

From: s9(2)(a) @police.govt.nz>
Sent: Friday, 26 July 2024 3:47 pm
To: s9(2)(a) ; s9(2)(a)
Cc: s9(2)(a) ; s9(2)(a)
Subject: RE: IMPORTANT FW: [EXTERNAL] RE: Retail crime and anti-social behaviour work programme

Kia ora s9(2)(a)

Some useful links, that you are probably already across.

<https://communitylaw.org.nz/community-law-manual/chapter-27-neighbourhood-life/begging-busking-and-sleeping-rough/>

<https://wellington.govt.nz/community-support-and-resources/community-support/homelessness-and-begging/our-approach>

<https://www.thepoplesproject.org.nz/homelessness/>

The last link provides a good reminder that not all people who are suffering from homelessness, are the same.

Ngā mihi
s9(2)(a)

From: s9(2)(a) @justice.govt.nz>
Sent: Friday, July 26, 2024 3:32 PM
To: s9(2)(a) @police.govt.nz>
Cc: s9(2)(a) @justice.govt.nz>; s9(2)(a) @police.govt.nz>;
s9(2)(a) @police.govt.nz>; s9(2)(a) @police.govt.nz>;
s9(2)(a) @police.govt.nz>; s9(2)(a) @police.govt.nz>; s9(2)(a) @police.govt.nz>
Subject: RE: IMPORTANT FW: [EXTERNAL] RE: Retail crime and anti-social behaviour work programme

Thank you, s9(2)(a) that's really useful and answers another question I had around the gaps in Police's current powers when responding to anti-social behaviour.

I've also been thinking about the extent to which the paper should outline Police's current operational approach to homelessness and what the implications might be if move-on orders also extended to homelessness, to assist in distinguishing between policing anti-social behaviour vs. homelessness. If you happen to have any information or thoughts on those points they would be gratefully received, but I recognise this might also sit elsewhere in Police.

Thanks again. Have a great weekend!

Ngā mihi nui,
s9(2)(a)



s9(2)(a)
 Senior Policy Advisor | Criminal Law Policy
 Ministry of Justice | Tāhū o te Ture
 P 464 4 466 4807

From: s9(2)(a) hite@police.govt.nz
Sent: Friday, 26 July 2024 12:30 pm
To: S9(2)(a) @justice.govt.nz
Cc: S9(2)(a) @justice.govt.nz; s9(2)(a) @police.govt.nz;
s9(2)(a) @police.govt.nz; s9(2)(a) @police.govt.nz;
@police.govt.nz; s9(2)(a) @police.govt.nz; s9(2)(a) @police.govt.nz

Subject: FW: IMPORTANT FW: [EXTERNAL] RE: Retail crime and anti-social behaviour work programme
Importance: High

Hi S9(2)(a)

I am responding to your email below but just in the context of 'move on' orders.

I have attached a document that may be presented to the Cabinet Strategy Committee shortly when they look looking at Law and Order issues. It was to be part of a Justice Sector Ministers Meeting recently but that was canned. S9(2)(a) has been involved in the alcohol work - Evidence on the links between alcohol-related violence and crime and possible interventions.

You will see in the Table appended to the briefing that we consider there may be potential for **creating public nuisance legislation, noting that** this is made in the context of alcohol harm and street disorder, not homelessness. We note that offenders are usually intoxicated, but youth offenders and aggressive beggars could also fit into this profile. The intent is for Police to be able to issue a notice to offenders to move and stay away from an area.

Police have no power to effectively deal with people in CBDs that behave in an offensive or disorderly manner, but not to the extent of the threshold outlined in section 3 or 4 of the Summary Offences Act 1981. The potential order proposed is intended to be used for instances when people are being a nuisance to the public, and if left to their own devices, may soon become an offender or a victim of violence. Once Police identify an offender, they could be issued with a notice to leave the "area" for a defined period. Complying means no offence is committed. Police considers this would be an infringement only penalty with a power of arrest. Offenders can be released from custody with an infringement or written warning so there is no impact on an already stretched Justice and courts system. Immediate ability to impact on CBD violence by removing offenders from the area thereby protecting members of the public. However, this would require further consideration to manage the potential of displacement.

Happy to discuss.

Ngā mihi

s9(2)(a)

s9(2)(a)

Manager Policy

Policy & Partnerships

Police National Headquarters

E s9(2)(a) @police.govt.nz

From: S9(2)(a) <[@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>
Sent: Wednesday, 24 July 2024 10:22 AM
To: s9(2)(a) <[@police.govt.nz](mailto:s9(2)(a)@police.govt.nz)>; s9(2)(a) <[@police.govt.nz](mailto:s9(2)(a)@police.govt.nz)>; s9(2)(a) <[@police.govt.nz](mailto:s9(2)(a)@police.govt.nz)>
 s9(2)(a) <[@police.govt.nz](mailto:s9(2)(a)@police.govt.nz)>
Cc: S9(2)(a) <[@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>
Subject: [EXTERNAL] RE: Retail crime and anti-social behaviour work programme

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Kia ora koutou,

As flagged in the below email, I am currently working on a briefing with options to address homelessness in city centres. Would you be free for a meeting early next week to chat about current tools available to Police to manage homelessness or anti-social behaviour, any gaps in these tools, and feedback on the options we're outlining in the briefing?

For context, the briefing has been commissioned in response to concerns raised by retailers that homeless people are bringing antisocial behaviour to CBDs and generally making people feel unsafe. The options currently in the paper are:

- Move on orders: a tool enabling a Police officer to ask someone to immediately leave an area and not return for a specified period of time. Similar powers are available in Australia. I understand you have been looking into similar powers for public intoxication.
- Offences in the Safe Streets Bill: advice on "nuisance begging" and "nuisance obstruction of a public place" directions and prevention notices
- Option 3: TBC based on any findings from reviews of other jurisdictions (or any suggestions that you might have)

The briefing is due to the Minister on 14 August.

Nga mihi nui,
 S9(2)(a)



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From: S9(2)(a) <[@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>
Sent: Friday, 19 July 2024 2:57 pm
To: s9(2)(a) <[@police.govt.nz](mailto:s9(2)(a)@police.govt.nz)>; s9(2)(a) <[@police.govt.nz](mailto:s9(2)(a)@police.govt.nz)>; s9(2)(a) <[@police.govt.nz](mailto:s9(2)(a)@police.govt.nz)>
 s9(2)(a) <[@police.govt.nz](mailto:s9(2)(a)@police.govt.nz)>
Cc: S9(2)(a) <[@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>; S9(2)(a) <[@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>; S9(2)(a) <[@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>
Subject: Retail crime and anti-social behaviour work programme

Kia ora koutou

I wanted to reach out as our Minister has recently asked us to start work on some retail crime initiatives. This is in relation to the recent announcement of a new [Ministerial Advisory Group](#) for the victims of retail crime.

In preparation for the Advisory Group's establishment, our Minister has asked us to provide preliminary advice in the following focus areas:

- tackling anti-social behaviour through the criminal law;
- empowering retailers to use technology for crime prevention, particularly with respect to the use of facial recognition technology; and
- enabling security guards to be more effective.

We wanted to let you know about this work programme and would be keen to draw on your work and insights relating to retail crime where relevant. Timewise, we have been asked to provide advice in the next few months.

If you would have time over the next week or so, we'd appreciate meeting with you, or members of the team involved in this policy area, to discuss any intersections with your work that may be relevant to this initiative. Particularly to start with, in the areas of facial recognition technology for crime prevention, move-on orders, and the powers of security guards to respond to crime.

We look forward to connecting soon.

Nga mihi,
S9(2)(a)



S9(2)(a)

Acting Manager | Civil Law

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From: s9(2)(a) @police.govt.nz>
Sent: Friday, 26 July 2024 4:42 pm
To: S9(2)(a)
Subject: RE: IMPORTANT FW: [EXTERNAL] RE: Retail crime and anti-social behaviour work programme

Hi S9(2)(a)

I start to get less helpful at this point.

You might need to provide more specificity around what a homelessness offence might be. It's difficult to envisage an offence of being homeless. As you know homelessness in itself is not an offence. Any offending behaviour is generally already covered (eg. S21 and s22 of the Summary Offences Act 1981 - Intimidation, obstructing public way; s5A disorderly assembly Trespass Act 1980) and equally applies to homed people.

New Zealand's official definition of homelessness is broad and covers people who are without shelter, in emergency and temporary accommodation and living as a temporary resident in a severely overcrowded private dwelling. (Source: HUD).

"The 2013 Census estimated there were approximately 41,000 New Zealanders in severe housing deprivation.

Of those identified as homeless:

- around 10 percent were without shelter - living in cars, sleeping rough or in uninhabitable housing
- 20 percent in temporary or emergency accommodation – living at campgrounds or night shelters (including MSD and HUD funded accommodation)
- 70 percent were sharing accommodation with another household- living in overcrowded situations or couch surfing."

While the numbers will have changed since then definition covers a lot of people who do not demonstrate any anti-social behaviour.

Council bylaws (<https://communitylaw.org.nz/community-law-manual/chapter-27-neighbourhood-life/begging-busking-and-sleeping-rough/>)

"Councils can make bylaws for its area, and they are broadly made to cover one or more of the following purposes:

1. to protect the public from nuisance
2. to protect, promote, and maintain public health and safety
3. to minimise the potential for offensive behaviour in public places.

Each Council takes its own approach. Information from the community law website has some information about **begging** rules in some of the main centres:

Document 2

- **Auckland Council** has a **Public Safety and Nuisance Bylaw** (2013) that bans any begging that's done in a way "that may intimidate or cause a nuisance to any person" (clause 6(1)(f)).
- **Hamilton City Council** has a **Safety in Public Places Bylaw** (2020) that bans "nuisance behaviour," which includes begging "that is likely to cause harassment, alarm or distress to any reasonable person, or causes an unreasonable interference with the peace, comfort or convenience of any person" (clauses 3, 5).
- **Napier City Council** has a **Public Places Bylaw** (2021) that says you need permission from the council before you can ask for money or busk on public footpaths. In 2017 the police charged three beggars with breaching this bylaw, but later dropped the charges, with the city council saying the rule was intended for buskers and street appeals, not beggars.
- **Wellington City Council** has **said clearly** that it will not introduce an anti-begging bylaw.
- **Christchurch City Council** **gave up** on plans to introduce an anti-begging bylaw in 2015 after deciding it would be too hard to enforce it.
- **Tauranga City Council** did have a bylaw that banned begging within five metres of the doorway of a "retail premises" (like a shop, café, restaurant or bar). However, this was revoked on 27 February 2020 and is no longer in effect.

Bylaws can be enforced by council staff or external agencies such as the New Zealand Police."

From the above you can see the differences in approach from Councils and this most likely applies to dealing with homelessness.

See also: [Homelessness - The People's Project \(thepeoplesproject.org.nz\)](http://thepeoplesproject.org.nz)

I suggest you also talk with the Ministry of Health and HUD. They will likely attack the problem from the angle of prevention.

[Homelessness, Victimization and Crime: Knowledge and Actionable Recommendations \(publicsafety.gc.ca\)](http://publicsafety.gc.ca)

This Canadian report shows that without adequate shelter are more likely than the housed to be victims of violence and, for women, victims of sexual assault. They are also more likely to be Aboriginal.

I'm not clear on what immediate impact a 'move on' order would have. There is a risk that the problem is simply displaced or they move away temporarily and then come back. It is not clear whether moving "homeless" people on would increase their likelihood of offending and thereby require increased Police and Court intervention.

Ngā mihi

s9(2)(a)

Manager Policy

Policy & Partnerships

Police National Headquarters

E s9(2)(a) @police.govt.nz

From: S9(2)(a)
Sent: Friday, 26 July 2024 2:43 pm
To: 'Ewan Sargent | Communications Advisor'
Subject: RE: Request for meeting: Homelessness and criminal justice responses

Kia ora Ewan,

Thank you for your quick response. As you noted in your email about some aggressive beggars not being homeless, we're keen to understand the extent to which anti-social/criminal behaviour and homelessness overlap in Christchurch. We're also keen to understand the relationship between Police and homeless people in Christchurch and how homeless people are affected by contact with Police (justice and welfare-related) and by contact with the criminal justice system.

I hope this is useful. Thank you again and look forward to hearing from you.

Ngā mihi,

S9(2)(a)



S9(2)(a)

Senior Policy Advisor | Criminal Law Policy

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From: Ewan Sargent | Communications Advisor <ewan@citymission.org.nz>
Sent: Friday, 26 July 2024 1:13 pm
To: S9(2)(a) <[S9\(2\)\(a\)@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>
Subject: RE: Request for meeting: Homelessness and criminal justice responses

Hi S9(2)(a)

Thanks for your query. Would you please be able to give us a little more idea about what you would like to ask about – what the questions would cover?

That would help us work out if it is something we can help you with and who might be the best person for you to talk to.

Here in Christchurch we work with rough sleepers – genuine homeless on the streets. Our first priority is their safety and comfort but we encourage them to use our other services and to ultimately leave the streets, but we do that through building a relationship and overcoming their distrust.

We have a problem of aggressive begging here and associated anti-social behaviour, but we believe that is mostly coming from beggars who are not actually homeless. So we make that point clear.

Cheers
Ewan

From: S9(2)(a) <[S9\(2\)\(a\)@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>
Sent: Wednesday, July 24, 2024 2:51 PM

To: Reception | Christchurch City Mission <info@ccymission.org.nz>

Cc: S9(2)(a) <[S9\(2\)\(a\)@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>

Subject: FW: Request for meeting: Homelessness and criminal justice responses

Kia ora,

My name is S9(2)(a) and I am a senior policy advisor at the Ministry of Justice. I am seeking your views to inform a paper about criminal justice responses to homelessness in city centres. This follows concerns from retailers that homeless people and associated anti-social behaviour is driving people away from city centres and making people feel unsafe, as mentioned in articles like this: [Demand for more powers to move on Auckland's 'nuisance' rough sleepers, drug users | RNZ News](#)

In particular, I'd be really keen to understand the scale of homelessness in Christchurch and the impact that criminal justice responses have on homeless people.

Would someone in your organisation be free to meet with me early next week to discuss? I can send out a Microsoft Teams link for a day and time that suits you.

Please let me know if you have any questions.

Ngā mihi,

S9(2)(a)



S9(2)(a)

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From: s9(2)(a) @corrections.govt.nz>
Sent: Thursday, 8 August 2024 9:24 am
To: S9(2)(a)
Subject: consultation request re draft briefing on antisocial behaviours in CBDs
20240716 DRAFT (for consultation) briefing - tools to address antisocial behaviour
in CBDs Corrections feedback.docx
Attachments:

Kia ora S9(2)(a)

Thanks for sending the paper through for comment.

Implications for Corrections:

- Infringements engage Corrections where court action replaces unpaid debt with community work, and other community sentences, and where further offending occurs at the time of arrest.
- We can't properly comment on impacts without estimated volumes (not currently included in the paper), but:
 - Given the 3 month tariff, this new offence is likely to only have a nominal impact on imprisonment. Most people would not receive prison sentences, and, where people are imprisoned, it may not be their lead offence. This reflects what happens with existing offences with this maximum tariff.
 - However, we refer to our general feedback on other policy proposals that we look at the cumulative impact of policy changes not that of individual proposals (included below).

While this new offence is likely to only have a nominal impact on imprisonment and is unlikely to have a material financial impact in isolation, we note that any policy change impacting imprisonment needs to be considered in the context of overall prison population pressures. Impacts cannot be considered in isolation as network capacity and resourcing is assessed across the entire prison network, even where the impact of a single change may be nominal/not discernible. Should the prison population increase as a result of changes viewed collectively, additional resourcing may be needed to ensure that there is capacity in Corrections' infrastructure, and frontline staff are supported to manage additional people safely and effectively.

General feedback:

- We've tracked other minor comments and questions into the attached paper.

Ngā mihi,
s9(2)(a)

Principal Policy Adviser, Strategic Policy

Ara Poutama Aotearoa, Department of Corrections

a: Mayfair House, 44-52 The Terrace, Wellington, 6011

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ARA POUTAMA AOTEAROA
DEPARTMENT OF CORRECTIONS



From: S9(2)(a) @justice.govt.nz>
Sent: Monday, August 5, 2024 4:29 PM
Cc: S9(2)(a) @justice.govt.nz>; S9(2)(a) @justice.govt.nz>; S9(2)(a) @justice.govt.nz>
Subject: consultation request re draft briefing on antisocial behaviours in CBDs

You don't often get email from S9(2)(a) @justice.govt.nz. [Learn why this is important](#)

Kia ora,

Please find attached for your comment a draft briefing about tools to address homelessness in city centres. The paper is in response to concerns raised by retailers, particularly in city centres, that homeless people are bringing anti-social behaviour to CBDs and generally making people feel unsafe.

The options in the draft briefing are:

- Move on orders: a tool enabling a Police officer to ask someone to immediately leave an area and not return for a specified period of time. Similar powers are available in Australia.
- Offences in the Safe Streets Bill: advice on “nuisance begging” and “nuisance obstruction of a public place” directions and prevention notices

In addition to the draft briefing, you will find attached a copy of the draft Safe Streets Bill (please do not share this) and a draft appendix to the briefing that covers Australian move-on type powers (which you likely do not need to read).

Any comments you can provide on the paper would be much appreciated by 3 pm Thursday 8 August. And please let me know if this timeframe is not feasible for you or your agency.

The briefing is due to the Minister on 14 August.

Please let me know if you have any questions or would like to discuss any part of the briefing further.

Ngā mihi,

S9(2)(a)

S9(2)(a)

Senior Advisor | Criminal Law Policy

S9(2)(a)

www.justice.govt.nz

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Hon Paul Goldsmith, Minister of Justice

Briefing: Options for new tools to address anti-social behaviour in city centres

Date	14 August 2024	File reference	
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Action sought	Timeframe

Contacts for telephone discussion (if required)

Name	Position	Telephone		First contact
		(work)	(a/h)	
S9(2)(a)	Acting General Manager, Criminal Justice Policy	04 494 9776	S9(2)(a)	<input type="checkbox"/>
S9(2)(a)	Manager, Criminal Law Policy	S9(2)(a)	S9(2)(a)	<input checked="" type="checkbox"/>
S9(2)(a)	Senior Policy Advisor, Criminal Law Policy		N/A	<input type="checkbox"/>

Minister's office to complete

<input type="checkbox"/> Noted <input type="checkbox"/> Approved <input type="checkbox"/> Overtaken by events <input type="checkbox"/> Referred to: _____ <input type="checkbox"/> Seen <input type="checkbox"/> Withdrawn <input type="checkbox"/> Not seen by Minister Minister's office's comments

Released under the Official Information Act 1982

[SECURITY CLASSIFICATION – E.G. CONFIDENTIAL]

Purpose

1. Retailers in Auckland's CBD have expressed concern that homeless people bring anti-social behaviour to the city centre, and generally make people feel unsafe. They contend that this anti-social behaviour is driving people away from the city centre and affecting their businesses.
2. In response to the concerns raised by retailers, and in line with your manifesto commitment to improve law and order, you have asked us to consider the merits of move-on orders and draft proposals to address nuisance begging and nuisance obstruction of a public place.
3. This briefing outlines the current tools available to law enforcement to address homelessness and associated anti-social behaviours, and seeks your decision on options to expand these tools.
4. Specifically, this briefing is split into the following parts:
 - 4.1. Part 1 discusses anti-social behaviour and the current approaches to dealing with it, and the need for cross-sector responses to anti-social behaviour;
 - 4.2. Part 2 discusses move-on orders and analyses the effectiveness of using them to address anti-social behaviour (like aggressive begging and unreasonable obstruction of a public place);
 - 4.3. Part 3 provides advice about the proposed provisions in the draft Safe Streets Bill (attached as Appendix), relating to what it labels "nuisance begging" and "nuisance obstruction of a public place"; and
 - 4.4. Part 4 outlines the practical considerations that should be considered when addressing anti-social behaviours.

Commented [MM(1)]: Are other trends intersecting with this? - and available data etc.

Commented [MM(2)]: The paper doesn't include the maximum tariff for this, the only recommended offence, but does for the other offences.

Executive summary

5. We understand you share retailers' concerns that anti-social behaviour and behaviours associated with homelessness are making city centres unattractive spaces for the public to be in and undermining perceptions of safety.
6. Homelessness is a significant challenge faced by many cities in New Zealand. There is an opportunity to add to the tools available to Police and Councils to address behaviours associated with homelessness and anti-social behaviour.
7. You have asked us to provide advice on options to address the possible inadequacy of existing powers, through move-on orders and the proposals in the draft Safe Streets Bill (in relation to nuisance begging and nuisance obstruction of a public place).
8. Move-on orders, with appropriate penalties for non-compliance, may provide Police with an effective tool to manage anti-social behaviour in city centres.
9. In the Safe Streets Bill:

Commented [MM(3)]: Is there data pointing to the scale - we presume not because of the lack of comparable charges and infringements?

Commented [MM(4)]: The problem could be stated more clearly - it's pitched here as a general problem with homelessness - is that the case or is it something more specific about when this is coupled with particular behaviours.

Commented [MM(5)]: The discussion in the paper doesn't quite match this part of the exec summary.

[SECURITY CLASSIFICATION – E.G. CONFIDENTIAL]

- 9.1. the proposals to address nuisance begging are feasible, though we have some concerns over the workability of the proposals as currently drafted;
- 9.2. there are major workability issues with the proposals for nuisance obstruction of a public place directions and prevention notices.
10. Improving public confidence in law and order is a legitimate objective of the justice system. However, homelessness is a complex issue that requires a multi-faceted, cross-sector response. Criminal justice responses to homelessness are often ineffective and there are significant rights challenges associated with using the criminal justice system to respond to survival behaviours by homeless people.

Commented [MM(6): It may help to note connections to other work including the emergency housing target.

Commented [MM(7R6): And also to note in the exec summary that many of those exhibiting the nuisance behaviours are not necessarily homeless (if you're using the rough sleeping definition).

Part 1: Anti-social behaviours affect towns and cities across New Zealand

The nature of anti-social behaviour in city centres

11. Some behaviour undertaken by homeless people (e.g., sleeping in public places) can make people nervous or uncomfortable, but is not criminal in nature. Similarly, some homeless people have complex mental health issues that can manifest in ways that make people feel unsafe (e.g., psychosis causing someone to yell in public), but this is not criminal behaviour.
12. However, we have heard from City Councils and service providers that not all harmful anti-social behaviour in city centres can be attributed to homeless people. For example, councils and service providers have told us that certain anti-social behaviours often associated with homelessness, like aggressive begging, are predominately undertaken by people who are not homeless.
13. We have also heard from Police and service providers that alcohol is contributing to anti-social behaviour in CBDs and is a key driver affecting inner-city safety. Police has expressed concern about officers' limited ability to act when they encounter intoxicated individuals who are at risk of offending but whose behaviour does not reach the level of offending.

Current powers available to Police and Councils may be inadequate

14. Law enforcement have a range of options to respond to crime in city centres, including criminal offences, general Police powers, and city bylaws.
 - 14.1. For example, there are several offences in the Summary Offences Act 1981 that address low-level crime and maintain public order and safety, including scam begging, obstructing a public way, offensive behaviour or language, intimidation, and other indecent behaviours.
 - 14.2. Police also have some powers to address anti-social behaviour, including the ability to detain people who are intoxicated in a public place or trespassing on private property if they are at risk of causing harm or being harmed, and to search for and

[SECURITY CLASSIFICATION – E.G. CONFIDENTIAL]

seize alcohol present in areas under the alcohol ban (with a power to arrest for non-compliance).^{1 2}

- 14.3. In addition, City Councils have the ability to independently create bylaws, which can be used to address anti-social behaviour. For example, several councils have bylaws concerning begging and rough sleeping.³
15. Despite these options, the tools currently available may be inadequate at addressing some anti-social behaviours. For example, frontline Police patrolling CBD areas have raised concerns about their limited ability to act when they come across people that have been drinking or acting in a manner that causes Police concern that offending may occur. Unless their behaviour escalates to the level of offending, currently Police cannot compel them to leave.

Criminal justice responses, in isolation, are not effective

16. Improving public confidence in law and order is a legitimate objective of the justice system. Many in the community may feel it is unfair for homelessness and other anti-social behaviours to deter more legitimate use of public spaces.
17. However, there are significant challenges associated with using the criminal justice system to respond to survival behaviours by homeless people. These challenges include:
 - 17.1. criminalising survival behaviours, such as rough sleeping, where a person has no reasonable alternatives but to engage in the conduct. A 2024 United Nations Human Rights Council report outlined that laws criminalising life-sustaining activities in public spaces may violate a range of human rights;⁴
 - 17.2. imposing penalties that would be an effective deterrent against the conduct (i.e. prison sentences are costly and disproportionate given the harm caused by the conduct and the culpability of the offender, while fines are not likely to be paid).
18. These challenges may create workability challenges to the options presented in this paper. In particular:
 - 18.1. survival behaviours are likely to be regarded by courts as constituting a "reasonable excuse" for the conduct.

¹ Police Manual: Host responsibility and dealing with intoxicated persons. [alcohol-host-responsibility-and-dealing-with-intoxicated-persons-180424.pdf \(police.govt.nz\)](#)

² Local Government Act 2002, Section 169: Powers of arrest search, and seizure in relation to alcohol bans

³ <https://www.aucklandcouncil.govt.nz/plans-projects-policies-reports-bylaws/bylaws/Pages/public-safety-nuisance-bylaw.aspx>; Bylaws | Hamilton City Council: What we're doing about homelessness - Community support - Wellington City Council; City-Amenity-Bylaw-Number-226-FINAL-Signed-and-sealed-30-August-2017-updated-14Oct21.pdf (nelson.govt.nz); Bylaws | Hamilton City Council; What we're doing about homelessness - Community support - Wellington City Council

⁴ United Nations Special Rapporteur on extreme poverty and human rights and the Special Rapporteur on adequate housing: A/HRC/56/61/Add.3: Breaking the cycle: Ending the criminalization of homelessness and poverty

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- 18.2. behaviours that are symptoms of mental health disorders ~~may~~ will struggle to meet mens rea requirements, such as that the behaviour was undertaken knowingly or intentionally; and
 - 18.3. policing and prosecuting these offences will displace police resourcing from more serious offending types and will further contribute to court back-log. Even with all of this, it's not clear that this will achieve the desired change in offender behaviours, given fines ~~will~~ may or "are likely to" remain unpaid.
19. Additionally, criminalising these behaviours is likely to undercut different council approaches to working with service providers and the homeless populations, and it may incentivise worse social outcomes. For example, evidence suggests that people prohibited from begging divert to locations with a lesser police presence or resort to more serious criminal activity.⁵
 20. Further, requiring significant resourcing from Police for low-level anti-social behaviour is not aligned with the Government's current expectations around the role of Police. Minister Mitchell has stated that Police visibility in public is important but that the role of Police should not be furthered in areas, like mental health, that is more appropriately delivered by other agencies.⁶
 21. We have outlined in the paper how these workability challenges can be mitigated.

Move-on orders may be effective and proportionate at dealing with anti-social behaviour

22. Having more powers to address anti-social behaviour in city centres would enable Police to tailor their response to the circumstances of individual cases. Any new tool should:
 - 22.1. be usable and enforceable;
 - 22.2. to the extent it applies, be appropriate for the circumstances of homeless people;
 - 22.3. make city centres safer; and
 - 22.4. retain the ability for city councils and service providers to self-determine how to respond to homelessness and anti-social behaviour in their city.
23. You have options that may address the potential gaps⁷ in the range of responses available to law enforcement, each taking a different approach to addressing anti-social behaviour in city centres:

Commented [MM(8): "May" instead of "will" - there are high numbers of people in the corrections system who have/have had mental health and substance abuse needs and the existence of a mental health need doesn't mean they lack the mens rea (probably more likely with people who have acute untreated psychosis but this is a small proportion) and again the presence of people with psychosis in the corrections system suggests even there they may not lack the mens rea. It's probably more likely that they are a factor in charging decisions and sentencing as there's a high standard to hold someone unfit to stand trial.

⁵ All the right moves? Police 'move-on' powers in Victoria (2009) <https://www5.austlii.edu.au/au/journals/AiTLaw/Jl/2009/5.pdf>

⁶ See the Ministerial Expectations for the Commissioner of Police, 6 December 2023.

⁷ We use the term potential gaps because it is unclear if current anti-social behaviours are a symptom of Police under-resourcing; recent anecdotal evidence from Auckland CBD in relation to the impact of beat patrols supports the contention that more Police effectively deters anti-social behaviours.

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- 23.1. the introduction of move-on orders: a police power to ask someone to leave an area for a specified amount of time when they are engaging in anti-social conduct or are at clear risk of anti-social conduct.
 - 23.2. criminalising some anti-social behaviours: the introduction of directions for nuisance begging and nuisance obstruction of a public place with the ability to issue more restrictive prevention notices for non-compliance.
24. You could do one or multiple of these options. The options are outlined further below.

Part 2: Move-on orders provide flexibility and proportionality, without overreach

- 25. Police are currently unable to address some anti-social behaviours where the behaviour does not yet reach the level of offending, even when they have identified someone as being likely to offend in the immediate future. This puts them in a position where they must wait until the threshold under the Summary Offences Act has been met before they can act, even if the individual is at risk of offending.
- 26. Police considers that there is potential benefit available to them through the power to issue notices to people who are being a nuisance to the public, and if left to their own devices, may soon become an offender.
- 27. Move-on orders, which enable Police to ask a person to leave a specified area and not return for a period of time, are a tool that could address this gap. Failure to comply with a move-on order would result in a penalty, like a fine.
- 28. Police considers failure to comply with a move-on order should be an infringement-only penalty with a power of arrest. Offenders can be released from custody with an infringement or written warning which reduces the impact on an already stretched justice and courts system and is a more proportionate penalty given no criminal behaviour has occurred.
- 29. Move-on orders, when complied with, can provide an alternative to arrest or issuing an infringement notice in situations that can be diffused without need for further police action.

Equivalent powers are available in Australia and the United Kingdom

- 30. Move-on orders, or an equivalent, are available in all Australian states. While aspects of the orders vary in each jurisdiction, they are generally tied to offending behaviour (e.g. engaged or likely to commit an offence or engage in violence), breaching the peace, or posing a risk to the safety of others. Details of move-on powers in Australia can be found in the attached **Appendix**.

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31. Evidence of the effectiveness of move-on orders in Australia is mixed. Studies have found that there is no empirical evidence to show that 'move-on' legislation results in reductions in crime rates, but, rather, serves as another gateway into the criminal justice system.^{8 9}
32. The United Kingdom has dispersal powers that enable police officers to direct a person to leave an area and not return for up to 48 hours, where the officer has reasonable grounds to suspect the behaviour of the person has contributed to members of the public being harassed, alarmed or distressed and the officer considers that giving a direction is necessary to remove or reduce the likelihood of further behaviour.¹⁰ Police report that they find dispersal powers generally useful, note that under-staffing undermines the effectiveness of dispersal powers, and do not consider it a long-term solution to anti-social behaviour.¹¹
33. [TBC – effectiveness of dispersal powers in the UK]

Commented [MM(9): If this is connected to the ASBOs then there are a few decades of experience so there would probably be more than a report with staff reflections? Although we see more info is to come

We recommend that move-on orders are introduced to respond to specific behaviour

34. How and when move-on orders can be used is dependent on your priorities.
35. We have identified three options for move-on orders:
 - 35.1. do not progress move-on orders at all;
 - 35.2. enable move-on orders, but with their application limited to behaviour that causes safety issues, e.g., public intoxication and aggressive begging (recommended); or
 - 35.3. enable move-on orders with a wide application, including to rough sleepers and all beggars.
36. We recommend that move-on orders are introduced as an additional power for Police to manage anti-social behaviour in city centres. However, we recommend you authorise us to work with Police to develop a regime that will apply only to behaviour that warrants a criminal justice response. This may include alcohol-related behaviour, like public intoxication, and aggressive begging.
37. As move-on orders are highly discretionary in nature, limiting their scope to apply to behaviour that causes safety issues will reduce the risk of the orders being issued in a discriminatory manner and ensure that Police can use the orders effectively. The purpose

⁸ All the right moves? Police 'move-on' powers in Victoria (2009)
<https://www5.austlii.edu.au/au/other/au-other/auilj/2009/5.pdf>

⁹ Move-on powers: New paradigms of public order policing in Queensland (2011)
https://www.researchgate.net/publication/263083932_Move-on_powers_New_paradigms_of_public_order_policing_in_Queensland

¹⁰ Anti-social Behaviour, Crime and Policing Act 2014 (UK)

¹¹ Police perceptions of powers within the Anti-Social Behaviour, Crime and Policing Act 2014, United Kingdom Home Office, 14 November 2023.
<[gov.uk/government/publications/police-perceptions-of-powers-within-the-anti-social-behaviour-crime-and-policing-act-2014/police-perceptions-of-powers-within-the-anti-social-behaviour-crime-and-policing-act-2014](https://www.gov.uk/government/publications/police-perceptions-of-powers-within-the-anti-social-behaviour-crime-and-policing-act-2014/police-perceptions-of-powers-within-the-anti-social-behaviour-crime-and-policing-act-2014)>

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would be to prevent the escalation of anti-social behaviour to the point of an offence occurring.

38. Move-on orders applying to anti-social behaviour, rather than someone's mere presence, will enable a more focused and rights-consistent approach. This allows for behaviour to be distinguished, for example, between aggressive begging and merely begging, or sleeping outside a retailer's door in the daytime versus sleeping in a public park at night.

Wider application of move-on orders will involve trade-offs

39. If your preference is for move-on orders to apply to a wider range of behaviour, there will be trade-offs:
- 39.1. Police resourcing and enforceability – namely, frontline services will be stretched, making addressing other offending more difficult, and enforceability of wider move-on orders could be prohibitively unmanageable to effectively enforce.
 - 39.2. the application of move-on orders to homeless people or others who have not committed a crime will stretch the traditional boundaries of the criminal justice system. Where otherwise no crime is being committed, there is a risk of significant net-widening (expansion of the ways in which people are pulled into the criminal justice system).
 - 39.3. homeless people given move-on orders may end up congregating in inner-city suburbs, which shifts the problem to another part of the city, or keep returning to the city once the order expires, which does not provide a long-term solution to the problem.

Part 3: Options to address nuisance begging in the Safe Streets Bill are feasible but there are serious issues with respect to the proposals concerning nuisance obstruction

40. You also asked for advice on the draft Safe Streets Bill, which sets out two new Police powers: nuisance obstruction of public place directions, and nuisance begging directions. Where the behaviour is ongoing despite the direction, the Bill introduces prevention orders, which carry more extensive requirements.
41. s9(2)(h)

s9(2)(h)

42.

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43. We have outlined these issues in more detail below.

Workability issues with the Bill

The Bill is unlikely to lead to a better quality of life for New Zealanders

44. The general policy statement for the Bill says that “the goal is to improve the quality of life of all New Zealanders and improve the state of New Zealand cities... while avoiding criminalising the genuinely vulnerable”. However, the Bill proposes a penalty-oriented framework for dealing with what Police consider to be issues that require health and socio-economic responses. The Bill gives Police a disproportionate role in addressing the harm, one that would potentially obstruct better responses, and, in practice, is more likely to shift inner city social problems to other areas while also making it more difficult to provide support for those people.
45. The lack of connection between the objective and provisions of the Bill causes a number of issues, including the justification of the limitation of various human rights.

The scope of the behaviour that is captured is broad and vague

46. The definition of nuisance begging and the behaviours captured by nuisance obstruction of a public place are both drafted very broadly. This may have unintended consequences, including placing restrictions on people that are superfluous to addressing the identified problem and achieving your objective.
- 46.1. for nuisance begging, the catchment area is drafted so broadly that there is unlikely to be any area in CBDs that does not apply. This is likely to drive begging out of the CBD and into nearby suburbs.
- 46.2. for nuisance obstruction of a public place, for example, “placing or leaving any material, object, thing or structure in a public place without lawful excuse” is unclear and could capture a number of behaviours. Others are already captured by existing offences, e.g. intimidating a person in a public place.

The Bill as drafted captures people participating in everyday activities

47. The definition of “nuisance obstruction of a public place” in the Bill also is broad enough that it captures people going about their day-to-day routines, meaning Police would be able to issue directions to people lawfully engaging in everyday conduct in city centres.
48. For example, there is nothing in the Bill that protects or prevents legitimate protest from being deemed a nuisance obstruction of a public place. Further, even people waiting to meet friends or congregating outside a café before it opens could be caught by the expansive framing.

The Bill is likely to raise human rights concerns

49. The Bill is likely to raise several human rights concerns, including in relation to the right to freedom of movement (section 18 of the New Zealand Bill of Rights Act), the right to

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freedom of peaceful assembly (section 16), and the right to freedom of expression (section 14).

The Bill is likely to receive a section 7 report from Crown Law

50. Due to the broad nature of the Bill, the engagement with numerous human rights, and the disconnect between the objective and outcome of the Bill, the Bill is likely to receive a section 7 report.

Generally, these proposals are inconsistent with global approaches to addressing homelessness

51. While these proposals are written to apply to anyone, in effect they are likely to be used almost exclusively against homeless people and others who spend time on the streets. These proposals and the associated penalties return to a model where homelessness is effectively criminalised, which is inconsistent with the general direction most comparable countries are taking to addressing homelessness and associated anti-social behaviour.

The penalties in the Bill are disproportionate and inappropriate for the harm caused

52. The penalties associated with breaching a direction (maximum 3 months imprisonment or \$2,000 fine) or a prevention notice (maximum 6 months imprisonment or \$4,000 fine) are disproportionate to the behaviour being captured. As noted earlier in the paper, these are likely to be disproportionate penalties and an ineffective deterrent against the conduct, especially for homeless people.

The reasons someone can return to the area following a direction would need to be widened

53. The nuisance obstruction of a public place direction currently has protections to enable people to come back to the area for work or education, but this does not sufficiently cover the legitimate reasons why someone might need to return to the city centre. Particularly for homeless people in city centres, City Missions and other support services are often based in the city centre.

The proposals to address nuisance begging may be feasible with further development

54. Police consider such additional legislative powers are not needed to address safety in CBDs. However, if you wish to move forward with new offences, the nuisance begging direction and prevention orders in the Safe Streets Bill may be workable after addressing the issues discussed above, such as refining the scope of behaviour that constitutes nuisance begging and ensuring the penalties are proportionate to the offence.
55. Implementation of move-on orders and nuisance begging directions can provide flexibility to law enforcement's options when dealing with aggressive beggars. Police will be able to determine which option is more appropriate in the circumstance and whether the behaviour merits the issuance of an infringement-only move-on order or constitutes a criminal offence.

The proposals to address nuisance obstruction of a public place are so vague and overbroad as to be unworkable

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56. We do not believe the nuisance obstruction of a public place proposals are feasible. As discussed above, the definition of the offence covers a wide range of behaviours, including everyday activities, and includes vague terms that are open to interpretation and would likely lead to unintended consequences.

We recommend this Bill is not progressed

57. We have identified four options for the Safe Streets Bill:

- 57.1. do not progress the Safe Streets Bill (recommended);
- 57.2. progress the Safe Streets Bill with amendments;
- 57.3. progress only the nuisance begging part of the Safe Streets Bill (with amendments);
or
- 57.4. progress the Safe Streets Bill as-is.

58. We recommend not progressing the Safe Streets Bill.

59. If you wish to progress the Safe Streets Bill, we recommend that you authorise us to continue to work with Crown Law and Police on what changes could be made to the Bill to best ensure it is workable.

Part 4: There are practical considerations for each option

Any option should not override the ability for local councils to tailor their responses

60. As noted earlier in this paper, each Council takes a different approach to addressing homelessness and anti-social behaviour in their city. Any approach that applies nationally should not remove this flexibility.

61. One of the risks with the Safe Streets Bill is that the prescriptive nature of the Bill as it relates to retail premises will mean begging and anti-social behaviour is more likely to occur just beyond CBDs, namely the inner suburbs surrounding CBDs.

Commented [MM(11): Noting in case it's helpful that the benefits and tradeoffs of each option are currently dispersed throughout the briefing - they all appear to be in there though.

We recommend that any new powers focus on behaviour, not presence

62. We recommend that any new powers only apply to people engaging in anti-social behaviour, rather than for their mere presence in public places.

Commented [MM(12): Noting that this in itself is quite a broad definition and would need to be better defined

63. Any power that can be used without a crime having taken place can lead to selective enforcement and harassment. Homeless people are also unlikely to fully understand the law and its limitations, which increases their vulnerability to misuse of the power by Police.

64. As mentioned earlier, requiring policing of presence over behaviour will stretch Police resources and push Police towards responsibilities better suited for other agencies.

Access to support services should not be blocked by these powers

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65. Additionally, we recommend any power includes exceptions to ensure that people subject to move-on orders, nuisance begging notices/prevention directions, or nuisance obstruction notices/prevention directions are able to remain in the city centre to access support services. Many support services including City Missions are based in city centres, and it is counterproductive to order people to leave the area where the key services to support them are based.

The penalties associated with these powers need to be proportionate and appropriate

66. As noted earlier in this briefing, the penalties in the Safe Streets Bill are disproportionate to the harm caused by the behaviour being captured and are generally not appropriate for homeless people.
67. Penalties for failing to comply with move-on orders are likely to be appropriate if they are infringement fees, which do not result in a criminal conviction. Infringement fees are more proportionate to the harm caused by behaviours move-on orders could be used for, and they largely avoid the criminal justice system¹² which is already facing delays. The recommended maximum infringement fee is \$1,000.

Agency consultation and population impacts

68. [TBC agency views- Crown Law, Police, Corrections, Social Investment Agency]
69. Police agree that move-on orders would be beneficial in targeting intoxication and disorderly behaviours that cause concern but do not yet escalate to the level of offending. However, Police currently considers additional legislative powers are not needed to address safety in city centres. Police expressed concerns that the direction and prevention orders proposed in the Safe Streets Bill would displace individuals to more isolated areas and put them at increased risk of harm. Police have anecdotal reports that the recently introduced “beat patrol teams” have reduced anti-social behaviours in CBDs and will continue to monitor the impact of this new initiative.
70. [TBC population impacts (from engagement with service providers) – homeless people, Māori, youth?]
71. Any tools addressing homelessness are likely to have a disproportionate impact on Māori, who make up a large proportion of homeless people. Downtown Community Ministry Wellington estimates that 54% of rough sleepers in Wellington City are Māori.

Commented [MM(13)]: It's not clear from this paragraph whether Police support the option or not. No doubt they'll comment on that though.

Next steps

72. If you agree to proceed with any of the options in this briefing, we will work with relevant agencies to develop detailed policy proposals.

¹² If someone decides to challenge their infringement fee, they can do so through the District Court. If someone appeals unsuccessfully, judges can issue a fine usually set at a maximum of three times the fee amount. This is designed to avoid people bringing appeals when they do not have a legitimate case, therefore limiting additional backlogs in the courts.

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73. Given the impacts of these proposals across the Justice sector, we recommend you share this briefing and consult with the Minister of Police, the Minister of Corrections, and the Attorney-General before making policy decisions.

Recommendations

74. It's recommended that you:

1. **Note** that there are a number of existing tools to address anti-social behaviour in public spaces, including criminal offences, police powers, and city bylaws;
2. **Approve** officials progressing analysis of move-on orders, including consultation with Police, Crown Law, and councils (recommended) YES / NO
3. **Agree** not to proceed with the Safer Streets Bill (recommended) YES / NO
4. **Agree** to proceed with only the nuisance begging part of the Safer Streets Bill (and for officials to consult with agencies and councils) YES / NO
5. **Agree** to proceed with the Safer Streets Bill in its entirety (and for officials to consult with agencies and councils) YES / NO
6. **Forward** a copy of this briefing to the Minister of Police, Minister of Corrections, and the Attorney-General. YES / NO
7. **Approve**... YES / NO

S9(2)(a)
Manager, Criminal Law Policy

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APPROVED SEEN NOT AGREED

Hon Paul Goldsmith
Minister of Justice

Date / /

Attachments: [Describe any attachments – use bullet points if more than one.]

DRAFT
Released under the Official Information Act 1982

From: s9(2)(a) @police.govt.nz>
Sent: Thursday, 8 August 2024 1:52 pm
To: S9(2)(a)
Cc: S9(2)(a) ; S9(2)(a) ; S9(2)(a) ; s9(2)(a)
Subject: RE: consultation request re draft briefing on antisocial behaviours in CBDs
20240806 Police feedback DRAFT MoJ briefing - tools to address antisocial
behaviour in CBDs.docx

Kia ora S9(2)(a)

Thanks for the opportunity to respond. Police has a strong interest in the proposed options to address aggressive anti-social behaviour.

A move-on order that targets aggressive anti-social behaviour (not the mere presence of a person) where there is a clear risk of escalation to offending is supported by Police. This could be a significant crime prevention tool.

The proposal for a move-on power should not result in criminalisation of low level anti-social behaviour (net-widening) or of behaviour that is a result of mental health and social need (rough sleeping, non-aggressive begging, yelling or other behaviour that is not directed at the public).

It should be an additional prevention tool for Police to address low level offending and aggressive anti-social behaviour before it progresses to offending that results in harm to the public and the individual, and potentially criminal charges.

I have tracked suggested changes and added comments into the document attached.

It is worth noting that some shopping malls are privately owned and are not a public place by definition. Issues around public/private spaces have been previously raised in relation to alcohol bans and infringement notices. Worth thinking about if this work progresses.

Ngā mihi

s9(2)(a)

From: S9(2)(a) @justice.govt.nz>
Sent: Monday, August 5, 2024 4:29 PM
Cc: S9(2)(a) @justice.govt.nz>; S9(2)(a) @justice.govt.nz>; S9(2)(a)
Subject: consultation request re draft briefing on antisocial behaviours in CBDs

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Kia ora,

Please find attached for your comment a draft briefing about tools to address homelessness in city centres. The paper is in response to concerns raised by retailers, particularly in city centres, that homeless people are bringing anti-social behaviour to CBDs and generally making people feel unsafe.

The options in the draft briefing are:



Hon Paul Goldsmith, Minister of Justice

Briefing: Options for new tools to address anti-social behaviour in city centres

Date	14 August 2024	File reference	
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Action sought	Timeframe

Contacts for telephone discussion (if required)

Name	Position	Telephone (work)	(a/h)	First contact
S9(2)(a)	Acting General Manager, Criminal Justice Policy	04 494 9776	S9(2)(a)	<input type="checkbox"/>
S9(2)(a)	Manager, Criminal Law Policy	S9(2)(a)	S9(2)(a)	<input checked="" type="checkbox"/>
S9(2)(a)	Senior Policy Advisor, Criminal Law Policy		N/A	<input type="checkbox"/>

Minister's office to complete

<input type="checkbox"/> Noted <input type="checkbox"/> Approved <input type="checkbox"/> Overtaken by events <input type="checkbox"/> Referred to: _____ <input type="checkbox"/> Seen <input type="checkbox"/> Withdrawn <input type="checkbox"/> Not seen by Minister Minister's office's comments

Released under the Information Act 1982

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Purpose

1. Retailers in Auckland's CBD have expressed concern that homeless people bring anti-social behaviour to the city centre, and generally make people feel unsafe. They contend that this anti-social behaviour is driving people away from the city centre and affecting their businesses.
2. In response to the concerns raised by retailers, and in line with your manifesto commitment to improve law and order, you have asked us to consider the merits of move-on orders and draft proposals to address nuisance begging and nuisance obstruction of a public place.
3. This briefing outlines the current tools available to law enforcement to address homelessness and associated anti-social behaviours, and seeks your decision on options to expand these tools.
4. Specifically, this briefing is split into the following parts:
 - 4.1. Part 1 discusses anti-social behaviour and the current approaches to dealing with it, and the need for cross-sector responses to anti-social behaviour;
 - 4.2. Part 2 discusses move-on orders and analyses the effectiveness of using them to address anti-social behaviour (like aggressive begging and unreasonable obstruction of a public place);
 - 4.3. Part 3 provides advice about the proposed provisions in the draft Safe Streets Bill (attached as [Appendix](#)), relating to what it labels "nuisance begging" and "nuisance obstruction of a public place"; and
 - 4.4. Part 4 outlines the practical considerations that should be considered when addressing [aggressive](#) anti-social behaviours.

Executive summary

5. We understand you share retailers' concerns that anti-social behaviour and behaviours associated with homelessness are making city centres unattractive spaces for the public to be in and undermining perceptions of safety.
6. Homelessness is a significant challenge faced by many cities in New Zealand. There is an opportunity to add to the tools available to Police and Councils to address [some of the behaviours](#) associated with homelessness and anti-social behaviour.
7. You have asked us to provide advice on options to address the possible inadequacy of existing powers, through move-on orders and the proposals in the draft Safe Streets Bill (in relation to nuisance begging and nuisance obstruction of a public place).
8. Move-on orders, with appropriate penalties for non-compliance, may provide Police with an effective tool to manage [aggressive](#) anti-social behaviour in city centres.
9. In the Safe Streets Bill:

Commented [WS1]: To make it clear that it is not a crime to be homeless (as set out in para 10). Police is not the right agency to address most of the issues around homelessness, that requires a cross-sector approach.

Commented [WS2]: Adding aggressive to anti-social because Police is interested in a power that would enable officers to require an individual to leave an area and not return where there is a real risk of offending occurring, eg aggressive begging, intoxicated aggression.
s9(2)(f)(iv)

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- 9.1. the proposals to address nuisance begging are feasible, though we have some concerns over the workability of the proposals as currently drafted;
 - 9.2. there are major workability issues with the proposals for nuisance obstruction of a public place directions and prevention notices.
10. Improving public confidence in law and order is a legitimate objective of the justice system. However, homelessness is a complex issue that requires a multi-faceted, cross-sector response. Criminal justice responses to homelessness are often ineffective and there are significant rights challenges associated with using the criminal justice system to respond to survival behaviours by homeless people.

Part 1: Anti-social behaviours affect towns and cities across New Zealand

The nature of anti-social behaviour in city centres

11. Some behaviour undertaken by homeless people (e.g., sleeping in public places) can make people nervous or uncomfortable, but is not criminal in nature. Similarly, some homeless people have complex mental health issues that can manifest in ways that make people feel unsafe (e.g., psychosis causing someone to yell in public), but this is not criminal behaviour.
12. However, we have heard from City Councils and service providers that not all ~~harmful~~ aggressive anti-social behaviour in city centres can be attributed to homeless people. For example, councils and service providers have told us that certain anti-social behaviours often associated with homelessness, like aggressive begging, are predominately undertaken by people who are not homeless.
13. We have also heard from Police and service providers that alcohol is contributing to anti-social behaviour in CBDs and is a key driver affecting inner-city safety. ~~Police has expressed concern about officers' limited ability to act when they encounter intoxicated individuals who are at risk of offending but whose behaviour does not reach the level of offending.~~
14. A significant amount of police resource is dedicated to policing public order, and in particular, night-time CBD economies that are characterised by music, entertainment, alcohol and drug consumption.

~~13.~~

Current powers available to Police and Councils may be inadequate

~~14-15.~~ Law enforcement have a range of options to respond to crime in city centres, including criminal offences, general Police powers, and city bylaws.

~~14.1.15.1.~~ For example, there are several offences in the Summary Offences Act 1981 and the Crimes Act that address low-level crime and maintain public order and safety, including scam begging, obstructing a public way, offensive behaviour or language, intimidation, and other indecent behaviours.

Commented [WS3]: Such as s42 preventing breach of the peace.

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44-2-15.2. Police also have some powers to address anti-social behaviour, including the ability to detain people who are intoxicated in a public place or trespassing on private property if they are at risk of causing harm or being harmed, and to search for and seize alcohol present in areas under the alcohol ban (with a power to arrest for non-compliance).¹ However, detaining intoxicated individuals in police custody to prevent further offending places significant health and safety obligations on police and is used sparingly for individuals arrested for public order offences.

44-3-15.3. In addition, City Councils have the ability to independently create bylaws, which can be used to address anti-social behaviour. For example, several councils have bylaws concerning begging and rough sleeping.³

16. Despite these options, the tools currently available may be inadequate at addressing some aggressive anti-social behaviours. For example, frontline Police patrolling CBD areas have raised concerns about their limited ability to act when they come across people that have been drinking or acting in a manner that causes Police concern that offending may occur. Unless their behaviour escalates to the level of offending, currently Police cannot compel them to leave.

45-17. In response to concerns about public safety in CBDs on 1 July 2024 Police rolled out Community Beat Teams across Tāmaki Makaurau, Wellington and Christchurch. The Beat Teams will provide 24/7 service with a more visible and reassuring police presence in the CBD where people have been feeling unsafe. It also gives Police the opportunity to engage with local businesses and retailers and give them reassurance and safety advice.

Criminal justice responses, in isolation, are not effective

46-18. Improving public confidence in law and order is a legitimate objective of the justice system. Many in the community may feel it is unfair for homelessness and other anti-social behaviours to deter more legitimate use of public spaces.

47-19. However, there are significant challenges associated with using the criminal justice system to respond to survival behaviours by homeless people. These challenges include:

47-4-19.1. criminalising survival behaviours, such as rough sleeping, where a person has no reasonable alternatives but to engage in the conduct. A 2024 United Nations Human Rights Council report outlined that laws criminalising life-sustaining activities in public spaces may violate a range of human rights;⁴

¹ Police Manual: Host responsibility and dealing with intoxicated persons. [alcohol-host-responsibility-and-dealing-with-intoxicated-persons-180424.pdf \(police.govt.nz\)](#)

² Local Government Act 2002, Section 169: Powers of arrest search, and seizure in relation to alcohol bans

³ <https://www.aucklandcouncil.govt.nz/plans-projects-policies-reports/bylaws/bylaws/Pages/public-safety-nuisance-bylaw.aspx>; Bylaws | Hamilton City Council: [What we're doing about homelessness - Community support - Wellington City Council](#); [City Amenity Bylaw Number 226 FINAL Signed and sealed 30 August 2017 updated 14 Oct 21.pdf \(nelson.govt.nz\)](#); Bylaws | Hamilton City Council: [What we're doing about homelessness - Community support - Wellington City Council](#)

⁴ United Nations Special Rapporteur on extreme poverty and human rights and the Special Rapporteur on adequate housing: A/HRC/56/61/Add.3: [Breaking the cycle: Ending the criminalization of homelessness and poverty](#)

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47-2-19.2. imposing penalties that would be an effective deterrent against the conduct (i.e. prison sentences are costly and disproportionate given the harm caused by the conduct and the culpability of the offender, while fines are not likely to be paid).

48-20. These challenges may create workability challenges to the options presented in this paper. In particular:

48-1-20.1. survival behaviours are likely to be regarded by courts as constituting a "reasonable excuse" for the conduct;

48-2-20.2. behaviours that are symptoms of mental health disorders will struggle to meet mens rea requirements, such as that the behaviour was undertaken knowingly or intentionally; and

48-3-20.3. policing and prosecuting these offences will displace police resourcing from more serious offending types and will further contribute to court back-log. Even with all of this, it's not clear that this will achieve the desired change in offender behaviours, given fines will remain unpaid.

Commented [WS4]: This section seems to be focused on a broader use of powers for rough sleeping etc where currently there is no offence.

49-21. Additionally, criminalising these behaviours is likely to undercut different council approaches to working with service providers and the homeless populations, and it may incentivise worse social outcomes. For example, evidence suggests that people prohibited from begging divert to locations with a lesser police presence or resort to more serious criminal activity.⁵

20-22. Further, requiring significant resourcing from Police for low-level anti-social behaviour is not aligned with the Government's current expectations around the role of Police. A lot of the issues in Auckland CBD and other CBDs around the country, such as homelessness and complex mental health issues, are not issues Police can solve. Minister Mitchell has stated that Police visibility in public is important but that the role of Police should not be furthered in areas, like mental health, that is more appropriately delivered by other agencies.⁶

24-23. We have outlined in the paper how these workability challenges can be mitigated.

Move-on orders may be effective and proportionate at dealing with anti-social behaviour

22-24. Having more powers to address aggressive anti-social behaviour in city centres would enable Police to tailor their response to the circumstances of individual cases. Any new tool should:

22-1-24.1. be usable and enforceable;

22-2-24.2. to the extent it applies, be appropriate for the circumstances of homeless people;

⁵ All the right moves? Police 'move-on' powers in Victoria (2009)

<https://www5.austlii.edu.au/au/journals/AltLawJl/2009/5.pdf>

⁶ See the Ministerial Expectations for the Commissioner of Police, 6 December 2023.

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22-3-24.3. make city centres safer, and

22-4-24.4. retain the ability for city councils and service providers to self-determine how to respond to homelessness and anti-social behaviour in their city.

23-25. You have options that may address the potential gaps⁷ in the range of responses available to law enforcement, each taking a different approach to addressing anti-social behaviour in city centres:

23-4-25.1. the introduction of move-on orders: a police power to ~~ask~~ require someone to leave an area for a specified amount of time when they are engaging in aggressive anti-social conduct or are at clear risk ~~of anti-social conduct of their behaviour escalating to offending~~.

Commented [W55]: Police can ask a person to leave the CBD now, but if there is no offence and the person refuses, Police have no legal power to require the person to leave.

23-2-25.2. criminalising some anti-social behaviours: the introduction of directions for nuisance begging and nuisance obstruction of a public place with the ability to issue more restrictive prevention notices for non-compliance.

24-26. You could do one or multiple of these options. The options are outlined further below.

Part 2: Move-on orders can provide flexibility and proportionality, without overreach

25-27. Police are currently unable to address some anti-social behaviours where the behaviour does not yet reach the level of offending, even when they have identified someone as being likely to offend in the immediate future. This puts them in a position where they must wait until the threshold under the Summary Offences Act has been met before they can act, even if the individual is at risk of offending.

26-28. Police considers that there is potential benefit ~~available to them through the~~ from a power to issue notices to people who are being ~~a nuisance to the~~ aggressive in public, and ~~who, if left to their own devices, may soon become an offender~~ offend. An ability to have aggressive individuals leave the CBD and not return could prevent offending, reducing demand on Police and other emergency services (such as ambulance and EDs).

27-29. Move-on orders, which enable Police to ask a person to leave a specified area and not return for a period of time, are a tool that could address this gap. Failure to comply with a move-on order would result in a penalty, like a fine.

28-30. Police considers failure to comply with a move-on order should be an infringement-only penalty with a power of arrest. Offenders can be released from custody with an infringement or written warning which reduces the impact on an already stretched justice and courts system and is a more proportionate penalty given no criminal behaviour has occurred.

29-31. Move-on orders, when complied with, can provide an alternative to arrest or issuing an infringement notice in situations that can be diffused without need for further police action.

⁷ We use the term potential gaps because it is unclear if current anti-social behaviours are a symptom of Police under-resourcing; recent anecdotal evidence from Auckland CBD in relation to the impact of beat patrols supports the contention that more Police effectively deters anti-social behaviours.

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However, move-on orders have the potential to increase criminalisation of low level anti-social behaviour and it is important that these powers are designed in a proportionate way.

Equivalent powers are available in Australia and the United Kingdom

30-32. Move-on orders, or an equivalent, are available in all Australian states. While aspects of the orders vary in each jurisdiction, they are generally tied to offending behaviour (e.g. engaged or likely to commit an offence or engage in violence), breaching the peace, or posing a risk to the safety of others. Details of move-on powers in Australia can be found in the attached **Appendix**.

34-33. Evidence of the effectiveness of move-on orders in Australia is mixed. Studies have found that there is no empirical evidence to show that 'move-on' legislation results in reductions in crime rates, but, rather, serves as another gateway into the criminal justice system.^{8 9}

32-34. The United Kingdom has dispersal powers that enable police officers to direct a person to leave an area and not return for up to 48 hours, where the officer has reasonable grounds to suspect the behaviour of the person has contributed to members of the public being harassed, alarmed or distressed and the officer considers that giving a direction is necessary to remove or reduce the likelihood of further behaviour.¹⁰ Police report that they find dispersal powers generally useful, note that under-staffing undermines the effectiveness of dispersal powers, and do not consider it a long-term solution to anti-social behaviour.¹¹

33-35. [TBC – effectiveness of dispersal powers in the UK]

We recommend that move-on orders are introduced to respond to specific behaviour

34-36. How and when move-on orders can be used is dependent on your priorities.

35-37. We have identified three options for move-on orders:

35-1-37.1. do not progress move-on orders at all;

35-2-37.2. enable move-on orders, but with their application limited to behaviour that causes safety issues, e.g., aggressive public intoxication and aggressive begging (recommended); or

⁸ All the right moves? Police 'move-on' powers in Victoria (2009)

<https://www5.austlii.edu.au/au/oumls/AltLawJl/2009/5.pdf>

⁹ Move-on powers: New paradigms of public orders policing in Queensland (2011)

https://www.researchgate.net/publication/263083932_Move-on_powers_New_paradigms_of_public_order_policing_in_Queensland

¹⁰ Anti-social Behaviour, Crime and Policing Act 2014 (UK)

¹¹ Police perceptions of powers within the Anti-Social Behaviour, Crime and Policing Act 2014, United Kingdom Home Office, 14 November 2023.

<https://www.gov.uk/government/publications/police-perceptions-of-powers-within-the-anti-social-behaviour-crime-and-policing-act-2014/police-perceptions-of-powers-within-the-anti-social-behaviour-crime-and-policing-act-2014>

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35.3.37.3. enable move-on orders with a wide application, including to rough sleepers and all beggars.

36.38. We recommend that move-on orders are introduced as an additional power for Police to manage anti-social behaviour in city centres. However, we recommend you authorise us to work with Police to develop a regime that will apply only to behaviour that warrants a criminal justice response. This may include alcohol-related behaviour, like public intoxication, and aggressive begging.

Commented [WS6]: Police sees value in a move-on order where a person is intoxicated and displaying anti-social behaviour. Not just where a person is intoxicated (if the person is with friends and non-aggressive, etc, there is no need for Police to get involved).

37.39. As move-on orders are highly discretionary in nature, limiting their scope to apply to behaviour that causes safety issues will reduce the risk of the orders being issued in a discriminatory manner and ensure that Police can use the orders effectively. The purpose would be to prevent the escalation of aggressive anti-social behaviour to the point of an offence occurring.

Commented [WS7]: Can be more or less discretionary depending on the criteria for their use.

38.40. Move-on orders applying to anti-social behaviour, rather than someone's mere presence, will enable a more focused and rights-consistent approach. This allows for behaviour to be distinguished, for example, between aggressive begging and merely begging, or sleeping outside a retailer's door in the daytime versus sleeping in a public park at night.

Commented [WS8]: Suggest removing this example. The paper recommends move-on orders for alcohol + anti-social behaviour and aggressive begging, not for homelessness.

Wider application of move-on orders will involve trade-offs

39.41. If your preference is for move-on orders to apply to a wider range of behaviour, there will be trade-offs:

39.4.41.1. Police resourcing and enforceability – namely, frontline services will be stretched, making addressing other offending more difficult, and enforceability of wider move-on orders could be prohibitively unmanageable to effectively enforce.

Commented [WS9]: Given the introduction of Beat Teams in TM, Wgtn and ChCh, Police resources could probably deal with this. The bigger issue is the impact on BoRs. If homeless people and non-aggressive beggars breach move-on orders, they will effectively be subject to arrest for their mere presence in the CBD.

39.2.41.2. the application of move-on orders to homeless people or others who have not committed a crime will stretch the traditional boundaries of the criminal justice system. Where otherwise no crime is being committed, there is a risk of significant net-widening (expansion of the ways in which people are pulled into the criminal justice system).

39.3.41.3. homeless people given move-on orders may end up congregating in inner-city suburbs, which shifts the problem to another part of the city, or keep returning to the city once the order expires, which does not provide a long-term solution to the problem.

Part 3: Options to address nuisance begging in the Safe Streets Bill are feasible but there are serious issues with respect to the proposals concerning nuisance obstruction

40.42. You also asked for advice on the draft Safe Streets Bill, which sets out two new Police powers: nuisance obstruction of public place directions, and nuisance begging directions. Where the behaviour is ongoing despite the direction, the Bill introduces prevention orders, which carry more extensive requirements.

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43-45. We have outlined these issues in more detail below.

Workability issues with the Bill

The Bill is unlikely to lead to a better quality of life for New Zealanders

44-46. The general policy statement for the Bill says that “the goal is to improve the quality of life of all New Zealanders and improve the state of New Zealand cities... while avoiding criminalising the genuinely vulnerable”. However, the Bill proposes a penalty-oriented framework for dealing with what Police consider to be issues that require health and socio-economic responses. The Bill gives Police a disproportionate role in addressing the harm, one that would potentially obstruct better responses, and, in practice, is more likely to shift inner city social problems to other areas while also making it more difficult to provide support for those people. In addition, some emergency and transition housing are located in CBDs. Temporary housing that is designed for short stays i.e. hotels or boarding houses without properly designed social spaces results in people hanging out on the streets.

45-47. The lack of connection between the objective and provisions of the Bill causes a number of issues, including the justification of the limitation of various human rights.

The scope of the behaviour that is captured is broad and vague

46-48. The definition of nuisance begging and the behaviours captured by nuisance obstruction of a public place are both drafted very broadly. This may have unintended consequences, including placing restrictions on people that are superfluous to addressing the identified problem and achieving your objective.

46.1.48.1. for nuisance begging, the catchment area is drafted so broadly that there is unlikely to be any area in CBDs that does not apply. This is likely to drive begging out of the CBD and into nearby suburbs.

46.2.48.2. for nuisance obstruction of a public place, for example, “placing or leaving any material, object, thing or structure in a public place without lawful excuse” is unclear and could capture a number of behaviours. Others are already captured by existing offences, e.g. intimidating a person in a public place.

The Bill as drafted captures people participating in everyday activities

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47-49. The definition of “nuisance obstruction of a public place” in the Bill also is broad enough that it captures people going about their day-to-day routines, meaning Police would be able to issue directions to people lawfully engaging in everyday conduct in city centres.

48-50. For example, there is nothing in the Bill that protects or prevents legitimate protest from being deemed a nuisance obstruction of a public place. Further, even people waiting to meet friends or congregating outside a café before it opens could be caught by the expansive framing.

The Bill is likely to raise human rights concerns

49-51. The Bill is likely to raise several human rights concerns, including in relation to the right to freedom of movement (section 18 of the New Zealand Bill of Rights Act), the right to freedom of peaceful assembly (section 16), and the right to freedom of expression (section 14).

The Bill is likely to receive a section 7 report from Crown Law

50-52. Due to the broad nature of the Bill, the engagement with numerous human rights, and the disconnect between the objective and outcome of the Bill, the Bill is likely to receive a section 7 report.

Generally, these proposals are inconsistent with global approaches to addressing homelessness

51-53. While these proposals are written to apply to anyone, in effect they are likely to be used almost exclusively against homeless people and others who spend time on the streets. These proposals and the associated penalties return to a model where homelessness is effectively criminalised, which is inconsistent with the general direction most comparable countries are taking to addressing homelessness and associated anti-social behaviour.

The penalties in the Bill are disproportionate and inappropriate for the harm caused

52-54. The penalties associated with breaching a direction (maximum 3 months imprisonment or \$2,000 fine) or a prevention notice (maximum 6 months imprisonment or \$4,000 fine) are disproportionate to the behaviour being captured. As noted earlier in the paper, these are likely to be disproportionate penalties and an ineffective deterrent against the conduct, especially for homeless people.

The reasons someone can return to the area following a direction would need to be widened

53-55. The nuisance obstruction of a public place direction currently has protections to enable people to come back to the area for work or education, but this does not sufficiently cover the legitimate reasons why someone might need to return to the city centre. Particularly for homeless people in city centres, City Missions and other support services are often based in the city centre.

The proposals to address nuisance begging may be feasible with further development

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54-56. ~~Police consider such additional legislative powers are not needed to address safety in CBDs~~ does not support criminalising rough sleeping and non-aggressive begging. Although this can be a nuisance for retailers, these behaviours are at the low end of the spectrum of anti-social behaviours. Police resource should be focussed on anti-social behaviour that has a real risk of escalating into offending such as, aggressive begging, intoxicated aggression and fighting. However, if you wish to move forward with new offences, the nuisance begging direction and prevention orders in the Safe Streets Bill may be workable after addressing the issues discussed above, such as refining the scope of behaviour that constitutes nuisance begging and ensuring the penalties are proportionate to the offence.

55-57. Implementation of move-on orders and nuisance begging directions can provide flexibility to law enforcement's options when dealing with aggressive beggars. Police will be able to determine which option is more appropriate in the circumstance and whether the behaviour merits the issuance of an infringement-only move-on order or constitutes a criminal offence.

The proposals to address nuisance obstruction of a public place are so vague and overbroad as to be unworkable

56-58. We do not believe the nuisance obstruction of a public place proposals are feasible. As discussed above, the definition of the offence covers a wide range of behaviours, including everyday activities, and includes vague terms that are open to interpretation and would likely lead to unintended consequences.

We recommend this Bill is not progressed

57-59. We have identified four options for the Safe Streets Bill:

57-1-59.1. do not progress the Safe Streets Bill (recommended);

57-2-59.2. progress the Safe Streets Bill with amendments;

57-3-59.3. progress only the nuisance begging part of the Safe Streets Bill (with amendments); or

57-4-59.4. progress the Safe Streets Bill as-is.

58-60. We recommend not progressing the Safe Streets Bill.

59-61. If you wish to progress the Safe Streets Bill, we recommend that you authorise us to continue to work with Crown Law and Police on what changes could be made to the Bill to best ensure it is workable.

Part 4: There are practical considerations for each option

Any option should not override the ability for local councils to tailor their responses

60-62. As noted earlier in this paper, each Council takes a different approach to addressing homelessness and anti-social behaviour in their city. Any approach that applies nationally should not remove this flexibility.

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64-63. One of the risks with the Safe Streets Bill is that the prescriptive nature of the Bill as it relates to retail premises will mean begging and anti-social behaviour is more likely to occur just beyond CBDs, namely the inner suburbs surrounding CBDs.

We recommend that any new powers focus on behaviour, not presence

62-64. We Justice and Police recommend that any new powers only apply to people engaging in aggressive anti-social behaviour, rather than for their mere presence in public places.

63-65. ~~Any power that can be used without a crime having taken place can lead to selective enforcement and harassment.~~ Homeless people are also unlikely to fully understand the law and its limitations, which increases their vulnerability. risks pulling them into the criminal justice system and means mens rea will be challenging to evidence. ~~to misuse of the power by Police.~~

Commented [WS10]: Any power can be selectively enforced or used for harassment, this isn't a new risk created by these proposals. However, Police operational guidance mitigates the risk of inappropriate and/or inconsistent use of powers. In addition, we can build in a requirement for Police and indpt review of use of powers to address this concern.

64-66. As mentioned earlier, requiring policing of presence over behaviour will stretch Police resources and push Police towards responsibilities better suited for other agencies.

Access to support services should not be blocked by these powers

65. Additionally, we recommend any power includes exceptions to ensure that people subject to move-on orders, nuisance begging notices/prevention directions, or nuisance obstruction notices/prevention directions are able to remain in the city centre to access support services. Many support services including City Missions and government agencies are based in city centres, and it is counterproductive to order people to leave the area where the key services to support them are based.

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The penalties associated with these powers need to be proportionate and appropriate

66-67. As noted earlier in this briefing, the penalties in the Safe Streets Bill are disproportionate to the harm caused by the behaviour being captured and are generally not appropriate for homeless people.

67-68. Penalties for failing to comply with move-on orders are likely to be appropriate if they are infringement fees, which do not result in a criminal conviction. Infringement fees are more proportionate to the harm caused by behaviours move-on orders could be used for, and they largely avoid the criminal justice system¹² which is already facing delays. The recommended maximum infringement fee is \$1,000.

Agency consultation and population impacts

68-69. [TBC agency views- Crown Law, Police, Corrections, Social Investment Agency]

70. Police agree that move-on orders would be beneficial in targeting intoxication and disorderly behaviours such as aggressive begging that cause concern but either do not yet

¹² If someone decides to challenge their infringement fee, they can do so through the District Court. If someone appeals unsuccessfully, judges can issue a fine usually set at a maximum of three times the fee amount. This is designed to avoid people bringing appeals when they do not have a legitimate case, therefore limiting additional backlogs in the courts.

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escalate to the meet the threshold for disorderly behaviour, intimidation etc or are at a low level of offending. The objective of a move-on order power would be to prevent harm and offending before it occurs. This However, would help to keep people out of the criminal justice and court system but would not address underlying factors such as addiction and mental health issues, housing and financial insecurity that are contributing to the anti-social behaviour.

60. Police currently considers additional legislative powers are not needed to address safety in city centres. Police expressed concerns that the direction and prevention orders proposed in the Safer Streets Bill would displace individuals to more isolated areas and put them at increased risk of harm. Police have anecdotal reports that the recently introduced “beat patrol teams” have reduced anti-social behaviours in CBDs and will continue to monitor the impact of this new initiative.

Commented [WS11]: Based on further internal discussions, the internal view is that there isn't a safety risk re displacing beggars out of the CBD. But there are issues re access to social and govt services, and potentially access to accommodation (night shelters, emergency housing).

74.71. [TBC population impacts (from engagement with service providers) – homeless people, Māori, youth?]

74.72. Any tools addressing homelessness are likely to have a disproportionate impact on Māori, who make up a large proportion of homeless people. Downtown Community Ministry Wellington estimates that 54% of rough sleepers in Wellington City are Māori.

Next steps

72.73. If you agree to proceed with any of the options in this briefing, we will work with relevant agencies to develop detailed policy proposals.

73.74. Given the impacts of these proposals across the Justice sector, we recommend you share this briefing and consult with the Minister of Police, the Minister of Corrections, and the Attorney-General before making policy decisions.

Recommendations

74.75. It's recommended that you:

1. **Note** that there are a number of existing tools to address anti-social behaviour in public spaces, including criminal offences, police powers, and city bylaws;
2. **Approve** officials progressing analysis of move-on orders for aggressive anti-social behaviour, including consultation with Police, Crown Law, and councils (recommended) YES / NO
3. **Agree** not to proceed with the Safer Streets Bill (recommended) YES / NO
4. **Agree** to proceed with only the nuisance begging part of the Safer Streets Bill (and for officials to consult with agencies and councils) YES / NO
5. **Agree** to proceed with the Safer Streets Bill in its entirety (and for officials to consult with agencies and councils) YES / NO

Commented [WS12]: It would be helpful to get explicit agreement about the behaviour that move on orders would be used for.

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- 6. **Forward** a copy of this briefing to the Minister of Police, Minister of Corrections, and the Attorney-General. YES / NO
- 7. **Approve**... YES / NO

S9(2)(a)
Manager, Criminal Law Policy

APPROVED SEEN NOT AGREED

Hon Paul Goldsmith
Minister of Justice

Date / /

Attachments: [Describe any attachments – use bullet points if more than one.]

