

## APPENDIX 4

### London Borough of Hackney Equality Impact Assessment Form

The Equality Impact Assessment Form is a public document which the Council uses to demonstrate that it has complied with Equality Duty when making and implementing decisions which affect the way the Council works.

The form collates and summarises information which has been used to inform the planning and decision-making process.

**Title of this Equality Impact Assessment:** Dog Control Public Spaces Protection Order

**Purpose of this Equality Impact Assessment:**

Assess the impact of seeking an injunction to place restrictions on behaviour on London Fields

**Officer Responsible: (to be completed by the report author)**

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<b>Directorate:</b> Neighbourhoods and Housing	<b>Department/Division:</b> Enforcement and Business Regulation

**Assistant Director:** Aled Richards **Date:** 24th February 2021

**Comment:** I am satisfied that the Council has had due regard to the public sector equality duty found in s.149 of the Equality Act 2010

#### STEP 1: DEFINING THE ISSUE

##### 1. Summarise why you are having to make a new decision

The Public Spaces Protection Orders (PSPO) for Dog Control expired on 20<sup>th</sup> October 2020, and the Council is considering whether to implement a PSPO, for a further three years until 2023.

The terms of the Dog Control Public Space Protection Order (PSPO) are outlined below.

- Dog fouling - which makes it an offence if dog owners do not remove their dog's faeces from land within Hackney that is open to the air and accessible to the public. People who are registered as blind, disabled, or otherwise rely on dogs will be exempt from this order.
- Dog exclusion - which enables the Council to stop dogs from entering certain areas including children's playgrounds, sports courts, multi-use games areas, marked pitches where games are in-play and dog-free areas in parks.
- Dogs on leads - which enables the Council to stop people from exercising dogs off-leads on roads, in car parks, churchyards, communal areas on estates and small public parks and gardens under half a hectare in size and Shepherdess Walk. This order excludes canal towpaths, as these areas are managed by the Canal & River Trust rather than the Council.
- Dogs on leads by direction - which would give officers the power to request that dogs be put on leads where they are not under the appropriate control of their owner, or where they are causing damage or acting aggressively.

The focus of the PSPO is to moderate behaviour, which is considered to have been achieved since its introduction and its continued maintenance. Following an initial sharp overall reduction of reported incidents, these now appear to have reduced further.

The breach of the PSPO is a criminal offence subject to, up to a level three fine on

the prosecution (up to £1,000). A Fixed Penalty Notice can be issued for £100. Payment of the Fixed Penalty Notice discharges liability to conviction for the offence. The Police will work in partnership with the council to ensure the effective enforcement of the PSPO.

The PSPO will assist the Council and the police to tackle anti-social behaviour; resulting in a reduction of individuals engaging in anti-social behaviour such as that arising from dog owners failing to exercise proper control of dogs in public places.

Nothing in the Dog Control Public Spaces Protection Order shall apply to a person who –

- is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948;
- is deaf, in respect of a dog trained by Hearing Dogs for Deaf People (registered charity number 293358) and upon which he relies for assistance;
- has a disability which affects his mobility, manual dexterity, physical coordination or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a Prescribed Charity and upon which he relies for assistance;
- A person who is training an assistance dog in an official capacity; or
- A dog used by the police or other agencies permitted by the Council for official purposes.

The Council is proposing that the PSPO lasts for three years, until 2024, at which point we would decide whether to renew it in consultation with residents.

The Council is committed to improving equality and making the borough a place for everyone. This means ensuring all actions taken by the Council contribute to equality. This report provides an EIA of the impact of the proposed PSPOs as set out in the Equality Act 2010.

The Equality Act 2010 updates and combines all previous discrimination legislation to reduce socio-economic inequalities by ensuring that certain groups with Protected Characteristics are supported and protected. Protected Characteristics are:

- Age
- Disability;
- Gender reassignment;
- Pregnancy and maternity;
- Race;
- Religion or belief;
- Sex;
- Sexual orientation; and
- Marriage and civil partnership (applicable only to the need to eliminate unlawful discrimination).

