

Proposal Summary Information	
EAA Title	2021 Mattock Lane PSPO consultation
Please describe your proposal	Study to assess the impact on equalities in the event of a council decision to extend for a further period of time the existing Public Spaces Protection Order (PSPO) on Mattock Lane.
Is it HR Related?	No
Corporate Purpose	The existing PSPO targets behaviours having a detrimental impact on the quality of life of residents of and visitors to Mattock Lane, and to service users for the Marie Stopes clinic, as well as clinic staff. Extending the period for which the PSPO has effect would continue to target such behaviours.
<b>1. What is the action looking to achieve? Who will be affected?</b>	
<p>1.1. In April 2018 Ealing Council introduced a Public Spaces Protection Order (PSPO) 'Safe Zone' to enable service users and staff of the Marie Stopes clinic, Mattock Lane (now known as MSI Reproductive Choices and hereinafter referred to as the 'Clinic') to enter and leave the Clinic without facing activities which were assessed as having a detrimental effect on their quality of life in the area.</p> <p>1.2. The PSPO was additionally designed to protect those residing in, visiting and passing through the locality from the detrimental effect of the activities of individuals and groups involved in Pro-Life and Pro-Choice protests and vigils outside the clinic.</p> <p>1.3. The PSPO introduced restrictions on specific behaviours in the immediate locality of the Clinic and is due to expire in April 2021 if no action is taken. The Council are now considering whether or not to extend the period for which the order has effect for a period of time beyond April 2021, with the maximum possible time extension being three years (i.e. until April 2024).</p> <p>1.4. The restrictions created by the PSPO relate to a number of behaviours, namely:</p> <ul style="list-style-type: none"> <li>• Protesting, namely engaging in any act of approval/disapproval or attempted act of approval/disapproval, with respect to issues related to abortion services, by any means, including, without limitation, graphic, verbal or written means, and including, for the avoidance of doubt, prayer or counselling</li> <li>• Interfering, or attempting to interfere, whether verbally or physically, with a service user or member of staff</li> <li>• Intimidating or harassing, or attempting to intimidate or harass, a service user or a member of staff</li> <li>• Recording or photographing a service user or member of staff of the clinic whilst they are in the safe zone, or</li> <li>• Displaying any text or images relating directly or indirectly to the termination of pregnancy.</li> <li>• Playing or using amplified music, voice or audio recordings</li> </ul>	

- 1.5. The Council additionally provided within the PSPO a ‘designated area’ that falls within the geographical footprint of the ‘Safe Zone’, in which both Pro-Life and Pro-Choice groups may gather. The limitations on activities within the ‘designated area’ are:
- A restriction to a total of four persons at any one time
  - That a person shall not display an individual poster, text or image, which singularly or collectively, is greater than one sheet of A3 paper
  - That a person must not shout any message or words relating to the termination of pregnancy
  - That a person must not play or use amplified music, voice or audio recordings
- 1.6. Those affected by the order include people who live in, work in, pass through or visit the area, the majority of whom will be aware of the presence of represented groups outside the Clinic before the PSPO was made and the associated behaviours of those groups at that time. Some people will be aware of the use of the designated area by some of those groups.
- 1.7. Service users of the Clinic and potentially their friends, partners, family or other supporters who attend the Clinic with them are affected by the order. While service users are predominantly women (and in particular women under the age of 45) their support networks may include people of any gender and any age, including children. Some of the service users are also children.
- 1.8. Clinic staff and those working at the Clinic are affected by the order. The overwhelming majority of those working at the clinic are women.
- 1.9. Represented groups are affected by the order. Those groups include those representing Pro-Life and Pro-Choice views. Most represented groups include adult men and women.

**2. What will the impact of your proposal be?**

- 2.1. This Equalities Analysis Assessment examines differential impacts an extension to the longevity of the PSPO may have on any people with protected characteristics who reside, work in or visit the area or any people with protected characteristics who may visit the area in the future.
- 2.2. The existing PSPO restricts behaviours within the designated area and places certain requirements on people in the area. People in the area are required to provide their name and address to a police officer or other person designated to enforce the Order, if asked to do so in relation to breaching the order or an act of anti-social behaviour. The order also requires people to disperse or leave the area if asked to do so by a police officer or other person designated to enforce the Order, if asked to do so in relation to breaching the order or an act of anti-social behaviour.
- 2.3. Feedback from the Clinic itself and from submissions received during the consultation indicate that the PSPO has to date had a positive impact for visitors to the Clinic, staff working at the Clinic and those supporting and accompanying people visiting the Clinic. The Clinic have cited the fact they no longer need to maintain a register of complaints about the presence of those

congregating at the gates as evidence of a significant positive impact of the order on clinic users. The Clinic's position is essentially that the PSPO safeguards and facilitates access to sexual health and reproductive health services by women and other service users.