From: s9(2)(a) @hud.govt.nz>
Sent: Monday, 12 August 2024 8:09 am
To: S9(2)(a)
Subject: RE: ~~IN CONFIDENCE~~ - consultation request re draft briefing on antisocial behaviours in CBDs

Mōrena S9(2)(a)

Thanks for the extra time. We have just been through our finalisation of changes to our policy group and last week was very busy as new teams were set up and work was shifted around.

We would commonly use the term people experiencing homelessness rather than homeless people. The definition of homelessness used in New Zealand (and other jurisdictions) includes people who are without shelter (e.g., 'sleeping rough' or in cars, outbuildings), or people in temporary accommodation (e.g., motels, caravans, shelters and refuges, or emergency and transition housing), people living in overcrowded properties, or in uninhabitable buildings (those that lack amenities). It is quite broad. It might be useful to note this in the paper, and include a reference to the Stats NZ definition of [homelessness](#). If the comments from retailers in Auckland CBD is in relation to any particular segment(s) of the homeless population, for example, it would be good if the paper was a bit clearer on this (eg people who are rough sleeping).

The paper links homelessness and anti-social behaviour in ways that suggest homelessness itself is an anti-social behaviour, or that anti-social behaviours are particularly associated with or arise because of homelessness. We don't think this is intended. In some places the briefing does acknowledge that behaviours such as aggressive begging may be undertaken by people who are not homeless, but in others (for example, see comment on para 16 below), it suggests homelessness is an anti-social behaviour or that homelessness has associated anti-social behaviours. We think the paper would benefit from being very clear on the particular behaviours it is suggesting that new tools are needed to deal with, and then it can discuss links to the homeless population specifically, and/or the effects such tools might have (including unintended consequences, ineffectiveness, inability to pay, nowhere to move along to, restrictions on access to services, risk of predation, criminalising survival behaviours etc).

For example, you could focus para 3 on the current tools available to law enforcement to address anti-social behaviours in public places without reference to addressing homelessness, which is best addressed through collaborative place-based approaches between councils, service providers (health, social, housing), and relevant govt agencies (including HUD, Health, MSD, and Police). Law enforcement is often an inappropriate and ineffective response to homelessness (as you point out in para 10) but can be an effective tool in the wider responses to anti-social behaviours.

People who are well housed also have poor mental health which can present in ways which are unsettling for others, and result in other people feeling unsafe. Perhaps the paras 11 to 13 could also just concentrate on anti-social behaviours without referring to people experiencing homelessness or focus on the behaviours the tools are intended for

The paper makes it clear that rough sleeping is not a criminal behaviour and rough sleeping by itself is also not generally considered an anti-social behaviour. In para 12, the reporting of comments from Councils and providers seems to suggest a vast majority of harmful anti-social behaviour in city centres can be attributed to homelessness. This is because of the use of the words "not all" which suggests most can be. We also wonder about the use of 'harmful' in this paragraph as suggesting that anti-social behaviour is either harmful or not harmful.

It would be useful for the paper to explain the circumstances when council by-laws apply, for example if all begging is banned or if only begging that intimidates, harasses, or causes alarm. It might be also worth noting that some councils that have decided not to introduce begging by-laws, or have dropped the ones they did have, including because they would be too hard to enforce. Similarly for rough sleeping [para 14.3].

The observation in para 16 that ‘many in the community may feel it is unfair for homelessness and other anti-social behaviours to deter more legitimate use of public spaces’ does cause us some concern, particularly the phrasing of “homelessness and other anti-social behaviours” (see point earlier about homelessness not being an anti-social behaviour of itself). The sentence also implies that there it is less legitimate for people experiencing homelessness to use public spaces than people who have stable housing. We suggest removing the reference to homelessness.

The paragraphs 16 to 21 may flow better if the heading was focused on challenges with criminal justice responses in isolation for some anti-social behaviours, and then discussing this generally, then in relation to when anti-social behaviours are attributed to people with poor mental health and people experiencing homelessness.

We totally agree with your recommendation not to progress the Safer Streets Bill. We also agree that caution is needed with move on orders, particularly for people experiencing homelessness, as in addition to your point about accessing the outreach, health, shelter, and other social services they need, these people may have nowhere else safe to go (people who are rough sleeping are at risk particularly women and young people. People who are rough sleeping, are often not in receipt of any financial assistance from MSD (as they require addresses for this) and may not be able to pay even the most minor infringement fee, putting them at risk of further action. Similarly, they would lack the resources to challenge an infringement fee through the District Court. Could consultation include community providers as well as agencies and councils, to ensure that Ministers are best informed before making policy decisions.

We also suggest you also recommend your Minister sharing the briefing and consult with Housing, Health, and Social Development Ministers before making policy decisions.

Thank you again for the opportunity to comment, and apologies for taking a little longer to get back to you than hoped for. Let me know if you want to discuss any of the above.

Ngā mihi
s9(2)(a)

s9(2)(a)

Principal Policy Advisor | Responding to Severe Housing Needs
Policy Group
www.hud.govt.nz | Level 8, 7 Waterloo Quay, Pipitea, Wellington



He kāinga ora, he hāpori ora - our purpose is thriving communities where everyone has a place to call home.

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From: S9(2)(a)
Sent: Tuesday, August 6, 2024 3:17 PM
To: s9(2)(a) @hud.govt.nz' s9(2)(a) @hud.govt.nz>
Subject: ~~IN CONFIDENCE~~ - consultation request re draft briefing on antisocial behaviours in CBDs

Kia ora S9(2)(a)

I have been pointed your way by S9(2)(a) at MoJ. We are providing advice in relation to anti-social behaviour in CBDs and we may be a little light on the context. The advice has been put together rather quickly, and we're working to a short timeframe, but I'm wondering if you have any capacity to comment or talk online about the issues in the briefing. We're trying to be sensitive around how we frame the 'problem' so please excuse any instances where we may have erred there as this is very much still a working draft. And apologies for the short timeframe, I fully appreciate this may not be workable for you or your team.

Attached for your comment, if you have the time and capacity, is a draft briefing about tools to address homelessness in city centres. The paper is in response to concerns raised by retailers, particularly in city centres, that homeless people are bringing anti-social behaviour to CBDs and generally making people feel unsafe.

The options in the draft briefing are:

- Move on orders: a tool enabling a Police officer to ask someone to immediately leave an area and not return for a specified period of time. Similar powers are available in Australia.
- Offences in the Safe Streets Bill: advice on "nuisance begging" and "nuisance obstruction of a public place" directions and prevention notices

In addition to the draft briefing, you will find attached a copy of the draft Safe Streets Bill (please do not share this) and a draft appendix to the briefing that covers Australian move-on type powers (which you likely do not need to read).

Any comments you can provide on the paper would be much appreciated by **3 pm Thursday 8 August**. And please let me know if this timeframe is not feasible.

The briefing is due to the Minister on 14 August.

Please let me know if you have any questions or would like to discuss anything further.

Ngā mihi,

S9(2)(a)

S9(2)(a)

Senior Advisor | Criminal Law Policy

Mobile S9(2)(a)

www.justice.govt.nz



Hon Paul Goldsmith, Minister of Justice

Options for new tools to address anti-social behaviour in city centres

Date	20 August 2024	File reference	
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Action sought	Timeframe
Agree on a proposed course of action to address anti-social behaviour in city centres	At your convenience

Contacts for telephone discussion (if required)

Name	Position	Telephone		First contact
		(work)	(a/h)	
Alida Mercuri	General Manager, Criminal Justice Policy	04 466 2091	S9(2)(a)	<input type="checkbox"/>
S9(2)(a)	Manager, Criminal Law Policy	S9(2)(a)	S9(2)(a)	<input checked="" type="checkbox"/>
S9(2)(a)	Senior Policy Advisor, Criminal Law Policy		N/A	<input type="checkbox"/>

Minister's office to complete

<input type="checkbox"/> Noted	<input type="checkbox"/> Approved	<input type="checkbox"/> Overtaken by events
<input type="checkbox"/> Referred to: _____		
<input type="checkbox"/> Seen	<input type="checkbox"/> Withdrawn	<input type="checkbox"/> Not seen by Minister
Minister's office's comments		

IN-CONFIDENCE**Purpose**

1. This briefing outlines the current tools available to law enforcement to address anti-social behaviour in central business districts (CBDs) across New Zealand, and seeks your decision on options to expand these tools.
2. This briefing is split into the following parts:
 - a. Part 1 discusses anti-social behaviour, the current approaches to dealing with it, and context on how this type of behaviour can be addressed;
 - b. Part 2 discusses move-on orders and analyses the effectiveness of using them to address anti-social behaviour (like aggressive begging and unreasonable obstruction of a public place); and
 - c. Part 3 provides advice about the proposed provisions in the draft Safe Streets Bill (attached as Appendix A), relating to what it labels “nuisance begging” and “nuisance obstruction of a public place.”

Executive summary

3. Retailers in Auckland’s CBD are concerned that anti-social behaviour is driving people away from CBDs and affecting their businesses. In response to these concerns, and in line with your commitments to improve public confidence in law and order, you have asked us to consider move-on orders and proposals in the draft Safe Streets Bill to address nuisance begging and nuisance obstruction of a public place.
4. We consider that move-on orders, with appropriate penalties for non-compliance, would be a more effective tool in supporting Police to manage certain aggressive anti-social behaviours in city centres compared to the new offences in the Safe Streets Bill.
5. Move-on orders could help Police to address certain anti-social behaviours like aggressive begging and threatening, or dangerous public intoxication. However, Police and councils agree that move-on orders should not be used to address survival behaviours associated with homelessness, like rough sleeping, general begging, or people experiencing mental health distress. We share this concern, noting both efficacy issues (move-on orders merely move the concerning behaviours down the street) and the human rights impacts associated with criminalising survival behaviour.
6. In the draft Safe Streets Bill (“**the Bill**”), we consider:
 - a. the proposals to address nuisance begging are feasible, though we have some concerns over the workability of the proposals as currently drafted; and
 - b. there are major workability issues with the proposals for nuisance obstruction of a public place directions and prevention notices.
7. Improving public confidence in law and order is a legitimate objective of the justice system. However, targeting low-level anti-social behaviour that is driven by homelessness (and underlying issues like poverty and mental health) requires multi-faceted, cross-sector

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responses. Criminal justice responses to such behaviours are often ineffective in isolation, and there are significant rights challenges associated with using the criminal justice system to respond to survival behaviours by homeless people.

Part 1: Anti-social behaviours affect towns and cities across New Zealand

The nature of anti-social behaviour in city centres

8. We have heard from Police, city councils and service providers¹ that alcohol (and other substance abuse) is contributing to anti-social behaviour in CBDs and is a key driver affecting inner-city safety. A significant amount of Police resourcing is dedicated to policing public order, and in particular, night-time CBD economies that are characterised by music, entertainment, and alcohol and drug consumption.
9. In addition to substance-driven anti-social behaviour, we have heard that aggressive begging and people being generally disruptive (in a way that constitutes harassment or intimidation of the public) are the most significant anti-social behaviours affecting city centres.
10. Conversely, survival behaviours undertaken by homeless people (e.g., sleeping in public places) or the manifestation of mental health illnesses (e.g., psychosis causing someone to yell in public) can make people nervous or uncomfortable, and impact the enjoyment of public spaces, but Police and councils have advised that law enforcement responses to these behaviours are generally ineffective and merely shift the issue to neighbouring areas.

Current powers available to Police and councils

11. Law enforcement have a range of options to respond to low-level crime and certain anti-social behaviours in city centres, including criminal offences, general Police powers, and city bylaws.
 - a. For example, there are several offences in the Summary Offences Act 1981 that address low-level crime and maintain public order and safety, including seeking donations by false pretence, obstructing a public way, disorderly behaviour, offensive behaviour or language, intimidation, and other indecent behaviours.
 - b. Police also have some powers to address anti-social behaviour, including the ability to detain people who are intoxicated in a public place or trespassing on private property if they are at risk of causing harm or being harmed,² and to search for and seize alcohol present in areas under the alcohol ban (with a power to arrest for non-compliance).³ Police also routinely assist retailers in issuing trespass notices to groups or individuals who disrupt their businesses with aggressive begging or other anti-social behaviours.

¹ Specifically, Auckland Council, Christchurch City Council, Christchurch City Mission, and Downtown Community Ministry Wellington.

² Police Manual: Host responsibility and dealing with intoxicated persons <alcohol-host-responsibility-and-dealing-with-intoxicated-persons-180424.pdf (police.govt.nz)>

³ Local Government Act 2002, Section 169: Powers of arrest search, and seizure in relation to alcohol bans

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- c. In addition, city councils have the ability to independently create bylaws, which can be used to address anti-social behaviour. For example, several councils have bylaws concerning begging and rough sleeping.⁴
12. Despite these options, Police and councils agree that the tools currently available are inadequate for addressing certain anti-social behaviours. Of the anti-social behaviours identified, we have heard:
- a. Police, councils, and service providers believe adequate tools exist already for dealing with rough sleepers, the most vulnerable homeless population, and punitive responses would merely shift the problem;
 - b. Police and councils confirm that aggressive begging is a concern for city centres and while existing Police powers and council bylaws can be used to deter this behaviour, additional powers would be welcomed as they would mean Police can more readily intervene; and
 - c. Police state current powers to deter intoxicated (and other unruly and aggressive) persons from engaging in disruptive and threatening behaviour are inadequate and do not allow Police to take preventative action. Unless their behaviour escalates to the level of offending, currently Police cannot compel them to leave.

Criminal justice responses, in isolation, are not effective

13. Improving public confidence in law and order is a legitimate objective of the justice system. Many in the community may feel it is unfair for anti-social behaviours to impede other people's use of public spaces.
14. There are some significant challenges associated with using the criminal justice system to respond to low-level anti-social behaviour, namely:
- a. there is a risk of criminalising survival behaviours, such as rough sleeping, where a person has no reasonable alternatives but to engage in the conduct. A 2024 United Nations Human Rights Council report outlined that laws criminalising life-sustaining activities in public spaces may violate a range of human rights;⁵
 - b. the difficulty of imposing penalties that would be effective deterrents against the conduct (i.e., prison sentences are costly and disproportionate given the harm

⁴ Auckland Council's Public Safety and Nuisance Bylaw 2013 <<https://www.aucklandcouncil.govt.nz/plans-projects-policies-reports-bylaws/bylaws/Pages/public-safety-nuisance-bylaw.aspx>>; Hamilton City Council Public Places Bylaw 2016 <<https://storage.googleapis.com/hccproduction-web-assets/public/Uploads/Documents/Bylaws/Public-Places-Bylaw-2016.pdf>>; Wellington City Council, "What we're doing about homelessness" <<https://wellington.govt.nz/community-support-and-resources/community-support/homelessness-and-begging/what-the-council-is-doing>>; Nelson City Council City Amenity Bylaw 2017 <https://www.nelson.govt.nz/assets/Our-council/Downloads/bylaws/bylaw-226/City-Amenity-Bylaw-Number-226-FINAL-Signed-and-sealed-30-August-2017-updated-14Oct21.pdf>>

⁵ United Nations Special Rapporteur on extreme poverty and human rights and the Special Rapporteur on adequate housing: A/HRC/56/61/Add.3: Breaking the cycle: Ending the criminalization of homelessness and poverty

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caused by the conduct and the culpability of the offender, while fines are not likely to be paid).

15. These challenges may affect the workability or efficacy of the options presented in this paper. In particular:
 - a. to the extent the options capture survival behaviours, these are likely to be regarded by courts as constituting a "reasonable excuse" for the conduct;
 - b. similarly, penalising survival behaviours creates a costly revolving door wherein individuals experiencing homelessness will repeatedly encounter the criminal justice system because they have no choice but to carry out life-sustaining activities in public spaces;
 - c. behaviours that are symptoms of mental health disorders may struggle to meet mens rea requirements, such as where the behaviour must be undertaken knowingly or intentionally; and
 - d. policing and prosecuting these offences will displace police resourcing from more serious offending types and will further contribute to court back-log.
16. Additionally, criminalising these behaviours may undercut different council approaches to working with service providers and homeless populations, and it may incentivise worse social outcomes. For example, evidence suggests that people prohibited from begging can divert to locations with a lesser police presence or resort to more serious criminal activity.⁶ This concern was confirmed through our engagement with councils and service providers.
17. Further, Police does not support criminalising rough sleeping and non-aggressive begging. Police has confirmed that prioritising law enforcement responses to these low-level anti-social behaviours is not aligned with the Government's current expectations around the role of Police. Minister Mitchell has stated that Police visibility in public is important but that the role of Police should not be furthered in areas, like mental health, that is more appropriately delivered by other agencies.⁷
18. We have outlined in the paper how these workability challenges can be mitigated.

There are some options to expand Police response to anti-social behaviours

19. Having more powers to address anti-social behaviour in city centres would enable Police to better tailor their response to the circumstances of individual cases.
20. You have options that may address the potential gaps⁸ in the range of responses available to law enforcement, each taking a different approach to addressing anti-social behaviour in city centres:

⁶ All the right moves? Police 'move-on' powers in Victoria (2009)
<<https://www5.austlii.edu.au/au/journals/AltLawJI/2009/5.pdf>>

⁷ See the Ministerial Expectations for the Commissioner of Police, 6 December 2023.

⁸ We use the term 'potential gaps' because it is unclear whether current anti-social behaviours are a symptom of Police under-resourcing; recent anecdotal evidence from Auckland CBD in relation to the impact

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- a. the introduction of move-on orders: a police power to require someone to leave an area for a specified amount of time when they are engaging in aggressive anti-social conduct or are at clear risk of their behaviour escalating to offending;
 - b. criminalising some anti-social behaviours per the Bill: the introduction of directions for nuisance begging and nuisance obstruction of a public place with the ability to issue more restrictive prevention notices for non-compliance.
21. You could do one, both, or none of these options. The options are outlined further below
22. Regardless of what you decide to proceed with, the following should be taken into consideration:
- a. the ability for local councils to tailor their responses to homelessness and anti-social behaviour should not be impeded;
 - b. new powers should only apply to people engaging in anti-social behaviour, rather than for their mere presence in public places;
 - c. access to support services (often located in inner cities) should not be blocked; and
 - d. penalties should be proportionate and appropriate (helping ensure the justice system is not unduly strained).

Part 2: Move-on orders can provide flexibility and proportionality, without overreach

23. Police are currently unable to address some anti-social behaviours where the behaviour does not yet reach the level of offending, even when they have identified someone as being likely to offend in the immediate future. This puts them in a position where they must wait until the threshold under the Summary Offences Act has been met before they can act.
24. Police considers that there is potential benefit available in the power to issue notices to people who are being aggressive in public, and who, if left to their own devices, may offend. This tool could prevent offending and reduce demand on Police and other emergency services (such as ambulances and EDs).
25. Move-on orders, which enable Police to ask a person to leave a specified area and not return for a period of time, are a tool that could address this gap. Failure to comply with a move-on order would result in an infringement fine.
26. Police considers failure to comply with a move-on order should be an infringement-only penalty with a power of arrest. Offenders can be released from custody with an infringement or written warning which reduces the impact on an already stretched justice and courts system and is a more proportionate penalty, given no criminal behaviour has occurred.

of beat patrols supports the contention that increased Police presence and visibility effectively deters anti-social behaviours.

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27. Move-on orders, when complied with, can provide Police with an option for lower-level intervention of anti-social behaviours, and an alternative to arrest or issuing infringement notices in situations that can be diffused without need for further police action.

Equivalent powers are available in Australia and the United Kingdom

28. Move-on orders, or an equivalent, are available in all Australian states. While aspects of the orders vary in each jurisdiction, they are generally tied to offending behaviour (e.g., engaged in or likely to commit an offence or engage in violence), breaching the peace or posing a risk to the safety of others. Details of move-on powers in Australia can be found in the attached Appendix B.
29. There is limited evidence of the effectiveness of move-on orders in Australia. Studies have found that there is no empirical evidence to show that move-on powers result in reductions in crime rates, but, rather, serve as another gateway into the criminal justice system.^{9 10}
30. The United Kingdom has dispersal powers that enable police officers to direct a person to leave an area and not return for up to 48 hours, where the officer has reasonable grounds to suspect the behaviour of the person has contributed to members of the public being harassed, alarmed or distressed and the officer considers that giving a direction is necessary to remove or reduce the likelihood of further behaviour.¹¹ Police report that they find dispersal powers generally useful, but note that under-staffing undermines the effectiveness of dispersal powers, and do not consider it a long-term solution to anti-social behaviour.¹²

We recommend that move-on orders are introduced to respond to specific behaviour

31. How and when move-on orders can be used is dependent on your priorities.
32. We have identified three options for move-on orders:
- a. do not progress move-on orders at all;
 - b. enable move-on orders, but with their application limited to behaviour that causes safety issues, e.g., aggressive public intoxication and aggressive begging; or
 - c. enable move-on orders with a wide application, including to rough sleepers and all beggars (not recommended).

⁹ All the right moves? Police 'move-on' powers in Victoria (2009)
<<https://www5.austlii.edu.au/au/journals/AltLawJI/2009/5.pdf>>

¹⁰ Move-on powers: New paradigms of public orders policing in Queensland (2011)
<https://www.researchgate.net/publication/263083932_Move-on_powers_New_paradigms_of_public_order_policing_in_Queensland>

¹¹ Anti-social Behaviour, Crime and Policing Act 2014 (UK)

¹² Police perceptions of powers within the Anti-Social Behaviour, Crime and Policing Act 2014, United Kingdom Home Office, 14 November 2023
<gov.uk/government/publications/police-perceptions-of-powers-within-the-anti-social-behaviour-crime-and-policing-act-2014/police-perceptions-of-powers-within-the-anti-social-behaviour-crime-and-policing-act-2014>

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33. If you are inclined to introduce move-on orders, we recommend that you authorise us to do further design work with Police to develop a regime that will apply only to behaviour that warrants a criminal justice response. This may include behaviours like aggressive begging or public intoxication where the individual is displaying anti-social behaviour.
34. As move-on orders are discretionary in nature, limiting their scope to apply to behaviour that causes demonstrable public safety issues will reduce the risk of the orders being issued in a discriminatory manner and ensure that Police can use the orders effectively. The purpose would be to prevent the escalation of aggressive anti-social behaviour to the point of an offence occurring.
35. Move-on orders applying to behaviour, rather than someone's mere presence, will enable a more focused and rights-consistent approach. This allows for behaviour to be distinguished, for example, between aggressive begging and merely begging.
36. Any future advice we provide in relation to move-on orders would be informed by discussions with councils, Police and other agencies around what distinguishes aggressive begging from simple begging (e.g., following people, congregating in a group, begging directly next to an ATM). Similarly, we would look to provide advice on the best way to describe belligerent behaviour that poses a minimal risk of such powers being used against people who are not engaging in anti-social behaviour.

Wider application of move-on orders will involve trade-offs

37. If your preference is for move-on orders to apply to a wider range of behaviour, there will be trade-offs, namely:
 - a. the application of move-on orders to homeless people or others who have not committed a crime will stretch the traditional boundaries of the criminal justice system and impact individual rights. Where otherwise no crime is being committed, there is a risk of significant net-widening (expansion of the ways in which people are pulled into the criminal justice system).
 - b. homeless people given move-on orders may end up congregating in inner-city suburbs, which shifts the problem to another part of the city, or they may keep returning to the city once the order expires, which does not provide a long-term solution to the problem.

Part 3: Options to address nuisance begging in the draft Safe Streets Bill are feasible but there are serious issues with respect to the proposals concerning nuisance obstruction

38. You also asked for advice on the draft Safe Streets Bill, which sets out two new Police powers: nuisance obstruction of public place directions, and nuisance begging directions. Where the behaviour is ongoing despite the direction, the Bill introduces prevention orders, which carry more extensive requirements.
39. S9(2)(h)

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S9(2)(h)

- a.
- b.
- c.
- d.

- 40. Consequently, the Bill is at risk of receiving a section 7 report from the Attorney-General.
- 41. We have outlined these issues in more detail below, followed by options detailing how the workability of the Bill can be improved.

Workability issues with the Bill

The Bill is unlikely to achieve its stated goal of leading to a better quality of life for New Zealanders

- 42. The general policy statement for the Bill states, “the goal is to improve the quality of life of all New Zealanders and improve the state of New Zealand cities... while avoiding criminalising the genuinely vulnerable”. However, the Bill proposes a penalty-oriented framework for dealing with what the Ministry, Police, and other agencies consider to be issues that require health and socio-economic responses. The Bill gives Police a disproportionate role in addressing the harm, one that would potentially obstruct better responses, and, in practice, is more likely to shift inner city social problems to other areas while also making it more difficult to provide support for those people.
- 43. The lack of connection between the objective and provisions of the Bill causes a number of issues, including the justification of the limitation of various human rights. For example, nuisance begging is defined as begging in virtually all public spaces, without necessarily being causally linked to “damage, disruption, harassment or distress to the public”.
- 44. The provisions in the Bill appear neutral in only targeting certain behaviours, but in practice will likely result in criminalising people for their mere presence in CBDs or having no alternative place to sleep, eat, and perform other life-sustaining activities.

The scope of the behaviour that is captured is broad and vague

- 45. The definitions of nuisance begging and nuisance obstruction of a public place are both drafted very broadly. This may have unintended consequences, including placing restrictions on people that are superfluous to addressing the identified problem and achieving the Bill’s objective.
- 46. For nuisance begging, the catchment area is drafted so broadly that there is unlikely to be any area in CBDs that does not apply. This is likely to drive begging out of CBDs and into nearby suburbs.
- 47. The definition of “nuisance obstruction of a public place” is broad enough that it captures people going about their day-to-day routines, meaning Police would be able to issue directions to people lawfully engaging in everyday conduct in city centres. For example:

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- a. “placing or leaving any material, object, thing or structure in a public place without lawful excuse” is unclear and could capture a number of behaviours. Other behaviours included in the definition are already captured by existing offences, e.g., intimidating a person in a public place; and
- b. there is nothing in the Bill that protects or prevents legitimate protest from being deemed a nuisance obstruction of a public place. Further, even people waiting to meet friends or congregating outside a café before it opens could be caught by the expansive framing.

48. Criminalising such a wide range of behaviours also risks creating a ‘revolving door’ where individuals come into repeated subsequent contact with the justice system.

The penalties in the Bill are disproportionate and inappropriate for the harm caused

49. The penalties associated with breaching a direction (maximum 3 months imprisonment or \$2,000 fine) or a prevention notice (maximum 6 months imprisonment or \$4,000 fine) are disproportionate to the behaviour being captured and are likely to be ineffective deterrents against the conduct, especially for homeless people. Specifically, homeless people are unlikely to be able to pay the fines, which further entrenches them in the justice system, and they are likely to repeat the offending behaviour (particularly where survival behaviours are captured) following release.
50. The penalties are also inconsistent with those imposed on similar offences in the Summary Offences Act 1981 (such as scam begging and obstructing a public way), which have lesser penalties for comparable behaviour.¹³ To the extent the offences criminalise survival behaviours, it is not clear that the proposed penalties will achieve the desired change in offender behaviours. Convictions can also impact future employment opportunities, compounding financial hardship

The reasons someone can return to the area following a direction would need to be widened

51. The nuisance obstruction of a public place direction currently has protections to enable people to come back to the area for work or education, but this does not sufficiently cover the legitimate reasons why someone might need to return to the city centre. Particularly for homeless people in city centres, City Missions, temporary housing, healthcare services, government agencies, and other support services are often based (and continue to be established) in city centres.

Without mitigations, the Bill in its current form risks receiving a section 7 report from the Attorney-General

52. The Bill is likely to raise several human rights concerns, including interference with the rights to freedom of expression (section 14 of the New Zealand Bill of Rights Act), manifestation of religion and belief (section 15) (e.g., if a direction is given to someone

¹³ Scam begging (s 15) imposes a maximum penalty of 3 months imprisonment or a fine not exceeding \$1,000; obstructing a public way (s 22) imposes a maximum fine of \$1,000, with power to arrest.

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preaching in a public area), freedom of peaceful assembly (section 16), freedom of association (section 17), and freedom of movement (section 18).

53. While procedural and legislative safeguards can aim to mitigate against potential encroachments of these rights, the behaviours targeted through the Bill are so broad that this is not practically feasible to any significant extent. The Bill provides a high degree of discretion to Police to disallow people from occupying public spaces and the highly subjective nature relating to assessments of when to impose the offences creates a real risk of misuse or abuse.
54. Due to the broad nature of the Bill, the engagement with numerous human rights, and the disconnect between the objective and outcome of the Bill, the Bill is likely to receive a section 7 report.

Generally, these proposals are inconsistent with global approaches to addressing homelessness

55. While these proposals are written to apply to anyone, in effect they are likely to be used almost exclusively against homeless people and others who spend time on the streets. These proposals and the associated penalties return to a model where homelessness is effectively criminalised, which is inconsistent with the general direction most comparable countries are taking to addressing homelessness and associated anti-social behaviour.

The proposals to address nuisance begging may be feasible with further development

56. As noted above, Police does not support criminalising rough sleeping and non-aggressive begging. Although these behaviours can be a nuisance for retailers, they are at the low end of the spectrum of anti-social behaviours. Police resourcing should be focused on anti-social behaviour that has a real risk of escalating into offending (e.g., aggressive begging, intoxicated aggression and fighting).
57. However, if you wish to move forward with new offences, the nuisance begging direction and prevention orders in the Bill may be workable after addressing the issues discussed above, such as refining the scope of behaviour that constitutes nuisance begging (or targeting more specific locations, like near ATMs and public transport) and ensuring the penalties are proportionate to the offence.
58. Implementation of move-on orders and nuisance begging directions can provide flexibility to law enforcement's options when dealing with aggressive beggars. Police will be able to determine which option is more appropriate in the circumstance and whether the behaviour merits the issuance of an infringement-only move-on order or constitutes a criminal offence.

The proposals to address nuisance obstruction of a public place are so vague and overbroad as to be unworkable

59. We do not believe the nuisance obstruction of a public place proposals are feasible. As discussed above, the definition of the offence covers a wide range of behaviours, including everyday activities, and includes vague terms that are open to interpretation and would likely lead to unintended consequences.

~~IN CONFIDENCE~~**We recommend this Bill is not progressed**

60. We have identified four options for the Safe Streets Bill:
- a. do not progress the Safe Streets Bill (recommended);
 - b. progress the Safe Streets Bill with amendments;
 - c. progress only the nuisance begging part of the Safe Streets Bill (with amendments),
or
 - d. progress the Safe Streets Bill as-is.
61. If you wish to progress the Safe Streets Bill, we recommend that you authorise us to continue to work with Crown Law and Police on what changes could be made to the Bill to best ensure it is workable. Regulatory impact analysis will be required, including further analysis of the rights implications.

Agency consultation and population impacts

Agencies agree that move-on orders would be more effective and proportionate

62. S9(2)(h)
63. Police agrees that move-on orders would be beneficial in targeting intoxication and disorderly behaviours that cause concern but do not meet the threshold level of offending. Police has anecdotal reports that the recently introduced Community Beat Teams have reduced anti-social behaviours in CBDs and will continue to monitor the impact of this new initiative.
64. Corrections provided feedback that harsher penalties would be more likely to place strain on the prison network.
65. The Office of the Privacy Commissioner requested that it be engaged if any of these proposals are progressed.
66. The Ministry of Housing and Urban Development (HUD) recommends that any policy introducing move-on powers takes into account the particular vulnerability of the homeless population and does not block access to outreach organisations, healthcare, shelter, and other social services.

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The extent of homelessness in New Zealand

67. 2018 data¹⁴ indicates that approximately 42,000 people in New Zealand are categorised as homeless – excluding the 60,000 estimated people living in uninhabitable housing.¹⁵ Of these 42,000 people, approximately 3,500 were people without shelter (e.g., rough sleepers and those in improvised dwellings) and approximately 7,600 were living in temporary accommodation (e.g., night shelters or motels). Of the total, approximately, 102,000 people experiencing homelessness (including those in uninhabitable housing), 29% are Māori, 23% are Pacific Peoples, and 25% are Asian; while 44% are based in Auckland and 52.5% are women.¹⁶

The impact on Māori could be better understood through consultation

68. There is a risk that creating powers that target behaviours associated with homelessness will have a disproportionate impact on Māori. Downtown Community Ministry Wellington estimates that 54% of rough sleepers in Wellington City are Māori. If you decide to progress with move-on orders that affect low-level anti-social behaviour (e.g., rough sleeping) or the Safe Streets Bill, then we recommend further consultation to better understand the potential impact on Māori as these proposals are likely to have a significant impact on people experiencing homelessness.¹⁷
69. We note that the Waitangi Tribunal has commented that the partnership relationship between Māori and the Crown is especially relevant when developing and implementing policy where Māori are expressly seeking an effective role in the process.¹⁸ An approach that does not adequately account for Māori interests in addressing homelessness, including through lack of consultation with Māori in relation to these proposals, may undermine this relationship.¹⁹ Māori have displayed an active role in this respect, with 79 claimants involved in stage one of the Wai 2750 Housing Policy and Services Kaupapa Inquiry on Māori Homelessness,²⁰ and through Māori social service groups that seek to support homeless people, both Māori and non-Māori.²¹

¹⁴ There are inherent limitations in the information relating to the size and make-up of the homeless population given it uses Census data. This means these figures may underestimate and misrepresent the extent and make-up of New Zealand's homeless population.

¹⁵ The state of housing in Aotearoa New Zealand, Statistics New Zealand, 15 December 2020

<stats.govt.nz/infographics/the-state-of-housing-in-aotearoa-new-zealand/>

¹⁶ Homelessness Outlook, Ministry of Housing and Urban Development

<hud.govt.nz/stats-and-insights/homelessness-outlook/homelessness-indicators/>;

Country note: Data on homelessness in New Zealand, OECD, 2024

<web.archive.org/temp/2024-03-24/675277-Homelessness-NZL.pdf>

¹⁷ Proceeding with a better understanding of the impact on Māori, including what Māori are doing to support vulnerable peoples engaging in anti-social behaviour (in particular, people experiencing homelessness), would demonstrate good faith in relation to the Crown-Māori relationship and is appropriate given the existing efforts Māori have initiated with respect to supporting vulnerable persons (specifically rough sleepers) - see Te Tiriti o Waitangi / Treaty of Waitangi Guidance at paragraph 39, Cabinet Office, 22 October 2019.

¹⁸ Hauora: Report on Stage One of the Health Services and Outcomes Kaupapa Inquiry, pages 28-29.

¹⁹ Cabinet Manual 2023, at 5.22.

²⁰ Kāinga Kore: The Stage One Report of the Housing Policy and Services Kaupapa Inquiry on Māori Homelessness, Waitangi Tribunal, 2024, at page 1.

²¹ For example, Kāhui Tū Kaha which offers support services to long-term homeless people in Auckland and Northland; <kahuitukaha.co.nz>

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70. Additionally, consultation would minimise the risk that Māori would be disproportionately affected by these proposals and so help mitigate against the pursuance of potential claims in the Waitangi Tribunal (again, especially relevant given the Tribunal recently examined the issue of Māori homelessness in Wai 2750 and found the Crown breached its Treaty obligations relating to Māori homelessness).

Next steps


71. If you agree to proceed with any of the options in this briefing, we will work with relevant agencies to develop detailed policy proposals.
72. We do not have a legislative vehicle to carry forward these proposals, which would require amendments be made to the Summary Offences Act 1981. We do not consider these amendments would meet the single broad policy requirement in the Standing Orders to be progressed as an omnibus Bill alongside forthcoming amendments to the Crimes Act 1961 (to enact proposals set out in the National-New Zealand First Coalition Agreement).
73. Progressing these proposals will involve further trade-offs across the Justice policy work programme.
74. Given the widespread impacts of these proposals, we recommend you share this briefing and consult with housing and health sector Ministers before making policy decisions.

Recommendations

75. It's recommended that you:
1. **Note** that there are a number of existing tools to address anti-social behaviour in public spaces including criminal offences, police powers, and city bylaws;
 2. **Indicate** your preferred approach to officials progressing analysis of move-on orders, including consultation with Police, Crown Law, and councils:
 - 2.1. Do not progress move-on orders at all; YES / NO
 - 2.2. Progress move-on orders, with their application limited to behaviour that causes safety issues; or YES / NO
 - 2.3. Progress move-on orders with wide-ranging application, including to rough sleepers and all beggars (not recommended); YES / NO
 3. **Indicate** your preferred approach for the Safe Streets Bill:
 - 3.1. **Agree** not to proceed with the Safe Streets Bill (recommended); YES / NO

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- 3.2. **Agree to proceed with only the nuisance begging part of the Safe Streets Bill (and for officials to consult with agencies and councils); or** YES / NO
- 3.3. **Agree to proceed with the Safe Streets Bill in its entirety (and for officials to consult with agencies and councils);** YES / NO
- 4. **Agree for officials to engage with Te Puni Kōkiri, the Ministry of Housing and Urban Development and relevant Māori interest groups that provide assistance and support to homeless populations; and** YES / NO
- 5. **Forward a copy of this briefing to the Minister of Police, the Associate Minister of Justice and the Attorney-General.** YES / NO



Alida Mercuri

General Manager, Criminal Justice Policy

APPROVED SEEN NOT AGREED

Hon Paul Goldsmith
Minister of Justice

Date / /

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Appendix A: Safe Streets Bill (draft)

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Appendix B: Move-on powers in Australia

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Safe Streets Bill

Government / Member's Bill

Explanatory Note

General policy statement

The Summary Offences Act 1981 creates offences relating to obstruction, intimidation, disorderly and offensive behaviour in public places. But many offences which could be used to deal with the problems on the streets of central Auckland and elsewhere in New Zealand currently contain bars that are too high for them to be used effectively. For example:

- Section 21 (intimidation) requires an offender to have had the intention to cause a victim to feel frightened or intimidated;
- Section 22 (obstructing a public way) requires the offender to have been warned by a Police officer, but to have ignored the warning;
- Section 28 (loitering) requires the offender to have been intending to commit an imprisonable offence.

This Bill proposes a separate statutory scheme to empower and require the Police to give directions to people causing a nuisance by obstructing a public place or begging to leave the area for a period of up to 96 hours. Where that person continues to be a nuisance to the public, the Police are then able to issue a prevention order, with more extensive requirements.

The Bill also introduces offences to prevent the arranging or facilitation by third parties of obstruction of public place or begging for gain.

The goal of the Bill is to improve the quality of life of all New Zealanders and improve the state of New Zealand cities by tackling nuisance obstruction of public places and begging where it causes damage, disruption, harassment or distress to the public, while avoiding criminalising the genuinely vulnerable.

Departmental disclosure statement

[TBC]

Regulatory impact statement

[TBC]

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 gives the date on which the Bill comes into force.

Part 1

Preliminary provisions

Clause 3 sets out the purpose of the legislation.

Clause 4 provides the definitions of nuisance obstruction of a public place and nuisance begging.

Part 2

Public nuisance

Subpart 1—Nuisance obstruction of public place

Clause 5 sets out the requirements for the issuing of a nuisance obstruction of public place direction.

Clause 6 sets out the requirements for the issuing of a nuisance obstruction of public place prevention notice.

Clause 7 makes it an offence to arrange or facilitate either of the behaviours described in clauses 5 and 6 for gain.

Subpart 2—Nuisance begging

Clause 8 sets out the requirements for the issuing of a nuisance begging direction.

Clause 9 sets out the requirements for the issuing of a nuisance begging prevention notice.

Clause 10 makes it an offence to arrange or facilitate either of the behaviours described in clauses 8 and 9 for gain.

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[Name of Minister / Member]

Safe Streets Bill

Government / Member's Bill

Contents

- Explanatory note
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- 5 Nuisance obstruction of public place directions
- 6 Nuisance obstruction of public place prevention notices
- 7 Arranging or facilitating obstruction of public place for gain

Subpart 2— Nuisance begging

- 8 Nuisance begging directions
- 9 Nuisance begging prevention notices
- 10 Arranging or facilitating begging for gain

The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Safe Streets Act 2024.
- 2 Commencement**
This Act comes into force on the day after Royal assent.

Part 1 Preliminary provisions

- 3 Purposes**
The purpose of this Act is to—
 - (a) provide for the issuing of directions to target nuisance obstruction of public places and begging;

- (b) make it an offence to arrange or facilitate nuisance obstruction of public places and begging for gain.

4 Interpretation

In this Act, unless the context otherwise requires,—

nuisance begging means begging—

- (a) on public transport
- (b) in a public transport station, including at an entrance or exit
- (c) at a bus stop or any other place where members of the public access any form of public transport
- (d) at a taxi rank
- (e) on a road or cycle track
- (f) in any area within 10 metres of business premises
- (g) within 10 metres of an automated teller machine, ticket machine, vending machine or other device through which members of the public obtain goods or services by making payments
- (h) in, or within 10 metres of, the entrance to, or exit from, retail premises or any building housing retail premises
- (i) in the common parts of, or outside, any building containing two or more dwellings
- (j) that causes or is likely to cause harassment, alarm or distress to a person
- (k) that causes or is likely to cause a person reasonably to believe that they may be harmed or property may be damaged
- (l) that causes or is likely to cause disorder
- (m) that causes or is likely to cause a risk to the health or safety of any person

nuisance obstruction of a public place means—

- (a) occupying a public place, including a right of way, footpath, road, in a way that obstructs or otherwise creates a disturbance to any person
- (b) placing or leaving any material, object, thing or structure in a public place without lawful excuse
- (c) lodging in the open-air in a public place
- (d) obstructing, disturbing or interfering with any other person in their use or enjoyment of a public place
- (e) intimidating a person in a public place
- (f) engaging in behaviour in a public place that causes or is likely to cause harassment, alarm or distress to a person
- (g) engaging in behaviour in a public place that causes or is likely to cause a person reasonably to believe that they may be harmed or property may be damaged
- (h) engaging in behaviour in a public place that causes or is likely to cause disorder
- (i) engaging in behaviour in a public place that is likely to cause a risk to the health or safety of any person

Part 2

Public nuisance

Subpart 1—Nuisance obstruction of public place

5 Nuisance obstruction of public place directions

- (1) A constable may give a nuisance obstruction of public place direction to a person if satisfied on reasonable grounds that the person is engaging, has engaged, or is likely to engage in nuisance obstruction of a public place.
- (2) A **nuisance obstruction of public place direction** is a direction requiring the person—
 - (a) to leave a specified location as soon as reasonably practicable; and
 - (b) not to return to the specified location at any time in a specified period, not exceeding 96 hours, beginning with the giving of the direction.
- (3) A nuisance obstruction of public place direction may require the person, when leaving the specified location, to remove (and take with them) their belongings and any specific litter or other things for which they are responsible.
- (4) A nuisance obstruction of public place direction must, so far as practicable, avoid—
 - (a) any interference with attending any place where the person normally works or attends an educational establishment;
 - (b) any conflict with the requirements of any court order to which the person is subject.
- (5) A nuisance obstruction of public place direction must be in writing and state it is an offence to fail to comply with the direction.
- (6) A person to whom a nuisance obstruction of public place direction has been given commits an offence if the person fails to comply with the direction.
- (7) A person who commits an offence under this section is liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding \$2,000.

6 Nuisance obstruction of public place prevention notices

- (1) A constable may give a nuisance obstruction of public place prevention notice to a person if:
 - (a) satisfied on reasonable grounds that the person is engaging, has engaged, or is likely to engage in nuisance obstruction of a public place; and
 - (b) the person has received a nuisance obstruction of public place direction in the previous three months.
- (2) A **nuisance obstruction of public place prevention notice** is a notice imposing, on the person to whom it is given, either or both of the following—
 - (a) requirements not to do specified things, at any time in a specified period not exceeding 3 years beginning at the end of the day on which the notice is given;
 - (b) requirements to do specified things within specified periods or by specified times.
- (3) A requirement in section 6(2) may only be imposed if it is reasonable to impose it for the purpose of preventing the person to whom the notice is given from engaging in nuisance obstruction of a public place.

- (4) A nuisance obstruction of public place prevention notice must, so far as practicable, avoid—
 - (a) any interference with attending any place where the person normally works or attends an educational establishment;
 - (b) any conflict with the requirements of any court order to which the person is subject.
- (5) A nuisance obstruction of public place prevention notice must:
 - (a) state the name of the person to whom it is given;
 - (b) describe the behaviour giving rise to the giving of the notice;
 - (c) describe the consequences of failing to comply with the notice; and
 - (d) contain information about appealing against the notice.
- (6) A nuisance obstruction of public place prevention notice must be given to a person—
 - (a) by hand;
 - (b) by leaving it at, or posting it to, the person's last known address, or
 - (c) by any electronic means by which the person has agreed to receive it.
- (7) A person to whom a nuisance obstruction of public place prevention notice has been given may appeal to the District Court on any of the following grounds—
 - (a) that the person did not engage in nuisance obstruction of a public place as described in the notice;
 - (b) that the person had not received a nuisance obstruction of public place direction in the previous three months.
- (8) A person to whom a nuisance obstruction of public place prevention notice has been given commits an offence if the person fails to comply with the notice.
- (9) A person who commits an offence under this section is liable on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding \$4,000.

7 Arranging or facilitating obstruction of public place for gain

- (1) A person commits an offence if, for gain, the person arranges or facilitates another person's nuisance obstruction of a public place.
- (2) A person who commits an offence under this section is liable on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding \$4,000.

Subpart 2—Nuisance begging

8 Nuisance begging directions

- (1) A constable may give a nuisance begging direction to a person if satisfied on reasonable grounds that the person is engaging, has engaged, or is likely to engage in nuisance begging.
- (2) A **nuisance begging direction** is a direction requiring the person—
 - (a) to leave a specified location as soon as reasonably practicable, and

- (b) not to return to the specified location at any time in a specified period, not exceeding 96 hours, beginning with the giving of the direction.
- (3) A nuisance begging direction may require the person, when leaving the specified location, to remove (and take with them) their belongings and any specific litter or other things for which they are responsible.
- (4) A nuisance begging direction must, so far as practicable, avoid—
 - (a) any interference with attending any place where the person normally works or attends an educational establishment;
 - (b) any conflict with the requirements of any court order to which the person is subject.
- (5) A nuisance begging direction must be in writing and state it is an offence to fail to comply with the direction.
- (6) A person to whom a nuisance begging direction has been given commits an offence if the person fails to comply with the direction.
- (7) A person who commits an offence under this section is liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding \$2,000.

9 Nuisance begging prevention notices

- (1) A constable may give a nuisance begging prevention notice to a person if:
 - (a) satisfied on reasonable grounds that the person is engaging, has engaged, or is likely to engage in nuisance begging; and
 - (b) the person has received a nuisance begging direction in the previous three months.
- (2) A **nuisance begging prevention notice** is a notice imposing, on the person to whom it is given, either or both of the following—
 - (a) requirements not to do specified things, at any time in a specified period not exceeding 3 years beginning at the end of the day on which the notice is given;
 - (b) requirements to do specified things within specified periods or by specified times.
- (3) A requirement in section 9(2) may only be imposed if it is reasonable to impose it for the purpose of preventing the person to whom the notice is given from engaging in nuisance obstruction of a public place.
- (4) A nuisance begging prevention notice must, so far as practicable, avoid—
 - (a) any interference with attending any place where the person normally works or attends an educational establishment;
 - (b) any conflict with the requirements of any court order to which the person is subject.
- (5) A nuisance begging prevention notice must:
 - (a) state the name of the person to whom it is given;
 - (b) describe the behaviour giving rise to the giving of the notice;
 - (c) describe the consequences of failing to comply with the notice; and
 - (d) contain information about appealing against the notice.

- (6) A nuisance begging prevention notice must be given to a person—
 - (a) by hand;
 - (b) by leaving it at, or posting it to, the person's last known address, or
 - (c) by any electronic means by which the person has agreed to receive it.
- (7) A person to whom a nuisance begging prevention notice has been given may appeal to the District Court on any of the following grounds—
 - (a) that the person did not engage in nuisance begging as described in the notice;
 - (b) that the person had not received a nuisance begging direction in the previous three months.
- (8) A person to whom a nuisance begging prevention notice has been given commits an offence if the person fails to comply with the notice.
- (9) A person who commits an offence under this section is liable on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding \$4,000.

10 Arranging or facilitating begging for gain

- (1) A person commits an offence if, for gain, the person arranges or facilitates another person's nuisance begging.
- (2) A person who commits an offence under this section is liable on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding \$4,000.

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	Queensland	Australian Capital Territory	New South Wales	Northern Territory
Legislation	Police Powers and Responsibilities Act 2000, Sections 44-48	Crimes Act 1900, Sections 175-179	Law Enforcement (Powers and Responsibilities) Act 2002, Sections 197-200A	Summary Offences Act 1923, Section 47B
Trigger	<p>A police officer reasonably suspects the person's behaviour is or has been—</p> <p>(a) causing anxiety to a person entering, at or leaving the place, reasonably arising in all the circumstances; or</p> <p>(b) interfering with trade or business at the place by unnecessarily obstructing, hindering or impeding someone entering, at or leaving the place; or</p> <p>(c) disorderly, indecent, offensive, or threatening to someone entering, at or leaving the place; or</p> <p>(d) disrupting the peaceable and orderly conduct of any event, entertainment or gathering at the place.</p> <p>A police officer reasonably suspects the person's presence is or has been—</p> <p>(a) causing anxiety to a person entering, at, or leaving the place, reasonably arising in all the circumstances; or</p> <p>(b) interfering with trade or business at the place by unnecessarily obstructing, hindering or impeding someone entering, at or leaving the place; or</p> <p>(c) disrupting the peaceable and orderly conduct of any event,</p>	<p>A police officer reasonably believes that a person has recently engaged in, is engaged in, or is likely in the immediate future to engage in, conduct—</p> <p>(a) involving violence towards, or intimidation of, a person; or damage to property; or</p> <p>(b) that would cause a reasonable person to fear for their safety.</p>	<p>A police officer believes on reasonable grounds that the person's behaviour or presence in the place (referred to in this Part as relevant conduct)—</p> <p>(a) is obstructing another person or persons or traffic, or</p> <p>(b) constitutes harassment or intimidation of another person or persons, or</p> <p>(c) is causing or likely to cause fear to another person or persons, so long as the relevant conduct would be such as to cause fear to a person of reasonable firmness, or</p> <p>(d) is for the purpose of unlawfully supplying, or intending to unlawfully supply, or soliciting another person or persons to unlawfully supply, any prohibited drug, or</p> <p>(e) is for the purpose of obtaining, procuring or purchasing any prohibited drug that it would be unlawful for the person to possess.</p> <p>A direction given by a police officer under this section must be reasonable in the circumstances for the purpose of—</p> <p>(a) reducing or eliminating the obstruction, harassment, intimidation or fear, or</p> <p>(b) stopping the supply, or soliciting to supply, of the prohibited drug, or</p>	<p>Where a person is loitering in a public place and a police officer reasonably suspects –</p> <p>(a) the person has committed, or is about to commit, an offence at the place or in the area; or</p> <p>(b) the person is part of a group of people at the place and one or more people in the group have committed or are about to commit an offence at the place or in the area.</p>

	entertainment or gathering at the place.		<p>(c) stopping the obtaining, procuring or purchasing of the prohibited drug.</p> <p>A police officer may give a direction to an intoxicated person who is in a public place to leave the place and not return for a specified period if the police officer believes on reasonable grounds that the person's behaviour in the place as a result of the intoxication (referred to in this Part as relevant conduct)—</p> <p>(a) is likely to cause injury to any other person or persons, damage to property or otherwise give rise to a risk to public safety, or</p> <p>(b) is disorderly.</p> <p>A direction given by a police officer under this section must be reasonable in the circumstances for the purpose of—</p> <p>(a) preventing injury or damage or reducing or eliminating a risk to public safety, or</p> <p>(b) preventing the continuance of disorderly behaviour in a public place.</p>	
Time period	24 hours maximum	6 hours maximum	Section 197 - None specified; Section 198 - 6 hours maximum	72 hours maximum
Exclusions	A police officer must not give a direction that interferes with a person's right of peaceful assembly unless it is reasonably necessary in the interests of— (a) public safety; or (b) public order; or (c) the protection of the rights and freedoms of other persons.	Does not apply in relation to a person who is— (a) picketing a place of employment; or (b) demonstrating or protesting about a particular issue; or (c) speaking, bearing, or otherwise identifying with a banner, placard or sign or otherwise behaving in a way	Does not authorise a police officer to give a direction in relation to an industrial dispute. Does not authorise a police officer to give a direction in relation to— (a) an apparently genuine demonstration or protest, or (b) a procession, or	There is a defence if the defendant proves that the defendant has a reasonable excuse.

		<p>that is apparently intended to publicise the person's view about a particular issue.</p>	<p>(c) an organised assembly, except as provided by subsection (3) or (4).</p> <p>A police officer is not precluded from giving a direction in relation to any such demonstration, protest, procession or assembly if the police officer believes on reasonable grounds that the direction is necessary to deal with a serious risk to the safety of the person to whom the direction is given or to any other person.</p> <p>A police officer is not precluded from giving a direction in relation to any such demonstration, protest, procession or assembly that is obstructing traffic if—</p> <p>(a) the demonstration, protest, procession or assembly is not an authorised public assembly for the purposes of Part 4 of the Summary Offences Act 1988 or the demonstration, protest, procession or assembly is not being held substantially in accordance with any such authorisation, and</p> <p>(b) the police officer in charge at the scene has authorised the giving of directions under this Part in relation to the demonstration, protest, procession or assembly, and</p> <p>(c) the direction is limited to the persons who are obstructing traffic.</p>	
<p>Geography</p>	<p>A direction may require a person to do one of the following—</p> <p>(a) leave the regulated place and not return or be within the regulated</p>	<p>The police officer may give the person a direction to do any of the following:</p>	<p>None specified.</p>	<p>A police officer may give written notice requiring the person to stay away from the place or an area including the place (specifying the</p>

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	<p>place within a stated reasonable time of not more than 24 hours;</p> <p>(b) leave a stated part of the regulated place and not return or be within the stated part of the regulated place within a stated reasonable time of not more than 24 hours;</p> <p>(c) move from a particular location at or near the regulated place for a stated reasonable distance, in a stated direction, and not return or be within the stated distance from the place within a stated reasonable time of not more than 24 hours.</p>	<p>(a) immediately leave an area specified by the officer;</p> <p>(b) remain outside the exclusion zone for a period, decided by the officer;</p> <p>(c) leave the exclusion zone by a particular route, or in a particular direction, decided by the officer.</p>		<p>place or area, and the period, as is reasonable in the circumstances)</p>
<p>Procedure</p>	<p>The police officer must tell the person or group of persons the reasons for giving the direction.</p>	<p>The police officer must tell, or make reasonable efforts to tell, the person the following:</p> <p>(a) that the person has been given an exclusion direction;</p> <p>(b) the reason for the direction;</p> <p>(c) the exclusion zone to which the direction applies;</p> <p>(d) that the person must not remain in the zone;</p> <p>(e) the exclusion period, if any;</p> <p>(f) the route or direction, if any, that the person must take to leave the zone;</p> <p>(g) that it is an offence to fail to comply with the direction;</p> <p>(h) the time and date the direction ends.</p> <p>(2) If an exclusion direction is given to 2 or more people at the same time, the police officer giving the direction—</p>	<p>A police officer must give to a person to whom the officer gives a direction under this section (being a direction on the grounds that the person is intoxicated and disorderly in a public place) a warning that it is an offence to be intoxicated and disorderly in that or any other public place at any time within 6 hours after the direction is given. The warning is in addition to any other warning required under Part 15.</p> <p>A police officer who exercises this power must provide the following to the person subject to the exercise of the power—</p> <p>(a) evidence that the police officer is a police officer (unless the police officer is in uniform),</p> <p>(b) the name of the police officer and his or her place of duty,</p>	<p>The officer must ensure all reasonable steps are taken to explain to the person (in language the person can readily understand) the matters relating to the notice, its conditions (time, place/area, consequences of contravention); although the notice is not invalidated by failure to do this.</p>

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		(a) may tell, or make reasonable efforts to tell, the group generally the information mentioned in subsection (1); and (b) in that case, need not give the information to each person individually.	(c) the reason for the exercise of the power. A police officer must do the above: (a) as soon as it is reasonably practicable to do so, or (b) in the case of a direction, requirement or request to a single person—before giving or making the direction, requirement or request.	
Penalties	Maximum 60 penalty units (1 penalty unit = \$161.30 as of July 2024)	Maximum 2 penalty units (1 penalty unit = \$160)	Maximum 2 penalty units (1 penalty unit = \$110)	Maximum 100 penalty units or 6 months imprisonment (1 penalty unit = \$185)

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Appendix B – Move-on Powers in Australia

	South Australia	Tasmania	Victoria	Western Australia
Legislation	Summary Offences Act 1953, Section 18	Police Offences Act 1935, Section 15B	Summary Offences Act 1966, Section 6	Criminal Investigation Act 2006, Section 27
Trigger	<p>Where a person is loitering in a public place or a group of persons is assembled in a public place and a police officer believes or apprehends on reasonable grounds—</p> <p>(a) that an offence has been, or is about to be, committed by that person or by one or more of the persons in the group or by another in the vicinity; or</p> <p>(b) that a breach of the peace has occurred, is occurring, or is about to occur, in the vicinity of that person or group; or</p> <p>(c) that the movement of pedestrians or vehicular traffic is obstructed, or is about to be obstructed, by the presence of that person or group or of others in the vicinity; or</p> <p>(d) that the safety of a person in the vicinity is in danger, the officer may request that person to cease loitering, or request the persons in that group to disperse, as the case may require.</p>	<p>A police officer believes on reasonable grounds that the person —</p> <p>(a) has committed or is likely to commit an offence; or</p> <p>(b) is obstructing or is likely to obstruct the movement of pedestrians or vehicles; or</p> <p>(c) is endangering or likely to endanger the safety of any other person; or</p> <p>(d) has committed or is likely to commit a breach of the peace.</p>	<p>A police officer or protective services officer suspects on reasonable grounds that—</p> <p>(a) the person is or persons are breaching, or likely to breach, the peace; or</p> <p>(b) the person is or persons are endangering, or likely to endanger, the safety of any other person; or</p> <p>(c) the behaviour of the person or persons is likely to cause injury to a person or damage to property or is otherwise a risk to public safety.</p>	<p>A police officer reasonably suspects that the person —</p> <p>(a) is doing an act —</p> <p>(i) that involves the use of violence against a person; or</p> <p>(ii) that will cause a person to use violence against another person; or</p> <p>(iii) that will cause a person to fear violence will be used by a person against another person; or</p> <p>(b) is just about to do an act that is likely to —</p> <p>(i) involve the use of violence against a person; or</p> <p>(ii) cause a person to use violence against another person; or</p> <p>(iii) cause a person to fear violence will be used by a person against another person; or</p> <p>(c) is committing any other breach of the peace; or</p> <p>(d) is hindering, obstructing or preventing any lawful activity that is being, or is about to be, carried out by another person; or</p> <p>(e) intends to commit an offence; or</p> <p>(f) has just committed or is committing an offence.</p>
Time period	None specified.	Minimum 4 hours	Maximum 24 hours	Maximum 24 hours

<p>Exclusions</p>	<p>None.</p>	<p>None.</p>	<p>Does not apply in relation to a person who, whether in the company of other persons or not, is— (a) picketing a place of employment; or (b) demonstrating or protesting about a particular issue; or (c) speaking, bearing or otherwise identifying with a banner, placard or sign or otherwise behaving in a way that is apparently intended to publicise the person's view about a particular issue.</p>	<p>A person is not in breach of the move on order if the person is taking reasonable steps to comply with the order and move out of the area.</p>
<p>Geography</p>	<p>A person of whom a request is made must leave the place and the area in the vicinity of the place in which he or she was loitering or assembled in the group.</p>	<p>A police officer may direct a person in a public place to leave that place and not return for a specified period.</p>	<p>A direction under this section may direct the person or persons not to return to the public place or part of a public place or not be in that public place or part for a specified period.</p>	<p>A police officer may order a person who is in a public place, or in a vehicle used for public transport, to leave it, or a part of it specified by the officer.</p> <p>In addition, a police officer may do either or both of the following: (a) order the person to go beyond a reasonable distance from the place, or the part of the place, set by the officer; (b) order the person to obey the order or orders for a reasonable period set by the officer; but the period must not be longer than 24 hours.</p>

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Procedure	None specified.	None specified.	A direction under this section may be given orally.	<p>Any order given must be in writing on a prescribed form.</p> <p>When giving a person an order under subsection (1), a police officer must take into account the likely effect of the order on the person, including but not limited to the effect on the person's access to the places where he or she usually resides, shops and works, and to transport, health, education or other essential services.</p>
Penalties	Maximum \$1250 or 3 months imprisonment	Maximum 2 penalty units (1 penalty unit = \$202)	Maximum 5 penalty units (1 penalty unit = \$197.59)	Maximum fine of \$12 000 and 12 months imprisonment

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From: S9(2)(a)
Sent: Wednesday, 25 June 2025 10:21 am
To: S9(2)(a) @retailmag.govt.nz'
Cc: S9(2)(a) ; S9(2)(a)
Subject: Initial MoJ comments on anti-social behaviour issues paper

Kia ora S9(2)(a)

Thank you for the opportunity to provide comment on the MAG's initial issues paper on anti-social behaviour in New Zealand retail environments.

As your work is still in early stages, we have limited our feedback to suggestions for areas of focus and potential further work, rather than any firm recommendations or Justice positions at this stage.

We look forward to further opportunities to engage as your work and thinking progresses.

Problem definition

As the work progresses, it will be important that a clear problem definition and objective is identified, including what aspects of anti-social behaviour each proposal is intending to target.

We also suggest more information would be useful about the 'sense of impunity' around antisocial conduct – for instance what are the signs of 'impunity' and whether and how other jurisdictions are addressing this.

Evidence and data

If you are undertaking further engagement with retailers, it may be helpful to have more information about the following:

- the frequency and nature of antisocial behaviour
- whether the concern was about antisocial behaviour directed at the retailer or that it occurred outside their place of work which could deter customers
- whether the retailer had called the Police or local council to report the behaviour
- a clearer profile of those committing the antisocial conduct, as well as those most affected by the conduct, including offending history and demographics.

It would also be useful to provide evidence that Police are not adequately responding to assaults on retailers, or that offenders are not being charged under the existing assault framework.

International comparisons

It may be useful to explore the broader suite of mechanisms available in the United Kingdom for managing antisocial behaviour, including Public Spaces Protection Orders and Community Protection Notices. If consideration is to be given to measures like those used overseas, it would be helpful to include any relevant evidence about their use or effectiveness.

It may also be useful to reflect any evidence regarding the efficacy of the Australian move-on orders in responding to and decreasing anti-social behaviours. In the NSW example of move-on powers, some of the examples have significant overlap with existing New Zealand criminal laws, such as obstruction of a public way and intimidation.

Proposals

Document 9

It would be helpful to have a list of which anti-social behaviours each proposal is designed to address. For instance, would move-on orders only apply to anti-social behaviour that poses a public safety issue, or is the proposal broader?

The development and implementation of on-the-spot penalties for antisocial behaviours is likely to be complex. In developing these proposals we suggest you consider:

- Flexibility: to account for a wide range of antisocial behaviours with context-specific tools.
- Proportionality: the scope of behaviours included under the umbrella of antisocial conduct means that while a response may be proportionate to the level of harm associated with one behaviour, the same response may not be appropriate for similar behaviours
- Resources and training required: to equip enforcement officers (including council officers) with the tools to respond to such a broad range of behaviours – especially where health and safety issues arise.
- Natural justice and the ability to challenge incorrectly imposed penalties.

Move on orders

It would be useful to consider how move on orders could work in practice, especially if the person is unwilling to leave, and how the Police may operationalise and monitor the orders.

We note that move-on powers were considered recently by the Independent Police Conduct Authority (IPCA) as part of its review of *Policing of Public Protests in New Zealand*. The IPCA noted significant reservations about a general 'move on' power.

out of scope

Human rights considerations

It will be important to consider how the proposal will interact with the New Zealand Bill of Rights Act 1990 (NZBORA) regarding freedom of movement and association. Move-on orders that require a warning to be given first, and which can only be given if there is a significant or imminent public safety risk, would place a smaller limitation on NZBORA rights and freedoms.

We suggest you consider the extent to which the NZBORA presumption of innocence is displaced, given the police could be exercising powers to issue these orders against people who may have committed no offence. You should also consider other NZBORA rights and freedoms, including freedom from discrimination (which may be particularly relevant to restrictions on begging), presumption of innocence, and the right not to be arbitrarily arrested or detained.

Engagement with other agencies

An important part of this work will involve engaging with Police on how criminal and non-criminal antisocial conduct is currently managed through Police operational guidelines and practice.

The paper notes that regional councils are having difficulties enforcing infringements, in part due to complexities with requiring court approval. S9(2)(f)(iv)

We suggest you engage with Oranga Tamariki to understand how these proposals might apply to children and young people.

We note that other government agencies are likely to be interested in the anti-social behaviour proposals. This may include TPK, Ministry for Pacific Peoples, Whatikahe, Ministry of Social Development, and Kainga Ora.

Additionally, there are several organisations who help those in our communities who may be most impacted by the anti-social behaviour proposals. You may wish to engage with non-profit groups such as the Salvation Army, the Wellington and Auckland City Missions, and Kahui Tu Kaha.

I hope this feedback is useful to the MAG. Officials are available to discuss any aspect of this feedback in more detail.

Ngā mihi,

S9(2)(a)



S9(2)(a)

Chief Advisor | Criminal Justice

Ministry of Justice | Tāhū o te Ture

S9(2)(a)

S9(2)(a) [@justice.govt.nz](https://twitter.com/justice.govt.nz) | www.justice.govt.nz

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From: S9(2)(a) <[S9\(2\)\(a\)@retailmag.govt.nz](mailto:S9(2)(a)@retailmag.govt.nz)>
Sent: Tuesday, August 12, 2025 9:47 AM
To: S9(2)(a) <[S9\(2\)\(a\)@police.govt.nz](mailto:S9(2)(a)@police.govt.nz)>; S9(2)(a) <[S9\(2\)\(a\)@ot.govt.nz](mailto:S9(2)(a)@ot.govt.nz)>; ROTH, Tanya <Tanya.ROTH@police.govt.nz>; S9(2)(a) <[S9\(2\)\(a\)@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>; WOOD, Jeremy <jeremy.wood@police.govt.nz>; S9(2)(a) <[S9\(2\)\(a\)@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>; S9(2)(a) <[S9\(2\)\(a\)@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>; S9(2)(a) <[S9\(2\)\(a\)@ethniccommunitites.govt.nz](mailto:S9(2)(a)@ethniccommunitites.govt.nz)>; S9(2)(a) <[S9\(2\)\(a\)@tpk.govt.nz](mailto:S9(2)(a)@tpk.govt.nz)>; S9(2)(a) <[S9\(2\)\(a\)@whaikaha.govt.nz](mailto:S9(2)(a)@whaikaha.govt.nz)>; S9(2)(a) <[S9\(2\)\(a\)@mmp.govt.nz](mailto:S9(2)(a)@mmp.govt.nz)>; S9(2)(a) <[S9\(2\)\(a\)@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>
Cc: S9(2)(a) <[S9\(2\)\(a\)@retailmag.govt.nz](mailto:S9(2)(a)@retailmag.govt.nz)>; S9(2)(a) <[S9\(2\)\(a\)@retailmag.govt.nz](mailto:S9(2)(a)@retailmag.govt.nz)>; S9(2)(a) <[S9\(2\)\(a\)@retailmag.govt.nz](mailto:S9(2)(a)@retailmag.govt.nz)>
Subject: MAG paper for comment by 21 August - anti-social behaviour

Hello all,

See attached our options paper on responding to anti-social behaviour. We'd appreciate comments back by Thursday 21 August. Please send feedback to me and S9(2)(a) <[S9\(2\)\(a\)@mag.govt.nz](mailto:S9(2)(a)@mag.govt.nz)>.

The paper considers:

- **Option 1: move-on orders** – a new tool for Police and/or Councils to move a person on to a different location if that person is behaving anti-socially
- **Option 2: new criminal offences** for criminal offending that victimises retail workers
- **Option 3: additional powers for councils** to enforce by-laws
- **Option 4: geographic bans** on certain behaviour, like begging, in certain areas (for example, around a cash machine)
- **Option 5: government action plan** or policy statement to address anti-social behaviour, which could 'wrap up' the other actions into a cohesive strategy
- **Option 6: court-issued civil orders** – an order requiring a person to stay away from certain locations and undertake rehabilitation to address underlying issues

The team and I are happy to meet and discuss any questions or feedback you wish to provide.

S9(2)(a) - might be good to have a meeting directly. If the Government does wish to proceed with move-on orders (which is a likely outcome I think), I'm interested in whether that's something that would best be placed in the Policing Act or Summary Offences Act.

MOJ colleagues - I'd appreciate contacts for DIA (local govt), and any contacts you have at HUD / Kainga Ora.

I would appreciate it if you could acknowledge receipt of this email.

Kind regards,

S9(2)(a) | Policy Manager

Ministerial Advisory Group for the Victims of Retail Crime

Email S9(2)(a) <[S9\(2\)\(a\)@RetailMAG.govt.nz](mailto:S9(2)(a)@RetailMAG.govt.nz)>

Phone S9(2)(a)

Anti-social behaviour around retail settings: Options Paper

MINISTERIAL ADVISORY GROUP FOR
VICTIMS OF RETAIL CRIME

August 2025

Executive summary

1. We want your feedback on options to address anti-social behaviour in and around retail settings.
2. 'Anti-social behaviour' includes any behaviour that is likely to intimidate, harass, alarm, or distress any person. It includes the actions of any person behaving in an anti-social manner, including public disorder, obstruction and escalating abusive behaviour. Retailers are dealing with the fear and safety risks of this behaviour themselves, with little substantial support.
3. Retailers have told us that:
 - Anti-social behaviour is increasing, and results in significant harm to retail workers and customers. It affects all businesses, from small, sole operator retailers all the way up to larger multi-store operators and retail chains
 - There is a lack of tools to address anti-social behaviour, and those that exist are difficult to enforce, for example the Auckland Public Safety and Nuisance by-law
4. This paper assesses six options to address anti-social behaviour affecting retailers:
 - **Option 1: move-on orders** – a new tool for Police and/or Councils to move a person on to a different location if that person is behaving anti-socially
 - **Option 2: new criminal offences** targeting criminal offending that victimises retail workers
 - **Option 3: additional powers for councils** to enforce by-laws
 - **Option 4: geographic bans** on certain behaviour (e.g. begging) within certain 'zones' (for example, around a cash machine)
 - **Option 5: government action plan** or policy statement to address anti-social behaviour, which could 'wrap up' the other actions into a cohesive strategy
 - **Option 6: court issued civil orders** – an order requiring a person to stay away from certain locations and undertake rehabilitation to address underlying issues
5. Our view is that options 1 and 2 are the most promising. These options are likely to be effective in providing immediate relief to retailers and greater accountability for offenders.
6. Move-on orders look to be an effective response to deal with anti-social behaviour that is not criminal in nature, but which cause significant harm to retailers. Move on orders can also prevent situations from escalating into truly criminal acts – for example, by moving on an aggressive person who is intoxicated. Early, non-punitive intervention, by simply requiring a person to leave the area, and with a referral to appropriate support services, is a more effective and humane approach to public order management and protecting the retail environment. It strikes a balance between the public's right to freely access public spaces and conduct business, and the realities of people experiencing significant personal life challenges. A 'three strikes' policy could also be implemented where there is an automatic trespass issued to

repeat offenders.

7. A new bespoke criminal offence, on the other hand, is focused on restoring the balance of accountability for offending. This option aims to combat the sense of entitlement that too many offenders have in believing that it is okay to offend against retail workers. While offending against any particular group of persons is harmful, retail workers are unique because:
 - Retail workers are often young and in their first job. There is a perception that they will just put up with it because they don't have any choice
 - The mistaken and entitled belief that 'the customer is always right', and that there are no consequences for treating retail workers poorly because it might be seen as a low-status job
 - The regular exposure to anti-social behaviour reflects a systemic vulnerability that existing criminal laws do not adequately address

We have also seen significant international moves towards bespoke offences for offending against retail workers.

8. We also think that options 3, 4, and 5 could have some benefit, and could complement the changes under options 1 and 2 by giving Councils the tools to enforce by-laws, creating protected 'zones', and a plan to package up all the changes. Currently by-laws are difficult to enforce, meaning their utility is low. Enforcement powers will restore this. Protected zones would make people feel safer with knowledge they won't be accosted when they walk out onto the street. An action plan from government would give purpose and direction to the set of changes adopted from this paper.
9. We are unlikely to recommend option 6 due to its longer-term nature and lack of immediate impact. Our focus is on interventions that can either stop behaviour quickly or strongly deter such behaviour in the future. These interventions are applicable to everyone, whereas a civil order only addresses the behaviour of one person. A large number of civil orders would need to be given out before there is a wider effect, and there is little evidence of their efficacy.
10. In assessing these options, we have considered whether the proposals are:
 - Proportionate
 - Reflect accepted social norms in New Zealand
 - Do not unduly criminalise homelessness, youth, or reduce anyone's access to essential services.
11. We are seeking your feedback on these initial assessments of options.

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Introduction

1. We want your feedback on the six options we've identified that could help address anti-social behaviour in and around retail settings. We are also keen to know what else you think we should be doing.

Sector and stakeholder engagement

2. Twenty-two organisations or businesses responded to our previous paper that sought feedback on the prevalence and impact of anti-social behaviour. We heard from business membership organisations, individual retailers, unions, local Councils, and other stakeholders.
3. We are grateful to all who contributed their views, particularly the retailers who shared personal stories of the impacts of anti-social behaviour on their businesses and staff.

The problem

4. We are concerned with addressing 'anti-social behaviour', which we define as a person behaving in a manner that causes or is likely to cause intimidation, harassment, alarm or distress to one or more other persons in or around a retail environment.
5. Anti-social behaviour harms retail workers, customers, and the general trading environment. Sometimes anti-social behaviour, while awful, falls short of being a criminal offence (e.g. verbal abuse directed at retail workers). However, sometimes it includes conduct that is already criminal, but which is at the less serious end of offending, for which existing systems find it difficult to prioritise and enforce effectively.

Submitters said:

Retailers are experiencing people defecating outside and in doorways to their shops. Having sex in the street. Unauthorised messy encampments on streets which scare customers off. People dealing with mental health crises. On the street or in the car park, open drug taking, people drunk, aggressive loitering and verbal threats, harassment from groups, especially youths, racial abuse, spitting, and intimidation of customers. Smashing windows. Abusive customers coming in and harassing workers. Damaging fixings and furniture i.e. toilet seats, soap dispensers, sinks, toilet bowls etc. Tagging in bathrooms; Breaking baby change tables.