The Act also establishes the Public Sector Equality Duty, which Hackney, as a public body, is required to follow. The Duty requires that in the exercise of its functions, Hackney has due regard for the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- Advance equality of opportunity between people who share a Protected Characteristic and those who do not; and
- Foster good relations between people who share a Protected Characteristic and those who do not.

Having due regard for advancing equality involves:

- Removing or minimising disadvantages suffered by persons who share a relevant Protected Characteristic;
- Taking steps to meet the needs of people who share a relevant Protected Characteristic that is different from the needs of people who do not share it; and
- Encouraging persons who share a Protected Characteristic to participate in public life or in any other activity in which their participation by such persons is disproportionately low.

## **2. Who are the main people that will be affected? Consider staff, residents, and others.**

The proposed PSPOs will deal with a particular nuisance or problem in an area that is detrimental to the local community's quality of life by imposing conditions on the use of that area that applies to everyone. It is designed to ensure people can use and enjoy public spaces safe from anti-social behaviour.

Hackney takes a graduated approach to enforcement, but a small minority of offenders can cause disproportionate nuisance and expense, so in some cases, prosecution or the threat of prosecution will be necessary and aim of the PSPO is to promote a consistent, effective and fair approach to enforcement and to protect the environment for the benefit for the community and provide a safe place to live, work and visit.

The prominent people affected by the activities occurring across the borough are those people that have witnessed the behaviours described above; these include other members of the public and those that live nearby. Some people have been deterred from using our public spaces because of the anti-social behaviour witnessed.

The prominent people affected by the PSPO, which place restrictions on the activities occurring in our open spaces, are all of the people engaging in the activities described above. It is hoped that it will result in a decrease or even a cessation of the nuisance, annoyance and disturbance that is occurring.

## **STEP 2: ANALYSING THE ISSUES**

### **3. What information and consultation have you used to inform your decision making?**

The Council undertook consultation to gauge support on the introduction of the proposed PSPO, what else it could include and gain a better understanding of residents' experience of ASB across the borough so as to better protect and promote our open space and this ran from for six weeks from 15<sup>th</sup> September 2020 to 30<sup>th</sup> October 2020 inclusive.

68 responses were received in response to the consultation, which is small considering the size of the population of Hackney as a whole and the response rate to the consultation is very low. However, we have taken this into consideration alongside our broader evidence base, including complaints raised with us by residents.

A total of 68 participants took part in the consultation.

- 88% said they support the introduction of the PSPO
- 9% said they oppose the introduction of the PSPO
- 3% said they partially support the introduction of the PSPO.

A number of issues were raised as part of the consultation process through the number of respondents raising these issues is low (four or less in all cases) with main issues being:

- Well behaved dogs should be exempt from the requirement to wear a lead in specified places.
- Spaces under half a hectare should not have a dog lead restriction.
- Offer dog fenced exercise areas.
- Dogs allowed in Parks
- Fines enforced for not cleaning up after your dog

In response to the issues raised by respondents to the consultation the Council has taken account of these and the responses are detailed below:

#### **Well behaved dogs**

It isn't possible to distinguish between a well-behaved dog which is why the

the requirement is in place

### **Spaces under half a hectare**

Whilst it is understood that owners of well-behaved dogs are keen to allow their dogs to run freely in smaller parks, this desire must be balanced against those members of the public who have a fear of dogs. If dog owners let their dogs off the lead in Hackney's smaller parks, the dogs can dominate the space and cause fear and alarm amongst other park users. There are therefore no plans to change the rules for smaller parks at present,

### **Dog fenced exercise areas**

Dedicated dog exercise areas require a significant amount of space within a park (or multiple parks). At present, there is limited space in Hackney's parks, and no suitable location has been identified for such a dog exercise area.

### **Dogs allowed in Parks**

Dogs are allowed in all Parks subject to certain restrictions where dogs are not allowed in children's play areas

### **Enforcement**

Council Community Safety and Enforcement Officers have an existing record of responding to concerns about dog fouling and other dog nuisance issues and where appropriate enforcement action will be taken in accordance with the Enforcement Policy though largely this will be by education and encouragement through formal action will be taken when required.

