### BRIDGEND COUNTY BOROUGH COUNCIL

## REPORT TO CABINET

### 18th JUNE 2019

# JOINT REPORT OF THE CHIEF EXECUTIVE AND HEAD OF OPERATIONS - COMMUNITIES

#### PUBLIC SPACE PROTECTION ORDERS

# 1. Purpose of Report

- 1.1 To ask Cabinet to:
  - note the results of the consultations on the creation of Public Space Protection Orders (PSPOs):
  - ii. note that the grounds, as set out in paragraph 3.3 below, are met; and,
  - iii. in light of the outcome of the consultations and the grounds being met, to create 4 new PSPOs as set out in **Appendix 1** (Prohibit Alcohol & Installation of Gates) and **Appendix 7** (Dog Control) detailed in para 4.10 and para 4.35.

# 2. Connection to Corporate Improvement Plan / Other Corporate Priority

- 2.1 This report assists in the achievement of the following corporate priority/priorities:
  - a. **Helping people to be more self-reliant** taking early steps to reduce or prevent people from becoming vulnerable or dependent on the Council and its services.
  - b. **Smarter use of resources** ensuring that all its resources (financial, physical, human and technological) are used as effectively and efficiently as possible and support the development of resources throughout the community that can help deliver the Council's priorities.
- 2.2 The proposal to address anti-social behaviour supports a number of corporate priority themes relating to the reduction of crime and disorder and improvement of the environment.
- 2.3 Under Section 17 of the Crime and Disorder Act 1998 the Council has a statutory duty 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 can to prevent, crime and disorder.

## 3. Background

- 3.1 The Anti-social Behaviour, Crime and Policing Act 2014 (the Act) makes provision about anti-social behaviour, crime and disorder. The Act sets out the following 6 new tools for responsible bodies and responsible authorities:
  - i. Injunction
  - ii. Criminal Behaviour Order (CBO)
  - iii. Dispersal power
  - iv. Community Protection Notice (CPN)
  - v. Closure Power
  - vi. Public Spaces Protection Orders (PSPO)

- 3.2 A Cabinet Report dated 15<sup>th</sup> March 2016 sets out the above powers in more details. This report also delegated to the Assistant Chief Executive, Legal and Regulatory the power to do anything (including the power to serve any notice) that is necessary for the enforcement of any of the provisions contained within the Anti-social Behaviour, Crime and Policing Act 2014 with the exception of PSPOs as specified in Part 4, Chapter 2 of the Act. Since this time the Scheme of Delegation has been updated and this same delegation is now made to the Monitoring Officer which still excludes PSPOs. As such the power for Bridgend County Borough Council to create a PSPO remains a Cabinet power and decision.
- 3.3 A Local Authority may make a PSPO if it is satisfied on reasonable grounds that it is likely that activities will be carried on in a public place within that area and that they will have a detrimental effect on the quality of life of those in the locality which is likely to be of a persistent or continuing nature such as to make the activities unreasonable and justifies the restrictions imposed by the notice.
- 3.4 PSPOs are designed to stop individuals or groups committing anti-social behaviour in a public space. They are intended to deal with a particular nuisance or problem in a particular 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 designed to ensure the law-abiding majority can use and enjoy public spaces, safe from antisocial behaviour. PSPOs contain 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. They can restrict access to public spaces (including certain types of highway) where that route is being used to commit anti-social behaviour. They can be enforced by a police officer, police community support officers and council officers. Under s.67 of the Act breach of a PSPO is a criminal offence. Enforcement officers can issue a fixed penalty notice of up to £100 if appropriate or following a conviction in Court a person can receive a fine of up to £1,000. Under s.63 of the Act a person can be required by an authorised officer to surrender alcohol and a failure to do this is a criminal offence. 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.
- 3.5 Importantly PSPOs replace the old Designated Public Place Orders (DPPOs); Gating Orders and Dog Control Orders.
- 3.6 The Act came into force on the 14<sup>th</sup> October 2014. Under s.75 the Act made provision for DPPOs; Gating Orders and Dog Control Orders (where in existence) to remain valid for 3 years from the 14<sup>th</sup> October 2014 at which point, on the 14<sup>th</sup> October 2017, they were converted under the Act to PSPOs, and remain valid for 3 years until 14<sup>th</sup> October 2020.