6. Retailers are largely left to deal with this behaviour themselves. All the above examples came from submissions.
7. Another example is a small retailer who is struggling with a regular group of people exhibiting

anti-social behaviour outside his shop and intimidating customers on a daily basis. The offenders sit on the ground by the entrance all day, aggressively begging, smoking, and taking drugs. They defecate around the back of the shop. They are abusive if the owner seeks to move them on, and they are abusive to customers. He fears for his safety while at work, and when getting to and from work. He is very concerned that his loyal customer base is eroding because of this constant threat just outside the shop.

8. As a result, the anti-social behaviour is not addressed in a systemic way, there is under-reporting of this behaviour, and there is not good data on the overall prevalence of the problem.

What we heard about the problem

9. Submitters largely agreed with the problem statement. Key themes are discussed below.

Anti-social behaviour is taking place in retail settings in New Zealand

10. Virtually all submitters agreed that anti-social behaviour is taking place in retail settings. Many submitters made specific comments about the types of behaviour they are seeing in and around their retail stores, in CBDs and high streets and other retail areas, as noted in paragraph 5 above. The consistent and dramatic increase in the volume and severity of anti-social behaviour across New Zealand suggests that these are no longer isolated or exceptional occurrences. Instead, they signify a fundamental shift in the nature of retail work, where frontline staff are routinely exposed to aggression and threats.
11. Almost 20 per cent of all retail crime events in New Zealand last year involved verbal or physical abuse, intimidation, threats, or violence, and even the use of weapons. 10 per cent of offenders are causing more than 60 per cent of the harm. Those repeat offenders are four times more likely to be aggressive¹.
12. A strong view from submitters was that, not only is this behaviour present, but it is *increasing*. For example (this is a small subset of similar comments and anecdotes received):
 - One national retail organisation said that there has been a noticeable increase in anti-social behaviour in its members' shops, particularly groups loitering outside and intimidating customers who may want to enter the shop
 - Another submitter said that there has been a marked increase of anti-social behaviour, homelessness and mental health issues since the Covid-19 pandemic, and due to increases in the cost of living and housing

¹ *Opinion: Time to Treat Retail Crime Like Real Crime*, Thompson (Auror), January 2025 (accessed July 2025: <https://www.auror.co/media-center/opinion-time-to-treat-retail-crime-like-real-crime>)

13. The increase in homelessness is reflected in recent reports from the Salvation Army² and the Ministry of Housing and Urban Development³. 1 in every 1,000 people in New Zealand is currently without shelter. This is a major concern, and we note that homelessness is not anti-social behaviour but is rather a deep-rooted and complex problem that will require a co-ordinated effort across government and society to address. In making the proposals in this paper we are very mindful of the impact they may have on homeless people and their ability to restore their lives. Having said that, the increase in homelessness does affect public perceptions of safety.

Anti-social behaviour has a serious impact

14. We heard there are strong negative impacts on staff wellbeing, customer confidence, personal safety, and there are financial losses for businesses involved. This is impacting businesses as some are closing shops earlier and hiring additional security to ensure staff safety when arriving at or leaving work. Recently we saw that a retailer is locking customers in-store while they shop and then walking them back to their cars⁴.
15. These unexpected expenses strain already tight profit margins, threatening business sustainability and particularly the viability of smaller businesses.
16. Anti-social behaviour lessens the attractiveness of precincts, and it is difficult to reverse these perceptions once they are in place. It has a negative impact on community perceptions of safety and people's quality of life, which directly impacts on foot traffic for retailers, and threatens the establishment and maintenance of a safe and secure community and local economic structure, which is an important prerequisite for community wellbeing and cohesion as well as economic growth through continuing business activity and investment.
17. Youth who engage in anti-social behaviour risk becoming excluded from important support mechanisms such as school, their families and service providers. They also risk coming into contact with the criminal justice system early in their lives. Involvement in anti-social behaviour can persist throughout adolescence into adulthood, becoming a more significant social issue with long term negative consequences for the individual, their family and the wider community.

There is a sense of impunity

18. Amongst those who exhibit anti-social behaviour, there appears to be a sense of impunity. This results from the belief that the anti-social behaviour is either going to be tolerated, or if

² <https://www.salvationarmy.org.nz/news/new-data-highlights-urgent-need-for-a-coordinated-response-to-homelessness-across-the-nation/>. Also see [Housing First Auckland](#). Accessed July 2025.

³ [Homelessness insights report June 2025 - Te Tūāpapa Kura Kāinga – Ministry of Housing and Urban Development](#) (Accessed July 2025)

⁴ [Onekawa shops: Faeces, threats and window smashings as addicts smoke drugs outside - 'I was told my family could find my body wrapped up in a blanket' - NZ Herald](#) (paywalled; accessed July 2025).

not, there is little else that will happen. Outside on the street, where trespass is rare, there is virtually nothing retailers can do apart from seek voluntary agreement from perpetrators to move on or call Police or the Council, who are already constrained in their resourcing.

19. We received strong feedback that most people demonstrating anti-social behaviour in retail environments in New Zealand do have such a sense of impunity. Submitters said:

- There is a palpable sense of impunity among individuals engaging in anti-social behaviour. This stems from a perceived lack of immediate consequences and a belief that authorities will not or cannot intervene effectively for lower-level incidents. A submitter said “The [offenders] themselves tell us that ‘nothing will happen to them’”
- One Council said that feedback from Police and community members suggests some individuals feel emboldened due to limited enforcement or visible consequences
- “Offenders know their rights under the law and understand there are limitations on issuing trespasses [in public places such as street frontages] - so they do as they wish, and understand that ... arrest, charges and enforcement along with any form of accountability are unlikely”

20. One submitter said that “...when we see it and we call it in, the process takes so long for anyone to come that the offender has moved on to somewhere else and can’t be found - so what they are doing as anti-social behaviour isn’t addressed at the time. There should be a person walking the beat all the time, not sitting in an office waiting for calls, but someone mobile who can deal with it immediately”. This reinforces the need for greater emphasis on proactive enforcement by Council and Police with a positive, visible presence on the streets. We recognise this would require further funding and investment and this is not a criticism of Councils or Police.

21. We acknowledge that anti-social behaviour can have a complex set of causes and is context- and individual-specific, and that some forms of anti-social behaviour are not criminal (though have the likelihood of escalating into criminal behaviour either immediately or in time) and so a proportionate, holistic response is required⁵. It will not be enough to simply pass new laws

⁵ For example, for youth there is a range of potential interventions which can bring their lives back on track. <https://practice.orangatamariki.govt.nz/our-work/interventions/family-court-orders/tamariki-with-offending-behaviours> and *Effectiveness of 12 Types of Interventions in Reducing Juvenile Offending and Antisocial Behaviour*, Farrington, Gaffney and White, Canadian Criminal Justice Association, 2022 (accessed July 2025: [https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Research/Research-seminars/December-2022/Effectiveness-of-12-Types-of-Interventions...-Farrington-et-al-2022.pdf#:~:text=Based%20on%20the%20most%20important%20systematic%20review,is%20commonly%20believed%20\(based%20on%20other%20measures\).](https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Research/Research-seminars/December-2022/Effectiveness-of-12-Types-of-Interventions...-Farrington-et-al-2022.pdf#:~:text=Based%20on%20the%20most%20important%20systematic%20review,is%20commonly%20believed%20(based%20on%20other%20measures).)). There is some link with homelessness however not a causal one: *A population-based study of homelessness, antisocial behaviour and violence victimisation among young adults in Victoria*, Australia, Heerde, Bailey, Patton, Toumbourou, Aust J Soc Issues, December 2022 (accessed July 2025: <https://pubmed.ncbi.nlm.nih.gov/36530738/>).

to deal with the wider societal problems like homelessness and poverty⁶. There should be a focus on social initiatives to deal with the societal and economic issues which draw young people into a life of anti-social and potentially criminal behaviour⁷, as well as rehabilitation programmes for recidivist offenders and actions taken to address homelessness. If effective measures are undertaken in these areas, this would support a reduction in anti-social behaviour in retail contexts.

22. Structural factors are important, and we need systems that deal with this. However, retailers' doorsteps can't be the ambulance at the bottom of the cliff, as is currently the case.

Options

23. The Ministerial Advisory Group for the Victims of Retail Crime's overarching aim is to create a zero-tolerance response to retail crime. A zero-tolerance response is our best chance to combat the growing culture of impunity, to reduce crime, and ensure the law appropriately backs victims, not offenders.
24. Our focus is on the retailer, its staff, customers and the retail context. Our primary interest is the need of retailers for immediate relief. We believe it is necessary that solutions are developed to tackle the harm caused by anti-social behaviour in and around retail settings. This behaviour is interfering with people and businesses' legitimate rights.

Criteria for assessing options

25. Potential legislative reforms for addressing anti-social behaviour should be directed at the goal of reducing harm from anti social behaviour in and around retail settings, based on the following criteria:
- *Effective*: Provides immediate consequences which influence anti-social behaviour and reduces the harm from anti-social behaviour

⁶ *Understanding and Addressing Anti-Social Behaviour - A Rapid Evidence Review*, Vaughan, Dennehy, Kelly, Gabha nn, Health Promotion Research Centre NUI Galway, September 2022 (accessed July 2025: https://www.drugsandalcohol.ie/37060/1/DOE_Understanding_and_addressing_anti-social_behaviour_a_rapid_evidence_review.pdf).

⁷ The causes of youth anti-social behaviour are examined in *Antisocial behaviour: An examination of individual, family, and neighbourhood factors*, McGee, Wickes, Corcoran, Bor and Najman, Australian Institute of Criminology, February 2011 (accessed July 2025: <https://www.aic.gov.au/sites/default/files/2020-05/tandi410.pdf>), and *Patterns and Precursors of Adolescent Antisocial Behaviour*, Australian Institute of Family Studies and Crime Prevention Victoria, December 2022 (accessed July 2025: https://aifs.gov.au/sites/default/files/publication-documents/report1_0.pdf)

- *Transformative*: Shifts attitudes away from a sense of impunity towards anti-social behaviour
- *Workable*: Respects the Bill of Rights Act 1990 and the rule of law, legitimate principles of natural justice and respect for international obligations

26. Proposed reforms should be designed to ensure they respect and reflect accepted social norms in New Zealand. As noted above, they also should not criminalise homelessness or reduce anyone's access to essential services, nor their right to protest legitimately. Reforms should also make it clear to all involved what the thresholds are for behaviour, and the type of behaviour, that will not be tolerated.

27. In this section, the status quo is assessed against these criteria, followed by the analysis and assessment of six options for legislative reform, namely:

- **Option 1**: Move-on orders
- **Option 2**: New criminal offence to address specific anti-social behaviours towards retail workers
- **Option 3**: Additional powers for councils
- **Option 4**: Geographic bans on certain anti-social behaviour
- **Option 5**: A government action plan or policy statement addressing anti-social behaviour in retail
- **Option 6**: Court-issued civil orders

Status quo

28. The status quo is governed by the current laws and by-laws relating to anti-social behaviour. There are several laws and by-laws in place which can address aspects of anti-social behaviour in retail settings, including some Crimes Act 1961 offences and some Summary Offences Act 1981 offences.
29. There are also some existing Local Territorial Authority (Council) by-laws that address aspects of anti-social behaviour. By-laws can be made by local authorities under the Local Government Act 2002 and other legislation⁸. However, under current law these by-laws are difficult to enforce.
30. Trespass law also applies but is challenging to enforce in public spaces such as city streets.
31. The New Zealand Bill of Rights Act 1990 (**NZBORA**) is applicable in all cases. Most relevant is freedom of movement, expression, and the right to be free from arbitrary arrest or detention. All people in New Zealand, including homeless people, have the right to travel through and exist in public spaces, and should not be detained unless it is for a legitimately socially harmful action. However, these rights are subject to reasonable limitations – recognising that a society that respects individual rights also has obligations to uphold collective responsibility towards each other.
32. Unfortunately, this combination of criminal law and by-laws does not deal comprehensively with new patterns of anti-social behaviour being experienced by retailers as we have described, and is not providing sufficient protection for retailers, staff or customers, leading to the problems outlined earlier. The balance is too far away from upholding the legitimate social expectations that we all have to freely and safely access public spaces. This suggests that clarification of existing laws where necessary as well as potential new initiatives should be explored further.
33. The "new normal" of retail work, involving consistent anti-social behaviour, necessitates a re-evaluation of the existing legal framework. General legal protections, designed for a different operational context, are insufficient to address this pervasive and growing threat.

What we heard from submitters

34. Most submitters believed that the current law is inadequate to address the recurring anti-

⁸ Auckland and Hamilton Councils are the only Councils with by-laws that address aspects of anti-social behaviour, such as 'nuisance' begging, bad behaviours in public places, and behaviour that may distress, intimidate or harm any other person in their use or enjoyment" of a public place. These are however not regularly enforced, as enforcement is difficult under current regulatory settings. We understand that no

social behaviour which is being experienced in and around retail settings. The result of this is that retailers feel they are bearing the burden of this behaviour largely themselves without any substantial support.

35. We heard in submissions there is:

- A lack of laws that directly address anti-social behaviour or provide immediate consequences for such behaviour
- Uncertainty as to how existing law applies, resulting in hesitance to contact Police or Council, and under-reporting
- A consequent sense of impunity and lack of consequence for offenders, which continues the problem

36. We heard some positive stories about the success of business- or Council-led approaches to 'on the street'/ambassador engagement with those who may exhibit anti-social behaviour. These usually rely on business or Council funding or volunteer workers such as Māori Wardens⁹ in some cases. A key feature of these approaches is they are proactive and can identify situations developing. They are local; hence the officers/ambassadors gain an understanding of the people and the particular type of problems being experienced in local areas and can intervene ahead of problems developing. These approaches are very positive and should be scaled up where possible.

Assessment

37. Our assessment of the status quo against the criteria follows:

Criteria	Assessment	Comment
<i>Effective - Provides immediate consequences which influence anti-social behaviour and reduces the harm from anti-social behaviour.</i>	0 <i>(Calculated based on: Positive 2, Slightly positive 1, Nil 0, Slightly negative -1, Negative -2)</i>	The retail sector in New Zealand is grappling with an escalating crisis of abuse and other anti-social behaviour directed at its frontline workers. Current law does not adequately address modern trends in anti-social behaviour in retail, nor provides sufficient protection. Where it is relevant, it is difficult to apply and enforce in a way that deals with current anti-social behaviours. Many offences in the Crimes Act and Summary Offences Act

regulations have been issued under section 259 of the Local Government Act to deal with enforcement of these by-laws.

⁹ <https://maoriwardens.nz/>

Criteria	Assessment	Comment
		<p>are relevant, but not comprehensive enough, to deal with patterns of current behaviour like repetitive offenders of awful behaviour in retail settings which is not quite criminal. In particular, most do not enable a <i>proactive</i> approach to be taken to enforcement. There is little ability to stop developing situations immediately, meaning they are left to escalate and repeat. This results in a greater likelihood of criminalisation whereas earlier intervention could enable a more rehabilitative approach, while also reducing harm to retailers, staff and customers.</p> <p>By-laws relating to nuisance behaviour are not being comprehensively enforced (or don't exist).</p> <p>Current trespass law provides challenges for enforcement in public spaces, so public trespass (e.g. from a street outside shop) is rare.</p> <p>Most submitters said that they had experienced or were aware of an increase in anti-social behaviour in recent years. Most anti-social behaviour and low-level crime is not reported nor followed up on, so there are few consequences, if any.</p> <p>We heard in submissions that there were many recidivist offenders, causing harm over wide geographic areas. They operate on a methodical basis. Apart from the contribution of systems like Auror, it is very difficult to track this offending.</p> <p>Police have constrained resources to respond to incidents quickly. Potentially enabling Council by-law officers to issue move-on notices could assist with more rapid, proactive responses.</p> <p>There is not enough consistent proactive engagement being carried out on the streets in order to minimise anti-social behaviour incidents¹⁰. Effectively, there is nothing retailers can do to deal with these problems in and around their shops.</p>

¹⁰ We acknowledge there are city ambassadors and some inner-city security in certain cities funded by local business associations and/or councils, and also the move by the Police to focus increasingly on retail crime.

Criteria	Assessment	Comment
		<p>Accordingly, anti-social behaviour is not being managed well under the status quo. This is not a criticism of those who are currently working to resolve these issues. We however conclude there is likely to be continuing increased harm from anti-social behaviour in retail under the status quo.</p>
<p><i>Transformative - Shifts attitudes away from a sense of impunity towards anti-social behaviour</i></p>	<p>0</p>	<p>Anti-social behaviour often does not meet criminal thresholds, and even where it does, it is not being addressed sufficiently. Other approaches are taken including Police warnings and occasionally arrests. However, as a result, there is a sense of impunity and the cycle continues.</p> <p>In addition, as noted above the law does not effectively protect against all relevant forms of anti-social behaviour, like swearing, loitering and general intimidation of staff and customers. In the case of mental health crises, a person may appear anti-social but is not technically breaching the law. Under the status quo it goes unaddressed, and the person is left to cause significant disturbance to retailers and members of the public as well as not resolving their own issues. Opportunities for intervention are limited. If action could be taken earlier, then such a person could be referred or taken to relevant mental health services.</p> <p>Submitters overall were of the view that current law does not provide retailers with confidence that this growing problem will be addressed.</p> <p>Overall, a clear picture emerged that settings are failing to hold to account the real-world range of anti-social behaviours being experienced by retailers.</p> <p>In the absence of specific actions, it is unlikely this situation will change.</p>
<p><i>Workable - Respects NZBORA and the rule of law, legitimate principles of natural justice and respect for international obligations</i></p>	<p>0</p>	<p>There are problems with existing laws and their effectiveness at dealing with the current problems, as described herein.</p> <p>We recognise the New Zealand Bill of Rights Act 1990 (NZBORA) analysis is important for ensuring that new laws respect fundamental human rights.</p> <p>Some of the proposals in this paper affect NZBORA rights</p>

Criteria	Assessment	Comment
		and so need to be assessed under section 5 of the NZBORA as to whether they are reasonable limits as can be demonstrably justified in a free and democratic society.
Total	0	

38. Based on this assessment we do not believe that continuing the status quo would be likely to achieve our objectives.

Question 1

Do you have any comments on the initial analysis for the status quo?

Option 1: Move-on orders

What would this option look like?

39. This option would involve creating a legal framework for 'move-on' orders. A move-on order requires a person to leave the area and stay away for a short, fixed period of time (up to 24 hours), thereby immediately stopping the conduct, providing immediate respite for victims, and potentially creating a deterrent effect to behaviour escalating to such an anti-social level in the future.
40. The purpose of this power is to address or avert anti-social behaviour in circumstances where a concrete criminal offence has not yet been committed, or where criminal offending has likely been committed (e.g. public defecation), but in the particular circumstances, is not in the public interest for Police or the courts to deal with through a traditional criminal justice process.
41. This preventative capacity distinguishes move-on orders from traditional arrest powers, making them a proactive measure for maintaining public peace. For instance, a move-on power might be invoked when a group gathers in a public space, engaging in offensive language or behaviour that appears to be escalating towards violence or causing distress to others. In such scenarios, the power serves to de-escalate and ensure the safety and comfort expected in and around modern retail environments. It is not a criminal offence unless breached.
42. Australia provides a good example of how move-on powers are legislated at the state level, with some variations in conditions, durations, and exemptions. These powers enable police to act based on a "reasonable suspicion" of potential disorder or harm which has, is or is yet to occur. The philosophy underpinning move-on orders is based in prevention and protection,

rather than being solely punitive. These orders are specifically designed to address problematic situations *before* they escalate into more serious criminal offences, thereby safeguarding individuals and public spaces and providing better outcomes for the offender as well. This proactive, pre-emptive function is a distinguishing characteristic of these powers.

43. We envisage move-on orders as a lower-level tool than trespass, and one which can be used rapidly and with certainty to stop offending anti-social behaviour before it escalates further. The shorter duration of move-on orders also means it is a more proportionate tool for responding to escalating anti-social behaviour than trespassing a person from public places (i.e. reducing the impact on individual's rights to freedom of movement).
44. A move-on order could be given where a Police officer (or potentially a trained Council by-law compliance officer)¹¹ has reasonable grounds to suspect that a person's behaviour is, has been or is likely to:
- Cause anxiety to a person entering, at or leaving a place, reasonably arising in all the circumstances; or
 - Interfere with trade or business at or proximate to a place by unnecessarily obstructing, hindering or impeding someone entering, at or leaving the place; or
 - Be disorderly, indecent, intimidating, offensive, or threatening to someone entering, at or leaving a place; or
 - Disrupt the peaceable and orderly conduct of any event, entertainment or gathering at a place
45. We would propose the following safeguards and limitations would apply to move-on orders:
- If the person has no fixed abode, then the officer issuing the order must consider whether issuing the order will facilitate or encourage the person to appropriately engage with health services to address their underlying needs. There would be an obligation on the officer to refer the person to relevant support services
 - If the person is a youth, then in addition to the move-on order, as above they should be referred to relevant youth social services, as well as contact made with their family
 - While their use has an inherent level of discretion and subjectivity, the legal test to apply a move-on order would be based around 'reasonable grounds', bringing objectivity to the

¹¹ If Council by-law compliance officers were empowered to *make* a move on order, we still expect most instance of *enforcement* would require a Police response, where there is a concern for safety risks.

consideration

- The test would need to focus on the offender's **behaviour**. They should not be used as a mechanism to effectively criminalise homelessness or simply move people on who appear undesirable
- They should not be used in a way that reduce anyone's access to essential services, especially homeless people. The "area" of focus for the move-on order should not be reasonably larger than is necessary to address the anti-social behaviour (e.g. no order can be made to leave a city entirely)
- The order should be given for the minimum amount of time necessary to deal with the anti-social behaviour, and for no longer than 24 hours
- Move-on orders should not apply to protests or trade union actions
- There should be strong operational oversight, monitoring and reporting on the use of the power

46. The issue of structuring discretion in imposing move-on orders could also be addressed through Police and Council authorities formulating comprehensive policies and guidelines in relation to move-on powers, as has been done in many Australian states. This would not mean eliminating discretion but providing some objective standards for testing issuance decisions, which may be particularly useful for officers who are confronted with complex public disorder situations¹².

47. We consider there would be significant benefit in Police and/or Councils forming partnerships with social organisations such as (for example) the Salvation Army, Barnados, Maori Wardens, Foodbanks, Community Trusts and City Missions for the purpose of referring the person being moved on to places where they can get the help they may need. This would avoid move-on powers being purely punitive and enable a rehabilitative approach to be taken, particularly in cases where the person being moved on is homeless or in mental distress¹³.

48. We are considering whether move-on orders could be **issued** not only by sworn Police

¹² *Move on Powers: New Paradigms of Public Order Policing in Queensland*, Griffith University, Punter 2011. Accessed in July 2025: https://www.researchgate.net/publication/263083932_Move-on_powers_New_paradigms_of_public_order_policing_in_Queensland.

¹³ There is benefit to homeless in particular who are subject to move-on orders where there are close working relationships between Police and Council officers and outreach workers (*Living Within a Public Spaces Protection Order: the impacts of policing anti-social behaviour on people experiencing street homelessness*, Sheffield Hallam University Helena Kennedy Centre for International Justice, Heap, Black and Devany, September 2022 (accessed July 2025: <https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/impact-of-anti-social-behaviour-tools-and-powers-on-street-sleeping-homeless-people>).

officers, but also by trained Council by-law enforcement officers¹⁴:

- A key reason for this is timeliness: the ability to rapidly issue a move-on order could be particularly useful in lieu of the capacity of Police to respond to anti-social behaviour incidents in a rapid and timely fashion, which we have heard is a concern from submitters. Council by-law enforcement officers could potentially respond more quickly, proactively dealing with situations
- Dedicated Council officers can be out on the streets day-to-day, getting to know the types of retailers, people and issues in certain areas and taking a localised, tailored approach to enforcement. They can identify local recidivist offenders. This links well with some approaches already being taken, for example in Auckland with the Auckland Council Compliance Wardens (formerly CityWatch) who are an on-street team that undertakes proactive patrols, and can help issues of public nuisance such as obstruction in public places or anti-social behaviour¹⁵
- **Enforcement** (i.e. if the offender refuses to leave or returns to the location) would have to be by Police as it would be a criminal offence to breach a move-on order
- Allowing by-law enforcement officers to issue move-on orders is legally appropriate because they are agents of the landowner, which is usually the Council for public spaces in towns and cities
- We do not envisage that a specific by-law would need to be enacted by every Council in order for their officers to issue move-on orders. Rather, primary legislative change would occur creating a new legislative power usable by Police officers and by-law enforcement officers (where certain training and/or registration requirements are met in the case of Council officers). Such officers would then have a legal power to issue move-on orders irrespective of (variable) Council by-laws addressing anti-social behaviour¹⁶

49. Another feature we are considering is a 'three strike' system, where a person would be automatically issued a trespass notice for the relevant area if the person has received more than three move-on orders in relation to substantially the same area in the course of a defined

¹⁴ Some Councils expressed reservation that move-on order enforcement by their officers could result in increased violence against officers, however there are many instances where this may not be the case, for example a homeless encampment on the street outside an empty shop. Where drugs, alcohol or mental health issues are concerned then the Council officer may call Police for back-up.

¹⁵ There is also a number of business association-funded local wardens, for example ShopCare in Manurewa and Papakura, which has been successful at engaging with locals and bridging the gap with retailers (<https://shopcare.org.nz/>).

¹⁶ We note that, as confirmed by submissions to the Issues Paper, only Auckland and Hamilton currently have active 'anti-social behaviour and public nuisance' by-laws that address things like encampments, public defecation and nuisance begging. We also note this is not mandatory – it will be up to individual Councils to decide whether to utilise these powers.

time period, for example 6 months¹⁷. This would address the problem of repeat offenders who continue to behave anti-socially and receive move-on orders but do not change their course (or location) of behaviour.

50. We note that the Independent Police Conduct Authority (IPCA) recently noted¹⁸ significant reservations about a move-on power, but this was in the context of a report on the Police’s response to public protests, and the IPCA made clear that its comments are limited to a protest context¹⁹. We propose to expressly exclude protesting and picketing from the power.

What we heard from submitters

51. There was strong support for move-on orders from submitters:

- Some said that the biggest problems facing their retail and ground floor premises are people who continue to target places for anti-social or criminal behaviour on a recurring basis. Move-on orders could be useful for recidivist behaviour (we heard that approximately 65% of retail crime is caused by approximately 10% of offenders)
- Several business associations, retailers and Councils said move-on orders would be a very useful tool because the current challenges of applying trespass law in public spaces (footpaths, street verges) mean that individuals can persist with disruptive behaviour right outside retail premises. Submitters said that move-on orders would help bridge the current gap between informal warnings and formal trespass notices

52. Some submitters however noted that consideration should be given to the unintended consequences of displacing the issue elsewhere without resolution, and the practical implementation of move-on orders can still effectively criminalise the mere presence or existence of certain vulnerable populations in public spaces.

Assessment

53. Our assessment of the proposal for move-on orders follows:

Criteria	Assessment	Comment
Effective - Provides	Positive	Move-on orders would reduce the incidence of anti-social behaviour in retail, particularly in public areas outside store fronts and on the streets

¹⁷ This may involve a person being trespassed from a public place, which as we have noted previously is challenging to achieve. We are interested in views on whether this would be workable.

¹⁸ *Thematic Review – The Policing of Public Protests in New Zealand*, Independent Police Conduct Authority, February 2025. Accessed July 2025: <https://www.ipca.govt.nz/download/168202/18%20February%202025%20-%20IPCA%20Public%20Report%20-%20Thematic%20Review%20on%20the%20policing%20of%20public%20protests%20in%20New%20Zealand.pdf>.

¹⁹ *Ibid*, paragraph 263.

Criteria	Assessment	Comment
<p>immediate consequences which influence anti-social behaviour and reduces the harm from anti-social behaviour</p>	<p>(+2) (Calculated based on: Positive 2, Slightly positive 1, Nil 0, Slightly negative -1, Negative -2)</p>	<p>and carparks in and around CBDs and retail precincts. They would provide a quick path to proactive resolution of anti-social behaviour with certainty, compared with the status quo where the law is unclear and there is little to no enforcement action unless serious offending occurs.</p> <p>Move-on orders would lead to more immediate consequences for offenders, i.e. having to physically leave the area. Immediate consequences are necessary to address anti-social behaviour, as it often occurs rapidly and can also escalate rapidly. At present there are few consequences, if any.</p> <p>Move-on orders would address the challenges of applying public trespass, as it would be clear they can be issued in any place, public or private.</p> <p>Research from Ireland suggests dispersal powers (like move-on orders) are generally effective at their aim of improving behaviour in an area and providing respite to those who have suffered anti-social behaviour²⁰. We have also spoken with some Australian police who have also commented that move-on orders have been generally effective at achieving their aims.</p> <p>There is some debate about whether the powers just move the problem 'down the street'. However, move-on orders will have limited duration and are a short-term intervention into an often-complex anti-social behaviour situation. They are a 'release valve' that enables the heat to be taken out of an escalating situation before it turns into more serious criminal offending, which is worse for everyone involved. We are considering whether move-on orders should be accompanied with a formal referral to relevant social services that the person being moved on can access.</p> <p>They can also be used to move on recidivist offenders who may target particular retail stores (for example the situation where a group of people are consistently gathering near a retail store and regularly behaving anti-socially, but never quite breaking the law except for alcohol and drug use).</p> <p>The issue of where people should go if moved on, but with no fixed</p>

²⁰ *Evaluation of The Use of Dispersal Powers in the East End of Glasgow: Full Report*, McMillan and Robertson, Glasgow Caledonian University, 2012 (accessed July 2025): https://researchonline.gcu.ac.uk/ws/portalfiles/portal/5005080/McMillan_and_Robertson_Dispersal_Powers_Report_PDF.pdf).

Criteria	Assessment	Comment
		<p>abode, is a concern and we think this should be addressed in the design of the orders. For example, the move-on order should not extend to areas where the person sleeps or accesses essential services. We are interested in views on how this could be addressed workably.</p>
<p><i>Transformative - Shifts attitudes away from a sense of impunity towards anti-social behaviour</i></p>	<p>Positive (+2)</p>	<p>The sense of impunity comes from a belief there will be no significant consequences for anti-social behaviour. Move-on orders can provide those consequences.</p> <p>They are a tool to rapidly deal with an anti-social behaviour situation. Importantly, it would not be a criminal offence to receive a move-on order. If complied with, there is no criminal record for the offender. This is a proportionate response to the behaviour, instead of the Police having to resort to enforcing criminal offences as under the status quo. People are more likely to comply voluntarily if they can avoid a more serious criminal charge. If a person returns and breaches the order, then they have committed an offence punishable by fine or arrest. This will have a deterrent effect.</p> <p>If Council officers can issue orders, then there will be greater and more proactive, visible enforcement.</p> <p>Move-on orders ensure that public spaces remain accessible and enjoyable for all citizens without fear of disruption or intimidation. Their application helps to uphold the collective right to public amenity.</p> <p>Proactive intervention will be beneficial for example when dealing with youth anti-social behaviour where there is a greater chance of rehabilitation before their lives continue off-track.</p> <p>Repeat offenders would potentially receive a trespass notice for the relevant area.</p> <p>By reducing anti-social behaviour and fostering safer retail spaces, move-on orders would contribute significantly to the overall quality of the retail experience for customers and support the economic health of local businesses, thereby creating more vibrant and attractive communities.</p>
<p><i>Workable - Respects NZBORA and the rule of law, legitimate</i></p>	<p>Slightly negative (-1)</p>	<p>Move-on orders can be workable, conform with natural justice, the rule of law and NZBORA when designed well and when appropriate safeguards are in place.</p> <p>We heard from Australian police that the power is generally effective at dealing with instances of anti-social behaviour. The legal test we are</p>

Criteria	Assessment	Comment
principles of natural justice and respect for international obligations		<p>proposing is based on Australian statute and is more limited than in some states.</p> <p>The main issue is timeliness. The core of the issue is addressing the anti-social behaviour as quickly as it happens. As noted, this can potentially be resolved by allowing a limited group, Council by-law enforcement officers, to also issue move-on orders in addition to Police. Enforcement would only be available to Police as a criminal matter. We acknowledge this may require additional resourcing.</p> <p>There is research looking at the Australian experience of move-on orders, some of which suggests that the inherent discretion can result in discrimination against minorities, indigenous people, homeless people, and youth, and questionable efficacy for reducing crime²¹. However, we believe a well-designed power with appropriate guidelines can address the pitfalls arguably identified in the Australian approaches.</p> <p>NZBORA will apply to move-on orders. We would only propose move-on orders that are consistent with section 5 – that move-on orders are a justified limitation to the offender’s right to freedom of movement given their anti-social behaviour has caused the situation. Clear criteria will be in place for the issuance of orders. Move-on orders will not apply to protest action, nor limit freedom of expression.</p> <p>In addition, move-on orders would protect the rights of retailers, staff and customers to carry out their business free from harassment or intimidation, including exercising their own freedom of movement.</p>
Total	+3	

²¹ For example, *No-where to go: The Impact of Police Move-on Powers on Homeless People in Queensland*, University of Queensland, November 2006 (accessed July 2025: <https://espace.library.uq.edu.au/view/UQ:398653>), *Move-on Powers: New Paradigms of Public Order Policing in Queensland*, Griffith University, Punter 2011 (accessed July 2025: https://www.researchgate.net/publication/263083932_Move-on_powers_New_paradigms_of_public_order_policing_in_Queensland), *Police Move-on Powers: A CMC Review of Their Use*, Crime and Misconduct Commission, December 2010 (accessed July 2025: <https://www.ccc.qld.gov.au/sites/default/files/Docs/Legislative-Review/Police-move-on/Police-move-on-powers-A-CMC-review-of-their-use-Report-2010.pdf>), *Police ‘Move-On’ Powers*, Queensland Parliamentary Library Research Brief, 2006 (accessed July 2025: <https://documents.parliament.qld.gov.au/explore/researchpublications/researchbriefs/2006/rbr200616.pdf>), *All the Right Moves? Police Move-on Powers in Victoria*, Farrell, 2009 (accessed July 2025: <https://www5.austlii.edu.au/au/journals/AtlawJl/2009/5.pdf>)

Criteria	Assessment	Comment
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54. The analysis supports the introduction of a move-on power, which we are likely to recommend, using the test and conditions set out earlier in this paper. Early, non-punitive intervention is increasingly viewed as a more effective and humane approach to retail anti-social behaviour. This proactive stance aims to mitigate risks and maintain social cohesion more efficiently.
55. We have not reached a view on whether Council by-law officers should have the power to issue such orders, and we are seeking feedback on this. A key consideration is timeliness and the ability of city ambassadors to identify relevant local offenders in a proactive manner. Also of course this proposal depends on Council support and willingness to issue move-on orders, which we are keen to hear about.
56. We are also interested in the workability of the proposal for 'three strikes' leading to a trespass notice, noting that it is challenging to achieve trespass in a public place.

Question 2

Do you have any comments on the proposal to introduce move-on orders? Do you agree with our initial assessment of this option? Should Council by-law officers (with special training) have the ability to issue move-on orders? Would Councils utilise such powers? Do you agree with the 'three strikes' proposal for trespass for repeat offenders?

Option 2: New criminal offence to address anti-social behaviour towards retail workers

What would this option look like?

57. This option would involve creating a new criminal offence for **assaulting, threatening, or abusing a retail worker** and which also potentially allows for aggravation of that offence where the retail worker is enforcing a statutory restriction (e.g. age for alcohol, pharmacist-only medicines).
58. This type of specific, bespoke offence exists in some Australian states²² and is being

²² In Australia, states like South Australia, New South Wales, and Western Australia have already introduced stricter laws. The Australian Capital Territory has Workplace Protection Orders, and Queensland has 'Jack's Law,' all aimed at providing greater protection to retail workers. Refer (accessed July 2025) <https://www.nationalretail.org.au/retailers-call-for-urgent-national-response-to-retail-crime/>

introduced in England and Wales currently²³. Scotland already has such an offence²⁴.

59. While existing criminal law can be applied to prosecute violence against retail workers, it often fails to specifically recognise the unique context and aggravating factors associated with crimes committed within a retail environment, potentially leading to lower prioritisation by law enforcement or less severe penalties than are warranted by the specific occupational context and the cumulative impact of such incidents.
60. Such an offence would make this problem much more visible in society and could be expected to have a strong deterrent effect. While we acknowledge the debate about whether there should be an offence specifically for retail workers, from our perspective we believe that there are unique characteristics of being in retail which justify this approach:
- Retail workers are often young and in their first job. There is a perception that they will just put up with it because they don't have any choice
 - Retail workers usually come into contact with significant numbers of people over the course of a working day, and a retail worker who experiences anti-social behaviour and its harms has usually no choice but to go to work again the next day in the same location, which may significantly heighten their anxiety over time
 - The mistaken and entitled belief that 'the customer is always right', and that there are no consequences for treating retail workers poorly because it might be seen as a low-status job
 - The regular exposure to anti-social behaviour reflects a systemic vulnerability that existing criminal laws do not adequately address
61. The rising tide of retail anti-social behaviour can directly lead to difficulties in staff attraction and retention within the sector. As experienced retail workers, facing persistent threats and a perceived lack of protection, opt for safer employment in other industries, the retail workforce may become less experienced, potentially more vulnerable, and less equipped to handle challenging situations. A specific offence could be a critical tool for retaining valuable retail talent.
62. We think the Scotland approach is in line with our objectives. It creates an offence for a

²³ <https://www.gov.uk/government/news/new-powers-to-clamp-down-on-anti-social-behaviour>. Some prefectures in Japan have also introduced ordinances to protect retail workers from customer abuse and harassment. For example, the Tokyo Ordinance on Protection of Workers from Customer Abuse (effective April 2025) focuses on preventing "kasu-hara" (customer harassment), prohibiting harassment and discouraging a wide range of customer conduct that may cause "significant annoyance" to workers.

²⁴ *Protection of Workers (Retail and Age-restricted Goods and Services) (Scotland) Act 2021* (accessed July 2025: <https://www.legislation.gov.uk/asp/2021/6/notes/division/4>).

person to assault, threaten or abuse another person who is a retail worker, and who is engaged, at the time, in retail work. This is the threat we are targeting – a person causing offence and disorder in a retail setting. A person who commits an offence under the provision is liable on summary conviction to imprisonment or a fine. The full Scotland provisions are in the **Annex**.

63. A potential alternative is to make anti-social behaviour towards *all* retail workers an aggravating factor under section 9 of the Sentencing Act 2002 (the **Sentencing Act**).
- From 29 June 2025, the Sentencing Act has been amended to introduce a new aggravating factor for offences where the victim is a ‘vulnerable worker’, being a person who was working alone or in a business physically joined to their dwelling place. This is in addition to existing aggravating factors where the victim is a Police officer, prison officer or emergency worker. The relevant new aggravating factors are whether the victim was working alone or working in a business that was physically joined to, or that was located next to, the dwelling place of a victim
 - There is also an aggravating factor in s9(1)(h) which applies where the victim has been targeted on the basis of discrimination (race, colour, nationality, religion, gender identity, sexual orientation, age or disability). Section 9(4)(a) enables the Court to take into account any other aggravating factor that the Court thinks fit
64. The new provision in section 9 could be amended to apply to *all* retail workers rather than only vulnerable workers. This would recognise that all retail workers face the same risks, however would be limited to consideration during sentencing (as opposed to being a new offence).

What we heard from submitters

65. Submissions were somewhat divided, but on balance supported the idea of creating a specific offence for retail workers. Several stakeholders thought it would be a powerful signal that anti-social, verbal and physical abuse towards retail workers is not OK and that front line, essential workers’ safety is important. A specific offence would recognise the risk faced by retail workers, reinforce the seriousness of the conduct, offer greater protection to retail workers, and serve as a deterrent.
66. On the other hand, some said there isn’t a good justification for treating retail workers differently to anyone else in society, and that a specific offence would create an arbitrary distinction. Another noted that the addition of increasingly specific offences or aggravating factors unintentionally risks diminishing, by omission, other circumstances in which the victimisation may warrant equal recognition.
67. Others argued that the existing criminal offences in the Summary Offences Act and the Crimes Act already sufficiently deal with abusive behaviour towards retail workers.

Assessment

68. Our assessment of the proposal for a new specific offence follows:

Criteria	Assessment	Comment
<p><i>Effective - Provides immediate consequences which influence anti-social behaviour and reduces the harm from anti-social behaviour</i></p>	<p>Slightly positive (+1) <i>(Calculated based on: Positive 2, Slightly positive 1, Nil 0, Slightly negative -1, Negative -2)</i></p>	<p>A new offence for assaulting, threatening or abusing a retail worker would be operationalised and enforced by Police. A strong enforcement approach, subject to resourcing, would increase prosecutions for this anti-social behaviour against retail workers.</p> <p>Through these prosecutions taking place, over time there is likely to be to increased awareness of the physical and verbal abuse faced by retail workers. Through enforcement, a reduction should occur in the number of occasions on which retail workers would have to face this type of behaviour. This would help with the lack of consequences and bring rates of anti-social behaviour in retail down.</p> <p>On the other hand, it could be argued that it is difficult to know whether a specific offence would likely have the effect of reducing anti-social behaviour, particularly because there are already some offences that apply where the victim is a retail worker. As we have already assessed however, existing offences do not provide for the full spectrum of the problem. Evidence on efficacy in other jurisdictions is lacking.</p>
<p><i>Transformative - Shifts attitudes away from a sense of impunity towards anti-social behaviour</i></p>	<p>Slightly positive (+1)</p>	<p>It directly counters the growing sense of entitlement amongst some members of the public, that it is okay to offend against retail workers because they are perceived as being young, vulnerable, and a low-status profession. This entitlement and impunity contributes to a growing culture of mistreatment of retail workers.</p> <p>Such an offence signals to retail workers that they are worth respect and dignity. It would send a wider signal to society that retail workers are doing public good, are often providing essential services, and deserve respect and protection.</p> <p>It would enable Police to take action with more confidence of achieving a prosecution. This would signal to offenders that this behaviour will not be tolerated and restore law and order in retail environments. This would transform attitudes over time.</p>

Criteria	Assessment	Comment
<i>Workable - Respects NZBORA and the rule of law, legitimate principles of natural justice and respect for international obligations</i>	Neutral (0)	A new offence could be designed to be workable as it has been implemented in several other countries. One submitter argued that enforcement would be difficult and add to an already-clogged Court system. In reality, new offences merely give Police an additional pathway to consider when charging an offence. New offences are not expected to lead to greater levels of offending being taken through courts, as they often relate to behaviour that is already an offence. It merely changes how the system recognises and punishes the offending.
Total	+2	

69. While we acknowledge the debate about whether there should be an offence specifically for retail workers, from our perspective we believe that there are unique characteristics of being in retail which justify this approach.

70. Therefore, on balance, we think the differential treatment of retail workers is justified and this option is promising and worth developing further. The Scottish law provisions are in the **Annex**.

Question 3

Do you have any comments on the proposal to introduce a new specific offence for certain anti-social behaviour? Do you agree with our initial assessment of this option?

Option 3: Additional powers for Councils

What would this option look like?

71. This option would involve regulations being issued²⁵ to enable Councils to enforce their by-laws addressing anti-social behaviour. Councils would, of course, retain their own discretion as to the nature of by-laws in their area, but where such by-laws are in place then they could be more effectively enforced.

72. At present, only certain by-laws can be enforced by Councils in an effective manner. The Auckland and Hamilton public nuisance by-laws are challenging to enforce due to the nature of the process and the remedies currently available, which as we understand do not include on-the-spot infringement notices, for example. New regulations could provide for an

²⁵ Under section 259(1)(a) of the Local Government Act 2002.

infringement offence for breaches of the relevant by-laws.

73. This option would address anti-social behaviour which is prohibited by the by-laws. It would mean by-laws could be enforced in a reasonable and proportionate manner.

74. We note that some Councils have safety and community patrol wardens/ambassadors whose job is to make the streets a safer and more welcoming place. We support these initiatives, and believe they have a strong role to play in forging a better link between local authorities and retailers²⁶.

What we heard from submitters

75. Views from submitters were mixed on the ability for Council by-laws to address anti-social behaviour. Issues raised include whether this is the role of Councils, whether by-laws would actually have a deterrent effect, difficulty in by-law enforcement and variability of by-laws nationally.

76. Some submitters said that they strongly advocate for greater powers for local councils, particularly the ability to issue on-the-spot infringement notices for breaches of relevant by-laws, especially when dealing with recidivist offenders.

77. However, some noted that fines aren't likely to have a deterrent effect. They may help deter low-level offenders; however, most recidivist offenders will refuse to stop or engage to allow for the issuing of an infringement notice. Further, there is a risk of escalation and aggressive behaviour being directed towards those attempting to serve an infringement notice. Some said this is not the Council's job.

Assessment

78. Our assessment of the proposal for additional powers for Councils follows:

Criteria	Assessment	Status quo
<i>Effective - Provides immediate consequences which influence anti-social behaviour and reduces the harm from anti-</i>	Slightly positive (+1) (Calculated based on: Positive 2,	Will lead to increased ability to enforce by-laws including those that target anti-social behaviour. Where by-laws regarding anti-social behaviour are in place (or are put in place), they will be more effective at achieving their aims. However, they are not in place in most districts ²⁷ . The extent of benefit from this option would depend to a large

²⁶ This web page has a number of case studies of local Councils in the United Kingdom taking steps to address anti-social behaviour (accessed July 2025): <https://www.local.gov.uk/tackling-anti-social-behaviour-case-studies>. ShopCare has a guide to 'ambassador programmes' (accessed July 2025): <https://shopcare.org.nz/wp-content/uploads/2025/07/ShopCare-Ambassador-programme-2025.pdf>).

²⁷ Auckland and Hamilton are the only districts with public nuisance by-laws.

Criteria	Assessment	Status quo
<i>social behaviour</i>	<i>Slightly positive 1, Nil 0, Slightly negative -1, Negative -2)</i>	extent on whether Councils are willing to introduce by-laws dealing with anti-social behaviour. Thus, the positive impact is limited.
<i>Transformative - Shifts attitudes away from a sense of impunity towards anti-social behaviour</i>	Slightly positive (+1)	Enforcement of by-laws is unlikely to have a strong effect on shifting attitudes towards short-term anti-social behaviour, however it would certainly contribute towards this goal. We agree that fines or infringements are unlikely to influence the behaviour of those who are truly on the margins of society and destitute. However, this is not the only cohort engaging in anti-social behaviour. The ability to enforce council by-laws adds to the toolbox.
<i>Workable - Respects NZBORA and the rule of law, legitimate principles of natural justice and respect for international obligations</i>	Neutral (0)	Whilst the law can be changed to address the perceived defects with by-law enforcement, it is unclear whether Councils would (a) put further anti-social behaviour by-laws in place or (b) seek to actively enforce them. It is however a low-cost way to achieve a means of enforcement for existing anti-social behaviour by-laws. By-laws are subject to NZBORA. Introducing a power to enforce by-laws arguably indirectly limits freedoms of individuals to the extent the by-law imposes restrictions. This is not expected to be extensive as, for example, the Auckland City Nuisance by-law only prohibits wilfully obstructing, disturbing or harming any other person in a public place.
Total	+2	

79. This option is worth considering as another tool with some benefit in addressing the problem.

While it is not likely to resolve all situations of anti-social behaviour, it could help with low level offenders. It would be relatively low-cost to implement, with few downsides however with limited benefit unless accompanied by concrete actions. We are interested in hearing views from Councils on whether they would have an appetite for implementing anti-social behaviour by-laws.

Question 4

Do you have any comments on the proposal to introduce powers to enforce by-laws, particularly those in relation to anti-social behaviour? Do you agree with our initial assessment of this option? Would Councils want to use such powers?

Option 4: Geographic bans on certain anti-social behaviour

What would this option look like?

80. This option would involve creating defined geographic 'zones' within which certain behaviours (e.g. begging) are banned. There would be two components:

- Designated zones sought by retailers, Police or Council
- Pre-defined zones

81. For designated zones with high foot traffic, the power to designate could be implemented by Police on the request of a local business association, retailers or Council, and be subject to reasonable limitations and conditions. Such an approach could work in tandem with additional Council enforcement powers and/or move-on orders for enforcement.

- There are some streets and precincts where there is a higher congregation of people who are there to shop, socialise and enjoy themselves, and where there is typically a focus on enhancing the street experience to provide a welcoming environment for shoppers and tourists
- For example, Federal Street in Auckland hosts a number of hospitality venues and sees regular day and night foot traffic, New Regent Street in Christchurch has a significant number of heritage buildings with retailers and hospitality alike, and aims to boost foot traffic and improve the experience of inner-city shopping
- These places, with high existing foot traffic, have regular 'captive audiences' for people who are looking to behave anti-socially (e.g. aggressive begging) or commit crime. These zones would therefore be created to stop anti-social behaviour towards 'captive audiences' in areas where people are accessing retail stores and services, congregating, shopping, socialising and dining.

82. Pre-defined zones would include environments such as retail 'high streets', around ATM machines where people feel vulnerable whilst acquiring cash from a machine, at the entrances and exits to banks, public transport hubs, bus stops, train stations and entrances to convenience stores and fast-food outlets.

83. Anti-social behaviour impacts on both the legitimate rights of people to socialise, shop and

enjoy themselves as well as retailers' legitimate ability to operate economically viable businesses. The rights of people to access these essential services without fear or intimidation should be upheld more than they are at present. For example, a lone individual may well reasonably fear for their safety or property where a beggar is sitting right next to an ATM machine, and the individual is withdrawing cash.

84. On the other hand, we need to bear in mind that limiting people from accessing these same essential services must not be limited nor unreasonably limit their right to freedom of movement.
85. This option is a greater intrusion on rights than the other options we are considering because it would likely apply to more people (those within or excluded from the zone), however it would be limited to defined geographic zones where there is arguably justification for such protective measures. There would need to be strong communication about the zones and what they mean. This approach is taken in some jurisdictions including Western Australia²⁸.

What we heard from submitters

86. Views on this proposal were also mixed; some submitters strongly supported it as a zero-tolerance approach in protected areas. On the other hand, some submitters said that it would depend on how it would be implemented, the consequences and the ability to enforce. Without a significant increase in resourcing, any such bans could be ineffective, or worse, selectively enforced – leading to conflict and erosion of trust and confidence in Police.
87. One of the supporting submissions said that bans on geographic locations could be a useful signal, and that imposing a ban on all forms of anti-social behaviour is the answer and would be workable. Another noted that the idea is good, but in reality it would require a dedicated task force to run it.
88. Some submitters said instead the law should focus on specific, high-impact anti-social behaviours (e.g., aggressive begging, public defecation, open drug use), rather than a blanket ban on all anti-social behaviour in certain areas.

Assessment

89. Our assessment of the proposal for geographic bans on anti-social behaviour follows:

Criteria	Assessment	Status quo
<i>Effective - Provides immediate consequences which influence anti-social</i>	Slightly positive (+1)	Taking a strict approach to anti-social behaviour within certain defined geographic zones would very effectively reduce the harm from anti-social behaviour within the zone, assuming the

²⁸ <https://www.dlgsc.wa.gov.au/racing-gaming-and-liquor/liquor/protected-entertainment-precincts>

Criteria	Assessment	Status quo
<i>behaviour and reduces the harm from anti-social behaviour</i>	<i>(Calculated based on: Positive 2, Slightly positive 1, Nil 0, Slightly negative -1, Negative -2)</i>	<p>rules can be monitored and enforced (which is questionable).</p> <p>Within these zones, there could be strict rules on what behaviour is and isn't acceptable.</p> <p>There is a "public reassurance effect" that would stem from such zones, with retailers and customers likely to perceive a reduction in anti-social behaviour and visible congregations of people acting anti-socially. The area would be less intimidating for customers to experience the retail environment.</p> <p>Could also have a 'halo effect' thereby diffusing such behaviour in neighbouring areas²⁹.</p> <p>However, there is a corresponding risk of concentrating offending in areas immediately outside of the selected geographic zone, which would be unfair to many retailers.</p>
<i>Transformative - Shifts attitudes away from a sense of impunity towards anti-social behaviour</i>	Slightly positive (+1)	There is little doubt that this option would reduce the sense of impunity when the offender is located inside a designated geographic zone. It would be clearly communicated that certain behaviours would result in automatic removal from the zone or criminal sanctions.
<i>Workable - Respects NZBORA and the rule of law, legitimate principles of natural justice and respect for international obligations</i>	Neutral (-1)	<p>There would be some impact on freedom of movement for those who breach the rules. However, the rules and area within which the rules apply would need to be made very clear. Care would need to be taken with homeless people in particular, and their ability to continue to access essential services.</p> <p>The precise impact on the human rights of individuals would depend on the specific proposal and how targeted it is. For example, large zones which cover entire CBDs is not the intent and this would have a significant effect on rights and liberties. The scale of the protected zone should be minimised to the extent reasonably possible in order to mitigate such impacts.</p>
Total	+1	

90. We are still considering whether this option should be developed further, and we note it could

²⁹ *Disorder policing to reduce crime: A systematic review*, Braga, Welsh and Schnell, PMID: 37131517; PMID: PMC8356497, September 2019 (accessed July 2025: <https://pmc.ncbi.nlm.nih.gov/articles/PMC8356497/>)

have some benefit in addressing the problem. Its main challenge is in the detailed workability of defining particular zones and the types of behaviour deemed to be acceptable or not acceptable, and this being sufficiently well communicated to all present, and enforced, within the zone. We do not think these challenges are unsurmountable, given the potential benefit.

Question 5

Do you have any comments on the proposal to introduce outright bans of certain anti-social behaviour in designated areas? Are there any particular areas that you think should be designated due to their special character, or due to repeated instances of anti-social behaviour? Do you agree with our initial assessment of this option?

Option 5: A government action plan addressing anti-social behaviour in retail

What would this option look like?

91. This option would involve a government-issued action plan to address anti-social behaviour in retail, encompassing the proposals in this paper, plus guidance on the implementation of the proposals. It could also include wider steps like:

- Providing additional resourcing for social and non-legal initiatives to deal with the root causes of anti-social behaviour
- Steps to provide for at-risk youth who are exhibiting early signs of anti-social behaviour, including training and vocational programmes, and social supports

What we heard from submitters

92. Most submitters supported this idea as a useful signal on the Government's stance on anti-social behaviour, though generally said that it needed to be in conjunction with a wider set of actions. On its own an action plan is unlikely to have much impact.

93. On the other hand, some said a clear government action plan would be very helpful. It would serve to:

- Clarify expectations, and clearly articulate what is considered acceptable behaviour in public retail spaces and what consequences will follow unacceptable conduct
- Show leadership, by demonstrating a national commitment to addressing this issue, which would be reassuring to retailers and the wider community
- Promote consistency by encouraging a more consistent approach to managing anti-social behaviour across different regions and agencies

94. Developing such a statement would require finding the right balance between a government mandate and societal expectations.

Assessment

95. Our assessment of the proposal for a government policy statement or action plan follows:

Criteria	Assessment	Status quo
<i>Effective - Provides immediate consequences which influence anti-social behaviour and reduces the harm from anti-social behaviour</i>	Slightly positive (+1) <i>(Calculated based on: Positive 2, Slightly positive 1, Nil 0, Slightly negative -1, Negative -2)</i>	On its own a plan is unlikely to achieve significant change, however if 'wrapped around' the proposals in this paper and other relevant policy elements then it could be an effective addition to provide overall coherence to the proposals. If it involved greater funding or resourcing for undertaking the actions this would improve its effectiveness. It would provide a clear statement of the government's intention when introducing other proposals in this paper, which could guide monitoring and enforcement. It would also increase political accountability as people assess whether the plan's objectives are being achieved over time.
<i>Transformative - Shifts attitudes away from a sense of impunity towards anti-social behaviour</i>	Nil (0)	Such a plan should contribute to the changing of attitudes towards anti-social behaviour, particularly if it is well publicised and accessible including in other languages. Without concrete actions, it is unlikely to have any significant impact.
<i>Workable - Respects NZBORA and the rule of law, legitimate principles of natural justice and respect for international obligations</i>	Slightly positive (+1)	A workable action plan can be developed at reasonably low cost, though in and of itself it is unlikely to provide immediate consequences. Combined with tangible actions as described in this paper, it would be effective.
Total	+2	

96. We are still considering whether this option should be developed further, and we note it could have some benefit in addressing the problem. In itself, it is a low cost way of packaging the proposals together into a holistic approach to dealing with anti-social behaviour in retail settings.

Question 6

Do you have any comments on the proposal to introduce a government action plan or policy statement? Do you agree with our initial assessment of this option?

Option 6: Court-issued civil orders

What would this option look like?

97. This option would involve creating a legislative framework for Court-issued civil orders like Respect Orders³⁰ which are being introduced in the United Kingdom – a civil order that requires the recipient to stay away from certain areas, and which can also include positive obligations to take steps to address any underlying issues, like alcoholism or drug addiction.
98. Respect Orders aim to provide relief to the community by stopping an individual’s anti-social behaviour, and over the longer-term work to address the underlying causes of the behaviour.

What we heard from submitters

45. Submitters were divided on whether civil orders are a good idea for New Zealand. The general theme was that, while such orders offer the potential for addressing underlying causes and long-term rehabilitation for individuals, their utility for immediate anti-social behaviour in retail settings would be limited due to the potentially lengthy court process for their issuance and the longer-term nature of their effect.
99. Some submitters said that civil orders require more evidence to determine their effectiveness, noting these could become a ‘badge of honour’ for some young offenders (arguably similar to the Anti-Social Behaviour Orders in the United Kingdom³¹). One submitter expressed reservations around the ability and resources to enforce such orders.
100. Supporters said that these orders would be valuable, particularly if they include obligations for positive interventions such as addiction treatment or anger management. They offer a more holistic approach that targets the underlying causes of behaviour.
101. There was a general theme that these orders would assist with recidivist offenders. This tool could be paired with access to support services to promote behaviour change and reduce reoffending.

³⁰ Accessed July 2025: <https://www.gov.uk/government/publications/crime-and-policing-bill-2025-factsheets/crime-and-policing-bill-antisocial-behaviour-asb-factsheet>

³¹ <https://www.gov.uk/civil-injunctions-criminal-behaviour-orders>

Assessment

102. Our assessment of the proposal for civil orders follows:

Criteria	Assessment	Comment
<i>Effective - Provides immediate consequences which influence anti-social behaviour and reduces the harm from anti-social behaviour</i>	Slightly positive (+1) <i>(Calculated based on: Positive 2, Slightly positive 1, Nil 0, Slightly negative -1, Negative -2)</i>	Civil orders like Respect Orders are tailored to the needs of particular individuals and aim to restore their life from any conditions that are creating a drive for anti-social behaviour. However, there is little evidence of their effectiveness. They do not provide an immediate solution for new offenders and thus the deterrent effect in retail may be low. Once in place they reduce harm, but this does not provide relief from short-term, in the moment, anti-social behaviours. They only apply to an individual and not all people in a retail environment.
<i>Transformative - Shifts attitudes away from a sense of impunity towards anti-social behaviour</i>	Slightly positive (+1)	Will result in recidivist offenders being less likely to commit anti-social behaviour. The aim of respect orders is expressly to reduce such behaviour. Whether this would have an overall transformative effect is questionable and would depend on the volume and visibility of enforcement.
<i>Workable - Respects NZBORA and the rule of law, legitimate principles of natural justice and respect for international obligations</i>	Slightly negative (-1)	Will have effect on an individual's behaviour over time, by restricting anti-social behaviour and addressing underlying drivers. Unlikely to provide immediate consequences, until the order is issued. Efficacy is yet to be established in the United Kingdom. A similar, previous mechanism called Anti-Social Behaviour Orders (ASBOs) which have been in place since 1998, however there is limited evidence that ASBOs positively affected behaviours ³² . A body of research has drawn attention to potential criminogenic consequences of lower-

³² For example, *Essays for civil liberties and democracy in Europe - The state of ASBO Britain - the rise of intolerance*, European Civil Liberties Network, Rowlands (accessed July 2025: <https://www.ecln.org/essays/essay-9.pdf>) and *Lowering the Standard: a review of Behavioural Control Orders in England and Wales*, JUSTICE United Kingdom, Lubega, 2023 (accessed July 2025: <https://files.justice.org.uk/wp-content/uploads/2023/11/06143241/Lowering-the-Standard-a-review-of-Behavioural-Control-Orders-in-England-and-Wales-September-2023.pdf>)

		level prohibitions and penalties ³³ . Would place restrictions on freedom of movement on an individual for potentially a long time period and require the individual to take steps or go to places they may otherwise not want to.
Total	+1	

103. Based on this analysis we do not believe we should pursue civil orders at this time. The efficacy of civil orders has not been established and it would be better to wait and follow the United Kingdom experience with Respect Orders. If a person is behaving anti-socially generally in their life, then this is a wider societal issue than just that arising in the retail context, with which we are concerned.

Question 7

Do you have any comments on the proposal to introduce civil orders? Do you agree with our initial assessment of this option?

Other insights from submissions

104. One business association provided a useful summary of practical steps to address anti-social behaviour and retail crime:
- Improve street lighting in high-risk areas
 - Install CCTV near sensitive sites
 - Increase foot patrols
 - Deploy uniformed safety officers focused on de-escalation, presence, and prevention
 - Engage local shopkeepers to form security groups
 - Fast-track Police access for retailers

³³ 'A little bit of a toothless tiger - Police banning powers in Western Australia: key informant perspectives and implications for the administration of justice. Farmer, C., Miller, P., & Kennedy, S. (2024). *Police Practice and Research*, 25(5), 594–611. Accessed July 2025: <https://doi.org/10.1080/15614263.2024.2329283>

- Allocate funding and training through local Councils
- Implement youth intervention programmes

Urgency of addressing anti-social behaviour in retail

105. A number of submissions reiterated the urgency of addressing anti-social behaviour in retail and that it is having a significant impact. Submitters said:

“People don't want to come to town and go shopping or buy some food if they don't feel safe. We seriously need to solve this problem and the organizations in charge need to stop fobbing off this issue...”

“We wish to reiterate the urgency of addressing anti-social behaviour in retail. Our town centres are vital community hubs and economic drivers, and their health is directly tied to the perception of safety and order”

“Our members were agreed that something needs to change regarding anti-social behaviour as it is difficult for retailers to feel that they provide a safe environment for their staff and customers”

“Ultimately there needs to be immediate consequences. There is a strong sense of impunity and lack of consequence. In some places, a lot of anti-social behaviour is driven by school-age youths. Big issue is when the behaviour recurs repeatedly. A strong sentiment is that there needs to be quicker and stronger enforcement by Police. Retailers view this as being the Police's job, not theirs”

Conclusion

106. This paper seeks your feedback on options for addressing anti-social behaviour in and around retail settings in New Zealand, following our earlier Issues Paper. Submissions confirmed both aspects of our problem definition in the Issues Paper.

107. We have carried out an initial assessment of six options, as described in this paper. The net results of these initial assessments³⁴ are:

³⁴ Calculated based on: Positive 2, Slightly positive 1, Nil 0, Slightly negative -1, Negative -2

Option	Net result
Status quo	0
Move-on orders	+3
Specific offence	+2
Additional powers for Councils	+2
Outright geographic bans	+1
Government action plan or policy statement	+2
Civil orders	+1

108. Based on this initial analysis, we conclude that the status quo combination of criminal law and by-laws does not deal comprehensively with new patterns of anti-social behaviour being experienced by retailers as we have described, and is not providing sufficient protection for retailers, staff or customers, leading to the problems outlined earlier. The balance is too far away from upholding the legitimate social expectations that we all have to freely and safely access public spaces. This suggests that clarification of existing laws where necessary as well as potential new initiatives should be explored further.
109. The "new normal" of retail work, involving consistent anti-social behaviour, necessitates a re-evaluation of the existing legal framework. General legal protections, designed for a different operational context, are insufficient to address this pervasive and growing threat.
110. We have heard strong submissions from stakeholders that anti-social behaviour in and around retail settings is prevalent and increasing in frequency. Given that a large amount of anti-social behaviour is not criminal, there is very poor information on the objective scale of the problem. We are continuing to investigate this and would be interested in your views.
111. Our view is that options 1 and 2 are the most promising. Move-on orders and a new criminal offence targeting offending directed against retail workers would likely be very effective steps to address the problem. They provide immediate and clear outcomes – relief for victims, and greater accountability for offenders, in the case of truly criminal behaviour.
112. Move-on orders look to be an effective response to deal with anti-social behaviour that is not criminal in nature, but which cause significant harm to retailers. Move on orders can

also prevent situations from escalating into truly criminal acts – for example, by moving on an aggressive person who is intoxicated. Early, non-punitive intervention, by simply requiring a person to leave the area, and with a referral to appropriate support services, is a more effective and humane approach to public order management and protecting the retail environment. It strikes a balance between the public’s right to freely access public spaces and conduct business, and the realities of people experiencing significant personal life challenges. A ‘three strikes’ policy could also be implemented where there is an automatic trespass issued to the person for repeat offending.

113. A new bespoke criminal offence, on the other hand, is focused on restoring the balance of accountability for offending. This option aims to combat the sense of entitlement that too many offenders have in believing that it is okay to offend against retail workers. While offending against any particular group of persons is harmful, retail workers are unique because:

- Retail workers are often young and in their first job. There is a perception that they will just put up with it because they don’t have any choice
- The mistaken and entitled belief that ‘the customer is always right’, and that there are no consequences for treating retail workers poorly because it might be seen as a low-status job
- The regular exposure to anti-social behaviour reflects a systemic vulnerability that existing criminal laws do not adequately address

We have also seen significant international moves towards bespoke offences for offending against retail workers.

114. We also think that options 3, 4, and 5 could have some benefit, and could complement the changes under options 1 and 2 by giving Councils the tools to enforce by-laws, creating protected ‘zones’, and a plan to package up all the changes. Currently by-laws are difficult to enforce, meaning their utility is low. Enforcement powers will restore this. Protected zones would make people feel safer with knowledge they won’t be accosted when they walk out onto the street. An action plan from government would give purpose and direction to the set of changes adopted from this paper.

115. We are unlikely to recommend option 6 due to its longer-term nature and lack of immediate impact. Our focus is on interventions that can either stop behaviour quickly or strongly deter such behaviour in the future. These interventions are applicable to everyone, whereas a civil order only addresses the behaviour of one person. A large number of civil orders would need to be given out before there is a wider effect, and there is little evidence of their efficacy.

Question 8

Do you have any comments on the initial conclusions reached?

Question 9

Do you have any other comments or suggestions?

Released under the Official Information Act 1982

Annex – New criminal offence to address anti-social behaviour towards retail workers

A new specific offence for anti-social behaviour towards retail workers could be based on the Scottish legislation, which is set out below.

Protection of Workers (Retail and Age-restricted Goods and Services) (Scotland) Act 2021

1 Offence of assaulting etc. retail worker

- (1) It is an offence for a person to assault, threaten or abuse another person—
 - (a) who is a retail worker, and
 - (b) who is engaged, at the time, in retail work.
- (2) No offence is committed under subsection (1) unless the person who assaults, threatens or abuses knows or ought to know that the other person—
 - (a) is a retail worker, and
 - (b) is engaged, at the time, in retail work.
- (3) A person who commits an offence under subsection (1) is liable, on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the prescribed sum (or both).
- (4) Evidence from a single source is sufficient to establish, for the purposes of this section—
 - (a) whether a person is a retail worker, and
 - (b) whether the person is engaged, at the time, in retail work.
- (5) In subsection (3), the “prescribed sum” has the meaning given by section 225(8) of the Criminal Procedure (Scotland) Act 1995.

2 Behaviour constituting an offence under section 1S

- (1) The offence under section 1 of threatening or abusing a retail worker is committed by a person only if the person—
 - (a) behaves in a threatening or abusive manner towards the worker, and
 - (b) intends by the behaviour to cause the worker or any other person fear or alarm or is reckless as to whether the behaviour would cause such fear or alarm.
- (2) Subsection (1) applies to—
 - (a) behaviour of any kind including, in particular, things said or otherwise

communicated as well as things done,

- (b) behaviour consisting of—
 - (i) a single act, or
 - (ii) a course of conduct.

3 Aggravation in relation to enforcement of statutory age restriction

- (1) This section applies where, in proceedings for an offence under section 1, it is—
 - (a) specified in the complaint that the offence is aggravated by reason of the retail worker's enforcing a statutory age restriction, and
 - (b) proved that the offence is so aggravated.
- (2) The offence is so aggravated if the behaviour constituting the offence occurred because of the enforcement of a statutory age restriction.
- (3) Evidence from a single source is sufficient to prove that the offence is so aggravated.
- (4) Where this section applies, the court must—
 - (a) state on conviction that the offence is so aggravated,
 - (b) record the conviction in a way that shows that the offence is so aggravated,
 - (c) take the aggravation into account in determining the appropriate sentence, and
 - (d) state—
 - (i) where the sentence imposed in respect of the offence is different from that which the court would have imposed if the offence were not so aggravated, the extent of and the reasons for that difference, or
 - (ii) otherwise, the reasons for there being no such difference.
- (5) In this section—

“enforcement”, in relation to a statutory age restriction, includes—

- (a) seeking information as to a person's age,
- (b) considering information as to a person's age,
- (c) refusing to sell or supply goods or services,

for the purposes of complying with the restriction (and “enforcing” is to be construed accordingly),

“statutory age restriction” means a provision in an enactment making it an offence to sell or supply goods or services to a person under an age specified in that or another enactment.

4 Meaning of “retail worker”

- (1) In this Act, “retail worker”—
 - (a) means a person—
 - (i) whose usual place of work is retail premises, or

- (ii) whose usual place of work is not retail premises but who does retail work,
 - (b) includes, in relation to a business that owns or occupies any premises in which the person works, a person who—
 - (i) is an employee of the business,
 - (ii) is an owner of the business, or
 - (iii) works in the premises under arrangements made between the business and another person for the provision of staff,
 - (c) also includes a person who delivers goods from retail premises.
- (2) For the purposes of subsection (1), it is irrelevant whether or not the person receives payment for the work.
- (3) In proceedings for an offence under section 1, it is not necessary for the prosecutor to prove that the person charged with the offence knew or ought to have known any matter falling within subsection (1)(b) in relation to the person against whom the offence is alleged to have been committed.

5 Meaning of “retail premises” and “retail work”

- (1) In this Act, “retail premises” means premises that are used wholly or mainly for the sale or supply of goods, on a retail basis, to members of the public.
- (2) In this Act, “retail work” means—
- (a) in the case of a person whose usual place of work is retail premises, any work in those retail premises,
 - (b) in the case of a person whose usual place of work is not retail premises, work in connection with—
 - (i) the sale or supply of goods, on a retail basis, to members of the public, or
 - (ii) the sale or supply of services (including facilities for gambling) in respect of which a statutory age restriction applies,
 - (c) subject to subsection (3), in the case of a person who delivers goods from retail premises, work in connection with the sale or supply of goods, on a retail basis, to members of the public.
- (3) A person who delivers goods from retail premises is doing retail work only during the period beginning when the person arrives at a place where delivery of goods is to be effected and ending when the person leaves that place (whether or not goods have been delivered).
- (4) In subsection (2)(b)(ii), “statutory age restriction” has the same meaning as in section 3(5).
- (5) In this section, references to working in premises includes working on any land forming part of the premises.

From: S9(2)(a)
Sent: Tuesday, 19 August 2025 2:09 pm
To: S9(2)(a)
Cc: S9(2)(a)
Subject: FW: Anti-social behaviour options paper

Kia ora S9(2)(a)

Feedback from the CLAW below.

Cheers,
S9(2)(a)

Move on Orders

Council Officers

- It would be beneficial to provide data on the cost/resourcing implications enforcing move on orders will likely have for the councils (and for Police).
- What training/registration requirements for council officers are you envisaging?

Three Strikes Proposals

- We note that there are likely to be implementation issues with such a scheme, including developing a joint system between Police and Councils to record who had been issued a move on order to enable the determination of how many a person had been given within a certain time period. We expect that creating such a shared system may be complex and expensive and may have significant privacy implications
- You note that there are currently difficulties in applying trespass notices to public places. We may wish to expand on how you intend to circumvent these difficulties when issuing a 3 strikes trespass notice.

Penalty

- You have not suggested a penalty for breaching a move on order, but you note in the assessment table that it could be a fine or arrest. We agree that the behaviour move on orders is trying to address would not reach the threshold of requiring imprisonment as an option. Noting that if they cross over into criminal conduct then the relevant penalties for that offending will apply. Additionally, we assess that the penalty for breaching a move on order should be lower than that for trespassing.
- As you have noted in the paper we are concerned that many of the people who may be subject to a move on order may not be in a position to pay a fine if they breach them. Including young persons and the homeless community. It may therefore have little deterrent effect.

out of scope

From: S9(2)(a) <[S9\(2\)\(a\)@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>
Sent: Wednesday, August 13, 2025 2:34 PM
To: S9(2)(a) <[S9\(2\)\(a\)@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>
Subject: Anti-social behaviour options paper

Hi S9(2)(a) I've just had a MAG managers catch up, at which it was confirmed that:

- The law Enforcement team will coordinate feedback from the different policy teams with an interest in this topic – an email will be coming out shortly about that.
- The focus of the feedback will be on addressing gaps or errors in the analysis/research and any suggestions we may have for addressing those – the Ministry's position will be given in our advice to the Minister once the MAG report has gone up.
- The feedback will likely be sent to the MAG secretariat by Alida in email form.

In case you haven't seen it, below is the advice that was provided on the initial anti-social behaviour issues paper a couple of months ago.



S9(2)(a)
Policy Manager – Criminal Justice
Ministry of Justice | Tāhū o te Ture
Mob: S9(2)(a)
S9(2)(a) <[S9\(2\)\(a\)@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz) | justice.govt.nz>

From: S9(2)(a) <[S9\(2\)\(a\)@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>
Sent: Wednesday, August 13, 2025 2:12 PM
To: S9(2)(a) <[S9\(2\)\(a\)@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>
Subject: FW: Initial MoJ comments on anti-social behaviour issues paper

As discussed.

