepers.

3.4 The need for additional enforcement powers

- (a) An assessment has been undertaken to identify what additional enforcement powers would be useful to tackle the ASB issues referred to above.
- (b) One option is try to expand the current enforcement opportunities referred to in 3.3, for instance by making new byelaws. While this may pay some dividends (and the possibility of introducing new model byelaws is being investigated) it is not considered that this will provide the answer. The current powers have various deficiencies as explained above.
- (c) It is considered that a PSPO under the 2014 Act could provide a useful additional measure to tackle the persistent and unreasonable activities currently taking place in the Town Centre and Seafront areas.

The precise area to be designated as “the Restricted Area” in a PSPO should reflect where the activities have been occurring, with degree of latitude to allow for displacement into other areas.

Any PSPO must of course focus on the specific activities having the requisite detrimental impact and must be a proportionate response.

In particular, care must be taken to ensure that rights are carefully balanced in making a decision to proceed with a PSPO. This is all addressed in 3.5 below where the statutory framework and the proposals are considered.

3.5 Public Spaces Protection Order (PSPO)

(a) Legislative background

PSPOs were created by the 2014 Act. They are designed to place controls on the use of public space and everyone within it. The orders have effect for up to three years and can be extended. Only local authorities can make PSPOs. ‘Public Place’ means any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission.

The Council can make a PSPO if satisfied on reasonable grounds that two conditions are met. These are found in section 59 of the 2014 Act:

The first condition is that:

- (i) activities carried on in a public place within the Council's area have had a detrimental effect on the quality of life of those in the locality; or
- (ii) it is likely that activities will be carried on in a public place within that area and that they will have such an effect.

The second condition is that the effect, or likely effect, of the activities:

- (i) is or is likely to be, of a persistent or continuing nature;
- (ii) is, or is likely to be, such as to make the activities unreasonable; and
- (iii) justifies the restrictions imposed by the notice.

A PSPO must identify the public place in question and can:

- (i) prohibit specified things being done in that public place;
- (ii) require specified things to be done by persons carrying on specified activities in that place; or
- (iii) do both of those things.

The only prohibitions or requirements that may be imposed are ones that are reasonable to impose in order to prevent or to reduce the risk of the detrimental effect continuing, occurring or recurring.

Prohibitions may apply to all persons, or only to persons in specified categories, or to all persons except those in specified categories.

The PSPO may specify the times at which it applies and the circumstances in which it applies or does not apply.

Unless extended the PSPO may not have effect for more than 3 years.

Breach of a PSPO without reasonable excuse is a criminal offence. The Police or a person authorised by the Council can issue on-the-spot fixed penalty notices, the amount of which may not be more than £100. A person can also be prosecuted for breach of a PSPO and on conviction the Magistrates' Court can impose a fine not exceeding level 3 on the standard scale (currently £1000).

In considering whether to make a PSPO the Council *must* have particular regard to Article 10 (Right of Freedom of Expression) and Article 11 (Right of Freedom of Assembly) of the European Convention on Human Rights ('ECHR').

The Council must also carry out the necessary prior consultation, notification and publicity as prescribed by s.72 of the 2014 Act.

In preparing this report Officers have had regard to the two sets of statutory guidance issued by the Home Office (the most recent Statutory Guidance is attached at **Appendix 1** of this report) and the Guidance on PSPOs issued by the Local Government Association.

(b) Homeless People, Rough Sleepers and people going about their normal business.

PSPOs must be targeted against activities having a detrimental effect on the quality of life of those in the locality. They cannot be used to target people based solely on the fact that someone is homeless or rough sleeping. This is made clear on page 51 of the Statutory Guidance at **Appendix 1.**

Also PSPOs are not about stopping people enjoying the night time economy of Southend responsibly, nor is it about preventing people from spending time with their friends in public places.

Furthermore it is important to note that a PSPO will not prevent the Council continuing to assist those individuals who require help and support. The Council will continue to assist those with genuine needs for housing or for access to services either directly or through inter-agency working. Enforcement activity should take account of any apparent vulnerabilities and the Council will continue to collect information about rough sleeping in its area, sharing that information with partners where appropriate.

(c) Breach of a PSPO

Breach of a PSPO without a reasonable excuse is a criminal offence, resulting in a Fixed Penalty Notice (FPN) of up to £100, or a prosecution resulting in a fine of up to £1,000 (currently) on conviction.

The FPN can be issued by a Police Officer, PCSO, Council Officer or other person designated by the Council.

FPNs are one of a number of enforcement tools used to tackle ASB and as a means to change offending behaviour, and are used as an alternative to prosecution. They will be used by enforcement officers in conjunction with formal warnings, which may in themselves be sufficient to change behaviour.

FPNs will only be issued where the enforcement officer is confident that the correct identity details have been provided. Failure to supply a name and address, or to supply false details, to an authorised officer is a criminal offence and the Council will work with the Police, where relevant, to ensure that correct details are obtained. All Council officers involved in enforcing a PSPO must be duly authorised under the Council's scheme of delegation.

(d) Experience of Local Authorities that have introduced PSPOs

Many Local Authorities across the country have implemented a PSPO for their town / city centre to address similar types of issues / behaviours that Southend is facing.

The learning from other areas is that the PSPO is not a panacea to solving all the issues faced by a Town Centre/Seafront. They can be effective where they are targeted at specific behaviours / issues providing additional powers that can be used in a balanced approach alongside other tools and interventions.

(e) Consultation

The Council is required under the Act to carry out consultation and necessary publicity and notification before making a PSPO.

As a minimum the Council must consult with the Chief Officer of Police, the Police Fire and Crime Commissioner, appropriate community representatives, and the owners or occupiers of land in the area to be designated (where reasonably practicable).

The Council must publish the proposed wording of the Order and the proposed Restricted Area as part of the consultation and this information is set out in **Appendix 2**.

During the consultation process the Council will seek comments on:

- Whether a PSPO is appropriate, proportionate or needed at all;
- The proposed restrictions; and
- The proposed area to be designated as the Restricted Area.

Consultation would be over a 6 week period, with the following stakeholders:

- Chief Officer of Police for Southend
- The Police Fire and Crime Commissioner
- Town Centre/Seafront Businesses
- Ward Councillors
- The voluntary sector
- Community representatives
- Local residents/those working nearby/Visitors (via a survey).

Findings from the consultation will be brought back to Cabinet for it to decide whether to proceed with the PSPO – and, if so, the area to be designated and the restrictions which would apply. At that point the Cabinet would have to consider all material considerations including proportionality i.e. are the proposed restrictions proportionate to the harm/nuisance that is being caused?

(f) PSPO Proposal

It is considered that there are grounds under the 2014 Act for the Council to consider introducing a PSPO, subject to consideration of consultation responses.

The activities which are occurring as set out in this report are persistent, unreasonable and are having a detrimental effect on the quality of life of those living, visiting and doing business in the Southend Town Centre and Seafront.

A PSPO would offer additional enforcement powers to help tackle the issues in the Town Centre and Seafront areas where existing powers have been found to be deficient. A PSPO would help to make the Town Centre and Seafront a safer, more pleasant place for anyone who lives, visits, shops, works or conducts business there.

It would help to ensure that the law-abiding majority can use and enjoy these public spaces, safe from ASB and other behaviour which has a detrimental effect on the quality of life of those in the locality.

The Council, taking joint responsibility with the Police, is committed to improving the quality of life for residents, businesses and visitors to the Town Centre and Seafront.

Depending on the outcome of the consultation, the Council will consider introducing a PSPO to cover some or all of the types of ASB which are identified as being a current problem in 3.2 above.

The draft PSPO at **Appendix 2** sets out the types of activities which could be prohibited.

In terms of the proposed Restricted Area, considering the combined sources of evidence included in this report, the draft Order at **Appendix 2** proposes the following:

- An area including and immediately surrounding Southend High Street;
- An extended area around the Town Centre where problems have occurred; and
- The Seafront area to include the extent of Cliff Gardens and Western Esplanade; Central Southend Seafront; Eastern Esplanade and the Beach area adjacent to Western Esplanade, Central Southend Seafront and Eastern Esplanade.

(g) Revocation of Existing DPPO/PSPO

As explained in 3.3(b) above, in 2002 the Council made a Designated Public Place Order (DPPO) which imposed restrictions on public drinking in the Town Centre and several other areas which had experienced alcohol related disorder/nuisance.