## 4. Current situation / proposal

4.1 Prior to 14<sup>th</sup> October 2017 there were 5 Designated Public Places Orders (DPPOs) in existence in Bridgend County Borough. These DPPOs established 5 alcohol control areas to deal with issues of nuisance and disorder associated with the consumption of alcohol in streets and public places. The areas where the orders were in force are shown in the attached 5 maps found in **Appendix 2**.

- 4.2 In addition, prior to 14<sup>th</sup> October 2017 there were two Gating Orders in existence in Bridgend County: one covering the rear lane between Talbot Street and Plasnewydd Street, Maesteg and the second covering the highway to the rear of Wesley Street and Lloyd Street, Caerau, Maesteg. The areas of restricted access covered by these orders are shown in the attached 2 maps found in **Appendix 3**.
- 4.3 A further gating order had previously been in existence covering the highway between Treharne Road and Caerau Road, Caerau but was revoked in March 2014.
- 4.4 On the 14<sup>th</sup> October 2017 there were no dog control orders within Bridgend County Borough Council.
- 4.5 On the 14<sup>th</sup> October 2017 the orders listed at paragraph 4.1 and 4.2 above, being five DPPOs and two Gating Orders, migrated under the Act to become PSPOs. No action was required by the Council as this happened automatically under the 2014 Act.
- 4.6 In light of 7 new PSPO's expiring on the 14<sup>th</sup> October 2020 and to ensure that the new PSPOs remained necessary and to consider whether any further PSPOs should be made, it was proposed to review all areas covered by the old DPPOs and Gating Orders, as well as any new areas where anti-social behaviour is being experienced, to establish what appropriate PSPOs could be made, and what conditions could be attached to best prevent anti-social behaviour. As such, a report was submitted to Cabinet on 27<sup>th</sup> June 2017 seeking approval to consult on new PSPOs.
- 4.7 The statutory consultation commenced on 24 July 2017 and continued for 12 weeks. ending on 13 November 2017. In addition to the Statutory Consultees there was also a public consultation. Under s.71(4) of the 2014 Act it was necessary to consult with the chief officer of police and the local policing body for the police area that includes the restricted area; whatever community representatives the local authority thinks it appropriate to consult; and the owner or occupier of land within the restricted area ("the Statutory Consultees"). As such, the consultation included the Police and Crime Commissioner; the Chief Superintendent of South Wales Police; Corporate Director Communities Bridgend County Borough Council; Town Centre Manager Bridgend County Borough Council; Bridgend Town Council; Maesteg Town Council; Pencoed Town Council; Porthcawl Town Council; Bridgend Traders Forum; CF31 Bridgend BID; Bridgend Pub Watch/BBAC; Porthcawl Chamber of Trade; Porthcawl Pub Watch and the public. Full details of the consultation can be found in the Consultation Report found at Appendix 4.
- 4.8 A letter was sent to Statutory Consultees outlining the proposal and directing consultees to the webpage which gave details of how to respond. A copy of the letter and a list of Statutory Consultees is included in the consultation report in **Appendix** 
  - 4. The public consultation was promoted through a variety of means including:
    - i. the BCBC website;
    - partner meetings including. Bridgend Hate Forum and Bridgend Community Safety partnership.
    - iii. partner distribution networks;
    - iv. newsletters; and
    - v. via social media.

A clean up event was held between Talbot Street and Plasnewydd Street, Maesteg to promote the consultation to residents and local business.