From: S9(2)(a) <[S9\(2\)\(a\)@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>
Sent: Wednesday, June 25, 2025 10:21 AM

From: S9(2)(a)
Sent: Tuesday, 19 August 2025 3:30 pm
To: S9(2)(a)
Cc: S9(2)(a)
Subject: RE: MAG paper for comment by 19 August – anti-social behaviours

Kia ora S9(2)(a)

Some comments from our team – happy to discuss if you have any questions:

- We're happy to see reference to young people who exhibit anti-social behaviour and the impact the behaviour has on their life (para 17). However, some evidence referenced appears to solely relate to young people (e.g., see para 2.1) and young people are routinely referenced when discussing the options throughout the papers. It would be useful for the MAG to clarify whether it sees the problem primarily being with young people, and therefore whether responses should be targeted to young people, or whether it applies more generally. If primarily targeting young people, we would recommend the options consider responses which may be more appropriate for young people and consult with those who have expertise in youth offending and youth development.
- We understand the status quo is creating harm and that, without response, there may be further victims of offending. We support the inclusion of Option 5, which we consider is more likely to address the underlying causes of anti-social behaviour. We note that many of the other options respond to the symptoms of anti-social behaviour, rather than addressing underlying causes. This is unlikely to reduce people's experiences of anti-social behaviour in the long-term, as the options are (appropriately) reactive to behaviour.
- In respect of move on orders:
 - It would be useful for the final report to outline where it is anticipated people would be 'moved on' to and what the consequences of breaching a move-on order would be. We note that move-on orders risk shifting anti-social behaviours to other areas of a community.
 - Anti-social behaviour is broad and does not already have a universally agreed definition. It's not immediately clear whether the broad definition proposed would in fact create a reasonable justification for infringing on the right to freedom of movement, as suggested in the table under the workable row.
 - Linked to this, there may be a need to consider whether other exclusions for move-on orders are needed – e.g., fundraising events or street canvassers who may also cause people anxiety.
 - There's a lack of evidence provided about the success of move-on orders in Australia and the UK. It would be useful for the MAG to include the findings of any research on their effectiveness (including any unintended consequences) in its final report.
- In respect of the offence (and other options where offences are also proposed), it would be useful to understand what the proposed penalty is.

Ngā mihi
S9(2)(a)



S9(2)(a)
Principal Advisor | Victims' and Harm Reduction policy team
Criminal Justice | Policy Group
Ministry of Justice | Tāhū o te Ture
DDI: 04 472 9044
www.justice.govt.nz

My work hours are from Monday to Thursday – I do not work Friday's

From: S9(2)(a)
Sent: Tuesday, 19 August 2025 3:32 pm
To: S9(2)(a)
Cc: S9(2)(a) ; S9(2)(a) ; S9(2)(a) ; S9(2)(a) ; S9(2)(a)
Subject: Civil Law comments: MAG: anti-social behaviours report

Kia ora S9(2)(a)

Thanks for the chance to comment. Below are comments on paragraph 49, expanding further on S9(2)(a) point that trespassing people from public places is likely to face extreme workability challenges given the BORA rights to freedom of movement and expression.

Please let me know if you would like to discuss!

Ngā mihi,

S9(2)(a)

Paragraph 49: Automatic trespass notice after three strikes

Who is the occupier?

NZ case law shows that attempts to apply criminal trespass concepts to public places such as roads, footpaths and parks, where the public have common law rights of passage and assembly, have been understandably difficult. There are two main issues that would make an 'automatic' trespass notice particularly difficult:

- First, under the Trespass Act 1980, Police are only able to issue a trespass notice if they are given delegated authority to do so by the legal owner or occupier of the place in question. A key challenge in public places is ascertaining whether the controlling authority of such an area can properly be considered an occupier of the place in the sense of having exclusive rights of possession and therefore the right to exclude members of the public from entering the area.
- Second, even where an occupier is established for a public place, the rights of the public of passage and assembly have long been recognised by the common law, and are reinforced in NZBORA as the rights of freedom of expression (s 14), freedom of peaceful assembly (s 16), and freedom of movement (s 18).

Right to review/comment

A trespass notice issued by a state enforcement actor usually provides the served person with the ability to ask for a review of the notice, or at least a chance to comment. There are a number of findings from the Ombudsman on Council trespass notices overstepping their reach by not providing this avenue. Even where a person's misconduct was apparent and where they had a previous history of objectionable conduct towards the Council, the Ombudsman found that the issuance of a two-year notice, effectively banning a person from a public building (let alone a footpath or road) for a considerable period without first giving them the opportunity to comment was unreasonable. An automatic notice would remove the right to comment and therefore also have NZBORA considerations.

Defining a time period and geographic area

It is also not clear what the geographic area(s) or time period the automatic trespass notice would apply to. Cabinet agreed on 30 June 2025 to reform of the Trespass Act, including the provision of discretionary power for occupiers (or their delegated authority) to issue notices of any length up to a maximum of three years. Police or Council, being enforcement actors, would need to ensure that the period of time assigned to a trespass notice for a public place is reasonable in the circumstances. A blanket three-year period banning a person from a public place is unlikely to be justified under NZBORA. It is also important to note that the new multi-location trespass agreed by Cabinet is a bespoke power for retailers only and will not be available for Police or Councils. This means that if it was proposed that a trespass notice would apply across multiple public areas, such as a precinct or involving more than one road,

there would be significant NZBORA challenges. This would be particularly acute if that ban precluded a person from accessing essential services such as a pharmacy, medical centre, or WINZ office.

From: S9(2)(a) @justice.govt.nz>
Sent: Tuesday, August 19, 2025 12:42 PM
To: S9(2)(a) @justice.govt.nz>; S9(2)(a) @justice.govt.nz>
Cc: s9(2)(a) @justice.govt.nz>; S9(2)(a) @justice.govt.nz>; S9(2)(a) @justice.govt.nz>
Subject: FW: MAG paper for comment by 19 August - anti-social behaviours

Extracts from attached, fyi (from CLAW's prior research)

Australia move-on powers:

[Move-on powers: New paradigms of public order policing in Queensland](#) (includes some research on "safeguards")

- "Increased criminalisation... Empirical and anecdotal evidence suggesting that police move-on powers do not result in fewer arrest for public order offence but, rather, serve as another gateway into the criminal justice systems." High likelihood of disproportionate impact on Māori (based on disproportionate impact on Australian Indigenous person). High likelihood of disproportionate impact on homeless individuals. (Also young persons per below source).

[All The Right Moves? Police 'move-on' powers in Victoria](#)

- "There is no empirical evidence to show that 'move-on' legislation does actually result in reductions in crime rates, in Australia or internationally."
- Disproportionate impact on young people

[Police move-on powers: A CMC review of their use](#) (QLD Parliament); includes things like lack of "arrest as a last resort", de-escalation, diversion, etc.

- Review of "Police move-on powers" commissioned by the Queensland Parliament found:
 - "Most people who disobeyed a move-on direction were arrested... [and the results] indicate that juveniles are not being actively diverted from the justice system."^[1]
 - And "there continues to be a lack of emphasis on: a. arrest as a last resort, b. de-escalation, c. diversion, d. the appropriate use of discretion" in application of these powers.^[2]

[Criminalising protest through the expansion of police 'move-on' powers: A case study from Australia - ScienceDirect](#)

- "This article analyses the evolution of police 'move-on' (dispersal) powers in Australia, with a focus on how this form of statutory police power is being recalibrated as a technique for deterring and closing down public place protests. Using a case study from recent events in the state of New South Wales, we draw attention to the ways in which governments have begun to employ the move-on power as a tool for imposing their own visions of how public places should be used and how protests are allowed to be conducted. We highlight the work done by the ambiguous and malleable concept of 'public safety' and the imperative of not permitting protests to interrupt business activities. We argue that the combined effect of the ascendancy of these preferences, and the pre-emptive logic which is at the heart of move-on powers, is to produce a serious challenge to the vision of public places as sites for dissent and democratic mobilisation."
- "Our main aim in this article is to explain how the move-on power, in NSW at least, has 'evolved' from its original design – as an *instrumental* tool for addressing anti-social behaviour orientation, and a *symbolic* mechanism for offering reassurance about the protection of personal safety in public places (Crawford, 2008, 2009; Bottom, 2006)) – into a flexible and potent mechanism for interrupting and closing down peaceful protests that take place in 'public fora' (McCarthy and McPhail, 2006). We illuminate the process by which two largely taken-for-granted 'rights' – the right of everyone to use and enjoy public spaces, and the right to protest in public places – were constructed as in tension. We argue that the discursive (and legal) construction of 'protestors' as perpetrators of a new form of anti-social behaviour, and as disruptive of collective enjoyment was pivotal to a recalibration of what constitutes 'legitimate' public place protest. This recalibration has two key dimensions: invocation of the rights of the 'general public' (set in conflict with the right to protest) via the ambiguous idea of 'reasonable enjoyment' of public spaces; and a repurposing of the capacious concept of 'public safety' as a vehicle for an ascendant imperative that business activities should suffer

no interruption. Embedding these malleable imperatives in public order legislation further extends the capacity of the police to exercise discretion in coercive and restrictive ways that impede rather than tolerate or facilitate peaceful protest (Gilmore et al., 2019)."

United Kingdom dispersal orders (seem more like Australian move-on powers):

Effectiveness of a Dispersal Order to Reduce ASB amongst Young People: A Case Study Approach in East Manchester

- University of Huddersfield, UK, 2004

- Their focus groups with young people that had experienced a dispersal order highlighted the risks of inconsistent enforcement, and counterproductive harm caused to police-community relations

The Use and Impact of Dispersal Orders: Sticking Plasters and Wake-Up Calls, Criminal Law Journal

- Empirical research suggests that "The legislative safeguards and restrictions intended to guide and limit the application of move-on powers have largely failed to prevent misuse."^[3]
- "The discretionary and subjective nature of the powers place significant pressures of professional judgement on individual police in situations that may precipitate rather than reduce conflict."^[4]
- "In many localities, dispersal orders generated short-term displacement effects, shifting problems to other places" rather than resolving them.^[5]

Governing Through Anti-social Behaviour: Regulatory Challenges to Criminal justice | The British Journal of Criminology | Oxford Academic (oup.com), azp041.indd (silverchair.com), Center for Crime and Justice Studies:

- "The 'anti-social behaviour' agenda in Britain and the introduction of diverse new powers and regulatory tools represent a major challenge to traditional conceptions of criminal justice. This article argues that the language of regulation has been appropriated and deployed to cloak and legitimize ambitious (yet ambiguous) bouts of hyper-active state interventionism. These may have more to do with quests to demonstrate government's capacity to be seen to be doing something tangible about public anxieties than with meaningful behavioural change. Rather, regulatory ideas are being used to circumvent and erode established criminal justice principles, notably those of due process, proportionality and special protections traditionally afforded to young people. Consequently, novel technologies of control have resulted in more intensive and earlier interventions"
- "Over half and maybe as much as three-quarters of those given a PND [fixed penalty notice for disorder] would otherwise have received no formal sanction, highlighting a significant 'net-widening' effect."

From: s9(2)(a)

@justice.govt.nz

Sent: Monday, August 18, 2025 10:38 PM

To: s9(2)(a)

@justice.govt.nz

Cc: s9(2)(a)

@justice.govt.nz; s9(2)(a)

@justice.govt.nz; s9(2)(a)

@justice.govt.nz; s9(2)(a)

@justice.govt.nz

Subject: RE: MAG paper for comment by 19 August - anti-social behaviours

Hi s9(2)(a)

Please find OPV feedback on the MAG's options paper on anti-social behaviour below:

Offence and Penalty Vetting (OPV) feedback

General feedback

- The recommendation to progress Options 1 (move-on orders) and 2 (new bespoke offence for assaulting retail workers) appears to be predicated on the notion that enforcement actors (Police, prosecutors, and councils) will use these options if they are created (and more so than they use existing options to address anti-social behaviour under the *status quo*) e.g. when the paper says at paragraph 5 of the executive summary that these options are "likely to be effective in providing immediate relief to retailers"
- However, the paper does not present any evidence (such as feedback from enforcement actors) to support this assumption, even though *prima facie* these options would seem to pose some of the same practical

Document 14

resourcing and enforcement challenges for enforcement actors that the paper cites as posing barriers to the use of existing options

- In the main body of the paper, the statements at paragraph 8 – “there is not good data on the overall prevalence of the problem” and paragraph 10 – “The consistent and dramatic increase in the volume and severity of anti-social behaviour across New Zealand suggests...” are inconsistent, with the latter reaching a conclusion that is unsupported by the former

Option 1 – move-on orders

- Paragraph 42 – this should say **would-be** offender for correctness, since someone issued a move-on order is not an ‘offender’ since they have not been convicted of any criminal offence
- Paragraph 48 – there would need to be provision for people, when being issued a move-on order, to have clearly explained to them that non-compliance with the order is a criminal offence
- Paragraph 49 – OPV strongly recommends against a ‘three strikes’ policy where an automatic trespass notice is issued to people who have repeatedly been issued move-on orders, as this offends against core constitutional principles regarding the unsuitability of mandatory penalties and the risk of double punishment for the same conduct, both of which could raise BORA concerns. Similarly, trespassing people from public places is likely to face extreme workability challenges given the BORA rights to freedom of movement and expression mean an extremely high bar must be met – this recommendation also needs to consider how it intersects with existing work around reforming trespass law

out of scope

Released under the Official Information Act 1982

Cheers



S9(2)(a)

Offence and Penalty Vetting (OPV) Co-Ordinator
Senior Policy Advisor | Kaitātari Matua Kaupapahere
Sentencing and Rehabilitation Team
Criminal Justice Unit | Policy Group
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S9(2)(a) @justice.govt.nz

s9(2)(a) @justice.govt.nz (for all OPV matters)

National Office | Justice Centre | 19 Aitken Street
DX Box 5X10088 | Wellington
justice.govt.nz

out of scope

From: S9(2)(a) @justice.govt.nz>

Sent: Wednesday, August 13, 2025 4:30 PM

To: S9(2)(a) @justice.govt.nz>; S9(2)(a) @justice.govt.nz>; S9(2)(a)

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Cc: S9(2)(a) @justice.govt.nz>; S9(2)(a) @justice.govt.nz>; S9(2)(a)

@justice.govt.nz>

Subject: RE: MAG paper for comment by 19 August - anti-social behaviours

Apologies – resending to reflect the correct timeframe for feedback in the subject line: **COB Tuesday 19 August.**

From: S9(2)(a)

Sent: Wednesday, August 13, 2025 4:19 PM

To: S9(2)(a) @justice.govt.nz>; S9(2)(a) @justice.govt.nz>; S9(2)(a)

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@justice.govt.nz>

Cc: S9(2)(a) @justice.govt.nz>; S9(2)(a) @justice.govt.nz>; S9(2)(a)

Subject: MAG paper for comment by 21 August - anti-social behaviours

Kia ora koutou,

Please find attached the Retail Crime MAG's options paper on responding to anti-social behaviours around retail settings. The Law Enforcement team will be collating feedback from Policy Group. If your team has feedback on the paper, please send it to me by COB Tuesday 19 August.

For context, MCJ provided feedback on a prior iteration of this paper (see attached email). This is a final opportunity to provide feedback directly to the MAG on their proposals.

MAG plans to provide the final report to the Minister on 1 September. At that point, we expect the Office will ask us to provide advice to Minister Goldsmith on the Ministry's views.

Please let me know if you have any questions.

Nga mihi,

S9(2)(a)



S9(2)(a)

Policy Advisor | Criminal Justice Unit
Ministry of Justice | Tāhū e te Ture
Justice Centre | 19 Aitken Street | Wellington 6011

^[1] "Police move-on powers: A CMC review of their use," December 2010, Queensland Crime and Misconduct Commission, 'Summary,' 'Key findings,' pg xiii

^[2] Ibid, pg xiv

^[3] "Move-on powers: New paradigms of public order policing in Queensland," Helen Punter, 35 Crim LJ 386, 2011, Pg 395

^[4] "The use and impact of dispersal orders: Sticking plasters and wake-up calls," Adam Crawford and Stuart Lister, Joseph Rowntree Foundation, 2007, pg ix

^[5] Ibid, pg x

From: S9(2)(a)
Sent: Tuesday, 19 August 2025 5:58 pm
To: S9(2)(a) ; S9(2)(a) ; S9(2)(a)
Cc: offenceandpenaltyvet; S9(2)(a)
Subject: RE: MAG paper for comment by 19 August - anti-social behaviours

Kia ora

Kia ora S9(2)(a)

Please find below a few brief comments from S&R – we also support the points that OPV/Claw are making

- Option 1: Move-on orders
 - Para 44: As MOJ has recommended previously to the Minister, suggest it would be appropriate for move-on orders to be confined to instances where the behaviour is giving rise to a public safety concern (not merely inconvenient/annoying behaviour)
 - Para 45: Suggest proposed safeguards could be strengthened – in particular need to consider review/appeal mechanisms
 - Para 48: caution would be needed in extending the ability to issue these orders to Council enforcement officers, given the potential for conflict/escalation (as the paper acknowledges) and also about Council officers exercising greater law enforcement powers without necessarily the same checks that apply to Police
 - Questions about the scope of the orders – what could the scope of the conditions/requirements be? Would it only be the requirement to leave the area? Requirements to engage with services (or similar) will be limited by capacity/availability/resourcing
 - Para 55: there are questions about how effective these orders would be at actually reducing the incidence of anti-social behaviour (noting some of the workability/enforcement issues etc) and apparent mixed success in Aus
 - More general comments about the proposal:
 - Enforcement is a key issue – (1) how will the order be enforced? Will it be a criminal offence to breach the order? (noting the risk of net-widening with these sorts of responses) (2) isn't it possible these orders – and the other proposals in the paper – end up suffering from the same issues of limited enforcement as existing avenues? (given Police focus on more serious/violent crime)
 - There is a need to learn lessons from Aus (including places where these orders were repealed) and the UK with ASBOs and Community Protection Notices (not referenced/explored in the paper)

out of scope

Document 15
out of scope

S9(2)(a)

Released under the Official Information Act 1982

From: S9(2)(a)
Sent: Wednesday, 20 August 2025 8:58 am
To: S9(2)(a); S9(2)(a)
Subject: FW: Homelessness and Public Disorder

FYI – at this stage
The work programme committee meeting is at 11:30 – I'll let you know the outcome.



S9(2)(a)
Policy Manager | Criminal Justice Unit | Policy Group
Ministry of Justice | Tāhū o te Ture
S9(2)(a)
Justice Centre | 19 Aitken Street | Wellington 6011

From: Greaney, Caroline <Caroline.Greaney@justice.govt.nz>
Sent: Wednesday, August 20, 2025 7:43 AM
To: S9(2)(a) @justice.govt.nz; S9(2)(a) @justice.govt.nz
Cc: Mercuri, Alida <Alida.Mercuri@justice.govt.nz>; S9(2)(a) @justice.govt.nz
Subject: RE: Homelessness and Public Disorder

Thanks S9(2)(a) I anticipate this will connect to the thinking about move-on orders and anti-social behaviours that the MAG is working on – which will likely involve a mix of criminal and civil enforcement options. Should Kathy and S9(2)(a) also be linked in on this work?

I have linked with my colleagues at HUD and MSD and asked for their assistance with the background material. They'll come back to me shortly.

Looking forward to discussing at the Work Programme Committee
Caroline

From: S9(2)(a) @justice.govt.nz
Sent: Tuesday, August 19, 2025 5:08 PM
To: S9(2)(a) @justice.govt.nz
Cc: Mercuri, Alida <Alida.Mercuri@justice.govt.nz>; S9(2)(a) @justice.govt.nz; Greaney, Caroline <Caroline.Greaney@justice.govt.nz>
Subject: RE: Homelessness and Public Disorder

Kia ora S9(2)(a)
Could S9(2)(a) and I please add this request to the agenda for the work programme committee meeting tomorrow? Given the timeframes and sensitivity it would be useful to get a decision on which team would lead and resource the work.
Ngā mihi
S9(2)(a)

From: Orange, Ryan <Ryan.Orange@justice.govt.nz>
Sent: Tuesday, August 19, 2025 4:46 PM
To: Greaney, Caroline <Caroline.Greaney@justice.govt.nz>
Cc: S9(2)(a) @justice.govt.nz; Mercuri, Alida <Alida.Mercuri@justice.govt.nz>; S9(2)(a)

Subject: Homelessness and Public Disorder

Kia ora Caroline and colleagues

Minister Goldsmith has followed up his earlier questions at Officials by requesting an agenda item at the 17 September Justice Sector Ministers meeting regarding the intersection between homelessness and public disorder. He indicated that Ministers Upston, Potaka and Doocey, and possibly Minister Bishop should be invited to join for the item alongside officials from MSD, HUD and Kainga Ora.

This is all of the guidance we currently have.

We anticipate that the agenda item would need a succinct paper and/or A3 that summarised key data on homelessness, drivers of homelessness, the connection between homelessness and perpetrating/being a victim of crime, and legislative/enforcement options regarding taking action on public disorder associated with homelessness.

This material would ideally be included in the draft JSMM pack provided to Minister Goldsmith for his review on 3 September, prior to distribution of the final pack on 8 September.

I am hoping that MoJ Policy can take the lead on connecting with relevant policy teams (MSD/HUD) to pull together this material, potentially leveraging joint collateral they will have developed to support work on Government Target 8. I would emphasise that the contextual material should be succinct and reuse content that already exists.

I know you will have no capacity available for this work, but I assume Minister Goldsmith will be looking to MoJ Policy to lead the discussion on possible legislative options.

Very happy to discuss.

Ryan

JUSTICE
SECTOR
DIRECTORATE

Ryan Orange | Executive Director
Justice Sector
Mobile: S9(2)(a)
ryan.orange@justice.govt.nz

Providing better outcomes for Aotearoa through strong sector collaboration

From: S9(2)(a)
Sent: Wednesday, 20 August 2025 10:40 am
To:
Cc: S9(2)(a) S9(2)(a)
Subject: RE: MAG paper for comment by 19 August - anti-social behaviours

Kia ora S9(2)(a)

Thank you for the extra time! Here are some comments from the human rights team.

Move-on orders:

- While freedom of movement and expression are considered, it would be useful to consider the extent to which move on orders, even with structured discretion, could engage the rights to freedom from discrimination (given the Australian experience), presumption of innocence, and not to be arbitrarily arrested or detained.
- It would be helpful to clarify whether other jurisdictions extend the power to issue to move on orders to by-law enforcement officers and if not, why.
- To ensure the orders are no broader than necessary, the MAG could consider where the maximum area to which an order can apply should be specified in legislation, particularly if by-law enforcement officers are empowered to issue orders and/or a 'three-strikes' system was in place.
- It isn't clear from the paper whether referrals to health, support, or youth social services accompanying a move-on order are intended to be compulsory or merely informative. If it is the former, and non-compliance could lead to enforcement action, the MAG should think about the extent to which the right to refuse to undergo medical treatment (s11 NZBORA) might be engaged and any limitations justified.

out of scope

Let me know if you have any questions :)

Ngā mihi

S9(2)(a)

S9(2)(a)

Principal Policy Advisor | Human Rights

Ministry of Justice | Tāhū o te Ture

P +64 4 913 2353

S9(2)(a) [@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz) | [justice.govt.nz](https://www.justice.govt.nz)

I work alternating Fridays

From:
Sent: Thursday, 21 August 2025 6:05 pm
To: S9(2)(a) S9(2)(a)
Subject: Fw: Commission work needed for briefing on homelessness for Minister Goldsmith
Attachments: Annex B Draft Cabinet paper on actions to address increases in people living without shelter.pdf; Annex A Location specific overview.pdf; Briefing- Further advice on short term actions to address homelessness (final).pdf

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From: s9(2)(a) @msd.govt.nz
Sent: Thursday, August 21, 2025 3:06:01 PM
To: Greaney, Caroline <Caroline.greaney@justice.govt.nz>; Karen Hocking <Karen.Hocking002@msd.govt.nz>; Mercuri, Alida <Alida.Mercuri@justice.govt.nz>; s9(2)(a) @justice.govt.nz; s9(2)(a) @justice.govt.nz; Julia Bergman <Julia.Bergman003@msd.govt.nz>; s9(2)(a) @hud.govt.nz; s9(2)(a) @hud.govt.nz; s9(2)(a) @justice.govt.nz
Subject: RE: Commission work needed for briefing on homelessness for Minister Goldsmith

IN-CONFIDENCE

Kia ora Caroline

Thanks for the update on this work.

Attached the advice that MSD/HUD provided to Ministers last week.

As mentioned, a package of measures to assist rough sleepers was going to be announced by Ministers this afternoon, but the announcement has been delayed.

We expect the announcement in the next few days, but nothing is confirmed yet, so in the meantime please do not circulate this paper any further.

Cheers

s9(2)(a)

s9(2)(a)

Policy Manager | Housing

☎ 04 916 3813 | DID 42813 | Mob s9(2)(a) | DTM 2942813

s9(2)(a) @msd.govt.nz

📍 The Aurora Centre | Level 9 | 56 The Terrace | P O Box 1558 | Wellington 6140 | New Zealand
www.msd.govt.nz



MINISTRY OF SOCIAL
DEVELOPMENT

18 Awarua | Wellington

—Original Appointment—

From: Caroline.greaney@justice.govt.nz <Caroline.Greaney@justice.govt.nz>

Sent: Thursday, August 21, 2025 8:23 AM

To: Caroline.greaney@justice.govt.nz; Karen Hocking ^{s9(2)(a)} ; Mercuri, Alida ^{s9(2)(a)} ; ^{s9(2)(a)}

Julia Bergman; ^{s9(2)(a)} @hud.govt.nz; ^{s9(2)(a)}

Subject: RE:FV: Commission work needed for briefing on homelessness for Minister Goldsmith

When: Thursday, 21 August 2025 2:30 PM-3:30 PM (UTC+12:00) Auckland, Wellington.

Where: Microsoft Teams Meeting: KS - 6-9 (Dep Sec Policy Priority Room - Teams - 10 pax)

Karen and ^{s9(2)(a)} keen for you to join this commissioning conversation with Justice please. Karen feel free to include anyone else from your team.

Julia

—Original Appointment—

From: Greaney, Caroline <Caroline.Greaney@justice.govt.nz>

Sent: Wednesday, August 20, 2025 3:11 PM

To: Greaney, Caroline; Mercuri, Alida; ^{s9(2)(a)} ; ^{s9(2)(a)} ; Julia Bergman; ^{s9(2)(a)} @hud.govt.nz; ^{s9(2)(a)}

Subject: Commission work needed for briefing on homelessness for Minister Goldsmith

When: Thursday, 21 August 2025 2:30 pm-3:30 pm (UTC+12:00) Auckland, Wellington.

Where: Microsoft Teams Meeting: KS - 6-9 (Dep Sec Policy Priority Room - Teams - 10 pax)

Kia ora

Following Caroline's email, setting up TEAMS meeting for Thursday 21 August from 2.30-3.30pm.

Ngā mihi

^{s9(2)(a)}



^{s9(2)(a)}

Executive Assistant to Caroline Greaney

Deputy Secretary | Policy Group

Ministry of Justice | Tāhū o te Ture

DOI: +64 4 495 1228 | Mobile: ^{s9(2)(a)}

Justice Centre - 19 Aitken Street, Wellington 6011

^{s9(2)(a)} @justice.govt.nz

Microsoft Teams [Need help?](#)

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Meeting ID: 448 893 369 181 9

Password: LN3Be2nF

Dial in by phone

+64 4 889 7909, 76209651# New Zealand, Wellington

[Find a local number](#)

Phone conference ID: 762 096 51#

From: s9(2)(a)
Sent: Friday, 22 August 2025 3:08 pm
To: S9(2)(a) @retailmag.govt.nz; S9(2)(a) @retailmag.govt.nz;
s9(2)(a) @retailmag.govt.nz'
Cc: Greaney, Caroline; Mercuri, Alida; S9(2)(a) ; S9(2)(a)
Subject: MOJ's feedback on the MAG's options paper on anti-social behaviours
Attachments: 20250822 FINAL MOJ feedback on ASB options paper.docx

Kia ora S9(2)(a)

Thank you for the opportunity to provide feedback on the MAG's options paper on anti-social behaviour around retail settings. The attached document contains feedback from across MOJ's Policy Group.

We hope you find our comments helpful. Officials are available to discuss any aspect of this feedback in more detail.

Ngā mihi,
S9(2)(a)



S9(2)(a)
Chief Advisor | Criminal Justice
Ministry of Justice | Tāhū o te Ture
S9(2)(a)
S9(2)(a) [@justice.govt.nz](https://www.justice.govt.nz) | www.justice.govt.nz

Released under the Official Information Act 1982

Feedback on the MAG's Options Paper

General comments

- The paper suggests that a significant problem with crimes against retail workers is the lack of enforcement when incidents are reported. We note that several of the options presented (particularly 1, 2, and 4) also rely on availability of Police, prosecutors, and other enforcement actors. We suggest the paper clarifies that move-on orders (and other proposals in the paper) may run into the same enforcement issue, unless you have evidence to the contrary.
- The paper cites young people's involvement in anti-social behaviour and frequently refers to young people in discussing the options. Given the significant focus on young people, we suggest the options include consideration of responses that are youth-specific, noting the different needs of this group. We recommend consultation with those who have expertise in this area.

OPTION 1: MOVE-ON ORDERS

General comments

- It would be useful for you to include the findings of any research on the efficacy (including any unintended consequences) of move-on orders in Australia and the UK.
- Regarding the definition of anti-social behaviour:
 - As previously advised to the Minister, the Ministry of Justice considers move-on orders are more appropriate for behaviours giving rise to public safety concerns.
 - We suggest removing "alarm" from your definition of anti-social behaviours.
 - We suggest further consideration be given to how the application of move-on orders could be constrained to limit the potential net-widening effect as much as possible (i.e. where criminal justice responses are applied to non-criminal behaviours, drawing more people into the criminal justice system).
- While freedom of movement and expression are considered, it would be useful to consider the extent to which move on orders, even with structured discretion, could engage the rights to freedom from discrimination (given the Australian experience), presumption of innocence, and not to be arbitrarily arrested or detained.
- As you have noted in the paper, move-on orders risk shifting anti-social behaviours to other areas within a community. It would be helpful for the final report to outline where it is anticipated people could be moved to. To ensure the orders are no broader than necessary, you could consider where the maximum area to which an order can apply should be specified in legislation, particularly if by-law enforcement officers are empowered to issue orders and/or a 'three-strikes' system was in place.
- It isn't clear from the paper whether referrals to health, support, or youth social services accompanying a move-on order are intended to be compulsory (and enforced) or merely informative. If it is the former, consideration should be given to extent to which the right to refuse to undergo medical treatment (s11 NZBORA) might be engaged and any limitations justified. We also note that referrals or requirements to engage with services are likely to be limited by capacity, local availability, and resourcing.
- Paragraph 42 – We note that persons subject to move-on orders are not "offenders" since they have not been convicted of a criminal offence and suggest changing this wording.
- We suggest consideration of review or appeal mechanisms to strengthen the proposed safeguards.

Council by-law enforcement

- The paper suggests empowering "council by-law enforcement officers" with enforcement of move-on orders, local by-laws, and infringements. However, it is unclear whether this is a role that currently exists within councils, or whether additional staff would be required to fill these roles.
-

- Extending enforcement powers of council officers requires caution given the potential for conflict or escalation (as the paper acknowledges), as well as risks associated with exercising greater enforcement powers without the same level of supervision, training, and tools to deliver safe law enforcement.
- If you are working with councils, we suggest you request an estimate of the cost and resourcing implications that enforcing move on orders could have for councils.
- It would also be helpful to clarify whether other jurisdictions extend the power to issue move on orders to councils or local government and if not, why. Including feedback or comments from councils on this proposal would also be useful.

Three strikes proposal

- The paper notes that there are currently difficulties in applying trespass notices to public places. You may wish to expand on how you intend to address these difficulties when issuing a three strikes trespass notice.
- NZ case law shows that attempts to apply criminal trespass concepts to public places such as roads, footpaths, and parks, where the public have common law rights of passage and assembly, have been understandably difficult. The main issues with an 'automatic' trespass notice are:
 - First, under the Trespass Act 1980, Police are only able to issue a trespass notice if they are given delegated authority to do so by the legal owner or occupier of the place in question. A key challenge in public places is ascertaining whether the controlling authority of such an area can properly be considered an occupier of the place in the sense of having exclusive rights of possession and therefore the right to exclude members of the public from entering the area.
 - Second, even where an occupier is established for a public place, the rights of the public of passage and assembly have long been recognised by the common law and are reinforced in NZBORA as the rights of freedom of expression (s 14), freedom of peaceful assembly (s 16), and freedom of movement (s 18).
- A trespass notice issued by a state enforcement actor usually provides the served person with the ability to ask for a review of the notice, or at least a chance to comment. There are several findings from the Ombudsman on Council trespass notices overstepping their reach by not providing this avenue.
- We also note that there are likely to be implementation issues with such a scheme, including:
 - introducing a function (in NIA or elsewhere) for Police to track how many move-on notices a person has been issued and in what area, and
 - where councils are also empowered to issue move-on orders, developing a joint system between Police and councils to record who has been issued a move on order and in what area.
- We expect that creating such a shared system would be complex, expensive, and have significant privacy implications.

Penalty for non-compliance

- The paper does not suggest a penalty for breaching a move-on order, but notes (in the assessment table) that the penalty could be a fine or arrest. You could specify whether you mean for this to be an infringement or criminal offence.
- We agree that the behaviours move-on orders aim to address do not reach the threshold for imprisonment. Where behaviour crosses over into criminal conduct, the relevant penalties for that offending would apply. Additionally, we assess that the penalty for breaching a move-on order should be lower than that for trespassing.
- We share the concern that many of the people who may be subject to a move-on order (including young people and the homeless community) may not be in a position to pay a fine if they breach an order. This may lessen the deterrent effect of the offence.
- We suggest including a requirement for law enforcement to clearly explain to people being issued move-on orders that breach of the order is an offence (whether an infringement or criminal offence).

From: S9(2)(a)
Sent: Monday, 25 August 2025 9:40 am
To: S9(2)(a) ; S9(2)(a)
Subject: FW: Homelessness and Public Disorder
Attachments: 1. Anti-social behaviour - final HUD feedback.pdf; 2. HUD2025-007568 REP257576 - Advice on short-term actions to address homelessness.pdf; 3. HUD2025-007725 REP258623 - Further advice on short term actions to address homelessness.pdf; 3a. HUD2025-007725 REP258623 - Annex A Location specific overview.pdf; 3b. HUD2025-007725 REP258623 - Annex B Draft Cabinet paper on actions to address increases in people living without shelter.pdf; 4. HUD Homelessness insights report June 2025.pdf; 5. HUD Homelessness insights report June 2025 A3 Version.pdf; Summary of HUD information.pdf

From: Greaney, Caroline <Caroline.Greaney@justice.govt.nz>
Sent: Friday, August 22, 2025 3:43 PM
To: S9(2)(a) @justice.govt.nz; S9(2)(a) @justice.govt.nz
Cc: Mercuri, Alida <Alida.Mercuri@justice.govt.nz>; S9(2)(a) @justice.govt.nz
Subject: FW: Homelessness and Public Disorder

Kia ora koutou

Here you go - material from Hud for your note on public disorder.

Thanks
Caroline

From: s9(2)(a) @hud.govt.nz
Sent: Friday, August 22, 2025 2:23 PM
To: Greaney, Caroline <Caroline.Greaney@justice.govt.nz>
Cc: s9(2)(a) @hud.govt.nz; s9(2)(a) @hud.govt.nz
Subject: FW: Homelessness and Public Disorder

Tēnā koe Caroline,

Thank you for meeting with us yesterday to discuss an upcoming paper for Minister Goldsmith on homelessness and public disorder.

Following on from our discussion, please find attached the following documents:

1. HUD feedback on the Ministerial Advisory Group's 'Anti-social behaviour around retail settings' options paper (22 August 2025).
2. Joint HUD-MSD Briefing: Advice on short-term actions to address homelessness (1 August 2025).
3. Joint HUD-MSD Briefing: Further advice on short-term actions to address homelessness (14 August 2025), including:
 - a. Annex A – Location specific overview; and
 - b. Annex B – Draft Cabinet paper.
4. HUD Homelessness Insights Report (June 2025).
5. HUD Homelessness Insights Report A3 Summary Version (June 2025).

We have also provided a summary document providing an overview of the key points from across these attachments.

Please let us know if you need anything further. We look forward to continuing to work with you on this.

Ngā mihi,

s9(2)(a)

Senior Policy Advisor | Responding to Severe Housing Needs

Policy Group

s9(2)(a) [@hud.govt.nz](#) |

[www.hud.govt.nz](#) | L8, 7WQ, 7 Waterloo Quay, Wellington 6011 | New Zealand



He kāinga ora, he hapori ora - our purpose is thriving communities where everyone has a place to call home.

[IN CONFIDENCE]

From: Greaney, Caroline <Caroline.Greaney@justice.govt.nz>

Sent: Wednesday, 20 August 2025 7:42 am

To: Colin Lynch <Colin.Lynch@hud.govt.nz>; Simon MacPherson <Simon.MacPherson004@msd.govt.nz>

Cc: Orange, Ryan <Ryan.Orange@justice.govt.nz>

Subject: FW: Homelessness and Public Disorder

Kia ora Simon and Colin (and great to see you yesterday Colin!)

I'm forwarding you an email from our Justice Sector Directorate, and hoping that you maybe able to assist with this request from Hon Goldsmith for a paper relating to Homelessness and Public Disorder. I'm just working out who will lead on this at our end – if you could please let me know who the key contacts would be in your agencies that would be greatly appreciated. As Ryan suggests in his email, we're optimistically hoping we can recycle existing material you may already have on this topic – and then we'll add the bit about enforcement options.

As always – timeframes are tight, with a paper due to our Minister on 3 September.

Please do give me a call if you would like to discuss – I'm on s9(2)(a)

Caroline

From: Orange, Ryan <Ryan.Orange@justice.govt.nz>

Sent: Tuesday, August 19, 2025 4:46 PM

To: Greaney, Caroline <Caroline.Greaney@justice.govt.nz>

Cc: s9(2)(a) <[s9\(2\)\(a\)@justice.govt.nz](mailto:s9(2)(a)@justice.govt.nz)>; Mercuri, Alida <Alida.Mercuri@justice.govt.nz>; s9(2)(a)

<[s9\(2\)\(a\)@justice.govt.nz](mailto:s9(2)(a)@justice.govt.nz)>; Parish, Rebecca <Rebecca.Parish@justice.govt.nz>

Subject: Homelessness and Public Disorder

Kia ora Caroline and colleagues

Minister Goldsmith has followed up his earlier questions at Officials by requesting an agenda item at the 17 September Justice Sector Ministers meeting regarding the intersection between homelessness and public disorder. He indicated that Ministers Upston, Potaka and Doocey, and possibly Minister Bishop should be invited to join for the item alongside officials from MSD, HUD and Kainga Ora.

This is all of the guidance we currently have.

Document 20

We anticipate that the agenda item would need a succinct paper and/or A3 that summarised key data on homelessness, drivers of homelessness, the connection between homelessness and perpetrating/being a victim of crime, and legislative/enforcement options regarding taking action on public disorder associated with homelessness.

This material would ideally be included in the draft JSMM pack provided to Minister Goldsmith for his review on 3 September, prior to distribution of the final pack on 8 September.

I am hoping that MoJ Policy can take the lead on connecting with relevant policy teams (MSD/HUD) to pull together this material, potentially leveraging joint collateral they will have developed to support work on Government Target 8. I would emphasise that the contextual material should be succinct and reuse content that already exists.

I know you will have no capacity available for this work, but I assume Minister Goldsmith will be looking to MoJ Policy to lead the discussion on possible legislative options.

Very happy to discuss.

Ryan

JUSTICE
SECTOR
DIRECTORATE

Ryan Orange | Executive Director
Justice Sector
Mobile: S9(2)(a)
ryan.orange@justice.govt.nz

Providing better outcomes for Aotearoa through strong sector collaboration

From: S9(2)(a)
Sent: Tuesday, 26 August 2025 10:21 am
To: S9(2)(a) ; S9(2)(a) ; S9(2)(a) ; S9(2)(a) ; S9(2)(a)
Cc: S9(2)(a) ; S9(2)(a)
Subject: RE: JMM note - intersection between public disorder and homelessness
Attachments: Court New Beginnings TKTH process evaluation Thom et al 2018.pdf

IN CONFIDENCE

Another more recent evaluation was conducted for the New Beginnings Court/TKTH in 2018 attached

IN CONFIDENCE

From: S9(2)(a) @justice.govt.nz>
Sent: Tuesday, August 26, 2025 10:09 AM
To: S9(2)(a) @justice.govt.nz>; S9(2)(a) @justice.govt.nz>; S9(2)(a) @justice.govt.nz>; S9(2)(a) @justice.govt.nz>; S9(2)(a) @justice.govt.nz>
Cc: S9(2)(a) @justice.govt.nz>; S9(2)(a) @justice.govt.nz>; S9(2)(a) @justice.govt.nz>; S9(2)(a) @justice.govt.nz>
Subject: RE: JMM note - intersection between public disorder and homelessness

IN CONFIDENCE

Some quick background – Auckland [New Beginnings Court | The District Court of New Zealand](#), [homeless-court-evaluation.pdf](#)

“TKTH was established in October 2010 following advocacy to the Chief District Court Judge by Lifewise, an agency working with inner-city homelessness. Funding for a Co-ordinator/Programme Manager position was provided as a two-year pilot by the Auckland Homeless Steering Group to respond to recidivist low-level public offending by homeless people in Central Auckland. It was part of a broader inter-sectoral initiative to move people out of homelessness and into long-term permanent accommodation.”

Wellington [Court of Special Circumstances | The District Court of New Zealand](#), [Special-Circumstances-Court-Evaluation-Report.pdf](#)

“The Wellington Special Circumstances Court (SCC) is an innovative approach intended to improve outcomes for people who have pleaded guilty to offendin1. It is a judge-led initiative, supported by a team of professionals (lawyers, community agencies, specialists). It aims to keep people out of prison and reduce reoffending by identifying and responding to the life circumstances driving their offending.

...
The aim of the SCC was to reduce the seriousness and frequency of offending by linking participants to the services they needed and in doing so reducing the impact of offending on victims... Reoffending rates are comparable for rates across the whole population of offenders on release from prison. However, these rates have been achieved for people with a history of repeat offending and complex life circumstances.”

IN CONFIDENCE

From: S9(2)(a) <[@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>
Sent: Tuesday, August 26, 2025 9:55 AM
To: S9(2)(a) <[@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>; S9(2)(a) <[@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>; S9(2)(a) <[@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>; S9(2)(a) <[@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>
Cc: S9(2)(a) <[@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>; S9(2)(a) <[@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>
Subject: RE: JMM note - intersection between public disorder and homelessness

IN CONFIDENCE

Thanks for sharing those links to the research – that is helpful and we will work through these.

We are interested in the data that relates to the Wellington and Auckland Homelessness Courts. I am not familiar with these courts so it would be great to understand what data might be available.

We have received a calendar invite from S9(2)(a) to discuss this at 12:30 – thank you.

Many thanks,
S9(2)(a)

IN CONFIDENCE

From: S9(2)(a) <[@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>
Sent: Tuesday, August 26, 2025 8:48 AM
To: S9(2)(a) <[@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>; S9(2)(a) <[@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>; S9(2)(a) <[@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>; S9(2)(a) <[@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>
Cc: S9(2)(a) <[@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>; S9(2)(a) <[@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>
Subject: RE: JMM note - intersection between public disorder and homelessness

IN CONFIDENCE

Kia ora S9(2)(a) and S9(2)(a)

We're very unlikely to find anything on public disorder and homeless in NZ in journals. Particularly when it comes to anything recent.

There will be a lot of policing strategies and homeless from overseas though – particularly [America](#). Research will say things like:

- homelessness increases the risk of [victimisation](#)
- housing-first strategies for those chronically homeless help improve outcomes, but have [mixed effect](#) on criminal justice outcomes – because predominantly mental health and life support is required, not justice support.
- where there are particular crime issues, [place-based](#) policing strategies are preferred

But none of that goes to your question specifically. I've just had a chat to Bex, and she has suggested there is the possibility we could look into the kinds of charger coming through the Wellington and Auckland Homelessness Courts – we know at least more people are appearing in the Auckland Homelessness Court in the last year. Though there will be likely limitations to that. If that's something you're interested in, I'll ask S9(2)(a) who in her team could talk to you this afternoon (they are at a planning session this morning).

Cheers

S9(2)(a)



S9(2)(a)

Manager Research and Evaluation, Sector Insights
Ātea a Rangi – Strategy, Ministry of Justice
Mobile | S9(2)(a)
www.justice.govt.nz |

Mon Tues Wed Thur Fri
✓ ✓ 🏠 ✓ ✓

IN CONFIDENCE

From: S9(2)(a) [@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)
Sent: Monday, August 25, 2025 4:30 PM
To: S9(2)(a) [@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)
Cc: S9(2)(a) [@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz); S9(2)(a) [@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)
Subject: RE: JMM note - intersection between public disorder and homelessness

IN CONFIDENCE

Hey S9(2)(a)

Is this a good candidate for a 'rapid'? Policy chatted with us and have done a search of media, but I wondered whether some research databases would add anything. I'll leave that to your judgement.

Ngā mihi
S9(2)(a)



S9(2)(a)

Manager Analytics and Insights
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Using evidence and insights to deliver better services & outcomes

He āta wānanga, he whai whakaaro te tikanga e pai ake ai te mahi, e tika ake ai ōna hua

MON	TUE	WED	THU	FRI
🏠	🏢	🏢	🏢	🏢

IN CONFIDENCE

From: S9(2)(a) [@justice.govt.nz](mailto:justice.govt.nz)
Sent: Monday, August 25, 2025 4:09 PM
To: S9(2)(a) [@justice.govt.nz](mailto:justice.govt.nz)
Cc: S9(2)(a) [@justice.govt.nz](mailto:justice.govt.nz)
Subject: JMM note - Intersection between public disorder and homelessness

IN CONFIDENCE

Hi S9(2)(a)

We have been asked to write a note for the Justice Sector Ministers Meeting, so Minister Goldsmith can lead a discussion on the intersection between public disorder (anti-social behaviour) and homelessness. We do not have a good evidence base to set out the scale of the issue and recent trends of anti-social behaviour in public place across New Zealand. We have scanned media articles and have found a handful of articles that set out distinct problems in Wellington (Newtown), Rotorua and New Plymouth.

Do you have any data or information that would set out the scale of anti-social behaviour in public place across New Zealand and trends?

If possible, we would welcome any information by **COB Thursday 28 August**. Apologies for the short turn around. If you think there is information on this issue (which we appreciate it might not exist) but the timeframe isn't possible, then we can be a little flexible on the due date.

We have a lot of information on homeless in New Zealand from HUD and census data, so we do not need further data on that.

Ngā mihi,

S9(2)(a)



S9(2)(a)

Principal Policy Advisor | Criminal Justice Unit | Policy Group
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IN CONFIDENCE

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Te Kōti o Timatanga Hou

The Court of New Beginnings

Process evaluation: Qualitative findings

By Katey Thom, Alice Mills, Michele Yeoman & Stella Black

Released under the Official Information Act 1982

This project was primarily funded by the Auckland Council and University of Auckland. Aspects of the research were funded by the Royal Society of New Zealand Marsden Fund.



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Me mahi tahi tātou mō te oranga o te katoa.
We should work together for the wellbeing of everyone.

(Whakataukī, Author unknown)

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Foreword

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EXECUTIVE SUMMARY

Te Kōti o Timatanga Hou (TKTH) began operating in 2010 to respond to recidivist, low-level public offending by homeless people in central Auckland.

TKTH provides a solution-focused approach that coordinates an array of services to help participants improve their housing situation, enhance their wellbeing and put things right with their victims.

Aim of this report

This report presents the qualitative findings of a process evaluation that aimed to find out how this court is working in practice, assess its strengths and weaknesses, and provide recommendations to improve TKTH processes.

Research methods

A qualitative description design was used that included non-participant observations of monthly pre-court meetings and court proceedings over one year and semi-structured interviews with TKTH participants, team members and associated professionals (n=32). Data collected were subjected to thematic analysis (Braun and Clarke, 2006). The project received ethical approval from The University of Auckland Human Participants Ethics Committee (ref 018455).

Procedural justice

The interviews with TKTH participants focused on their perception of fairness as they have been found to be a key determinant of success in solution-focused courts. Participants in the evaluation were asked: was your voice heard? Did you feel respected? Was the process understandable? Did you trust TKTH? Tyler (2008) found that when people perceive they are treated fairly within the judicial process, they are more likely to believe in the legitimacy of the justice system.

Main findings

This report demonstrates the TKTH team have a shared understanding of the court aims and goals, and showed immense respect and compassion for the situations and challenges faced by people living without stable housing.

TKTH participants highlighted numerous procedurally just practises that promoted validation, confidence, trust, and respect. Participants felt supported, encouraged and motivated to make positive lifestyle changes.

At times, ongoing issues with funding and staff turnover have contributed to disruption and lack of consistency in TKTH. A Community Advisory Group has been set up as one way to increase support and resources to help participants in making positive lifestyle changes. Reviewing the court coordinator service to see how it may more clearly defined as a permanent role will be central to the smooth functioning of TKTH.

Cultural responsiveness was viewed as an imperative area for development recognising the need for TKTH to respond to the predominantly Māori participants it engages, as well as meeting the mandate of courts to meet Treaty of Waitangi obligations.

Strengths of Te Kōti o Timatanga Hou

- The solution-focus of TKTH is strength-based and inclusive of participant's voice, which may be more meaningful for Māori.
- The TKTH team acts as supportive whānau for participants.
- Procedural justice was experienced by TKTH participants when the TKTH team maintained an open, respectful, honest and transparent process. Interactions with the TKTH team were experienced by participants as validating, encouraging and supportive. This increased participants' sense of belonging, optimism and trust in the programme.
- The recognition of positive achievements, such as the tuakana award, which emphasise positive role modelling.
- The promotion of self-awareness regarding the impact offending has on the participant's life, its victim, and the wider community.
- Support for participants in day-to-day living, such as access to food, formal identification, and safe shelter.
- The setting of realistic, achievable goals to promote successful completion of the TKTH plan.
- Focus on harm reduction approaches with regards to alcohol and other drug use.

Core areas to progress Te Kōti o Timatanga Hou:

- Encourage support from the wider community to see participants as some of the city's most socially excluded people in urgent need for safe permanent housing.
- Increase stakeholder support through the Community Advisory Group to support participants to overcome the practical barriers to full participation in society.
- Design a logic model that sets out and records inputs, outputs, and impacts to strengthen the court's aims/objectives and to facilitate future evaluation.
- Develop and incorporate into the logic model a clear kaupapa Māori statement that aligns with Ngāti Whatua justice / health strategy.
- Secure government-funded case managers hosted by community agencies to increase the sustainability and variety of services available to participants.
- Employ the court coordinator into a full-time, permanent position and determine the duties of the court coordinator role in the TKTH logic model.
- Reduce delays between referral and acceptance on the programme by clearly determining willingness to plead guilty and the therapeutic plan prior to the participant's first court sitting.
- Outline a shared understanding of the scope and limitations of each TKTH role and review information sharing protocols.

INTRODUCTION

Te Koti o Timatanga Hou / Court of New Beginnings began operating in November 2010 to respond to recidivist, low-level public offending by homeless people in central Auckland. The overall aim of Te Koti o Timatanga Hou (TKTH) is to:

... aid the reduction of chronic, public space, lower level offending in Auckland's inner city by those who are homeless, and have some degree of impaired decision making capacity on account of any mental health concern including mental illness, intellectual disability, neuro-disability and/or alcohol or other drug ("AOD") or substance abuse (TKTH Charter, 2016: 1).

An evaluation of the court, funded by the Tindall Foundation and Auckland District Health Board, was completed in 2012 by Point Research. The evaluation focused on the progress of the court to date and the early impacts of the programme on participants' reoffending, access to permanent housing, emergency department service utilisation and financial stability (Woodley, 2012).

This research was commissioned by the Auckland City Council on behalf of the Auckland Rough Sleeping Steering Group. The goal of the research was to gather further evidence about the benefits of therapeutic courts for people with experience of homelessness and identify any areas where court processes can be refined and/or improved. In this report, we present the results of a process evaluation to see how TKTH is working in practice, assess its strengths and weaknesses, and provide recommendations to improve TKTH processes.

In this report, we present the findings from the qualitative arm of the process evaluation. An upcoming report, Te Kōti o Timatanga Hou / The Court of New Beginnings process evaluation: Quantitative findings, will present basic statistical analysis of TKTH administrative data that enables insights into current and former participants' progress through TKTH.



Structure of the report

The first section of the report begins by focusing on the background and foundations of TKTH, followed by the role of the team and how they work together. The functions of TKTH are then detailed from referral processes to graduation / exiting the court. Throughout this first section, the perspectives of TKTH team members are used to describe and evaluate the processes. Due to the interviews being a mix of individual and focus group structure, one pseudonym may include two or more people. The second half of the report presents eight participant stories, and draws out from them lessons to be learnt. We have presented the participant's stories separate from the first half of the report, and represented each narrative individually, to ensure they do not become lost amongst the professionalised discourse, and to signal their importance in shaping the future of TKTH. The report ends by bringing together the perspectives provided by the team members and participants and outlines a combined summary of recommendations.

BACKGROUND

Homelessness and criminal justice

Homelessness is defined in New Zealand as “having no other options to acquire safe and secure housing” (New Zealand Parliament, 2014, p. 1). The definition includes people living without shelter and people living in temporary or dilapidated dwellings (New Zealand Parliament, 2014).

Among OECD countries, New Zealand has the highest rates of homeless with nearly 40,000 people (approx. 1%) living without permanent shelter which is an increase compared to prior findings (Chamie, 2017). Based on the University of Otago research (Amore, 2013), more than 50% of all people considered homeless were younger than 25 years and half of this group of people were under 15 years old. New Zealand’s Parliamentary report on homelessness (2014) suggested that most people were male, and the majority were Pakeha (+/- 40%), Maori (+/- 40%) and Pacific (5-16%).

The situation of homelessness is associated with compounding social problems. Mathews (1991) has termed this as the “homeless contingency chain” (p. 344). He described this interlocked-problem effect as a hierarchy of problems that includes not only exclusion from shelter but from the rights as an equal citizen in society. The exclusion from one area leads to the exclusion from another area and so on. Mathews (1991) argued that intervening at any point, or link in the chain, will impact other links in the chain, and influence the person’s overall situation.

People who are homeless are frequently and disproportionately criminally charged for behaviour that is directly linked to poverty, such as begging, shoplifting, public transport fare evasion and offensive language (Goldie, 2003). These offences are mostly non-violent and minor in nature, and often related to behaviour that would be legal if practiced in private, for example urinating, drinking alcohol or swearing (Brown, Lansdell, Saunders & Eriksson, 2013). Walsh and Douglas (2008) argued that imposing fines to moderate homeless people’s behaviour exacerbates their already disadvantaged situation and potentially reinforces a cycle of criminal activity. Many judicial authorities have felt that imposing hefty financial penalties does not fulfil the aims of sentencing nor does it stop the person from reoffending, particularly in the case of homelessness and poverty (Binder, 2001).

Homeless courts internationally

Increasing discontent with the impacts that traditional sentencing placed on homeless people, court authorities internationally began to investigate alternative solutions. Many working in the judicial system realised people who were without homes were already overwhelmed with stressors associated with losing their families and jobs and were not able to pay fines. They often failed to appear in court not because of contempt for the judicial system, but because of daily struggles.

There are many discussion pieces which focus on the need for special judicial provision of people who are homeless and have criminal charges from countries such as Australia and Ireland (see Brown, Lansdell, Saunders, & Eriksson, 2013; Midgley,

2005; Seymour & Costello, 2005; Queensland Government, 2015). Many of these countries have specialist courts, which may or may not focus on homelessness as the central issue, but that certainly address homelessness as a criminogenic factor. However, it is the United States of America (US) that led the area of investing in courts aimed at specifically helping their homeless population.

The first Homeless Court Program began in San Diego in 1989. As a unique program, homeless courts respond to a group of people in society who typically have no means to make reparations for misdemeanor criminal conduct. How homeless courts achieve success is by offering people an opportunity to resolve their outstanding criminal cases “by exchanging fines, community service, and custody for their participation in rehabilitative treatment programs” (Kerry & Pennell, 2001, p. 3).

A unique difference from traditional courts is how defence lawyers “surrender their client for prosecution prior to an arrest or demand by the court” (p. 15). So in this way attendance is voluntary, rather than compulsory. Additionally, the homeless court in San Diego is run at one of the two largest homeless shelters, creating a temporary courtroom, which brings the courtroom to the people (Kerry & Pennell, 2001).

Kerry and Pennell (2001) carried out an extensive process and impact evaluation of the San Diego homeless court. The research design included a comparison of people who appeared in the homeless misdemeanor cases resolved through the homeless court (experimental group n266) with those who failed to appear to the homeless court (n444, comparison group). From the people who engaged with the monthly homeless court, 96% of the cases were resolved and most participants who attended court (80%) had no post-hearing criminal activity 90 days after the hearing (Kerry & Pennell, 2001). For those who did not engage with the court (comparison group), 71% had no post-hearing criminal activity within the 90 day period (Kerry & Pennell, 2001). Overall, only 14% who engaged with the court compared with 20% of the comparison group were arrested on new charges within 90 days after their hearing date. Types of criminal activity post-hearing for the group engaged with the homeless court were largely misdemeanor violations (Kerry & Pennell, 2001).

The impact evaluation with the participants demonstrated benefits beyond their criminal cases. Prior to involvement in the homeless court, fear often constrained participant’s from addressing their criminal charges. However since participation in the Homeless Courts they identified feeling less fearful of being arrested, more satisfied with the court processes, and more optimistic about themselves and their future (Kerry & Pennell, 2001).

Other countries have modelled “special circumstances” lists that specifically focus on people who are homeless (Woodley, 2012). Others have a specialist focus on people with other issues, such as mental illness, where many participants engaging with the court are also homeless (see Newitt &

Stojcevski, 2009; see Queensland Government, 2015). In some traditional court settings, they assign lists of people with special needs, or those who are disadvantaged, including people with physical or intellectual disability, mental illness, drug or alcohol dependence or homelessness (see Newitt & Stojcevski, 2009; Queensland Government, 2015; Ross, 2009). In these traditional settings, there are court-assigned liaison staff that offer people advice about their situation, which may include providing information or referring someone to treatment. In these liaison services, they do not offer any kind of ongoing supervision over the defendants.

Overall, international research has shown that well-resourced and appropriately designed specialist courts and court diversionary programs are effective in reducing offending, saving criminal justice costs, and improving peoples' quality of life, and their mental and physical health (Edgely, 2014; Kerry & Pennell, 2001). Homeless courts have proven helpful in interrupting the homeless contingency chain (Mathews, 1991) by intervening through the judicial system to improve the person's quality of life through alternative responses to criminal behaviour.

Homeless courts in New Zealand

There are two homeless courts operating in Auckland and Wellington. A previous evaluation (Woodley, 2012) of TKTH in Auckland found a reduction in the number of arrests and prison bed nights for participants engaged in the program and six months following the program. Indications of improvements in the health and wellbeing of court participants included a decrease in emergency department visits and in the number of court participants who were rough sleeping (Woodley, 2012). Homelessness amongst the TKTH participants was also found to have reduced markedly (Woodley, 2012).

Participants of TKTH reported that they felt more informed, supported, and engaged in the planning and proceedings than compared to traditional court processes. This allowed them to feel more cared for and in turn, promoted them to have more confidence, a positive attitude and increased awareness of their own potential (Woodley, 2012).

The evaluation included stakeholders' perceptions of cost effectiveness. They reported that the reduction in use of prison bed nights, arrests and emergency department visits was likely to have resulted in reduced costs to government agencies (Woodley, 2012). Staff from social agencies reported additional costs associated with a higher workload related with TKTH, and additional housing costs when people move indoors (Woodley, 2012). However this evaluation did not include a systematic cost-benefit or value for investment analysis.

Several challenges were identified in the evaluation, including: a lack of role clarity for the court coordinator, debate about how strictly the entry criteria should be enforced, delays in service provision to court participants, the cultural responsiveness of the court, a lower than expected number of mental health service referrals and the need to address cultural factors for Māori. Some stakeholders suggested that there needed to be further buy-in from key agencies, housing and health in particular, if resources were to be prioritised to support court referrals for people who are homeless (Woodley, 2012).

Aims of this research

The aims of this research was to build on this earlier evaluation, with a specific focus on how TKTH is working in practice and to provide recommendations to improve TKTH processes.

Research design

The study design used qualitative descriptive approach. Methods included non-participant observations of monthly pre-court meetings and court proceedings over one year (n=12 sittings) and semi-structured individual/group interviews with TKTH participants (n=9) and team members and associated professionals (n=23). With permission, the interviews were audio-recorded and transcribed. Data collected from the interviews were subjected to thematic analysis.

Procedural justice

The participant interviews were guided by the framework provided by procedural justice. Procedural justice originated from the criminal justice context through the study of the relationship between court authorities and the offender (Lind & Tyler, 1988). A procedurally just process includes two key components: the fairness of outcomes and fairness of procedures used to determine those outcomes (Colquitt, Conlon, Wesson, Porter, & Ng, 2001). Courts that employ procedurally just processes have proven to increase voluntary adherence to court sanctions and reduce recidivism (Bowen & Whitehead, 2016).

In this evaluation we focused on perception of fairness as they have been found to be a key determinant of success. Tyler (2008) found that when people perceive they are treated fairly within the judicial process, they are more likely to believe in the legitimacy of the justice system.

Developing legitimacy is achieved by validating people, and allowing them to speak and listening to their opinions and treating them with; fairness, respect, compassion and dignity (Hough, Bradford, Jackson & Roberts, 2013; Lee, et al., 2013). When participants of specialist courts have the opportunity to express their own perspective, regardless of the decision itself, this can lead to enhanced feelings of acknowledgment, trust, justice, and having a sense of control over the judicial process (Tyler, Rasinski, & Spodick, 1985).

Procedurally fair actions run across the court experience and include; greeting people by name at the commencement of a hearing, clarifying the court process, and ensuring the process is understood, including minimising legal jargon (Gold LaGratta, 2015). Throughout the judicial process, outcomes are enhanced when there is continuity of the judge whereby the judge demonstrates individualisation of each person and is perceived to be helpful, and unbiased (Tyler, 2011).

Ethical approval for the study

This project received ethical approval from The University of Auckland Human Participants Ethics Committee (ref O18455). Informed consent was sought from all those who took part in interviews. All TKTH participants sign a contract when entering the court that allows for the review of administrative data for research evaluation purposes. Every effort was made to reduce the risk of participants being identified, and to ensure that the information participants provided remains strictly confidential. Pseudonyms are used throughout the report.

TKTH GOVERNANCE STRUCTURE

The Auckland Rough Sleeping Steering Group

The Auckland Rough Sleeping Steering Group was influential in founding TKTH and continues to support its endeavours as part of its wider remit to help homeless populations in Auckland. The Auckland Rough Sleeping Steering Group has senior representation from the Ministry of Social Development, Housing New Zealand inc, Auckland Council, Department of Corrections, New Zealand Police, Auckland City Mission, Lifewise, Community Housing Aotearoa, Te Puni Kokiri and Auckland District Health Board.

The TKTH governance group

The TKTH governance group is currently composed of core members of the TKTH team, including the social work team leader from Auckland City Mission, duty lawyers, whaea, police prosecutor, probation and the TKTH judge. The TKTH governance group meets once a month at 8.30 am, prior to the pre-court meeting. Its focus is to consider the operational and strategic vision of TKTH, such as revisions of the TKTH Charter or plans for increasing community support to TKTH.

The TKTH governance group has diminished in size over the last few years and was previously attended by a wider number of stakeholders representing diverse health and social services in Auckland. There are a number of reasons for this change. In the past, the local council, DHB and various NGOs helped to fund the TKTH court coordinator and the initial evaluation of TKTH, and therefore the council had an active role in the governance of TKTH and shaping its future. This led to the development of the current governance group meeting where the aims are to review, strengthen and improve policy and processes:

It began as a way of sitting down as a group and saying, "How do we want to do this? Let's just go through the various ways we have to improve what we're doing". So that meant the charter was greatly enhanced and confidentiality and other things were built in... We came up with the Tuakana Award, which is like the 'A Team' thing they have in the drug court, but whaea gave us that concept of older sibling, younger sibling. We talked about how would we like to do graduations. Ever since we've continued to meet and say, "This is where we're up to, what next?" (TKTH team #4).

Although the smaller group is functional, it relies on stakeholders who already have substantial commitments to their respective professions. Furthermore, key representatives of housing, work and income, and mental health and addictions agencies are not present, even though TKTH participants will often require their services as a part of their TKTH plan.

The TKTH team

The TKTH team is composed of the judge, whaea, court coordinator, duty lawyers representing participants, case managers/social workers, a police prosecutor, and Salvation Army and community probation representatives.

The TKTH team meet monthly at 10 am on the court days for

the pre-court meeting and are present at the court sitting. The discussion at the 10 am meetings centres on TKTH participants, both current and potential, who are due to attend TKTH later that day. In this meeting, issues pertaining to case management and successful completion of the TKTH programme are also reviewed. The judge chairs the pre-court meeting, ensuring the views of all TKTH team members hold equal weight:

I really want to know what everybody there has to say about the cases because I think the success of that process [the pre-court meetings] is really in the strength of the team. That's one thing that sets it apart from the conventional process. I can get input from people that I wouldn't ordinarily get it from, but it helps inform decisions I need to make which are crucial for the court to work well (TKTH team #4).

Community Advisory Group

The Community Advisory Group (CAG) was initialised in 2017 and the composition is still being finalised. CAG was viewed as an avenue to encourage community stakeholders to become involved, so that participant goals could be realised and support could be maintained after participants left TKTH:

What we're wanting to do is not only have people housed and getting their health needs met but... making sure that when they leave they're well supported... we want to be able to provide things such as voluntary work to participants in a way that would either lead to work opportunities or develop skills that they could take into the job market to find work (TKTH team #4).

The CAG stakeholders were also seen as helping participants to access cultural support and services, which was viewed as an essential aspect to TKTH participants' health, wellbeing and recovery:

We need to offer appropriate cultural and personal support for participants, given [that] about 70% of our participants are Māori. We need to be offering not just a court that has some gestures towards tikanga but access to programmes... like Te Kōti Rangatahi does. It has access to programmes or resources that will allow participants to know their whakapapa and their roots and where they fit into the world (TKTH team #4).

Recommendations for governance structure

- Consider whether the current make-up of the TKTH governance group matches the short and long-term needs of the participants.
- Consider increasing stakeholder and culturally appropriate community support for TKTH through the CAG.

STRUCTURAL SUPPORT

A striking feature of TKTH is that it was developed from grassroots attempts to respond to homelessness in Auckland. Development of TKTH occurred without additional support from central government beyond the existing budgets that support the work of the judge, court registrars, community probation, duty lawyers and police prosecutor. Non-government organisations (NGOs) provide support within their remit of existing contracts and charitable funding. The TKTH court coordinator position has been funded by various organisations in the past, but is currently supported by the Ministry of Justice and contracted to the Salvation Army. This is in contrast to the AODT Court pilots, for example, where there are funded personnel, including case managers, peer support workers, lawyers, and court coordinators. The agencies involved in TKTH, particularly NGOs, can face substantial challenges obtaining resources to help participants address issues that underlie their offending. These agencies are also vulnerable to systemic problems, such as rising homelessness, lack of appropriate housing and increased demand for mental health and addiction services.

Furthermore, during our research, TKTH faced major reconfigurations in the support it received from the community. In early 2017, Lifewise, an agency which supports people who are homeless in inner-city Auckland, shifted their service from emergency response to a focus on providing Housing First services. The Housing First team provide rapid access to permanent housing along with ongoing flexible community based supports for people experiencing 'chronic homelessness' or 'rough sleeping' in the city centre (see www.housingfirst.co.nz). Up until this time, Lifewise, alongside the Auckland City Mission, had been instrumental in providing social work support for TKTH court participants, and Lifewise also held the contract for TKTH court coordination.

As part of the transition into a focus on Housing First services, Lifewise did not bid for the new TKTH court coordinator contract when came up for renewal in mid-2017 and their social work support to TKTH lessened as they prioritised Housing First. This meant that Salvation Army became the new provider of the court coordination service and Auckland City Mission remained providing social work support. At the time, Lifewise recommended to Salvation Army that they retain the services of the existing staff member to enable continuity of the person in this court coordinator position, however, this did not eventuate.

Lifewise continue to offer support to participants. TKTH participants are able to access the Housing First programme, and through this programme, may be case managed by Lifewise. The Lifewise Merge Community Peer Support Team, which is made up mainly of volunteers with lived experience of homelessness, provide drop-in support through the Merge café, including navigation to other services, advocacy with WINZ, and support to find housing and social connection.

Preceding the withdrawal of social work support to TKTH, Lifewise report there was an abundance of communication about Housing First with key stakeholders and member of the homeless community over the six month planning process.

The changes in Lifewise, however, were perceived by other TKTH team members as being sudden and some felt they were not resourced to provide the additional support needed:

There was a lot of anger from the homeless community, literally getting back there one morning and finding a sign on the door [at Lifewise] saying "We'll no longer be providing case management services."... The impact of that is an increase in... referrals to our team. I think at one point we had 34 people waiting for key workers. I had the extraordinarily shitty task of trying to decide who is in more need than somebody else. I know we talk about acuity and need, but how do you say "sorry, you're less homeless than this person?" I remember sitting there one day and just bursting into tears because I just looked at all these names and I just went, each of these names is a person's life. I was just appalled to be frank about the way in which it was handled (TKTH team #3).

The subsequent demand on Auckland City Mission led to a temporary suspension of their ability to provide case management to new TKTH participants. This led to the TKTH court coordinator taking on more of a case management role:

... we [the core TKTH team] had this discussion about how we would deal with that because I think we had three or four new applicants wanting to come in [to the TKTH programme]. One option was to say "look I'm sorry, because we can't have a social worker allocated we can't accept your case." That was one option which we found unpalatable. The other was to say just as a holding pattern until this was resolved, that [the TKTH court coordinator] would include in their work a social work function, so that's what's happened (TKTH team #4).

Overall, the situation we observed highlights the need for government-funded support for the community agencies that provide case-management support for TKTH. This would reduce the ongoing vulnerability of TKTH and reduce the pressures NGOs face who are reliant on charitable/philanthropic sources to fund case management services to TKTH.

Recommendations for structural support

- Government-funded case managers hosted by community agencies would increase the sustainability and variety of services available to participants. This will also reduce the pressure and dependence on a sole agency.
- Consider how CAG may be able to assist in increasing communities involved in supporting TKTH.

THE AIMS AND OBJECTIVES OF TKTH

According to the TKTH charter, the overall aim of the court is to respond to recidivist, low-level public offending by homeless people in central Auckland. This aim is achieved when the offender-related and service delivery objectives, shown in the table below, are met (TKTH Charter, 2016: 1).

Offender related objectives	Service delivery related objectives
<ul style="list-style-type: none"> Facilitate the creation of formalised therapeutic plans for offenders appearing before the courts. 	<ul style="list-style-type: none"> Provide a mechanism for co-ordinated service delivery by multiple agencies to support participants.
<ul style="list-style-type: none"> Support participants to settle into suitable accommodation, be connected to appropriate social and health supports/services and re-engage in positive, pro-social activities. 	<ul style="list-style-type: none"> Monitor service delivery by people and agencies and provide a forum to discuss and resolve any service delivery issues that arise.
<ul style="list-style-type: none"> Provide the opportunity for offenders who are homeless to address their behaviour and lifestyle 	<ul style="list-style-type: none"> Provide a means for identifying resource requirements and best practice when dealing with chronic public space offenders.
<ul style="list-style-type: none"> Encourage and support participants in the TKTH programme to put things right with any victims of their offending and the community. 	<ul style="list-style-type: none"> Ensure that victim-related issues are addressed and offenders are appropriately held accountable.

Current perspectives on TKTH aims

Interviews with the TKTH team indicated a strong, shared understanding of the court aims and goals. They believed deeply in the purpose of the court, and showed immense respect and compassion for the situations and challenges faced by people living without stable housing:

I think [the main goal of the court is] giving them a fresh start... I feel strongly about our homeless... because when they keep coming through the system all the time they start feeling like they are this bad person and it doesn't matter how much you tell them "no, this is not the case, the behaviour is not acceptable but you as a person are really lovely," it just doesn't hit home for them because of their treatment in the community. If you think about it, who looks on the homeless as being positive? And they live with that... (TKTH team #9).

While some TKTH participant's committed low-level offences which could require some level of restoration to the victim, often in the form of financial reparation, other offences were innocuous. The latter situation invited deeper reflection that drew attention from a broader view. The TKTH team understood that two opposing perspectives need to be addressed by society; the need to have legal rules to moderate just conduct, and the appreciation of how those rules impact a diverse range of the members of its society. One example of this dilemma related to fines. During the research observations, it became clear that offences punishable by fines, such as breach of liquor ban, were one of the main reasons homeless people came before the court. For the TKTH team, local bylaws, and their related fines, were considered grossly impractical for the population that was most likely to breach them:

... the instant fines are \$280 a go for breach of liquor ban. If you add enforcement fees and penalties, they just boom, explode into the thousands... They make these bylaws based on how you and I might react to getting a \$280 fine. They don't take into account the people who make up 90% of the offenders (TKTH team #4).

Restoring basic human rights and necessities for participants was deemed important by the TKTH team members, who all agreed that sentencing needed to promote realistic solutions to reduce reoffending rather than taking a punitive approach.

The role of the TKTH team in achieving TKTH aims

Many of the TKTH team members viewed their role with participants as akin to being a supportive whānau/family member. Being able to assist participants with a positive, encouraging outlook and demonstrating hope and pride in their efforts was considered essential to the TKTH process:

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I think it's to be a part of a small whānau that are interested, that care... to uphold people and uplift them, which is really important in terms of building people's confidence and esteem and that all helps the process of change... because they've got a group around them that says they can and are interested in being proud of them and excited for them and celebrating those small successes along the way (TKTH team #3).

The TKTH team saw their core objective as addressing the underlying issues that contribute to participants' offending. This included taking a criminal justice approach that demonstrated understanding and compassion for the inextricable link between homelessness and continued low-level offending:

Not everybody who's homeless offends but for those who do, the offending's entirely related to their situation. That's why we see thefts of food or clothing or bad behaviour because of intoxication or minor assaults because they're drunk and disorderly and get into fights and that sort of thing. If you were just to continue treating that in a criminal justice way only, they'd be sent out for that type of offending with fines they can't pay, community work they can't do, supervision they can't attend (TKTH team #4).

