

## Supporting Information and Impact Assessment

Service / Policy:	Community Safety
Executive Lead:	Robert Excell
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### Section 1: Background Information

<b>1.</b>	<p><b>What is the proposal / issue?</b></p> <p>The Mayor has asked that the Council consider the use of legal powers to address people rough sleeping and or begging, most specifically in the harbourside / seafront area of Torquay. The powers under consideration are byelaws or a Public Spaces Protection Order (PSPO).</p> <p>There is a secondary issue that shall be mentioned in relation to the parking of motor homes on the highway.</p>
<b>2.</b>	<p><b>What is the current situation?</b></p> <ul style="list-style-type: none"> <li>• 102% rise in rough sleeping across England since 2010. In the South West there has been an 89% rise and a 41% increase since 2014/15. These increases appear to be a consequence of austerity and as such must be assumed to continue to rise.</li> <li>• Torbay has seen increase in rough sleeping and begging, mostly notably in Torquay and to a lesser degree in Paignton. The most frequently used areas are the harbourside / seafront area of Torquay.</li> <li>• Numbers of rough sleepers fluctuate at any given time and throughout different times of the year. An official count is soon to be undertaken.</li> <li>• Most beggars and street drinkers in Torbay are not rough sleepers, but give the impression of being homeless. This creates an impression that there are more rough sleepers in Torbay than there are and that rough sleepers behave anti-socially, this is inaccurate and the distinction important. The distinction must be clear when talking about rough sleeping or street based ASB. Some rough sleepers may act anti socially but this is not the norm.</li> <li>• Police and Council ASB Team receive very few complaints about the behaviour of rough sleepers – the majority of issues raised appear to be directly to the Mayoral Office. These often detail how the presence of beggars / rough sleepers / street drinkers is seen as an issue, rather than any specific behaviour. Sometimes specific behaviour is complained about, i.e. having been approached for money or witnessed drunken behaviour. Generally these are incidents of low risk.</li> <li>• There are seasonal trends in both the prevalence of rough sleeping and street based ASB (i.e. street drinking, begging), these trends crudely follow the changes in weather.</li> <li>• At present there is a decrease in street based activity following the summer</li> </ul>

	<p>season. It is anticipated that the colder winter months will see both reductions in rough sleeping and street based ASB.</p> <ul style="list-style-type: none"> <li>• The majority of rough sleepers and those associated with street based ASB are a transient population, often not staying for long in Torbay. There is also a more static cohort across both areas.</li> <li>• It is hard to support or challenge the behaviour of a transient population as they are not around for long. Neighbouring areas have similar issues.</li> <li>• The Council and Police both have significantly less capacity to resource such issues, either by way of providing supportive intervention or enforcement. Both are necessary as part of a robust strategy.</li> <li>• The harm being caused is primarily reputational and in relation to people's feelings of safety. There is little evidence to suggest that the public are in any way at risk of harm from rough sleepers or indeed perpetrators of street based ASB.</li> <li>• The Council currently does not commission any outreach or floating support provision. Leonard Stocks Centre has an outreach worker. The Council has a Town Centres Street Warden and no other means of pro-active engagement. Police and Council ASB and Vulnerability Team continue to work together closely through regular liaison and partnership Tasking meetings. Street based ASB is recognised as a priority but resources are limited.</li> </ul>
<p><b>3.</b></p>	<p><b>What options have been considered?</b></p> <p>This report considers the merits of using either byelaws or a PSPO to address rough sleeping and or street based ASB and any other alternative means.</p> <p>Byelaws and PSPOs can be introduced by a Local Authority following due process, to address specific areas of concern. As such they can be tailored to address identified issues and become enforceable. Both options are enforceable by way of financial penalty following prosecution or by issuance of a Fixed Penalty Notice. Both require consultation with the public to take place and necessary publicising of the Local Authority's intentions of introducing an order, but a byelaw must be approved by the Secretary of State. A PSPO is therefore considered a swifter and more flexible process as can be reviewed, amended and extended where necessary. Both offer similar outcomes but both rely on enforcement as the remedy. It is for this reason that this report will focus on the suitability of a PSPO rather than a byelaw as the process is more expedient, cheaper and the power itself allows greater proportionality of use in relation to making any necessary changes over its duration.</p> <p>Public Spaces Protection Order - relevant information:</p> <ul style="list-style-type: none"> <li>• Rough sleeping is not an offence, it is regarded as a housing need. Using a PSPO potentially criminalises persons for a housing need and being vulnerable.</li> <li>• An existing byelaw 'in respect of pleasure grounds' exists prohibiting the erecting of tents in many named parks across Torbay. This is utilised as and when necessary to do so. Penalty for failing to comply is a £20 fine following prosecution.</li> <li>• The majority of areas that have gone to public consultation of rough sleeping related PSPO restrictions have faced strong public reactions against such suggestions (see Hackney, Newport, Chester, Chelmsford, Maidstone, Exeter). Public opinion is therefore generally against prohibiting</li> </ul>

