

CHESHIRE EAST COUNCIL

Cabinet Member for Communities

Date of Meeting:	20 th July 2015
Report of:	Steph Cordon – Head of Communities
Subject/Title:	Dealing with Psychoactive Substances/Legal Highs
Portfolio Holder:	Cllr Les Gilbert, Communities

1. Report Summary

- 1.1 As a Residents First Council, we work closely with our partners to reduce crime and disorder across the borough. Over the last 3 years, this joint work has led to a 11% reduction in overall crime in Cheshire East.
- 1.2 As an Enforcing Council, we are exploring all our options to address local concerns regarding the use of Psychoactive Substances/Legal Highs. Throughout this document they will be referred to as “legal highs” which is the most recognised name for these products.
- 1.3 Legal Highs are causing increasing concern both nationally and across our communities and within a range of agencies including council services, the Police and healthcare professionals. Products sold as ‘legal, are’ alternatives to drugs which are designed to mimic established drugs which are not always legal.
- 1.4 Local concerns have increased, following recent incidents in Warrington and Runcorn, which led to several individuals being hospitalised, who it is believed took a specific legal high called “Vertex”.
- 1.5 The Government’s legislative programme for the 2015-16, includes the Psychoactive Substances Bill, which will make it an offence to produce, supply, offer to supply, possess with intent to supply, import or export psychoactive substances (so called ‘legal ‘highs’). This is to include civil sanctions to enable ourselves and the police to adopt a proportionate response to tackling the supply in appropriate cases.
- 1.6 Whilst we await the release of the proposed Bill, we are working closely with our partners to look at the powers available to us to assist in the control of these substances, including the new tools and powers within the ASB Crime and Policing Act 2014.
- 1.7 This report summarises the powers currently available which we could utilise, outlines relevant considerations and the thresholds that need to be met, and recommends actions to deal with our current issues.

2. Recommendations

That the Cabinet Member agrees to:

- a) approve our continued joint work with partners to develop a joint approach using current tools and powers, to tackle the supply of legal highs and address any community impacts.
- b) approve that the Head of Communities as Chair of Safer Cheshire East Partnership, sends out a joint letter (as in appendix 2) with the Police to premises believed to be selling legal highs.
- c) That Cabinet notes the commitment to dealing with this issue

3. Other Options Considered

3.1 A subregional multi agency meeting was held on the 11th June 2015 to discuss all legislation and powers available to us, to tackle legal highs. A summary of the conclusions (provided by Force Solicitors) is in Appendix 1.

4. Reasons for Recommendations

4.1 As part of our Residents First approach and as an Enforcing Council, we are proud to be one that is tough on residents and businesses that are selfish and cause harm to others. Where it can be evidenced, and in light of the growing concerns around legal highs, we are ensuring we have processes in place to deal with the impacts that legal highs have to lives of our residents and communities.

5. Background/Chronology

5.1. Cheshire East Council works proactively with partners across the borough to reduce crime and disorder, and we address the impact it has on our local communities.

5.2. Our joint work has led to a 11% reduction in overall crime over the past 3 years, with even higher reductions in key areas, where Safer East Cheshire Partnership has focussed its collective resources. These include reductions in:

- Burglary - by 15%
- Criminal damage and arson - by 21%
- Shoplifting and other thefts - by 17%
- Vehicle Crime by 25%
- Fatal Collisions - by 50%

5.3. Recently our communities have reported to us concerns regarding the sale and use of Legal Highs. We are addressing this issue with local partners, to harness our joint resources to address this concern and protect our residents from both the use of and any wider impacts caused by Legal Highs.