- 2.4. Responses to the consultation indicate the order has had a positive impact on those visiting and living in the area by preventing those individuals from being personally affected by the activities of the represented groups or from seeing others being distressed by this activity.
- 2.5. Feedback from Pro-Life represented groups (both directly and through the consultation) indicates the order has had a partly negative impact on Pro-Life groups who visit or plan to visit the area for the purpose of protests and vigils addressed towards service users and staff at the clinic, given the order restricts some of the behaviours they wish to engage in to a defined area.
- 2.6. Pro-Life groups have argued that the PSPO has prevented them from expressing their views, that it prevents them from congregating peacefully, prevents them from praying and prevents them from engaging with service users in a manner they describe as supportive.
- 2.7. Responses to the consultation from those who previously attended Pro-Life protest and vigils in the immediate locality of the Clinic (and who, in some cases, still continue to attend Pro-Life protest and vigils within the designated area and at other clinics) have suggested that the order has reduced significantly the number of Clinic service users with whom they have been able to engage. They have argued this has prevented potentially vulnerable women accessing their 'support', 'advice' and 'help'.
- 2.8. The PSPO has had a neutral impact on Pro-Choice individuals and groups who oppose or protest the behaviours of the Pro-Life groups outside the Clinic. While the order places restrictions on some of their behaviours in a defined area, it also addresses the motivator for those behaviours (i.e. the proximity of certain activities of Pro-Life groups within a defined area of the Clinic).
- 2.9. Since the introduction of the order, it appears that Pro-Choice represented groups have not used the 'designated area' that is provided for within the order.
- 2.10. Pro-Life represented groups have continued to attend the locality and have engaged in vigil and protest within the 'designated area' and, on occasion, at the boundary of the PSPO 'Safe Zone' or at Council offices nearby.

Impact on Groups having a Protected Characteristic
<b>3. AGE: A person of a particular age or being within an age group.</b>
State whether the impact is positive, negative, a combination of both, or neutral: <b>POSITIVE and NEGATIVE</b>
Describe the Impact
<p>3.1. Given that the primary service users at Clinic are pregnant women, younger women are disproportionately represented among the people entering and leaving the Clinic.</p> <p>3.2. Very young women and girls (those aged 19 and under) are disproportionately represented among those accessing termination of pregnancy services. From their 2020 monitoring data, the British Pregnancy Advisory Service (BPAS) for London Clinical Commissioning Groups indicates 2.29% of service users of abortion services were under the age of 18. It is accepted that this data is not specific to Ealing but the Council takes the view it provides a useful indication of the general characteristics of service users who are likely to access services at the Clinic. This data confirms that service users of the clinic will include children, who are seeking access to health care.</p> <p>3.3. If the period for which the PSPO has effect is extended this will have a positive impact on younger people, given it will enable this group (who are disproportionately represented among clinic users) to access sexual health and reproductive health services without encountering interference from people unknown to them at the point of access.</p> <p>3.4. The overwhelming majority of clinic service users (99.5%) are aged 45 and under. The PSPO has had a positive impact on this age group, given it has enabled women aged 45 and under to access sexual health and reproductive health services without encountering interference at the point of access from people who are unknown to them.</p> <p>3.5. Observations by council officers during 2017-2018 and observations of activities within the 'designated area' since the introduction of the order indicate the majority of vigils and protests by Pro-Life groups involve people who are over the age of approximately 35. The PSPO is therefore likely to have had a partly negative impact on people within an older age group, given the restrictions it places on the behaviours of the represented groups within the 'designated area'.</p> <p>3.6. No specific data exists in relation to age of the represented groups who attend Pro-Choice vigils and protests outside the Clinic and, from observations, it is difficult to identify any particular age range disproportionately represented within those groups. The impact of the PSPOs on individuals and groups who formerly attended the area to engage in Pro-Choice protests is likely to be neutral on grounds of their age.</p> <p>3.7. The view of those who support the presence of Pro-Life protest / vigil members, or 'street counsellors' as they are sometimes termed, is the suggestion they provide a vital support service to women who may feel pressurised into a termination (for example by an abusive partner or family member). The PSPO includes the provision of the 'designated area' in which a</p>

