

Community Equality Impact Assessment Form

Community Equality Impact Assessments should be carried out whenever you plan, change or remove a service, policy or function. The process should be used as a health check – a way of consolidating knowledge you have on your service. Please refer to the Community Equality Impact Assessment Guidelines to help you complete this activity.

Name of service, policy, procedure, function or project to be assessed:	Borough wide Public Spaces Protection Order (PSPO), to deal with the possession and use of psychoactive substances where it is causing, or likely to cause harassment, alarm, distress, nuisance or annoyance to members of the public
Is this a new or existing function or policy?	New
Key purpose / objective of this service, policy, procedure, function or project to be assessed:	To create a new offence of the possession and use of psychoactive substances where it is causing, or likely to cause harassment, alarm, distress, nuisance or annoyance to members of the public.
Lead Officer – inc. contact details	Oliver Nelson, Public Protection Manager
Directorate and Head of Service	Rod Brown, Head of Housing and Community
Other stakeholders – list all involved	Surrey Police
Start date – The assessment should be started <u>prior</u> to policy / service development and early enough to influence the decision-making process	Spring 2022
End date – The assessment will need to inform decision making so the end date should take this into account	2 years from the commencement of the PSPO

Step 1: Identify why you are undertaking a Community Equality Impact Assessment

The Anti-Social Behaviour Crime and Policing Act 2014 introduced a range of tools and powers. One of those powers relates to Public Spaces Protection Orders (PSPO). This is an order that identifies a public place and prohibits specified things being done in the restricted area and/or requires specified things to be done by persons carrying on specified activities in that area. Orders are intended to deal with problems that are detrimental to the local community's quality of life. According to the statutory guidance, behaviour being restricted must 'be having, or likely to have, a detrimental effect on the quality of life of those in the locality'; 'be persistent or continuing in nature'; and 'be unreasonable'.

The Psychoactive Substances Act 2016 introduced legislation to deal with supply, possession with intent to supply psychoactive substances intended for human consumption that is capable of producing a psychoactive effect. The legislation does not however deal with straight forward personal possession or use.

The proposal is for the introduction of a borough wide PSPO in response to the increase of reported use of nitrous oxide both during the first Coronavirus restrictions and since. The use of nitrous oxide is often associated with anti-social behaviour in the form of littering of steel cannisters and balloons to noise nuisance and rowdy and inconsiderate behaviour. The intention is to use the power provided by the PSPO only when needed in response to complaints and where the intelligence picture identifies hotspots. This will be managed through the existing partnership infrastructure based around the Community Safety Partnership. This will ensure that the power provided is used both proportionately and where necessary. There will be joint training of police and council staff in order to ensure that this approach to use of powers is understood and complied with. It will be subject to monitoring and review as necessary.

The proposal is to introduce a prohibition on the use and possession of Psychoactive Substances in a public space (chemical substances which produce similar effects to illegal drugs). No person within the restricted areas shall ingest, inhale, inject, smoke, possess or otherwise use intoxicating substances and which is causing or likely to cause harassment, alarm, distress, nuisance or annoyance.

This proposed single prohibition would make what is not currently an offence, possession of an intoxicating substance such as nitrous oxide, something that would be prohibited across the Borough by the introduction of the PSPO. In order to ensure compatibility with both the Public Sector Equality Duty but also overall Human Rights implications, it is not intended to be a blanket ban on possessing such substances in all circumstances but only where possession or use of it by a person *is causing or likely to cause harassment, alarm, distress, nuisance or annoyance* – in other words ASB. For example, the mere possession of such items in a public space for the established and accepted use of the product would not engage the provisions. This balances the rights of individuals who might be subject to this provision with the overall rights of other individuals and the wider community who have an expectation to live free of the impact of behaviour that is detrimental to their quality of life through experiencing ASB.

Step 2: Identify the proposed changes to your service

Describe the possible changes your proposal will have on your service. Also outline the possible affect(s) it may have on the **protected characteristics**. Following your initial assessment if it is absolutely obvious that your changes will not have any effect on any of the **protected characteristics**, no further analysis or action is necessary. In this event, you must clearly record how you came to this conclusion.

The changes are to create a new offence via the mechanism of a PSPO to prohibit certain activities where they are causing ASB. It is not expected to impact on any protected characteristics and the wording of the proposals has been carefully considered so as to avoid inadvertent breaking of the law. Similarly there is a sunset clause proposed in which the PSPO will lapse after two years.

Step 3: Assessment of data and research

Identify what data and research is available to inform the impact of your proposals on service users and / or staff. Where there are data gaps you should include this as an action within your **Community Equality Impact Assessment Action Plan – Step 7**.

No data is available which might positively demonstrate the prevalence amongst any particular age group or equality strand. Anecdotally it is suggested that consumption is more prevalent amongst under 18s but equally reports from agencies also indicate that this is not exclusively the case. Partly the fact that there is no current offence makes quantifiable data hard to obtain and reliance is instead placed on the reports from members of the public and the police who from time to time attend incidents. Owing to some of the uncertainty in the data, it is proposed that the PSPO be limited in operation to two years instead of the maximum of three so as to act as a further safeguard on liberty. Should the PSPO go ahead it would be expected that monitoring data become available in time for the review in two years time.