The Council currently has signage in place advising of the previous PSPO and while some new signage will be required, this cost will be met from existing service budgets.

Enforcement Officers are tasked weekly at the internal weekly taking meeting co-ordinated by the Intelligence Hub the purpose of which is to:

- Coordinate deployment of staff using an evidence-based approach to provide targeted action and patrols including planning for seasonal peaks of activity that require action on a cyclical basis
- Highlight emerging patterns and trends and plan targeted early intervention and activities.
- Provide a staff briefing
- Enable a more joined-up and efficient use of service provision in Hackney
- Provide a transparent and auditable decision-making process that will stand up to scrutiny and justify how / why decisions have been reached. Provide a full list of all action/tasking's completed and action taken to resolve issues.

There were a very small number of comments calling on the proposed PSPO to be tougher in terms of fines, however, the level of the Fixed Penalty Notice is set by statute at £100 and the Council has no discretion regarding this and the only discretion the Council has is with the level of the penalty paid for early repayment which has been set at £60.

The majority of respondents (88%) stated that they were not dog owners, but there was a fairly mixed view in terms of them witnessing a dog acting aggressively feeling threatened by a dog. 42% of respondents stated that they have witnessed this, but with the total number of respondents to the consultation being very low, this would not truly reflect the total population of Hackney.

However, the majority of respondents did support the proposal of renewing the Dog Control PSPO which includes the majority of those who are dog owners.

By reviewing the comments made it is clear that most dog owners, who have control of their dogs and that are not aggressive or threatening towards other people and

animals, feel that they are being penalised by not being able to let their dog off the lead to run around freely. Those who are not dog owners feel that dogs that are not on leads can sometimes be a nuisance. Suggestions for dog fenced areas of unused green spaces could be an option to allow dogs to have the space to exercise, and not disturb other park users.

Cleaning up after their dogs is an issue, and this should lead to stricter measures and fines for those dog owners who are responsible.

## Equality Impacts

### 4. Identifying the impacts

We recognise the importance of sociable and cultural use of space balanced against the need to ensure inclusive, respectful use of space that doesn't cause nuisance or harm.

A PSPO is a tool, implemented under the Anti-Social Behaviour, Crime and Policing Act 2014 to ensure the law-abiding majority can use and enjoy public spaces safe and free from anti-social behaviour. The proposed PSPOs will be imposed to ensure that Hackney has an effective response to tackle ASB, allowing our open spaces to be used as intended. PSPOs are intended to be used to deal with a particular nuisance or problem in an area that is detrimental to the local community's quality of life by imposing conditions on the use of that area that applies to everyone. They are designed to ensure people can use and enjoy public spaces safe from anti-social behaviour.

There is likely to be a positive impact across all equality groups by implementing the PSPO and balancing the needs of the broader community against those using the space and causing anti-social behaviour. The legitimate aims of the PSPOs are to ensure that people are free to use this public space free from anti-social behaviour. This would contribute to the health and well-being of citizens in an urban environment.

The change is unlikely to be discriminatory in any way for people with any of the protected characteristics; age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation or marriage and civil partnership. The propensity to commit anti-social behaviour offences is not a protected characteristic nor is any person with a protected characteristic more likely to commit an anti-social behaviour offence.

The proposal is unlikely to have a negative impact on equality of opportunity for people with protected characteristics as it only restricts the committing of anti-social behaviour offences.

The proposal looks to restrict anti-social behaviour so that residents and others in the borough can freely enjoy public spaces such as parks without fear of anti-social behaviour.

