

PLYMOUTH CITY COUNCIL

Subject:	Adoption and Implementation of Anti-Social Behaviour, Crime and Policing Act 2014
Committee:	Cabinet
Date:	9 December 2014
Cabinet Member:	Councillor Penberthy Councillor Vincent
CMT Member:	Carole Burgoyne (Strategic Director for People)
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Ref:	
Key Decision:	Yes
Part:	I

Purpose of the report:

Government have set out a new approach to crime, policing and community safety, by introducing the Anti-Social Behaviour, Crime & Policing Act 2014 which received Royal Assent on 13 March 2014, and which came into force on the 20 October 2014. This report focuses specifically on the new anti-social behaviour 'tools and powers'.

The Act reduces the suite of nineteen powers for tackling anti-social behaviour, replacing them with six new ones. Measures such as the Community Remedy¹ and the Anti-Social Behaviour Case Review (also referred to as the "Community Trigger"). Government say this will empower victims and communities to have a say in the outcome of their reports and hold agencies to account.

Although Government says these powers will be faster and more flexible in tackling anti-social behaviour and the underlying issues, there are some concerns about certain aspects of the legislation in respect of longer timelines in taking cases to County Courts, and additional associated court costs and the potential need for additional staffing resources.

The emphasis in the legislation is also to support the vulnerable victims of anti-social behaviour and find long term sustainable solutions to the problem of anti-social behaviour. The quality of our partnership arrangements, both internally and externally, will be key to the efficient and effective implementation of this legislation.

¹ <http://www.devonandcornwall-pcc.gov.uk/News-and-Events/News-Archive/2014/Communities-set-their-own-remedy-for-low-level-crime.aspx>

The purpose of this report is to lay out the framework and recommendations for the implementation of the new tools and powers.

The Brilliant Co-operative Council Corporate Plan 2013/14 -2016/17:

Pioneering Plymouth – Designing enforcement services that are more accountable, flexible, efficient and accessible to local communities. Ensuring that resources are responsive to need, simplifying the enforcement landscape and avoiding a duplication of resource required to resolve any particular situation.

Brilliant Co-operative Council – Working in partnership with communities and agencies to deliver a common ambition.

Caring – We will promote a fairer, more equal city by investing in communities, putting citizens at the heart of decision-making, promoting independence and reducing health and social inequality.

- We will prioritise prevention.
- We will help people take control of their lives and communities.
- Children, young people and adults are safe and confident in their communities.
- People are treated with dignity and respect.

**Implications for Medium Term Financial Plan and Resource Implications:
Including finance, human, IT and land:**

There are cost and resource implications which include: -

- The potential impact upon revenue budgets in respect of new court costs in both the Magistrates and County Courts.
- Some additional advertising and signage costs.
- IT – a fit for purpose database to capture statistical information in respect of implementing the legislation effectively.
- Training – a programme of ongoing training for local authority and relevant partners including the Police.
- Resources requiring local authority and relevant partners working together to manage an initial or ongoing increased demand for Anti-Social Behaviour Case Review requests.
- Any additional costs arising from implementation will be contained within existing budgets or mitigating action taken by management to contain any cost pressure to the Council.

Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:

- Community Safety – the implementation and ‘testing’ of the legislation can serve to enhance approaches to tackling anti-social behaviour, ensuring that partners maximise the use and availability of enforcement resources to the benefit of our communities.
 - Health and Safety – progression of options may see a requirement for enhanced training to mitigate potential threats arising from increased enforcement activity by individuals.
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Equality and Diversity:

- Whilst the Home Office has carried out Impact Assessments for each aspect of the new legislation² these do not appear to have reflected/taken account of the impact across all the 'protected characteristics'.
- An Equality Impact Assessment has been conducted which has only identified one potentially adverse impact on 'age' which is mitigated through Recommendation 6 in this report. See http://www.plymouth.gov.uk/eia_homes_and_communities.pdf
- We are aware that anti-social behaviour can often be motivated by hate crime.

Recommendations and Reasons for recommended action.

It is recommended that Cabinet:

- 1) Note the provisions of Anti-Social Behaviour, Crime & Policing Act 2014.
- 2) Agree that 'Injunctions' are only used in cases where behaviour is likely to cause or is causing the most harassment, alarm and distress.
- 3) Agrees that, in respect of Community Protection Notices, the Fixed Penalty Notice for environmental anti-social behaviour is set at £100 and that authority is delegated to the Cabinet Member for Environment to agree any future variations and early repayment reductions.
- 4) Agrees not to designate Community Protection Notice powers to Registered Housing Providers and that the Scrutiny Board is asked to consider this decision.
- 5) Agrees 'closure powers' are only used in circumstances where premises are linked to nuisance to the public or disorderly, offensive or criminal behaviour of a serious nature.
- 6) Notes that the Chief Executive will designate authority for signing off Closure Notices to the Community Safety & Partnerships Manager.
- 7) Agrees to work closely with the Police to influence the way in which the new police power to disperse is applied taking into account previous learning and experience in process Dispersal Orders.
- 8) Agrees to explore with the Police options for consulting or notifying Ward Councillors when Police use their powers to disperse.
- 9) Agrees that authority for signing off Public Spaces Protection Orders is delegated to relevant Cabinet Member with responsibility for Environment and/or Community Safety.
- 10) Cabinet recommends that the 'Collaborative Enforcement/Don't Walk By' Pilot is used as the means for testing the Public Spaces Protection Order power in order to work through and identify relevant processes for consideration for city-wide implementation.
- 11) Agrees that the 'single point of contact' for all Anti-Social Behaviour Case Review Requests is the Community Safety & Partnerships Manager.
- 12) Agrees the threshold level of 3 separate qualifying complaints within 6 months as the threshold for triggering an Anti-Social Behaviour Case Review.
- 13) Agrees to work closely with Registered Housing Providers to explore the viability of establishing 'Tenant Champions'.
- 14) Agrees to work with the community and voluntary sector and other relevant partners and agencies, to explore options for engaging communities in supporting the ASB Case Review process.
- 15) Agrees to delegate authority to the Head of Community Services to decide on any appeals against the outcome of Anti-Social Behaviour Case Reviews.

² <https://www.gov.uk/government/publications/anti-social-behaviour-crime-and-policing-bill-anti-social-behaviour>

Reasons:

To agree how Plymouth City Council implements the new tools and powers in accordance with the Anti-Social Behaviour, Crime and Policing Act 2014.

Alternative options considered and rejected:

To do nothing: - This option was rejected because the authority needs to explore how it can improve the effectiveness of current enforcement resources to deliver this new legislation.

An alternative option: In the case of Anti-Social Behaviour Case Reviews, an option would be to have an Anti-Social Behaviour Case Review threshold of more than the Home Office's recommended minimum of three qualifying complaints but this is not recommended.

Benchmarking has shown that nationally the majority of councils have adopted the 3 qualifying complaint threshold. Adopting a higher number would increase the risk that vulnerable members of the community may not receive sufficient support through an early review of their issues.

Published work / information:

Anti-social Behaviour, Crime and Policing Act 2014

<http://services.parliament.uk/bills/2013-14/antisocialbehaviourcrimeandpolicingbill.html>

Home Office Guidance in respect of the Anti-Social Behaviour, Crime and Policing Act 2014

<https://www.gov.uk/government/collections/anti-social-behaviour-crime-and-police-bill>

Home Office report: "Empowering Communities, Protecting Victims Summary Report on the Community Trigger trials (May 2013)

<https://www.gov.uk/government/publications/empowering-communities-protecting-victims-summary-report-on-the-community-trigger-trials>

Community Remedy Document – signed by Devon and Cornwall Police and Crime Commissioner and the Chief Constable for Devon and Cornwall Police

[http://www.devonandcornwall-pcc.gov.uk/Document-Library/Scan---Signed-Community-Remedy-Document-\(2\).pdf](http://www.devonandcornwall-pcc.gov.uk/Document-Library/Scan---Signed-Community-Remedy-Document-(2).pdf)

Background papers:

None.

Sign off:

Fin	NC People FHC1415 002	Leg	DSa 21/11/ 14	Mon Off	DVS/ 21763	HR		Assets		IT		Strat Proc	
Originating SMT Member: Carole Burgoyne (Strategic Director for People)													
Has the Cabinet Member(s) agreed the content of the report? Yes													