- 5.4. The Anti-Social Behaviour, Crime and Policing Act 2014 commenced on 20th October 2014. The key powers in relation to legal highs are the Public Spaces Protection Order (PSPO), the Community Protection Notice (CPN) and Closure Powers.
- 5.5. Statutory Guidance sets out how for these tools and powers can be implemented. There are clear thresholds that need to be met, which are primarily incident and evidence based that have a clear link to Anti-Social Behaviour in order for the council to progress with the use of the any of the new powers.
- 5.6. With reference to the use of Public Space Protection Orders (PSPO), the areas that have met the thresholds so far are: Macclesfield Underpass (where Buinswick Hill meets the underpass) and Poynton Sports Club. Work to develop these PSPOs will include a prohibition regarding the use of legal highs. Further investigation is continuing to look at the identification of other areas with similar levels of evidence which include Tesco's Car Park, Crewe and Fairview Car Park, Alsager.
- 5.7. There is currently no evidence to link the use of legal highs to ASB in other areas in Cheshire East, and legal advice states that we cannot consider the use of a "blanket" Public Spaces Protection Order for the Borough at this stage. However this will be monitored on a regular basis and we will take swift action to push and test all boundaries within the new Act to tackle those areas where this can be linked.
- 5.8. Community Protection Notices warnings can be considered to serve on premises if there is a clear link that the selling of these substances is leading to ASB incidents. There is currently no evidence to link this within Cheshire East, but we will continue to review and monitor this and will take action if the situation changes. We are also looking into how we can test the interpretation of ASB with a view to push for some of these notices to be served.
- 5.9. We will use our Closure Powers if the following has occurred or will occur if the power is not used:-
- Disorderly, offensive or criminal behaviour; or
 - Serious nuisance to the public; or
 - Disorder near the premises
- 5.10. If any of the above suggested powers are considered, displacement would have to be reviewed as a risk. The health implications of consuming some of these products can be considered as far outweighing any form of ASB that is reported. There is potential for this to be "driven underground", therefore potentially putting young people and adults at further risk. Public Health and Youth Engagement Services will be consulted throughout any enforcement.

5.11. It is recommended that we contact retailers who have been identified as selling legal highs or alledged to have sold them. As a follow up to a number of visits already made by Trading Standards to these retailers, it is proposed that a formal letter is signed off by CEC and Cheshire Constabulary to be served in person on the relevant premises. The letter is aimed at retailers and reminds them of their obligations around the sale of these products with various warnings attached. A copy of this letter is detailed in Appendix 2. Monitoring of the premises and any other identified premises can then take place on a regular basis with both police and trading standards.

6. Wards Affected and Local Ward Members

6.1. All

7. Implications of Recommendation

7.1. Policy Implications

7.1.1. Supports the Council's Enforcement Policy, and our Corporate Outcomes, in particular Outcome One - Our local communities are strong and supportive and Outcome Five – People live well and for longer.

7.2 Legal Implications

7.2.1 It is essential that due legal process is followed according to CEC's Enforcement Policy and that any Notice issued accords with the requirements of the Act. Appropriate legal advice would be sought prior to the publication of any Statutory Notice.

7.2.2. Compliance must also be met via: Articles 10 and 11 ECHR and S149 Equality Act re public sector equality duty.

7.2.3. It needs to be noted that a lot of reports containing concerns around the use of legal highs, involve young people. All of the suggested powers (especially PSPO's) can only be enforced on individuals who are over the age of 16. This means that the use of a PSPO banning the possession of or use of legal highs could not be fully enforced. The Council in its current position would be powerless to serve Fixed Penalty notices unless there is consideration given to lowering the age that the Council serve FPN's on. This can be set at anything above the age of 10 years (criminal responsibility) but is currently set across the board at 16 years.

7.3 Financial Implications

7.3.1 Current work is within existing budgets. Any applications for Orders will consider financial implications as it would vary dependant on action taken.

7.4 Equality Implications

7.4.1. None at this stage.

7.5 Rural Community Implications

7.5.1 Proposals have no adverse impact on rural communities, and impacts are across all areas.

7.6 Human Resources Implications

7.6.1 Work is underway to ensure officers receive the relevant training in relation to issuing the Fixed Penalty Notices and also refresh training on the relevant powers as and where needed.

7.6.2 When the powers are put in place, consideration needs to be given to the policing of them in order to take robust action against those that are not complying.

7.7 Public Health Implications

7.7.1 Proposals positive support public health outcomes and work is to address a public health issue.

7.8 Other Implications (Please Specify)

N/A

8 Risk Management

8.1 Any potential risks have been considered and mitigated against in this context.

8.2 The key risk identified is detailed in 5.7 above and will be carefully considered and mitigated against when progressing cases.

9 Access to Information/Bibliography

APPENDIX 1 Summary of available powers and legislation provided by Force Solicitors

APPENDIX 2 Letter to retailers with reference to Legal Highs

9.2 BACKGROUND PAPERS:

Anti-Social Behaviour, Crime and Policing Act 2014: Reform of anti-social behaviour powers. Statutory guidance for frontline professionals.

10 Contact Information

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