rough sleeping. These areas have since retracted or dropped any related conditions from PSPOs instigated.

- Dawlish have recently implemented a PSPO that restricted sleeping 'after the hours of dark' in a specific location. It has addressed the behaviour of a core few but otherwise raised expectations beyond what is deliverable. Advice from Dawlish experience is against similar use in Torbay.
- PSPOs only have a financial penalty (as a result of either a Fixed Penalty Notice or result of successful prosecution), which raises practical and ethical issues for use against persons with no money, which is the general situation of rough sleepers and those associated with street based ASB. A financial penalty for those with no money is not a deterrent. Taking prosecutions for breaches of a PSPO is a time consuming and resource intensive process for limited chance of effecting behavioural change, particularly against a transient and vulnerable population of individuals. It is also unlikely that the threshold to prosecute be met as per the Enforcement and Prosecution Policy. Courts currently have a 3-4 month listing time during which it could be assumed multiple other breaches are likely.
- Use of a PSPO to deter rough sleeping is a means of using enforcement to tackle the consequences of austerity, whereby support previously available to this vulnerable group has since been cut.
- Begging is an offence and street drinking restricted by an existing Designated Public Place Order (DPPO). Both are currently enforceable by the Police who have significantly reduced capacity to address such issues.
- Using PSPOs to address street based ASB (not rough sleeping) has attracted more support across Local Authority areas in England and Wales. Many have been used for restricting alcohol consumption in public and several have stipulated no begging.
- The current DPPO automatically becomes a PSPO in October 2017, by restricting alcohol consumption. This will mean authorised Council Officers will be able to enforce, not just Police.
- Utilising a PSPO raises expectations of it being a solution, as such must be properly resourced. There are insufficient resources within the Council or Police teams to enforce such an order.
- A PSPO would be at its most effective with compliance, relying on this as a strategy is unrealistic given that begging and street drinking are already prohibited by other means.
- Police report that sentencing for prosecutions for begging are typically a night in the cells, which consequently acts as no deterrent. Adding another means of prosecution is unlikely therefore to provide any further value in challenging behaviour.

Preferred strategy:

- Use reducing resources to best effect and ensure that our response is robust yet compassionate and appropriately considerate of risk and vulnerability.
- Council and Police teams to continue days of operational activity to target persistent offenders and seek to repeat Operation Falkirk.
- Council to utilise other ASB powers and use Community Protection Notices to tackle persistent beggars at and around the harbourside known to have accommodation.
- Utilise CCTV as a means to monitor begging activity and provide evidence for formal action
- Council's Vulnerability and Complex Needs Officer to work with Leonard Stocks Centre outreach worker and Town Centres Street Warden to