From 20 October 2017 the DPPO was treated as though it was a PSPO by virtue of S.75 of the 2014 Act.

It is considered that the process of considering a PSPO is an appropriate opportunity to include the activities currently covered by the DPPO and for the DPPO to be revoked.

The Council proposes to consult on this proposal as part of the consultation on this PSPO.

4. Other Options

The Council could choose not to look at introducing a PSPO, but this would lose the opportunity to introduce a new measure to tackle ASB which is causing nuisance/harm to many people and having a damaging effect on the Town Centre and Seafront areas.

5. Reasons for Recommendations

- 5.1 A PSPO covering the Town Centre and Seafront areas could be a useful additional tool to tackle persistent and unreasonable ASB which is taking place.

It would help ensure that the law-abiding majority can use and enjoy these public spaces, safe from ASB.

- 5.2 Consulting on a proposal for introducing a PSPO is not only a legal requirement, but will enable the Council to gather important information from a range of stakeholders that will inform the decision-making process.

6. Corporate Implications

6.1 Contribution to Council's Vision & Corporate Priorities

Safe Southend, including support to the Purple Flag Award.

6.2 Financial Implications

The costs of consulting on a possible PSPO will be relatively modest. At this stage the costs of proceeding with the PSPO are not known and will depend on the extent of any PSPO in terms of scope and geographic extent, particularly in terms of signage and enforcement.

6.3 Legal Implications

Many of these are set out in the report, but attention is also drawn to the following:

The introduction of a PSPO must be undertaken in accordance with the 2014 Act and the Statutory Guidance. Failure to do so could result in a legal challenge.

Section 66 of the 2014 Act states that "Interested Persons" may challenge the validity of any Order in the High Court within six weeks, beginning on the day the Order is made.

Section 17 of the Crime and Disorder Act imposes a duty on the Council to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment).

Section 59 of the 2014 Act provides that the Council may make a PSPO if satisfied on reasonable grounds that 2 conditions are met:

- a) That activities carried on in a public space 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 such activities will be carried on and will have such an effect.
- b) The effect, or likely effect, of the activities is, or is likely to be, of a persistent or continuing nature, such as to make the activities unreasonable, and justifies the restrictions imposed.

Section 72 of the 2014 Act provides that the Council must carry out necessary consultation before making a PSPO. This means consulting with:

- (a) The chief officer of police, and the local policing body, for the police area that includes the restricted area;
- (b) Whatever community representatives the local authority thinks it appropriate to consult;
- (c) The owner or occupier of land within the restricted area, so far as it is reasonably practicable.

Before making a PSPO the Council must consider comments and representations received as a result of the consultation and must have particular regard to the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

Section 149 of the Equality Act (2010) requires the Council in the exercise of its functions to have due regard to the need to:

- a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Act;
- b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it'
- c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are: age, disability, gender reassignment; pregnancy and maternity; race; religion or belief, sex; sexual orientation; marriage and civil partnerships.

The Equality Duty means that, in making decisions, the Council must have regard to the need to remove or minimise disadvantage or to meet particular need, such as through ensuring access to services for particular groups; The good relations duty also now applies across all of the protected characteristics. In particular, the Council must have due regard to the need to tackle prejudice and promote understanding between people who share a protected characteristic and those who do not.

Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—

- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—

- (a) tackle prejudice, and
- (b) promote understanding.

Members should be aware that compliance with the duties in this section may involve treating some persons more favourably than others.

The law requires that this duty to pay ‘due regard’ is demonstrated in the decision-making process and the Council must be able to demonstrate that decisions are made in a fair, transparent and accountable way, considering the needs and the rights of different members of the community. This is achieved through assessing the impact that imposing restrictions and prohibitions through a PSPO could have on different protected groups and, where possible, identifying methods for mitigating or avoiding any adverse impact on those groups.

Members will need to consider the potential or actual effect of the proposal to make a PSPO, in the light of any representations received following the proposed consultation, before making a decision whether to make a PSPO and, if so, what prohibitions to include in it.

6.4 People Implications

There are likely to be some resource implications in terms of enforcement of any PSPO.

6.5 Property Implications

None

6.6 Consultation

As set out in the report

6.7 Equalities and Diversity Implications

(a) Under the Equality Act 2010, the Council must have due regard to:

- Eliminating unlawful discrimination, harassment and victimisation and any other conduct prohibited by the Act;
- Advancing equality of opportunity between people who share a protected characteristic and people who do not share it; and
- Fostering good relations between people who share a protected characteristic and people who do not share it.

(b) It is therefore important to consider how the proposals contained within this report may positively or negatively affect this work.

To support this consideration, an Equality Analysis has been carried out.

This Equality Analysis has looked at the anticipated (positive and/or negative) impacts of the proposals on people from Southend's diverse communities, and whether any group (or groups) is likely to be directly or indirectly differentially affected. In conclusion it is not anticipated that the proposals will have a significant disproportionate impact on any of Southend's diverse groups.

The Equality Analysis will be reviewed when consultation responses have been received.

- (c) The Council has also had regard to the rights and freedoms under Article 10 (freedom of expression) and Article 11 (freedom of assembly and association) as set out in the European Convention on Human Rights and is satisfied that the restrictions imposed by the proposed PSPO are lawful, necessary and proportionate.

6.8 Risk Assessment

Risks associated with the introduction of a PSPO, particularly in terms of protecting vulnerable members of society and displacement have been considered, in particular see 6.7 above.

6.9 Value for Money

N/A

6.10 Community Safety Implications

Keeping Southend-on-Sea a safe and enjoyable place to live, work and visit is a key priority for the Council. Implementing a PSPO (subject to consultation and approval) would provide an additional tool to the Council and its partners to tackle nuisance and ASB,

6.11 Environmental Impact

A PSPO should improve the quality of life of those in the locality.

7. Background Papers

Anti-Social Behaviour, Crime and Policing Act 2014
Scrutiny Project on Additional Enforcement Resources for Southend in 2017/18

8. Appendices

Appendix 1 – Statutory Guidance on PSPOs issued by the Home Office

Appendix 2 - Draft Public Space Protection Order for Southend Town Centre & Seafront Areas

Appendix 3 - Extracts from the Council's UniForm database re ASB



Home Office

Anti-social Behaviour, Crime and Policing Act 2014:

Anti-social behaviour powers

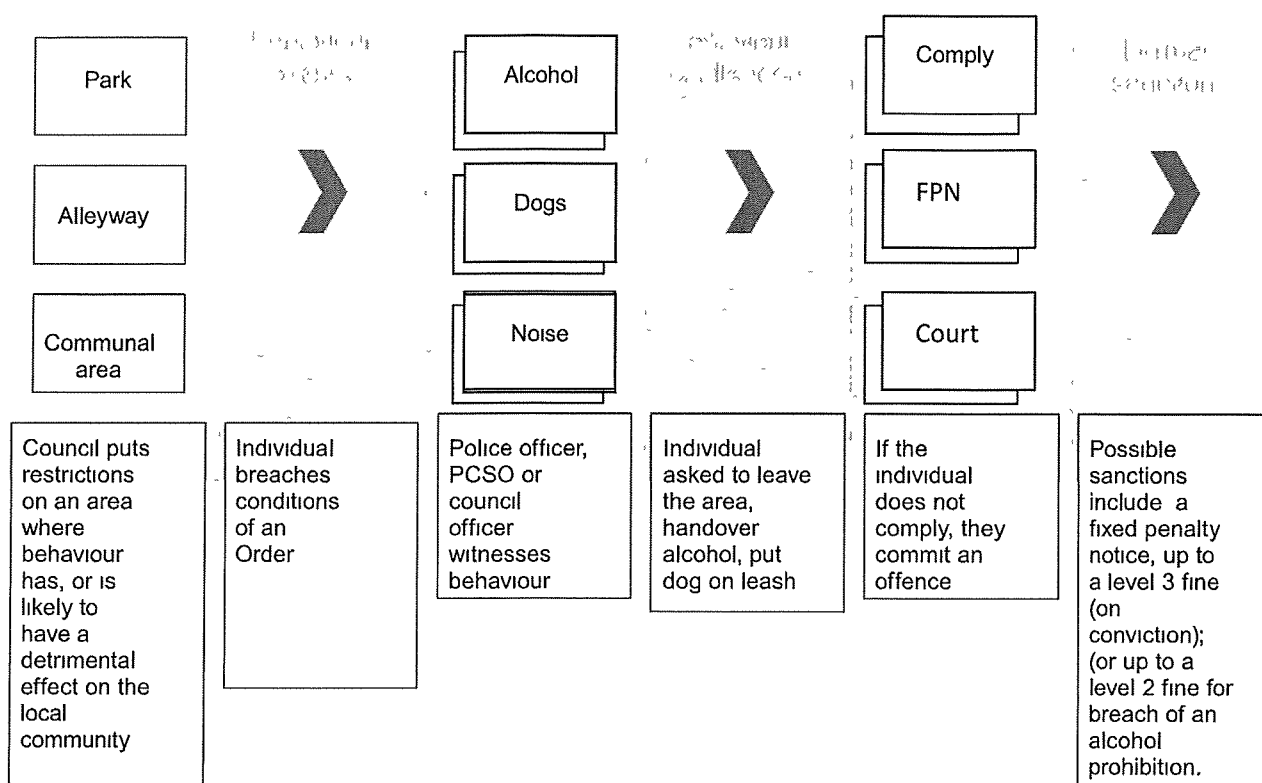
Statutory guidance for frontline professionals