1.0	BACKGROUND
1.1	Government have set out a new approach to crime, policing and community safety, by introducing the Anti-Social Behaviour, Crime & Policing Act 2014 which received Royal Assent on 13 March 2014, which came into force on the 20th October 2014.
1.2	<p>Government’s objective of the legislation is to provide “more effective powers” and “putting victims first” in order to resolve anti-social behaviour problems using a range of fewer tools, and powers per the illustration below:</p> <p>PEOPLE</p> <ul style="list-style-type: none"> ASBO ASBO On Conviction Drink Banning Order Drink Banning On Conviction ASB Injunction Individual Support Order Intervention Order <p>PLACES</p> <ul style="list-style-type: none"> Litter Clearing Notice Street Litter Clearing Notice Graffiti / Defacement Removal Notice Designated Public Place Order Gating Order Dog Control Order Premises Closure Order Crack House Closure Order Noisy Premises Closure Order S161 Closure Order <p>POLICE POWERS</p> <ul style="list-style-type: none"> S.30 Dispersal Order S.27 Direction to Leave <p>The quality of our partnership arrangements, both internally and externally, will be fundamental to delivering these new tools and powers efficiently and effectively.</p>
1.3	<p>The tools and powers, under the new legislation, resonate with the Council’s corporate priorities of ‘Democratic’; ‘Responsible’; ‘Fair’ and ‘Partners’. The new Anti-Social Behaviour Case Review (also referred to as the ‘Community Trigger’) tool, in particular, allows people to hold relevant agencies accountable for how they have dealt with anti-social behaviour.</p> <p>Two new aspects of the legislation, the Public Spaces Protection Order (PSPO) and the Community Protection Notice (CPN), provide an opportunity for Plymouth City Council to provide strong community leadership and encourage mutual respect and for people to behave in a way that strongly encourages taking responsibility and caring about the impact of behaviour on others.</p> <p>For example an early intervention/preventative approach is the CPN which follows the issue of a warning for tackling environmental anti-social behaviour. The CPN itself is a street-issued set of bespoke conditions tailored to the particular circumstances of the situation on the ground.</p>

	<p>The new 'Closure' powers have the potential to enable agencies to intervene early and protect the community by preventing crime before it has occurred.</p> <p>All of the new tools and powers provide Plymouth City Council with an opportunity to build on existing strong community leadership and working arrangements with partners to deliver a common ambition.</p>
1.4	<p>Delivery of the new tools and powers legislation will be underpinned by the 'triangle of enforcement'. The base is prevention with early intervention and enforcement the other two sides. Legal enforcement is a very necessary part but, most commonly, should be a last resort.</p> <p>Whilst this legislation is primarily aimed at early intervention and prevention, sometimes legal enforcement has to be a first resort, where there is a clear and present danger of risk or harm to a person or persons.</p>
1.5	<p>A great deal of local preparatory work has been undertaken locally in the run up to the introduction of this legislation collaboratively between the Safer Plymouth Team (Community Safety Partnership), working with the Police, Office of the Police and Crime Commissioner, Public Protection Service, Youth Offending Service and Plymouth Community Homes and other Registered Housing Providers.</p> <p>Additionally, Council staff have been involved in contributing to a number of peninsula Task & Finish Groups. The membership of the peninsula Task & Finish Groups has been drawn from Community Safety Partnerships, Public Protection Services, Anti-Social Behaviour Teams, Force Legal Department, the Office of the Police and Crime Commissioner, and other relevant partners from across Devon & Cornwall. The aim being to provide a consistent approach to implementing the legislation across Devon & Cornwall and which can be applied and adapted locally.</p> <p>The products from the Task and Finish Groups are still in development and include the following;</p> <ul style="list-style-type: none"> • Application packs/forms as required. • Working practice/procedural documents as required. • Training/learning materials as required. <p>These products will need to be kept under review in respect of emerging case law.</p> <p>The work of the peninsula Task and Finish Groups has been key to informing and supporting our own preparatory work, whilst recognising that in some cases, local decision making by Plymouth City Council is required and covered in this report.</p>
1.6	<p>The Safer Plymouth Team (which combines Anti-Social Behaviour and Community Safety Officers) has recently been reviewed and reconfigured to align itself better to delivery of the new legislation effectively, including adopting a more 'locality' based arrangement.</p>

	<p>Additionally, a new system of tackling anti-social behaviour and intervening much earlier has recently been trialled and will be rolling out across the city. This new approach will be useful when evidencing how the Police and Council have worked proactively and at the earliest opportunity to prevent escalation and demonstrate this as part of any Anti-Social Behaviour Case Review.</p> <p>Alongside the Safer Plymouth team review, a review of the Anti-Social Behaviour Victim Champion Service is being undertaken to ensure it also aligns to, and complements, the new legislative requirements.</p> <p>Much of this legislation has still yet to be tested and potentially opens the door for increased demand and higher expectations from communities in how agencies are addressing anti-social behaviour, which could impact across a range of other relevant Council Departments, for example the Public Protection Service as well as other partner agencies.</p>
2.0	<p>INJUNCTION (NB: This power has been delayed, and is not due to come into force before January 2015)</p>
2.1	<p>Lead Agency: <u>Plymouth City Council</u></p> <p>Note: Police also have the power to apply for an injunction, however, a Force Legal directive requires that any Police applications follow the Safer Plymouth Anti-Social Behaviour Escalation process where applicable.</p> <p>Other agencies who can also apply for an injunction: Registered Housing Providers, Environment Agency and National Health Service.</p> <p>Note: The applicant agency is also responsible for prosecuting any breach of an injunction and not the Crown Prosecution Service.</p>
2.2	<p>Description: This replaces the Anti-Social Behaviour Order and Anti-Social Behaviour Injunction which was only available to Registered Housing Providers, Individual Support Order and Intervention Order.</p> <p>Plymouth City Council is ready to use this tool with nothing further needed to be put in place, because the process for applying for and obtaining Injunctions is familiar and well established.</p>
2.3	<p>Purpose: To stop or prevent individuals, by court order, engaging in anti-social behaviour quickly, nipping problems in the bud before they escalate. Positive requirements as well as prohibitions are available. For example, to attend anger management counselling.</p> <p>Note: Before including a requirement, the Court must receive evidence about its suitability and enforceability from an individual representing the organisation offering and managing the positive requirement and so can, and will only be, imposed where the provision is readily available. There is no direct cost to the Council to fund this provision.</p>