Step 4: Consultation

Identify what relevant consultation could inform your Impact assessment. If you have recent relevant consultation data you could use this. If not, you will have to undertake new consultation, this should be included as an action within your **Community Equality Impact Assessment Action Plan – Step 7**. Make sure the extent of your consultation is in proportion to the proposed change that is being made. Have you consulted the Equalities Forum?

The Council consulted on the proposed PSPO in September – October 2021 and 44 responses have been received. The results have been analysed. The consultation was specifically drawn to the attention of the business community and Councillors as well as other community groups. The results showed 67% of consultees had been personally affected by the ASB in question and 97% of respondents were supportive of the provisions being implemented borough wide.

Step 5: Impact Assessment

Use the data, research and consultation results to consider the positive and negative impacts of the proposals in respect of the three aims;

- Eliminate unlawful discrimination, harassment and victimisation;
- Advance equality of opportunity; and
- Foster good relations

and the protected characteristics of the Equality Duty. Don't forget to consider staff as well as service users. Please use the template below.

Equality Strand	Positive It could benefit Yes / No	Negative Yes (High / Low) / No	No Impact (Yes / No)	Reason Describe the person you are assessing the impact on, including identifying: details of characteristic (if relevant) e.g. mobility problems / particular religion and why and how they might be negatively or positively affected. Identify risks if negative; identify benefits if positive
Age (e.g. older people, younger people and children)			Yes	No evidence to support either a positive or negative effect
Disability (long-term health impairment could include mental health problems, asthma, heart conditions, chronic fatigue etc.)	Yes			Medical research exists showing the potential for physical and mental harm following prolonged use of psychoactive substances including oxygen deprivation, vitamin B12 deficiencies, mental health degradation and physical retardation of the cardiovascular and neurological functions of the body
Gender (male, female)			Yes	No evidence to support either a positive or negative effect
Race (Minority ethnic communities e.g. colour, ethnic or national origin, nationality. This includes travellers and gypsies)			Yes	No evidence to support either a positive or negative effect
Religion or belief (Believing faiths/religions e.g. Christians, Hindus, Muslims, people with no faith/religion)			Yes	No evidence to support either a positive or negative effect

Equality Strand	Positive It could benefit Yes / No	Negative Yes (High / Low) / No	No Impact (Yes / No)	Reason Describe the person you are assessing the impact on, including identifying: details of characteristic (if relevant) e.g. mobility problems / particular religion and why and how they might be negatively or positively affected. Identify risks if negative; identify benefits if positive
Sexual orientation (heterosexuals, lesbians, gay men and bisexual men or women)			Yes	No evidence to support either a positive or negative effect
Gender re-assignment (people who intend, are in the process of or have undergone gender reassignment)			Yes	No evidence to support either a positive or negative effect
Marriage and civil partnership – (only in respect of eliminating unlawful discrimination)			Yes	No evidence to support either a positive or negative effect
Pregnancy and maternity			Yes	No evidence to support either a positive or negative effect
Non-statutory Group Consideration				
Other equality issues (please state)			Yes	No evidence to support either a positive or negative effect
Socio-economically disadvantaged (e.g. factors such as family background, educational attainment, neighbourhood, employment status)			Yes	No evidence to support either a positive or negative effect

Step 6: Decision / Result

Following your analysis, you should make a decision as to whether or not your proposal will negatively or positively impact any protected characteristics. You should take into account all factors such as finance and legal in your decision. Include information about whether stakeholders agree with your findings and proposed response (action plan).

The impacts of the proposals have been assessed to be broadly neutral with negligible impacts on protected characteristics.

Step 7: Community Equality Impact Assessment Action Plan

Once you have taken all factors into account, you need to create an Action Plan using the template below. These actions should be based on the information and analysis gathered during Steps 1 to 6. It should include any gaps in the data you have identified, and any steps you will be taking to address any negative impacts or remove barriers. You should also identify positive actions. The actions need to be built into your service planning framework. Actions / targets should be SMART, Specific, Measurable, Achievable, Realistic and Time framed.

Issues Identified	Actions Required	Progress Milestones	By When?	Responsible Officer(s)
Limitation in quantifiable data to support the granting of a full 3 year PSPO	Acquire further data on the prevalence of psychoactive substance litter or other evidence. In the meantime limit the duration of the provisions to two years.	Obtain further quantifiable data	18 months following the granting of the PSPO	Public Protection Manager

Issues Identified	Actions Required	Progress Milestones	By When?	Responsible Officer(s)

Step 8: Sign off

	Name & Job Title	Signature **	Date
Lead Officer:			
Validated By: (Head of Service)			
Approved By: (Equalities Lead)			
Published on website by: (Consultation & Communication team)			

** Please type your name to allow forms to be sent electronically