Updated December 2017

2.5 Public Spaces Protection Order

Purpose	Designed to stop individuals or groups committing anti-social behaviour in a public space
Who can make a PSPO	<ul style="list-style-type: none"> • Councils issue a Public Spaces Protection Order (PSPO) after consultation with the police, Police and Crime Commissioner and other relevant bodies
Test	<p>Behaviour being restricted has to</p> <ul style="list-style-type: none"> • be having, or be likely to have, a detrimental effect on the quality of life of those in the locality, • be persistent or continuing nature, and • be unreasonable
Details	<ul style="list-style-type: none"> • Restrictions and requirements set by the council. • These can be blanket restrictions or requirements or can be targeted against certain behaviours by certain groups at certain times • Can restrict access to public spaces (including certain types of highway) where that route is being used to commit anti-social behaviour • Can be enforced by a police officer, police community support officers and council officers
Penalty on breach	<ul style="list-style-type: none"> • Breach is a criminal offence • Enforcement officers can issue a fixed penalty notice of up to £100 if appropriate • A fine of up to level 3 on prosecution
Appeals	<ul style="list-style-type: none"> • Anyone who lives in, or regularly works in or visits the area can appeal a PSPO in the High Court within six weeks of issue • Further appeal is available each time the PSPO is varied by the council
The legislation	Sections 59 to 75 of the Anti-social Behaviour, Crime and Policing Act 2014
Protecting the vulnerable	<ul style="list-style-type: none"> • Consideration should be given to how the use of this power might impact on the most vulnerable members of society • Consideration should also be given to any risks associated with displacement, including to where people may be dispersed to • There is value in working in partnership to resolve ongoing problems and find long term solutions

Public Spaces Protection Order



Purpose

Public Spaces Protection Orders are intended to deal with a particular nuisance or problem in a specific area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone. They are intended to help ensure that the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour.

Given that these orders can restrict what people can do and how they behave in public spaces, it is important that the restrictions imposed are focused on specific behaviours and are proportionate to the detrimental effect that the behaviour is causing or can cause, and are necessary to prevent it from continuing, occurring or recurring.

Who can make a PSPO?

Local councils are responsible for making Public Spaces Protection Orders: district councils should take the lead in England with county councils or unitary authorities undertaking the role where there is no district council. In London, borough councils are able to make Public Spaces Protection Orders, as is the Common Council of the City of London and the Council of the Isles of Scilly. In Wales, responsibility falls to county councils or county borough councils. Parish councils and town councils in England, and community councils in Wales are not able to make these Orders. In addition, section 71 of the Anti-social Behaviour, Crime and Policing Act 2014 allows bodies other than local authorities to make Public Spaces Protection Orders in certain circumstances by order of the Secretary of State. This power has been exercised by the Secretary of State to allow the City of London Corporation to manage a number of public spaces with the permission of, and on behalf of, local authorities.

Details

The legal tests: The legal tests focus on the impact that anti-social behaviour is having on victims and communities. A Public Spaces Protection Order can be made by the council if they are satisfied on reasonable grounds that the activity or behaviour concerned, carried out, or likely to be carried out, in a public space:

- has had, or is likely to have, a detrimental effect on the quality of life of those in the locality;
- is, or is likely to be, persistent or continuing in nature;
- is, or is likely to be, unreasonable; and
- justifies the restrictions imposed.

Putting victims first: In deciding to place restrictions on a particular public space, councils should consider the knock on effects of that decision and ensure that this is a reasonable and proportionate response to incidents of anti-social behaviour in the area. Introducing a blanket ban on a particular activity may simply displace the behaviour and create victims elsewhere.

Where can it apply? The council can make a Public Spaces Protection Order on any public space within its own area. The definition of public space is wide and includes any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission, for example a shopping centre.

Consultation and working with partners: Before making a Public Spaces Protection Order, the council must consult with the police. This should be done formally through the chief officer of police and the Police and Crime Commissioner, but details could be agreed by working level leads. This is an opportunity for the police and council to share information about the area and the problems being caused as well as discussing the practicalities of enforcement. In addition, the owner or occupier of the land should be consulted. This should include the county council (if the application for the Order is not being led by them) where they are the Highway Authority.

The council must also consult whatever community representatives they think appropriate. It is strongly recommended that the council engages in an open and public consultation to give the users of the public space the opportunity to comment on whether the proposed restriction or restrictions are appropriate, proportionate or needed at all. The council should also ensure that specific groups likely to have a particular interest are consulted, such as a local residents association, or regular users of a park or those involved in specific activities in the area, such as buskers and other street entertainers.

Openness and accountability: Before the Public Spaces Protection Order is made, the council must publish the draft order in accordance with regulations published by the Secretary of State and ensure that the draft order is available on its website.

Given that the effect of Public Spaces Protection Orders is to restrict the behaviour of everybody using the public place, the close or direct involvement of elected members will help to ensure openness and accountability. This will be achieved, for example, where the decision is put to the Cabinet or full Council.

Land requiring special consideration

Before a council makes a Public Spaces Protection Order it should consider whether the land falls into any of the following categories:

- **Registered common land:** There are around 550,000 hectares of registered common land in England and Wales. Common land is mapped as open access land under the Countryside and Rights of Way (CROW) Act 2000 with a right of public access on foot. Some commons, particularly those in urban districts, also have additional access rights and these may include rights for equestrian use.
- **Registered town or village green:** Town and village greens developed under customary law as areas of land where local people indulged in lawful sports and pastimes. These might include organised or ad-hoc games, picnics, fetes and similar activities, such as dog walking.
- **Open access land:** Open access land covers mountain, moor, heath and down and registered common land, and also some voluntarily dedicated land, for example the Forestry Commission's or Natural Resources Wales' freehold estate. Open access land provides a right of open-air recreation on foot although the landowner can voluntarily extend the right to other forms of access, such as for cycling or horse-riding.

This can be done by contacting the Commons registration authority (county council in two-tier areas; unitary authority elsewhere). If the land in question is a registered common, the council will be able to find out what common land rights exist and the access rights of any users. The Department for Environment, Food & Rural Affairs considers the model set out in 'A Common Purpose' to be good practice in consulting directly affected persons (including commoners) and the public about any type of potential change in the management of a common.

If land is a registered green, it receives considerable statutory protection under the 'Victorian Statutes'. In terms of open access land, there are various national limitations on what activities are included within the access rights. It is possible for local restrictions on CROW rights to be put in place to meet wider land use needs, and this system is normally administered by Natural England.

Where an authority is considering an order on one of these types of land, the council should consider discussing this with relevant forums and user groups (e.g. Local Access Forums, Ramblers or the British Horse Society) depending on the type of provision that is contemplated in the order. It could also be appropriate to hold a local public meeting when considering whether to make an order for an area of such land to ensure all affected persons are given the opportunity to raise concerns.

What to include in a Public Spaces Protection Order. The Order can be drafted from scratch based on the individual and specific issues being faced in a particular public space. A single Order can also include multiple restrictions and requirements. It can prohibit certain activities, such as the drinking of alcohol, as well as placing requirements on individuals carrying out certain activities, for instance making sure that people walking their dogs keep them on a lead in designated areas.