2.4	<p>Financial Implications: £280.00 per application plus a further fee of between £50 and £155 for any further application within the same proceedings. This places an additional pressure on already stretched Council budgets.</p> <p>Note: If Police refer the case to Plymouth City Council, they have indicated they will meet the cost.</p> <p>It is hard to estimate, but it is envisaged that Plymouth City Council would seek no more than 10 injunctions per year and the average fees for an injunction would be in the region of £560 (£5600 for a total of 10). Past experience has shown that there are, on average, 2 breaches per injunction, the fees for which have been factored in to the ‘average fee’ per injunction. It should be noted that this only covers injunctions applied for by Safer Plymouth, and further costs could be incurred by other departments including for example Youth Offending Services, Planning and Public Protection Service.</p> <p>Being mindful of the cost implications of pursuing an Injunction it is recommended, therefore, that his power is only applied where most appropriate and necessary, and where a clear Power of Arrest will apply on the evidence for the reasons set out in 2.5 below.</p>
2.5	<p>Benefits: The Applicant retains control throughout the entire process, including the decision to prosecute for any breach of the conditions. With a Power of Arrest the police will arrest the perpetrator for any breach and be responsible for putting him/her before the court.</p> <p>Interim injunctions are usually obtainable very quickly, often within a matter of hours if on a ‘without notice’ basis, effectively without the perpetrator being told about the application.</p> <p>It may be possible to use this legislation in cases of Domestic Abuse in respect of excluding the perpetrator from the home where the abuse is occurring and indeed using professional witness evidence to secure the injunction even where the victim will not assist. It would still be a breach of the injunction if the perpetrator returned to the home, even if the victim encouraged or allowed the perpetrator to return.</p> <p>This type of injunction also allows for the prescription of ‘positive requirements’, for example making a perpetrator of domestic abuse undertake actions, for example attending an anger management or perpetrator programme (see paragraph 2.3 above).</p>
2.6	<p>Risks: Without a Power of Arrest (which is only available where there is the use or threat of violence or a significant risk of harm) prosecution for breach is a difficult, resource intensive and lengthy process because the police will not be involved i.e. the applicant must find and bring the perpetrator to court and prosecute the alleged breach. In reality, unless a power of arrest is obtainable on the evidence an injunction would not be appropriate.</p> <p>Contested cases can be a very slow process, expensive and with no guarantee of costs recovery due to a Respondent’s financial circumstances.</p> <p>Positive requirements will need to be funded and supervised by the applicant.</p>
2.7	<p>See Recommendation 2.</p>

3.0	CRIMINAL BEHAVIOUR ORDER (CBO)
3.1	<p>Lead Agency: <u>Plymouth City Council and the Police</u></p> <p>Note: Plymouth City Council can apply for CBOs on the back of convictions obtained when we are the prosecuting authority and this will continue.</p> <p>Other agencies who can apply for a CBO: The Police can request the Crown Prosecution Service to apply for a CBO on the back of a conviction. The courts can also make such an order of their own volition where they see fit.</p>
3.2	Description: The only form of anti-social behaviour order remaining. This replaces/amends the existing Criminal Anti-Social Behaviour Order (CRASBO) and Drink Banning Order (DBO) on Conviction.
3.3	Purpose: A CBO can address a person's crime and wider anti-social behaviour by imposing a set of prohibitions or positive requirements and made by the criminal court (Magistrates') following a conviction.
3.4	Financial Implications: There is currently no requirement to pay any court fees for orders on conviction, however, there is always the risk that this could change in the future.
3.5	<p>Benefits: This power has the potential to strengthen partnership working and practices between Plymouth City Council, the Police and the Crown Prosecution Service. There are opportunities for using the CBO more widely and innovatively as the ability to apply for a CBO can result from any successful prosecution by the Council, for example through various enforcement duties of any Council department (licensing, noise, parking, planning etc)</p> <p>There is a potential opportunity to target particular types of crime and anti-social behaviour by using the Criminal Behaviour Order in conjunction with Community Protection Notices (see 4.0 below) issued by Plymouth City Council. Essentially, where the breach of a CPN is prosecuted successfully, a CBO could be applied for on that conviction.</p>
3.6	<p>Risks: This tool is more reactive than proactive as it is impossible to predict when an offence will be committed and a conviction obtained.</p> <p>Positive requirements can only be applied where the resources exist and are readily available.</p>
3.7	Recommendations: None.
4.0	COMMUNITY PROTECTION NOTICE (CPN) (NB: The 'Statutory Instrument' that covers designation by Local Authorities to Registered Housing Providers has yet to be finalised – this is expected early in 2015.
4.1	<p>Lead Agency: <u>Plymouth City Council</u></p> <p>Other agencies who can issue a CPN: Police officers, Police Community Support Officers (PCSOs). Registered Housing Providers (RHPs) may be designated if they approach Plymouth City Council.</p>