In mainstream court, if an offender had a health issue which was considered relevant to their offending, there may be a request to stand the case down and arrange for a specialist assessment report to be completed. In contrast, assessments from the TKTH court coordinator and social workers were provided to the judge prior to the court sitting and discussed in the pre-court meeting. Judicial decisions made in TKTH are therefore more likely to be based on deeper, broader information about participants. This ultimately not only impacts on the participant, but also others affected by them and their actions. By identifying the health and social factors that contribute to participants' criminal behaviour, the TKTH can recognise their needs, and tailor plans to explore potential solutions to reducing reoffending.

One team member considered the aims of specialist courts in New Zealand as differing to international 'problem-solving' models. Most specialist courts acknowledge the conditions that influence criminal behaviour, but in New Zealand, sentencing plans with participants tend to centre on exploring strengths-based, future-looking solutions, rather than solely exploring causation through problems:

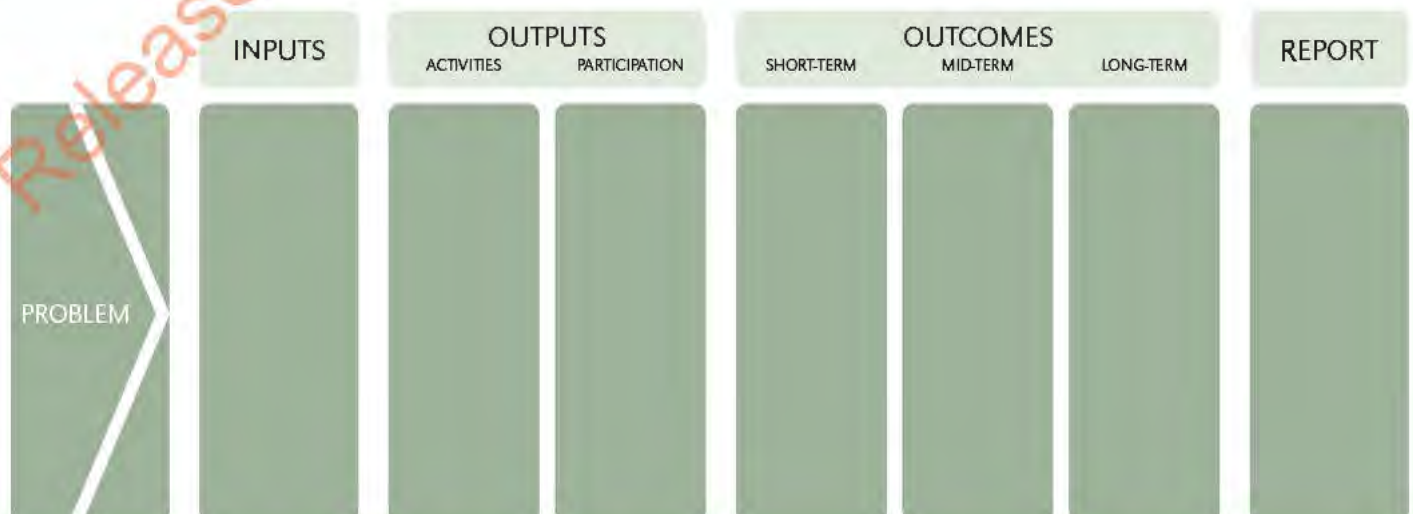
In New Zealand, those of us who work in these courts tend to call them solution-focused courts. We're not really solving people's problems, we're offering solutions and helping people focus on those (TKTH team #4).

The solution-focused approach in TKTH is evidenced by the collaborative approach used in creating therapeutic plans where participants take the lead in setting goals that build on their existing strengths and meeting their needs.

Overall, the TKTH team seemed to be in agreement regarding the underlying aims and objectives of the court. The aims of TKTH appear to be appropriately set for the low-risk offending population group that have complex and varying needs. However, a clear logic model that articulates the intended outcomes from the court aims was not available at the time of this research, which made it difficult to evaluate the impact of TKTH.

Recommendations for aims and objectives

- Consider creating a logic model for TKTH that sets out inputs, outputs, and impacts to strengthen the court's aims and to facilitate future evaluation.



THE TKTH TEAM

In this section we provide a description of the different roles that comprise the TKTH team, with a specific focus on; changes to each role since the court began, how the roles operate in practice, and any challenges faced by team members.

Court coordination service

The coordination service for TKTH is currently funded by the Ministry of Justice. The Ministry of Justice's service description stipulates that providers must manage a caseload of participants from the point of referral to graduation/exiting the court. The key tasks of the coordination service as specified in the service description are illustrated below in Figure 1.

The current provider, the Salvation Army, has allocated one person working full time to TKTH to provide the coordination service. This section, therefore, is focused on exploring the role of court coordinator and how it operates in practice.

The TKTH court coordinator role has had a complex and challenging history. Originally, the court coordinator role was conceptualised as drawing on a mix of criminal justice and social work skills. The position was also intended to assist TKTH in maintaining records and to ensure the smooth running of court days. There was, therefore, a clear demarcation envisaged between these tasks and the role of the social workers provided by the NGOs:

The role at the start was to be the coordinator, so it wasn't to include social work. It was to be responsible for the initial screening for eligibility, to be organising case coordination meetings between the social worker and participant, and then preparing plans that were provided to the court that would form part of the court plan (TKTH team #4).

It soon became clear that the TKTH screening process required the ability to identify alcohol and other drug or mental health issues early on, to help inform the development of a participant's therapeutic plan. This meant a shift occurred, whereby social work skills were thought to be more crucial to the role:

We realised we would want someone with social work skills. We also saw the role including screening, and that it might be ideal to have someone who had some background in forensics, either as a social worker, for example, from AOD or mental health. The skill set would be ideally a blend of those things (TKTH team #4).

The complexity and challenging history has been compounded by the high turnover of people working in the role. This has created a degree of confusion about the court coordinator position, particularly as each person has brought a different set of skills, experiences and priorities to the workings of the role. Other TKTH team members felt confused as to the main duties and purpose of the court coordinator, specifically the 'coordination' versus 'social worker' tasks. Complicating matters further, the role has been funded by various agencies which have different expectations for the role. This seemed

to exacerbate the ongoing confusion for the team and court participants.

One of the contributors to the confusion around the duties and purpose of the court coordinator role related to the withdrawal of Lifewise services from TKTH. This event, which took place during the data collection period of this research, added another dimension of complexity. The then coordinator acknowledged that when this occurred, it led to her taking on social work duties to meet the needs of supporting TKTH participants. She viewed this as blurring the boundaries between 'coordinating' or 'case managing' and providing 'social work support' to help participants meet the goals in their therapeutic plans.

Mid-way through the current research evaluation, the new provider, the Salvation Army, took over the coordination service. Owing to the court coordinator employed as part of this service being relatively new to the role, we did not conduct an interview with her as part of this research. This evaluation, therefore, relies largely on the descriptions provided by previous court coordinators, and TKTH team members who have worked alongside several court coordinators over the years of TKTH. Overall, other TKTH team members expressed compassion towards the coordinator service, recognising its confused and varied history, but also its centrality to the effectiveness of the TKTH programme.

Despite the complex history of the role, the previous court coordinator was able to provide a description of the day-to-day tasks that were understood to be clearly within the remit of the position. These tasks can be divided into three areas; Conducting initial screenings for eligibility, Preparing for the court days and Liaising with the community.

1. Conducting initial screenings for eligibility

Lawyers from mainstream court consult the coordinator as to the suitability of participants for TKTH. If a participant is deemed suitable, they are then given a bail condition at their next mainstream court hearing, requesting that they be assessed for eligibility from the TKTH court coordinator.

Following the coordinator's assessment, and an assurance from the potential participant's lawyer that they will plead guilty, the coordinator will consult with Probation to ensure that the participant is not high risk. With input from Probation, the case is then adjourned to the next TKTH hearing for the participant's suitability to be determined at the next pre-court meeting.

The previous coordinator drew on her professional background in addictions and introduced various screening tools which were used at the initial assessment to identify mental health and alcohol and other drug issues. This information contributed to the case coordination meeting and eventual

therapeutic plan.

2. Preparing for the court days

The coordinator was responsible for ensuring case coordination meetings happened swiftly after suitability and guilty pleas were recorded by the TKTH judge. This involved liaising with the participant and an identified social worker, usually from Auckland City Mission, to create a therapeutic plan. This plan then guided the participant's journey through the court and acted as a benchmark for assessing progress and monitoring participants' engagement with the TKTH team.

In preparation for court days, the court co-ordinator also monitored participants' progress with the therapeutic plan in consultation with their social worker. A progress report was then provided to all TKTH team members, usually prior to the pre-court meeting, providing an ongoing record of the participant's time in TKTH. Ensuring the availability of graduation certificates and any rewards for participants (e.g. vouchers for Tuakana) were also important tasks for the coordinator. This often involved liaison with other members of the team, such as whaea and the social workers.

Liaison with social workers was viewed as important by other professionals in the TKTH team, and the coordinator was seen as being at their most valuable when they were supporting, rather than leading participants' plans. It was suggested that the coordinator needed to maintain open communication with

TKTH team members and remain available for participants in an outreach role. This meant being available for participants at, for example, the Auckland City Mission, rather than expecting them to find the coordinator at the Auckland District Court. It was suggested that it is often difficult to expect TKTH participants to meet all appointments across town when they are experiencing a multitude of challenges in their daily lives compounded by mental health, addictions and cognitive disabilities.

3. Liaising with the community.

During our observations, we noted that the array of services involved with the court had significantly reduced since the inception of TKTH. The previous court coordinator reported that she did attempt to liaise with the community to invite more support. For example, she built up relationships with a local police officer who runs an initiative to help homeless people in an Auckland suburb. We observed the police officer attending the pre-court meetings and helping to improve bail reporting at the police station in his suburb. He also simultaneously connected participants to voluntary work and a supportive peer environment.

Alongside these three main tasks, the court coordinator was seen as the face of TKTH by other professionals in the TKTH team. It was suggested the court coordinator needed to be active in raising awareness of the programme to the homeless, legal and wider community. This meant having a



presence in the Auckland District Court in addition to the recommendations that the TKTH court coordinator maintain an outreach capacity for participants. Concern was voiced by most of the TKTH team that support for the court from a variety of NGO and government providers had decreased significantly over the last few years, and that liaison with the community should be a key feature of the court coordinator role. Therefore, attending community meetings, visiting service providers, and having a role with the newly developed CAG were seen as potential opportunities for the court coordinator. Through these activities, the court co-ordinator could give advice on eligibility to the legal community, in addition to harnessing wider social sector support for homeless populations in TKTH.

From the research observations, the court coordinator did not appear to keep comprehensive records of TKTH participants. It was unclear from the observed processes who had a mandate to keep a record of people referred to TKTH and their outcomes, although it is clearly noted on the service description of the coordinator role from the Ministry of Justice. Different organisations seemed to maintain their own records and did not have a central hub to share information. This centralisation of information collection was noted by the TKTH team as an essential task of the court coordinator. The absence of a centralised system however, has made it difficult in this evaluation to collect data to assess the processes and impact of TKTH on homeless Auckland City populations.

Historically, the TKTH court coordinator held a 12-month fixed-term role and the funding streams for this role changed over time. This has led to a high turnover of people in the role, which has contributed to substantial instability in the TKTH process:

Three years ago, all the wheels seemed to come off at the same time. The contract finished [for the TKTH court coordinator]... The registrar got changed to a new role and somebody else left. All the wheels come off and it was a bit, bleurgh, are we going to survive this? Then there was another change because the contract for the coordinator is only 12 months. We got a new coordinator and things were a bit wobbly again (TKTH team #8)

The continuity of the person working in the TKTH court coordinator role was viewed as pivotal to the success of the TKTH by its team members. The position was considered central to building strong, long-term relationships with community agencies who could support participants within the TKTH programme.

Overall, the court coordinator role involves a mix of sometimes clear and sometimes conflicting demands, with a remaining uncertainty about the duties of the role. The fluctuating circumstances surrounding the position have contributed to this uncertainty and the role requires further consideration to help the programme develop effectively.

Judge

There is one dedicated TKTH judge who has been instrumental to the court since its inception. Other judges experienced in running therapeutic specialist courts will cover the judge if necessary, for example, during annual leave. Although TKTH

only occurs once per month, the current judge explained that preparing for the court days takes considerable time, which could be challenging when added to an existing heavy workload across jurisdictions and court locations.

The current judge's commitment to TKTH was irrefutable. Although being a judge in a specialist court brings unique benefits and challenges. Maintaining judicial authority was described as important to the TKTH programme, however flattening power in the courtroom was equally viewed as being a more effective way of judging. The seating in the courtroom, and how the judge interacted with participants during court demonstrated the differences between the approaches to judging in TKTH to mainstream court:

... I have my gown on but I've come down from the high bench to the lower bench, partly because I think it's important in this court's process to be able to engage well with everybody including the participant and that's not realistically achievable if I'm removed and remote up on the high bench talking down... I do talk directly to participants, I want to hear from them (TKTH team #4).

Although interactions directly between the judge and participant's enhanced equality and respect in the courtroom, a strong focus on judicial boundaries was maintained as evidenced when participants did not engage with their TKTH plans:

Part of the role of the judge is to... train the process for someone who's not demonstrating the sort of commitment we would want to see and advising them that the process will now require on exit hearing next time... That's not to say they'll be exited but if they want to stay they'll need to step up and show by their actions in the next month that they deserve [to] keep their place... (TKTH team #4).

Participants were exited from TKTH if they failed to show genuine engagement with their therapeutic plan, but this was done in a way that encouraged them to continue their recovery journey. The outcome of the judge's relational philosophy was demonstrated through a strong commitment from participants to engage in the programme.

The judge's style was highly regarded by most of the other TKTH team members. He was viewed as compassionate and caring in his relationships with participants, their whānau/families, and the TKTH team members. The judge was perceived as empathetic about the transient life of participants, and the various reasons they faced court proceedings. He was also viewed as the trusted central driver and guide of the TKTH process:

I think [the judge] is fantastic... His role is... the centre and the wheels come out from him. He's the one who has the overroll soy... He's the king pin, if you'd like. We're [TKTH team members] the spokes out from that. We all need each other but he's the main one because he's the driving force (TKTH team #8).

There were no major concerns from other TKTH team members as to the practices of the TKTH judge. However, more dedicated hours to TKTH was a point raised by some TKTH team members, with the view that this additional funded resource would greatly assist in addressing the many



practical aspects that challenge the smooth running of the TKTH programme.

Probation

Probation are mandated to work only with TKTH participants who are still under a community sentence or supervision from a previous charge. That means that not all TKTH participants will be engaged with probation. However, probation have become a valued member of the TKTH team because most participants are under their supervision:

They've [probation] become a really important part of the team and the process because, perhaps not surprisingly, a large number of court participants are non-compliant with the conventional orders imposed by the court. That's become a very significant feature of the people in the court programme. They're there on, some of them entirely on probation charges, breaching supervision, breaching community work (TKTH team #4).

Probation provides essential information about referrals to the court coordinator, particularly with regards to risk assessment which can then affect potential participants' eligibility for the TKTH programme. Probation officers working with TKTH were passionate about wanting to help people who are homeless and had a strong desire to effect change with the people they were working with:

... very often [participant's have] got their own story to tell and they have reasons for why they are... It was more about what we could do to assist them if they did want accommodation... and particularly around where they were getting food, assisting them getting to WINZ... I just aligned myself with [the City Mission and Lifewise]... because I was really wanting to see where we could make some changes for [participant's]

because they were going to be back in the system again and again and again, if we actually didn't put something more solid in place for them (TKTH team #9).

During the research observations, we noted the way probation officers drew on this empathic perspective to provide flexible methods by which participants could officially report to probation as per their community sentence. The overall aim was to ensure compatibility for participants who were reporting to probation so that participants could meet the requirements of their therapeutic plan.

Police prosecutor

One police prosecutor works in TKTH, allowing for a stable and consistent role in the court. The current prosecutor was well known to many participants outside the court setting, and was regarded highly by the other TKTH team members. The police prosecutor described his work in TKTH as allowing for more engagement with participants and concern for their wellbeing than compared to mainstream court. He contributes to the suitability assessment of incoming TKTH participants in relation to their offending, and whether potential participants reside and/or have offended within the geographical boundaries of TKTH services:

... I keep an eye on what the charges are that the people are facing... you get the odd [referral] where, because it had to be the Auckland CBD catchment area, and then you're getting people coming from the North Shore now and people coming from Waitakere. We're not a grab all for all and sundry... I think you've got to always go back to the fact that, as the judge keeps reinforcing, to be eligible they've got to be facing no more than supervision and community work. You can't bring somebody in that is going to get a custodial sentence or things like that. That's not what the court is for (TKTH

team #5).

It is important to note the nature of the crime itself may not be the deciding factor for prosecutors to determine eligibility for TKTH. The motivation behind criminal behaviour is seen as just as important:

When we look at it, there are people that meet the criteria and they are eligible and they are suitable. You've just got to look at those charges and say, "okay, the reason he's committed that burglary or something is probably because of his situation". There are burglars and burglars; someone might burgle a place to get some food or just something to survive, whereas other people are just full-time job ripping people off (TKTH team #5).

The police prosecutor undertook substantial work preparing for court each month, including reading through participants' files and carrying out checks to monitor participants, noting any new charges or changes in their situation. Police prosecutors will add positive information to participants' police files, and highlight that they have graduated from the course successfully, summarising key achievements such as gaining stable housing and completing alcohol and other drug rehabilitation.

Social Workers

Currently, the majority of social workers supporting TKTH participants are employed by the Auckland City Mission. Relationships with participants of the TKTH programme are considered the same as relationships with other people they work with outside of TKTH. Therefore TKTH participants in this section are interchangeably referred to as "clients".

There are on average four social workers supporting TKTH participants at any one time, but this may not match the demand of TKTH. It was clear from the findings in this research that Auckland City Mission was under considerable strain from being the main provider of social work support for TKTH.

In their everyday roles, the social workers provided various outreach activities and services, including case management, a drop-in service, community awareness events and fundraising. Duties involved advocating for clients and liaising with other services such as CADS, police, probation, residential treatment and temporary housing facilities.

It was difficult for the social workers to estimate the amount of time it took to support clients who were engaged in the TKTH process. Referrals from TKTH seemed to vary and it depended on their relationship with the court coordinator, the number of assessments that needed to take place for each participant, and the types of resources required to support individual participants in achieving their TKTH goals.

A few tensions were apparent in relation to the role of social workers in TKTH. The social workers felt a certain amount of pressure from the TKTH programme to formulate therapeutic plans and assist participants to meet the goals in these plans swiftly. This at times seemed to be in conflict with the reality and complexity of participants' lifestyles. There was also concern about how this pressure might impact the client centred relationship:

These clients are extremely chaotic and a lot of them are rough sleeping, so finding them is hard, getting them to appointments is hard, getting them sober is hard (TKTH team #6).

We are client-led. We work at their pace. They've been homeless for 20 years and all of a sudden, "right, we need them [housed] in three months" (TKTH team #6).

It was suggested that achieving the goals in participant's plans may sometimes take longer than what might be expected by the TKTH programme, even though the participant may have made great progress within the context of their journey to wellness:

We write these plans every week that you go [to the pre-court meeting]... "where have you got towards that plan?" Sometimes nothing, we haven't got anywhere because it's absolutely chaos. We've got to go back and report on that... that looks really bad... but if you were to look at the background stuff, there's a hell of a lot that's gone on just to even get to the court (TKTH team #6).

Alongside the pressure to complete treatment plans within a tight time-frame, social workers described the importance of developing rapport with their clients, which could take substantial time, time which was perceived as not always appreciated by other members of the TKTH team:

I got allocated someone who was in the court and then I had to start working with her and suddenly there had to be this plan with the [TKTH] court. But I was just trying to build that engagement with her and get her to actually want to be with me because if I say "hey, come meet with me [at] this time" and then they don't show up because they don't have to until last minute or it's court week, "oh, gosh, I'd better come and see you". That's happened for a few months now until slowly we're starting to build a little bit more trust and that's a good thing (TKTH team #6).

Another tension the social workers experienced related to the sharing of information amongst the TKTH team. The social workers relied significantly on their strong community networks and their relationships with clients to ensure clients' needs were met. Such needs were often of a complex or sensitive nature. For these reasons, sharing information and confidentiality needed to be carefully balanced. This was further complicated by the issue that sensitive details discussed in pre-court meetings could potentially be brought up in open court:

... my client said "there's certain things that I don't want discussed in court." Court is public and everyone hears everyone else's story, which is fine, but there are some things that perhaps just don't need to be said (TKTH team #6).

Consequently, social workers had to sensitively consider whether sharing some information with the TKTH team in the pre-court meeting was appropriate.

Overall, the social workers were experiencing challenges at the time we conducted the interviews. Many of the tensions were exacerbated by a perceived mismatch between TKTH objectives and their client-led therapeutic approach, and

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concerns about the ethical boundaries regarding the sharing of information.

Salvation Army

The Salvation Army have had a presence in the TKTH team since its inception. They are now also the current provider of the TKTH court coordination service. Their role is to provide programmes for participants, such as positive lifestyle and anger management courses, and programmes for the treatment of depression. Working closely with whaea, the Salvation Army representative for TKTH also comes "alongside" participants and their whānau/families to provide help and support:

I'm very passionate about New Beginnings because I think it's one of those courts that can really make a difference. To be able to help people from being homeless to being housed and their lives back on track (TKTH team #B).

As with the other TKTH team members, it was considered important to understand participants' needs in order to perform this role effectively.

Lawyers

Two duty defence lawyers from the Public Defence Service were assigned to the TKTH team. At the beginning of the current evaluation, potential participants' lawyers attended pre-court meetings to represent their clients when their eligibility was being discussed. Once a participant was accepted into the court, however, they were no longer represented by their original lawyer, and were instead represented by one of the TKTH lawyers. Over the course of this evaluation this process changed, and it was decided that any lawyer funded by legal aid could represent their client in TKTH. This later move became a cause of substantial concern for the TKTH team as it was felt that there was a lack of awareness of TKTH processes amongst mainstream court public defenders who were now able to represent clients within the TKTH court.

The need for potential participants to plead guilty was also a source of some apprehension, as it was felt it could lead to unnecessary guilty pleas and make it difficult for lawyers to advise clients:

My only real difficulty with the current process is that a guilty plea is required before referral. I think there are good policy reasons for guilty pleas, for all matters to be resolved... However, often there's a potential defence when a person isn't sure whether or not they wish to run that defence... there's a question of do I plead guilty to something that I didn't really do just to get into the New Beginnings Court [TKTH]? Often they're facing several charges. You can get an adjournment and try and resolve that with the police, but then we're very much in the hands of the police... (TKTH #22).

The two TKTH duty lawyers engaged in substantial pro bono tasks, which were outside the strict scope of the work of duty lawyers. One example provided was attending diverse community meetings in order to advocate for the TKTH programme in the wider community.

Recommendations for TKTH team

- Consider reviewing the current court coordination service model to see whether the establishment of a permanent government-funded court coordinator position may help with providing stability and consistency. Such considerations would provide specific role descriptions that clarify duties in relation to coordination, case management and social work.
- Incorporate court coordination into an overall logic model for TKTH.
- The court coordinator should be supported to keep centralised, comprehensive records of the progress of every participant referred to, engaging with, and exiting the TKTH programme. A database of records should include, legal, health and social outcomes, including engagement with addiction or mental health services, housing and employment, and judicial outcomes and will likely require the assistance of the Ministry of Justice for this information.
- Alongside CAG, efforts should be made by the court coordinator to increase the number of agencies, including NGOs and government services to support TKTH participants.
- The TKTH judge would benefit from allocated time to prepare for the TKTH pre-meetings and sittings, and engage with wider stakeholders.
- TKTH team members would benefit from creating a shared understanding of the scope and limitations of each role, so that differing philosophical approaches to the TKTH programme and its participants can be managed seamlessly. This shared understanding would also serve to provide a clearer support structure from within the diverse members of the TKTH team
- A review into information sharing protocols requires further consideration as to whether confidential information shared at the pre-court meeting could be excluded from discussion in the public open court.
- The role of dedicated TKTH lawyers should be strengthened as a core best practice feature of this solution-focused court.
- General advocacy for TKTH to the wider community requires encouragement. However it is important that this process is observed and shared amongst the TKTH team to ensure that this duty from each team member does not become burdensome.

WORKING WITH PARTICIPANTS AS A TEAM

The TKTH team aimed to work with participants in ways that promoted procedural justice. Demonstrating respect, empathy and understanding for the participants' situation was viewed as highly important by all of the TKTH team members. Most of the TKTH team members identified how the interpersonal style of the judge demonstrated encouragement and support. Team members also spoke of how it deeply impacted participants when being treated with respect and positive regard:

Give them [participants] an environment where they can be encouraged. [The judge] is just marvelous; I've had clients who just love him. I had one client who said, "I've never had a judge speak to me like that, he spoke to me like I was a human being". So they get recognition as actually a human rather than an offender who is simply characterised by this one thing that they have done (TKTH team #1).

In considering the judge's style, one TKTH team member observed that the skill of listening and in particular, listening to the various parties in the courtroom, were particular strengths which set a tone of equality and wider concern:

... He doesn't just listen to lawyers, you can be anybody... he's inclusive. The families are there, he'll talk to them and he lets them have their say. Really he'll let anyone have a say (TKTH team #6).

The respect shown towards participants was reciprocated back to the TKTH team members, which contrasted to their experiences in mainstream court:

We were in court the other day... There's a guy [court participant] and he was doing all right, and I said, "keep up the good work, that's fantastic". When he finished he shakes my hand, whereas they wouldn't normally. They'd spit on you normally in an open court (TKTH team #5).

TKTH participants were regarded with respect when they were discussed in the context of planning decisions without being present. This was linked to the importance of transparency across the range of TKTH processes:

It's also a responsibility to ensure that by adapting the process, we don't impinge on people's rights, freedoms, and there's a real danger in that here if we're not careful. It's an obvious and real concern that we have the pre-court meeting in the absence of the participant. We say there's a good reason for doing it and so we try and mitigate the risks by making sure their lawyer's present so they therefore know what we've talked about and so on (TKTH team #4).

Weaving together the different social, health and justice-orientated needs into a comprehensive and achievable plan could easily become coercive within a court setting. Many TKTH team members spoke however, of the importance of being collaborative and retaining a person-centred focus in

order to avoid the occurrence of coerciveness:

I think it's probably just different worlds coming together and then having to figure out how do we all agree on a common plan, a shared care plan, that involves some kind of therapeutic input. But that's also client led, that's not court led or Auckland City Mission led, that's actually something that this person wants to achieve and that's achievable as well (TKTH team #3).

... that's the way we want to keep it, that this is something that the person has voluntarily worked out with their social worker. It's not imposed on them, they've worked it out collaboratively and they simply keep working with their social worker to achieve the goals in it (TKTH team #4).

All members of the TKTH team felt they acted as champions for participants and for other homeless people not in the court programme:

I had somebody reporting in and a colleague said to me "you need to go out there because they're really smelly, so you need to get them out of the area". I found that really offensive because you can't afford to stand in judgement. Sometimes a lot of them [participants] are quite withdrawn in a way so they'll just ask for you, but it won't be like please or thank you and people are expecting too much sometimes of them. It's not that they're being rude, it's that they're there and the purpose is to see you and that's it (TKTH team #9).

This TKTH team member added that by demonstrating respect and understanding towards a person's situation, the participant may in turn feel acknowledged and honoured as an individual, which may reduce risks of reoffending:

I've found that when they [participants] do [complete the TKTH programme] they really feel quite affirmed in themselves. It doesn't mean they will never shoplift again... but they've actually been able to manage themselves a little bit better. I think that it's really good for their self-esteem... They tend to be able to see what they are doing and have more insight (TKTH team #9).

A belief shared amongst all of the TKTH team members was the importance of acknowledging the efforts that participants made in striving to achieve their goals. TKTH team members took the time to celebrate positive changes:

The [TKTH] coordinator's report will come, he's been at every meeting, he's got this, he's been housed now, he's been attending AA and he's been alcohol free for 200 and something days. We always give positive reinforcement every time [the participant] comes in. If they've done something good we always say "well done!" (TKTH team #5).

There were also challenges to working in a procedurally just manner. A well-known phenomenon in specialist court

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research is the tendency for participants to build attachments to the court programme and its team members. Therefore activities are built into participant plans that identify and link the participant with other support in the community so that upon graduation, these relationships are solidified and disengagement with the TKTH programme occurs seamlessly:

... In the plans we're looking at getting pro-social supports in place, as well as work and study, interests someone might have that will give them connections and activities within the community. I think that's a huge thing with these courts. It's all very well to be warm and fuzzy and talk about the good things that happen, but that's really dangerous if it's not handled responsibly. We're talking about people who may never have had this sort of care and attention, who might understandably warm to it, but that could be very harmful if we aren't careful with it (TKTH team #4).

One of the main strengths of the TKTH programme is the multi-disciplinary approach which brings together professionals from judicial, legal, criminal justice, cultural and social work perspectives. This multi-disciplinary approach could also present challenges in creating common values, processes and working practices:

... A lot of the agencies and the professionals, they come in with different training and perspectives but some of them aren't familiar with working so closely with people in the justice sector... it's not been easy getting some of the professional cultures to start working well together (TKTH team #4).

Some TKTH team members felt that the contrasting perspectives within the team could benefit from better recognition and validation. These team members did not always feel that their professional knowledge and expertise was respected. Having trust between team members and the strength of a cohesive approach was seen as important to ultimately benefit the participants:

What I find most disheartening at times is that you've gone to some degree of work to get this plan and it doesn't take much for somebody to give an off the cuff remark or to say "you shouldn't be doing that. Why don't you...? Have you thought about...?" I think as a group of professionals we all need to be able to trust each other, we need to be able to respect each other's roles and what we bring... To be able to challenge each other involves us trusting each other and acknowledging what each person brings and coming to some shared values... You can't work well as a team and you can't be a good team around somebody if there's not that honesty and that trust (TKTH team #3).

There was a need identified from all members of the TKTH team to understand the complexities in achieving participant goals. Some TKTH team members believed that the barriers to achieving goals required acknowledgement, alongside the time it takes to engage participants with their plan:

There needs to be recognition and understanding that we're not going to have a house in a month's time because there are no houses in Auckland... the expectations, at times just don't seem to align... Often

you could spend three months actually just getting someone engaged enough to get through the door here to have a really robust assessment and plan built to have trust, rapport and all of that stuff you need to actually start the task of work... There's all this real positive stuff around he's actually coming in now, he's making appointments, he's coming here on time, but that's taken a month... that is really valuable because we've got somebody who now is coming in regularly, making appointments and actually engaging with us and we're not chasing them around in circles in outreach looking for them (TKTH team #3).

Enhancing alignment of the differing perspectives amongst the TKTH team prompted one TKTH team member to suggest that it might be timely to review TKTH processes and deepen understandings of the divergence between legal and social work perspectives:

... I've always identified this sort of mismatch between paradigms and expectations and I thought maybe a couple of workshops run by the court on this [could be] an opportunity to share in and co-create processes (TKTH team #3).

Opinions about information sharing and confidentiality varied across TKTH team members depending where they worked, and their ethical responsibilities. For some, sharing information within the TKTH team was viewed as an important aspect of case management and advantageous to the participant:

[Information sharing] can help in all kinds of ways. You can learn something new that you didn't know about your client that they hadn't told you themselves. "Oh, they've got a custody dispute over their child that's been taken by CYFS". Well, I wish they'd told me that. Things like that can be very useful (TKTH team #1).

Yet for other TKTH team members, information could not always be shared freely, and it was important that the participant consented to disclosure of information:

For me personally, it [sharing of information] has been a real barrier because we can't always release information... If there's something there that needs to be disclosed I need to make sure that I've actually got permission [from the participant] or that I'm covered so to speak (TKTH team #9).

Recommendations for working as a TKTH team

- To strengthen awareness and understanding of the differing roles within the TKTH team, short training sessions could occur at the 8.30am governance meetings.
- Information sharing processes within requires review to ensure they meet the needs and protocols of all the agencies involved in the court, and to ensure that participants' information is protected.

THE PROCESSES OF TKTH

Referral and suitability screening

When a duty lawyer from mainstream court believes a person is eligible for TKTH, the potential participant is bailed to be screened for eligibility by the TKTH court coordinator. The TKTH court coordinator determines the eligibility of the potential participant by identifying:

- If the person is homeless
- If they show willingness to enter a guilty plea
- The nature of offence and level of risk they pose to the community.

Probation is consulted by the TKTH court coordinator regarding the nature of the offence and risk to the community. A potential participant may be ineligible if they are deemed to be high risk to the community or at risk of a sentence more restrictive than community work and/or supervision. The nature of the offence must be minor.

Once screened as eligible for the TKTH programme, the TKTH court coordinator provides the other TKTH team members with a report about the potential participant. The potential participant is then placed on a list for discussion at the next TKTH monthly pre-court meeting and hearing. The next list appearance to mainstream court is therefore cancelled. If the person is identified by the TKTH court coordinators as ineligible in the initial screening process, they must attend their next list appearance in mainstream court.

Case co-ordination meeting

Prior to the pre-court meeting where the final decision of acceptance into TKTH is made, the TKTH court coordinator will convene a case coordination meeting. At this meeting, a social worker and any other health/social service professionals identified by the TKTH court coordinator will all work with the potential participant to create a therapeutic plan. A formal case management relationship is established between the social worker and TKTH participant at this meeting. In many cases, the participant is already known to the social workers, but may not yet be formally case managed by them.

Although risk is a determining factor in the eligibility for TKTH, the findings from this evaluation suggested that risk assessments were not always provided by the time of the case coordination meeting. This meant that some TKTH team members did not feel they had adequate knowledge to take risk into account or to keep themselves safe when designing the participant's plan:

... I think we should have that [risk] information... There was this [referral]... no risk information. I had to ask... "why is this person in the [TKTH] court? What are his risks? What does his substance use look like?" He's saying I smoke synthetics occasionally... we often don't approach him on outreach because he's often bombed, so what is his risk when he's an synthetics? (TKTH team #3).

Pre-court eligibility and suitability assessment

At the TKTH pre-court meeting, the eligibility and suitability of potential participants are discussed. Usually, there is a consensus that a participant will be accepted onto the programme. The overall plan for participants, composed of both a therapeutic plan and court plan, must be in place before final acceptance into the TKTH programme. A position in TKTH can then be offered to the potential participant, in their first court appearance:

If their case comes to a court for determination... so guilty pleas have been entered on everything, they've had a case coordination [meeting] and, with their social worker, come up with a plan that addresses the housing, health and pro-social factors, and we have the necessary information about victims' issues, fines and so on. If all that's there, they can enter [the TKTH programme] that day (TKTH team #4).

A necessity of entering TKTH is for participants to talk with one of the TKTH duty lawyers to ensure they understand what the programme requires and to sign the participant consent and agreement form (see appendix #). The consent form acts as a behavioural contract and allows for the sharing of certain information about the participant's progress through the TKTH programme.

Delays between referral and acceptance to TKTH

If all the required information is provided to the TKTH team prior to the pre-court meeting, potential participants can move smoothly through the TKTH eligibility and suitability process. However, during our observations it was common to observe deviations from this process. It was observed that potential participants often stayed in a holding pattern until the therapeutic plan was completed. Often this was the result of a case coordination meeting not having taken place. The reasons for this were varied and often related to; the chaotic lives of participants, the time it takes to build rapport and engagement with participants, and the lack of resources related to Auckland City Mission being the only social service available to support TKTH participants. In other cases, there may be a lack of information regarding a willingness to plead guilty. In a small number of cases, a participant may have significant health, addiction or other needs that require specialist assessment before a plan can be appropriately established. To streamline TKTH processes, engaging representatives from services who provide core assessments, alongside housing support providers, was identified as a high priority for improvement by the TKTH team. Having ACC involved was also proposed to fund these assessments.

Choosing not to participate in the programme

There were instances where potential participants chose not to engage in the TKTH programme. Reasons for this varied and ranged from the programme "not feeling right" to it being perceived by potential participants as too intensive for

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the low-level offences committed. Occasionally participants were considered eligible but failed to appear at their first TKTH sitting. Depending on the participant's circumstances, re-acceptance to TKTH may or may not be possible:

Options that are open [to participants who do not appear to court] are issue a warrant and get them arrested and brought in. There are some who, the warrant was issued and by agreement I've recorded on the charging document that when they are arrested and appear, they're not to be referred back. In other cases, I've put, if arrested may be referred back to New Beginnings Court. We usually have that discussion (TKTH team #4).

A flexible approach was adopted by the TKTH judge which took into account the context, position and experiences of each participant.

Creating the therapeutic plan

The therapeutic plan addresses participant health and wellbeing and may include a range of components. This plan is facilitated by the TKTH court coordinator, and case managed by social workers. Goals are set collaboratively between the participant and their case manager. The therapeutic plan was clearly described as something the court does not manage:

The therapeutic plan, which the social worker and the participant work out, the court doesn't interfere with at all really... (TKTH team #4)

Addressing the everyday needs of the participant's life often started the therapeutic plan which might then build into greater and more rewarding achievements:

Starting at the bottom, get some ID and a bank account, work your way through to some visits to the doctors about your health problems. All that little stuff that they get and then making the person look presentable and then ultimately work ready and helping them get off alcohol and drugs and building their self-esteem (TKTH team #1).

Other areas of the plan may include whānau/family relationships, leisure/hobbies, study, employment and housing.

In order for the participant to be accepted into the programme, therapeutic plans need to be completed at a case coordination meeting prior to the first TKTH sitting. In cases when the therapeutic plan was not completed prior to participant's first appearance, the social worker may only get to meet their new client on the day of the open court sitting.

Formulating the therapeutic plans with participants was described as challenging. Taking time to build relationships and trust with participants was important to ensure that participants could be honest with the court and that plans aligned closely with their own priorities and goals:

... the client would tell us everything that they thought they wanted us to hear and set some goals that they thought we wanted them to set. Then we'd have another conversation with the client a week later "ah I don't want to do any of that." So we went through a process of assessment and establishing and clarifying and trying to balance out what the core expectations were with what does this person want to do (TKTH team #3).

TKTH social workers tapped into their community-based networks to access resources for participants to realise their



goals. Social workers also raised wider issues regarding the impact that the offending may have had on others, and how participants' might reconcile their offending behaviour:

... [we] help that person come to their own conclusions about what they need to do to change and provide some of the means for them to create that change and maybe understand a bit about what's driving their offending behaviour. I guess part of that is the restorative element of things... What is the impact that my actions have had on others and how do I rectify that? (TKTH team #3).

Many of the TKTH team members spoke of the importance in setting realistic goals. In particular, breaking steps down into smaller, achievable goals was more likely to produce successful results for TKTH participants. Setting realistic goals was important, particularly in regards to treatment for addiction where harm reduction was the primary focus:

If we can encourage one less puff a week then how good are we?... You start off harm reduction but ultimately you do want them to be able to stop. You've got to be realistic (TKTH team #2).

At times, the harm reduction approach was perceived as conflicting with criminal justice paradigms that promote abstinence.

Creating the court plan

The court plan is facilitated by the TKTH court coordinator and allows for the police, probation, lawyers and the judge to create a suitable plan to hold the participant accountable for their offending and 'make things right' with any victims and/or the wider community. This plan is created at the pre-court meeting on the day of a potential participant's first appearance. Most commonly, a court plan includes a restorative justice referral, community work and reparation:

...as a group [TKTH team], be able to know whether there's reparation or other victim issues, talk about restorative justice, talk about things like voluntary work that could be done to address accountability and fines and talk about a sentence indication (TKTH team #4).

Fines that participants have incurred were often gradually reduced in return for good progress with both the therapeutic and court plans. An example provided by one TKTH team member was that if a participant's offending was largely or entirely breach of liquor ban and they are engaging with addiction treatment and the wider aspects of the plan, then they might be remitted a certain amount of their fines at each monthly TKTH sitting that they attend:

... using a formula of \$250 a week or something if someone was consistently doing well, especially if they're addressing the underlying source of the reason they got the fines. If they're not going out and getting [intoxicated] in public... and doing something about it and working hard, then it doubles as both credit for that and a motivation to keep going. If in addition to that they do some voluntary work, I think I can justify resolving their fines (TKTH team #4).

The overall plan

The overall plan brings together the therapeutic and court plans. In doing so, it aims to balance the goals set by the participant themselves and goals aimed at making reparation for their offending. Once the overall plan is determined, and the person becomes a participant of the TKTH programme, they may meet with their social worker weekly or fortnightly, depending on need and acuity. Social workers provided the other TKTH team members with updates on participants' progress at the monthly pre-court meetings. The overall time a participant's plan may take complete is dependent on the needs of each participant and the nature of their offending. The average length of time it takes to complete the TKTH programme however, is between six and twelve months.

Use of incentives and sanctions

The concept of sanctions has been considered by the TKTH team. However, using heavier penalties as leverage for compliance does not align with the ethics and values of the TKTH programme:

I suppose sanctions, which the drug court use and we can use, [are] holding people to account. But we're dealing with a different group and we have an approach that is tailored to the group that we've got. We're mindful that they're low-level offenders (TKTH team #4).

The incentives of TKTH are mostly concerned with engagement in the process; that by achieving goals, participant fines are repaid, and this in itself is considered the reward:

The incentives would firstly be the benefits they're getting out of the therapeutic aspect of the plan, they're getting into housing, they're encouraged into employment or study, getting reconnected with family etc... They should be encouraged by the low sanction outcome, the conviction and discharge or whatever... If they've done well and perhaps also done some work they'll have all their fines resolved too (TKTH team #4).

Resources within the TKTH programme are constrained, but at times, funding may be sought through other community funding streams to support participant needs. These needs may be funding to obtain driver licences, other forms of ID, dental repair or tattoo removal. The newly developed CAG has been charged with increasing this kind of support.

Challenges faced with execution of the plans

TKTH team members expressed their dissatisfaction with not being able to access resources, particularly around systemic issues such as housing, employment and access to healthcare. These are the resources that participants needed to attain the goals in their plans and turn their lives around:

We are in many cases offering not a lot more than hope and encouragement because we don't have stuff we can offer. We still can't offer a foster track to housing than what they might get elsewhere, we can't offer them a foster track to detox or treatment, we can't offer them voluntary work yet that might lead to employment. We want to do all those things but we just can't do it (TKTH team #4).



The expectation of attaining permanent housing is likely to be out of reach for most TKTH participants within the expected time-frames of their plan. Despite the launch of a Housing First initiative in Auckland during this evaluation, the demand for this service is extremely high and spaces are limited to those who are deemed to have high health needs.

Employment opportunities were another challenging issue that hindered participants' plans. The TKTH team were keen to offer voluntary work opportunities but these could be difficult to arrange within the time and resources of the court:

The reality of that [arranging voluntary work]... that takes a blimn' long time... For some of our people that are in the court, they need somebody to take them to meet the person, to transport them to a job, to actually like do the job next to them... So, it's finding the right fit as well (TKTH team #3).

There were also challenges in making the plans work for participants who presented with multiple and complex social, health and disability needs. When supporting people who had these needs, TKTH team members felt compelled to help, but equally at a loss as to how to support them to succeed within the resources that could be accessed:

I feel really sorry for [this participant] and people with her range of complex issues because the conventional systems certainly don't cater for them. She could end up repeatedly in prison for things that aren't really criminality to me... probably what causes her the greatest difficulty are the behaviours that are the result of her disabilities (TKTH team #4).

Ultimately accessing the resources required in the actualisation of participant's therapeutic plans relied heavily on the social workers' own networks rather than the services providing such resources as a part of TKTH.

Another challenge in the execution of plans that arose repeatedly was the need to consider a long-term perspective when working with the population of people who are without stable housing. TKTH was perceived by many of the TKTH team to be only the beginning of the participant's journey. It was expected that engagement with social workers would carry on after participants' graduate or exit the TKTH programme.

There were also challenges with realising the goals of the court plan. Coordinating restorative justice meetings for TKTH participants was logistically difficult. The process involved organising a group of people, including the participant, over a matter of days. Trying to locate the participant who is homeless presented its own difficulties. Then finding a suitable time that fell within the working hours of TKTH team members was problematic. The consequence of these challenges is that TKTH may be conceived as an offender-focused court, with little focus on the victims:

In the mainstream court the victim is quite high priority. At times I don't see the victim being high priority in this court. It's more offender-focused. Because things take quite a long time, victims tend to fall off the radar and nine months later, a year later, they get told that this person's finished (TKTH team #5).

It is important to note, however, that many offences committed by participants are 'victimless' crimes where restorative justice may not be appropriate.

Graduating from the TKTH programme

Participants' graduate when they have satisfied the court by meeting the goals detailed in their overall plan. Success for participants is determined by having stable housing, employment or study, accessing health services, engaging in restorative justice activities, and living a life free from criminal offending. Although some participants might not have stable accommodation upon graduation, they will most likely be engaged in a process to find permanent housing:

The ultimate goal is to have them housed, drug and alcohol free, not necessarily free but manageable, right all their wrongs with regards to any victims or anything like that, get all their fines cleared and finished up with a clean slate. There are a few that to the best of my knowledge they haven't reoffended and have been absolute success stories (TKTH team #5).

Upon successful completion of the TKTH programme, the participant is acknowledged by the TKTH team members, and they are awarded a certificate of completion. This ceremony is particularly special for some participants:

... I think that when they get presented with their certificate, maybe the only certificate they've ever had in their life... they can turn round and say "I've done this, I've achieved this" (TKTH team #9).

Graduation ceremonies could be deeply emotional experiences, not just for the participants and their whānau but also for the TKTH team. Graduates of TKTH are invited to return to TKTH hearings to demonstrate their support and encouragement. In some situations, past participants have provided peer support to new participants. Having a sense of kinship with other participants provided the TKTH programme with a sense of legitimacy and may offer hope to the new participants:

We have people that pop in that have finished with us. If we have somebody that's graduated and they come back and other things, we quite often get them to say how they're getting on and look what they've done. Most of them tend to know each other somewhat loosely and if they can then spread the word and let people know that good things can come out of this, that helps (TKTH team #5).

Some TKTH participants may reoffend either during the TKTH programme or following successful completion. Reengagement with TKTH is a possibility, and as highlighted earlier in the report, each referral to TKTH is considered independently. Although some people may apply to reengage with the TKTH programme, others may feel disappointed in their behaviour, and choose mainstream court processes instead.

Exit Hearings

In some instances, a participant may be exited from the TKTH programme and returned to mainstream court. There are no set criteria detailing when a person should be exited, rather each situation is considered by the TKTH team independently. When a participant is deemed as no longer suitable for TKTH, the judge will order a pre-sentence report from probation to guide sentencing. In all cases, exit hearings are deferred

until their next court appearance. This allows participants to demonstrate (re)engagement with the TKTH programme:

If you allow for the chaotic lives that they're leading and so on, I'm open to argument about it and ultimately it just comes down to a case by case assessment as to whether enough is enough... we don't have a three strikes and you're out policy. That lack of engagement triggers a need for an exit hearing and that exit hearing will be on the next court date. That gives them an opportunity to step up and show by their actions the sort of commitment we would want to see if they want to keep their place in the programme, and if they do that then I'll say "the door's still open, you're not exited today. That decision will be made next time but if you want to keep your place in the programme, show it... Satisfy me that you're committed to giving this your best shot" (TKTH team #4).

Some TKTH team members raised concerns were raised about the chances given to participants given the finite resources within this specialist court:

Sometimes it drags on; I get a bit frustrated with some of that stuff. These people have to help themselves. We'll help them, we'll guide them but ultimately, it is up to them... they're taking up a position that somebody else could have (TKTH team #5).

Recommendations for court processes

- To avoid delays between referral and acceptance the participant's willingness to plead guilty and therapeutic plan must be provided before the participant's first court sitting. This would ensure there is enough information for the person to be accepted into the TKTH programme on the day of their first appearance.
- As a feature of the information sharing protocol, the TKTH court coordinator and social workers must have access to the relevant risk information from probation prior to the case coordination meeting and the setting of the participant's therapeutic plan.
- Increase the number and scope of community providers which provide input into the court to help facilitate therapeutic plans.
- Awareness of TKTH eligibility criteria amongst the wider legal community could be enhanced through training and the presence of the TKTH court coordinator at mainstream court on busy list days.

CULTURAL RESPONSIVENESS

In the eight years TKTH has been operating it has aimed to apply a more culturally responsive approach that caters for the needs of the predominantly Māori people it serves. TKTH team #4 reported

We'd always wanted to have or to be culturally proficient, and I still don't think we're as good as we could be... I think we're doing the best we can at the moment (TKTH team #4).

Culturally tailored responses have been utilised in the court in a largely ad-hoc fashion since its inception. The involvement of Māori team members over time has varied as staffing and funding changes have disrupted the establishment and continuity of a strong cultural response within the TKTH programme.

Providing a culturally safe environment

The cultural practice and safety in TKTH has been led by whaea. Described as the “mother of the court” and “a guardian angel in court for the homeless and needy for years and years” (TKTH team #4), whaea has been involved with TKTH since its inception. During the early development of this court, the judge aimed for an approach that would be suitable for Māori participants. Whaea was involved during the early discussions and gifted the te reo name for the court, “She gave the court the name Te Kōti O Timatanga Hou,” (TKTH team #4), which is also known as the New Beginnings Court.

It is important to note however, that whaea has an official role across the court system, funded by Rangimarie Charitable Trust. This means her time is spent in various courts, not solely TKTH. The name of her role, Te Kaihono ki te Rangimarie: One Who Works Towards Peace, was gifted to her by an old Ngāti Porou solidier.

All participants and team members of the TKTH programme agreed whaea is a passionate member of the TKTH team. She has been described as adding a cultural dimension to the court:

I think the best role for her is what she's playing, which is the whaea, the senior, respected, Māori elder that she is. She opens our meetings, she opens our court, and it's lovely. She brings that personality she's got, she's there hugging and supporting the participants, she loves being involved in the graduations. I think she's happy with that and we're happy with that. To me it worked out in a way that benefited everyone... she strongly supports the court. It does introduce aspects of tikanga that I think enhance the court (TKTH team #4).

Her presence within the court setting as a kaumātua, and her professional background in social work, was thought to be a strength for accessing assistance, but more importantly, for providing continuity:

This is the importance of having a consistent person within a court... I am a face so that it doesn't matter

where I go, if someone's in trouble, they say “go see whaea, she will sort it. If she can't sort it, she will growl you.” I love them. I love our people (TKTH team #7).

TKTH cultural practises

Whaea leads the inclusion of important cultural customs and practises in TKTH. This includes karakia (blessing) which acknowledges the wairuatanga (spiritual) aspects of interacting with Māori. Beginning and ending each day of court with a karakia is a way of focusing attention on the kaupapa (purpose) of the day. Most of the TKTH team are strongly supportive of the continued inclusion of cultural practice. For example, at one point whaea left TKTH and during this time, karakia and other cultural customs were not being consistently observed. The judge then invited whaea to come back to court to fill the wairua (spiritual) void. Understanding the kaupapa (purpose) of TKTH, and why cultural customs and practises should be observed within TKTH, can best be understood by reflecting on the words of TKTH #7:

The karakia is very important I think because it was actually chosen by the homeless people themselves for that court and the waiata was too... and they were what they chose Whakataka te hou and Te Aroha. It just focuses everybody in on why we are there. We're not actually there for ourselves; we are there for the people, he tangata, he tangata, he tangata.

The court day begins with the pre-court meeting being opened and closed with karakia. In the afternoon the court sitting opens with karakia:

Participants comment on it, that's one of the things that is an attraction, especially having experienced the conventional court, is starting the court with a karakia. It's simple but it's an effective way of changing the tone in the room from the one that's often there when courts begin, when it is silence, all stand, and everyone's all tense and up tight. I know it changes the dynamic (TKTH team #4).

There are a number of other cultural practises observed in the operation of TKTH, including waiata and the tuakana awards. Most in attendance are able to join in singing ‘Te Aroha’ or ‘Mai wai Ra’, which is led by whaea. The tuakana award is an adaption of a Māori concept. The following explanation was provided for this important process of acknowledging participants’ progress:

The tuakana is just the older sibling or the older person imparting knowledge and helping other people. That's what somebody that's been in the course for a while and has done well and can show the other people... It's good to recognise good work because it's all part of positive reinforcement. It always works well and it always makes them think the next time, “I was tuakana last time, I better keep my thing up” (TKTH team #5).

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Tuakana awards are a voucher to the value of \$20. These are given to court participants in recognition of the work they have undertaken in their plans and their continued motivation towards a pro-social life. Tuakana in this sense, is a participant who is a role model to whom other court participants can aspire.

Decisions as to who should be a tuakana are discussed during the pre-court meetings. However, whaea does not attend pre-court meetings to provide input. This is because of her belief that participants need to be present and included in any decisions made about their life:

I will not go in to [the pre-court meeting to] discuss our people who come to our court because I don't go with that mahi. I think that anything that is discussed in any therapeutic court should be discussed with the participant available. Rather than predetermining what is going to happen to someone you have to engage with that person, which is why I find the family violence court so refreshing, because there is no pre-court hui thing, where people are discussed by the so-called experts. I believe we are experts in our own lives and we should have an input into anything that is talked about us. We should be present, or otherwise it is not an open, therapeutic, transparent court (TKTH team #7).

The points raised by whaea exemplify a clash of ethical frameworks. In Te Ao Māori (Māori worldview), importance is placed on inclusiveness of all parties to restore balance and harmony. The implication of whaea being absent, however, is that a Māori concept is being used without the inclusion of the crucial member of the team that provides Māori structure for the TKTH programme.

Strengths in existing kaupapa Māori approach

Some of the benefits of incorporating kaupapa Māori within TKTH practice included the integration of manaakitanga (caring/sharing) into the court and Māori working with Māori for Māori. Manaakitanga is a fundamental tikanga Māori tenet that could not be quantified or easily defined:

During the week, like today you've seen that I make sure [a current court participant]'s fine. I've made sure [the current court participant] is fine. For me to calculate the hours it might be a bit difficult for me... I always try to put them in touch with the coordinator but sometimes because of the changes and things like that I'm the only constant face, so that's why they come to me. I couldn't give you hours - I'm just on call (TKTH team #7).

We observed many TKTH team members practising manaakitanga; giving them kai (food) and clothing for example, and by being a calming influence by having the presence of whaea:

At 1 o'clock I go to Te Kōti o Timatanga Hou. I make sure they've got some kai outside the court if possible because it just helps to settle people (TKTH team #7).

Having Māori TKTH team members ensures that cultural nuances are addressed when working with Māori. At times this cultural sensitivity may determine when an approach by an advocate or kaitiaki (protector) is required or not:

Karakia

Whakataka te hau ki te uru
Whakataka te hau ki te tonga
Kia mākinakina ki uta
Kia mātaratara ki tai
Kia hī ake aua te atakura
He tio, he huka, he hauhū

*Be prepared for the southerly
Get ready for the westerly
It will be icy cold inland
And icy cold on shore
May dawn rise red-tipped
On ice, on snow, on frost
The sneeze of life*

Waiata

Te aroha
Te whakapono
Me te rangimārie
Tātou tātou e

Love
Hope/Faith
Peace
Be amongst us all

... you also must have a rapport with people where you are not talking down to people. Don't ever think that our people are a nuisance even when they are. I had [a participant] nutting off this morning... but I step back from that and I say, because there are three security people there for her, she's full of methamphetamine at the moment, but I know when to retreat and I know when to remain (TKTH team #7).

At other times Māori court participants seemed to lack knowledge about what was happening to them in particular circumstances. By being a constant face for TKTH, whaea can support participants to help them understand.

Whaea was well recognised as an advocate for homeless people and others who might be vulnerable but, as with other TKTH team members, expressed her frustration at often not being able to help people to the extent that she would like:

This is in court and it really makes me riri [angry] but mostly it makes me tangi [sad] because there's nothing I can do about that except say "it's all right, we're here." (TKTH team #7)

Apart from being the consistent face, work was often undertaken by whaea to re-connect court participants with their whānau. An understanding of the whānau dynamics and background was vital knowledge when reconciling or reuniting whānau:

... I went down to his place and I growled "who do you think you are?" I said, "don't you think it's time that you went home?" We don't need it. We do not need it. So that's why I kept going down... I said to him "no, no no"

Document 21A

yet, you're not ready yet." Then I went down and said "I think you're ready now to make them [your whānau] suffer" (laugh) (TKTH team #7).

Helping court participant's re-reconnect with their whānau was not always an easy task though. One past court participant had been in state care that included 12 different foster homes as a child. Due to this, whaea suggested that TKTH had effectively taken on the role of whānau for him. She recounted how in order to access financial support from the government, the TKTH team needed to help this participant obtain his birth certificate. Whaea reflected on her frustration with this process, where after numerous unsuccessful phone calls with unhelpful governmental staff, she was left feeling bewildered:

... "No, no, I'm sorry, we do not have that name on file... are you sure he exists?" I said, "he's actually sitting next to me!" (TKTH team #7).

This experience began the journey of helping this TKTH participant find his real name:

I tracked his birth down and I tracked where his father and his mother had come from, and I contacted his mother. The only time that his mother would have anything to do with him, sadly, was after he passed away. But he knew his name so I was able to put his name, own name, proper name on his head stone (TKTH team #7).

This account highlights the complexity of some of the participants' lives in TKTH, and the difficulty with reconnecting to whānau for some people.

Challenges for expanding kaupapa Māori processes

Some TKTH team members reported that efforts to strengthen connections with Māori communities, particularly Ngāti Whatua in Auckland, has varied over time:

I need to be clear, we made approaches. We made a number of approaches and even had meetings with Te Puni Kokiri and we have had contact with Orakei marae (TKTH team #4).

It was acknowledged, however, that some of the previously made initiatives are no longer operating. Though there was some criticism that iwi/hapū representation was lacking at the time of this research, there was still a desire to establish stronger iwi/hapū/marae ties. This task was acknowledged as challenging and requiring time and resources that may be lacking within the current TKTH team. The role of the TKTH CAG in regards to establishing or reconnecting support from iwi was unclear from the current evaluation findings.

Despite strong praise for whaea within TKTH by some participant's and team members, for others, there was uncertainty about the function of the role:

Judges really love her. I don't really know, I just watch her some days and she bosses people around and makes sure things happen or people are where they should be. I know she's a huge advocate for the homeless and does a lot of work probably outside of the court that we'll probably never see or know about, but

in the court I honestly don't know (TKTH team #21).

In addition, not all TKTH team members understood what the scope of the whaea role entailed and perhaps did not realise her larger role with the family violence courts:

... She'll come to the 8:30 meeting and then she'll leave but then she'll turn up later for court... Unless they come into the court and they're already known to her, she'll give them clothes or food or sometimes money for a bus. On the whole, I don't know (TKTH team #2).

There was also some criticism of the inclusion of cultural responses for TKTH participants. Including cultural practices such as waiata, was perceived by one team member as perhaps creating a less formal process into the court system:

... we try not to be too formal but it loses its required formality. After all it is still a court of law. If people don't want to sing, they don't have to sing but you don't get told, "come on, sing", and handed the piece of paper to you when you walk in the door... (TKTH team #17).

This perspective may suggest a need for a greater understanding of the Treaty of Waitangi. Specifically, the requirement of the court to honour this agreement; which includes recognising tikanga as the first law of New Zealand.

Recommendations for cultural responsiveness

- Develop a clear kaupapa Māori statement for TKTH that is incorporated into the programme logic model. Ensure this statement aligns with the Ngāti Whatua justice / health strategy.
- Support kaumātua to continually develop the TKTH team understanding of the kaupapa Māori approach and use of tikanga Māori within the TKTH programme, and particularly, in the context of honouring the Treaty of Waitangi.

It is important the kaumātua role functions in a kaupapa Māori way, including manaakitanga, aroha, kaitiakitanga (advocate and protector), and that cultural understandings of whakapapa knowledge and connections with iwi and hapū are enhanced. This could be strengthened by:

- Kaumātua led expansion of a collective approach that includes connecting or re-connecting court participants with their own iwi/hapū/marae. If unknown, local links to iwi/hapū or urban/pan-tribal marae may provide the starting platform.
- This would ideally include iwi/hapū/marae representation of kaumātua in the creation of the participant's plan, monitoring progress and other TKTH decision-making processes.

PARTICIPANT PERSPECTIVES

This section reports eight current and previous TKTH participants' stories. Discussion focuses on: how they came to be involved with the court, how they experienced the programme, and what aspects of the programme they think could be improved. Rather than threading their perspectives throughout the first part of the report, we describe each story individually here. In doing so, this section honours their distinct contributions to the research and draw out lessons that may be learnt from their experience in TKTH.

Participant 1

Participant 1 proudly described his Māori ancestry and 16-year history as a sheep shearer. He had recently graduated from TKTH having been involved in the judiciary after being charged with assault. In the interview, Participant 1 was accompanied by his sister who provided our only whānau perspective. Participant 1's sister became her brother's 'agent' while in the TKTH programme. Being his agent meant she was present in the TKTH process and was responsible in supporting her brother to see out the goals outlined in his TKTH therapeutic plan. The narrative reported here mostly focused on his sister's contribution.

When Participant 1 initially introduced himself as homeless, his sister was quick to correct him, explaining that her brother is not homeless due to extensive whānau support. She asserted that her brother knows where he is from and where he belongs but chooses to remain on the street; a journey the whānau has come to accept but are there when he needs support:

... I just want to say one thing is that my brother's never homeless, he has so much whānau, he is not homeless. That is something that I would say for my brother... And it was very, very difficult for our lovely brother, very difficult for our whānau...

She watched as her brother disconnected from his whānau after he missed out on getting into the national sheep shearing team, something he had dreamed of for a long time. As a way to cope with the loss, he then began to gamble and partake in drug use.

Participant 1's sister noticed that disconnection from whānau was not an issue only for her brother. In observing TKTH, it made her feel aroha (love) and sad when seeing others alone in the process, when she believed they needed the support of their whānau. She acknowledged, however, that TKTH provided a supportive atmosphere that created meaningful connections between participants and the team, and when whānau were there it was a very moving process to observe.

Participant 1 was admitted for compulsory treatment as an inpatient in a mental health facility before his sister became his 'agent'. Although Participant 1's sister noticed a remarkable difference with her brother from taking medication prescribed under compulsory treatment, she stated that she struggled to view the overall situation as a positive experience for her brother. She explained their whānau found it hard to accept his mental health diagnosis of bipolar disorder. Rather, they believed the issues he was experiencing related to a disconnection to his wairua (spirit), therefore, he needed to get back to his whānau and marae to recover.

Participant 1's sister described how experiences of social exclusion by participants were intensified by her belief that many Māori live in a tension of being stuck between a Māori and western world:

We're so colonised as a race because we have the effects of all this westernisation just thrust amongst us. I call us hermaphrodites, a bit of both, swinging from one end to the other. It's a wonder everyone's a wee bit imbalanced and wondering where do I fit in this picture?

Struck by how the TKTH programme was founded on self-motivation, Participant 1's sister was initially confused about how her brother could possibly take control over his situation. Later, she realised that for the programme to be effective, taking personal responsibility was the only way that positive change could occur:

We'd [Participant 1's whānau] gone to court and told them, "you need to actually bail him, send him to [co-existing mental health and addictions treatment] immediately." Of course, the judge wouldn't do this and I got very angry with the judge. I thought, [my brother] is going to go and commit petty crime, he's now going to go and rob, do home invasion to steal something... and you are allowing this to happen. We have told you

this is what he's doing. It wasn't until about six months later that I understood exactly what [the judge] was saying; unless it was [my brother's] choice, why waste the court funds? Why waste? Give it to someone who's ready, who wants it. Don't waste the pūtea. That's how I felt and it got made very clear and I thought that is why you are a judge. I get it now.

Participant 1's sister was also pleased the focus of TKTH was on finding solutions for her brother and appreciated how this approach reduced the need to focus on her brother's deficits. She found the solution focus of TKTH allowed for a whānau approach that supported her brother, and other participants, to making remarkable changes, through reaching goals and gaining a new found confidence:

I think I've been to three New Beginning kaupapa [TKTH sittings] and I have been watching quietly in the back the transformations that I see amongst the street people that have come in. No longer street people, getting their lives together, wanting to set goals. It's the fact that they're actually setting goals and achieving those goals and then they're getting the confidence that actually, I can do this and I'm not on my own. I actually have all this support around to help me achieve my goals. I am not alone, I don't walk this journey on my own. When I am watching them, I'm watching the families start to gather... Compared to the other court, wonderful. Why? Because that's solution focused. Why? That's focused on bringing all the responsibilities on the tēpu to get a shared outcome.

Her final suggestion for improving the TKTH process was to bring TKTH onto the marae!

What can we learn from this story?

- The solution-focus of TKTH may be more meaningful for Māori than mainstream court in the way it focuses on enhancing participant's strengths, fosters self-motivation and opens possibilities for whānau focused approaches.
- Access to kaupapa Māori mental health and addictions services would help to engage participants and their whānau.
- The TKTH programme can 'act' as a supportive whānau for participants but helping participants connect to their whānau, hapu or iwi is an important area to strengthen.
- The future of TKTH could shift from the court setting onto the marae, where processes could be strongly dictated by tikanga.

Participant 2

Participant 2 was a current participant of TKTH at the time of the interview. He was a champion of the programme and considered the TKTH team members as positive supports. Having been charged with theft and drinking in a zone subject to a liquor ban, Participant 2 considered his criminal behaviour as being heavily influenced by alcohol use:

I stole \$500 worth of meat and they put me in front of the New Beginners Court... I gave it all back. I was pissed one time and... I went to someone's house and in the freezer, pulled out all their meat and put it in my trolley and walked around the park and they followed me... I gave the meat back. I would have got away with it but I was pissed, drunk.

Participant 2 recounted how he had spent the majority of his life on the streets while experiencing significant mental health and addiction issues. He reflected how much he had changed over time:

... it's just the alcohol, I told him [the judge] on Tuesday that I'm reducing drink. I was an alcoholic when I was young, drinking all the time, so I've calmed down and reduced drinking...

Participant 2 continues to work on meeting his goals in his therapeutic plan, which includes working on reducing the harm he experiences from his drinking and drug use. He has also been encouraged to get back into his passion

of carving and getting help with repairing his teeth, accessing clothing, food and safe temporary accommodation:

[Probation] helped me with my birth certificate... [My social worker] got me food, family parcel last week and gave me, asked the people for clothing for me and they gave me some things and they dropped me off at home because I couldn't carry it all back. So they said they'll help me try and get a room in that place.

Although he had trouble recalling all the professionals in TKTH that have helped him, trust in the team occurred when he started to see the results that came from engaging in the programme. Participant 2 sees the TKTH team as whānau and a source of hope, especially his probation officer and whaea:

Yes, I trust them... because they help me, they help me look forward to a new future. I've never actually settled, been street living all my years, 30 years and I've never got a room, never got a flat

The judge was someone Participant 2 regarded highly, and he therefore heeded his advice. He was also aware that if he achieves his goals, that his options to enhance his own wellbeing will increase:

... [the judge] is good, he likes me. I go up there and sit on a chair and listen to what he says "you're turning up to reporting and I'm very happy with what has been done" and you got your reward and all this, got a gift voucher and he was very happy with me turning up eh?... I was happy with that 25 bucks so I got me some jeans and some things.

Rewards in this way served to encourage and build the confidence of Participant 2, and this alongside the trust he had gained for the TKTH programme, served to help him spur other participant's along:

Sometimes [I catch up with other participants] on the streets say "hello, oh you've been up to date, doing your probation well and when you've finished you're gonna get a big reward."

The TKTH team continue to support Participant 2, reassuring him that if he does "one thing at a time" he will eventually meet all the goals in his plan.

What can we learn from this story?

- Trust in the TKTH programme is associated with the results that participants observe. Results may be day-to-day requirements, such as gaining access to food, formal identification, safe shelter, and they mean a great deal to participants.
- The participant's therapeutic plan has a focus on harm reduction. This is an important feature of the TKTH programme as it is a realistic and achievable goal and begins to build their understanding of how to better manage the role of alcohol or other drug use in their own lives.
- The TKTH judge is well respected by participants and builds their confidence by rewarding good progress and applies procedural justice techniques and an interpersonal style akin to motivational interviewing.
- The TKTH team play an important role in increasing trust and confidence in the programme through their supportive whānau focused approach. As with Participant 1, this approach could be strengthened by helping participants connect to their whānau, hapu or iwi.

Participant 3

Participant 3 entered TKTH through a police referral and was a current participant at the time of the interview. The police officer who referred Participant 3 runs a community-based initiative for people who are homeless. The police officer suggested TKTH may be able to help Participant 3 who he knew had multiple active charges that could be taken care of all in one place, with the additional support from the TKTH team:

... [the police officer] said that it might be best for me to come to this court and it should be able to help me for all my charges together and speak to the judge about one-by-one getting rid of them all... plus I'm really sick as well.

Participant 3 believed the social workers were of great help with achieving the goals in his therapeutic plan between monthly court sessions. For example, Participant 3 was struggling to get formal identification organised to renew his car license before it expired and he felt they were helping him to achieve this goal. An important aspect of the help from the social workers was the feeling that they were accessible at any time and able to respond to the varied needs that meeting one goal may take:

... the court has really been doing good for me with my social worker and all that stuff... [my social worker's] really good because... they're helping me get everything that I need to get done in one month. So I might have one thing to do in a month or maybe two or three things I do in a month and she's there to help me, take me there, bring me back

Participant 3 had a lot of praise and respect for the team members of TKTH. He found the process of attending court to be a positive and encouraging experience in which, he felt listened to:

... they're too good (laugh), they're too good. There's nothing wrong with them saying it's just all about myself. Just nothing bad that they say, the judge is really good, my lawyer is really good, my social worker's all good, there's nothing wrong with coming to the court... anything that's been a problem for me or anything like that I'll explain it to the judge, to my lawyer and they're really good help...

He could not recall how long the judge said he would be in the TKTH programme, but for Participant 3 what really mattered was completing the goals within his plan. Participant 3 was committed to taking personal responsibility for his criminal acts. Overall, he was full of praise for the programme, and in particular, commented on the court's promotion of optimism for a person's own journey whatever their circumstance may be:

I think there is something better for others, but in their situation it will be really good for them to do this court. For whatever they're going off to court for, any kind of other charges or anything, yeah, bring them to this court because when you come to this court you can put yourself into a mind where... you can do better.

What can we learn from this story?

- Referrals may come from diverse sources, therefore, any initiatives to improve the awareness of TKTH should reach communities beyond mainstream court alone.
- Support from the TKTH team was carried out in a respectful way, which only increases participants' motivation to graduate and make positive lifestyle changes.
- Setting goals that are realistic and achievable by participants is important in building optimism and confidence.
- Regularly repeating what is required of a participant to graduate from TKTH may be appropriate to strengthen the chances of the programme being experienced as open and transparent.

Participant 4

Participant 4 was a current TKTH participant at the time of the interview. He had been charged with trespassing. After reflecting on his past, Participant 4 felt tired of his criminal offending cycle, and was ready to make a new start:

... I'm 62 years old, I've already done my lag. I was in prison when I was 18. I sold some morphine to an undercover cop and I got 18 months on both charges. I've done all the hard drugs, I've done heroin, morphine, that's years ago, that's in my past and that's well gone... I just want to get out of the system, I'm just sick of it.

Participant 4 had been sleeping on the streets for about 2 years before he came to TKTH. He had come to the situation of homelessness after being evicted from his accommodation for challenging the poor living conditions:

I'd been sleeping in the graveyard (laugh) and I had this guy that's in charge of the graveyard, he's laid three trespass notices against me for sleeping there, that's the only reason I'm in court. I've had no complaints off anybody else... I was at the [temporary accommodation] but everybody got chucked out of there and they've turned it into a backpackers. A whole lot of us stopped paying rent because we had bedbugs, cockroaches, a lot of P use going on there, the front door was forever getting kicked in. So a whole lot of us just went out in protest...

As a consequence of being evicted, he was unable to retrieve his possessions. He felt a sense of injustice in the lack of reprimand for the behaviour of the landlord and was deeply saddened by the loss of his only possessions:

So everything got taken and I lost two TVs, a fridge, everything, all my clothes, books, diaries, even my photo albums of my step-daughter and my mum and dad and all that. I had three photo albums and they all got trashed, they just put them in the rubbish...

When he came into TKTH, Participant 4 quickly relaxed and realised it was different to mainstream court in the way that he was encouraged to speak:

... it's so easy you can sit there and have a conflag with them. It's not like any other court I've ever been to... You can just chat away and say what you feel about things and everything.

Although he found the courtroom encouraging, Participant 4 found it difficult to establish trust with some TKTH team members based on prior negative experiences in mainstream court. He was beginning to build trust as he was starting to find his social worker helpful in getting formal identification organised. Finding safe accommodation presented a more challenging situation that seemed outside of the social workers' ability to help:

... they're [TKTH team] pretty fair. You pretty much know what you're in for. As long as they don't try and put too many stipulations on me I'm quite happy... I think I've got more chance with my social worker than I have with anything. Listening to what he's basically saying they really can't do anything when it comes to accommodation. I'm gonna have to do it myself.

What can we learn from this story?

- As with Participant's 2 and 3, the way the TKTH team engage with participants in a respectful way is a strength of the programme. This kind of interaction creates an encouraging environment that helps increase participants' motivation and overall trust in the programme.
- Synergies with Participant 2's story are also exhibited in how trust in the TKTH programme is related to the results that participants observe.
- Secure housing being perceived by participants as unreachable has the potential to exacerbate their sense of hopelessness about their situation. Housing is a systemic issue for Auckland but TKTH needs to be supported by the wider community to view participants as some of the city's most socially excluded people in urgent need for safe and permanent accommodation.

Participant 5

Graduating over a year ago, Participant 5 initially did not know much about the TKTH programme apart from it being for “homeless people”. At the time he was living in temporary accommodation and was not sure if this court was right for him. However, he decided to try the TKTH programme. In Participant 5’s story, he believed that TKTH might not have been right path for his situation. Rather, mainstream court may have resulted in preferred outcomes from his perspective. Participant 5 proposed that the amount of time he took to complete the programme and the penalties incurred were harsher than what he would have received via the mainstream court process.

Participant 5 was encouraged to engage with the TKTH programme by his lawyer but soon realised that certain aspects were not suitable to him describing four main reasons:

- 1) Concern about the constant change in legal representation.
- 2) Feeling uninformed about the TKTH process.
- 3) Frustration with the ongoing, monthly attendance to court.
- 4) Confusion and resentment as to his final sentence.