<p>small number of persons be permitted to congregate and carry out protests or vigils. This area has been used throughout the period of the PSPO by Pro-Life groups, who have therefore remained accessible to any women who may wish to engage with them or seek their help.</p> <p>3.8. The PSPO has no impact on the activities of any represented groups outside the safe zone and will not affect the provision of support or counselling services away from this area.</p> <p>3.9. Professional and regulated services for young people in situations of crisis exist. While there is clear evidence to indicate the restrictions of the PSPO will have a positive impact on young women accessing the Clinic, it is not clear that any young women are likely to be negatively affected by the absence of protest / vigil members in the immediate locality. It remains the position of the Pro-Life represented groups that they have helped numerous women in challenging situations, however there remains no available data of the actual number of people who have engaged with and benefited from the services these groups purport to offer and in any event other services remain available to those women and/or the Pro-Life represented groups can be accessed by them in the designated area or other locations.</p>
<p>Alternatives and mitigating actions which have been considered in order to reduce negative effect:</p>
<p>The PSPO does not place restrictions on any behaviours beyond a relatively small geographical area.</p> <p>The PSPO provides for a 'designated area' in which represented groups are permitted to engage in certain forms of protest or vigil activities. That area is situated a short distance from the Clinic and is visible to those accessing it and has been continually used by Pro-Life groups since the introduction of the order. The 'designated area' is positioned so that it is located away from the immediate entrance of the Clinic but still in a position which would allow service users to be aware of the existence of the represented groups.</p>

<p><b>4. DISABILITY: 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>State whether the impact is positive, negative, a combination of both, or neutral: <b>NEUTRAL</b></p>
<p>Describe the Impact</p>
<p>4.1. There is no available data relating to disabilities affecting persons engaged in protests / vigils outside the Clinic and the data available in relation to disabilities affecting Clinic service users or staff is limited.</p> <p>4.2. It is established from consultation with Public Health and NHS that inequalities in sexual health mean certain groups have poorer sexual health outcomes. For example, one identified group with poorer sexual health outcomes is people with learning disabilities. It is possible, therefore, that people with learning disabilities may be disproportionately represented among those accessing the</p>

<p>Clinic for services and, if so, may have been positively affected by an order that facilitates their access to sexual health and reproductive health services without interference from people not known to them.</p> <p>4.3. Overall, it is not anticipated that an extension of the period for which the PSPO has effect will have any disproportionate impact on people with disabilities.</p>
<p>Alternatives and mitigating actions which have been considered in order to reduce negative effect:</p>
<p>NOT APPLICABLE</p>

<p><b>5. GENDER REASSIGNMENT: This is the process of transitioning from one sex to another. This includes persons who consider themselves to be trans, transgender and transsexual.</b></p>
<p>State whether the impact is positive, negative, a combination of both, or neutral: <b>NEUTRAL</b></p>
<p>Describe the Impact</p>
<p>5.1. There is no available gender reassignment data in relation to Clinic service users and staff, persons engaged in protests / vigils outside the Clinic or residents/other visitors to the area.</p> <p>5.2. It is not anticipated that an extension of the period for which the PSPO has effect will have a disproportionate impact on this group on grounds of their belonging to this group.</p>
<p>Alternatives and mitigating actions which have been considered in order to reduce negative effect:</p>
<p>NOT APPLICABLE</p>

<p><b>6. RACE: A group of people defined by their colour, nationality (including citizenship), ethnic or national origins or race.</b></p>
<p>State whether the impact is positive, negative, a combination of both, or neutral: <b>POSITIVE</b></p>
<p>Describe the Impact</p>
<p>6.1. The Council does not hold monitoring data which is specific to local residents and visitors to the Clinic. The Council has considered both UK-wide monitoring data over a five-year period provided by BPAS in relation to race, and the London and South-East specific data (which is important, given London has a higher proportion of BAME residents within its established population).</p> <p>6.2. BPAS data shows that in London 48.2% of service users are from BAME groups. This is in comparison to people from BAME backgrounds making up approximately 40% of the London population, based on widely available open source and census data, suggesting that people from BAME groups are</p>