4.2	<p>Description: A completely new power that addresses anti-social behaviour in respect of both behavioural issues, and also low-level environmental crime such as flyposting, graffiti and litter.</p>
4.3	<p>Purpose: To stop a person aged 16 or over, business or organisation, if satisfied on reasonable grounds that the conduct of the individual or body is having a detrimental effect of a persistent or continuing nature, on the quality of life of those in the locality.</p> <p>The Anti-Social Behaviour South West Forum is a group of RHPs that meet regularly from across the peninsula to share best practice and discuss legislative change. These tools and powers, and RHPs' use of them, has been the subject of much discussion in this forum. RHPs are aware that they need to approach their respective Local Authority if they require designation. It is understood from feedback from this forum that there is little appetite to be designated with this power (see 4.6 Risks).</p> <p>Further, local discussion, including with, Sovereign Housing Association, Devon & Cornwall Housing Association and Plymouth Community Homes mirrors the South West Forum view.</p>
4.4	<p>Financial Implications: £ Nil</p> <p>The Fixed Penalty Notice amount for 'environmental' anti-social behaviour is set in the Act as a maximum of £100, with an option for a lower fine for early repayment. Any variation and consideration for any early repayment fee will be delegated to the Cabinet Member for Environment.</p>
4.5	<p>Benefits: This is a flexible tool which can be issued promptly on the street, following an initial warning, and as soon as a problem manifests itself. Plymouth City Council can be seen to be responding quickly to anti-social behaviour. These powers provide an additional tool to use, for many types of environmental crime complaints.</p> <p>Effectively this is similar to other powers as can be used to prohibit activities or impose positive requirements.</p> <p>This will be used proactively by both the Police (via the Anti-Social Behaviour Escalation process) and by Plymouth City Council. Breaches can be dealt with either by Fixed Penalty Notice or Prosecution in the Magistrates' Court (for which there is no cost).</p> <p>We will consider the use of a CBO (paragraph 3.0 above) to deal with repeated breaches of a CPN.</p> <p>CPNs issued by the PPS will be dealt with by way of a Fixed Penalty Notice, for which processes are already in place. CPNs issued by the Police will be dealt with via Plymouth City Council upon summons.</p> <p>Plymouth are unique in that if a CPN is issued by Police in Plymouth, we already have a dedicated ASB Lawyer to take that prosecution forward. Other areas in the force, and possibly the country, will be reliant on their respective Police Force legal departments or private law firms, meaning significant additional costs.</p>

4.6	<p>Risks: Whilst this piece of legislation is viewed positively in terms of agencies acting early where these issues cannot be tackled in other ways, there is a concern about the increased demand on resources.</p> <p>There is a potential risk of duplication in respect of different agencies issuing CPNs. So consideration needs to be given to ensure a method for working collaboratively between the two departments and agencies.</p> <p>It is envisaged that as part of setting up a new system of regular multi-agency ‘Target Meetings’ it is hoped this is one of ways in which potential duplication will be negated, but this is yet to be tested as part of a new way of working.</p> <p>It is understood that the Police will face difficulties prosecuting breaches and may be relying on ‘summons’ for breaches. However, this approach could impact significantly on the dedicated ASB Lawyer’s time to prosecute.</p> <p>Legal input will be required on the conditions included within a CPN, as each must be bespoke - the issue of a CPN can be appealed to the Magistrates’ Court. This is a lengthy process and may involve Council officers’ time defending appeals. The cost of any appeal is borne by the Appellant.</p> <p>Plymouth Community Homes have advised that, if they were to be designated by the Council, where there are breaches they would expect Plymouth City Council to prosecute those breaches, as they have no legal resource to enforce breaches. It is understood that other RHPs would take the same approach. However, it should be noted that RHPs do already have other powers available to them.</p> <p>Whilst every effort will be made to deliver this within existing resources, an increased demand on services is anticipated, and so may need to be kept under review.</p>
4.7	<p>See Recommendations 3 and 4.</p>
5.0	<p>CLOSURE POWER</p>
5.1	<p>Lead Agency: <u>Plymouth City Council or Police in consultation with each other.</u></p>
5.2	<p>Description: Combines and amends the former Closure Order and Premises Closure Order and also applies to Licensed Premises.</p>
5.3	<p>Purpose: To allow the police or local authority to quickly close premises which are being used, or likely to be used,</p> <ul style="list-style-type: none"> (a) to commit nuisance or disorder, or (b) where disorderly, offensive or criminal behaviour is happening on or near the premises.