1) Concern about the constant change in legal representation

Participant 5 was disappointed when his legal representation shifted from the lawyer who encouraged him to try TKTH, to the designated TKTH lawyers. He did not understand why he could not retain his original lawyer. This began Participant 5’s feeling that he could not trust the TKTH process. He explained a concern about the lack of transparency. Participant 5 suggested that it was not adequately explained to him why his original lawyer could not support him through the process. He then lost trust in the process as a result. However, Participant 5 continued to engage in the programme ambivalently:

My original lawyer, meeting her was good and she was quite encouraging. I still felt it was a half and half decision where she encouraged me to try that and I thought there would be no harm in trying it. I had one foot there and one foot there, and I decided to try this other way... I can't see that it was any better than me going to the original court, but I'll never know now... I always felt I should have changed my mind. I've always felt that... I didn't know that [she wasn't going to be my lawyer]... but she tautoko me. We went without checking first. They have different lawyers all the time... it changed because you went once a month so maybe that lawyer couldn't be there, so she let the other lawyer who represented people to do it and then the other one came back. It went like that.

2) Feeling uninformed about the TKTH process

Participant 5 expressed a lot of regret about entering into the TKTH programme. Although he had a sense at the beginning that it was not the right route for his situation, he wished he had made his own inquiries about the programme. He eventually chose to engage with TKTH based upon what he felt was misguided faith from the mainstream court referral process:

... [Mainstream lawyers] are taking that [TKTH] court as it might be easier because they have been to the other court and they've been getting... They're pushing it with going there all the time, so they will try and they are vulnerable. They do mean to be helpful, the New Beginnings... You will find with the street people that are homeless, they don't care. They will go into situations no matter what, without details and information... It's not as clear-cut as you would want it to be.

He could not help but wonder that if he had taken the mainstream path, he would have received a lesser sentence and retained his driver licenses. On reflection, Participant 5 considered he might not be able to challenge the sentence when ultimately, he risked his license when he made the decision to drive after drinking alcohol:

I was happy with all of it until two years and one day but then again, I would have only got six months for 16 years without drink driving. I was just over the limit, so I reckon I still had a chance there... If they're really helping you, I wouldn't have gotten that one day... That's the way things are with them and that's what you risk when you're driving drunk. I don't encourage drunk driving at all.

3) Frustration with the ongoing, monthly attendance to court

Participant 5 found monthly appearances over a long period tough and just tried to do what the TKTH team suggested to complete the programme. He explained that he felt the TKTH team encouraged him to be open in court but this did not amount to him perceiving he had a voice. Nor did he feel validated or that the process was any better than going through mainstream court:

They were trying to help me, even though I was there in that new court... They always tried to encourage [listening to me], but I didn't feel like I had a voice. I just did what they asked me to do, which was not much but maybe the hard part was going once a month... It actually started getting long, like it takes six months, twelve months.

4) Confusion and resentment as to his final sentence

Having been referred to TKTH with a charge of drink driving, his final point of concern was his eventual sentence. Participant 5 felt that his sentence of discharge without conviction was not explained well by the judge. He graduated from the programme feeling as though he made limited positive gains. In fact, he believed that his sentence that resulted in his loss of license weighed heavy with meaning as driving haul has been in the blood of Participant 5's whānau for over four decades:

My court case was drunk driving and it wasn't my first, it was about my third, but I hadn't been drunk driving for about 15, 16 years... I'm not one who wants to get away scot free... He gave me two years and one day. Two years I could still hold my license, but I would have had to sit it again because of that one day... That's the part I really don't get with all this. That's the part I was not happy 100% with. [My mainstream lawyer] intended well but we didn't do our homework going in to begin with... Meanwhile, it's been over a year to a year and a half, and I still have no licenses. I have to sit out the two years so that court case was over two years ago... I had to go and apply again, pay them, get new licenses. I actually lose licenses. I had my Class 5 truck and trailer, so I get put right down to Class 1, which is a big loss... It took me years to get... I don't mean to boast or brag, but I've been driving around Auckland all my life. My family have been driving around their long haulage for all their lives. My dad drove for over 40 years... My brother's been over 40 years now and yeah, so. I don't know if I could have appealed it too, one day... It's really the one day that hurt the most, when he said two years, I went, "Oh", and then he went, and one day. I was like, "what's that for?"

The only positive Participant 5 could recall from his engagement in the TKTH programme was in finally having stable housing. He had been on the wait list for housing prior to his court appearance. He acknowledged however, that having assistance may have led to expedite his situation. Although settled, he looked forward to when he might be able to be closer to whānau:

I'm not happy where I am... I've been trying to get to Orakei for years... [My social worker] helped me get a house... It's easier to have help... I had been on the list for two years and it takes about two years... and you've got to take that house otherwise you go back on the bottom of the list... It's all right but it's not where I want to be... I [am] there by myself... It's just so that my family can visit, grandkids can see who their grandfather is.

What can we learn from this story?

In contrast to all of the other participants' stories, core features of procedural justice and solution focused courts were not experienced by this participant. This highlights how important this feedback is to ensure participants gain the most out of the TKTH programme.

- Consistency in the TKTH team is important to building a participant's trust in the TKTH programme. Participant 5 experienced continued changes in legal representation which only added to mistrust and his initial doubts in the programme.
- Transparency is key to building participant's trust in the TKTH programme. A lack of transparency was perceived early on when Participant 5 described his experience of feeling like it was not adequately explained as to why he may not be able to choose to retain his original lawyer throughout the TKTH process. This description of legal representation does not necessarily align with the ideal processes of TKTH, nor with what we observed while in court. In practice, the TKTH designated lawyers aim to provide consistent support to participants as they go through the court.
- Participant 5 described a feeling of confusion with the final sentence he perceived he was given and felt it overly retributive considering the time between offences and the learning in between, and the work he felt he had done while in TKTH.

Combined, these experiences may have undermined many of the potentially positive outcomes aimed for by the TKTH team.

Participant 6

At the time of the interview, Participant 6 was a current participant in TKTH. After having a lengthy history within the criminal justice system, Participant 6 was motivated to create positive change in her life for her children. Charged with theft after using a stolen bankcard, she felt fortunate to have a lawyer who saw an opportunity for her to alter her life path:

I got in a little bit of a pickle with a bankcard... I was getting in too much trouble and ending up in court all the time. I had a good lawyer. He had a good talk to me and made me realise that I'm getting too old to keep on coming to court. I just want this court thing over and done with so I can move on and just look after my children.

Participant 6 aimed to support and live with her children through her engagement with the TKTH programme. She commented on how the judge demonstrated interest in what was very important to her:

I've got 11 [kids] all up... I was 17 when I had [my first]. He's now 25. My youngest has just turned 5. I haven't seen my younger ones for three years... I was thinking about my children because I talk about my children to everybody. The judge always brings my children up, "How are they?" "They're all good." Part of my thing being here was to get housing and to try and get some of my babies back.

Through an increase in self-awareness, Participant 6 explained that her life has vastly transformed whilst being engaged in the TKTH programme:

[TKTH's] helped me a lot. It's opened my eyes to a few things, heaps of things actually. I've been out of trouble since I've been on this court and usually I'm always in trouble so it's done something right... I used to be the worst thief out. I'd go into a shop and steal not \$20, thousands of dollars' worth of stuff. Any shop.

Nearing the end of her substantial engagement with the programme, Participant 6 proudly spoke about the changes she's made, and was looking forwards to her graduation and receiving her well-earned completion certificate:

I've been in here for nearly eight, nine months now, I think it is... I've done everything that the courts have told me to do so far. The only thing I haven't done is my CADS but I didn't even want to do that in the beginning... I've got no reason to do it because I'm not an alcoholic and I hardly smoke drugs now. I've pretty much slowed down on everything... I was terrible. I was really terrible before... the judge is really happy with me so he said that he'll give me a send-off next month if I leave, and get my certificates and that...

What can we learn from this story?

- As with the previous stories, the way the TKTH team, particularly the judge, allows participants to have a voice and validation of their experience creates an encouraging environment that only helps to increase participants' engagement, sense of optimism and trust in the programme.
- Self-awareness of the impact offending has on the participant's life and wider community is an important feature of the TKTH programme.

Participant 7

Participant 7's story was unique in that she came to TKTH following her first significant interaction with the criminal justice system as a result of a combination of an altercation with someone, and damaging property. As a graduate of the TKTH programme, Participant 7's narrative provided a rich account of the events leading up to the situation of being homeless, and the recommendations she would make to improve the lives of people who are homeless.

Participant 7 recounted the lengths she went to, to find stable housing and employment before arriving at TKTH. Following her undergraduate study, Participant 7 changed cities and attempted to find work with no success. Participant 7 decided to apply for a higher qualification and much to her surprise, was accepted onto the course. Enrolment in the postgraduate course offered Participant 7 a source of personal strength. In addition, she met some supportive people in the educational provider's faculty, which greatly enhanced her quality of life:

I did my postgraduate while sleeping on the street... Studying gave me direction, it gave me something to do, it gave me a place to go. The post-graduate facilities at [the education provider] are just fantastic... The faculty were fantastic. They found out I was rough sleeping and they were like, "what can we do to help?" I was like, "the hardest thing is finding somewhere to have a shower." So they organised that I could go to the gym there and have showers there so that was cool... and they gave me a counsellor and she was awesome.

Although study provided a source of hope and support for Participant 7, living circumstances were not as conducive. Through a series of disheartening events with her accommodation and continued disappointment with the lack of job opportunities at the time, Participant 7 found that living on the streets was an improvement to her dire situation:

... I stayed at like a pub... There's people jumping in and out of windows all the time. I couldn't lock my door. It was just soul destroying. You'd come home and it's like, "what's been stolen today?"... I couldn't find any part time work, so I got kicked out of there. I tried another hostel and then that closed down and then it was like, I'm just going to do the street thing. It was hard at first but after a while, you get the hang of it. I felt I was better off on the street. I was cleaner. I was safer on the street than I was ever in a hostel. I really begrudged paying 90% of my benefit for some scungy room and the fleas and lice, just the scum of the earth that you have to share accommodation with. It was really depressing. It was like, "what did I do to deserve this?"

Entering into the TKTH programme was timely for Participant 7. She was more than motivated to bring about change with her life. Due to having no prior experience with the criminal justice system, Participant 7 initially felt stunned in the TKTH courtroom. She soon felt welcomed and supported however, by the TKTH team members' demonstration of respect for her as an individual:

From day one, they asked me what I preferred to be named as... I'm transgendered so I think my first appearance I was wearing makeup and it wasn't an issue... They handled that well.

She felt that the goals in her therapeutic plan were co-created with her social worker, and it was made transparent that if she met those goals she would graduate. Having a group of people championing her success, Participant 7 observed the positively unique situation that she now found herself in:

I think probably about my second appearance they gained my trust and I had a better understanding of what was happening... The judge was lovely. I never felt intimidated at all. I was probably most of all blown away by how everybody really was there for me. I don't think I've really had that experience before where you've got this team of people that want to help you sort your shit out and that was really touching. No, I've got nothing but praise.

Participant 7 reflected on the contrast between being homeless and having access to housing. For her, housing provided a kind of deeper stability that enabled a hopeful outlook:

... [my social worker] made a world of difference... He got me this place within a couple of weeks... The difference getting into a home made to not just my mental state, but it meant I could do things... It's so debilitating when you're on the street because you've got your backpack and you're stuck with your backpack, you can't do anything. You wind up parking up somewhere. I used to sit there and read a book or play the guitar, I found music was a real good help in staying positive. That's probably the hardest thing on the street, is to stay positive...

Although getting this help from the TKTH programme was of great value, her overall life experience frustrated Participant 7, and she had an array of recommendations to ease the situations for people who are homeless. Participant 7 described how having access to everyday practical resources can stop people from experiencing extremely poor health and social

outcomes:

... the thing that frustrated me was that this is the help I've been asking for, for months, if not years, and it's not until I get into trouble that everybody wants to help me... You can imagine what it must be like sleeping on the street. Just the little things become huge obstacles, like where do I charge my phone, where do I get a shower tomorrow? Little things that we take for granted when we live in a home, they become huge barriers. Even going to the doctor, it's like, how am I going to get to the doctor? I had a small scratch that got infected and that's just because I wasn't looking after myself. I've heard of people that have actually lost their limbs because they're on the street and things get infected and they don't look after themselves.

The ability to keep people's possessions safe was also a topic Participant 7 was passionate about changing. Forced to keep "your world on your back", people who are homeless may be limited from enhancing their livelihood through this daily burden of concern. Though Participant 7 explained that it may appear minor to have to worry about your possessions every day, these items are all that people who are homeless may have. These possessions, therefore, are deeply meaningful, and in some cases, hold serious significance with regards to a person's health and wellbeing:

I know some people, they tend to stash [their possessions] or they hide them, but the amount of times I've seen grown men, strong, tough men, women that have been around the block more times than we can imagine, in tears because they've lost everything. Because they've stashed their bags somewhere and the council or some scumbag's come along and taken it. That might have their medication in it, might have their important documents in it. It's got their clothes, their toothbrush. It's their whole world.

Finally, she believed there were misconceptions from the public that by providing people who are homeless with resources to enhance their wellbeing they may be perpetuating the situation. Instead, Participant 7 believed helping homeless people with day-to-day needs helps them engage with society:

There's this mentality amongst a lot of people who are meant to be helping the homeless that [providing access to showers and storage] would be enabling them, anything that makes life a bit easier for the people on the street is enabling. Yes, it's enabling, it's enabling them to mix with society, to go and do things... To get on a bus and go and see their whānau without worrying about their stuff going missing... It's just a little thing that you think we could be like, oh, yes, that's a good idea, let's do it, but no.

From this lens, Participant 7 considered that this misunderstanding impeded the possibility for improving people's lives in these kinds of practical ways whilst they are without stable housing.

What can we learn from this story?

- As with the previous stories, a strength of TKTH is that it creates a welcoming and respectful space that, which, alongside the transparent building of therapeutic plans, leads to perceptions of trust and confidence in the programme.
- The acknowledgement by TKTH that systemic issues outside of participants control, such as discrimination and lack of access to housing, can contribute to them getting to a place where they may commit criminal offences helps participants to feel validated in their complex struggles. This has important therapeutic benefits and is a strength of the TKTH programme.
- TKTH would be strengthened by community initiatives that support participants to overcome the practical barriers to full participation in society, such as a safe place to store possessions, taking a shower, getting a cheap meal, and the provision of clean clothing.

Participant 8

Participant 8 was a current participant at the time of the interview. Eager to change his situation, TKTH was suggested by his lawyer as a way to assist him with improving his situation:

I was in custody and my duty lawyer referred [TKTH] to me. That's how I got onto it... [my duty lawyer] just told me that the New Beginnings Court was for people who are homeless and that, and that we'll get help with drug and alcohol and stuff like that. I was keen on that

Previously, Participant 8 had cycled through the judicial system. He credited his lack of offending to his current participation in the TKTH programme:

I was in and out [of mainstream court], bailed and I'd get in trouble again, but this court here, I haven't been in trouble once for ages. That's good. That's a positive.

Initially apprehensive about the court process, after a few months Participant 8 soon realised that the TKTH team members were there to support his success. Through acts such as being invited to talk in court and feeling listened to, Participant 8 was enthusiastic about being an active member of his court experience:

When I first went I thought this is too good to be true. I was like, there must be a catch here somewhere, but no... you get a chance to have a say on things, you actually get a chance to talk. I always take the opportunity.

Having his fines cleared by the judge in lieu of community work, Participant 8 described how excited he was to observe his life progressing in positive ways:

I think it's through this court. I'm finding I'm really getting a chance, with a social worker and that so I can get somewhere... got me the benefit after four years and she got it pretty fast too. I buzzed out on that... I'm still on the list [for housing] so I'm still waiting for that... They wiped out all my fines. That was good.

Ultimately, engaging with the TKTH programme has given Participant 8 hope about his future:

I think it's just more of what I've got looking forward to instead of just having nothing to look forward to or something. You've got more positive stuff.

What can we learn from this story?

- Referrals from lawyers in mainstream court are important, indicating the need to focus on strengthening knowledge of TKTH to the wider legal community.
- Like the previous stories, the way TKTH invites participants to actively engage in the court process through having a voice, and also validation of their experience, creates an encouraging environment that only helps increase participants' engagement, sense of optimism and trust in the programme.
- The court plan can create therapeutic benefits by allowing participants to have a fresh start, while instilling ideas about accountability of actions.
- As with the previous stories, TKTH needs to be supported by the wider community to consider participants of the court as in urgent need of safe temporary accommodation at a minimum, but stable permanent accommodation as the ideal.

CONCLUSION

TKTH seeks to provide a solution-focused response to the homeless population in Auckland city that repeatedly present to the criminal justice system.

This evaluation has demonstrated the TKTH team have a shared understanding of the court aims and goals. They believed deeply in the purpose of the court, and showed immense respect and compassion for the situations and challenges faced by people living without stable housing. The participants interviewed in this research were mostly champions of the programme, and highlighted numerous procedurally just practises within their TKTH experience that promoted validation, confidence, trust, and respect. These feelings were leveraged by a sense of feeling supported, encouraged and motivated to achieve success by making positive lifestyle changes.

The programme seeks to provide a solution-focused response without additional support from central government beyond the existing budgets that support the work of the judicial, legal, criminal justice, cultural and social work team. Ongoing issues with funding streams and staff turnover, however, have contributed to some disruption and lack of consistency at times throughout the TKTH process. The TKTH governance team were aware of these issues and were in the process of drawing together a Community Advisory Group as one way to finding further access to support and resources to help participants in making positive lifestyle changes. Another area that was being considered included reviewing ways that the TKTH court coordinator service could be more clearly defined and strengthened as a central aspect to the smooth functioning of the TKTH programme.

Cultural responsiveness was viewed as an imperative area for development in this evaluation. The reason for this is twofold. Firstly, all courts in New Zealand must honour the Treaty of Waitangi, and second, TKTH needs to respond to the predominantly Māori participants it engages.

This evaluation aimed to describe how TKTH functions, assesses its strengths and weaknesses and provide recommendations. The following recommendations summarise the actions that continue to create success, and those areas that need to be further strengthened.

Actions to continue:

- Operate TKTH court as a solution focused court as it is strength-based, inclusive of participants voice, and may be more meaningful for Māori.
- Encourage participants as a supportive whānau but continue to place a strong focus on participants' reconnection to whānau, iwi, hapu and marae.
- Build trust with participants by encouraging processes where participants can observe their own and others positive lifestyle changes, and maintain open, honest and transparent processes throughout the TKTH programme.
- Demonstrate respect by building participants' confidence and optimism, through applying the concepts of procedural justice.
- Listen to and validate the participants' voice to create an encouraging and supportive environment. This leads to a feeling of being welcome and belonging, further programme engagement, and a sense of optimism and trust in the programme.
- Reward good progress by observing positive achievements, and by applying the tuakana award and the concept of positive role modelling.
- Promote self-awareness regarding the impact offending has on the participant's life, its victim, and the wider community. This allows participants to have a 'new beginning' through their actions of taking accountability.
- Support participants in gaining day-to-day requirements, such as gaining access to food, formal identification, and safe shelter.
- Set realistic, achievable goals to promote success through an optimistic and confident position.
- Focus on harm reduction approaches and achievements with regards to alcohol or other drug use.

	Recommendations for strengthening TKTH
Governance structure	<ul style="list-style-type: none"> Review the current make-up of the TKTH governance group to make sure it matches the short-term and long-term needs of the participants. Increase stakeholder support for the TKTH through the CAG.
Structural support	<ul style="list-style-type: none"> Secure government-funded case managers that are hosted by community agencies to increase the sustainability and variety of services available to participants. TKTH needs to be supported by the wider community to see participants considered as some of the city's most socially excluded people in urgent need for safe permanent housing. CAG should assist in advocating for initiatives that support participants to overcome the practical barriers to full participation in society, such as a safe place to store possessions, taking a shower, getting a cheap meal, and the provision of clean clothing.
Aims/objectives	<ul style="list-style-type: none"> Design a logic model that sets out and records inputs, outputs, and impacts to strengthen the court's aims/objectives and to facilitate future evaluation. Incorporate a court coordinator role description and kaupapa Māori statement into this logic model. Increase awareness of TKTH through the court coordinator's attendance at mainstream court on busy list days.
TKTH team	<ul style="list-style-type: none"> Secure allocated time for the TKTH judge to prepare for the TKTH pre-meetings and sittings, and engage with wider stakeholders. Employ the court coordinator into a full-time, permanent position. Determine the duties of the court coordinator role, particularly in relation to coordination and case management. The court coordinator service duties should include systematic record keeping of all referred, engaged, and graduated/exited participants of TKTH. Outline a shared understanding of the scope and limitations of each TKTH role, so that differing philosophical approaches to the TKTH programme and its participants can be managed seamlessly, and so that team members feel supported by each other. Review information sharing protocols particularly with regards to ensuring the safety of the team members working in outreach settings and sharing sensitive information in the public setting of the court. Strengthen the role of dedicated TKTH lawyers as a core best practice feature of this solution-focused court.
Court processes	<p>To avoid delays between referral, assessment and acceptance on the programme:</p> <ul style="list-style-type: none"> Clearly identify information regarding a willingness to plead guilty in the potential participant's initial assessment report prior to their first court sitting Determine the participant's therapeutic plan through the case coordination meeting as organised by the court coordinator, and as led by the participant and their social worker, prior to the participant's first court sitting. Repeat the specific requirements of participants to graduate to strengthen the chances of the programme being experienced as open and transparent.
Cultural responsiveness	<ul style="list-style-type: none"> Develop and incorporate into the logic model a clear kaupapa Māori statement that aligns with Ngāti Whatua justice / health strategy. Ensure cultural responsiveness and whakapapa knowledge including the use of tikanga Māori are consistent, understood and supported by the participants and the team throughout the TKTH process. Ensure the kaumatua role functions according to kaupapa Māori. Place a strong focus on helping participants connect to their whānau, hapu or iwi. Increase awareness of, and access to, kaupapa Māori mental health and addictions services to better engage participants and their whānau. Consider shifting the court setting onto the marae, where processes could be strongly dictated by tikanga.

Katey Thom (PhD) is a Senior Research Fellow in the Faculty of Medical and Health Sciences at the University of Auckland. Katey's current research has a strong focus on social justice issues in mental health and addictions, covering various aspects of mental health law, human rights and therapeutic initiatives within the criminal justice system.

Alice Mills (PhD) is a Senior Lecturer in Criminology at the University of Auckland. Alice has research expertise in criminal prisons and imprisonment, resettlement and re-integration, and third/voluntary sector organisations. She is currently examining the role of stable housing in reducing re-offending by ex-prisoners

Michele Yeoman (RNZcmpN, MHSc) is a Research Assistant contracted by the University of Auckland. As a comprehensive nurse, Michele has worked clinically in a range of medical settings, with an extensive focus in mental health and addictions. Michele's current research interest is focused on e-based workforce support forums and e-based or blended learning techniques in the tertiary environment.

Stella Black (BA (Hons)/LLB), is of Tūhoe, Ngāti Whakaue, Whakatōhea, Te Whānau-ā-Apanui descent. She is a Māori Researcher at the Faculty of Medical and Health Sciences at the University of Auckland. Stella is passionate about working with Māori young and old and the complexities of Māori realities shaped by historical and contemporary issues as they transect the health, criminal and social justice systems.

Acknowledgements

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From: S9(2)(a)
Sent: Wednesday, 27 August 2025 2:25 pm
To: S9(2)(a) ; S9(2)(a)
Cc: S9(2)(a) ; S9(2)(a) Parish, Rebecca
Subject: RE: SI-00 1553 JMM note - intersection between public disorder and homelessness
Attachments: SI_00 1553_JMM_Homelessness_Courts_Data v2.xlsx

IN CONFIDENCE

Kia ora team,

Here's a brief overview of the trends observed in the two courts that deal with offending by individuals that go through the following Homelessness Courts: the Court of Special Circumstances in Wellington and the Court of New Beginnings in Auckland. Both courts have been operating since 2013.

Both courts saw their highest case volumes between 2017 and 2019 (Wellington: 1 028; Auckland: 558). Numbers declined afterward but have recently rebounded, with Wellington up 13% (168 → 189) and Auckland up 46% (117 → 171) over the past year.

Over the full period, Wellington engaged more participants (469 vs. 377) and handled more case events (2,557 vs. 1,881). Despite these differences, both courts have consistently addressed similar types of offending. Theft-related offences were the most common (72 people in Wellington, 42 in Auckland), alongside low-level violence specifically involving acts intended to cause injury (59 in Wellington, 47 in Auckland).

Notable distinctions between the courts also emerge. Wellington saw higher numbers of unlawful entry (53 versus 28 in Auckland), while Auckland recorded relatively more public order and justice procedure offences (18 and 38, respectively, compared with 8 and 29 in Wellington).

I have also attached the workbook should you require further details.

He mihi,



S9(2)(a)
Senior Analyst | Kaitiaki Matua
Data Response | Sector Insights
Atea a Rangī – Strategy Group
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Working together for a fair and safe Aotearoa

IN CONFIDENCE

From: S9(2)(a) [@justice.govt.nz](mailto:justice.govt.nz)
Sent: Tuesday, August 26, 2025 8:48 AM

Document 22

To: S9(2)(a) <[S9\(2\)\(a\)@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>; S9(2)(a) <[S9\(2\)\(a\)@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>; S9(2)(a) <[S9\(2\)\(a\)@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>
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Subject: RE: JMM note - intersection between public disorder and homelessness

Kia ora ^{S9(2)(a)} and S9(2)(a)

We're very unlikely to find anything on public disorder and homeless in NZ in journals. Particularly when it comes to anything recent.

There will be a lot of policing strategies and homeless from overseas though – particularly America. Research will say things like:

- homelessness increases the risk of victimisation
- housing-first strategies for those chronically homeless help improve outcomes, but have mixed effect on criminal justice outcomes – because predominantly mental health and life support is required, not justice support.
- where there are particular crime issues, place-based policing strategies are preferred

But none of that goes to your question specifically. I've just had a chat to Bex, and she has suggested there is the possibility we could look into the kinds of charger coming through the Wellington and Auckland Homelessness Courts – we know at least more people are appearing in the Auckland Homelessness Court in the last year. Though there will be likely limitations to that. If that's something you're interested in, I'll ask S9(2)(a) who in her team could talk to you this afternoon (they are at a planning session this morning).

Cheers

S9(2)(a)



S9(2)(a)

Manager Research and Evaluation, Sector Insights
Ātea a Rangī – Strategy, Ministry of Justice
Mobile | S9(2)(a)
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Mon Tues Wed Thur Fri



From: S9(2)(a) <[S9\(2\)\(a\)@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>
Sent: Monday, August 25, 2025 4:30 PM
To: S9(2)(a) <[S9\(2\)\(a\)@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>
Cc: S9(2)(a) <[S9\(2\)\(a\)@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>; S9(2)(a) <[S9\(2\)\(a\)@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>
Subject: RE: JMM note - intersection between public disorder and homelessness

IN CONFIDENCE

S9(2)(a)
Hey

Document 22

Is this a good candidate for a 'rapid'? Policy chatted with us and have done a search of media, but I wondered whether some research databases would add anything. I'll leave that to your judgement.

Ngā mihi
S9(2)(a)



S9(2)(a)

Manager Analytics and Insights
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IN CONFIDENCE

From: S9(2)(a) @justice.govt.nz>
 Sent: Monday, August 25, 2025 4:09 PM
 To: S9(2)(a) @justice.govt.nz>
 Cc: S9(2)(a) @justice.govt.nz>
 Subject: JMM note - intersection between public disorder and homelessness

IN CONFIDENCE

Hi S9(2)(a)

We have been asked to write a note for the Justice Sector Ministers Meeting, so Minister Goldsmith can lead a discussion on the intersection between public disorder (anti-social behaviour) and homelessness. We do not have a good evidence base to set out the scale of the issue and recent trends of anti-social behaviour in public place across New Zealand. We have scanned media articles and have found a handful of articles that set out distinct problems in Wellington (Newtown), Rotorua and New Plymouth.

Do you have any data or information that would set out **the scale of anti-social behaviour in public place across New Zealand and trends?**

If possible, we would welcome any information by **COB Thursday 28 August**. Apologies for the short turn around. If you think there is information on this issue (which we appreciate it might not exist) but the timeframe isn't possible, then we can be a little flexible on the due date.

We have a lot of information on homeless In New Zealand from HUD and census data, so we do not need further data on that.

Ngā mihi,



Sector Insights - Data Response Ātea a Rangī – Strategy

Ad Hoc Work Request Workbook

Workbook Filepath: [T:\requests\ad_hoc_requests\district_court\criminal\ 2251_2300\crl_2292_dr_si_001553_JMM_Homelessness_Courts_Data\excel\si_001553_JMM_Homelessness_Courts_Data.xlsx](#)

Workings Filepath: [T:\requests\ad_hoc_requests\district_court\criminal\ 2251_2300\crl_2292_dr_si_001553_JMM_Homelessness_Courts_Data](#)

Internal ref: SI 001553

Author: **S9(2)(a)** (Analyst) & **S9(2)(a)** (Senior Analyst)

Date Sent: 27/08/2025

Peer reviewer(s): **S9(2)(a)** (Senior Analyst) & **S9(2)(a)** (Senior Analyst)

Quality Assurer: **S9(2)(a)** (Manager)

Email: SectorInsights@justice.govt.nz

Prepared for: **S9(2)(a)**

Purpose: We have been asked to write a note for the Justice Sector Ministers Meeting, so Minister Goldsmith can lead a discussion on the intersection between public disorder (anti-social behaviour) and homelessness.

Period: 01 January 2013 - 31 December 2024

Basis for tracking: Event date and charge outcome date.

Source/SAS project: [SI_001553_Homelessness_courts_of_special_circumstances.sas](#)

[SI_001553_Homelessness_court_of_new_beginnings.sas](#)

Data refresh date: 26/08/2025

Classification: **IN CONFIDENCE**

Can be circulated to: **PUBLIC - FOR EXTERNAL RELEASE**

Sheet:

[Takeaways](#)

[Case Events](#)

[Participants](#)

[People with finalised charges](#)

Description:

Key bullet points observed

Number of case events in the Homelessness Courts, by calendar year, between 1 January 2013 and 31 December 2024

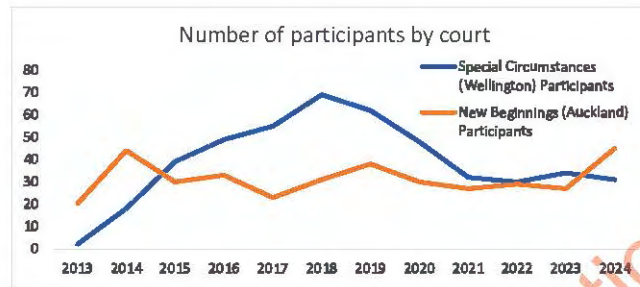
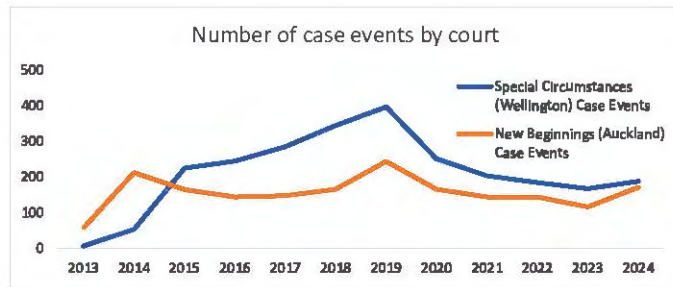
Number of participants using the Homelessness Courts, by calendar year, between 1 January 2013 and 31 December 2024

Number of people with finalised charges who attended a case event in the Homelessness Courts, by calendar year and offence type, between 1 January 2013 and 31 December 2024

Data Caveat:

Please refer to caveat/notes provided alongside data tables.

Released under the Official Information Act 1982



The Court of Special Circumstances (Wellington) and the Court of New Beginnings (Auckland) experienced their **peak case volumes between 2017 and 2019** (1,028 and 558 events respectively). Case numbers then declined in the following years but have **shown a recent rebound**, rising by 13% in Wellington (from 168 in 2023 to 189 in 2024) and by 46% in Auckland (from 117 in 2023 to 171 in 2024).

Across the full period (2013–2024), the Wellington court engaged **more total participants (469)** than the Auckland court (377), and also recorded **more case events (2,557 vs. 1,881)**.

People with finalised charges

From 2013 to 2024, the **most common offences heard in both courts were theft-related** (72 people charged in Wellington and 42 in Auckland) and **low-level violence, specifically acts intended to cause injury** (59 in Wellington and 47 in Auckland). Wellington (53 people) shows a **higher volume of unlawful entry** compared to Auckland (28 people).

Between 2013 and 2024, **Auckland recorded relatively higher numbers of public order and justice procedure offences** (18 and 38 people, respectively) compared with Wellington (8 and 29 people, respectively).

Released under the Official Information Act 1982

Document 22A

Notes for all tables below:

The data counts the number of case events that took place in the Te Kooti O Timatanga Hou/Court of New Beginnings (Auckland) and Court of Special Circumstances (Auckland).

Case events for Special Circumstances and New Beginnings courts have only been included in CMS since 17 October 2013.

*2013 is a partial year with data counted from 17 October 2013.

Cases may be counted more than once as there may be more than one case event associated with the same case.

This data includes unresolved cases.

CMS data is extracted from a live dataset that is used for operational purposes, meaning the data will be updated with late data entry. Therefore, this data may differ to data reported elsewhere with a different extraction date. These tables were extracted on 26 August 2025.

Table 1: Number of case events in the Court of Special Circumstances (Wellington), by calendar year, between 1 January 2013 and 31 December 2024.

Number of case events	*2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	Total
Total	7	54	226	245	286	345	397	251	204	185	168	189	2,557

Table 2: Number of case events in the Te Kooti O Timatanga Hou/Court of New Beginnings (Auckland), by calendar year, between 1 January 2013 and 31 December 2024.

Number of case events	*2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	Total
Total	57	213	165	145	148	166	244	166	144	145	117	171	1,881

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Document 22A

Notes for all tables below:

Case events for Special Circumstances and New Beginnings courts have only been included in CMS since 17 October 2013.

*2013 is a partial year with data counted from 17 October 2013.

This data counts participants if they attended at least one Special Circumstances or New Beginnings case event.

Participants may be counted once per calendar year. Participants may be counted multiple times, where they attended events that took place across different calendar years.

Participants have been counted where the role type recorded is 'Accused', 'Defendant' or 'Young Person'.

There may be multiple cases and case events associated with an individual participant.

This data includes unresolved cases.

CMS data is extracted from a live dataset that is used for operational purposes, meaning the data will be updated with late data entry. Therefore, this data may differ to data reported elsewhere with a different extraction date. These tables were extracted on 26 August 2025.

Table 3: Number of participants using the Court of Special Circumstances (Wellington), by calendar year, between 1 January 2013 and 31 December 2024

Number of participants	*2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	Total
Total	2	18	39	49	55	69	62	48	32	30	34	31	469

Table 4: Number of participants using the Te Kōwhiri o Tīmatanga Hou/Court of New Beginnings (Auckland), by calendar year, between 1 January 2013 and 31 December 2024

Number of participants	*2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	Total
Total	20	44	30	33	23	31	38	30	27	29	27	45	377

Released under the Official Information Act 1982

Notes for all tables below:

Case events for Special Circumstances and New Beginnings courts have only been included in CMS since 17 October 2013.

*2013 is a partial year with case events data counted from 17 October 2013.

This data counts a person once per calendar year for their most serious charge finalised in the year, and only the details of that charge are shown.

This data is extracted based on the charge outcome year of each finalised charge (eg the year the charge was convicted and sentenced, withdrawn, or the person was found not guilty).

The year the charge was finalised may not be the same as the year the person attended an event in the Court of Special Circumstances.

Events that occur post finalised charge often relate to sentencing conditions.

A range of information is used to determine which finalised charge is a person's most serious in a year. This includes information such as the final charge outcome, sentence type, sentence length/amount, remands in custody and bail and maximum offence penalties.

The Australian and New Zealand Standard Offence Classification is used to categorise offences into 17 divisions, within which subdivisions and groups exist. In New Zealand, ANZSOC v2.0.0 is used for all statistics published from July 2025 onwards. Prior to this, ANZSOC v1.0.0 was used, which categorised offences into 16 divisions. More information can be obtained from Stats NZ: <https://aria.stats.govt.nz/aria/#ClassificationView.uri=http://stats.govt.nz/cms/ClassificationVersion/bNA7dXFz2KGM001>

CMS data is extracted from a live dataset that is used for operational purposes, meaning the data will be updated with late data entry. Therefore, this data may differ to data reported elsewhere with a different extraction date. These tables were extracted on 26 August 2025.

This data is based on Tier 1 statistics which are the key official statistics by which New Zealand's performance as a country is measured. Tier 1 statistics are published twice a year in March (calendar year) and September (financial year).

There are principles and protocols that govern their production and release. More information about Tier 1 statistics is available from www.data.govt.nz/use-data/showcase/official-statistics/

This data is drawn from a database that is subject to change, as new data is continually recorded and/or re-coded.

Table 5: Number of people with finalised charges who attended a case event in the Court of Special Circumstances (Wellington), by calendar year and offence type between 1 January 2013 and 31 December 2024.

This table is a subset of Table 3.

	*2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	Total
02: Acts intended to cause injury	0	3	3	5	7	6	9	6	7	1	7	5	59
03: Sexual assault and related offences	0	0	0	0	0	1	1	0	0	1	0	0	3
04: Dangerous or negligent acts endangering persons	0	0	0	0	0	0	0	2	1	1	1	0	5
05: Abduction, harassment and other offences against the person	0	0	1	1	2	1	2	3	0	1	1	2	14
06: Robbery, extortion and related offences	0	0	0	0	0	0	0	0	0	0	0	1	1
07: Unlawful entry with intent/burglary, break and enter	0	1	0	4	3	7	2	11	9	3	6	7	53
08: Theft and related offences	0	4	5	12	10	14	10	6	0	3	5	3	72
09: Fraud, deception and related offences	0	1	3	1	1	2	2	2	2	1	0	1	16
10: Illicit drug offences	0	0	0	2	3	4	1	1	0	0	0	2	13
11: Prohibited and regulated weapons and explosives offences	0	0	0	0	2	0	1	0	1	1	1	1	7
12: Property damage and environmental pollution	0	1	2	3	4	3	1	2	2	2	0	0	20
13: Public order offences	0	0	0	0	3	3	2	0	0	0	0	0	8
14: Traffic and vehicle regulatory offences	0	0	3	1	2	2	3	3	2	1	2	4	23
15: Offences against justice procedures, government security	0	0	3	2	5	4	5	0	4	1	1	4	29
Total	0	10	20	31	42	47	39	36	28	16	24	30	323

Table 6: Number of people with finalised charges who attended a case event in Te Kooti O Timatanga Hou/Court of New Beginnings (Auckland), by calendar year and offence type, between 1 January 2013 and 31 December 2024

This table is a subset of Table 4.

	*2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	Total
02: Acts intended to cause injury	0	5	4	5	6	2	2	4	3	5	4	7	47
04: Dangerous or negligent acts endangering persons	0	0	0	0	0	1	0	0	1	0	1	2	5
05: Abduction, harassment and other offences against the person	0	0	0	0	0	0	0	2	0	1	0	0	6
06: Robbery, extortion and related offences	0	0	1	1	0	0	0	0	0	0	0	0	2
07: Unlawful entry with intent/burglary, break and enter	1	3	2	1	2	3	3	2	3	3	1	4	28
08: Theft and related offences	1	7	6	5	1	5	3	2	3	1	5	3	42
09: Fraud, deception and related offences	0	2	0	0	1	1	3	2	0	1	1	0	11
10: Illicit drug offences	0	0	2	2	1	3	2	2	2	0	0	3	17
11: Prohibited and regulated weapons and explosives offences	0	3	0	0	1	1	2	1	0	0	1	1	10
12: Property damage and environmental pollution	1	2	2	3	1	0	2	0	1	3	0	1	16
13: Public order offences	1	4	0	2	2	3	1	0	1	1	2	1	18
14: Traffic and vehicle regulatory offences	1	0	0	5	0	1	1	0	0	1	0	3	12
15: Offences against justice procedures, government security	1	3	4	3	5	4	5	2	2	2	1	6	38
Total	6	29	21	27	20	24	26	15	17	17	16	34	252

Released under the Official Information Act 1982

From: s9(2)(a) @msd.govt.nz>
Sent: Tuesday, 2 September 2025 11:08 am
To: S9(2)(a)
Cc: s9(2)(a)
Subject: RE: Draft note for Justice Sector Ministers Meeting - public disorder

~~IN CONFIDENCE~~

Mōrena S9(2)(a)

Thank you for the opportunity to review the draft note for the Justice Sector Ministers' meeting. MSD has the following feedback for your consideration (some of which reiterates points we have made earlier):

- Anti-social behaviour should not be attributed to homelessness/rough sleepers, as the drivers of homelessness are complex. To do otherwise risks (as you say, s9(2)(a) reinforcing a false narrative/perception that homelessness is driving anti-social behaviour, and unintentionally victimising homeless people. Several different groups of people may be the perpetrators of anti-social behaviour in retail areas
- There is no particular evidence offered in the paper for drawing a link between homelessness/rough sleeping. In fact, the evidence points to disorderly behaviour decreasing and being at a 10-year low.
- Other sources of information on public disorder seem to be subject to confirmation bias (e.g. it seems tenuous to draw a link between a rise in public transport offences with an increase in rough sleeping). It would be more worthwhile to look at the broader drivers of crime nationwide, including petty crime.
- 'Move on' notices in relation to sleeping rough will simply drive the problem elsewhere, and are not an effective tool. NZ Police have advised on the one hand that it could be an effective tool to tackle anti social behaviour, but then also acknowledge (at para 13) that law enforcement responses to sleeping rough or manifesting mental health issues merely shift the issue to neighbouring areas.
- The management of manifestation of mental health issues (see para 13) is a broader issue and not confined to those sleeping rough.
- We already have a range of offences and tools in place for dealing with such things as violence, damage, theft, threats, disorderly behaviour etc. New criminal offences do not appear warranted; government already has a range of offences in place. Local councils already have all the tools they need to enforce local bylaws (e.g. under the LGA 2002 they are empowered to appoint enforcement officers, impose fines or removal orders, and seek a court injunction for ongoing offences).
- It's unclear what is meant by "poor management of homelessness" at para 15, especially when the paper goes on to note the wide range of existing measures to address homelessness.
- It's unclear what a 'government action plan' would cover, noting that Ministers are already looking at short-term actions to reduce homelessness (and will make an announcement shortly). It's also unclear what "court ordered civil orders" would cover, and whether these are needed? Do they duplicate existing measures?
- Para 20 could potentially also note strengthening of operational guidance around the redirection of benefits, as included in our recent joint advice with HUD.

We would also like to recommend the following changes to the note:

Document 13

- Amend the heading on page 1 of the agenda item to "what we know about public disorder in New Zealand" (i.e. omit "and homelessness")
- Remove 'move-on' orders from the additional tools being explored, or at least, ensure that these are targeted at actual anti-social behaviours (such as aggressive begging or threatening behaviour). 'Move on' notices are ineffective in tackling rough sleeping.
- Recommend that the paper notes the broader drivers of crime (low level or otherwise), e.g. drug use, poverty, organised crime, unemployment. It is not viewing the issues in their broader context.
- In general, the paper should be careful not to draw or suggest a link between homelessness/rough sleeping and antisocial behaviour without clear evidence, as that feeds a false narrative and is unhelpful. We would prefer to see 'anti social behaviour' and 'homelessness' decoupled and treated as separate issues. It would be better to note, e.g. following para 5, that "*while there may be a link between rough-sleeping and anti-social behaviour it has not been possible to identify and evidence a causal link in the time available.*"
- The paper should examine from a cost benefit perspective, whether new criminal offences or powers are actually needed (or do we already have sufficient tools enabled?) and whether these would actually deliver the benefits envisaged.

Please let me know if you have any questions

Ngā mihi

§(2)(a)

§(2)(a)

Senior Policy Analyst
Housing Policy
021 334 1975 x1196



MINISTRY OF SOCIAL
DEVELOPMENT

From: §(2)(a)

[@justice.govt.nz](mailto:§(2)(a)@justice.govt.nz)

Sent: Monday, September 1, 2025 10:20 AM

To: §(2)(a)

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; Karen Hocking <karen.hocking002@msd.govt.nz>; Julia Bergman

<julia.bergman003@msd.govt.nz>

Cc: Mercuri, Alida <Alida.Mercuri@justice.govt.nz>

§(2)(a)

[@justice.govt.nz](mailto:§(2)(a)@justice.govt.nz)

Subject: Draft note for Justice Sector Ministers Meeting - public disorder

Tēnā koutou,

As you are aware, the Minister of Justice requested an agenda item at the upcoming Justice Sector Ministers Meeting on 17 September to discuss public disorder and any possible intersections with homelessness. Please find the attached draft note we have prepared for the meeting pack. We would appreciate any input or feedback you have on the note.

The draft pack for the meeting will go to Minister Goldsmith's office tomorrow - so if you have any feedback by 10am tomorrow it would be appreciated. However, we will have opportunity to finalise the note before the final pack goes out, so if more time is needed please provide feedback by Thursday COB.

We understand Ministers Bishop, Potaka, and Upston have been invited to attend the meeting.

Ngā mihi nui

S9(2)(a)



S9(2)(a)

**Policy Advisor | Criminal Justice Unit
Ministry of Justice | Tāhū o te Ture
Justice Centre | 19 Aitken Street | Wellington 6011**

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From: s9(2)(a) @hud.govt.nz>
Sent: Tuesday, 2 September 2025 10:08 am
To: S9(2)(a)
Cc: s9(2)(a)
Subject: RE: Draft note for Justice Sector Ministers Meeting - public disorder
Attachments: 20250829 DRAFT Note for JSMM - public disorder v.2.docx

Kia ora S9(2)(a)

Thank you for providing us with the opportunity to provide feedback on the draft note. Please see below for a summary of our feedback (also attached).

Section	Comments
Public disorder and homelessness	<ul style="list-style-type: none"> Recommend that this section should be split into two – one of public disorder and the other on homelessness - to emphasise the point that they are distinct.
Data and reports on disorderly behaviour (second half of para 5a)	<ul style="list-style-type: none"> HUD data insights team recommend this sentence be deleted: <i>“These reports have linked the behaviours to an increase in rough sleeping, drug dealing and use, and anti-social behaviour.”</i>
Homelessness is increasing	<ul style="list-style-type: none"> Recommend that the homelessness section could also be framed or introduced differently, to emphasise this point that not all public disorder is by homelessness people, and not all homelessness people engage in these behaviours. As it currently reads, the link between public disorder/anti-social behaviour is unclear and could contribute to assumptions/misconceptions that these are the same. Example text: <i>Not all anti-social behaviour is by people who are experiencing homelessness, and not all people who experience homelessness engage in anti-social behaviour.</i> HUD data and insights recommended changing reference to June insights report directly.
Justice is exploring response to low-level offending, including move-on orders	<ul style="list-style-type: none"> Recommend including reference to HUD’s concern about move-on orders here, including ensuring that people are not prevented from accessing support services and temporary accommodation as a result of move-on orders or other similar responses. We consider move-on orders should be treated with caution, with more work needed to understand the potential impacts, including where people would be moved to and options for people who aren’t able to access support services. Recommend expanding on this point (survival behaviours) to emphasise that although anti-social behaviour and homelessness may share underlying causes they do not always overlap and homelessness and begging themselves aren’t crimes. This point could also be brought forward. Example text: <i>Law enforcement is often an inappropriate and ineffective response to homelessness, which is best addressed through collaborative place-based approaches between councils, service providers and relevant government agencies.</i>
Retail MAG work on anti-social behaviours	<ul style="list-style-type: none"> Recommend minor text change to highlight that this is MAG’s view rather than Justice or other government agencies. It may be worth noting that in HUD’s recent feedback to MAG, we recommended proposals remain focussed on particular behaviours new tools are needed for, rather than potential populations, such as people

	experiencing homelessness. We also suggested decoupling homelessness from these proposals, except when needed to emphasise caution is needed to prevent inadvertently criminalising or penalising homelessness.
Social sector Ministers are leading new initiatives	<ul style="list-style-type: none"> Recommended changing current cross-agency text to “Supporting providers to deliver better local responses building on existing services.” Other minor edits to initiatives.

Ngā manaakitanga,

s9(2)(a)

Senior Policy Advisor | Responding to Severe Housing Needs

Policy Group

s9(2)(a) [@hud.govt.nz](https://www.hud.govt.nz) |

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He kāinga ora, he hapori ora - our purpose is thriving communities where everyone has a place to call home.

[IN CONFIDENCE]

From: s9(2)(a) <@justice.govt.nz>
Sent: Monday, 1 September 2025 10:20 am
To: s9(2)(a) <@hud.govt.nz>; s9(2)(a) <@hud.govt.nz>; s9(2)(a) <@hud.govt.nz>; s9(2)(a) <@msd.govt.nz>; Karen Hocking <Karen.Hocking002@msd.govt.nz>; Julia Bergman <Julia.Bergman003@msd.govt.nz>
Cc: Mercuri, Alida <Alida.Mercuri@justice.govt.nz>; s9(2)(a) <@justice.govt.nz>
Subject: Draft note for Justice Sector Ministers Meeting - public disorder

Tēnā koutou,

As you are aware, the Minister of Justice requested an agenda item at the upcoming Justice Sector Ministers Meeting on 17 September to discuss public disorder and any possible intersections with homelessness. Please find the attached draft note we have prepared for the meeting pack. We would appreciate any input or feedback you have on the note.

The draft pack for the meeting will go to Minister Goldsmith's office tomorrow - so if you have any feedback by 10am tomorrow it would be appreciated. However, we will have opportunity to finalise the note before the final pack goes out, so if more time is needed please provide feedback by Thursday COB.

We understand Ministers Bishop, Potaka, and Upston have been invited to attend the meeting.

Ngā mihi nui

s9(2)(a)

IN CONFIDENCE

Item X: Justice responses to public disorder and homelessness

Justice Sector Ministers Meeting

Date: 17 September 2025

Security classification: In-Confidence

Purpose

1. This note supports a discussion between justice and social sector Ministers on disorderly behaviour in public places, and wider issues of homelessness. It provides information on:
 - a. current and potential responses to disorderly behaviour, and
 - b. homelessness trends and responses in New Zealand.
2. Ministers Hon Chris Bishop (Housing), Hon Tama Potaka (Associate Minister of Housing (Social Housing)), and Hon Louise Upston (Social Development and Employment) have been invited to attend this item.

What we know about public disorder and homelessness in New Zealand

Data indicates that disorderly behaviour has been decreasing, but there is still concern

3. Disorderly and anti-social behaviour includes behaviours that are criminal in nature (e.g. offensive or threatening behaviour, intimidation, urinating in public, wilful damage) and behaviours that may be below the threshold of criminal offending (e.g. disrupting businesses, aggressive behaviour, public intoxication).
4. Publicly available data on Police proceedings indicates that there have been marginal peaks in proceedings against public order, health, and safety offences in the past 18 months. Overall, however, proceedings against these offences are at a 10-year low.¹



Graph depicting trends in Police proceedings² against public order, health, and safety offences
Source: policedata.nz

¹ [Proceedings \(offender demographics\) | New Zealand Police](#)

² Methods of Police proceedings include, among others, court actions, formal warnings, informal warnings, and non-court actions.

Commented [JC1]: Recommend that this section should be split into two – one of public disorder and the other on homelessness - to emphasise the point that they are distinct.

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5. Nevertheless, there is a perception that public disorder is a prevalent issue in city centres, undermining safe and thriving urban economies. A variety of sources note the following:
- a. Media reports have noted a rise in concerning behaviours in public places that are making people feel unsafe. These reports have linked the behaviours to an increase in rough sleeping, drug dealing and use, and anti-social behaviour.³
 - b. The Ministerial Advisory Group for Victims of Retail Crime (MAG) states in its recent options paper, *Anti-social behaviour around retail settings*, that “anti-social behaviour is increasing, and results in significant harm to retail workers and customers.” It notes that anti-social behaviour “affects all businesses, from small, sole operator retailers all the way up to larger multi-store operators and retail chains.”
 - c. Retailers have also reported that public disorder and anti-social behaviour in urban centres is driving customers away and making people feel unsafe.⁴
 - d. Retail NZ’s Retail Crime Report 2024 shows a decrease in several types of retail crime from 2023 to 2024, but a 3% increase in public nuisance over that same period.⁵
 - e. Reports of anti-social behaviour towards Wellington City Council frontline staff have increased by 323 percent in the past five years, rising from around 400 reports per year pre-COVID to almost 1000 annually.⁶
 - f. There has also been a rise in crime on public transport nationwide, with a notable jump in public order offences (approximately 14% increase). This rise coincides with increased patronage.⁷

Commented [JC2]: HUD data insights team recommends this sentence be deleted.

Homelessness in New Zealand has been increasing

- 6. Social sector agencies and NGOs that work with people experiencing homelessness (e.g. Salvation Army and City Mission) report a trend of increasing homelessness in New Zealand. Census data estimates that there were at least 112,500 people who were severely housing deprived in March 2023, including 4,965 people living without shelter.^{8 9}
- 7. There continues to be a large (and growing) number of people living without shelter. Based on estimates collected for the June Homelessness Insights Report, the number of people living without shelter in 2025 is at least: 800 in Auckland, 270 in Christchurch City, and 140 in Wellington City.¹⁰

Commented [JC3]: Recommend that the homelessness section could also be framed or introduced differently, to emphasise this point that not all public disorder is by homelessness people, and not all homelessness people engage in these behaviours.

As it currently reads, the link between public disorder/anti-social behaviour is unclear and could contribute to assumptions/misconceptions that these are the same.

Example text:
Not all anti-social behaviour is by people who are experiencing homelessness, and not all people who experience homelessness engage in anti-social behaviour.

Commented [JC4]: HUD data and insights recommended changing reference to June report directly, rather than a briefing reference.

³ [Antisocial behaviour reaching 'desperate' levels in Wellington suburb | RNZ News](#)

⁴ [Rotorua homeless camp outside Salvation Army causing local business to lose money - NZ Herald; Rotorua businesses struggling with homeless camping on Pukuatua St - NZ Herald](#)

⁵ [Retail-NZ-report-on-retail-crime-2024.pdf \(page 4\)](#)

⁶ [Increase of reported anti-social behaviour towards Council staff - News and information - Wellington City Council](#)

⁷ [New figures show rising crime on transport network nationwide](#)

⁸ Severe housing deprivation is defined as people living in severely inadequate housing due to a lack of access to minimally adequate housing. It includes not being able to access a private dwelling to rent or own that has all basic amenities (cooking facilities, safe drinking water, a kitchen sink, a bath or shower, a toilet, and electricity).

⁹ Without shelter (includes those sleeping rough and living in improvised and mobile dwellings).

¹⁰ [HUD, MSD Briefing: Further Advice on short-term action to address homelessness HUD2025-007725/REP/25/0623 Homelessness insights report June 2025 - Te Tūāpapa Kura Kainga – Ministry of Housing and Urban Development](#)

IN CONFIDENCE

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Justice is exploring additional ways to address disorderly behaviour

There are tools in place to manage public disorder, but more could be done

8. Law enforcement have well-developed guidelines and a range of tools for responding to most instances of low-level offending. In addition to general Police powers, these include alternative resolutions (e.g. formal warnings), criminal offences, city bylaws, and referral arrangements with social and health service providers.
9. There is scope to ensure Police have the appropriate tools, including addressing any gaps in the legislation (such as the Summary Offences Act 1981), to manage public order.

Justice is exploring responses to low-level offending, including move-on orders

10. Justice is developing advice for the Minister of Justice on potential additional tools to respond to low-level offending and disorderly behaviour, for example, move-on notices S9(2)(f)(iv)
11. Police advises that move-on notices could be an effective tool alongside others (such as infringement notices, written warnings, and referrals to social sector providers) in supporting Police to manage certain aggressive anti-social behaviours in public places.
12. Move-on notices could help maintain public order and safety by enabling enforcement officers to issue a notice to a person requiring them to 'move-on' from a space for a specified period of time. These notices could be used in response to low-level offending behaviour and to prevent escalation of certain anti-social behaviours like aggressive begging and threatening, or dangerous public intoxication.
13. Survival behaviours undertaken by homeless people (e.g., sleeping rough) or the manifestation of mental health illnesses (e.g., psychosis causing someone to yell in public) can make people nervous or uncomfortable and impact the enjoyment of public spaces. However, Police and councils have advised that law enforcement responses to these behaviours are generally ineffective, and merely shift the issue to neighbouring areas.

The Retail MAG is also working on anti-social behaviours

14. The MAG plans to provide a report to the Minister of Justice on 4 September with proposals to address anti-social behaviour around retail settings.
15. The paper will set out proposals the MAG considers could help address anti-social behaviours around retail settings, particularly where the MAG have linked these behaviours are linked to 'poor management of homelessness'. Proposals are likely to focus on:
 - move-on orders
 - new criminal offences
 - additional powers for councils to enforce local bylaws
 - geographic bans on certain anti-social behaviours
 - a government action plan, and
 - court-issued civil orders.

Commented [JC5]: Recommend including reference to HUD's concern about move-on orders here, including ensuring that people are not prevented from accessing support services and temporary accommodation as a result of move-on orders or other similar responses.

We consider move-on orders should be treated with caution, with more work needed to understand the potential impacts, including where people would be moved to and options for people who aren't able to access support services.

Commented [JC7]: Recommend expanding on this point to emphasise that although anti-social behaviour and homelessness may share underlying causes they do not always overlap and homelessness and begging themselves aren't crimes.

This point could also be brought forward.

Example text:
Law enforcement is often an inappropriate and ineffective response to homelessness, which is best addressed through collaborative place-based approaches between councils, service providers and relevant government agencies.

Commented [JC8]: Recommend minor text change to highlight that this is MAG's view rather than Justice or other government agencies.

It may be worth noting that in HUD's recent feedback to MAG, we recommended proposals remain focussed on particular behaviours new tools are needed for, rather than potential populations, such as people experiencing homelessness. We also suggested decoupling homelessness from these proposals, except when needed to emphasise caution is needed to prevent inadvertently criminalising or penalising homelessness.

IN CONFIDENCE

IN CONFIDENCE

Social service agencies are finalising new initiatives to address homelessness

There is a wide range of measures in place to address homelessness

- 16. Social service agencies are careful not to conflate public disorder and homelessness, noting that survival behaviours such as sleeping rough do not necessarily contribute to public disorder, and that other actors who are not homeless are often involved in criminal and anti-social behaviours.
- 17. Social services and health agencies have a range of services available, at the central and local levels, to address homelessness. Some of the current responses involve partnering with and leveraging non-government organisations, Māori wardens, health and community service providers, and local councils (council urban liaison officers). Recent initiatives out of social service agencies are highlighted below.
- 18. Police engage with vulnerable populations daily and is a connector to services for vulnerable individuals, which can include referrals for housing support, alcohol and drug treatment, and mental health support.

Social sector Ministers are leading new initiatives to improve New Zealand's responses to homelessness

- 19. The Ministry of Housing and Urban Development (HUD), working closely with the Ministry of Social Development (MSD), has delivered Government Target 8 – fewer people in emergency accommodation. To date, significant progress has been made in reducing the use of emergency housing, while also addressing homelessness.¹¹
- 20. Ministers Hon Bishop (Housing), Hon Potaka (Associate Minister of Housing (Social Housing)) and Hon Upston (Social Development and Employment) have a well-developed package of initiatives to address homelessness. In the short-term, initiatives will likely focus on those living in shelters in the main urban centres - Auckland, Hamilton, Wellington, and Christchurch. The initiatives may include:

- Optimising ~~h~~Transitional ~~h~~Housing
- Additional targeted supply of ~~s~~Social ~~h~~Housing
- Prioritising access to social housing for unhoused Housing First clients
- Investment in additional targeted outreach ~~services~~
- Emergency housing gateway setting guidance (for MSD staff)
- ~~Supporting providers to deliver better local responses building on existing services~~ Cross-agency initiatives aimed at transitioning populations or better coordination (particularly with Corrections)

Commented [MA9]: Minor edit: change capitalisation

Commented [MA10]: Minor edit: change capitalisation

Commented [MA11]: Recommend add services to read "outreach services"

Commented [CR12]: HUD/MSD - please edit as you see fit

Commented [MA13]: Recommend change this to "Supporting providers to deliver better local responses building on existing services"

Next Steps

- 21. Following this meeting, Justice will provide advice to the Minister of Justice on options to address disorderly behaviour.

¹¹ HUD, MSD Briefing: Further Advice on short-term action to address homelessness HUD2025-007725 / REP/25/8/623 (Annex B: Draft Cabinet Paper, Page 1)

IN CONFIDENCE

From: Mercuri, Alida
Sent: Monday, 1 September 2025 9:48 am
To: Greaney, Caroline; Orange, Ryan
Cc: OCE@justice.govt.nz; S9(2)(a) S9(2)(a) ; S9(2)(a) ; S9(2)(a)
Subject: RE: FOR YOUR REVIEW: Draft note for JSMM on public disorder and homelessness

We sure can 😊

From: Greaney, Caroline <Caroline.Greaney@justice.govt.nz>
Sent: Monday, September 1, 2025 9:47 AM
To: Orange, Ryan <Ryan.Orange@justice.govt.nz>
Cc: OCE@justice.govt.nz; Mercuri, Alida <Alida.Mercuri@justice.govt.nz>; S9(2)(a) @justice.govt.nz;
S9(2)(a) @justice.govt.nz; S9(2)(a) @justice.govt.nz; S9(2)(a) @justice.govt.nz;
@justice.govt.nz
Subject: RE: FOR YOUR REVIEW: Draft note for JSMM on public disorder and homelessness

Thanks Ryan – yes, no problem for us to send the note to our colleagues in MSD and HUD. We met with HUD and MSD and they provided material for the note – and largely cautioned against homelessness and public disorder being used interchangeably. I think they would recommend the note didn't mention homelessness at all and just refer to public disorder....

Alida/^{S9(2)}_(a) and team can make this happen 😊

Thanks
Caroline

From: Orange, Ryan <Ryan.Orange@justice.govt.nz>
Sent: Monday, September 1, 2025 9:42 AM
To: Greaney, Caroline <Caroline.Greaney@justice.govt.nz>
Cc: OCE@justice.govt.nz; Mercuri, Alida <Alida.Mercuri@justice.govt.nz>; S9(2)(a) @justice.govt.nz;
S9(2)(a) @justice.govt.nz; S9(2)(a) @justice.govt.nz; S9(2)(a) @justice.govt.nz;
@justice.govt.nz
Subject: RE: FOR YOUR REVIEW: Draft note for JSMM on public disorder and homelessness

Kia ora Caroline

Ministers Bishop Potaka and Upston have been invited to attend JSMM for this item, so we are about to extend an invite to Brad Ward and Debbie Power to attend as well. I know you looped in Colin Lynch and Simon McPherson on the need for the paper, but I understand that HUD and MSD may not have been consulted on/copied into the draft note (which I don't have access to).

It would be ideal for the paper to be jointly endorsed by HUD, MSD as well as MoJ and for those agencies to have visibility of the note when we send the CE invitations. Would it be possible to loop HUD and MSD in on the draft note today?

We have not yet received any further guidance from Minister Goldsmith's Office on this item.

Ngā mihi
Ryan

JUSTICE
SECTOR
DIRECTORATE

Ryan Orange | Executive Director
Justice Sector
Mobile: S9(2)(a)
ryan.orange@justice.govt.nz

Providing better outcomes for Aotearoa through strong sector collaboration

From: Kibblewhite, Andrew <Andrew.Kibblewhite@justice.govt.nz>
Sent: Monday, September 1, 2025 8:00 AM
To: S9(2)(a) <[S9\(2\)\(a\)@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>; Orange, Ryan <Ryan.Orange@justice.govt.nz>
Cc: OCE@justice.govt.nz; Greaney, Caroline <Caroline.Greaney@justice.govt.nz>; Mercuri, Alida <Alida.Mercuri@justice.govt.nz>; S9(2)(a) <[S9\(2\)\(a\)@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>; S9(2)(a) <[S9\(2\)\(a\)@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>
Subject: Re: FOR YOUR REVIEW: Draft note for JSMM on public disorder and homelessness

Many thanks S9(2)(a) It is a useful note. My only question is how the Minister might want to approach this discussion at JSM - and what we / he hope the outcome of that discussion might be. Have we asked for the other ministers, or MHUD to bring anything to the meeting? If the purpose of the session is for Ministers to decide whether there is a gap between the justice and social / housing responses that needs to be filled, should we make that question more explicit?

@Orange, Ryan have you had any further guidance from Minister or his Office about what he wants from this item?

Ngā mihi
Andrew

From: S9(2)(a) <[S9\(2\)\(a\)@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>
Sent: Friday, August 29, 2025 2:12 PM
To: Kibblewhite, Andrew <Andrew.Kibblewhite@justice.govt.nz>
Cc: OCE@justice.govt.nz <OCE@justice.govt.nz>; Greaney, Caroline <Caroline.Greaney@justice.govt.nz>; Mercuri, Alida <Alida.Mercuri@justice.govt.nz>; S9(2)(a) <[S9\(2\)\(a\)@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>; S9(2)(a) <[S9\(2\)\(a\)@justice.govt.nz](mailto:S9(2)(a)@justice.govt.nz)>
Subject: FOR YOUR REVIEW: Draft note for JSMM on public disorder and homelessness

Kia ora Andrew,

At a recent Officials meeting, the Minister asked for an agenda item at the 17 September Justice Sector Ministers Meeting to discuss public disorder and homelessness. We have drafted a note for the JSMM pack to support this discussion, which Caroline has reviewed.

We are sharing the note with you for visibility and/or any feedback you may have. Please find the draft note attached or in this link: [20250829 DRAFT Note for JSMM - public disorder v.2.docx](#)

The note is due to the Secretariate by **COB Tuesday 2 September** and will go to the Minister's Office in the draft pack for JSMM on 3 September.

Ngā mihi,

S9(2)(a)



S9(2)(a)

Policy Advisor | Criminal Justice Unit
Ministry of Justice | Tāhū o te Ture

Justice Centre | 19 Aitken Street | Wellington 6011

Released under the Official Information Act 1982

Item 2c: Justice responses to public disorder and homelessness

Justice Sector Ministers Meeting

Date: 17 September 2025

Security classification: ~~In Confidence~~

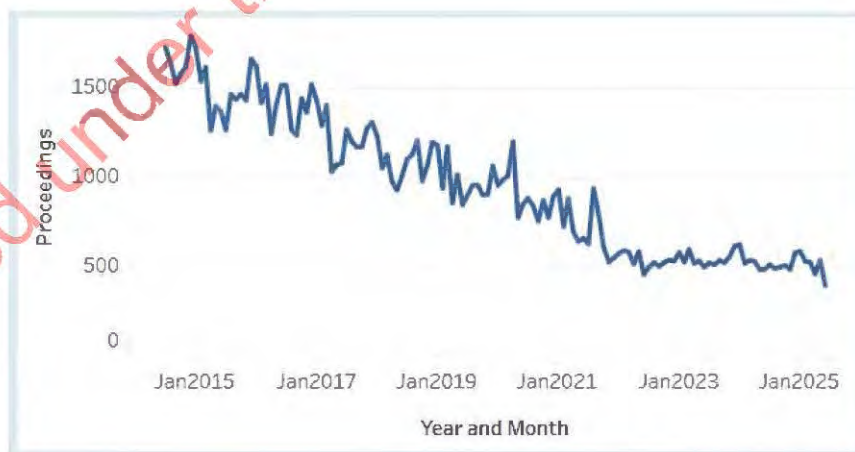
Purpose

1. This note supports a discussion between justice and social sector Ministers on disorderly behaviour in public places, and wider issues of homelessness. It provides information on:
 - a. current and potential responses to disorderly behaviour, and
 - b. homelessness trends and responses in New Zealand.
2. Ministers Hon Chris Bishop (Housing), Hon Tama Potaka (Associate Minister of Housing (Social Housing)), and Hon Louise Upston (Social Development and Employment) have been invited to attend this item.

What we know about public disorder and homelessness in New Zealand

Data indicates that disorderly behaviour has been decreasing, but there is still concern

3. Disorderly and anti-social behaviour includes behaviours that are criminal in nature (e.g. offensive or threatening behaviour, intimidation, urinating in public, wilful damage) and behaviours that may be below the threshold of criminal offending (e.g. disrupting businesses, aggressive behaviour, public intoxication).
4. Publicly available data on Police proceedings indicates that there have been marginal peaks in proceedings against public order, health, and safety offences in the past 18 months. Overall, however, proceedings against these offences are at a 10-year low.¹



Graph depicting trends in Police proceedings² against public order, health, and safety offences
Source: policedata.nz

¹ [Proceedings \(offender demographics\) | New Zealand Police](#)

² Methods of Police proceedings include, among others, court actions, formal warnings, informal warnings, and non-court actions.

5. Nevertheless, there is a perception that public disorder is a prevalent issue in city centres, undermining safe and thriving urban economies. A variety of sources note the following:
 - a. Media reports have noted a rise in concerning behaviours in public places that are making people feel unsafe.³
 - b. The Ministerial Advisory Group for Victims of Retail Crime (MAG) states in its recent options paper, *Anti-social behaviour around retail settings*, that “anti-social behaviour is increasing, and results in significant harm to retail workers and customers.” It notes that anti-social behaviour “affects all businesses, from small, sole operator retailers all the way up to larger multi-store operators and retail chains.”
 - c. Retailers have also reported that public disorder and anti-social behaviour in urban centres is driving customers away and making people feel unsafe.⁴
 - d. Retail NZ’s Retail Crime Report 2024 shows a decrease in several types of retail crime from 2023 to 2024, but a 3% increase in public nuisance over that same period.⁵
 - e. Reports of anti-social behaviour towards Wellington City Council frontline staff have increased by 323 percent in the past five years, rising from around 400 reports per year pre-COVID to almost 1000 annually.⁶
 - f. There has also been a rise in crime on public transport nationwide, with a notable jump in public order offences (approximately 14% increase). This rise coincides with increased patronage.⁷

Homelessness in New Zealand has been increasing

6. Social service agencies are careful not to conflate public disorder and homelessness, noting that survival behaviours such as sleeping rough do not necessarily contribute to public disorder, and that other actors who are not homeless are often involved in criminal and anti-social behaviours.
7. Social service agencies and NGOs that work with people experiencing homelessness (e.g. Salvation Army and City Mission) report a trend of increasing homelessness in New Zealand. Census data estimates that there were at least 112,500 people who were severely housing deprived in March 2023, including 4,965 people living without shelter.^{8 9}
8. There continues to be a large (and growing) number of people living without shelter. Based on estimates collected for the June Homelessness Insights Report, the number of people

³ [Antisocial behaviour reaching 'desperate' levels in Wellington suburb | RNZ News](#)

⁴ [Rotorua homeless camp outside Salvation Army causing local business to lose money - NZ Herald](#); [Rotorua businesses struggling with homeless camping on Pukuatua St - NZ Herald](#)

⁵ [Retail-NZ-report-on-retail-crime-2024.pdf](#) (page 4)

⁶ [Increase of reported anti-social behaviour towards Council staff - News and information - Wellington City Council](#)

⁷ [New figures show rising crime on transport network nationwide](#)

⁸ Severe housing deprivation is defined as people living in severely inadequate housing due to a lack of access to minimally adequate housing. It includes not being able to access a private dwelling to rent or own that has all basic amenities (cooking facilities, safe drinking water, a kitchen sink, a bath or shower, a toilet, and electricity).

⁹ Without shelter (includes those sleeping rough and living in improvised and mobile dwellings).

living without shelter in 2025 is at least: 800 in Auckland, 270 in Christchurch City, and 140 in Wellington City.¹⁰

Justice is exploring additional ways to address disorderly behaviour

There are tools in place to manage public disorder, but more could be done

9. Law enforcement have well-developed guidelines and a range of tools for responding to most instances of low-level offending. In addition to general Police powers, these include alternative resolutions (e.g. formal warnings), criminal offences, city bylaws, and referral arrangements with social and health service providers.
10. There is scope to ensure Police have the appropriate tools, including addressing any gaps in the legislation (such as the Summary Offences Act 1981), to manage public order.

Justice is exploring responses to low-level offending, including move-on notices

11. Justice is developing advice for the Minister of Justice on potential additional tools to respond to low-level offending and disorderly behaviour, for example, move-on notices ^{S9(2)(f)(iv)}
12. Police advises that move-on notices could be an effective tool alongside others (such as infringement notices, written warnings, and referrals to social sector providers) in supporting Police to manage certain aggressive anti-social behaviours in public places.
13. Move-on notices could help maintain public order and safety by enabling enforcement officers to issue a notice to a person requiring them to 'move-on' from a space for a specified period of time. These notices could be used in response to low-level offending behaviour and to prevent escalation of certain anti-social behaviours like aggressive begging and threatening, or dangerous public intoxication.
14. HUD and MSD have some concerns about move-on powers, noting in particular the risk of shifting rough sleepers into neighbouring areas, and the need to ensure that support services and temporary accommodation would not be impeded.
15. Survival behaviours undertaken by homeless people (e.g., sleeping rough) or the manifestation of mental health illnesses (e.g., psychosis causing someone to yell in public) can make people nervous or uncomfortable and impact the enjoyment of public spaces. However, Police, councils, and social service agencies have advised that law enforcement responses to these behaviours are generally ineffective responses to homelessness, which is best addressed through collaborative place-based approaches.

The Retail MAG is also working on anti-social behaviours

16. On 8 September, the MAG has provided a report *Addressing Anti-Social Behaviour in Retail* to the Minister of Justice.
17. The paper sets out proposals the MAG considers could help address the growing problem of anti-social behaviour in the retail sector. Proposals focus on:
 - move-on orders
 - new criminal offences

¹⁰ [Homelessness insights report June 2025 - Te Tūāpapa Kura Kāinga – Ministry of Housing and Urban Development](#)

- new offence banning begging within 15 metres of a 'relevant area'
- additional powers for Councils to enforce local bylaws, and
- a government action plan to address anti-social behaviour.

Social service agencies are finalising new initiatives to address homelessness

There is a wide range of measures in place to address homelessness

18. Social services and health agencies have a range of services available, at the central and local levels, to address homelessness. Some of the current responses involve partnering with and leveraging non-government organisations, Māori wardens, health and community service providers, and local councils (council urban liaison officers). Recent initiatives out of social service agencies are highlighted below.
19. Police engage with vulnerable populations daily and is a connector to services for vulnerable individuals, which can include referrals for housing support, alcohol and drug treatment, and mental health support.