When deciding what to include, the council should consider scope. The broad aim is to keep public spaces welcoming to law abiding people and communities and not simply to restrict access. So restrictions or requirements can be targeted at specific people, designed to apply only at certain times or apply only in certain circumstances.

Putting victims first: Although it may not be viable in each case, discussing potential restrictions and requirements prior to issuing an Order with those living or working nearby may help to ensure that the final Order better meets the needs of the local community and is less likely to be challenged.

In establishing which restrictions or requirements should be included, the council should be satisfied on reasonable grounds that the measures are necessary to prevent the detrimental effect on those in the locality or reduce the likelihood of the detrimental effect continuing, occurring or recurring.

As with all the anti-social behaviour powers, the council should give due regard to issues of proportionality: is the restriction proposed proportionate to the specific harm or nuisance that is being caused? Councils should ensure that the restrictions being introduced are reasonable and will prevent or reduce the detrimental effect continuing, occurring or recurring. In addition, councils should ensure that the Order is appropriately worded so that it targets the specific behaviour or activity that is causing nuisance or harm and thereby having a detrimental impact on others' quality of life. Councils should also consider whether restrictions are required all year round or whether seasonal or time limited restrictions would meet the purpose.

When the final set of measures is agreed the Order should be published in accordance with regulations made by the Secretary of State and must:

- identify the activities having the detrimental effect;
- explain the potential sanctions available on breach; and
- specify the period for which the Order has effect.

Homeless people and rough sleepers

Public Spaces Protection Orders should not be used to target people based solely on the fact that someone is homeless or rough sleeping, as this in itself is unlikely to mean that such behaviour is having an unreasonably detrimental effect on the community's quality of life which justifies the restrictions imposed. Councils may receive complaints about homeless people, but they should consider whether the use of a Public Spaces Protection Order is the appropriate response. These Orders should be used only to address any specific behaviour that is causing a detrimental effect on the community's quality of life which is within the control of the person concerned.

Councils should therefore consider carefully the nature of any potential Public Spaces Protection Order that may impact on homeless people and rough sleepers. It is recommended that any Order defines precisely the specific activity or behaviour that is having the detrimental impact on the community. Councils should also consider measures that tackle the root causes of the behaviour, such as the provision of public toilets.

The council should also consider consulting with national or local homeless charities when considering restrictions or requirements which may impact on homeless people and rough sleepers.

Controlling the presence of dogs

Under the Animal Welfare Act 2006, owners of dogs are required to provide for the welfare needs of their animals. This includes providing the necessary amount of exercise each day, which in many cases will require dogs to be let off the lead whilst still under control.

Councils will be aware of the publicly accessible parks and other public places in their area which dog walkers can use to exercise their dogs without restrictions.

When deciding whether to make requirements or restrictions on dogs and their owners, local councils will need to consider whether there are suitable alternative public areas where dogs can be exercised without restrictions. Councils should consider if the proposed restrictions will displace dog walkers onto other sensitive land, such as farmland or nature conversation areas.

Councils should also consider the accessibility of these alternative sites for those with reduced mobility, including but not limited to, assistance dog users. For example, is there step free access, are there well maintained paths and what transport options are available, including in the early morning and evening.

Councils are also encouraged to publish a list of alternative sites which dog walkers can use to exercise their dogs without restrictions. Both dog walkers and non-dog walkers would then have a clear opportunity to submit their views on whether these alternatives were suitable. This should help minimise the risks of unwanted and unintended displacement effects.

Guidance published by the Department for Environment, Food and Rural Affairs on dog control states that councils must consult dog law and welfare experts e.g vets or animal welfare officers and organisations affected by restrictions before seeking to impose restrictions. Councils may also wish to consider consulting the Kennel Club. Where a Public Spaces Protection Order proposes to restrict dog walking in parks and other commonly used dog walking sites, consideration should be given to how to alert interested people to the proposed restrictions, such as posting notices of the proposed restrictions and consultation details within these spaces.

Consideration must also be given on how any dog walking restrictions being proposed would affect those who rely on assistance dogs, ensuring any prohibition or requirement is compliant with the provisions of Equality Act 2010 or considering what exemptions should apply for assistance dogs.

In relation to dogs and their owners, a Public Spaces Protection Order could, for example:

- exclude dogs from designated areas (e.g. a children's play area in a park);
- require the person in charge of the dog to pick up after it;
- require dogs to be kept on leads in a designated area;
- be framed to apply during specific times or periods (e.g. dogs excluded from a beach from 9am to 6pm, 1 May to 30 September),
- restrict the number of dogs that can be walked by one person at any one time; and
- put in place other restrictions or requirements to tackle or prevent any other activity that is considered to have a detrimental effect on the quality of life of those in the locality, or is likely to have such an effect.

Councils should also consider whether alternative options are available to deal with problems around irresponsible dog ownership or dogs being out of control. It may be that if there are local problems with specific individuals allowing their dogs to stray or run out of control for which one of the other available powers, such as the Community Protection Notice, may be more appropriate. The Department for Environment, Food and Rural Affairs has produced detailed guidance in the form of a practitioner's guide on the range of tools available to deal with irresponsible dog ownership. Targeted measures and educational days for irresponsible dog owners can bring about real improvements in the behaviour of irresponsible dog owners.

Parish and Town Councils:

Public Spaces Protection Orders are not available to Parish and Town Councils. Parish and Town Councils wishing to deal with dog control issues should discuss the issue with their principal authority, including whether a Public Spaces Protection Order would provide the means to address the issues being experienced by the local community. If the principal authority is satisfied that the legal tests for the use of the power are met and that it is a proportionate response to the level of harm and nuisance being caused it should consider consulting on putting in place a Public Spaces Protection Order. This ensures a single approach on dog control matters within the local community and avoids the risk of any duplication or conflicting requirements and restrictions being put in place.

Restricting alcohol: A Public Spaces Protection Order can be used to restrict the consumption of alcohol in a public space where the relevant legal tests are met. However, such an Order cannot be used to restrict the consumption of alcohol where the premises or its curtilage (a beer garden or pavement seating area) is licensed for the supply of alcohol (other than council operated licenced premises). There are also limitations where a temporary event notice has been given under Part 5 of the Licensing Act 2003, or where the sale or consumption of alcohol is permitted by virtue of permission granted under section 115E of the Highways Act 1980. This is because the licensing system already includes safeguards against premises becoming centres for anti-social behaviour. It would create confusion and duplication if Public Spaces Protection Orders were introduced here

Groups hanging around/standing in groups/playing games

It is important that councils do not inadvertently restrict everyday sociability in public spaces. The Public Spaces Protection Order should target specifically the problem behaviour that is having a detrimental effect on the community's quality of life, rather than everyday sociability, such as standing in groups which is not in itself a problem behaviour.

Where young people are concerned, councils should think carefully about restricting activities that they are most likely to engage in. Restrictions that are too broad or general in nature may force the young people into out-of-the-way spaces and put them at risk. In such circumstances, councils should consider whether there are alternative spaces that they can use.

People living in temporary accommodation may not be able to stay in their accommodation during the day and so may find themselves spending extended times in public spaces or seeking shelter in bad weather. It is important that public spaces are available for the use and enjoyment of a broad spectrum of the public, and that people of all ages are free to gather, talk and play games.

Restricting access: In the past, Gating Orders have been used to close access to certain public rights of way where the behaviour of some has been anti-social.

A Public Spaces Protection Order can be used to restrict access to a public right of way. However, when deciding on the appropriateness of this approach, the council must consider a number of things, as set out below:

- **Can they restrict access?** A number of rights of way may not be restricted due to their strategic value.
- **What impact will the restriction have?** For instance, is it a primary means of access between two places and is there a reasonably convenient alternative route?
- **Are there any alternatives?** Previously gating was the only option, but it may be possible under a Public Spaces Protection Order to restrict the activities causing the anti-social behaviour rather than access in its totality

There are also further consultation requirements where access is to be restricted to a public right of way. These include notifying potentially affected persons of the possible restrictions. This could include people who regularly use the right of way in their day to day travel as well as those who live nearby. Interested persons should be informed about how they can view a copy of the proposed order, and be given details of how they can make representations and by when. The council should then consider these representations.

It will be up to the council to decide how best to identify and consult with interested persons. In the past newspapers have been used, but other channels such as websites and social media may now be more effective. Where issues are more localised, councils may prefer to deal with individual households. Or, where appropriate, councils may decide to hold public meetings and discuss issues with regional or national bodies (such as the Local Access Forum) to gather views.