	<p>A Closure Power can either effectively close a premises for a minimum period of 24 hours, which can be extended to 48 hours, upon service of a Closure Notice. Or, can be closed for a period of three to six months under an order of a Magistrates' Court.</p> <p>In the case of a Plymouth City Council application, the legislation prescribes that Chief Executive or person designated³ by the Chief Executive is required to sign off 24 or 48 hour Closure Notices.</p> <p>In the case of Police applications, the legislation specifies police ranks of Inspector for 24 hour Closure Notice and Superintendent for 48 hour Closure Notice.</p>
5.4	<p>Financial Implications: £720 when contested, as is most often the case. £205 when the matter is uncontested.</p> <p>This puts a new additional financial pressure on existing and already stretched Council budgets. Based on past experience of former closure legislation, it is estimated that PCC would be required to seek up 5 closures per year, that past experience shows are generally contested, so a conservative estimate of between £3,000 and £4,000 per year.</p> <p>Note: If Police refer the case to Plymouth City Council, they have indicated they will meet the cost.</p>
5.5	<p>Benefits: This is an expedient process and court proceedings complete within 16 days from Notice to Order. The power is no longer limited to drug use and anti-social behaviour and there is potential for its wider use.</p> <p>The community will benefit from, and observe, agencies taking a proactive and rapid approach to problematic premises. Plymouth City Council has historically used previous 'closure' legislation to good effect.</p>
5.6	<p>Risks: We have identified some practical administrative obstacles, which may affect using this power over a weekend, however, we are currently in consultation with the Magistrates' Court to find a way to address this.</p>
5.7	<p>See Recommendations 5 and 6.</p>
6.0	<p>POLICE POWER TO DISPERSE</p>
6.1	<p>Lead Agency: <u>Police</u></p>
6.2	<p>Description: Gives power to the Police to require a person committing or likely to commit ant-social behaviour, crime or disorder to leave an area for up to 48 hours.</p> <p>Removes the requirement for the Police to apply to the Local Authority for a Dispersal Order.</p> <p>Replaces the former Police S27 Directions to Leave.</p>

³ <http://www.legislation.gov.uk/ukpga/2014/12/section/77/enacted>

6.3	Purpose: To quickly and proactively stop anti-social behaviour, for example, by obtaining pre authorisation from a Police Inspector, for events such as football matches, or in neighbourhoods where anti-social behaviour is anticipated, and can be targeted in areas where there are emerging or disproportionate levels of anti-social behaviour,
6.4	Issuer: Police officers in uniform; and Police Community Support Officers (who have been designated the power by the Chief Constable)
6.5	Financial Implications: £Nil
6.6	Benefits: Government have taken this power away from Local Authorities on the basis that it has introduced a more, rapid, flexible and less admin-heavy process for the Police and Local Authorities.
6.7	<p>Risks: Plymouth City Council has taken great efforts to be inclusive of Ward Members, the most local level of democracy, when consulting on Dispersal Orders under previous legislation. This new power excludes this consultative step, potentially leading to lack of consistency and less local engagement.</p> <p>This was a valuable and effective power for Plymouth City Council working with the Police that was well known amongst communities in Plymouth and was proven effective through evaluation of every Dispersal Order. The risk is managing community expectation that new powers will be equally effective.</p> <p>Previously Dispersal Orders were well publicised and so communities were aware that they were going to come into force, providing community reassurance that something was being done to effectively address anti-social behaviour. The public will now be less aware of the new powers, and therefore it could reflect negatively on the Local Authority who may be viewed as not taking anti-social behaviour as seriously.</p> <p>This is yet untested and is heavily reliant on Police resources to tackle anti-social behaviour directly and to effectively enforce the new power.</p>
6.8	See Recommendations 7 and 8.
7.0	PUBLIC SPACES PROTECTION ORDER (PSPO)
7.1	<p>Lead Agency: Plymouth City Council.</p> <p>Councils can make a PSPO, where satisfied on reasonable grounds that two conditions are met, the first condition is that:</p> <ul style="list-style-type: none"> (a) activities carried on in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality, or (b) it is likely that activities will be carried on in a public place within that area and that they will have such an effect.