- 4.9 The Consultation sought views on the following:
  - i. Whether to maintain the PSPOs which were automatically created when the Designated Public Place Orders in Bridgend, Caerau, Pencoed, Porthcawl and Maesteg at described in 4.1 migrated by law into PSPOs on the 14<sup>th</sup> October.
  - ii. If the PSPOs at point i above are maintained, whether to maintain them with identical terms or altered terms
  - iii. If the PSPOs at point i above are maintained whether to extend the area covered to include Coity Road, up to the entrance to the Princess of Wales Hospital
  - iv. Whether to maintain the PSPOs which were automatically created when the Gating Order outlined in 4.2 migrated by law into PSPOs on the 14<sup>th</sup> October
  - v. If the PSPO at point iv above is maintained, whether to maintain it with identical terms or altered terms
  - vi. A further question was included in the survey: 'Are you aware of any activities which are currently restricted in a public space within your area, which if not restricted would have a detrimental effect on your quality of life?' Five individuals responded to the question.
- 4.10 Copies of the 3 draft PSPOs are attached as **Appendix 1.** These were included in the consultation. In summary the draft PSPOs as consulted upon sought to:
  - i. create one new PSPO to prohibit the consumption of alcohol and the possession of alcohol in an open container within the following restricted areas:
    - Bridgend as attached map at page 6 of Appendix 1
    - Caerau as attached map at page 7 of Appendix 1
    - Maesteg as attached map at page 8 of Appendix 1
    - Pencoed as attached map at page 9 of Appendix 1
    - Porthcawl as attached map at page 10 of Appendix 1

Any person who, without reasonable excuse, continues consuming alcohol in the Restricted Area when asked to desist by a Police Officer, Police Community Support Officer or authorised person from the Council under Section 63, or fails to surrender any intoxicating substance in his possession when asked to do so by a Police Officer, Police Community Support Officer or authorised person from the Council under Section 63 commits an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale (currently £500.00), or if in receipt of a Fixed Penalty Notice to a penalty of a maximum of £100.00.

The restriction applies to all persons at all times. The Order would affect all persons and is proposed to last for 3 years.

ii. Create one new PSPO to restrict the public right of way between Talbot Street and Plasnewydd Street, Maesteg, specified on the attached map at page 4 of **Appendix 1** ("the Restricted Area") between Monday to Saturday during the hours of 5.30pm on one day and 9.00am on the next and on Sunday and every Public Holiday, for 24 hours. The winter and summer timings will mirror the Greenwich Mean Time and British Summer Time schedules. This Order authorises the installation of lockable swing gates which will enforce the restriction. The Order would affect all persons and is proposed to last for 3 years.

- iii. Create one new PSPO to restrict the public right of way between the Highway to the rear of Wesley Street and Lloyd Street, Caerau, and specified on the attached map at page 2 of **Appendix 1** ("the Restricted Area") between Monday to Saturday during the hours of 5.30pm on one day and 9.00am on the next and on Sunday and every Public Holiday, for 24 hours. The winter and summer timings will mirror the Greenwich Mean Time and British Summer Time schedules. This Order authorises the installation of lockable swing gates which will enforce the restriction. The Order would affect all persons and is proposed to last for 3 years.
- 4.11 Details of the consultation can be found on the BCBC website https://www.bridgend.gov.uk/my-council/equalities-and-engagement/consultations/closed-consultations/public-space-protection-order-consultation/
- 4.12 Both the statutory and public consultation closed on 13 November 2017. The results of the consultation are attached in **Appendix 4.**
- 4.13 The Statutory Consultees were given the option of responding to the consultation by completing the on line survey or providing general comments via letter or email. Five written responses were received. One from South Wales Police, one from the Clerk of Maesteg Town Council (on behalf of Maesteg Town Council) and three from individual Porthcawl Town Councillors. All responses supported the proposed orders. One response asked for control of dogs to be considered, and one response indicated there were not enough resources to enforce dog control orders so they should not be included. One response asked why almost the whole of Pencoed and Porthcawl are covered by the orders, whilst Bridgend only seems to be the town centre. There were no further comments on the size of the area.
- 4.14 There were thirty three unique responses to the on line survey. In summary the following responses were received.
  - i. Bridgend Town Centre: 20 persons agreed to maintain the PSPO regarding the prohibition of alcohol and 5 persons said no, but did not specify a reason. 23 persons agreed to the extended area to include Coity Road and 2 persons did not agree, but again did not specify a reason. In the section where comments were requested explaining what activities people deemed have a detrimental effect on quality of life, the following responses were given:
    - people hanging around outside pubs,
    - youngsters drinking and when intoxicated damaging play area of the young people communities,
    - young people congregating, consuming alcohol, Anti-Social Behaviour (ASB),
    - begging and people under the influence of drugs.
  - ii. Maesteg: 15 persons said yes to maintain the PSPO regarding the prohibition of alcohol and 2 persons said no, but did not specify a reason. 6 persons agreed to maintain the PSPO relating to the gates and 11 persons did not but did not give a reason. Of the 17 people who responded to this question 12 individuals stated they did not live within a mile radius of the specified area. It is not possible to tell from the data whether respondents who answered no to

the question regarding the gates live within a mile radius of the specified area. The police and other agencies were in favour of both PSPOs in this area. In the section where comments were requested explaining what activities people deemed have a detrimental effect on quality of life, the following responses were given:

- number of young people on bikes around Llynfi Surgery and carpark,
- · drinking, noise and violence caused by drink,
- · verbal abuse to members of the public,
- lack of police presence,
- youth drinking/smoking in public area such as Garth Park (Maesteg),
- begging and people in the street under the influence of drugs.
- iii. Caerau: 11 persons said yes to maintain the PSPO regarding the prohibition of alcohol and 1 person was opposed, but did not give a reason. 4 persons agreed that the PSPO relating to the gates should be maintained, and 8 did not but did not give a reason. Of the 12 people who responded to this question 8 individuals stated they did not live within a mile radius of the specified area. It is not possible to tell from the data whether those respondents who were opposed to the gates lived within a mile radius of the area. The police and other agencies were in favour of both PSPOs in this area. In the section where comments were requested explaining what activities people deemed have a detrimental effect on quality of life, the following responses were given:
  - people hanging around on street corners,
  - drinking, noise and violence caused by drink,
  - verbal abuse to members of the public,
  - begging, people under influence of drugs.
- iv. Pencoed: 7 persons agreed to maintain the PSPO regarding the prohibition of alcohol and 3 persons did not, but did not give a reason. In the section where comments were requested explaining what activities people deemed have a detrimental effect on quality of life, the following responses were given:
  - drinking, noise and violence caused by drink,
  - · verbal abuse to members of the public,
  - begging.
- v. Porthcawl: 11 persons agreed to maintain the PSPO regarding the prohibition of alcohol and 5 did not, but did not give a reason. In the section where comments were requested explaining what activities people deemed have a detrimental effect on quality of life, the following responses were given:
  - noisy neighbours,
  - litter in Newton beach area,
  - fly tipping in lanes,
  - begging and people in the street under the influence of drugs.
- 4.15 Of the 33 responses received 1 person, who identified themselves as a 'visitor', identified begging and people under the influence of drugs as an issue across all areas. No other response referred to begging.
- 4.16 No comments were made regarding the time periods that the suggested PSPO should have effect.

- 4.17 No comments were made regarding the duration of the proposed orders.
- 4.18 There were no specific comments on the effect of section 63 and section 67 of the Act as specified in para 3.4 above
- 4.19 The responses to the consultation confirm that it is likely that the consumption of alcohol and possession of alcohol in an open container in the 5 public areas covered by the proposed PSPO will have a detrimental effect on the quality of life of those in the locality which is likely to be of a persistent or continuing nature such as to make the activities unreasonable, and justifies the restrictions imposed by the notice.
- 4.20 The responses to the consultation confirm that it is likely that allowing access to the 2 public areas covered by the two proposed PSPOs, during the proposed hours, will have a detrimental effect on the quality of life of those in the locality which is likely to be of a persistent or continuing nature such as to make the activities unreasonable, and justifies the restrictions imposed by the notice.
- 4.21 If the three PSPOs are created they would be published in accordance with Antisocial Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014, SI 2014/259
- 4.22 It was intended to submit the report on the consultation to Cabinet in February 2018. However as dog fouling was mentioned in the consultation, it was agreed to delay the submission to allow the Communities Directorate to carry out a separate consultation on dog fouling.
- 4.23 The public consultation for Control of Dogs commenced on 5<sup>th</sup> December 2018 and concluded on 26<sup>th</sup> February 2019 having been approved in the Cabinet report dated 17<sup>th</sup> July 2018. Full details of the consultation can be found in the Consultation Report found at **Appendix 6**. The public consultation was promoted through a variety of means including:
  - the BCBC website;
  - partner meetings including Bridgend Hate Forum and Bridgend Community Safety partnership.
  - partner distribution networks;
  - newsletters: and
  - via social media.
- 4.24 The public consultation sought views on the following proposals