	<p>provide targeted intervention with a view to increase access to accommodation and services and reduce risk / vulnerability.</p> <ul style="list-style-type: none"> <li>• Continue to promote 'Killing With Kindness' campaign.</li> <li>• Coordinate supportive efforts with voluntary sector to address vulnerability of client group and provide alternative options of engagement.</li> <li>• This would enable management of fragile resources in consideration of other areas of service delivery and management of expectations.</li> <li>• Work with the Church-lead winter night shelter programmes to assist persons into accommodation or other relevant services.</li> </ul> <p><b>Actions in respect of motorhomes:</b></p> <ul style="list-style-type: none"> <li>• Across Torbay sporadic complaints are received regarding motorhomes being parked for such durations as to cause a nuisance to others. There is no evidence of areas particularly prone to such instances apart from a specific area in Brixham.</li> <li>• The highways department instigated a Traffic Management Order in response stipulating no motor homes to be parked overnight. This has alleviated the concerns within this area.</li> <li>• All other reports are dealt with as and when they arise within existing resources. Due to the absence of consistent issues within any specific locality there are no evidenced needs for the consideration of utilising any further legislative interventions. Compliance is typically achieved with co-operation, but could potentially be backed up by following the process around unauthorised encampments if necessary.</li> </ul>
<p><b>4.</b></p>	<p><b>How does this proposal support the ambitions, principles and delivery of the Corporate Plan 2015-19?</b></p> <p>Ambitions: Prosperous and Healthy Torbay</p> <p>Principles:</p> <ul style="list-style-type: none"> <li>• Use reducing resources to best effect</li> <li>• Reduce demand through prevention and innovation</li> <li>• Integrated and joined up approach</li> </ul> <p>Targeted actions:</p> <ul style="list-style-type: none"> <li>• Working towards a more prosperous Torbay</li> <li>• Ensuring Torbay remains an attractive and safe place to live and visit</li> <li>• Protecting and supporting vulnerable adults</li> </ul>
<p><b>5.</b></p>	<p><b>Who will be affected by this proposal and who do you need to consult with?</b></p> <p>N/A</p>
<p><b>6.</b></p>	<p><b>How will you propose to consult?</b></p> <p>N/A</p>

## Section 2: Implications and Impact Assessment

7.	<p><b>What are the financial and legal implications?</b></p> <ul style="list-style-type: none"><li>• Cost of running consultation</li><li>• Resource implications for Council officers enforcing Order, inclusive of frontline staff, managerial overview and legal support.</li><li>• FPNs unlikely to be paid, no revenue from enforcement</li><li>• A PSPO may be challenged in the High Court</li></ul>
8.	<p><b>What are the risks?</b></p> <p>The main risk of the continued 'anti-social behaviour' is of reputation to Torbay and potential impact on tourism. These are however, issues that are not unique to Torbay.</p> <p>The risks of implementing a PSPO in respect of rough sleeping is significant concerning reputation of the Council given the experiences of the majority of other areas that have proposed the same. There can be little doubt that such an act would generate negative publicity and mobilise significant support for rough sleepers amongst the many residents we know who care about them.</p> <p>A PSPO with regard to street based ASB is more likely to be agreeable to the general public but risks further reputational damage to the Council given the lack of resource available to enforce one. The same could be assumed for the use of byelaws.</p>
9.	<p><b>Public Services Value (Social Value) Act 2012</b></p> <p>No procurement or provision of services associated.</p>
10.	<p><b>What evidence / data / research have you gathered in relation to this proposal?</b></p> <p>The information contained in this report is based upon consideration of the use of PSPOs in other areas of England and Wales for similar behaviours, knowledge of our local profile of rough sleepers, beggars and street based ASB perpetrators, discussions with the Police, reviewing complaints received by the Council, understanding our available resources and what other powers exist to potentially consider.</p>
11.	<p><b>What are key findings from the consultation you have carried out?</b></p> <p>No formal consultation has been undertaken, that is a legal requirement when proposing the use of a PSPO or byelaw.</p>