	<p>The second condition is that the effect, or likely effect, of the activities:</p> <ul style="list-style-type: none"> (a) is, or is likely to be, of a persistent or continuing nature, (b) is, or is likely to be, such as to make the activities unreasonable, and (c) justifies the restrictions imposed by the notice.
7.2	<p>Description: This replaces the Designated Public Place Order, Gating Orders, and Dog Control Orders. However where these already exist, they will be permitted to continue for up to 3 years from the date of the introduction of the legislation.</p>
7.3	<p>Purpose: To deal with a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life, eg restrict the consumption of alcohol in public places, controlling dogs, begging by imposing conditions on the use of that area that apply to everyone. Designed to ensure the law abiding majority can use public spaces safe from anti-social behaviour.</p> <p>A PSPO can be made when a local authority is satisfied that in a public place there is continuing, unreasonable behaviour which has or is likely to have a detrimental effect on quality of life of persons in the locality.</p> <p>Failure to comply with a PSPO can be dealt with by way of a Fixed Penalty Notice or prosecution. Repeated non-compliance could then lead to other forms of anti-social behaviour action, such as a CBO.</p> <p>It is important that PSPOs are used to deter activities that affect the local community and where enforcement would be supported.</p>
7.4	<p>Financial Implications: Cost of advertising/signage will be an issue on a case by case basis.</p>
7.5	<p>Benefits: Plymouth City Council and the Police can work together to achieve improved quality of life in public spaces, not just to issue an order but to ensure compliance with it. This is a flexible tool in that the public space can be of any size up to the whole local government area or a small playground.</p> <p>Plymouth City Council can use this proactively in respect of promoting expectations of 'good behaviour' tailored to fit with the Council's vision of being One of Europe's most vibrant waterfront cities where an outstanding quality of life is enjoyed by everyone.</p> <p>There are opportunities to explore how we can maximise opportunities to 'designate' Council staff as appropriate to deal with breaches which will be explored initially as part of the developing 'Collaborative Enforcement/ Don't Walk By' Pilot.</p>
7.6	<p>Risks: The risks are how we can ensure there will be enough staff to 'enforce' breaches. This will be explored as part of the 'Collaborative Enforcement/Don't Walk By' Pilot.</p>
7.7	<p>See Recommendations 9 and 10.</p>

8.0	ANTI-SOCIAL BEHAVIOUR CASE REVIEW (ALSO REFERRED TO AS THE 'COMMUNITY TRIGGER').
8.1	<p>Lead Agency: <u>Plymouth City Council</u></p> <p>An 'in principle' decision has been made as part of the collective peninsula work that all Community Safety Partnerships will act as the local lead with referrals coming in both via the Police '101' service and through a locally agreed referral process.</p> <p>We are required in legislation to consult the Police and Crime Commissioner on our processes and this has been achieved by attendance of officers from the Office of the Police and Crime Panel at peninsula meetings.</p>
8.2	<p>Description: S.104 of the Anti-social Behaviour Crime and Policing Act 2014 is a statutory means by which victims of anti-social behaviour are given the opportunity to force a case review where their reports of anti-social behaviour meet a pre-determined threshold (qualifying complaint).</p> <p>The Anti-Social Behaviour Case Review was trialled from 1 June 2012 in Manchester, Brighton and Hove, West Lindsey and Boston (Lincolnshire), with a further trial starting in the London Borough of Richmond upon Thames on 17 August 2012. An evaluation report about all 5 pilot schemes was published in May 2013⁴ designed to inform best practice guidelines for all Local Authorities.</p> <p>Anyone who is affected by anti-social behaviour is entitled to use the Anti-Social Behaviour Case Review if they are not satisfied with the action that has been taken to solve a problem that has been reported to the Police, Local Authority or Housing provider.</p> <p>The Anti-Social Behaviour Case Review can be used by individuals, businesses or community groups whose case meets the criteria. It should be a victim centred approach, so it is the victim's perception in terms of feeling they are not satisfied with the action that has been taken that is paramount.</p> <p>The Anti-Social Behaviour Case Review is activated if a certain threshold has been passed. This varies from place to place but the Home Office have said that at a minimum the Anti-Social Behaviour Case Review can be activated if:</p> <ul style="list-style-type: none"> • at least three 'qualifying complaints' of anti-social behaviour have been reported and relate the same individual, address or location; or • 5 individuals in the local community have reported similar qualifying complaints of anti-social behaviour and are dissatisfied with the response. <p>A 'qualifying' complaint is a complaint that has been logged formally with a relevant agency within one month and related to the same individual, property or location.</p> <p>The complaints made within a 6 month period can be made to different organisations.</p>

⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/207468/community-trigger-trials-report-v4.pdf

We are in the process of developing the Case Review procedure which is currently in draft form in order to review whether the threshold has been met for each application which will determine whether a Case Review is required.