The Council has considered the potential impact of the injunction of those with protected characteristics as defined by section 4 of the Equality Act 2010. This impact is summarised in the table below:

Age	A person of a particular age or being within an age group
	The impact on all of the community including the elderly, young people and children has been taken into account in implementing the PSPO not least the impact on young people who live in the borough who have felt increasingly excluded from being able to access and enjoy open spaces. For the avoidance of doubt, this does not just refer to young children whose parents have felt unable to allow them to play in open spaces due to the impact of anti-social behaviour, but also older young people. Safety is a concern for all age groups; therefore,

	<p>alcohol PSPO should have a positive impact across all ages. All ages will benefit from improved cleanliness. Actions such as restricting the exercising of dogs in children's play parks, we wish to safeguard children. These restrictions have been in place for many years and we are just looking to legally extend them for a period of three years to maintain our high levels of safeguarding. It can be assumed that young children who are more likely to be playing on the ground are most likely to benefit from the reduction of dog fouling.</p>
<b>Disability</b>	<p><b>A person has a disability if s/he has a physical or mental impairment which has a substantial and long term adverse effect on their ability to carry out normal day to day activities.</b></p>
	<p>As set out above, the impact on all members of the community has been considered.</p> <p>It is recognised that this group may be less able than others to use alternative places due to a potentially restricted ability to reach other public spaces.</p> <p>It is recognised that people with mobility problems or visual impairments may find it more challenging to comply with the Dog Control PSPOs; therefore, there are exemptions included in the order.</p> <p>The proposed PSPO is believed to have a positive impact on this protected group.</p>
<b>Gender reassignment</b>	<p><b>This is the process of transitioning from one sex to another. This includes person who consider themselves to be trans, transgender, transsexual.</b></p>
	<p>The proposed PSPOs are expected to have a neutral effect on this group.</p>
<b>Marriage and civil partnership</b>	<p><b>Marriage: a union between a man and a woman, or of the same sex, which is legally recognised in the UK as a marriage.</b></p> <p><b>Civil partnership: civil partners must be treated the same as married couples on a range of legal matters.</b></p>
	<p>The proposed PSPOs are expected to have a neutral effect on this group.</p>
<b>Pregnancy and maternity</b>	<p><b>Pregnancy: being pregnant. Maternity: the period after giving birth linked to maternity leave in the employment context, In the non-work context protection against maternity discrimination is for 26 weeks after giving birth, including as a result of breastfeeding</b></p>
	<p>The proposed PSPOs are expected to have a neutral effect on this group.</p>
<b>Race</b>	<p><b>A group of people defined by their colour, nationality (including citizenship), ethnic origins or race</b></p>
	<p>As set out above, young people have told <a href="#">Hackney-Young Futures Commission</a> that the way some people behave in open spaces makes them feel unsafe and excluded.</p> <p>The proposed PSPOs will encourage more responsible use of our open spaces. The proposals are believed to have a positive impact on those with this protected characteristic. There are no</p>

	known equality issues in terms of dog control related to race and ethnicity.
<b>Religion or belief</b>	<b>Religion means any religion. Belief includes religious and philosophical beliefs including lack of belief (for example Atheism)</b>
	The proposed PSPOs are expected to have a neutral effect on this group.
<b>Sex</b>	<b>Someone being a man or a woman</b>
	The intentions of the PSPOs are to make residents feel safer by tackling anti-social behaviour and having a clean borough. This will apply to residents regardless of sex. There are no known equality issues in relation to dog control and sex.
<b>Sexual orientation</b>	<b>A person's sexual attraction towards his or her own sex, the opposite sex or to both sexes</b>
	The proposed PSPOs are expected to have a neutral effect on this group.

**4 (a) What positive impact could there be overall, on different equality groups, and on cohesion and good relations?**

This action is intended to be used to deal with a particular nuisance or problem in an area that is detrimental to the local community's quality of life by imposing conditions on the use of that area that applies to everyone. They are designed to ensure people can use and enjoy public spaces safe from anti-social behaviour.

There is likely to be a positive impact across all those with protected characteristics by implementing the PSPOs and balancing the needs of the broader community against those using the space and causing anti-social behaviour. The legitimate aims of the PSPOs are to ensure that people can use this public space free from anti-social behaviour. This would contribute to the health and well-being of citizens in an urban environment.

The Council recognises that nothing in the Dog Control Public Spaces Protection Order shall apply to a person who –

- is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948;
- is deaf, in respect of a dog trained by Hearing Dogs for Deaf People (registered charity number 293358) and upon which he relies for assistance;
- has a disability which affects his mobility, manual dexterity, physical coordination or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a Prescribed Charity and upon which he relies for assistance;
- A person who is training an assistance dog in an official capacity; or
- A dog used by the police or other agencies permitted by the Council for official purposes.