Social sector Ministers are leading new initiatives to improve New Zealand's responses to homelessness

20. The Ministry of Housing and Urban Development (HUD), working closely with the Ministry of Social Development (MSD), has delivered Government Target 8 – fewer people in emergency accommodation. To date, significant progress has been made in reducing the use of emergency housing, while also addressing homelessness.¹¹
21. Ministers Hon Bishop (Housing), Hon Potaka (Associate Minister of Housing (Social Housing)) and Hon Upston (Social Development and Employment) have a well-developed package of initiatives to address homelessness. In the short-term, initiatives will likely focus on those living in shelters in the main urban centres - Auckland, Hamilton, Wellington, and Christchurch. The initiatives may include:
 - Optimising transitional housing
 - Additional targeted supply of social housing
 - Prioritising access to social housing for unhoused Housing First clients
 - Investment in additional targeted outreach services
 - Emergency Housing gateway setting guidance (for MSD staff)
 - Supporting providers to deliver better local responses building on existing services.

Next Steps

22. Following this meeting, Justice will provide advice to the Minister of Justice on options to address disorderly behaviour.

¹¹ HUD, MSD Briefing: Further Advice on short-term action to address homelessness HUD2025-007725 / REP/25/8/623 (Annex B: Draft Cabinet Paper, Page 1)

Internal Memo

To Caroline Greaney, Deputy Secretary Policy

From S9(2)(a), Policy Manager, Law Enforcement Team

CC Alida Mercuri, General Manager Criminal Justice Unit

Date 19 September 2025

Subject Preliminary advice on the Retail Crime MAG's anti-social behaviour proposals

Purpose

1. This note provides preliminary advice on the proposals from the Ministerial Advisory Group (MAG) for Victims of Retail Crime to address antisocial behaviour in retail settings, to support a discussion at Officials' meeting on 22 September.

Background

2. On 8 September, the MAG provided the Minister of Justice with a report on antisocial behaviour in retail settings. It sets out five proposals for the Minister's consideration:
 - 2.1. **move-on orders** – a new tool for Police to require a person to move-on to a different location if that person is behaving in an antisocial manner
 - 2.2. **bespoke criminal offences** for assaulting, threatening, or abusing retail workers
 - 2.3. **new summary offence** banning begging within 15 meters of a 'relevant area' (e.g. a retail store front or cash machine)
 - 2.4. **additional powers for councils to enforce by-laws** via promulgating regulations under the Local Government Act 2002, and
 - 2.5. **a Government action plan** to address antisocial behaviour, which could 'wrap up' the other actions into a cohesive strategy, including an investment strategy to target the underlying drivers of this behaviour.

Discussion

3. We are currently preparing advice for the Minister on the MAG report, and on ways to strengthen responses to public disorder. It will likely propose:
 - 3.1. there is merit in progressing **move-on powers** in the Summary Offences Act
 - 3.2. we do not recommend progressing **new offences for targeting retail workers and for begging in 'relevant areas'**
 - 3.3. it may be possible to progress work for **additional powers for councils to enforce by-laws** S9(2)(f)(iv) and
 - 3.4. there may be limited value in progressing a **Government action plan** to address anti-social behaviour.
4. Four of the five MAG proposals would require primary legislative change, aside from the government strategy or action plan, which would likely require additional investment.

5. S9(2)(f)(iv)

Move-on powers

6. We see merit in progressing the MAG's proposal for move-on powers, with some minor tweaks and appropriate safeguards. Police agrees that move-on notices could help them proactively respond to and de-escalate situations of public disorder to prevent criminal offending.
7. We recommend two minor changes to the MAG's proposal: (1) move-on notices should focus on the behaviour of the person being moved on (and not the feelings of those nearby) and (2) move-on notices should not apply to young people in the same way that they apply to adults.
8. Move-on notices could:
 - 8.1. exclude young people, as section 48 of the Oranga Tamariki Act 1989 provides Police with powers to return children and young people to their place of residence
 - 8.2. require that Police take young people home, consistent with section 48 of the Oranga Tamariki Act (this approach would require changes to the consent provision in the Oranga Tamariki Act), or
 - 8.3. apply to young people as they would to adults, noting that this approach risks the State leaving children and young people unaccompanied when they are moved on. It is an offence under the Summary Offences Act to leave a child under 14 years without reasonable supervision and care.
9. MSD and HUD have expressed concern that move-on notices will be targeted at vulnerable groups, like the homeless. There is also concern that move-on notices will simply shift concerning behaviours down the street. The careful design and safeguards of the move on notice and a clear definition of public disorder, could help mitigate these concerns.

New offences for assaulting, and threatening or abusing a retail worker

10. We do not recommend progressing the MAG's proposed criminal offences for (1) assaulting and (2) threatening or abusing a retail worker. The MAG states that retail workers' particular vulnerability justifies bespoke offences with increased penalties for targeting retail workers.
11. There is no gap in the law for assaulting, threatening, or abusing retail workers. These behaviours are already criminalised under existing offences in the Crimes Act and Summary Offences Act. The Sentencing Act 2002 allows courts to take into account aggravating factors, including a victim's unique vulnerability, when making sentencing decisions. Police advises multiple offences for a behaviour creates operational challenges and inconsistency.
12. We note that the bespoke offences being introduced as part of the Crimes Amendment Bill for targeting first responders can be distinguished from these proposed offences. First responders hold a special public duty and are crucial to community safety, justifying greater consequences for violence against them.

Implementing a ban on begging around 'relevant areas'

13. We do not recommend progressing the MAG's proposal to create a new offence for begging within 15 metres of a 'relevant area' (such as a retail store front or cash machine).
14. This proposal risks essentially criminalising homelessness and survival behaviours, as it does not distinguish between general begging (e.g. sitting peacefully with a sign) and intrusive or aggressive begging, which are already criminalised.
15. While begging near a store front can make people feel uncomfortable, it is not a behaviour that warrants a criminal response. Police agrees that this proposal would shift Police's role away from core policing of criminal behaviour and into more general management of public spaces.

Additional powers for councils to enforce bylaws

16. The MAG proposes to promulgate regulations under the Local Government Act 2002 to enable councils to enforce bylaws addressing antisocial behaviour. However, the MAG reports that councils do not think additional enforcement should be part of councils' role.
17. S9(2)(f)(iv)
18. S9(2)(f)(iv)

Government action plan and investment strategy

19. The MAG's final proposal is for the Government to commit to issuing a strategy or action plan to address antisocial behaviour in retail, alongside a strategic investment plan to address the underlying drivers of the behaviour. We note there may be limited value in progressing this initiative because:
 - 19.1. the proposed strategy/plan for antisocial behaviour in retail setting is narrow, and focuses on a niche problem and group, compared to other government strategies that have recently been launched
 - 19.2. for a strategy and/or action plan to be effective, it would benefit from a crime prevention approach, that addresses the drivers of crime. This would require resources from across the social and justice sectors on an ongoing basis to see results
 - 19.3. unless there is strong ministerial support to back up a strategy/plan with a detailed implementation plan and strategic investment, the MAG and the retail sector may be dissatisfied with the outcomes.

S9(2)(f)(iv)

20. S9(2)(f)(iv)

21.

22.

Consultation and next steps

23. We are currently preparing the advice to the Minister on ways to strengthen responses to public disorder. We are working with Police on designing move-on notices. We will provide the draft advice to Police, Crown Law, MSD, HUD, OT, and DIA this coming week (starting 22 September).
24. You are scheduled to review the draft briefing on Friday 3 October, ahead of providing it to the Minister on 8 October.
25. Should the Minister wish to advance any of the proposals, we will work with his office on progressing S9(2)(f)(iv) and the timeframes associated with it.

Released under the Official Information Act 1982



**Meeting with Hon Matt Doocey and Mark Knoff-Thomas
(Chief Executive, Newmarket Business Association)**

Hon Paul Goldsmith, Minister of Justice
22 September 2025

Purpose

1. This aide memoire supports your meeting on Thursday 25 September with Hon Matt Doocey, Minister for Mental Health, and Mark Knoff-Thomas, Chief Executive of the Newmarket Business Association (NBA).
2. Following the 17 September Justice Sector Ministers Meeting, you and Hon Mark Mitchell were invited to attend this meeting to discuss issues with homelessness and antisocial behaviour in Auckland's CBD.
3. There is no formal agenda for this meeting. We understand that Hon Doocey previously met with NBA on 29 August to discuss mental health and antisocial issues in city centres, including security, reputational risk for tourism and business, and a coordinated approach among agencies.

The Newmarket Business Association

4. The NBA represents a group of over 3,000 building and business owners within a defined boundary in Auckland. The core work of the NBA is to advance the economic and business interests of its members.
5. You recently met with Mark Knoff-Thomas in his capacity as the Chief Executive of the NBA on 3 September in Auckland. We understand you had an informal discussion on retail crime changes, security guard legislation, begging, and antisocial behaviour.

Homelessness, mental health, and public disorder

6. Social sector and health agencies advise that survival behaviours undertaken by homeless people (e.g. sleeping rough) and the manifestation of mental health issues can make people nervous or uncomfortable, but do not necessarily contribute to public disorder.
7. Homelessness and mental health crises are best addressed through collaborative approaches between councils, social and health service providers, and relevant government agencies. Criminal justice responses are often inappropriate and ineffective in these cases.
8. Ministers Hon Bishop (Housing), Hon Potaka (Associate Minister of Housing (Social Housing)) and Hon Upston (Social Development and Employment) have a well-developed package of initiatives to address homelessness. These include actions aimed at supporting rough sleepers into stable housing, particularly in main urban centres - Auckland, Hamilton, Wellington, and Christchurch.
9. Antisocial behaviour includes conduct that is criminal in nature and below the threshold of criminal offending. Police has a range of tools to ensure public spaces are orderly and safe, including criminal offences, infringements, alternative resolutions, enforcement of council bylaws, and referrals to social and health service providers.

Approved by: **S9(2)(a)** , Policy Manager, Criminal Justice Unit

IN CONFIDENCE

~~IN CONFIDENCE~~

We are preparing advice on strengthening responses to public disorder

10. The Ministerial Advisory Group for Victims of Retail Crime (MAG) provided a report to you on 8 September with five proposals to address antisocial behaviour in retail. The proposals include:
 - move-on orders
 - new criminal offences for targeting retail workers
 - a ban on begging in 'relevant areas' (e.g. retail store fronts)
 - additional powers for councils to enforce bylaws, and
 - a government action plan or strategy for addressing antisocial behaviour.
11. On 8 October, we will provide you with advice on the MAG's proposals and options to strengthen responses to antisocial and disorderly behaviour.

Talking Points

The Government is committed to helping retailers and businesses

- As you may be aware, I am currently progressing several initiatives to address retail crime, including increased penalties for retail theft, a new infringement for shoplifting, a new offence targeting offensive or intimidating behaviour, empowering citizen's arrest, and changes to trespass law.
- I have heard that antisocial behaviour is increasingly impacting the business community, including harm to retail workers and customers. I am interested to hear your perspective on this issue, and what retailers are facing daily.

I am considering options to address antisocial and disorderly behaviour

- I recently received a report from the Retail MAG with proposals to address antisocial behaviour around retail stores.
- My advisors at Justice are currently preparing advice on this and on broader options to address public disorder and antisocial behaviour.
- We draw a distinction between public disorder and behaviour related to homelessness and mental health issues. Survival behaviours such as sleeping rough do not necessarily contribute to public disorder, and other actors who are not homeless are often involved in criminal and antisocial behaviours.
- Any justice sector response to public disorder will be aligned with current social sector, health, and local government initiatives.

From: s9(2)(a) @ot.govt.nz>
Sent: Monday, 29 September 2025 3:48 pm
To: S9(2)(a)
Cc: S9(2)(a) ; S9(2)(a) ; Policy (OT); s9(2)(a) ; virginia.mclean; s9(2)(a)
Subject: RE: Consultation request re draft briefing on public disorder
Attachments: 2025-09 Public disorder briefing - Oranga Tamariki feedback (sent to MOJ 29-09).docx

~~IN CONFIDENCE~~

Hi S9(2)(a)

Thanks for seeking comment on this paper. Our feedback is attached.

S9(2)(a) (cc'd) is the key contact on our side, but I am happy to assist if you need anything further.

Thanks,

S9(2)(a)
Principal Policy Advisor

From: S9(2)(a) @justice.govt.nz>
Sent: Tuesday, 23 September 2025 3:12 pm
To: s9(2)(a) @police.govt.nz; s9(2)(a) @police.govt.nz; s9(2)(a) @police.govt.nz;
s9(2)(a) @hud.govt.nz; s9(2)(a) @hud.govt.nz; s9(2)(a) @hud.govt.nz;
s9(2)(a) @msd.govt.nz; s9(2)(a) @msd.govt.nz; s9(2)(a) @msd.govt.nz;
s9(2)(a) @msd.govt.nz; s9(2)(a) @ot.govt.nz; s9(2)(a) @ot.govt.nz;>
s9(2)(a) @ot.govt.nz; s9(2)(a) @ot.govt.nz; s9(2)(a) @dia.govt.nz;
s9(2)(a) @dia.govt.nz; s9(2)(a) @dia.govt.nz; s9(2)(a) @dia.govt.nz;
s9(2)(a) @corrections.govt.nz; s9(2)(a) @corrections.govt.nz;
Cc: S9(2)(a) @justice.govt.nz;>; S9(2)(a) @justice.govt.nz;>
Subject: Consultation request re draft briefing on public disorder

~~IN CONFIDENCE~~

Kia ora koutou,

Please find attached for your comment a draft briefing which provides advice on:

- options to strengthen responses to public disorder, and
- recommendations from the Ministerial Advisory Group for Victims of Retail Crime on ways to address antisocial behaviour in retail settings.

Any comments you can provide on the paper would be much appreciated by **COB Monday 29 September**. We intend to provide the briefing to our Minister on 8 October 2025.

If you would like to discuss anything in the paper please let us know.

Ngā mihi nui,
S9(2)(a)

Strengthening responses to public disorder (including advice on Retail MAG proposals)

Oranga Tamariki feedback to the Ministry of Justice

Move-on notices

1. Oranga Tamariki supports the proposal to exclude young people from move-on powers. Police already have powers to address their behaviour by returning unaccompanied children or young people to a parent or guardian under section 48 of the Oranga Tamariki Act 1989 (the Act).
2. We recommend adding text to the briefing that says: *if there is ongoing public disorder by a child or young person a referral can be made to a Police Youth Aid or a report of concern made to Oranga Tamariki* (this related to paragraph 27). This would strengthen information about how the response to children and young people is different to adults.
3. We do not support the options of move-on notices applying to young people, with or without a requirement for Police to take the young person home.
4. This is because:
 - Non-compliance with move-on notices by young people could lead to young people receiving fines. Young people have less ability to pay a fine and non-payment could increase court proceedings. This would negatively impact Youth Court timeliness work.
 - International experience shows move-on powers risk being used disproportionately against young people.¹ Young people aged 14-19 years old represented more than half of all those subject to a move-on power according to a study in New South Wales.²
 - If move-on notices were applied without a requirement to return the child or young person to a parent or guardian, there would be risks associated with the State leaving children (under 14 years) unaccompanied or unsupervised. This is an offence under the Summary Offences Act section 10B.
5. We support your position that move-on notices should not include behaviour that causes anxiety to others. Otherwise, normal adolescent behaviour – such as meeting a group of friends in a public space (e.g. public transport hubs or a mall) – could cause be subject to move-on powers simply because it causes anxiety to other individuals.

S9(2)(f)(iv)

¹ Farrell (2009) *All the right moves? Police 'move-on' powers in Victoria*

6. S9(2)(f)(iv)

7. S9(2)(f)(iv)

Other new offences

8. We support your position that new offences for retail workers are not necessary because they would not have any benefit over and above current offences.
9. We support your position that creating a criminal offence for begging should not happen because it risks criminalising behaviour that is best dealt with by care and protection responses if children are involved.

Additional powers for councils to enforce bylaws

10. We support your position that additional powers for councils to enforce bylaws should not proceed.
11. Bylaws that address public disorder risk creating quasi justice processes that don't reflect the youth justice system's focus on approaches that combine accountability with rehabilitation.
12. We also have concerns that council officers do not have the same training, accountability mechanisms and specialisation in working with young people that Police have.
13. For these reasons if additional powers were given to council officers related to public disorder, we do not want them to extend to young people.

Government action plan and investment strategy

14. We see potential benefits from a strategy or action plan to address antisocial behaviour in retail settings, provided it reflects evidence on effective responses for children and young people involved in public disorder. This would require new resourcing for any actions that would give Oranga Tamariki additional responsibilities.

Other feedback

Clarity on when move-on powers for public disorder could be used is important

15. The briefing recommendation is that move-on powers apply where a person has or is likely to commit an offence, interfere with trade or business, or breach the peace (recommendation 4.1).
16. But the body of the paper has text: "We recommend that (move-on) notices only be applied to conduct amounting to public disorder, which involves disturbing, aggressive, threatening, or even violent behaviours" (paragraph 31).
17. We weren't clear why there are to be two different thresholds for when move-on powers could apply. We suggest a single, clear and consistent threshold.
18. It would be beneficial to reflect the legislative and practice approach to disorderly behaviour including in the Summary Offences Act 1981 (section 3).

Edits for clarity

19. The narrative on how public disorder affects towns and cities was difficult to follow. It started with saying there are increased reports of public disorder and then presented data that show a decline.
20. The table on Police proceedings also used data that was not presented in chronological order, which we think most readers would expect.

Released under the Official Information Act 1982

From: s9(2)(a) @corrections.govt.nz>
Sent: Monday, 29 September 2025 2:15 pm
To: S9(2)(a)
Cc: S9(2)(a) ; S9(2)(a) ; s9(2)(a)
Subject: FW: [EXTERNAL] Consultation request re draft briefing on public disorder
Attachments: Prison population impacts.docx

Kia ora,

Our take, while being aware that more in-depth policy work has yet to be done, is that the paper sees this as a Police administered and delivered regime, not requiring other agencies' involvement (para 41 suggests this)

If we're wrong about the above, we would ask that you include one line about potential impacts for other agencies.

S9(2)(f)(iv)

New offence

We note that a new offence is proposed with a maximum penalty of 3 months imprisonment. The paper doesn't include anticipated convicted volumes, however, so the impact is unclear. While prison population impacts may be marginal, we look at impacts across multiple proposals – as outlined in the attached.

Ngā mihi,

Maxine
s9(2)(a)

Principal Policy Adviser, Strategic Policy

Ara Poutama Aotearoa, Department of Corrections

a: Mayfair House, 44-52 The Terrace, Wellington, 6011

p: s9(2)(a)

e: s9(2)(a) [@corrections.govt.nz](mailto:s9(2)(a)@corrections.govt.nz)



ARA POUTAMA AOTEAROA
DEPARTMENT OF CORRECTIONS



From: S9(2)(a) [@justice.govt.nz](mailto:s9(2)(a)@justice.govt.nz)>

Sent: Tuesday, 23 September 2025 3:12 PM

To: s9(2)(a) [@police.govt.nz](mailto:s9(2)(a)@police.govt.nz); s9(2)(a) [@police.govt.nz](mailto:s9(2)(a)@police.govt.nz);

s9(2)(a) [@hud.govt.nz](mailto:s9(2)(a)@hud.govt.nz); s9(2)(a) [@hud.govt.nz](mailto:s9(2)(a)@hud.govt.nz);

s9(2)(a) [@msd.govt.nz](mailto:s9(2)(a)@msd.govt.nz); s9(2)(a) [@msd.govt.nz](mailto:s9(2)(a)@msd.govt.nz); [@msd.govt.nz](mailto:s9(2)(a)@msd.govt.nz);

Document 31

S9(2)(a) @msd.govt.nz S9(2)(a) @ot.govt.nz S9(2)(a) @ot.govt.nz S9(2)(a) @ot.govt.nz
S9(2)(a) @dia.govt.nz S9(2)(a) @dia.govt.nz S9(2)(a) @crownlaw.govt.nz
S9(2)(a) @corrections.govt.nz S9(2)(a) @corrections.govt.nz
Cc: S9(2)(a) @justice.govt.nz S9(2)(a) @justice.govt.nz

Subject: [EXTERNAL] Consultation request re draft briefing on public disorder

IN CONFIDENCE

Kia ora koutou,

Please find attached for your comment a draft briefing which provides advice on:

- options to strengthen responses to public disorder, and
- recommendations from the Ministerial Advisory Group for Victims of Retail Crime on ways to address antisocial behaviour in retail settings.

Any comments you can provide on the paper would be much appreciated by COB Monday 29 September. We intend to provide the briefing to our Minister on 8 October 2025.

if you would like to discuss anything in the paper please let us know.

Ngā mihi nui,
S9(2)(a)



S9(2)(a)
Policy Advisor | Criminal Justice Unit
Ministry of Justice | Tāhū o te Ture
Justice Centre | 19 Aitken Street | Wellington 6011

IN CONFIDENCE

The information in this message is the property of the New Zealand Department of Corrections. It is intended only for the person or entity to which it is addressed and may contain privileged or in confidence material. Any review, storage, copying, editing, summarising, transmission, retransmission, dissemination or other use of, by any means, in whole or part, or taking any action in reliance upon, this information by persons or entities other than intended recipient are prohibited. If you received this in error, please contact the sender and delete the material from all computers.

The impact of policy changes on the prisoner population cannot be considered in isolation as network capacity and resourcing needs to be assessed across the entire prison network. The cost of additional new capacity varies significantly dependent on the prison site, prisoner classification and the amount of existing infrastructure to cater for additional prison population. The impacts may be as little as direct costs relating to rations, bedding, clothing, medical and transport of approximately \$7,500 per prisoner per annum through to more significant changes at a unit or site level of \$120,000 per prisoner per annum. Should the prison population increase as a result of these changes, future prisoner network funding decisions would need to be made to ensure that there is capacity in Corrections infrastructure, and that frontline staff are supported to manage additional people safely and effectively.

The current prison network has limited capacity available and low resilience so even a policy change with just a small population increase on top of current projections is likely to drive the need for significant additional infrastructure investment (\$300m+). s9(2)(f)(iv)

s9(2)(f)(iv)

Released under the Official Information Act 1982

From: s9(2)(a) @dia.govt.nz>
Sent: Tuesday, 30 September 2025 11:49 am
To: S9(2)(a)
Cc: s9(2)(a)
Subject: RE: Consultation request re draft briefing on public disorder
Attachments: 20250923 DRAFT Briefing on public disorder - for agency feedback - DIA comments.docx

Kia ora s9(2)(a)

Thank you for the opportunity to provide comments on the draft briefing, and my apologies for not getting this to you yesterday evening.

Please find attached the draft briefing with some suggested tracked changes and comments.

The attached includes some suggestions to try and help support changes to s259 of the Local Government Act not being a recommended option. s9(2)(f)(iv)

Also as discussed, we question whether breaches of bylaws related to anti-social behaviour would meet the threshold to be infringement offences when considered against Justice and LDAC guidelines. Even if they can, we question whether infringements are the best way to resolve these issues.

s9(2)(f)(iv)

Please feel free to reach out with any questions or if you'd like to discuss.

Ngā mihi nui

s9(2)(a) | Senior Policy Analyst | Kaitātari Kaupapa Here Matua
Local Government Policy, Partnerships and Operations
Policy and Te Tiriti | He Pou Rarama
Department of Internal Affairs | Te Tari Taiwhenua
PO Box 805, Wellington 6140, New Zealand | www.dia.govt.nz



s9(2)(a)

From: S9(2)(a) @justice.govt.nz>
 Sent: Tuesday, September 23, 2025 3:12 PM
 To: s9(2)(a) @police.govt.nz; s9(2)(a) @police.govt.nz; s9(2)(a) @police.govt.nz;
 s9(2)(a) @hud.govt.nz; s9(2)(a) @hud.govt.nz; s9(2)(a) @hud.govt.nz;
 s9(2)(a) @msd.govt.nz; s9(2)(a) @msd.govt.nz; s9(2)(a) @msd.govt.nz;
 s9(2)(a) @msd.govt.nz; s9(2)(a) @ot.govt.nz; s9(2)(a) @ot.govt.nz; s9(2)(a) @ot.govt.nz;
 s9(2)(a) @dia.govt.nz; s9(2)(a) @dia.govt.nz;
 s9(2)(a) @crownlaw.govt.nz; s9(2)(a) @corrections.govt.nz;
 s9(2)(a) @corrections.govt.nz
 Cc: S9(2)(a) @justice.govt.nz; S9(2)(a) @justice.govt.nz>
 Subject: Consultation request re draft briefing on public disorder

You don't often get email from S9(2)(a) @justice.govt.nz. [Learn why this is important](#)

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Kia ora koutou,

Please find attached for your comment a draft briefing which provides advice on:

- options to strengthen responses to public disorder, and
- recommendations from the Ministerial Advisory Group for Victims of Retail Crime on ways to address antisocial behaviour in retail settings.

Any comments you can provide on the paper would be much appreciated by COB Monday 29 September. We intend to provide the briefing to our Minister on 8 October 2025.

If you would like to discuss anything in the paper please let us know.

Ngā mihi nui,

S9(2)(a)



S9(2)(a)

Policy Advisor | Criminal Justice Unit
 Ministry of Justice | Tāhū o te Ture
 Justice Centre | 19 Aitken Street | Wellington 6011

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Hon Paul Goldsmith, Minister of Justice

Strengthening responses to public disorder (including advice on Retail MAG proposals)

Date	8 October 2025	File reference	
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Action sought	Timeframe
TBC	TBC

Contacts for telephone discussion (if required)

Name	Position	Telephone (work)	(a/h)	First contact
Alida Mercuri	General Manager – Criminal Justice Unit	04 466 2091	S9(2)(a)	<input type="checkbox"/>
S9(2)(a)	Manager – Law Enforcement Policy	04 466 0723	S9(2)(a)	<input checked="" type="checkbox"/>

Minister's office to complete

- Noted
 Approved
 Overtaken by events
 Referred to: _____
 Seen
 Withdrawn
 Not seen by Minister

Minister's office's comments

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Purpose

1. This briefing advises you on options to strengthen responses to public disorder, including advice on proposals from the Ministerial Advisory Group for Victims of Retail Crime to address anti-social behaviour in retail settings.

Key messages

2. TBC

Background

3. You have expressed concern about disorderly behaviour in public places, including how this is impacting the business community.
4. In August 2024, we provided you with advice that move-on notices, with appropriate penalties for non-compliance, could be an effective tool in supporting Police to manage certain anti-social behaviours. No decisions were taken at that time.
5. You discussed public disorder at the Justice Sector Ministers Meeting on 17 September.
6. On 8 September, the Ministerial Advisory Group for Victims of Retail Crime (MAG) provided you with a report with proposals to address antisocial behaviour in retail settings. We provide advice on the MAG's proposals below.

Public disorder in New Zealand**Public disorder affects towns and cities across New Zealand**

7. There are increased reporting and perceptions of public disorders in city centres, and retailers throughout the country have expressed concern over antisocial behaviours driving customers away from CBDs and affecting their businesses.
8. Police data indicates that there is not a marked increase in Police proceedings against public order, health, and safety offences.¹ Although there has been a decrease in pre-charge/non-court action proceedings, the volume of court actions for these offences has increased. The below table breaks down Police proceedings for these offences from 2022 to 2025.

	1 September 2024 – 31 August 2025	1 September 2023 – 31 August 2024	1 September 2022 – 31 August 2023
Court Action	2,886	2,192	1,836
Formal warning	1,308	2,050	2,483
Informal warning	652	1,129	1,148
Non-court Action	513	714	615
Non-court referred conference	13	22	28
Not proceeded with	68	191	191

¹ Proceedings (offender demographics) | New Zealand Police

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Grand total	5,480	6,298	6,301
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9. While there is not a legal definition of public disorder, we consider public disorder to be disturbing conduct in a public place which, in the time, place, and circumstances, is at a level beyond that which reasonable people can be expected to endure, and which justifies the intervention of law enforcement.
10. This includes behaviours that are criminal in nature (e.g. offensive or threatening behaviour, intimidation, urinating in public, wilful damage) and behaviours that may be below the threshold of criminal offending (e.g. disrupting businesses, nuisance behaviour, public intoxication).
11. For this paper, public disorder does not include protesting, picketing/trade union action, or trespass.

Commented [RT1]: s9(2)(f)(iv)

Police and councils have existing powers to address public disorder that meets the threshold of offending

12. Law enforcement have well-developed guidelines and a range of tools to maintain public order and respond to most instances of low-level offending. In addition to general Police powers, these include criminal offences, council bylaws, infringements, alternative resolutions (e.g. formal warnings, diversion), and referral arrangements with social and health service providers.
13. We consider that current criminal offences cover the range of offending behaviour for public disorder. However, there may be a gap in Police powers to proactively de-escalate situations involving behaviour that falls below the criminal threshold to prevent imminent offending from taking place.

Criminal justice responses should supplement social responses

14. Social service agencies are careful not to conflate homelessness, mental health issues and public disorder. Survival behaviours such as sleeping rough do not necessarily contribute to public disorder, and that other actors who are not homeless are often involved in criminal and public disorder behaviours.
15. We have heard from Police, councils, and social service agencies that law enforcement is often an inappropriate and ineffective response to homelessness, which is best addressed through collaborative place-based approaches between councils, service providers, and relevant government agencies.
16. Social Sector Ministers have a well-developed package of initiatives to address homelessness, which is currently being delivered. You may wish to consider how to sequence the justice and social sector initiatives to enable maximum benefit.

Commented [CR2]: MSD/HUD, can you please include a timeline for these initiatives or any relevant dates?

There is scope to strengthen law enforcement responses to public disorder

17. Ensuring swift and certain responses to public disorder is an effective way to provide meaningful consequences, deter future offending, and support your law-and-order and court timeliness priorities.

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18. The following options could strengthen law enforcement responses to public disorder:
 - 18.1. *Move on notices* could be used to prevent crime, maintain public order, and enable Police to deal with situations without needing to charge or arrest anyone.
 - 18.2. S9(2)(f)(iv)

We see merit in progressing the MAG's proposal for move-on notices, with some minor tweaks

19. The MAG's primary recommendation in its recent report is to enable Police to issue move-on orders to people behaving in an antisocial manner. Similar powers exist in the UK and Australia.
20. Police advises there is a gap in current enforcement powers to respond to behaviour that is likely to escalate to criminal offending. Police sees merit in move-on powers to respond to disorderly or antisocial behaviour in a timely way, where the conduct is below the threshold of criminal offending, or where court action is not in the public's interest.

Construction of move-on notices

21. We have worked closely with Police to refine the approach and recommend a move-on notice that is issued by Police on the spot, that requires an individual to 'move on' from a specific area for up to 24 hours to de-escalate situations of public disorder and prevent criminal offending. Move-on notices would apply to behaviours occurring in public places only.
22. A move-on notice could be issued to a person where a Police officer has reasonable grounds to suspect that:
 - 22.1. a public disorder offence has occurred, is occurring, or is likely to occur,
 - 22.2. the person is or has been interfering with trade or business by unnecessarily obstructing, hindering, or impeding someone entering or leaving the place, or
 - 22.3. a breach of the peace has been or is likely to be committed.
23. Non-compliance with a move-on notice could be an arrestable offence, which would enable Police to arrest a person and remove them from the area where they fail or refuse to comply with the notice. The offence could be punishable by a maximum fine of \$2,000 or up to three months' imprisonment.
24. Move-on powers and the offence for breach of a notice could be placed in the Summary Offences Act 1981, which houses most low-level offences addressing various forms of disorderly behaviour.

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25. Service of move-on notices could be modelled after dispersal notices in the Gangs Act 2024. A Police officer would issue the notice in writing by personal service or by sending it to an electronic address supplied by the person to whom it is issued.²

We suggest two minor changes to the MAG's proposal

26. First, we recommend that move-on notices do not apply where a person's behaviour causes anxiety to someone. Move-on powers should be focused on the behaviour of the person being moved on, and not on the emotional state of those around the person. This would remove the requirement for Police to make a determination about the impact of one person's behaviour on another, which is highly subjective. Even with the requirement that the anxiety must be reasonably arising in the circumstances, there is risk of bias, prejudice, stereotyping, or discrimination in an officer's decision-making process.
27. Second, move-on notices should not apply to young people in the same way that they apply to adults. Police have existing responses to children and young people, including delivering them into the custody of a parent or guardian, that achieve the same purpose as move-on powers and are more appropriate for young people. Move-on notices could:
- 27.1. exclude young people, as section 48 of the Oranga Tamariki Act 1989 provides Police with powers to return children and young people to their place of residence;
 - 27.2. require that Police take young people home, consistent with section 48 of the Oranga Tamariki Act (this approach would require changes to the consent provision in the Oranga Tamariki Act); or
 - 27.3. apply to young people as they would to adults, noting that this approach risks the State leaving children and young people unaccompanied when they are moved on. It is an offence under the Summary Offences Act to leave a child under 14 years without reasonable supervision and care.

Safeguards for move-on notices

28. We recommend the following safeguards apply to move-on notices, in line with the MAG's proposal:
- 28.1. Notices could be issued for the minimum amount of time necessary to resolve the disorderly conduct (and no longer than 24 hours).
 - 28.2. Notices could apply to the minimum area that is reasonably necessary to resolve the situation.
 - 28.3. There should be minimal interference with access to support and essential services. We also recommend that Police be required to consider whether a referral to relevant support services should accompany the move-on notice.

² Sections 10-11, Gangs Act 2024.

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- 28.4. Notices should not be used to effectively criminalise homelessness or those who appear undesirable. Police, councils, and social service agencies agree that move-on notices should not be used to address survival behaviours associated with homelessness, like rough sleeping and general begging. Move-on notices are also not an appropriate response to people experiencing mental health distress.
- 28.5. Notices would not apply to lawful protests, pickets, or trade union action.
- 28.6. There should be operational oversight, monitoring, and reporting on the use of the power.
- 28.7. Upon issuing a notice, Police would be required to warn the person that it is an offence to breach a move-on notice, unless they have a reasonable excuse.

There are some concerns with move-on powers

- 29. Move-on notices would be a Police-imposed discretionary action that would, unless breached, avoid judicial intervention. This process can undermine the presumption of innocence and deny recipients the right to conduct a defence. Move-on notices may also conflate notions of pre-emption and punishment by requiring a person to leave an area even where there is no proof of wrongdoing, or where no offence has been committed.
- 30. There is limited evidence of the efficacy of move-on laws in Australia and the UK. Studies have found there is no empirical evidence to show that move-on powers result in reductions in crime rates. Reports also show disproportionate application of move-on powers against persons who are homeless, Indigenous, young, or mentally ill.
- 31. MSD and HUD are concerned that move-on notices will be targeted at vulnerable groups, like the homeless. We recommend that notices only be applied to conduct amounting to public disorder, which involves disturbing, aggressive, threatening, or even violent behaviours. Move-on notices would not be used as a tool to move rough sleepers or people who appear undesirable, unless they were exhibiting disorderly behaviours.
- 32. There is also concern that move-on notices will simply shift concerning behaviours down the street. However, we agree with the MAG that move-on notices are a proportionate tool to swiftly de-escalate situations of public disturbance that do not require a more serious criminal justice response.

There is a proposed Members' bill seeking to create move on powers

- 33. In June 2025, Ryan Hamilton MP introduced the Policing (Direction to Move On) Amendment Bill. The Bill proposes giving police powers to direct people to leave a specified area for harassment, public nuisance, disorder, or antisocial behaviour. The Bill has not been drawn from the ballot.

S9(2)(f)(iv)

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S9(2)(f)(iv)

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S9(2)(f)(iv)

We have considered other options, but we do not recommend progressing these

43. As discussed above, the Ministry recommends progressing the MAG's primary proposal to create move-on powers to address antisocial and disorderly behaviour.
44. We do not recommend progressing the MAG's proposals for:
 - new criminal offences for targeting retail workers
 - a ban on begging around 'relevant areas'
45. You could progress the MAG's two remaining proposals, but we see there may be limited value in doing so and there are also considerations that you will need to factor in. The two remaining proposals are:
 - additional powers for councils to enforce bylaws
 - a government action plan or strategy to address antisocial behaviour

New offences for assaulting and threatening or abusing a retail worker

46. The MAG proposes to introduce two new criminal offences into the Crimes Act 1961: assaulting a retail worker and threatening or abusing a retail worker. The MAG also proposes to introduce aggravated offences where a retail worker is assaulted, threatened, or abused while enforcing a restriction on the sale of products (such as an illegal sale of alcohol). The aggravated offences would attract a harsher penalty.

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47. We do not recommend progressing this proposal because criminal offences for these behaviours already exist in the Summary Offences Act 1981 and Crimes Act 1961. Assault provisions within these two Acts have maximum penalties ranging from 6 months to 14 years imprisonment.⁴
48. The MAG has not identified a gap in the law in relation to charging offenders for assaults, threats, or abuse of retail workers. It states that current laws do not recognise the "unique context and aggravating factors" of the retail environment, as workers are often perceived as young, vulnerable, and in a low-status profession.
49. These factors can already be considered at sentencing under section 9 of the Sentencing Act 2002, which provides that courts may take into account certain aggravating or mitigating factors, including the particular vulnerability of the victim.⁵
50. We note that Cabinet has recently agreed to criminal offences for violence against first responders. However, first responders are distinguishable from retail workers in that they hold a special public duty and are crucial to community safety, justifying greater consequences for violence against them. It is not clear why there should be harsher punishments for offences against retail workers when other sectors may experience similar behaviours, such as public transport workers, medical professionals, and service providers.
51. We have heard from Police that providing additional charging options for the same conduct is not helpful and can cause a lack of clarity in the law. If you choose to progress other proposals, such as move-on powers, this can achieve the MAG's goal to signify to the public that targeting retail shops and workers will be met with swift consequences.

Implementing a ban on begging around 'relevant areas'

52. The MAG also proposes to introduce a new offence to the Summary Offences Act 1981 for begging within 15 metres of a 'relevant area' (e.g. a retail store entrance or cash machine). The MAG suggests that 'relevant area' could be defined by regulation.
53. We do not recommend progressing this proposal. The proposed ban risks essentially criminalising homelessness and survival behaviours. It does not distinguish between general begging (e.g. sitting peacefully with a sign or collection dish) and aggressive or threatening begging.
54. The MAG claims that "begging in front of a store front can be regarded as aggressive and intimidating, especially where the beggar is right next to the entrance." While begging near a store front can make people feel uncomfortable, a criminal offence would not be a proportionate response to the behaviour the MAG proposes to capture.
55. Police are also concerned that this proposal would shift Police's operational responses away from addressing criminal behaviour and into policing behaviours that do not warrant a criminal justice response. Police advises that move-on notices, if progressed, could be a

⁴ See, e.g., section 9 of the Summary Offences Act 1981 and section 188 of the Crimes Act 1961.

⁵ See, e.g., sections 9(1)(g) and 9(4) of the Sentencing Act 2002.

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more effective tool to address instances of aggressive begging or unreasonable intrusion into the footpath or entryway to a retail space.

- 56. We also note that there are existing criminal offences for aggressive or intimidating behaviour which, along with move-on notices, can address begging behaviour that is reasonably regarded as aggressive or intimidating. Introducing a new offence for begging in 'relevant areas' has the potential to drive more cases into the courts.
- 57. There is also risk that banning begging from retail spaces will shift beggars to other high-traffic areas, such as schools, transport hubs, public parks, and outside of libraries and community centres.
- 58. Finally, we assess that such a ban would not be a justifiable limit on rights and freedoms, particularly the rights to freedom of movement and freedom of expression under the New Zealand Bill of Rights Act 1990.

Additional powers for councils to enforce bylaws

- 59. The MAG proposes to promulgate regulations under the Local Government Act 2002 to enable councils to enforce bylaws addressing antisocial behaviour.
- 60. **S9(2)(f)(iv)**
- 61. Section 259(1)(a) of the Local Government Act allows the Governor-General to make regulations setting infringement offences for breaches of bylaws. Regulations enabling councils to impose infringements under section 259 have to be made on a council-by-council basis. These regulations have rarely been made, meaning many bylaw breaches must be enforced through the courts.
- 62. ~~The MAG's proposal would require amending section 259 of the Local Government Act to enable regulations to be made for infringement offences for similar kinds of bylaws — in particular, bylaws addressing antisocial behaviours.~~
- 63. ~~The MAG's proposal also notes that it would be up to councils to determine whether to create local bylaws addressing antisocial behaviour (only two councils – Auckland and Hamilton – currently have such bylaws). The MAG reports that councils do not think additional enforcement should be part of councils' role.~~
- 64. Local authority enforcement powers are primarily applicable to offences relating to building compliance, public health, the environment, and waste management, for example. There has been limited inclusion of public order offences in bylaws. Enabling local authorities to enforce public disorder offences requires caution given the potential for conflict or escalation. There are also risks associated with exercising greater enforcement powers without adequate supervision, training, and tools to deliver safe law enforcement. Councils would require:
 - 64.1. robust operational policies and guidance for enforcement officers

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Commented [RT3]: Suggest reordering as there are two distinct points here that support this not being a recommended option:
 1) That enforcing these issues doesn't fit with councils' other enforcement functions, skills and resources; and
 2) That it would take legislative change and development of secondary legislation that is resource intensive and would currently only provide a solution for two councils, **s9(2)(f)(iv)**

s9(2)(f)(iv)

We also a question if those current bylaws would be appropriate for infringement offences, without first assessing them against Justice and LDAC guidelines

Commented [RT5]: Some of these enforcement powers are specific to their legislation (e.g. Building Act and RMA for building compliance and the environment), rather than being done through bylaws. I think it's ok as worded if the intention is to talk about councils' enforcement capability and capacity as a whole, to show that public order offences are not of the same nature, character and scale of councils' regulatory powers and operation.

s9(2)(f)(iv)

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- 64.2. training and resources required to undertake the added function, e.g., de-escalation training, the operational kit required to support additional powers/functions, health and safety requirements, and
- 64.3. authorising and accountability mechanisms, e.g., being sworn in/taking an oath to enable enforcement officers to have the specific powers other council staff don't have.

65. The MAG's proposal would require amending section 259 of the Local Government Act to enable regulations to be made for infringement offences for similar kinds of bylaws – in particular, bylaws addressing antisocial behaviours. Regulations would then need to be developed.

S9(2)(f)(iv)

s9(2)(f)(iv)

S9(2)(f)(iv)

Government action plan and investment strategy

67-68. The MAG's final proposal is for the Government to commit to issuing a strategy or action plan to address antisocial behaviour in retail, alongside a strategic investment plan. You could choose to progress a government action plan, but achieving long-term results may be resource intensive.

68-69. We see merit in MAG's recommendations to invest in evidence-based holistic crime prevention and addressing the drivers of antisocial behaviour, including through additional resources for social services. Criminal justice responses alone will not solve the challenges with crime and antisocial behaviour in the retail sector.

⁶ In August 2024 the Prime Minister announced the Local Government System Improvements programme. Its aim is to ensure councils are getting back to basics to reduce the cost of living, deliver core services and infrastructure, and improve efficiency of decision making. This includes guiding council decision-making and avoiding duplication of role with central Government.

⁷ [Democracy and Open Government - Local Government Bylaw System Issues and Options Paper August 2025.pdf - All Documents](#)

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69-70. To be effective, a strategy or action plan would require dedicated investment on an ongoing basis from across the social and justice sectors.

70-71. However, we note that a government strategy focussed specifically on antisocial behaviour in retail may be overly narrow, such that it would benefit only a niche group, rather than the broader business community.

74-72. Unless there is strong Ministerial support to back up a strategy with a detailed implementation plan and strategic investment, we note that the MAG and retail sector may be dissatisfied with the outcomes.

Next steps

72-73. Should you want to progress the proposals in this briefing, we will provide you with a draft Cabinet paper for your consideration.

73-74. Any proposals requiring legislative change could be progressed via a s9(2)(f)(iv)

74-75. Expected timeframes are:

s9(2)(f)(iv)	
Cabinet paper and RIS to Office	TBC
Ministerial consultation	
Cabinet paper lodged	
SOU	
Cabinet	
PCO drafting	
LEG, Cabinet, and Bill introduction	
Select Committee reports back	
Final House stages and Bill enactment	

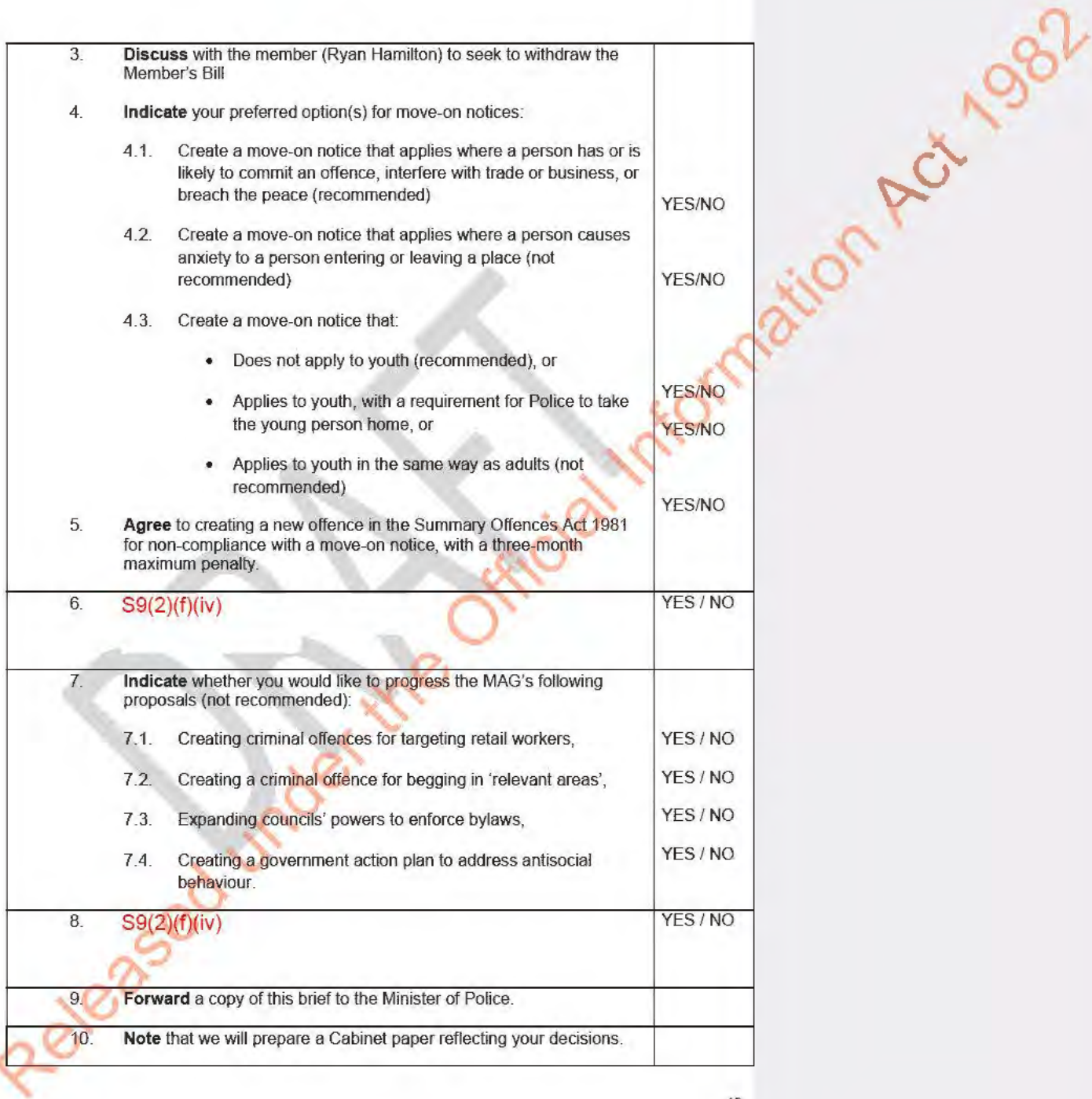
Recommendations

75-76. It's recommended that you:

1.	Note that the Ministerial Advisory Group for Victims of Retail Crime has provided you with a set of proposals to respond to antisocial behaviour in retail.	
2.	Agree to introducing a move-on power to the Summary Offences Act 1981. If you agree to introduce move-on powers, we recommend you:	YES / NO

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<p>3. Discuss with the member (Ryan Hamilton) to seek to withdraw the Member's Bill</p>	
<p>4. Indicate your preferred option(s) for move-on notices:</p> <p>4.1. Create a move-on notice that applies where a person has or is likely to commit an offence, interfere with trade or business, or breach the peace (recommended)</p> <p>4.2. Create a move-on notice that applies where a person causes anxiety to a person entering or leaving a place (not recommended)</p> <p>4.3. Create a move-on notice that:</p> <ul style="list-style-type: none"> • Does not apply to youth (recommended), or • Applies to youth, with a requirement for Police to take the young person home, or • Applies to youth in the same way as adults (not recommended) <p>5. Agree to creating a new offence in the Summary Offences Act 1981 for non-compliance with a move-on notice, with a three-month maximum penalty.</p>	<p>YES/NO</p> <p>YES/NO</p> <p>YES/NO</p> <p>YES/NO</p> <p>YES/NO</p>
<p>6. S9(2)(f)(iv)</p>	<p>YES / NO</p>
<p>7. Indicate whether you would like to progress the MAG's following proposals (not recommended):</p> <p>7.1. Creating criminal offences for targeting retail workers,</p> <p>7.2. Creating a criminal offence for begging in 'relevant areas',</p> <p>7.3. Expanding councils' powers to enforce bylaws,</p> <p>7.4. Creating a government action plan to address antisocial behaviour.</p>	<p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p>
<p>8. S9(2)(f)(iv)</p>	<p>YES / NO</p>
<p>9. Forward a copy of this brief to the Minister of Police.</p>	
<p>10. Note that we will prepare a Cabinet paper reflecting your decisions.</p>	



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[Name of person signing the briefing]
[Position of the person signing the briefing]

APPROVED SEEN NOT AGREED APPROVED SEEN NOT AGREED

Delete content of this cell if briefing is
only going to one Minister

[Hon Firstname Lastname]
[Minister [of or for] XXXX]
Date / /

[Hon Firstname Lastname]
[Minister [of or for] XXXX]
Date / /

Attachments: [Describe any attachments – use bullet points if more than one.]

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S9(2)(f)(iv)

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S9(2)(f)(iv)

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From: S9(2)(a)
Sent: Monday, 29 September 2025 1:39 pm
To: S9(2)(a) ; S9(2)(a)
Cc: s9(2)(a)
Subject: RE: For feedback - draft briefing on options to strengthen responses to public disorder

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Kia ora S9(2)(a)

Thank you for sending through the *Strengthening responses to public disorder (including advice on Retail MAG proposals)* briefing.

It is a strong briefing, and we only have a few minor comments or thoughts.

CLAW Feedback

- Your heading before paragraph 12 states that councils have existing powers to address this behaviour, but the paragraphs below it do not describe what councils are able to enforce.

Move on orders

- Will these require the creation of a new regime within the SoA (similar to how infringement offences require an operating regime in legislation)? May be worth noting that this would be bespoke and would likely require significant drafting, not just the addition of a new offence "ie. Breaching a move on order" in the SoA.
- Can you confirm that your intention at paragraph 27 is to exclude both children and young persons from the move on orders? Those terms are distinct in the OT Act and would need to both be listed (rather than being used interchangeably). For the avoidance of doubt I would note that you are meaning people "under the age of 18 years". It could also be worth noting that a child is likely to have less autonomy in deciding whether to return to a location (ie. Mum wants them to go to the supermarket with them).
- At paragraphs 28.1 and 28.2 is it supposed to say "should" rather than "could" if we are recommending these safeguards.
- At paragraph 28.3 do you want to note that a "referral to relevant support services should accompany, or be issued instead of, a move on notice"
- Could you please check the wording of paragraph 29 with S9(2)(a) I am not 100% sure the presumption of innocence comment is 100% accurate, but he would be best placed to confirm it.

S9(2)(f)(iv)

New assault offence

- Agree that there is no gap in the assault framework that needs addressing
- Please note at paragraph 50 public transport worker may not be a good example as there is now a specific aggravating factor at sentencing if you assault them. The first responders justification goes further in that "assaulting a first responder may prevent them from executing lifesaving duties" but I don't know that it needs to be in the paper.

Ban on Begging

- I found the second half of paragraph 56 about the Courts a bit random and am not sure its necessary to include.

Bylaws

Cc: S9(2)(a)

@justice.govt.nz> S9(2)(a)

@justice.govt.nz>

Subject: RE: For feedback - draft briefing on options to strengthen responses to public disorder

IN CONFIDENCE

Apologies, I've now attached an editable version of the briefing.

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From: S9(2)(a)

Sent: Tuesday, September 23, 2025 3:23 PM

To: S9(2)(a)

@justice.govt.nz> S9(2)(a)

@justice.govt.nz> S9(2)(a)

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@justice.govt.nz> S9(2)(a)

@justice.govt.nz>

Cc: S9(2)(a)

@justice.govt.nz> S9(2)(a)

@justice.govt.nz>

Subject: For feedback - draft briefing on options to strengthen responses to public disorder

Kia ora koutou,

The Law Enforcement Policy team has been preparing advice for the Minister on:

- options to strengthen responses to public disorder, and
- recommendations from the Ministerial Advisory Group for Victims of Retail Crime on ways to address antisocial behaviour in retail settings.

Please find the attached draft briefing for your feedback. Any comments you can provide on the paper would be much appreciated by COB Monday 29 September. We intend to provide the briefing to the Minister on 8 October 2025.

This draft briefing has also been provided to external agencies for feedback.

Please let us know if you would like to discuss anything in the paper.

Ngā mihi nui,

S9(2)(a)



S9(2)(a)

Policy Advisor | Criminal Justice Unit

Ministry of Justice | Tāhū o te Ture

Justice Centre | 19 Aitken Street | Wellington 6011

From: s9(2)(a) @police.govt.nz>
Sent: Monday, 29 September 2025 4:51 pm
To: S9(2)(a)
Cc: S9(2)(a) ; S9(2)(a) ; s9(2)(a)
Subject: FW: [EXTERNAL] Consultation request re draft briefing on public disorder
Attachments: FW: [EXTERNAL] Follow up from alternative responses workshop - conditional warnings pilot ; Police comments 29.9.25 DRAFT Briefing on public disorder - for agency feedback (002).docx

Importance: High

Follow Up Flag: Follow up
Flag Status: Flagged

Kia ora ^{S9(2)(a)}

Thank you for the opportunity to provide comment on this paper.

We have provided tracked changes and comments in the attached, with additional commentary below.

Please note, Police:

- consider that design work is necessary to establish the workability of move-on orders.
- ^{S9(2)(f)(iv)}
- support your recommendations not to proceed with the MAG proposals to create new criminal offences (targeting begging and retail workers).
- are neutral on the MAG proposals to expand council powers to enforce bylaws and create a government action plan.

We are happy to meet, ahead of the delivery of the briefing to your Minister by 8 October, ^{s9(2)(f)(iv)}

Move-on orders

- **In our view, critical work needs to be undertaken to ensure that move-on orders are workable and meet Ministers expectations about what they can achieve. Given that a significant amount of detail remains to be worked through, the paper could instead seek agreement to develop options to provide Police with powers to manage public disorder, which could include a ‘move-on order’ that addresses behaviour that hasn’t reached criminal behaviour (or that provides a better mechanism for managing the person without requiring arrest). This work could also look at existing legislation and whether current law is fit for purpose (e.g. is the threshold for disorderly behaviour too high). Part of that work would define the scope of the powers and the behaviours that were targeted.**
- The paper could be strengthened with a stronger problem definition and greater consistency in the language used:
 - The proposal is for an order that could apply where a public disorder offence has occurred or may occur; where a person is interfering with trade or business; or where a breach of the peace has been or is likely to be committed.
 - The paper then states that the orders should only be used for conduct amounting to public disorder which it defines as disturbing, aggressive, threatening or violent behaviour. This confuses what the problem is and what the intent of the solution is.

- It could be useful to undertake further work on where the gap is, between powers that Police already has, and what we are trying to achieve with these orders:
 - For example, Police currently has the power to arrest a person where they commit an offence of disorderly behaviour, where they are found disturbing the peace or committing an imprisonable offence, or where we have good cause to suspect them of having committed a breach of the peace or imprisonable offence.
 - Police has discretion (where offence thresholds are met) and in some cases won't arrest (e.g. to do so may not be a proportionate response or an effective use of our resource; we may instead try to diffuse the situation in other ways e.g. asking individuals to move on).
 - What we perhaps don't have is a process to manage the consequences of asking individuals to leave, where an offence threshold is not met, and they return later (e.g. compare: if they refuse to leave when we first ask, and an offence threshold is met, then we can arrest).
 - The paper is not clear on the response when an individual's behaviour or risk does not meet the threshold as defined in the paper; Police may be limited in what we can do to prevent harm/offending from happening.
- The paper is silent on how to manage the period where the person is restricted from re-entering the defined area, whether the order risks simply shifting the problem, or how the referrals would be managed. If there were greater needs or more ongoing issues for the person, just moving them won't resolve these. The MAG proposal appears more addressed at people with broader issues that require medium to long-term interventions (that sit outside of Police remit to address). Service availability is a factor that will differ across regions and may be an issue even where referral mechanisms are well established.

Youth (in response to the proposal in the paper to utilise section 48 of the Oranga Tamariki Act 1989)

- Section 48 is a care and protection response, where the wellbeing and best interests of the child are the first and paramount consideration, it is not designed for a youth justice setting (criminal liability for non-compliance would not attach to a Section 48 response).
- A section 48 response requires Police to believe that firstly the child or young person is unaccompanied and secondly the child's physical or mental wellbeing is or is likely to be impaired. The young person then (with their consent) can be returned to their parents or caregiver and if they don't consent can be taken to OT.

S9(2)(f)(iv)

Any comments you can provide on the paper would be much appreciated by COB Monday 29 September. We intend to provide the briefing to our Minister on 8 October 2025.

If you would like to discuss anything in the paper please let us know.

Nga mihi nui,
S9(2)(a)



S9(2)(a)

Policy Advisor | Criminal Justice Unit
Ministry of Justice | Tāhū o te Ture
Justice Centre | 19 Aitken Street | Wellington 6011

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Hon Paul Goldsmith, Minister of Justice

Strengthening responses to public disorder and advice on Retail MAG proposals

Date	9 October 2025	File reference	
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Action sought	Timeframe
TBC	TBC

Contacts for telephone discussion (if required)

Name	Position	Telephone		First contact
		(work)	(a/h)	
Alida Mercuri	General Manager – Criminal Justice Unit	04 466 2091	S9(2)(a)	<input type="checkbox"/>
S9(2)(a)	Manager – Law Enforcement Policy	04 466 0723	S9(2)(a)	<input checked="" type="checkbox"/>

Minister's office to complete

- Noted
 Approved
 Overlaken by events
 Referred to: _____
 Seen
 Withdrawn
 Not seen by Minister

Minister's office's comments

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Purpose

1. This briefing advises you on strengthening the justice response to public disorder, including advice the Ministerial Advisory Group for Victims of Retail Crime (MAG) report on antisocial behaviour in retail settings.

Key messages

2. in September, the MAG provided you with a report (**Attachment 1**) with five proposals to address antisocial behaviour in retail settings.
3. Police have a range of tools available to manage public order and address disorderly behaviours, but there is a gap in Police powers to address instances of public disorder that are below the threshold of criminality, even where an officer suspects offending is imminent.
4. We consider **move-on orders**, with appropriate penalties for non-compliance, would be an effective tool in supporting Police to manage public disorder and antisocial behaviours, and to improve public confidence in law and order.
5. Police, councils, and social service agencies agree that move-on orders should not be used to address survival behaviours associated with homelessness, like rough sleeping, general begging, or people experiencing mental health distress. We share this concern, noting both efficacy issues (move-on orders merely shift the concerning behaviours down the street) and the human rights impacts associated with criminalising survival behaviour.
6. **S9(2)(f)(iv)**
7. We do not recommend progressing new **offences for targeting retail workers**. Offences for the behaviours set out in the MAG report already exist within the Summary Offences Act 1981 and Crimes Act 1961. Creating additional offences for the same conduct causes a lack of clarity in the law. It is also not clear why offending against retail workers should carry harsher penalties when workers in other sectors may experience similar behaviours.
8. We do not recommend progressing a new **offence for begging in specified areas**. The proposed ban essentially criminalises homelessness and survival behaviours. It does not distinguish between general begging and aggressive or threatening begging. There are also existing offences for aggressive or threatening behaviour in the Summary Offences Act 1981. We assess that such a ban on begging in specified areas would not be a justifiable limit on rights and freedoms, particularly the rights to freedom of movement and freedom of expression under the New Zealand Bill of Rights Act 1990.
9. The remaining two MAG proposals – **developing a government strategy** and changes to **local authority bylaw enforcement powers** – have notable considerations and we do not recommended progressing these at this time.

Commented [TB1]: Totally agree and there are many examples e.g. taxi drivers, aged care workers, bus drivers, teachers, medical staff etc etc

Background

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10. You have expressed concern about disorderly behaviour in public places, including how this is impacting the business community.
11. In August 2024, we provided you with advice that move-on orders, with appropriate penalties for non-compliance, could be an effective tool in supporting Police to manage certain antisocial behaviours. You shared the advice with the MAG but did not take any decisions at that time.
12. On 8 September, the MAG provided you with a report with proposals to address antisocial behaviour in retail settings. The MAG has heard from retailers that antisocial behaviour is increasing and causing harm to retail workers and customers. The MAG's proposals include:
 - 12.1. **move-on orders** – a new tool for Police to require a person to move-on to a different location if that person is behaving in an antisocial manner
 - 12.2. **bespoke criminal offences** for assaulting, threatening, or abusing retail workers
 - 12.3. **new offence banning begging** within 15 meters of a 'relevant area' (e.g. a retail store front or cash machine)
 - 12.4. **additional powers for councils** to enforce bylaws via promulgating regulations under the Local Government Act 2002, and
 - 12.5. **Government action plan** to address antisocial behaviour, which could 'wrap up' the other actions into a cohesive strategy.
13. At recent Justice Sector Ministers and other meetings, you and other Justice, Health, and Social sector Ministers have discussed responses to public disorder.
14. The Government's quarter 4 targets include that Cabinet will take decisions regarding ways to address antisocial behaviour by the end of 2025.
15. You have also told us that court timeliness is a priority and you do not want to drive more cases into the courts. We have considered your court timeliness priorities in developing this advice.

Public disorder in New Zealand

16. There are anecdotal reports and perceptions of increased public disorder in city centres, and retailers throughout the country have expressed concern over antisocial behaviours driving customers away from CBDs and affecting their businesses.
17. While there is not a legal definition of public disorder, we consider public disorder to be disorderly, intimidating, offensive, threatening, or disturbing conduct in a public place which, in the time, place, and circumstances, is at a level beyond that which reasonable people can be expected to endure, and which justifies the intervention of law enforcement.
18. This includes behaviours that are below the threshold of criminal offending (e.g. disrupting businesses, nuisance behaviour, public intoxication).

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19. For this analysis, public disorder does not include protesting, picketing/trade union action, trespass, or survival behaviours associated with homelessness (e.g. rough sleeping and general begging).

Police and councils have powers to address most forms of public disorder, but there is scope to strengthen responses

20. Law enforcement have well-developed guidelines and a range of tools to maintain public order and respond to most instances of low-level offending. In addition to general Police powers, these include criminal offences, council bylaws, infringements, alternative resolutions (e.g. formal warnings, diversion), and referral arrangements with social and health service providers. Police have shared information on how these powers work.
21. We have reviewed all current criminal offences and can confirm they cover the full range of behaviour where public disorder escalates into criminal offending. However, there is a gap in Police powers to proactively de-escalate situations involving behaviour that falls below the criminal threshold to prevent imminent offending from taking place.

Criminal justice responses can supplement social and health responses

22. Social service agencies are careful not to conflate homelessness, mental health issues, and public disorder. Survival behaviours such as sleeping rough do not necessarily contribute to public disorder, rather actors who are not homeless are often the ones involved in criminal and public disorder behaviours.
23. We have heard from social service agencies that homelessness is best addressed through collaborative place-based approaches between councils, service providers, and relevant government agencies.
24. Social Sector Ministers have a well-developed package of initiatives to address homelessness, which is currently being delivered. You may wish to consider how to sequence the justice and social sector initiatives to enable maximum benefit.
25. Ensuring swift and certain responses to public disorder is an effective way to provide meaningful consequences, deter future offending, and support your law-and-order and court timeliness priorities.

We have assessed the MAGs proposals and identified promising responses to public disorder

26. We assessed the MAG's proposals against: core justice principals, effectiveness, workability, cost on implementation, and impact on the courts. We determined that:
 - 26.1. **Move-on orders**, which is the MAG's favoured proposal, could be used to prevent crime and maintain public order. We seek a full package of decisions from you in this brief.
 - 26.2. s9(2)(f)(iv)

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s9(2)(f)(iv)

26.3. The remaining four MAG proposals - either do not meet the criteria or have other notable considerations, which are discussed below.

Move-on powers can provide flexible, proportionate, and swift responses to public disorder

- 27. The MAG's primary recommendation is to enable Police to issue move-on orders to people behaving in an antisocial manner. Similar powers exist in the UK and Australia.
- 28. We agree that move-on power could be an effective tool for Police to quickly de-escalate situations of public disorder, where the conduct is below the threshold of criminal offending.

Construction of move-on orders

- 29. We recommend that move-on orders:
 - 29.1. are issued by Police to an individual
 - 29.2. are issued verbally on the spot
 - 29.3. require the individual to 'move on' from a specific area for up to 24 hours, and
 - 29.4. require the individual to go a specified distance away from the area.
- 30. Move-on powers and the offence for breach of an order could be provided for in the Summary Offences Act 1981, which houses most low-level offences addressing various forms of disorderly behaviour. Establishing move-on powers requires creating a new regime within the Act.

Commented [TB2]: I think you need more than verbal issuing to provide a record e.g. in WA they have paper orders and here we could potentially have a mobile version. Without evidence of some kind a verbal version couldn't be enforced - the individual could just say they were not asked to move on or didn't think they were etc

We suggest changes to the MAG's proposal

- 31. Overall, the MAG's proposal for move-on orders is workable, but we recommend modifications to:
 - 31.1. the conduct covered by move-on orders, and
 - 31.2. the application of move-on orders to youth.

Recommended modifications to behaviours covered by move-on orders

- 32. We recommend some changes to the MAG's proposal for when a move-on order could be issued.

Ministry's proposal	MAG's proposal
Reasonable grounds to believe that, in a public place:	Reasonable grounds to suspect that a person's behaviour is, has, or is likely to:

Commented [TB3]: Do you want something in here about preventing imminent offending?

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<ul style="list-style-type: none">• The person is or has been behaving in a disorderly, intimidating, offensive, threatening, or disturbing manner• The person is or has been interfering with trade or business by unnecessarily obstructing, hindering, or impeding someone entering or leaving a place• A breach of the peace is occurring or has occurred	<ul style="list-style-type: none">• Cause anxiety to a person entering, at, or leaving a place, reasonably arising in all the circumstances• Be disorderly, indecent, intimidating, offensive, or threatening to someone entering, at, or leaving a place• Interfere with trade or business at or proximate to a place by unnecessarily obstructing, hindering, or impeding someone entering, at, or leaving the place• Disrupt the peaceable and orderly conduct of any event, entertainment, or gathering at a place
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33. Our proposal:
- 33.1. targets conduct that has recently occurred (i.e. within one hour) or is occurring, as opposed to requiring officers to predict conduct that is "likely" to occur
 - 33.2. focuses on the behaviour of the person being moved on, and not the feelings of the public (in line with current Policing practice)
 - 33.3. expands move-on orders to conduct occurring in all public places, and not solely entrances to businesses, and
 - 33.4. includes any breach of the peace occurring in public, and not solely to the disruption of events or gatherings.
34. We recommend move-on orders apply to conduct that has occurred or is occurring, and not to conduct that is "likely" to occur. The MAG's proposal to include behaviours that are likely to occur is highly subjective and would require frontline officers to predict future conduct. This risks operational inconsistency and unjustified limitations on civil liberties.
35. We recommend that move-on orders do not apply where a person's behaviour causes anxiety to someone, as suggested by the MAG. Move-on powers should be focused on the behaviour of the person being moved on, and not on the emotional state of those around the person. This would remove the requirement for Police to make a determination about the impact of one person's behaviour on another, which is highly subjective.
36. Move-on orders should apply to behaviours occurring in public places only, rather than where someone is "entering, at, or leaving a place", as proposed by the MAG. Trespass laws apply where disorderly behaviour occurs inside a private place, like a retail shop.
37. We recommend that move-on orders apply to all breaches of peace occurring in public places, rather than being limited to disruptions to events, entertainment, or gatherings.

Options for applying move-on orders to youth

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- 38. The MAG proposes that move-on orders apply to children and young people 10 years of age and older. The MAG also suggests that contact should be made with a caregiver and a referral to youth services where appropriate.
- 39. We do not recommend that move-on orders apply to children and young people under the age of 18 years.
- 40. Police have existing responses for children and young people, including delivering them into the custody of a parent or guardian, that achieve the same purpose as move-on powers and are more appropriate for children and young people. Where there is ongoing public disorder by a child or young person, a referral can be made to a Police Youth Aid or a report of concern made to Oranga Tamariki.
- 41. Move-on orders would require the person to vacate a specific area and, for children and young people, may result in them being required to leave their residential area with limited ability to return home. For children in particular, issuing move-on orders could be seen as Police leaving a child without reasonable provision for supervision and care for the child.¹ Oranga Tamariki agrees that move-on orders should not apply to children and young people.
- 42. If you choose to apply move-on orders to children and young people, we suggest aligning move-on orders with existing take-home powers in the Oranga Tamariki Act 1989. Where an officer issues a move-on order to a child or young person, the officer would be required to deliver the child or young person into the custody of a parent or guardian, instead of moving them on unaccompanied.
- 43. This approach would involve amending section 48 the Oranga Tamariki Act to remove the provision requiring consent to be taken home. Requiring Police to take a child or young person home carries less risk of Police being held liable for failing to make reasonable provision for the supervision of a child.

The logistics of issuing move-on orders and policing non-compliance needs to be worked through

- 44. We will work with Police to determine the logistics of issuing and policing move-on orders to ensure workability, including:
 - 44.1. Service of a move-on order
 - 44.2. Displacement of people when moved-on
 - 44.3. Avenue to contest orders, if necessary
 - 44.4. Appropriate penalties for non-compliance

¹ It is an offence under section 10B of the Summary Offences Act 1981 for a parent, guardian or person for the time being having the care of a child under 14 years old to leave that child without making reasonable provision for the supervision and care of the child, for a time that is unreasonable or under conditions that are unreasonable having regard to all the circumstances.

s9(2)(a) I think we should talk with **s9(2)(a)** about this again. I am nervous about suggesting we remove the consent provision in the OT Act. What if the child has good reasons for not wanting to go home (like an abusive household)?

Commented [TB5R4]: Section 48 of the OT Act is a Police care and protection response, it is not a youth justice response. Your point is correct **s9(2)(a)** that you can't really just propose to remove the consent aspect of this part of the legislation e.g the child may have valid reasons for not wanting to go home, such as it being an abusive household (in which case Police would take them to OT). Also, if you are proposing amending any part of the act you must consult with OT as the administrators. It might be more straightforward to just go with the recommendation not to include youth and noting instead that Police having existing Youth Aid responses to respond to children and young people.

Commented [TB6]: In terms of enforcement, a breach could result in arrest and a charge managed through the Courts or an infringement (noting the current infringement system is at capacity and an updated system required).

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- 45. We note that the MAG has provided suggested penalties for non-compliance which we will take into consideration.
- 46. We will seek further decisions from you on the design elements of move-on orders and penalties for non-compliance ahead of taking a paper to Cabinet.

There are some concerns and risks with move-on powers

- 47. Move-on orders would be a Police-imposed discretionary action that would, unless breached, avoid judicial intervention. Move-on orders may conflate notions of pre-emption and punishment by requiring a person to leave an area where no offence has been committed. These powers are likely to engage freedom of expression and movement under the New Zealand Bill of Rights Act 1990 (BORA).
- 48. We note the risk that move-on orders will simply shift concerning behaviours down the street. There is also limited evidence of the efficacy of move-on laws in Australia and the UK. Studies have found there is no empirical evidence to show that move-on powers result in reductions in crime rates. Reports also show disproportionate application of move-on powers against persons who are homeless, Indigenous, young, or mentally ill.
- 49. MSD and HUD are concerned that move-on orders will target vulnerable groups, like the homeless. We recommend that orders only be applied to conduct amounting to public disorder, and not as a tool to move rough sleepers or people who appear undesirable.
- 50. We agree with the MAG that, on balance, move-on orders are a proportionate tool to swiftly de-escalate situations of public disorder that do not justify a more serious criminal justice response.

Commented [TB7]: In light of this comment it might be useful to provide a rationale for recommending them?

Commented [CR8]: Include citations

Proposed safeguards to move-on orders to mitigate concerns

- 51. The move-on order should include robust safeguards to address the identified concerns and risks, particularly to ensure they are reasonably and consistently used, and that there are oversight, monitoring, and contestability processes in place.
 - 51.1. Orders should be issued for the minimum amount of time necessary to resolve the disorderly conduct (and no longer than 24 hours).
 - 51.2. Orders should apply to the minimum area that is reasonably necessary to resolve the situation.
 - 51.3. Upon issuing an order, Police would be required to warn the person that it is an offence to breach a move-on order, unless they have a reasonable excuse.
 - 51.4. There should be operational oversight, monitoring, and reporting on the use of the power.
 - 51.5. Orders would not apply to lawful protests, pickets, or trade union action

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- 51.6. **There should be minimal interference with access to support and essential services.**
We also recommend that Police ~~be required to consider~~ whether a referral to relevant support services should accompany the move-on order.
- 51.7. Orders should not be used to effectively criminalise homelessness or those who appear undesirable. Police, councils, and social service agencies agree that move-on orders should not be used to address survival behaviours associated with homelessness, like rough sleeping and general begging. Move-on orders are also not an appropriate response to people experiencing mental health distress.

Commented [TB9]: Please remove 'required'. Police routinely act as a connector of at risk individuals to services and have well established mechanisms to do so e.g. AWHI. We don't think anything is gained by making this a requirement and doing so could have resourcing impacts (e.g. if we expected to record and engage with providers in ways that we are not currently resourced to do).

Commented [JR10]: We need to work through the recommendations to determine what decision we need.