Following a Case Review, any recommendations can only be made where they fall within the existing policies and procedures and financial constraints of each organisation and are only recommendations, and as such are not legally binding.

Having given this careful consideration, we are recommending that Plymouth City Council adopt the Home Office guidance recommendation of 3 separate qualifying complaints within 6 months as the threshold for triggering an Anti-Social Behaviour Case Review. By focussing on the one threshold of 3 reports from an individual within 6 months we are ensuring a victim-centred approach and deals with agency responses to the more persistent nature of anti-social behaviour. It is also clear and easy for people to understand. The majority of Pilot areas and most other local authorities have adopted this option as their threshold.

We are not recommending the threshold of 5 individual reports of a similar incident because benchmarking has shown that nationally the majority of councils have adopted the 3 qualifying complaint threshold. Adopting a higher number would increase the risk that vulnerable members of the community may not receive sufficient support through an early review of their issues. This option takes is a less 'victim-centred' approach and would complicate the process.

It is recommended that, following an Anti-Social Behaviour Case Review, any appeals against the outcome of an ASB Case Review are submitted in writing to the Head of Community Services for a decision.

8.3 Purpose: It is important to note that the Anti-Social Behaviour Case Review is not a 'complaints process' and does not replace the complaints procedures of an individual, organisation or business, or the opportunity to complain to the Local Government Ombudsman, Housing Ombudsman or Independent Police Complaints Commission. The focus should be on what more could be done to resolve an issue from the victim's perspective. The Anti-Social Behaviour Case Review will either expose bad practice and/or gaps in service or conversely, good service delivery.

Agencies, which include the Council, the Police and Social Housing providers have been working together to design the proposed Anti-Social Behaviour Case Review procedure to ensure it is tailored to meet the needs of the victims in the local area.

When an Anti-Social Behaviour Case Review is established and activated, a Case Review Panel will be arranged with relevant agencies⁵. Existing multi-agency forums can be used as Case Review Panels. It is important that representatives from the different agencies attending a Case Review Panel have the authority to direct operational responses where required.

It is a legal requirement to publish a clear process and procedure for delivering the Anti-Social Behaviour Case Review procedure internally and between agencies and the wider community.

This is so that:

⁵ Including from Local Authorities; Police; Clinical Commissioning Groups; Registered Providers of Social Housing may be co-opted onto the Case Review group as required.

- a. victims understand exactly what response can be expected from agencies and what can be achieved from the Case Review. This should be easily accessible (by website, email, phone and letter) and include response timescales in order to demonstrate commitment to victims and ensure community awareness, and
- b. Professionals/agencies working with vulnerable people are aware of the Anti-Social Behaviour Case Review so that they can promote and encourage the use of it if it appears a case meets the threshold the victim should be offered the opportunity to use it.

People who do not qualify for the Anti-Social Behaviour Case Review will be signposted to the relevant agencies for further advice/guidance or to follow their complaints procedures.

8.4 Benefits: The Council has the opportunity explore the opportunity for Anti-Social Behaviour Case Review trained ‘Tenant Champions’ which would enhance the process and also complement the Council’s Cooperative ethos.

It is possible that through early successes of dealing with initial case reviews, this may lead to increased community confidence in agencies to tackle anti-social behaviour.

This will build on an already strong ethos of partnership working, potentially leading to better information sharing and an even greater victim focussed approach.

8.5 Risks: There are concerns about the numbers of ASB Case Reviews that Plymouth City Council may receive. Within a week of the legislation going live on 20 October 2014 Plymouth City Council has already received 6 requests. Given this early influx, there is a risk that if requests come in at this rate or increase, there could be a significant increase in Council and partner agency resources.

Numbers were captured as part of the trials and are shown in the table below, but caution should be applied as these were only trials and have been shown here as a guide only:

Trial area	Total number of triggers received	Number of triggers that met the threshold	Number of triggers that did not meet the threshold	Number of triggers that met the threshold and resulted in further action being taken
Manchester	10 ²³	4	5	3
Brighton and Hove	9	5	4	2
West Lindsey	4	4	0	1
Boston	2	2	0	0
Richmond upon Thames	2	0	2	0
Total	27	15	11	6

Anonymous requests to trigger a Case Review will not be accepted. Further, it is anticipated that robust application of the threshold qualifying criteria will minimize the risk of malicious complaints.

8.6 Financial Implications: Not readily quantifiable other than officer time.

8.7 See Recommendations 11, 12, 13, 14 and 15.