Therefore the above persons are and will be exempt from prosecution if found to be in breach of the outlined Dog control PSPO.

Therefore, the proposed PSPOs would prevent the area from being misused and provide immediate relief to the residents, improving their safety and quality of life and deter those who are participating and organising gatherings which are causing severe nuisance and antisocial behaviour, increasing the fear of crime and perception of safety within the community.

#### **4 (b) What negative impact could there be overall, on different equality groups, and on cohesion and good relations?**

The proposed PSPOs set out a range of powers available to the Council and how these will be legally applied. Its use will be determined by the behaviour occurring and is not directed at any protected group.

The impact on those with protected characteristics has been considered above.

In terms of the rights protected by the Human Rights Act 1988, the possible right that might be engaged is Article 11 (the freedom of assembly and association). The injunction places restrictions on how people can use our open spaces, not their ability to use it or gather there. As such, the PSPOs do not interfere with Article 11 rights. However, even if Article 11 were engaged, the interference would be justified as being prescribed by law and in pursuance of a legitimate aim (namely in the interests of public safety, the protection of public health, the prevention of crime and disorder, and the protection of the rights and freedoms of others). The PSPOs are proportionate and necessary.

The operation of the PSPOs will be kept under review. The advice, warnings and enforcement of the PSPOs will be logged in the pocket notebooks of Officers and on Council and Police databases.

The authorised Officers who will enforce the PSPOs will continue to consider the needs of the individuals and their circumstances to make an informed and balanced decision as to the appropriateness of action to take. Officers will continue to receive training on equality and diversity.

Performance of the proposed PSPOs will be reported to the Corporate Committee annually to ensure there is a balance between proportionate enforcement and acceptable behaviour in the borough.

### **STEP 3: REACHING YOUR DECISION**

#### **5. Describe the recommended decision**

The introduction of the PSPOs will impact on the lives of people who live, work and visit Hackney. The proposed restrictions will impact positively on people whose protective characteristics are impacted upon by the anti-social behaviour the order is designed to address. This action is proportionate and necessary.

### **STEP 4 DELIVERY – MAXIMISING BENEFITS AND MANAGING RISKS**

#### **6. Equality and Cohesion Action Planning**

Please list specific actions which set out how you will address equality and cohesion issues identified by this assessment. For example,

- Steps/ actions you will take to enhance positive impacts identified in section 4 (a)
- Steps/ actions you will take to mitigate against the adverse impacts identified in section 4 (b)
- Steps/ actions you will take to improve information and evidence about a specific client group, e.g. at a service level and/or at a Council level by informing the policy team ([equalityanddiveristy@hackney.gov.uk](mailto:equalityanddiveristy@hackney.gov.uk)).

All actions should have been identified already and should be included in any action plan connected to the supporting documentation, such as the delegated powers report, saving template or business case.

I can confirm that the Council has had due regard to the public sector equality duty found in s.149 of the Equality Act 2010. It is believed that the proposed PSPOs will have a positive impact on



the ability of people to use public space safely and without fear of nuisance, annoyance or other anti-social behaviour.

Any abuse of discretion when enforcing the proposed PSPOs will be dealt with swiftly using internal procedures which could include additional training or management action.

Anyone who is issued Fixed Penalty Notices given for breach of the proposed PSPOs may make representation or lodge a corporate complaint which would be investigated and responded to by a Senior Manager.

It is important to note that there are no formal grounds of appeal against a Fixed Penalty Notice (FPN). It is an invitation for an individual to discharge their liability to prosecution. In essence, this means that whilst this is not an admission of an individual's guilt, it is an agreement that the individuals accept that an offence has been committed and that by paying the sum of money specified, no further action will be taken by, or on behalf of the Council. This method of dealing with offences not only saves time involved for everyone in prosecuting cases at court, but the cost associated with an FPN is likely to be substantially lower than any fine imposed by the Courts