Recommendations		
1.	Agree to establish a regime for move-on powers in the Summary Offences Act 1981.	YES / NO
2.	Agree that move-on powers will have the following features:	YES / NO
2.1.	Police will have the power issue a "move-on order" to individuals exhibiting public disorder (as defined in paragraph XX), unnecessary interference with a trade or business, or breach of the peace	YES / NO
2.2.	A move-on order would require an individual to immediately leave a specified area for a maximum of 24 hours	YES / NO
2.3.	Move-on orders would not apply to individuals participating in lawful protest, picketing, or trade union action	YES / NO
3.	Agree that move-on orders apply:	YES / NO
3.1.	To conduct occurring in public places only	YES / NO
3.2.	Where an officer has reasonable grounds to believe that	YES / NO
3.3.	Exclude conduct that is "likely" to occur	YES / NO
3.4.	Exclude behaviours that may cause anxiety	YES / NO
4.	Agree that, regarding children and young people, move on orders:	
4.1.	Apply to adults only	YES / NO
	OR	
4.2.	Apply to children and young people age 10 or older with a requirement for Police to deliver the child or young person into the custody of a caregiver or contact youth services	YES / NO
5.	Discuss the application of move-on orders to children and young people with the Minister for Children.	

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6.	Note that we will seek further decision on the design and operation of move-on orders before you take a paper to Cabinet.	
7.	Agree to the inclusion of the safeguards outlined at paragraph 51.	

S9(2)(f)(iv)

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S9(2)(f)(iv)

S9(2)(f)(iv)

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S9(2)(f)(iv)

The MAG's proposals for new criminal offences s9(2)(g)(i)

62. As discussed above, the Ministry recommends progressing the MAG's primary proposal to create move-on powers to address antisocial and disorderly behaviour.
63. We do not recommend progressing the MAG's proposals for:
- new criminal offences for targeting retail workers
 - a ban on begging around 'relevant areas'

New offences for assaulting and threatening or abusing a retail worker

64. The MAG proposes to introduce two new criminal offences into the Crimes Act 1961: assaulting a retail worker and threatening or abusing a retail worker. The MAG also proposes to introduce aggravated offences where a retail worker is assaulted, threatened, or abused while enforcing a restriction on the sale of products (such as an illegal sale of alcohol). The aggravated offences would attract a harsher penalty.
65. We do not recommend progressing this proposal because criminal offences for these behaviours already exist in the Summary Offences Act 1981 and Crimes Act 1961. Assault

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provisions within these two Acts have maximum penalties ranging from 6 months to 14 years imprisonment.³

- 66. The MAG has not identified a gap in the law in relation to charging offenders for assaults, threats, or abuse of retail workers. It states that current laws do not recognise the “unique context and aggravating factors” of the retail environment, as workers are often perceived as young, vulnerable, and in a low-status profession.
- 67. Factors including the age and particular vulnerability of a victim can already be considered at sentencing under section 9 of the Sentencing Act 2002, which provides that courts may take into account certain aggravating or mitigating factors.⁴
- 68. We note that Cabinet has recently agreed to criminal offences for violence against first responders. However, first responders are distinguishable from retail workers in that they hold a special public duty and are crucial to community safety, justifying greater consequences for violence against them. It is not clear why there should be harsher punishments for offences against retail workers when other sectors may experience similar behaviours, such as medical professionals and service providers.
- 69. We have heard from Police that providing additional charging options for the same conduct is not helpful and can cause a lack of clarity in the law. If you choose to progress other proposals, such as move-on powers, this can achieve the MAG’s goal to signify to the public that targeting retail shops and workers will be met with swift consequences.

Recommendation

- | | | |
|----|--|----------|
| 9. | Indicate whether you would like to progress the MAG’s proposal to create criminal offences for targeting retail workers. | YES / NO |
|----|--|----------|

Implementing a ban on begging around ‘relevant areas’

- 70. The MAG also proposes to introduce a new offence to the Summary Offences Act 1981 for begging within 15 metres of a ‘relevant area’ (e.g. a retail store entrance or cash machine). The MAG suggests that ‘relevant area’ could be defined by regulation.
- 71. We do not recommend progressing this proposal. The proposed ban risks essentially criminalising homelessness and survival behaviours. It does not distinguish between general begging (e.g. sitting peacefully with a sign or collection dish) and aggressive or threatening begging.
- 72. The MAG claims that “begging in front of a store front can be regarded as aggressive and intimidating, especially where the beggar is right next to the entrance.” While begging near a store front can make people feel uncomfortable, a criminal offence would not be a proportionate response to the behaviour the MAG proposes to capture.
- 73. Police are also concerned that this proposal would shift Police’s operational responses away from addressing criminal behaviour and into policing behaviours that do not warrant a

³ See, e.g., section 9 of the Summary Offences Act 1981 and section 188 of the Crimes Act 1961.

⁴ See, e.g., sections 9(1)(g) and 9(4) of the Sentencing Act 2002.

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criminal justice response. Police advises that move-on orders, if progressed, could be a more effective tool to address instances of aggressive begging or unreasonable intrusion into the footpath or entryway to a retail space.

74. We also note that there are existing criminal offences for aggressive or intimidating behaviour which, along with move-on orders, can address begging behaviour that is reasonably regarded as aggressive or intimidating. Introducing a new offence for begging in 'relevant areas' has the potential to drive more cases into the courts.
75. There is also risk that banning begging from retail spaces will shift beggars to other high-traffic areas, such as schools, transport hubs, public parks, and outside of libraries and community centres.
76. Finally, we assess that such a ban would not be a justifiable limit on rights and freedoms, particularly the rights to freedom of movement and freedom of expression under the New Zealand Bill of Rights Act 1990.

Recommendation

- | | | |
|-----|---|----------|
| 10. | Indicate whether you would like to progress the MAG's proposal to create a criminal offence for begging in 'relevant areas'. | YES / NO |
|-----|---|----------|

The MAG's final two proposals s9(2)(g)(i)

77. You could progress the MAG's two remaining proposals, but we see there may be limited value in doing so and there are also considerations that you will need to factor in. The two remaining proposals are:
- additional powers for councils to enforce bylaws
 - a government action plan or strategy to address antisocial behaviour

Additional powers for councils to enforce bylaws

78. The MAG proposes to promulgate regulations under the Local Government Act 2002 to enable councils to enforce bylaws addressing antisocial behaviour.
79. **S9(2)(f)(iv)** _____
80. The MAG acknowledged that councils do not want increased enforcement powers to address anti-social behaviour as local authorities do not think additional enforcement should be part of councils' role. DIA reiterates that councils have indicated they do not want these powers and add that councils would rather establish move-on orders for Police as a more suitable tool to address public disorder issues.
81. Local authority enforcement powers are primarily applicable to offences relating to building compliance, public health, the environment, and waste management, for example. There has been limited inclusion of public order offences in bylaws. Enabling local authorities to

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enforce public disorder offences requires caution given the potential for conflict or escalation.

82. S9(2)(f)(iv)

83.

Recommendations	
11. Indicate whether you would like to progress the MAG's proposal to expand councils' powers to enforce bylaws.	YES / NO
12. S9(2)(f)(iv)	YES / NO

Government action plan and investment strategy

84. The MAG's final proposal is for the Government to commit to issuing a strategy or action plan to address antisocial behaviour in retail, alongside a strategic investment plan. You could choose to progress a government action plan, but achieving long-term results may be resource intensive. We note there may be limited value in progressing this initiative because:

- 84.1. the proposed strategy/plan for antisocial behaviour in retail setting is narrow, and focuses on a niche problem and group
- 84.2. to be effective, a strategy or action plan would require dedicated investment on an ongoing basis from across the social and justice sectors, and
- 84.3. unless there is strong ministerial support to back up a strategy/plan with a detailed implementation plan and strategic investment, the MAG and the retail sector may be dissatisfied with the outcomes.

85. We see merit in MAG's recommendations to invest in evidence-based holistic crime prevention and addressing the drivers of antisocial behaviour, including through additional

⁵ In August 2024 the Prime Minister announced the Local Government System Improvements programme. Its aim is to ensure councils are getting back to basics to reduce the cost of living, deliver core services and infrastructure, and improve efficiency of decision making. This includes guiding council decision-making and avoiding duplication of role with central Government.

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resources for social services. Criminal justice responses alone will not solve the challenges with crime and antisocial behaviour in the retail sector.

Recommendation	
13. Indicate whether you would like to progress the MAG's proposal to commit to issuing a strategy or action plan to address antisocial behaviour in retail, alongside a strategic investment plan.	YES / NO

Next steps

- 86. Should you want to progress the proposals in this briefing, we will provide you with a draft Cabinet paper for your consideration.
- 87. We have a placeholder bill for low level offending initiatives. Any proposals requiring legislative change could be progressed via a s9(2)(f)(iv)
- 88. We provide you with the below timeline on what we have recommended regarding move-on orders, but if you choose to include additional proposals then this would change the timeline.

Timeframes for the Bill	
Cabinet paper and RIS to Office	Thursday 6 November 2025
Ministerial consultation	Wednesday 12 – Tuesday 25 November 2025
Cabinet paper lodged	Thursday 27 November 2025
SOU	Wednesday 3 December 2025
Cabinet	Monday 8 December 2025

s9(2)(f)(iv)

Recommendations

- 89. In addition to the recommendations included in the Briefing, it's recommended that you:

14. Note that the Ministerial Advisory Group for Victims of Retail Crime has provided you with a set of proposals to respond to antisocial behaviour in retail.	
15. Forward a copy of this brief to the Minister of Police and Minister for Children.	
16. Note that we will prepare a Cabinet paper reflecting your decisions.	

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Attachments: [Describe any attachments – use bullet points if more than one.]

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S9(2)(f)(iv)

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S9(2)(f)(iv)

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From: s9(2)(a) @hud.govt.nz>
Sent: Tuesday, 30 September 2025 1:36 pm
To: S9(2)(a)
Cc: s9(2)(a)
Subject: RE: Consultation request re draft briefing on public disorder
Attachments: HUD feedback - 20250923 DRAFT Briefing on public disorder - for agency feedback.docx; Summary of HUD feedback - MoJ briefing on strengthening responses to public disorder.pdf

Kia ora S9(2)(a)

Thank you for providing us with the opportunity to provide feedback on the draft public disorder briefing.

Please find our feedback attached. We have also attached a summary of all our feedback and recommendations by theme for ease.

Please let me know if you have any questions or would like to discuss.

Ngā mihi,

s9(2)(a)

Senior Policy Advisor | Responding to Severe Housing Needs
Policy Group

s9(2)(a) @hud.govt.nz |
www.hud.govt.nz | L8, 7WQ, 7 Waterloo Quay, Wellington 6011 | New Zealand



He kāinga ora, he hāpori ora - our purpose is thriving communities where everyone has a place to call home.

[IN CONFIDENCE]

[IN CONFIDENCE]

From: S9(2)(a) @justice.govt.nz>
Sent: Tuesday, 23 September 2025 3:12 pm
To: s9(2)(a) @police.govt.nz; s9(2)(a) @police.govt.nz; s9(2)(a) @police.govt.nz; s9(2)(a) @hud.govt.nz;>; s9(2)(a) @hud.govt.nz;>; s9(2)(a) @msd.govt.nz;>; s9(2)(a) @msd.govt.nz;>; s9(2)(a) @msd.govt.nz;>; s9(2)(a) @ot.govt.nz;>; s9(2)(a) @ot.govt.nz;>; s9(2)(a) @ot.govt.nz;>; s9(2)(a) @dia.govt.nz;>; s9(2)(a) @dia.govt.nz;>; s9(2)(a) @dia.govt.nz;>; s9(2)(a) @crownlaw.govt.nz; s9(2)(a) @corrections.govt.nz; s9(2)(a) @corrections.govt.nz;>
Cc: S9(2)(a) @justice.govt.nz;>; S9(2)(a) @justice.govt.nz;>
Subject: Consultation request re draft briefing on public disorder

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Kia ora koutou,

Please find attached for your comment a draft briefing which provides advice on:

- options to strengthen responses to public disorder, and
- recommendations from the Ministerial Advisory Group for Victims of Retail Crime on ways to address antisocial behaviour in retail settings.

Any comments you can provide on the paper would be much appreciated by COB Monday 29 September. We intend to provide the briefing to our Minister on 8 October 2025.

If you would like to discuss anything in the paper please let us know.

Ngā mihi nui,
S9(2)(a)



S9(2)(a)

Policy Advisor | Criminal Justice Unit
Ministry of Justice | Tāhū o te Ture
Justice Centre | 19 Aitken Street | Wellington 6011

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Hon Paul Goldsmith, Minister of Justice

Strengthening responses to public disorder (including advice on Retail MAG proposals)

Date	8 October 2025	File reference	
------	----------------	----------------	--

Action sought	Timeframe
TBC	TBC

Contacts for telephone discussion (if required)

Name	Position	Telephone		First contact
		(work)	(a/h)	
Alida Mercuri	General Manager – Criminal Justice Unit	04 466 2091	S9(2)(a)	<input type="checkbox"/>
S9(2)(a)	Manager – Law Enforcement Policy	04 466 0723	S9(2)(a)	<input checked="" type="checkbox"/>

Minister's office to complete

- Noted
 Approved
 Overtaken by events
 Referred to: _____
 Seen
 Withdrawn
 Not seen by Minister

Minister's office's comments

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Purpose

1. This briefing advises you on options to strengthen responses to public disorder, including advice on proposals from the Ministerial Advisory Group for Victims of Retail Crime to address anti-social behaviour in retail settings.

Key messages

2. TBC

Background

3. You have expressed concern about disorderly behaviour in public places, including how this is impacting the business community.
4. In August 2024, we provided you with advice that move-on notices, with appropriate penalties for non-compliance, could be an effective tool in supporting Police to manage certain anti-social behaviours. No decisions were taken at that time.
5. You discussed public disorder at the Justice Sector Ministers Meeting on 17 September.
6. On 8 September, the Ministerial Advisory Group for Victims of Retail Crime (MAG) provided you with a report with proposals to address antisocial behaviour in retail settings. We provide advice on the MAG's proposals below.

Public disorder in New Zealand***Public disorder affects towns and cities across New Zealand***

7. There are increased reporting and perceptions of public disorders in city centres, and retailers throughout the country have expressed concern over antisocial behaviours driving customers away from CBDs and affecting their businesses.
8. Police data indicates that there is not a marked increase in Police proceedings against public order, health, and safety offences.¹ Although there has been a decrease in pre-charge/non-court action proceedings, the volume of court actions for these offences has increased. The below table breaks down Police proceedings for these offences from 2022 to 2025.

	1 September 2024 – 31 August 2025	1 September 2023 – 31 August 2024	1 September 2022 – 31 August 2023
Court Action	2,886	2,192	1,836
Formal warning	1,308	2,050	2,483
Informal warning	652	1,129	1,148
Non-court Action	513	714	615
Non-court referred conference	13	22	28

¹ [Proceedings \(offender demographics\) | New Zealand Police](#)

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Not proceeded with	68	191	191
Grand total	5,480	6,298	6,301

9. While there is not a legal definition of public disorder, we consider public disorder to be disturbing conduct in a public place which, in the time, place, and circumstances, is at a level beyond that which reasonable people can be expected to endure, and which justifies the intervention of law enforcement.
10. This includes behaviours that are criminal in nature (e.g. offensive or threatening behaviour, intimidation, urinating in public, wilful damage) and behaviours that may be below the threshold of criminal offending (e.g. disrupting businesses, nuisance behaviour, public intoxication).
11. For this paper, public disorder does not include protesting, picketing/trade union action, or trespass.

Police and councils have existing powers to address public disorder that meets the threshold of offending

12. Law enforcement have well-developed guidelines and a range of tools to maintain public order and respond to most instances of low-level offending. In addition to general Police powers, these include criminal offences, council bylaws, infringements, alternative resolutions (e.g. formal warnings, diversion), and referral arrangements with social and health service providers.
13. We consider that current criminal offences cover the range of offending behaviour for public disorder. However, there may be a gap in Police powers to proactively de-escalate situations involving behaviour that falls below the criminal threshold to prevent imminent offending from taking place.

Criminal justice responses should supplement social responses

14. Social service agencies are careful not to conflate homelessness, mental health issues and public disorder. Survival behaviours such as sleeping rough do not necessarily contribute to public disorder, and that other actors who are not homeless are often involved in criminal and public disorder behaviours.
15. We have heard from Police, councils, and social service agencies that law enforcement is often an inappropriate and ineffective response to homelessness, which is best addressed through collaborative place-based approaches between councils, service providers, and relevant government agencies.
16. Social Sector Ministers have a well-developed package of initiatives to address homelessness, which is currently being delivered.
17. Significant investment has been made in programmes and services which directly prevent and respond to homelessness. In 2024/25 and 2025/26 over \$550 million in funding through Vote HUD has been targeted to programmes including transitional housing, sustaining tenancies, Housing First, outreach services, and rangatahi supported accommodation.

Commented [JC1]: Recommend expanding exclusions to include homelessness and begging, which are not inherently antisocial behaviours or illegal unless it causes a 'nuisance or obstruction'.

Commented [JC2]: Recommend expanding and strengthening this point to emphasise that the behaviours are distinct and should be decoupled in this advice, rather than framed as a potential causal relationship.

E.g. Not all anti-social or disorderly behaviour is by people who are experiencing homelessness, and not all people who experience homelessness engage in this behaviour.

Data on which populations are engaging in anti-social behaviours is currently unclear. Proposals to address these behaviours should therefore focus on particular behaviours and be decoupled from homelessness, except when to emphasise caution is needed to prevent further harm.

Commented [JC3]: Recommend iwi/Māori are also noted.

Commented [CR4]: MSD/HUD, can you please include a timeline for these initiatives or any relevant dates?

Commented [JC5R4]: Added in additional context on work to address homelessness.

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18. In addition to this investment, five immediate actions have recently been announced to expand the support available for rough sleepers and help them into stable housing. This includes: Funding an additional 300 social homes for unhoused Housing First clients:

Formatted: MOJ Num Para

18.1. \$10 million in additional funding for support services for rough sleepers;

18.2. Increasing the efficiency of transitional housing;

18.3. Implementing a redirection for beneficiaries where good cause exists; and

18.4. MSD staff to use greater discretion when assessing emergency housing applications.

46-19. You may wish to consider how to sequence the justice and social sector initiatives to enable maximum benefit.

Commented [JC6]: We would like to note that the social sector initiatives are already well underway so we aren't quite sure how sequencing would work best here. Recommend potentially adjusting this to working alongside.

There is scope to strengthen law enforcement responses to public disorder

47-20. Ensuring swift and certain responses to public disorder is an effective way to provide meaningful consequences, deter future offending, and support your law-and-order and court timeliness priorities.

48-21. The following options could strengthen law enforcement responses to public disorder:

48-1-21.1. Move on notices could be used to prevent crime, maintain public order, and enable Police to deal with situations without needing to charge or arrest anyone.

48-2-21.2. S9(2)(f)(iv)

We see merit in progressing the MAG's proposal for move-on notices, with some minor tweaks

49-22. The MAG's primary recommendation in its recent report is to enable Police to issue move-on orders to people behaving in an antisocial manner. Similar powers exist in the UK and Australia.

Commented [JC7]: See para below on limited evidence for HUD's comment.

20-23. Police advises there is a gap in current enforcement powers to respond to behaviour that is likely to escalate to criminal offending. Police sees merit in move-on powers to respond to disorderly or antisocial behaviour in a timely way, where the conduct is below the threshold of criminal offending, or where court action is not in the public's interest.

Commented [JC8]: Recommend retain the phrasing 'public disorder' here rather than 'disorderly or antisocial behaviour' for consistency and to continue links to the definition.

Construction of move-on notices

24-24. We have worked closely with Police to refine the approach and recommend a move-on notice that is issued by Police on the spot, that requires an individual to 'move on' from a specific area for up to 24 hours to de-escalate situations of public disorder and prevent

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criminal offending. Move-on notices would apply to behaviours occurring in public places only.

22-25. A move-on notice could be issued to a person where a Police officer has reasonable grounds to suspect that:

22-4-25.1. a public disorder offence has occurred, is occurring, or is likely to occur.

22-2-25.2. the person is or has been interfering with trade or business by unnecessarily obstructing, hindering, or impeding someone entering or leaving the place, or

22-3-25.3. a breach of the peace has been or is likely to be committed.

23-26. Non-compliance with a move-on notice could be an arrestable offence, which would enable Police to arrest a person and remove them from the area where they fail or refuse to comply with the notice. The offence could be punishable by a maximum fine of \$2,000 or up to three months' imprisonment.

24-27. Move-on powers and the offence for breach of a notice could be placed in the Summary Offences Act 1981, which houses most low-level offences addressing various forms of disorderly behaviour.

25-28. Service of move-on notices could be modelled after dispersal notices in the Gangs Act 2024. A Police officer would issue the notice in writing by personal service or by sending it to an electronic address supplied by the person to whom it is issued.²

We suggest two minor changes to the MAG's proposal

26-29. First, we recommend that move-on notices do not apply where a person's behaviour causes anxiety to someone. Move-on powers should be focused on the behaviour of the person being moved on, and not on the emotional state of those around the person. This would remove the requirement for Police to make a determination about the impact of one person's behaviour on another, which is highly subjective. Even with the requirement that the anxiety must be reasonably arising in the circumstances, there is risk of bias, prejudice, stereotyping, or discrimination in an officer's decision-making process.

27-30. Second, move-on notices should not apply to young people in the same way that they apply to adults. Police have existing responses to children and young people, including delivering them into the custody of a parent or guardian, that achieve the same purpose as move-on powers and are more appropriate for young people. Move-on notices could:

27-1-30.1. exclude young people, as section 48 of the Oranga Tamariki Act 1989 provides Police with powers to return children and young people to their place of residence;

² Sections 10-11, Gangs Act 2024.

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Commented [JC9]: We consider strong caution is needed here for references to 'likely to occur' and 'likely to be committed'.

There is a high risk that this could create opportunities for people to prejudge the potential behaviour of someone based on assumptions or beliefs that they are homeless, how they look, or other discriminations.

There is also a risk that this could set a precedence around punitive measures for anticipated rather than actualised behaviour.

We recommend 'likely to occur' and 'likely to be committed' are removed from the construction of move-on notices until this risk has been considered and addressed/mitigated.

Commented [JC10]: Are you able to please provide any additional information on whether the police can determine that an offence has occurred, and what level of offending this would be?

Commented [JC11]: The non-compliance proposal could create potential for anti-social behaviour to be an offence resulting in imprisonment. There is the potential unintended consequence of worsening housing accessibility in the future as;

- Landlords able to conduct criminal background checks and these offences could factor into decision-making, impacting an individual's ability to acquire housing from the private rental market.
- People in prison in New Zealand, particularly Māori, experience high levels of housing instability both prior to and after imprisonment (Mills et al., 2022) and move-on orders will create a pathway for imprisonment if people do not comply with them.

Due to the conditions cited above there is a risk that due to potential justice implications that move-on orders may impact Māori housing outcomes.

Commented [JC12]: Are you able to please provide any additional information on whether other breaches of notices are summary offences, or infringement offences?

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27.2-30.2. require that Police take young people home, consistent with section 48 of the Oranga Tamariki Act (this approach would require changes to the consent provision in the Oranga Tamariki Act); or

27.3-30.3. apply to young people as they would to adults, noting that this approach risks the State leaving children and young people unaccompanied when they are moved on. It is an offence under the Summary Offences Act to leave a child under 14 years without reasonable supervision and care.

Safeguards for move-on notices

28.31. We recommend the following safeguards apply to move-on notices, in line with the MAG's proposal:

28.4-31.1. Notices could be issued for the minimum amount of time necessary to resolve the ~~disorderly conduct~~ public disorder (and no longer than 24 hours).

28.2-31.2. Notices could apply to the minimum area that is reasonably necessary to resolve the situation.

28.3-31.3. There should be minimal interference with access to support and essential services. We also recommend that Police be required to consider whether a referral to relevant support services should accompany the move-on notice.

28.4-31.4. Notices should not be used to effectively criminalise homelessness or those who appear undesirable. Police, councils, and social service agencies agree that move-on notices should not be used to address survival behaviours associated with homelessness, like rough sleeping and general begging. Move-on notices are also not an appropriate response to people experiencing mental health distress.

28.5-31.5. Notices would not apply to lawful protests, pickets, or trade union action.

28.6-31.6. There should be operational oversight, monitoring, and reporting on the use of the power.

28.7-31.7. Upon issuing a notice, Police would be required to warn the person that it is an offence to breach a move-on notice, unless they have a reasonable excuse.

There are some concerns with move-on powers

29-32. Move-on notices would be a Police-imposed discretionary action that would, unless breached, avoid judicial intervention. This process can undermine the presumption of innocence and deny recipients the right to conduct a defence. Move-on notices may also conflate notions of pre-emption and punishment by requiring a person to leave an area even where there is no proof of wrongdoing, or where no offence has been committed.

30-33. There is limited evidence of the efficacy of move-on laws in Australia and the UK. Studies have found there is no empirical evidence to show that move-on powers result in reductions

Commented [JC13]: Recommend this paper could also consider additional safeguards for people experiencing homelessness or provide examples where this is already being done.

For example, the Self-Contained Motor Vehicles Legislation Act 2023, created an exemption from the freedom camping rules for those that are experiencing homelessness. It also mandated a review on the effect on homelessness by this regulation.

Commented [JC14]: We recommend additional work may be needed for this safeguard to develop a stronger/clearer definition or view on the intention of reasonably necessary.

There is risk that 'reasonably necessary' could define a large proportion of the CBD, and/or include someone's accommodation or health and support services.

Commented [JC15]: We recommend strengthening this safeguard beyond 'minimal interference'. An alternative approach could be framed as the minimum area cannot include someone's accommodation or an essential or support service they are currently using.

The accommodation part in particular is essential - considering the location of some transitional and emergency housing places.

Commented [JC16]: We recommend outlining for Ministers what alternative approaches will look like when move-on notices are inappropriate (e.g. experiencing homelessness or mental health distress), such as referrals.

Commented [JC17]: It may be worth noting that even if a move-on order is applied correctly to a person experiencing homelessness there is risk of public perception that homelessness is being criminalised.

Commented [JC18]: Move-on orders can be issued to people experiencing homelessness if they are engaging in behaviour which meets the threshold for anti-social behaviour.

Without clear guidelines there is a risk that discretion will be inappropriately applied to people experiencing homelessness and/or people experiencing mental health distress. If a person experiencing homelessness is issued a move-on order, regardless of if it is permitted, there is risk that it will move people from visible to invisible homelessness, increasing the difficulty in them accessing support services or for service providers to find them.

Commented [JC19]: HUD is concerned about the limited data or evaluation available on the impact and effectiveness of these powers in overseas jurisdictions. For example, it is not known whether these orders have had unforeseen or negative impacts on people experiencing homelessness.

We recommend that the paper emphasises that these impacts are unknown.

... [1]

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in crime rates. Reports also show disproportionate application of move-on powers against persons who are homeless, Indigenous, young, or mentally ill.

34.34. MSD and HUD are concerned that move-on notices will be targeted at vulnerable groups, like the homeless. We recommend that notices only be applied to conduct amounting to public disorder, which involves disturbing, aggressive, threatening, or even violent behaviours. Move-on notices would not be used as a tool to move rough sleepers or people who appear undesirable, unless they were exhibiting disorderly behaviours.

Commented [JC20]: Acknowledge that many of HUD's previous points have been incorporated here – thank you.

Recommend still noting that move on-orders and geographic bans should be treated with caution, with more work needed to understand the potential impacts, including where people would be moved to and options for people who aren't able to access support services.

32.35. There is also concern that move-on notices will simply shift concerning behaviours down the street. However, we agree with the MAG that move-on notices are a proportionate tool to swiftly de-escalate situations of public disturbance that do not require a more serious criminal justice response.

Additional work is needed to first understand more about the people engaging in anti-social behaviour as well as the potential impacts these options might have.

There is a proposed Members' bill seeking to create move on powers

The paper should note Māori have the highest rates of rough sleeping and that there is a risk move-on orders could be disproportionately applied to Māori or inappropriate use could disproportionately affect Māori.

33.36. In June 2025, Ryan Hamilton MP introduced the Policing (Direction to Move On) Amendment Bill. The Bill proposes giving police powers to direct people to leave a specified area for harassment, public nuisance, disorder, or antisocial behaviour. The Bill has not been drawn from the ballot.

Commented [JC21]: As noted earlier, recommend outlining why this option could be effective here even if not overseas.

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S9(2)(f)(iv)

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We have considered other options, but we do not recommend progressing these

43.46. As discussed above, the Ministry recommends progressing the MAG's primary proposal to create move-on powers to address antisocial and disorderly behaviour.

44.47. We do not recommend progressing the MAG's proposals for:

- new criminal offences for targeting retail workers
- a ban on begging around 'relevant areas'

45.48. You could progress the MAG's two remaining proposals, but we see there may be limited value in doing so and there are also considerations that you will need to factor in. The two remaining proposals are:

- additional powers for councils to enforce bylaws
- a government action plan or strategy to address antisocial behaviour

Commented [JC23]: Noting we agree with the decision to not progress bans on begging.

As noted above, we recommend expanding exclusions to include homelessness and begging, which are not inherently antisocial behaviours or illegal unless it causes a 'nuisance or obstruction'.

Commented [JC24]: As noted above, homelessness itself is not an anti-social behaviour. It may be worth also noting:

- some councils have decided not to introduce begging by-laws, or have dropped the ones they did have, including because they would be too hard to enforce; and
- the barriers that people can face in seeking support, including experiences of discrimination, stigma, and distrust in government.

New offences for assaulting and threatening or abusing a retail worker

46.49. The MAG proposes to introduce two new criminal offences into the Crimes Act 1961: assaulting a retail worker and threatening or abusing a retail worker. The MAG also proposes to introduce aggravated offences where a retail worker is assaulted, threatened, or abused while enforcing a restriction on the sale of products (such as an illegal sale of alcohol). The aggravated offences would attract a harsher penalty.

47.50. We do not recommend progressing this proposal because criminal offences for these behaviours already exist in the Summary Offences Act 1981 and Crimes Act 1961. Assault provisions within these two Acts have maximum penalties ranging from 6 months to 14 years imprisonment.⁴

48.51. The MAG has not identified a gap in the law in relation to charging offenders for assaults, threats, or abuse of retail workers. It states that current laws do not recognise the "unique context and aggravating factors" of the retail environment, as workers are often perceived as young, vulnerable, and in a low-status profession.

49.52. These factors can already be considered at sentencing under section 9 of the Sentencing Act 2002, which provides that courts may take into account certain aggravating or mitigating factors, including the particular vulnerability of the victim.⁵

50.53. We note that Cabinet has recently agreed to criminal offences for violence against first responders. However, first responders are distinguishable from retail workers in that they hold a special public duty and are crucial to community safety, justifying greater consequences for violence against them. It is not clear why there should be harsher

⁴ See, e.g., section 9 of the Summary Offences Act 1981 and section 188 of the Crimes Act 1961.

⁵ See, e.g., sections 9(1)(g) and 9(4) of the Sentencing Act 2002.

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punishments for offences against retail workers when other sectors may experience similar behaviours, such as public transport workers, medical professionals, and service providers.

54-54 We have heard from Police that providing additional charging options for the same conduct is not helpful and can cause a lack of clarity in the law. If you choose to progress other proposals, such as move-on powers, this can achieve the MAG's goal to signify to the public that targeting retail shops and workers will be met with swift consequences.

Implementing a ban on begging around 'relevant areas'

52-55 The MAG also proposes to introduce a new offence to the Summary Offences Act 1981 for begging within 15 metres of a 'relevant area' (e.g. a retail store entrance or cash machine). The MAG suggests that 'relevant area' could be defined by regulation.

We do not recommend progressing this proposal. The proposed ban risks essentially criminalising homelessness and survival behaviours. It does not distinguish between general begging (e.g. sitting peacefully with a sign or collection dish) and aggressive or threatening begging.

53-56 The MAG claims that "begging in front of a store front can be regarded as aggressive and intimidating, especially where the beggar is right next to the entrance." While begging near a store front can make people feel uncomfortable, a criminal offence would not be a proportionate response to the behaviour the MAG proposes to capture.

54-57 Police are also concerned that this proposal would shift Police's operational responses away from addressing criminal behaviour and into policing behaviours that do not warrant a criminal justice response. Police advises that move-on notices, if progressed, could be a more effective tool to address instances of aggressive begging or unreasonable intrusion into the footpath or entryway to a retail space.

55-58 We also note that there are existing criminal offences for aggressive or intimidating behaviour which, along with move-on notices, can address begging behaviour that is reasonably regarded as aggressive or intimidating. Introducing a new offence for begging in 'relevant areas' has the potential to drive more cases into the courts.

There is also risk that banning begging from retail spaces will shift beggars to other high-traffic areas, such as schools, transport hubs, public parks, and outside of libraries and community centres.

56-59 Finally, we assess that such a ban would not be a justifiable limit on rights and freedoms, particularly the rights to freedom of movement and freedom of expression under the New Zealand Bill of Rights Act 1990.

Additional powers for councils to enforce bylaws

57-60 The MAG proposes to promulgate regulations under the Local Government Act 2002 to enable councils to enforce bylaws addressing antisocial behaviour.

58-61 S9(2)(f)(iv)

Commented [JC25]: Agree that geographic bans should be treated with caution, with more work needed to understand the potential impacts of these bans, including mapping against the locations of support services and accommodations, which may also be concentrated in central areas. It would be good to include support service providers in this.

Commented [JC26]: Would also note that this could be conflated with general rough sleeping without begging behaviour.

Commented [JC27]: Agree with this position which reflects our earlier comments: recommend expanding exclusions to include homelessness and begging, which are not inherently antisocial behaviours or illegal.

Commented [JC28]: This could also risk pushing homelessness into spaces with less resources to address it (more regional locations with less beat policing) as well as people into more invisible forms of homelessness, which would result in less access for support services to make contact and provide help.

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59-62. Section 259(1)(a) of the Local Government Act allows the Governor-General to make regulations setting infringement offences for breaches of bylaws. Regulations enabling councils to impose infringements under section 259 have to be made on a council-by-council basis. These regulations have rarely been made, meaning many bylaw breaches are criminal offences, which councils must rely on Police to enforce.

60-63. The MAG's proposal would require amending section 259 of the Local Government Act to enable regulations to be made for infringement offences for similar kinds of bylaws – in particular, bylaws addressing antisocial behaviours.

64-64. The MAG's proposal also notes that it would be up to councils to determine whether to create local bylaws addressing antisocial behaviour (only two councils – Auckland and Hamilton – currently have such bylaws). The MAG reports that councils do not think additional enforcement should be part of councils' role.

Commented [JC29]: As above, it may be worth also noting some councils have decided not to introduce begging by-laws, or have dropped the ones they did have, including because they would be too hard to enforce.

62-65. Local authority enforcement powers are primarily applicable to offences relating to building compliance, public health, the environment, and waste management, for example. There has been limited inclusion of public order offences in bylaws. Enabling local authorities to enforce public disorder offences requires caution given the potential for conflict or escalation. There are also risks associated with exercising greater enforcement powers without adequate supervision, training, and tools to deliver safe law enforcement. Councils would require:

62-1-65.1. robust operational policies and guidance for enforcement officers

62-2-65.2. training and resources required to undertake the added function, e.g., de-escalation training, the operational kit required to support additional powers/functions, health and safety requirements, and

62-3-65.3. authorising and accountability mechanisms, e.g., being sworn in/taking an oath to enable enforcement officers have the specific powers other council staff don't have.

63-66. S9(2)(f)(iv)

⁶ In August 2024 the Prime Minister announced the Local Government System Improvements programme. Its aim is to ensure councils are getting back to basics to reduce the cost of living, deliver core services and infrastructure, and improve efficiency of decision making. This includes guiding council decision-making and avoiding duplication of role with central Government.

⁷ [Democracy and Open Government - Local Government Bylaw System Issues and Options Paper August 2025.pdf - All Documents](#)

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64-67 **s9(2)(f)(iv)**

Government action plan and investment strategy

65-68. The MAG's final proposal is for the Government to commit to issuing a strategy or action plan to address antisocial behaviour in retail, alongside a strategic investment plan. You could choose to progress a government action plan, but achieving long-term results may be resource intensive.

66-69. We see merit in MAG's recommendations to invest in evidence-based holistic crime prevention and addressing the drivers of antisocial behaviour, including through additional resources for social services. Criminal justice responses alone will not solve the challenges with crime and antisocial behaviour in the retail sector.

67-70. To be effective, a strategy or action plan would require dedicated investment on an ongoing basis from across the social and justice sectors.

68-71. However, we note that a government strategy focussed specifically on antisocial behaviour in retail may be overly narrow, such that it would benefit only a niche group, rather than the broader business community.

69-72. Unless there is strong Ministerial support to back up a strategy with a detailed implementation plan and strategic investment, we note that the MAG and retail sector may be dissatisfied with the outcomes.

Next steps

70-73. Should you want to progress the proposals in this briefing, we will provide you with a draft Cabinet paper for your consideration.

74-74. Any proposals requiring legislative change could be progressed via a **s9(2)(f)(iv)**

72-75. Expected timeframes are:

s9(2)(f)(iv)	
s9(2)(f)(iv) RIS to Office	TBC
Ministerial consultation	
Cabinet paper lodged	
SOU	
Cabinet	
PCO drafting	

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LEG, Cabinet, and Bill introduction	
Select Committee reports back	
Final House stages and Bill enactment	

Recommendations

73-76. It's recommended that you:

1. Note that the Ministerial Advisory Group for Victims of Retail Crime has provided you with a set of proposals to respond to antisocial behaviour in retail.	
2. Agree to introducing a move-on power to the Summary Offences Act 1981. If you agree to introduce move-on powers, we recommend you:	YES / NO
3. Discuss with the member (Ryan Hamilton) to seek to withdraw the Member's Bill	
4. Indicate your preferred option(s) for move-on notices:	
4.1. Create a move-on notice that applies where a person has or is likely to commit an offence, interfere with trade or business, or breach the peace (recommended)	YES/NO
4.2. Create a move-on notice that applies where a person causes anxiety to a person entering or leaving a place (not recommended)	YES/NO
4.3. Create a move-on notice that:	
• Does not apply to youth (recommended), or	YES/NO
• Applies to youth, with a requirement for Police to take the young person home, or	YES/NO
• Applies to youth in the same way as adults (not recommended)	YES/NO
5. Agree to creating a new offence in the Summary Offences Act 1981 for non-compliance with a move-on notice, with a three-month maximum penalty.	

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6.	S9(2)(f)(iv)	YES / NO
7.	Indicate whether you would like to progress the MAG's following proposals (not recommended):	
	7.1. Creating criminal offences for targeting retail workers,	YES / NO
	7.2. Creating a criminal offence for begging in 'relevant areas',	YES / NO
	7.3. Expanding councils' powers to enforce bylaws,	YES / NO
	7.4. Creating a government action plan to address antisocial behaviour.	YES / NO
8.	S9(2)(f)(iv)	YES / NO
9.	Forward a copy of this brief to the Minister of Police.	
10.	Note that we will prepare a Cabinet paper reflecting your decisions.	

 [Name of person signing the briefing]

[Position of the person signing the briefing]

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APPROVED SEEN NOT AGREED APPROVED SEEN NOT AGREED

Delete content of this cell if briefing is only going to one Minister

[Hon Firstname Lastname]
[Minister [of or for] XXXX]

Date / /

[Hon Firstname Lastname]
[Minister [of or for] XXXX]

Date / /

Attachments: [Describe any attachments – use bullet points if more than one.]

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S9(2)(f)(iv)

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HUD feedback Anti-Social Behaviour

Defining public disorder

Recommendations:

1. Recommend expanding exclusions to include homelessness and begging, which are not inherently antisocial behaviours or illegal unless it causes a 'nuisance or obstruction'.

Criminal justice response should supplement social responses

We have added the following as additional context on work to address homelessness:

- Significant investment has been made in programmes and services which directly prevent and respond to homelessness. In 2024/25 and 2025/26 over \$550 million in funding through Vote HUD has been targeted to programmes including transitional housing, sustaining tenancies, Housing First, outreach services, and rangatahi supported accommodation.
- In addition to this investment, five immediate actions have recently been announced to expand the support available for rough sleepers and help them into stable housing. This includes:
 - Funding an additional 300 social homes for unhoused Housing First clients;
 - \$10 million in additional funding for support services for rough sleepers;
 - Increasing the efficiency of transitional housing;
 - Implementing a redirection for beneficiaries where good cause exists; and
 - MSD staff to use greater discretion when assessing emergency housing applications.
- We would like to note that the social sector initiatives are already well underway so we aren't quite sure how sequencing would work best here.

Recommendations:

1. Recommend expanding and strengthening this point to emphasise that the behaviours are distinct and should be decoupled in this advice, rather than framed as a potential causal relationship. *For example, not all anti-social or disorderly behaviour is by people who are experiencing homelessness, and not all people who experience homelessness engage in this behaviour. Data on which populations are engaging in anti-social behaviours is currently unclear. Proposals to address these behaviours should therefore focus on particular behaviours and be decoupled from homelessness, except when to emphasise caution is needed to prevent further harm.*
2. We recommend iwi/Māori are also noted in paragraph 15 (i.e. *collaborative place-based approaches between councils, service providers, iwi/Māori, and relevant government agencies.*)
3. Recommend potentially changing sequencing comment to working alongside.

Merit in progressing the MAG's proposal for move-on notices with some minor tweaks

Recommendations:

1. Recommend retain the phrasing 'public disorder' here rather than 'disorderly or antisocial behaviour' for consistency and to continue links to the definition.

Construction of move-on notices/orders

- We consider strong caution is needed here for references to ‘likely to occur’ and ‘likely to be committed’. There is a high risk that this could create opportunities for people to prejudge the potential behaviour of someone based on assumptions or beliefs that they are homeless, how they look, or other discriminations.
- There is also a risk that this could set a precedence around punitive measures for anticipated rather than actualised behaviour.
- The proposal is for non-compliance with move-on notices to be an arrestable offence facing up to three months imprisonment. This creates the potential for anti-social behaviour to be an offence resulting in imprisonment. There is the potential unintended consequence of worsening housing accessibility in the future as;
 - Landlords able to conduct criminal background checks and these offences could factor into decision-making, impacting an individual's ability to acquire housing from the private rental market.
 - People in prison in New Zealand, particularly Māori, experience high levels of housing instability both prior to and after imprisonment ([Mills et al., 2022](#)) and move-on orders will create a pathway for imprisonment if people do not comply with them.
- Due to the conditions cited above there is a risk that due to potential justice implications that move-on orders may impact Māori housing outcomes.
- Are you able to please provide any additional information on whether the police can determine that an offence has occurred, and what level of offending this would be?
- Are you able to please provide any additional information on whether other breaches of notices are summary offences, or infringement offences?

Recommendations:

1. We recommend ‘likely to occur’ and ‘likely to be committed’ are removed from the construction of move-on notices until this risk has been considered and addressed/mitigated.

Safeguards for move-on notices

- There is risk that ‘reasonably necessary’ as a safeguard could define a large proportion of the CBD, and/or include someone’s accommodation or service.

Recommendations:

1. Recommend this paper could also consider additional safeguards for people experiencing homelessness or provide examples where this is already being done. For example, the Self-Contained Motor Vehicles Legislation Act 2023, created an exemption from the freedom camping rules for those that are experiencing homelessness. It also mandated a review on the effect on homelessness by this regulation.
2. We recommend additional work may be needed for the ‘minimum area that is reasonably necessary’ safeguard to develop a stronger/clearer definition or view on the intention of reasonably necessary.
3. We recommend strengthening the access to support and essential services safeguard beyond ‘minimal interference’. An alternative approach could be framed as the minimum area cannot include someone’s accommodation or an essential or support

service they are currently using. The accommodation part in particular is essential - considering the location of some transitional and emergency housing places.

4. We recommend outlining for Ministers what alternative approaches will look like when move-on notices are inappropriate (e.g. experiencing homelessness or mental health distress), such as referrals.

Concerns with move-on powers

- Acknowledge that many of HUD's previous points have been incorporated here – thank you.
- HUD is concerned about the limited data or evaluation available on the impact and effectiveness of these powers in overseas jurisdictions. For example, it is not known whether these orders have had unforeseen or negative impacts on people experiencing homelessness.
- Move-on orders can be issued to people experiencing homelessness if they are engaging in behaviour which meets the threshold for anti-social behaviour. Move-on orders will require Police-imposed discretion in their application but without clear guidelines there is a risk that it will be inappropriately applied to people experiencing homelessness and/or people experiencing mental health distress. If a person experiencing homelessness is issued a move-on order, regardless of if it is permitted, there is risk that it will move people from visible to invisible homelessness, increasing the difficulty in them accessing support services or for service providers to find them.

Recommendations:

1. We recommend that the paper emphasises that these impacts are unknown.
2. We also recommend either outlining why this option could be effective here even if not overseas OR reframing this section to explain that this option carries the least risk from MAG's proposals but it is not recommended as there is no evidence that it will work.
3. Recommend still noting that move on-orders and geographic bans should be treated with caution, with more work needed to understand the potential impacts, including where people would be moved to and options for people who aren't able to access support services. Additional work is needed to first understand more about the people engaging in anti-social behaviour as well as the potential impacts these options might have.
4. We recommend also clarifying the process so move-on orders are not inappropriately issued to people experiencing homelessness and/or experiencing mental health distress.
5. It may be worth noting that even if a move-on order is applied correctly to a person experiencing homelessness there is risk of public perception that homelessness is being criminalised.
6. The paper should note Māori have the highest rates of rough sleeping and that there is a risk move-on orders could be disproportionately applied to Māori or inappropriate use could disproportionately affect Māori.

S9(2)(f)(iv)

S9(2)(f)(iv)

Not recommended – implementing a ban on begging around relevant areas

- Noting we agree with the decision to not progress bans on begging. As noted above, we recommend expanding exclusions to include homelessness and begging, which are not inherently antisocial behaviours or illegal unless it causes a ‘nuisance or obstruction’.
- Geographic bans should be treated with caution, with more work needed to understand the potential impacts of these bans, including mapping against the locations of support services and accommodations, which may also be concentrated in central areas. It would be good to include support service providers in this.
- Would also note that this could be conflated with general rough sleeping without begging behaviour.
- This could also risk pushing homelessness into spaces with less resources to address it (more regional locations with less beat policing) as well as people into more invisible forms of homelessness, which would result in less access for support services to make contact and provide help.

Not recommended – council bylaws

- As noted above, homelessness itself is not an anti-social behaviour.

Recommendations:

It may be worth also noting:

1. some councils have decided not to introduce begging by-laws, or have dropped the ones they did have, including because they would be too hard to enforce; and
2. the barriers that people can face in seeking support, including experiences of discrimination, stigma, and distrust in government.

From: s9(2)(a) @msd.govt.nz
Sent: Tuesday, 30 September 2025 9:01 am
To: S9(2)(a)
Cc: s9(2)(a)
Subject: hud.govt.nz
RE: Urgent for your review: due COB today: consultation request re draft briefing on public disorder
Attachments: 20250923 DRAFT Briefing on public disorder - for agency feedback- MSD comment.docx

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Mōrena s9(2)(a)

Thank you for the opportunity to comment on your draft briefing to the Minister of Justice about options to strengthen responses to public disorder. MSD has the following overall comment (and I have marked more specific comments in the attached copy of the draft).

- MSD considers that move-on orders, as described in the paper, would only respond to **perceptions** of increased anti-social behaviour rather than the reality, which is that there has not been a marked increase in public disorder offences.
- The paper notes that law enforcement (Police and Council enforcement officers) already have a range of tools to respond to low-level offending of this nature, so it's not clear there is a compelling rationale for change. The Police data presented also doesn't really support any comment on whether Police have the right tools, or about the prevalence of public order offending – it might only reflect shifts in police operational priorities.
- The assertion that move-on orders constitute a de-escalation power (i.e. by moving people on) seems somewhat tenuous and doesn't appear to be supported by evidence – i.e. move on orders have not been effective in other similar jurisdictions.
- The proposed move-on orders would allow Police to require people to move on not only where a public order offence has occurred, but where Police consider an offence is **likely** to occur. This will require a judgement call on the part of individual officers, meaning the implications for natural justice (i.e. the presumption of innocence, the right to a fair trial etc) seem significant. This is especially the case given the orders may be issued to those with the least ability to challenge them or to access legal representation.
- The proposal to make failure to comply with a move on notice an arrestable offence seems unduly harsh, and may be seen as targeting or punishing those experiencing homelessness, and/or those with high and complex needs. Making the offence punishable with a fine seems unlikely to act as any kind of deterrent, given that in many cases, offenders would have little to no ability to pay. It could also increase public debt to government. We concur with HUD's view that making non compliance an imprisonable offence could also have the unintended consequence of worsening housing accessibility, and disproportionately impacting Māori housing outcomes.
- The paper acknowledges that in the UK and Australia, move-on orders have been used disproportionately against indigenous populations, the homeless and the mentally ill. Given the discretionary nature of move-on orders, it is difficult to see how we would avoid the same outcomes here in NZ.
- We support the proposal that move-on notices not apply to young people in the same way. Any option to make move-on notices apply to young people as they do to adults, would in our view breach the UNCRC, which provides children and young people with the right to special measures to protect those that are in conflict with the law. We therefore recommend removing this as an option from para 27.3 and from

recommendation 4.3, so that it is clear that the preferred option is to exclude young people from move-on notices.

- The paper's suggested use of section 48 of the Oranga Tamariki Act (see para 27.1) might not align with what the policy intention was for this section of the Act. We think Oranga Tamariki would likely have feedback on this, i.e. does public order necessarily mean "a situation in which the child's or young person's physical or mental health is being, or is likely to be, impaired"?
- We support the proposed safeguard that move-on notices should not be used to address survival behaviours associated with homelessness (rough sleeping and general begging) or those experiencing mental health distress. However, we note it is unclear how this safeguard would be implemented and again, that it will require judgement calls by Police (for example, on whether someone is in mental distress or not). We concur with HUD's view that without clear guidance there is a risk that discretion will be inappropriately applied to people experiencing homelessness and/or people experiencing mental health distress. Should the safeguards proposed for move-on notices be reflected in the recommendations?
- MSD supports HUD's recommendation to expand exclusions from move-on notices to include homelessness and begging, and agrees that these are not inherently antisocial or illegal behaviours.
- In terms of next steps, we suggest that a proposal of this nature, with a high degree of public interest, should be subject to a public and stakeholder consultation period.
- Finally, you've asked for timeframes on the package of short-term initiatives to address homelessness. On the MSD side, we are expecting that strengthened guidance on exercising discretion when making EH grants, and implementing redirection of benefits, should be distributed to frontline staff by 30 September.

Ngā mihi

S9(2)(a)

S9(2)(a)
Senior Policy Analyst
Housing Policy
001-839 4 075 4188



From: S9(2)(a) <@justice.govt.nz>
Sent: Tuesday, 23 September 2025 3:12 pm
To: S9(2)(a) <@police.govt.nz> S9(2)(a) <@police.govt.nz> S9(2)(a) <@police.govt.nz>
 S9(2)(a) <@hud.govt.nz> S9(2)(a) <@hud.govt.nz> S9(2)(a) <@hud.govt.nz>
 S9(2)(a) <@msd.govt.nz> S9(2)(a) <@msd.govt.nz>
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 S9(2)(a) <@ot.govt.nz> S9(2)(a) <@ot.govt.nz> S9(2)(a) <@ot.govt.nz> S9(2)(a) <@dja.govt.nz>
 S9(2)(a) <@dja.govt.nz> S9(2)(a) <@crownlaw.govt.nz> S9(2)(a) <@corrections.govt.nz>
 S9(2)(a) <@corrections.govt.nz>
Cc: S9(2)(a) <@justice.govt.nz> S9(2)(a) <@justice.govt.nz>
Subject: Consultation request re draft briefing on public disorder

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Kia ora koutou,

Please find attached for your comment a draft briefing which provides advice on:

- options to strengthen responses to public disorder, and
- recommendations from the Ministerial Advisory Group for Victims of Retail Crime on ways to address antisocial behaviour in retail settings.

Any comments you can provide on the paper would be much appreciated by COB Monday 29 September. We intend to provide the briefing to our Minister on 8 October 2025.

If you would like to discuss anything in the paper please let us know.

Nga mihi nui,

S9(2)(a)



S9(2)(a)

Policy Advisor | Criminal Justice Unit
Ministry of Justice | Tāhū o te Ture
Justice Centre | 19 Aitken Street | Wellington 6011

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Hon Paul Goldsmith, Minister of Justice

Strengthening responses to public disorder (including advice on Retail MAG proposals)

Date	8 October 2025	File reference	
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Action sought	Timeframe
TBC	TBC

Contacts for telephone discussion (if required)

Name	Position	Telephone		First contact
		(work)	(a/h)	
Alida Mercuri	General Manager – Criminal Justice Unit	04 466 2091	S9(2)(a)	<input type="checkbox"/>
S9(2)(a)	Manager – Law Enforcement Policy	04 466 0723	S9(2)(a)	<input checked="" type="checkbox"/>

Minister's office to complete

- Noted
 Approved
 Overlaken by events
 Referred to: _____
 Seen
 Withdrawn
 Not seen by Minister

Minister's office's comments

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Purpose

1. This briefing advises you on options to strengthen responses to public disorder, including advice on proposals from the Ministerial Advisory Group for Victims of Retail Crime to address anti-social behaviour in retail settings.

Key messages

2. TBC

Background

3. You have expressed concern about disorderly behaviour in public places, including how this is impacting the business community.
4. In August 2024, we provided you with advice that move-on notices, with appropriate penalties for non-compliance, could be an effective tool in supporting Police to manage certain anti-social behaviours. No decisions were taken at that time.
5. You discussed public disorder at the Justice Sector Ministers Meeting on 17 September.
6. On 8 September, the Ministerial Advisory Group for Victims of Retail Crime (MAG) provided you with a report with proposals to address antisocial behaviour in retail settings. We provide advice on the MAG's proposals below.

Public disorder in New Zealand

Public disorder affects towns and cities across New Zealand

7. There are increased reporting and perceptions of public disorders in city centres, and retailers throughout the country have expressed concern over antisocial behaviours driving customers away from CBDs and affecting their businesses.
8. Police data indicates that there is not a marked increase in Police proceedings against public order, health, and safety offences.¹ Although there has been a decrease in pre-charge/non-court action proceedings, the volume of court actions for these offences has increased. The below table breaks down Police proceedings for these offences from 2022 to 2025.

	1 September 2024 – 31 August 2025	1 September 2023 – 31 August 2024	1 September 2022 – 31 August 2023
Court Action	2,886	2,192	1,836
Formal warning	1,308	2,050	2,483
Informal warning	652	1,129	1,148
Non-court Action	513	714	615

Commented [JM1]: We're not sure the stats here really say anything about the prevalence of public order offending, but could reflect changes in police operational priorities. s9(2)(g)(i)

¹ Proceedings (offender demographics) | New Zealand Police

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Non-court referred conference	13	22	28
Not proceeded with	68	191	191
Grand total	5,480	6,298	6,301

9. While there is not a legal definition of public disorder, we consider public disorder to be disturbing conduct in a public place which, in the time, place, and circumstances, is at a level beyond that which reasonable people can be expected to endure, and which justifies the intervention of law enforcement.
10. This includes behaviours that are criminal in nature (e.g. offensive or threatening behaviour, intimidation, urinating in public, wilful damage) and behaviours that may be below the threshold of criminal offending (e.g. disrupting businesses, nuisance behaviour, public intoxication).
11. For this paper, public disorder does not include protesting, picketing/trade union action, or trespass.

Police and councils have existing powers to address public disorder that meets the threshold of offending

12. Law enforcement have well-developed guidelines and a range of tools to maintain public order and respond to most instances of low-level offending. In addition to general Police powers, these include criminal offences, council bylaws, infringements, alternative resolutions (e.g. formal warnings, diversion), and referral arrangements with social and health service providers.
13. We consider that current criminal offences cover the range of offending behaviour for public disorder. However, there may be a gap in Police powers to proactively de-escalate situations involving behaviour that falls below the criminal threshold to prevent imminent offending from taking place.

Criminal justice responses should supplement social responses

14. Social service agencies are careful not to conflate homelessness, mental health issues and public disorder. Survival behaviours such as sleeping rough do not necessarily contribute to public disorder, and that other actors who are not homeless are often involved in criminal and public disorder behaviours.
15. We have heard from Police, councils, and social service agencies that law enforcement is often an inappropriate and ineffective response to homelessness, which is best addressed through collaborative place-based approaches between councils, service providers, and relevant government agencies.
16. Social Sector Ministers have a well-developed package of initiatives to address homelessness, which is currently being delivered. You may wish to consider how to sequence the justice and social sector initiatives to enable maximum benefit.

Commented [CR2]: MSD/HUD, can you please include a timeline for these initiatives or any relevant dates?

Commented [JM3R2]: These are short-term actions. On MSD's side, strengthened guidance on making EH grants, and implementing redirection of benefits are immediate actions, and should be distributed to frontline staff by 30 September.

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There is scope to strengthen law enforcement responses to public disorder

- 17. Ensuring swift and certain responses to public disorder is an effective way to provide meaningful consequences, deter future offending, and support your law-and-order and court timeliness priorities.
- 18. The following options could strengthen law enforcement responses to public disorder:
 - 18.1. ~~Move on notices~~ could be used to prevent crime, maintain public order, and enable Police to deal with situations without needing to charge or arrest anyone.
 - 18.2. ~~s9(2)(f)(iv)~~

Commented [JM4]: We would reiterate that move on notices are ineffective and merely shift the issues elsewhere.

~~s9(2)(f)(iv)~~

We see merit in progressing the MAG's proposal for move-on notices, with some minor tweaks

- 19. The MAG's primary recommendation in its recent report is to enable Police to issue move-on orders to people behaving in an antisocial manner. Similar powers exist in the UK and Australia.
- 20. Police advises there is a gap in current enforcement powers to respond to behaviour that is likely to escalate to criminal offending. Police sees merit in move-on powers to respond to disorderly or antisocial behaviour in a timely way, where the conduct is below the threshold of criminal offending, or where court action is not in the public's interest.

Commented [JM6]: MSD does not support this - see above comment.

Construction of move-on notices

- 21. We have worked closely with Police to refine the approach and recommend a move-on notice that is issued by Police on the spot, that requires an individual to 'move on' from a specific area for up to 24 hours to de-escalate situations of public disorder and prevent criminal offending. Move-on notices would apply to behaviours occurring in public places only.
- 22. A move-on notice could be issued to a person where a Police officer has reasonable grounds to suspect that:
 - 22.1. a public disorder offence has occurred, is occurring, or is likely to occur,
 - 22.2. the person is or has been interfering with trade or business by unnecessarily obstructing, hindering, or impeding someone entering or leaving the place, or
 - 22.3. a breach of the peace has been or is likely to be committed.
- 23. Non-compliance with a move-on notice could be an arrestable offence, which would enable Police to arrest a person and remove them from the area where they fail or refuse to

Commented [JM7]: This would need careful consideration, as it might be considered an over reach in some circumstances.

Commented [JM8R7]: We also note that young people are more likely to use public spaces, and so would be more likely to be approached by the Police.

Over-policing of public spaces also impinges on a young person's right to rest and leisure, freedom of association etc.

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comply with the notice. The offence could be punishable by a maximum fine of \$2,000 or up to three months' imprisonment.

Commented [JM9]: In many cases, "offenders" would have little to no ability to pay, meaning this would be an ineffective deterrent, and would simply increase public debt to government.

24. Move-on powers and the offence for breach of a notice could be placed in the Summary Offences Act 1981, which houses most low-level offences addressing various forms of disorderly behaviour.

Commented [JM10]: This seems unnecessarily heavy handed, and may be seen as targeting or punishing those experiencing homelessness and/or those with high and complex needs.

25. Service of move-on notices could be modelled after dispersal notices in the Gangs Act 2024. A Police officer would issue the notice in writing by personal service or by sending it to an electronic address supplied by the person to whom it is issued.²

We suggest two minor changes to the MAG's proposal

26. First, we recommend that move-on notices do not apply where a person's behaviour causes anxiety to someone. Move-on powers should be focused on the behaviour of the person being moved on, and not on the emotional state of those around the person. This would remove the requirement for Police to make a determination about the impact of one person's behaviour on another, which is highly subjective. Even with the requirement that the anxiety must be reasonably arising in the circumstances, there is risk of bias, prejudice, stereotyping, or discrimination in an officer's decision-making process.

Commented [JM11]: Agree, particularly where an individual officer may be judging whether a public disorder offence is 'likely' to occur.

27. Second, move-on notices should not apply to young people in the same way that they apply to adults, as this is inconsistent with obligations for children, including the UNCRRC, and other requirements and practices, and risks creating additional harm for children and young people.³ Police have existing responses to children and young people, including delivering them into the custody of a parent or guardian, that achieve the same purpose as move-on powers and are more appropriate for young people. Move-on notices could:

Commented [JM12]: We recommend being clear about who is covered by this term. Under the OT Act/YJ system "young person" generally means 14-17.

27.1. exclude young people, as section 48 of the Oranga Tamariki Act 1989 provides Police with powers to return children and young people to their place of residence (Ministry of Justice recommended option);

27.2. require that Police take young people home, consistent with section 48 of the Oranga Tamariki Act (this approach would require changes to the consent provision in the Oranga Tamariki Act); or

~~27.3. apply to young people as they would to adults, noting that this approach risks the State leaving children and young people unaccompanied when they are moved on. It is an offence under the Summary Offences Act to leave a child under 14 years without reasonable supervision and care.~~

Commented [JM13]: MSD would not support this as it's likely to breach the Children's Convention, which gives children/young people special measures to protect those that are in conflict with the law. See here: [United Nations Convention on the Rights of the Child \(UNCRC\) - Ministry of Social Development](#)

² Sections 10-11, Gangs Act 2024.

³ For example, it is an offence under the Summary Offences Act to leave a child under 14 years without reasonable supervision and care.

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Safeguards for move-on notices

28. We recommend the following safeguards apply to move-on notices, in line with the MAG's proposal:
- 28.1. Notices could be issued for the minimum amount of time necessary to resolve the disorderly conduct (and no longer than 24 hours).
 - 28.2. Notices could apply to the minimum area that is reasonably necessary to resolve the situation.
 - 28.3. There should be minimal interference with access to support and essential services. We also recommend that Police be required to consider whether a referral to relevant support services should accompany the move-on notice.
 - 28.4. Notices should not be used to effectively criminalise homelessness or those who appear undesirable. Police, councils, and social service agencies agree that move-on notices should not be used to address survival behaviours associated with homelessness, like rough sleeping and general begging. Move-on notices are also not an appropriate response to people experiencing mental health distress.
 - 28.5. Notices would not apply to lawful protests, pickets, or trade union action.
 - 28.6. There should be operational oversight, monitoring, and reporting on the use of the power.
 - 28.7. Upon issuing a notice, Police would be required to warn the person that it is an offence to breach a move-on notice, unless they have a reasonable excuse.

Commented [JM14]: Should these be reflected in the recommendations?

Commented [JM15]: If applied properly, this caveat looks useful. But again, Police would be required to make judgement calls, e.g. over whether someone is in mental distress or not.

Commented [JM16]: Strongly support this due to the judgement factor involved. See earlier comment.

There are some concerns with move-on powers

- 29. Move-on notices would be a Police-imposed discretionary action that would, unless breached, avoid judicial intervention. This process can undermine the presumption of innocence and deny recipients the right to conduct a defence. Move-on notices may also conflate notions of pre-emption and punishment by requiring a person to leave an area even where there is no proof of wrongdoing, or where no offence has been committed.
- 30. There is limited evidence of the efficacy of move-on laws in Australia and the UK. Studies have found there is no empirical evidence to show that move-on powers result in reductions in crime rates. Reports also show disproportionate application of move-on powers against persons who are homeless, Indigenous, young, or mentally ill.
- 31. MSD and HUD are concerned that move-on notices will be targeted at vulnerable groups, like the homeless. We recommend that notices only be applied to conduct amounting to public disorder, which involves disturbing, aggressive, threatening, or even violent

Commented [JM17]: Agree. Evidence that these are not effective, and can be misused, seem like a very strong reason not to proceed.

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behaviours. Move-on notices would not be used as a tool to move rough sleepers or people who appear undesirable, unless they were exhibiting disorderly behaviours.

32. There is also concern that move-on notices will simply shift concerning behaviours down the street. However, we agree with the MAG that move-on notices are a proportionate tool to swiftly de-escalate situations of public disturbance that do not require a more serious criminal justice response.

There is a proposed Members' bill seeking to create move on powers

33. In June 2025, Ryan Hamilton MP introduced the Policing (Direction to Move On) Amendment Bill. The Bill proposes giving police powers to direct people to leave a specified area for harassment, public nuisance, disorder, or antisocial behaviour. The Bill has not been drawn from the ballot.

S9(2)(f)(iv)

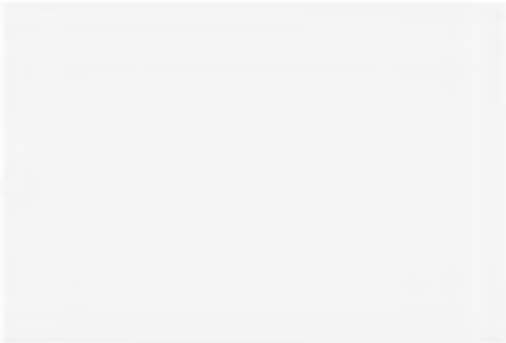
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S9(2)(f)(iv)

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S9(2)(f)(iv)

We have considered other options, but we do not recommend progressing these

43. As discussed above, the Ministry recommends progressing the MAG's primary proposal to create move-on powers to address antisocial and disorderly behaviour.
44. We do not recommend progressing the MAG's proposals for:
 - new criminal offences for targeting retail workers
 - a ban on begging around 'relevant areas'
45. You could progress the MAG's two remaining proposals, but we see there may be limited value in doing so and there are also considerations that you will need to factor in. The two remaining proposals are:
 - additional powers for councils to enforce bylaws
 - a government action plan or strategy to address antisocial behaviour

New offences for assaulting and threatening or abusing a retail worker

46. The MAG proposes to introduce two new criminal offences into the Crimes Act 1961: assaulting a retail worker and threatening or abusing a retail worker. The MAG also proposes to introduce aggravated offences where a retail worker is assaulted, threatened, or abused while enforcing a restriction on the sale of products (such as an illegal sale of alcohol). The aggravated offences would attract a harsher penalty.
47. We do not recommend progressing this proposal because criminal offences for these behaviours already exist in the Summary Offences Act 1981 and Crimes Act 1961. Assault provisions within these two Acts have maximum penalties ranging from 6 months to 14 years imprisonment.⁵
48. The MAG has not identified a gap in the law in relation to charging offenders for assaults, threats, or abuse of retail workers. It states that current laws do not recognise the "unique context and aggravating factors" of the retail environment, as workers are often perceived as young, vulnerable, and in a low-status profession.
49. These factors can already be considered at sentencing under section 9 of the Sentencing Act 2002, which provides that courts may take into account certain aggravating or mitigating factors, including the particular vulnerability of the victim.⁶

⁵ See, e.g., section 9 of the Summary Offences Act 1981 and section 188 of the Crimes Act 1961.

⁶ See, e.g., sections 9(1)(g) and 9(4) of the Sentencing Act 2002.

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50. We note that Cabinet has recently agreed to criminal offences for violence against first responders. However, first responders are distinguishable from retail workers in that they hold a special public duty and are crucial to community safety, justifying greater consequences for violence against them. It is not clear why there should be harsher punishments for offences against retail workers when other sectors may experience similar behaviours, such as public transport workers, medical professionals, and service providers.
51. We have heard from Police that providing additional charging options for the same conduct is not helpful and can cause a lack of clarity in the law. If you choose to progress other proposals, such as move-on powers, this can achieve the MAG's goal to signify to the public that targeting retail shops and workers will be met with swift consequences.

Implementing a ban on begging around 'relevant areas'

52. The MAG also proposes to introduce a new offence to the Summary Offences Act 1981 for begging within 15 metres of a 'relevant area' (e.g. a retail store entrance or cash machine). The MAG suggests that 'relevant area' could be defined by regulation.
53. We do not recommend progressing this proposal. The proposed ban risks essentially criminalising homelessness and survival behaviours. It does not distinguish between general begging (e.g. sitting peacefully with a sign or collection dish) and aggressive or threatening begging.
54. The MAG claims that "begging in front of a store front can be regarded as aggressive and intimidating, especially where the beggar is right next to the entrance." While begging near a store front can make people feel uncomfortable, a criminal offence would not be a proportionate response to the behaviour the MAG proposes to capture.
55. Police are also concerned that this proposal would shift Police's operational responses away from addressing criminal behaviour and into policing behaviours that do not warrant a criminal justice response. Police advises that move-on notices, if progressed, could be a more effective tool to address instances of aggressive begging or unreasonable intrusion into the footpath or entryway to a retail space.
56. We also note that there are existing criminal offences for aggressive or intimidating behaviour which, along with move-on notices, can address begging behaviour that is reasonably regarded as aggressive or intimidating. Introducing a new offence for begging in 'relevant areas' has the potential to drive more cases into the courts.
57. There is also risk that banning begging from retail spaces will shift beggars to other high-traffic areas, such as schools, transport hubs, public parks, and outside of libraries and community centres.
58. Finally, we assess that such a ban would not be a justifiable limit on rights and freedoms, particularly the rights to freedom of movement and freedom of expression under the New Zealand Bill of Rights Act 1990.

Commented [JM20]: Agree.

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Additional powers for councils to enforce bylaws

59. The MAG proposes to promulgate regulations under the Local Government Act 2002 to enable councils to enforce bylaws addressing antisocial behaviour.
60. S9(2)(f)(iv)
61. Section 259(1)(a) of the Local Government Act allows the Governor-General to make regulations setting infringement offences for breaches of bylaws. Regulations enabling councils to impose infringements under section 259 have to be made on a council-by-council basis. These regulations have rarely been made, meaning many bylaw breaches are criminal offences, which councils must rely on Police to enforce.
62. The MAG's proposal would require amending section 259 of the Local Government Act to enable regulations to be made for infringement offences for similar kinds of bylaws – in particular, bylaws addressing antisocial behaviours.
63. The MAG's proposal also notes that it would be up to councils to determine whether to create local bylaws addressing antisocial behaviour (only two councils – Auckland and Hamilton – currently have such bylaws). The MAG reports that councils do not think additional enforcement should be part of councils' role.
64. Local authority enforcement powers are primarily applicable to offences relating to building compliance, public health, the environment, and waste management, for example. There has been limited inclusion of public order offences in bylaws. Enabling local authorities to enforce public disorder offences requires caution given the potential for conflict or escalation. There are also risks associated with exercising greater enforcement powers without adequate supervision, training, and tools to deliver safe law enforcement. Councils would require:
- 64.1. robust operational policies and guidance for enforcement officers
 - 64.2. training and resources required to undertake the added function, e.g., de-escalation training, the operational kit required to support additional powers/functions, health and safety requirements, and
 - 64.3. authorising and accountability mechanisms, e.g., being sworn in/taking an oath to enable enforcement officers have the specific powers other council staff don't have.
65. S9(2)(f)(iv)

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S9(2)(f)(iv)

66.

Government action plan and investment strategy

- 67. The MAG's final proposal is for the Government to commit to issuing a strategy or action plan to address antisocial behaviour in retail, alongside a strategic investment plan. You could choose to progress a government action plan, but achieving long-term results may be resource intensive.
- 68. We see merit in MAG's recommendations to invest in evidence-based holistic crime prevention and addressing the drivers of antisocial behaviour, including through additional resources for social services. Criminal justice responses alone will not solve the challenges with crime and antisocial behaviour in the retail sector.
- 69. To be effective, a strategy or action plan would require dedicated investment on an ongoing basis from across the social and justice sectors.
- 70. However, we note that a government strategy focussed specifically on antisocial behaviour in retail may be overly narrow, such that it would benefit only a niche group, rather than the broader business community.
- 71. Unless there is strong Ministerial support to back up a strategy with a detailed implementation plan and strategic investment, we note that the MAG and retail sector may be dissatisfied with the outcomes.

Next steps

- 72. Should you want to progress the proposals in this briefing, we will provide you with a draft Cabinet paper for your consideration.

Commented [JM21]: What about public and stakeholder consultation?

⁷ In August 2024 the Prime Minister announced the Local Government System Improvements programme. Its aim is to ensure councils are getting back to basics to reduce the cost of living, deliver core services and infrastructure, and improve efficiency of decision making. This includes guiding council decision-making and avoiding duplication of role with central Government.

⁸ [Democracy and Open Government - Local Government Bylaw System Issues and Options Paper August 2025.pdf - All Documents](#)

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73. Any proposals requiring legislative change could be progressed via a s9(2)(f)(iv)

74. Expected timeframes are:

s9(2)(f)(iv)	
s9(2)(f)(iv) RIS to Office	TBC
Ministerial consultation	
Cabinet paper lodged	
SOU	
Cabinet	
PCO drafting	
LEG, Cabinet, and Bill introduction	
Select Committee reports back	
Final House stages and Bill enactment	

Commented [JM22]: We would want to see a reasonable timeframe for public submissions.

Recommendations

75. It's recommended that you:

1. Note that the Ministerial Advisory Group for Victims of Retail Crime has provided you with a set of proposals to respond to antisocial behaviour in retail.	
2. Agree to introducing a move-on power to the Summary Offences Act 1981. If you agree to introduce move-on powers, we recommend you:	YES / NO
3. Discuss with the member (Ryan Hamilton) to seek to withdraw the Member's Bill	
4. Indicate your preferred option(s) for move-on notices:	
4.1. Create a move-on notice that applies where a person has or is likely to commit an offence, interfere with trade or business, or breach the peace (recommended)	YES/NO
4.2. Create a move-on notice that applies where a person causes anxiety to a person entering or leaving a place (not recommended)	YES/NO

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<p>4.3. Create a move-on notice that:</p> <ul style="list-style-type: none"> • Does not apply to youth (recommended), or • Applies to youth, with a requirement for Police to take the young person home, or • Applies to youth in the same way as adults (not recommended) <p>5. Agree to creating a new offence in the Summary Offences Act 1981 for non-compliance with a move-on notice, with a three-month maximum penalty.</p>	<p>YES/NO</p> <p>YES/NO</p> <p>YES/NO</p>
<p>6. S9(2)(f)(iv)</p>	<p>YES / NO</p>
<p>7. Indicate whether you would like to progress the MAG's following proposals (not recommended):</p> <p>7.1. Creating criminal offences for targeting retail workers,</p> <p>7.2. Creating a criminal offence for begging in 'relevant areas',</p> <p>7.3. Expanding councils' powers to enforce bylaws,</p> <p>7.4. Creating a government action plan to address antisocial behaviour.</p>	<p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p> <p>YES / NO</p>
<p>8. S9(2)(f)(iv)</p>	<p>YES / NO</p>
<p>9. Forward a copy of this brief to the Minister of Police.</p>	
<p>10. Note that we will prepare a Cabinet paper reflecting your decisions.</p>	