Duration of a Public Spaces Protection Order: The maximum duration of a Public Spaces Protection Order is three years but they can last for shorter periods of time where more appropriate. Short-term Orders could be used where it is not certain that restrictions will have the desired effect, for instance, when closing a public right of way, and in such circumstances the council might decide to make an initial Order for 12 months and then review that decision at that point

At any point before expiry, the council can extend a Public Spaces Protection Order by up to three years if they consider it is necessary to prevent the original behaviour from occurring or recurring. They should also consult with the local police and any other community representatives they think appropriate before doing so.

Changing the terms of a Public Spaces Protection Order: A Public Spaces Protection Order can cover a number of different restrictions and requirements so there should be little need to have overlapping orders in a single public space. However, if a new issue arises in an area where an Order is already in force, the council can vary the terms of the order at any time. This can change the size of the restricted area or the specific requirements or restrictions. For instance, a Public Spaces Protection Order may exist to ensure dogs are kept on their leads in a park but, after 12 months, groups start to congregate in the park drinking alcohol which is having a detrimental effect on those living nearby. As a result, the council could vary the Order to deal with both issues. Any proposed variation to an existing Public Spaces Protection Order would require the council to undertake the necessary consultation on the proposed changes.

As well as varying the Order, a council can also seek to discharge it at any time, for instance when the issue that justified the Order has ceased or where the behaviour has stopped or the land ceases to be classified as a public space.

Penalty on breach: It is an offence for a person, without reasonable excuse, to

- do anything that the person is prohibited from doing by a Public Spaces Protection Order (other than consume alcohol – see below), or
- fail to comply with a requirement to which the person is subject under a Public Spaces Protection Order.

A person does not commit an offence by failing to comply with a prohibition or requirement that the council did not have power to include in a Public Spaces Protection Order. A person guilty of an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

It is not an offence to drink alcohol in a controlled drinking zone. However, it is an offence to fail to comply with a request to cease drinking or surrender alcohol in a controlled drinking zone. This is liable on summary conviction to a fine not exceeding level 2 on the standard scale. If alcohol is confiscated, it can be disposed of by the person who confiscates it

Depending on the behaviour in question, the enforcing officer could decide that a fixed penalty notice would be the most appropriate sanction. This can be issued by a police officer, a Police Community Support Officer, council officer or other person designated by the council. In making the decision to issue a fixed penalty notice, the officer should consider that if issued, payment would discharge any liability to conviction for the offence. However, payment is not made within the required timescale, court proceedings can be initiated (prosecution for the offence of failing to comply with the Public Spaces Protection Order).

Appeals: Any challenge to the Public Spaces Protection Order must be made in the High Court by an interested person within six weeks of it being made. An interested person is someone who lives in, regularly works in, or visits the restricted area. This means that only those who are directly affected by the restrictions have the power to challenge. This right to challenge also exists where an order is varied by a council. Additionally, as with all orders and powers, the making of a PSPO can be challenged by judicial review on public law grounds within three months of the decision or action subject to challenge.

Interested persons can challenge the validity of an Order on two grounds. They could argue that the council did not have power to make the order, or to include particular prohibitions or requirements. In addition, the interested person could argue that one of the requirements (for instance, consultation) had not been complied with.

When the application is made, the High Court can decide to suspend the operation of the Public Spaces Protection Order pending the verdict in part or in totality. The High Court has the ability to uphold the Public Spaces Protection Order, quash it, or vary it.

Enforcement Although Public Spaces Protection Orders are made by the council in an area, enforcement is the responsibility of a wider group. Council officers are able to enforce the restrictions and requirements, as are other groups that they designate, including officers accredited under the community safety accreditation scheme. In addition, police officers and Police Community Support Officers are able to enforce Public Spaces Protection Orders.

Transition of existing orders to Public Spaces Protection Orders

Section 75 of the Anti-social Behaviour, Crime and Policing Act 2014 sets out that where a Gating Order, Dog Control Order or Designated Public Place Order is still in force three years from commencement of the Act (i.e. on 20 October 2017) the provisions of such an order will automatically be treated as if they were provisions of a Public Spaces Protection Order. The transitioned Order will then remain in force up to a maximum of three years from the point of transition i.e. 2020.

Section 75(3) of the Anti-social Behaviour, Crime and Policing Act 2014 treats transitioned orders as Public Spaces Protection Orders that have already been made. The consultation, notification and publicity requirements in section 72(3) of the Act apply before a Public Spaces Protection Order has been made; the obligation under section 59(8) of the Act to publish arises once a Public Spaces Protection Order has been made.

Councils are not required to undertake a new consultation (or associated publications, and notifications, set out in section 72(3) of the Act) where a Gating Order, Dog Control Order or Designated Public Place Order automatically transitions to a Public Spaces Protection Order after October 2017.

However, local councils should publish the Public Spaces Protection Order online when the Gating Order, Dog Control Order or Designated Public Place Order transitions in order to make the public aware of the specific provisions of the Public Spaces Protection Order.

It will be for local councils to consider what changes to signage are necessary to sufficiently draw the matters set out in Regulation 2 of the Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulation 2014 to members of the public's attention.

Any extension, variation or discharge of a transitioned Public Spaces Protection Order would mean that the local council would need to carry out the necessary consultation and publication as required under section 72 (3) of the Anti-social Behaviour, Crime and Policing Act 2014.

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Appendix 2

DRAFT ORDER

ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014

SECTION 59

PUBLIC SPACES PROTECTION ORDER

This Order is made by the Southend-on-Sea Borough Council (the 'Council') and shall be known as the Public Spaces Protection Order (Southend Town Centre and Seafront Areas) No 1 of 2018.

PRELIMINARY

1. The Council, in making this Order is satisfied on reasonable grounds that:
The activities identified below have been carried out in public places within the Council's area and have had a detrimental effect on the quality of life of those in the locality,
and that:

the effect, or likely effect, of the activities:

is, or is likely to be, of a persistent or continuing nature,

is, or is likely to be, such as to make the activities unreasonable, and

justifies the restrictions imposed by the notice.
2. The Council is satisfied that the prohibitions imposed by this Order are reasonable to impose in order to prevent the detrimental effect of these activities from continuing, occurring or recurring, or to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.
3. The Council has had regard to the rights and freedoms set out in the European Convention on Human Rights. The Council has had particular regard to the rights and freedoms set out in Article 10 (right of freedom of expression) and Article 11 (right of freedom of assembly) of the European Convention on Human Rights and has concluded that the restrictions on such rights and freedoms imposed by this order are lawful, necessary and proportionate.

THE ACTIVITIES

4. The Activities prohibited by this Order are:

i Urination, defecation, spitting or littering

Sleeping in a public place within the Restricted Area (which includes car parks and shop doorways) in a manner which has a detrimental impact on the quality of life of others in the locality. This includes but is not limited to causing an obstruction to members of the public or local businesses.

iii. Erecting tents or other structures anywhere within the Restricted Area.

iv. Consuming alcohol or failing to surrender any containers (sealed or unsealed) which are reasonably believed to contain alcohol, in a public place, when an Authorised Officer has required such consumption to cease.

v. Ingesting, inhaling, injecting, smoking or otherwise using drugs or substances reasonably believed to be psychoactive substances.

vi. Beg, begging or approaching any person for that purpose.

vii. Approach stop or approach another person with the intention of asking that other person:

i) to enter into any arrangements which involve that other person making any future payment for the benefit of charitable or other purposes; or

ii) for any information to assist in that other person being contacted at another time with a view to making arrangements for that person to make any payment for the benefit of charitable or other purposes.

THE PROHIBITION

5. A person shall not engage in any of the Activities anywhere within the Restricted Area as shown on the attached map and marked 'Restricted Area'.

6. This Prohibition is subject to the Exceptions stated below.

THE REQUIREMENTS

7. A person who is believed to have engaged in a breach of this Order or anti-social behaviour within the Restricted Area, is required to give their name and address to an Authorised Officer.

8. A person who is believed to have engaged in a breach of this Order, or in anti-social behaviour within the Restricted Area, is required to leave the area if asked to do so by a police officer, police community support officer or other person designated by the Council and not to return for a specified period not exceeding 48 hours.

9. A person must clear up his/her belongings and/or litter if asked to do so by a police officer, police community support officer or other person designated by the Council.