**Proposal One**: Dog Fouling – applicable to all public places in Bridgend County Borough

**Proposal Two**: Removing Dog Faeces – a requirement that the person in charge of the dog must have bags or other suitable means of removing the faeces with them. **Proposal Three**: Dog on lead by direction – applicable to all public places in Bridgend County Borough

Detailed information is included within the Consultation report - Appendix 6

4.25 Details of the public consultation can be found on the BCBC website https://www.bridgend.gov.uk/my-council/equalities-and-engagement/consultations/

- 4.26 The consultation was conducted over a twelve week period, during which a range of marketing methods were used to create awareness of the consultation and encourage members of the public to engage with the council. In total, there were 1168 interactions, representing 0.8 percent of the borough's population. The response rate was divided into several areas including: consultations survey responses, emails, letter and social media interactions:
  - a total of 1078 survey responses (983 online submissions and 95 paper versions)
  - 86 Comments on social media channels
  - two email comments
  - two letters
- 4.27 50% of respondents were dog walkers and of those 66% walked one dog and 25% walked two dogs. 30% (455) of respondents said they currently walk their dog on open green space with 41% (445) of respondent saying that they dispose of their dog waste in a street bin
- 4.28 93% (999) of respondents said they agreed with proposal one: To introduce the prohibition on dog fouling under the PSPO. If a dog defecates on land to which a relevant PSPO applies, and the person in charge of the dog fails to remove the faeces from the land, then they will be in breach of the PSPO which is a criminal offence. The fixed penalty fine payable in this instance will be £100.
- 4.29 83% (900) of respondents said they agreed with proposal two: To introduce into the PSPO a condition that if a person in charge of a dog does not have appropriate bags or other suitable means of picking up and removing the faeces for proper disposal with them they will be in breach of the PSPO which is a criminal offence. Should a fine be issued, the associated fee is proposed to be £100.
- 4.30 77% (822) of respondents said they agreed with proposal three: To introduce into the PSPO a condition that a person in charge of a dog who fails to comply with a reasonable direction given to them by an authorised officer of the council to put and keep the dog on a lead for such period/or in such circumstances as directed by the officer. Failing to comply with the direction is a breach of the PSPO which is a criminal offence. Should a fine be issued, the associated fee is proposed to be £100.
- 4.31 Responses from RSPCA and The Kennel Club were included as appendices within the consultation report and both organisations agreed with proposals one and three. Whilst the RSPCA agreed with proposal two, the Kennel Club suggested caution in introducing this option, as it might have an adverse effect on dog walkers' behaviour.
- 4.32 There was a high level of agreement amongst responders on the introduction of these three proposals. Whilst the Kennel Club had some reservations on introducing Proposal Two, this is being administered in other authorities and is supported by the majority of respondents. The introduction of these proposals would include media awareness to notify the community of the changes in enforcement of such issues.
- 4.33 Under s.71(4) of the 2014 Act it was necessary to consult with the Chief Officer of Police and the local policing body for the police area that includes the restricted area; whatever community representatives the local authority thinks it appropriate to consult; and the owner or occupier of land within the restricted area ("the Statutory Consultees"). As such, statutory consultation with the Police and Crime Commissioner; the Chief Superintendent of South Wales Police; Corporate Director

Communities Bridgend County Borough Council and the Council's Property Services was undertaken on the 26<sup>th</sup> April 2019 and ended on the 10<sup>th</sup> May 2019. A letter was sent to Statutory Consultees (**Appendix 9**) outlining the proposal and including a draft Order. The response from the police representative, Director of Operations - Communities and BCBC property services indicated no issues in relation to the implementation of this Order. Statutory Consultation responses were supportive of the council's actions and had no objections to the Order.

- 4.34 These restrictions do not in any way prevent dog walkers utilising public land for exercising dogs but places conditions on them, which will prevent the impact of dog fouling within those areas.
- 4.35 A copy of the draft PSPO relating to Dog Fouling is found at **Appendix 7**. A copy of the draft PSPO was not included with the Consultation but has since been drafted based on the responses to the Public Consultation and was published on the 13<sup>th</sup> May 2019. The effect of this Order is to impose the following conditions on the use of the land:
  - a) Person(s) within the Restricted Area will collect and dispose of the faeces of dogs within their control by removing it and depositing the dog faeces in a bag, or other suitable means for the collection of dog faeces, which should be left in a litter bin or an allocated bin for the collection of dog faeces or taken home
  - b) Person(s) within the Restricted Area who have dogs within their control, must carry bags or other suitable means for the collection of dog faeces
  - c) Person(s) within the Restricted Area must when requested to do so by an Authorised Officer, place dogs in their control on a lead. When making a request under Paragraph 6 (c) of this Order the Authorised Officer must specify a location and duration.
- 4.36 The restrictions in Article 6 of the draft Order shall not apply to Disabled Persons as defined by the Equality Act 2010, where the person suffers from a disability which would prevent them from collecting their dog faeces.
- 4.37 Throughout the Public and Statutory Consultation no comments were made regarding the proposed time periods that the suggested dog control PSPO should have effect.
- 4.38 Throughout the public and statutory consultation no comments were made regarding the proposed duration of the proposed dog control orders.
- 4.39 Throughout the public and statutory consultation there were no specific comments on the effect of section 63 of the Act as specified in para 3.4 above
- 4.40 The responses to the consultation confirm that it is likely that dog control will have a detrimental effect on the quality of life of those in the locality which is likely to be of a persistent or continuing nature such as to make the activities unreasonable, and justifies the restrictions imposed by the notice.
- 5. Effect upon Policy Framework & Procedure Rules
- 5.1 None
- 6. Equality Impact Assessment

- 6.1 The Initial Screening EIA indicated a full Equalities Impact Assessment was required for the PSPO relating to the consumption of alcohol and the possession of alcohol in an open container and also the two PSPOs restrict the public right of access. The EIA is attached as **Appendix 5 (Prohibit Alcohol & Installation of gates)**
- The Initial Screening Assessment (Control of Dogs) was completed on 10<sup>th</sup> July 2018. The full Equality Impact Assessment was completed on the 26th March 2019 (Appendix 8 Control of Dogs) has been carried out and no groups with protected characteristics identified by the Equalities Legislation 2010 are considered to be adversely affected by the contents of this report providing that the exemptions in clause 4.36 are implemented.

# 7. Wellbeing of Future Generations (Wales) Act 2015 Assessment

- 7.1 A summary of the implications of the PSPO on the 5 ways of working outlined in the Wellbeing of Future Generations Act is as follows:-
- 7.2 Long term implementing the PSPO demonstrates how preventing anti-social behaviour can positively affect the long term health and wellbeing of local residents and businesses
- 7.3 Prevention the prohibition of drinking alcohol in public space can help reduce current and future anti social behaviour
- 7.4 Integration the PSPO assists in the achievement of the following wellbeing goals A prosperous Wales

A Wales of Cohesive Communities

A Healthier Wales

7.5 Involvement – the consultation process has involved statutory consultees, stakeholders, and local residents

## 8. Financial Implications –

8.1 The estimated costs for implementing the four orders are:

Design, manufacture and fixing of hard signs £3500 Printing £2500 Publicity £1500 **Total** 

8.2 A request will be sent to partners asking for a financial contribution to the costs. If this is not forthcoming, funding will be made available from existing revenue budgets within the Communities Directorate.

#### 9. Recommendation

- 9.1 It is recommended that Cabinet:
  - note the results of the consultations on the creation of four Public Space Protection Orders (PSPOs);
  - ii. note that the grounds, as set out in paragraph 3.3 above, are met; and,

iii. in light of the outcome of the consultation and the grounds being met, to create 4 new PSPOs as set out in paragraph 4.10 and 4.35 above and at **Appendix 1 (Prohibit Alcohol & Installation of gates)** and **Appendix 7 (Dog Controls)** 

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# **Background Documents**

Equality Impact Screening Assessment – dated 10<sup>th</sup> July 2018 Well-being of Future Generations (Wales) Act 2015 Assessment – dated 10<sup>th</sup> May 2019 Cabinet Report – dated 27<sup>th</sup> June 2017 Cabinet Report – dated 17<sup>th</sup> July 2018