THE EXCEPTIONS

10. Nothing in the paragraph 4(iv) of this Order applies to alcohol being consumed within premises licensed under the Licensing Act 2003 or s115E of the Highways Act 1980.
11. The requirement in paragraph 1(v) of this Order does not apply where the substance:
- i) is used for a valid and demonstrable medicinal or therapeutic purpose;
 - ii) is a cigarette (tobacco) or vaporiser;
 - iii) is a food product regulated by food, health and safety legislation
12. Nothing in paragraphs 1(vi) and (vii) of this Order applies to any person authorised by virtue of the Police, Factories (Miscellaneous Provisions) Act 1916 to undertake an on-street collection of Money

OTHER

13. This Order applies to a public place within the Council's area. The public place is delineated by the red line in the plan annexed at Schedule 1 to this Order and identified as the 'Restricted Area'.
14. The effect of the Order is to impose the prohibitions and requirements detailed herein, at all times, save where specified exemptions apply or where the express permission of the Council has been given on the use of the Restricted Area.

DEFINITIONS

15. For the purpose of this Order the following definitions will apply:

'Alcohol' has the meaning given by section 191 of the Licensing Act 2003;

'Authorised Officer' means a constable, a police community support officer or a person authorised in writing by the Council.

'Beg or begging' means asking for or accepting money, personal, charitable or any other donations or approaching a person for that purpose, when to do so would cause, or is likely to cause, a nuisance or annoyance, harassment, alarm or distress to that person. Examples of nuisance, annoyance, alarm or distress include, but are not limited to, the following:

- (a) Obstructing the path of the person solicited during the solicitation or after the person solicited responds or fails to respond to the solicitation.

- (b) Using abusive language during the solicitation or after the person solicited responds or fails to respond to the solicitation.
- (c) Continuing to solicit a person in a persistent manner after the person has responded negatively to the solicitation.
- (d) Have in their possession any item for holding, inviting or receiving money for the purpose of solicitation.
- (e) Placing self in the vicinity of an automated teller machine, taxi rank or public transport stop to solicit and or soliciting a person who is using, waiting to use, or departing from any of these services.

'Interested person' means an individual who lives in the Restricted Area or who regularly works in or visits that area.

'Public place' means any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission.

'Psychoactive Substances' has the meaning given by section 2 of the Psychoactive Substances Act 2016.

'Restricted Area' has the meaning given by section 59(4) of the Anti-Social Behaviour, Crime and Policing Act 2014 and for the purposes of this Order is shown delineated by the red line in the plan annexed at Schedule 1 to this Order and identified as the 'Restricted Area'.

'Solicit' means to request, in person the immediate provision of money or another thing of value, regardless of whether consideration is offered or provided in return, using the spoken, written or printed word, a gesture or other means.

PERIOD FOR WHICH THIS ORDER HAS EFFECT

16. This Order will come into force at midnight on [] and will expire at midnight on [].
17. At any point before the expiry of this three year period the Council can extend the Order by up to three years if they are satisfied on reasonable grounds that this is necessary to prevent the activities identified in the Order from occurring or recurring or to prevent an increase in the frequency or seriousness of those activities after that time. The Council may extend this order more than once.

WHAT HAPPENS IF YOU FAIL TO COMPLY WITH THIS ORDER?

Section 67 of the Anti-Social Behaviour Crime and Policing Act 2014 says that it is a criminal offence for a person without reasonable excuse –

- (a) to do anything that the person is prohibited from doing by a public spaces protection order, or

(b) to fail to comply with a requirement to which the person is subject under a public spaces protection order

A person guilty of an offence under section 67 is liable on conviction in a Magistrates Court to a fine not exceeding level 3 on the standard scale.

FIXED PENALTY

An Authorised Officer may issue a fixed penalty notice to anyone he or she believes has committed an offence under section 67 of the Anti- Social Behaviour, Crime and Policing Act. You will have 14 days to pay the fixed penalty of £100. If you pay the fixed penalty within the 14 days you will not be prosecuted.

APPEALS

Any challenge to this order must be made in the High Court by an interested person within six weeks of it being made. An interested person is someone who lives in, regularly works in, or visits the safe zone. This means that only those who are directly affected by the restrictions have the power to challenge. The right to challenge also exists where an order is varied by the Council.

Interested persons can challenge the validity of this order on two grounds: that the Council did not have power to make the order, or to include particular prohibitions or requirements; or that one of the requirements of the legislation has not been complied with.

When an application is made the High Court can decide to suspend the operation of the order pending the Court's decision, in part or in totality. The High Court has the ability to uphold the order, quash it, or vary it.

Dated.....

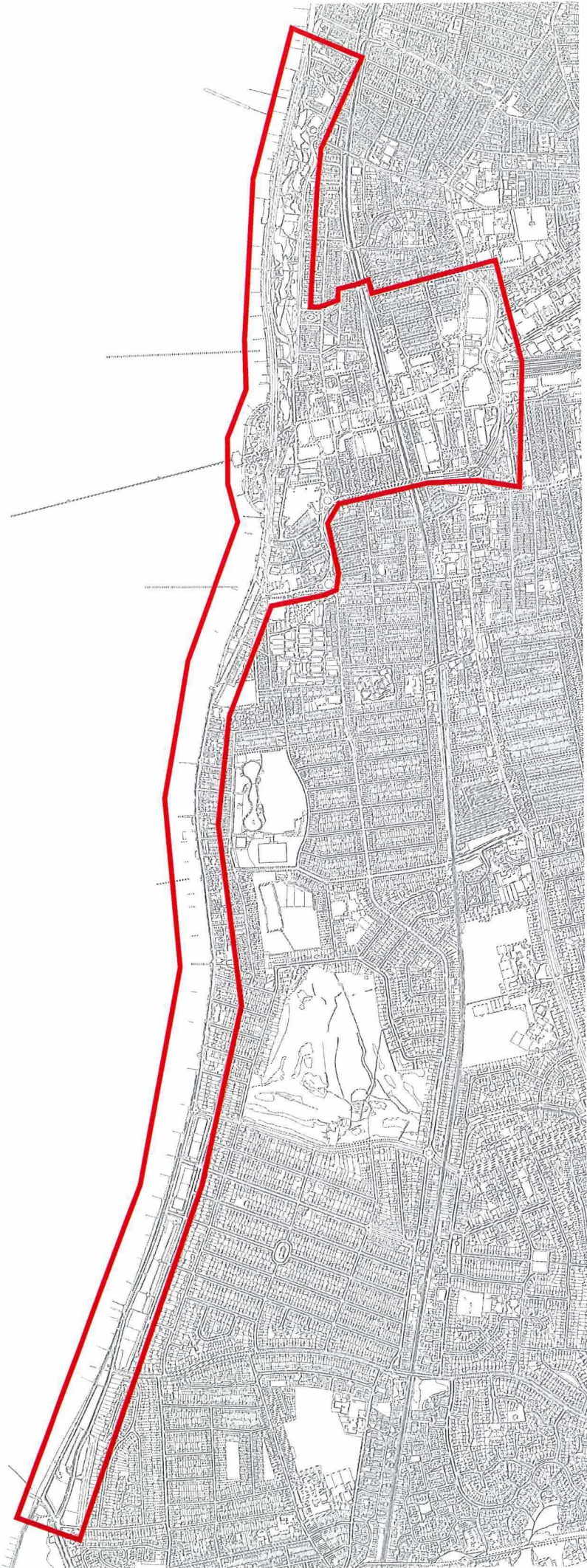
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Section 67 Anti-Social Behaviour Crime and Policing Act 2014

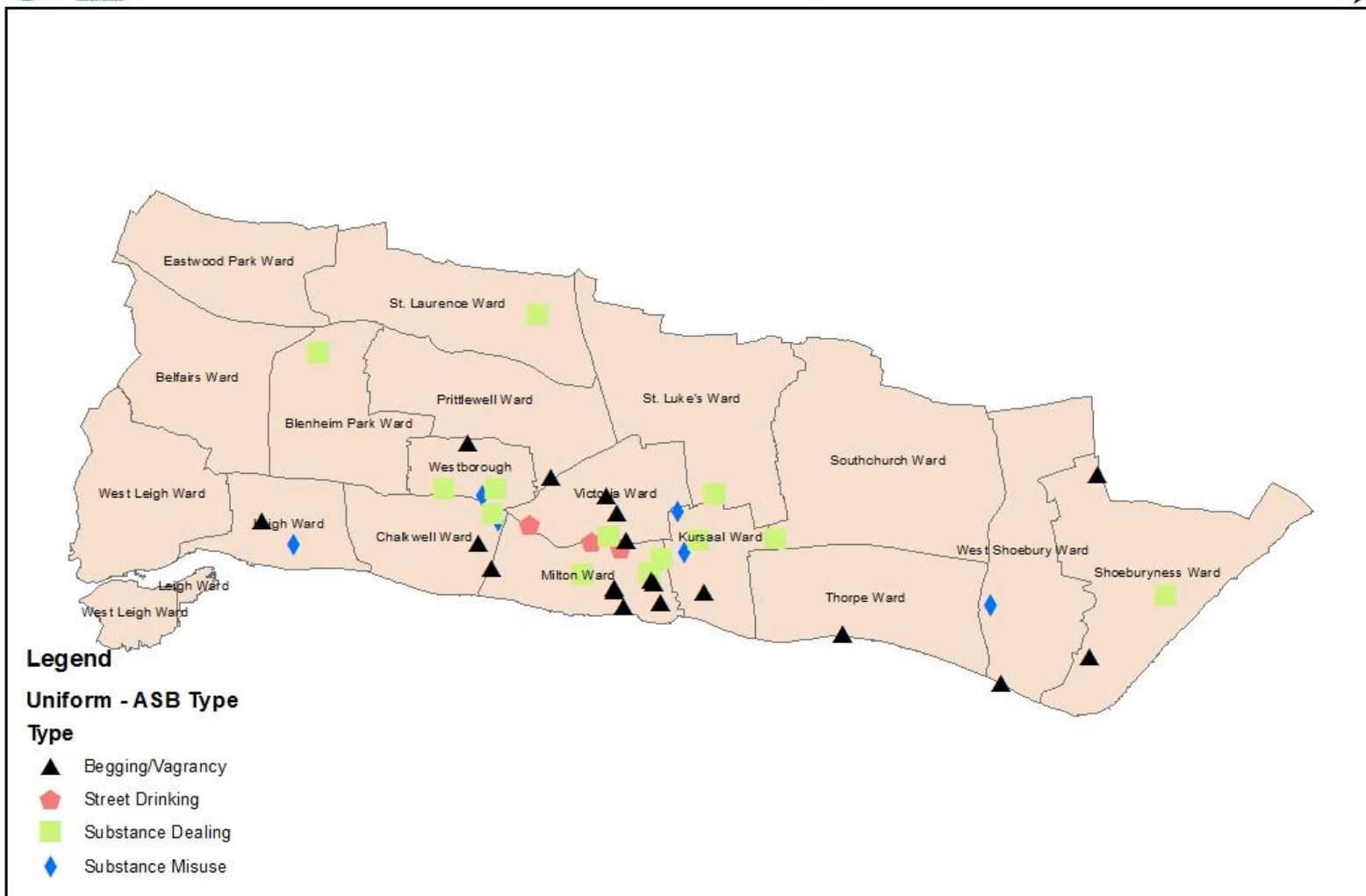
1. It is an offence for a person without reasonable excuse-
 - (a) To do anything that the person is prohibited from doing by a public spaces protection order, or
 - (b) To fail to comply with a requirement to which a person is subject under a public spaces protection order
2. A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale
3. A person does not commit an offence under this section by failing to comply with a prohibition or requirement that the local authority did not have power to include in the public spaces protection order

Schedule 1 to this Order

Plan of the Restricted Area

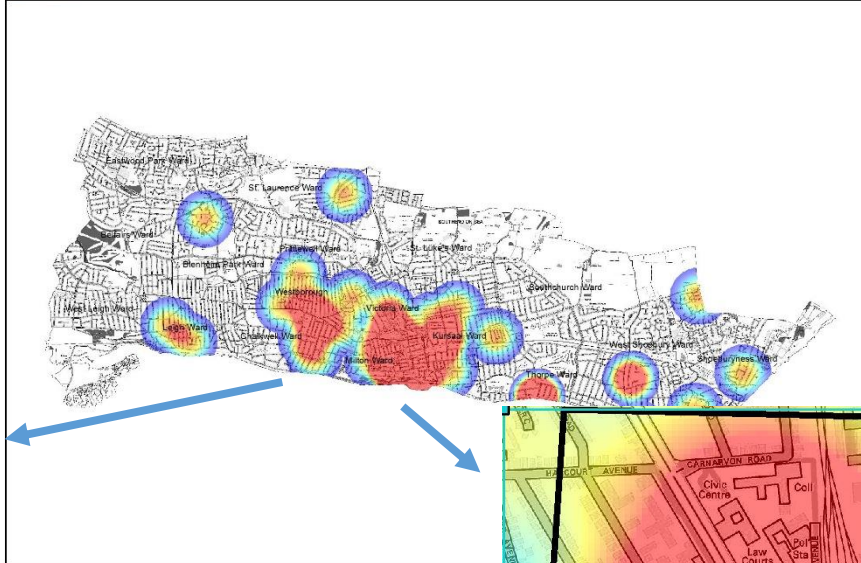


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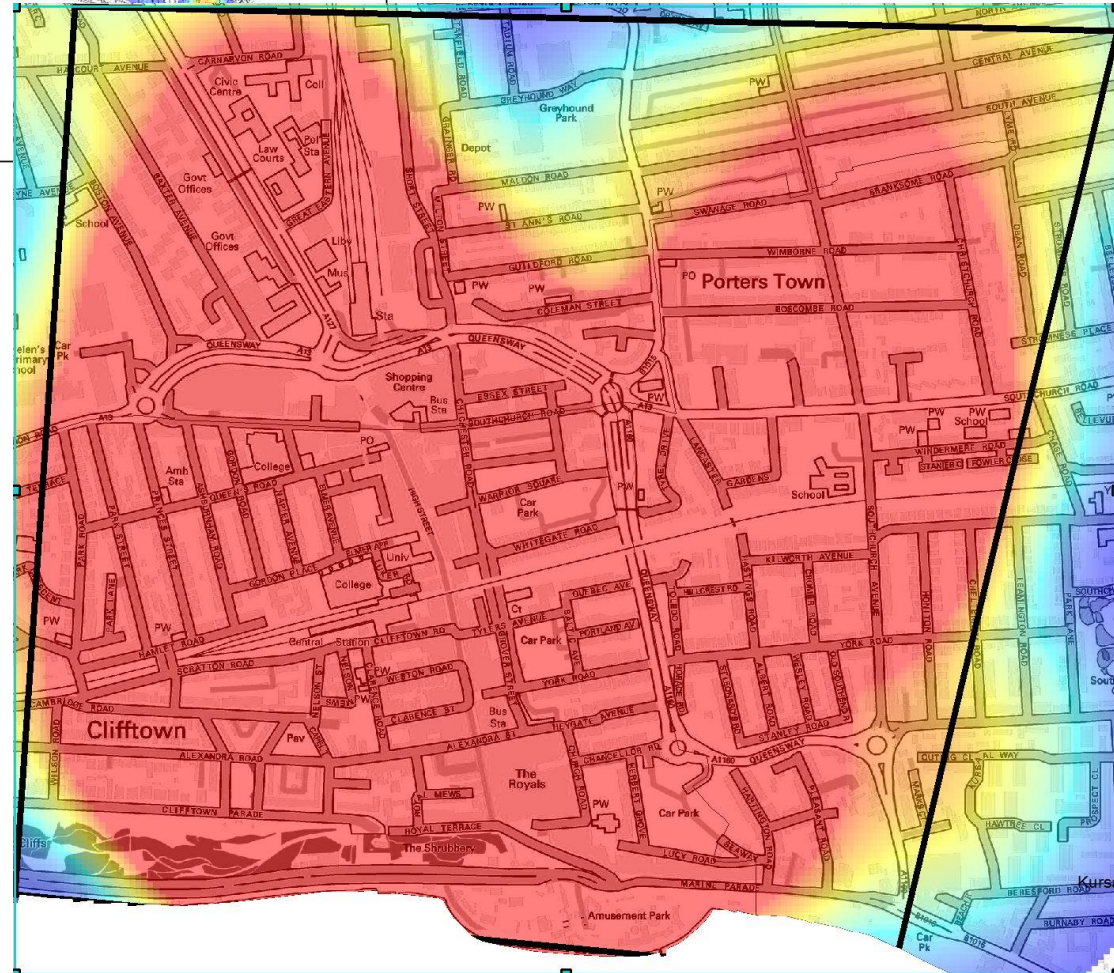


Data, taken from SMAART,
ASB Uniform.

6 Month Period 1st May –
October 2018



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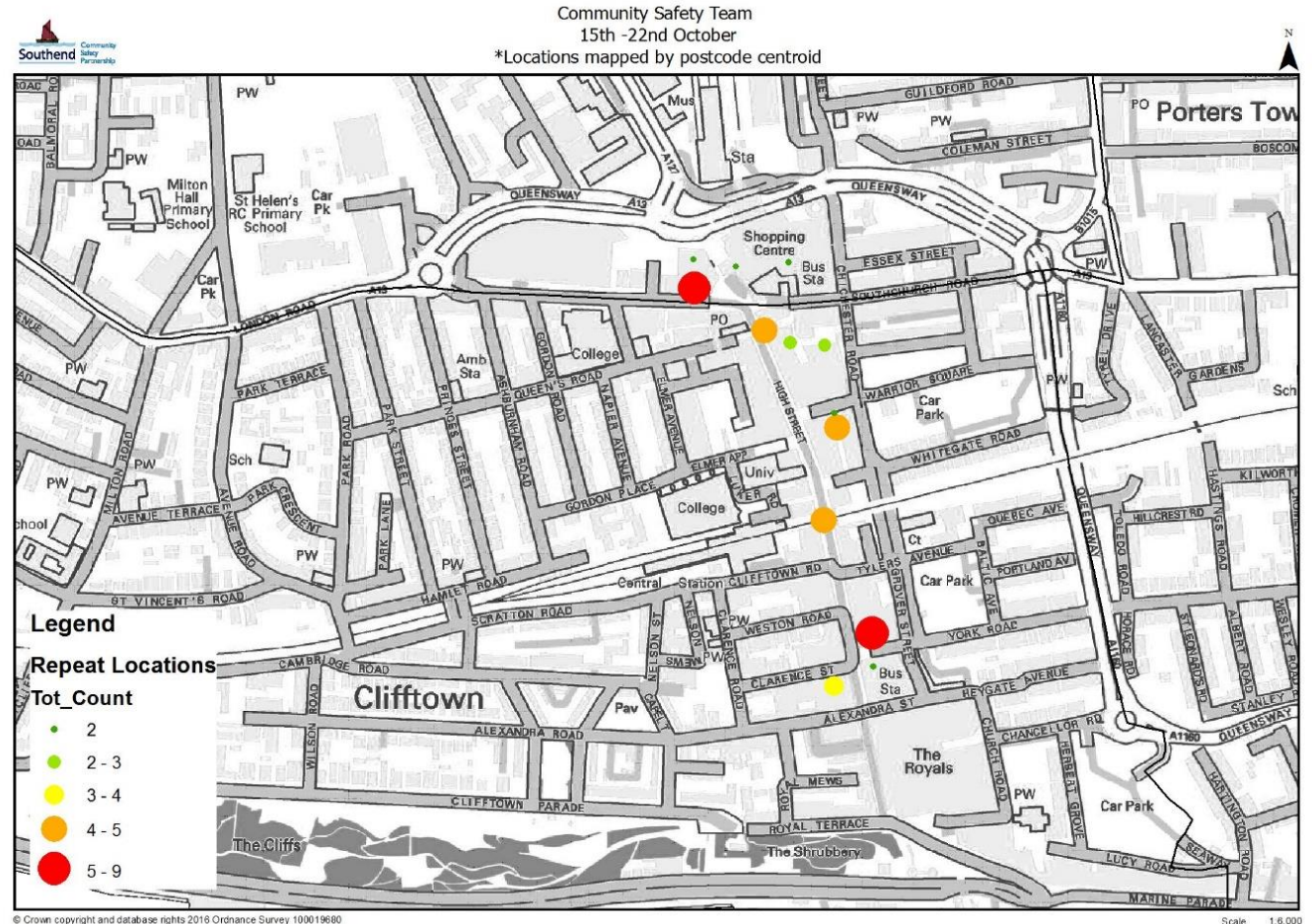
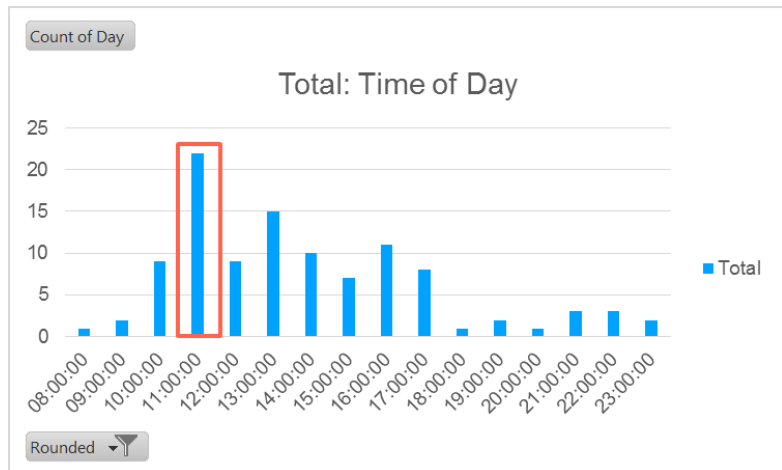
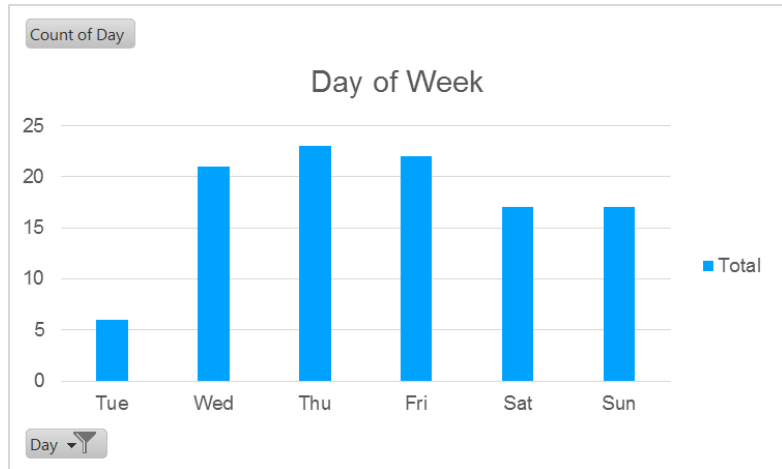


Hot spot areas based on ASB Council Data.

Category	Count
ASB	63
Community Engagement	12
Crime	4
Crime - Intel	1
Potential Evidence	2
Drugs	9
First Aid	4
Missing	1
Public Safety	1
Appreciations	2

ASB	Count
Abusive to staff	1
Aggressive	1
Begging	25
Cycling through town centre	2
Drinking	12
Homeless	18
Verbal Aggressive	1
Youths	2

Community Safety Team 15th – 22nd October 2018



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Scale 1:6,000

LOCATION	May		June		July		August		September	
	Discarded drug litter	Rough sleepers	Discarded drug litter	Rough sleepers	Discarded drug litter	Rough sleepers	Discarded drug litter	Rough sleepers	Discarded drug litter	Rough sleepers
Bell Wharf										2
Chalkwell Espl.										
Chalkwell Park		2		2			2	15	2	2
Crowstone							450	0		
Dalmatia Road										
East Beach							0	3		
Elm Road		4	2	2						4
George Street										
Hamlet Court Road		4					5	11		1
Lagoon (Three Shells)						13	150	9		12
Marine Parade		2		4		10	0	8		
Ness Road										
Pitmans	469	21	11	4	15	7	411	14		
Seaway		3	2	2			1	7	9	6
Shoebury Common										
Shorefields										
Sutherlands Blvd										1
Thorpe Bay Corner										
Alexandra Bowl	1								1	
Belfairs Park										
Easwood Park										
Priory park									2	
Shoebury Park	2								1	
Southchurch Pk										
Southchurch Pk Café									2	4
Southchurch Hall Gdn							0	7		
Total	472	36	15	14	15	20	1019	74	17	32

Veolia – Monthly toilet reports for discarded drug litter and Rough Sleepers.