<p>overrepresented among service users accessing services offered by clinics like MSI Reproductive Choices.</p> <p>6.3. While the Council recognises the limitations of this data (it is not specific to Ealing and is provided by an organisation that provides termination of pregnancy services across the UK), it provides a useful indication of the general characteristics of service users accessing services offered by clinics such as MSI Reproductive Choices.</p> <p>6.4. It is established from dialogue with NHS and Public Health that inequalities in sexual health mean certain groups have poorer sexual health outcomes; one identified group with poorer sexual health outcomes is people from BAME backgrounds. This also suggests that people from BAME backgrounds may be disproportionately represented among those accessing the Clinic for services and, if so, positively benefit from the existing PSPO (and any extension of the period for which it has effect), which facilitates their access to the Clinic without interference at the point of access.</p> <p>6.5. There is no specific ethnic monitoring data available for either Pro-Life or Pro-Choice groups attending protests / vigils outside the clinic. In the case of individuals attending to represent Pro-Choice views, the impact of the PSPO is considered to have been neutral, as their motivation for attending will be reduced. The impact on those from Pro-Life groups is considered negative overall, given the restrictions it will place on their activities but there is no indication they will face a negative impact overall as a result of their race and the impact of the PSPO is therefore considered to have been neutral on this basis.</p> <p>6.6. The impact of the PSPO on people accessing the clinic (among whom service users from BAME groups are established to be over-represented) is positive, given it safeguards and facilitates those individuals in accessing the health services being offered. This will remain the case if the period for which the PSPO has effect is extended.</p>
<p>Alternatives and mitigating actions which have been considered in order to reduce negative effect:</p>
<p>NOT APPLICABLE</p>

<p><b>7. RELIGION &amp; BELIEF: Religion means any religion. Belief includes religious and philosophical beliefs including lack of belief (for example, Atheism).</b></p>
<p>State whether the impact is positive, negative, a combination of both, or neutral: <b>NEGATIVE</b></p>
<p>Describe the Impact</p>
<p>7.1. According to data from the 2011 census, Ealing residents identify as follows regarding their religion or belief:</p> <ul style="list-style-type: none"> <li>• 44% Christian</li> <li>• 16% Muslim</li> </ul>

- 15% No religion
- 9% Hindu
- 8% Sikh
- 7% Prefer not to answer

7.2. There is no specific data relating to the religion and belief of residents and visitors to the PSPO area (excluding the represented groups who are discussed separately below). However, census data provides some indication of the religion and faith identified with by Ealing's established population. For residents and visitors to the PSPO area, the effect of the PSPO is considered to have been positive as it has facilitated their access to the area near the Clinic without the distress caused by interference from people unknown to them at the point of access.

7.3. In relation to Clinic service users, monitoring data provided by BPAS in relation to religion and belief shows that in the five-year period 2013-2017, of the clients accessing its services UK wide the key groups were:

- 59% who identify with no religion
- 21% Christian
- 10% prefer not to say
- 4.5% Muslim
- 2% Hindu
- 1% Sikh

It is important to recognise this data does not relate specifically to MSI Reproductive Choices on Mattock Lane, however it provides a sense of the UK-wide picture of women accessing the same services offered at the Clinic.

7.4. The data indicates that the rate of clinic service users who identify as 'no religion' is roughly four times that of Ealing's established population, while those clinic service users identifying as Christian is approximately half the number of Ealing's established population who identify as such. The Council accepts that it is possible that these figures are not strictly accurate but may reflect reluctance on the part of service users to disclose personal information when attending clinics. Nonetheless, the information is relevant when considering the nature of the activities outside the Clinic, some of which use Christian imagery and language in their efforts to influence people at the point of access and departure. As a minimum it is clear that many, if not most, of the service users accessing the Clinic do not share the same faith or type or strength of religious views held by the representative groups.

7.5. In regard to those people who visit the area to take part in protest / vigils as part of groups expressing Pro-Choice views, there is no specific data relating to their religion and belief. Sister Supporter, the key Pro-Choice group represented outside the Clinic state on their website: "*We are not anti-religion, nor are we pro-abortion. We are... opposed to anyone, with any agenda, placing themselves outside of health services*". For these reasons, the effect of the PSPO is considered neutral on this group as regards their religion or belief. In any case it is believed that the impact of the PSPO will be more neutral from Pro-Choice groups overall given that their motivation for attending

or returning, in the event that the period of the PSPO being extended, will decrease.

- 7.6. There is similarly no quantitative data on individuals and groups who used to attend the area outside the Clinic to engage in protests / vigils representing a Pro-Life view (and who now use the 'designated area' within the PSPO to engage in protest and vigil). It is understood, however, from research and engagement with these groups that the majority of the individuals identify as Christian and, specifically, Roman Catholic. The *Good Counsel Network* state on their website they are "*Pro-Life, Faithful to Catholic Teaching. Striving to protect women and children from abortion.*" The *Helpers of God's Precious Infants* state on their website '*We pray for the mothers and their babies, for the doctors, nurses and everyone involved in the abortion practice.*' The *Society of Pius X*, a Roman Catholic group that are known to hold conservative views and *40 Days For Life* are a Christian Pro-Life organisation of affiliated groups.
- 7.7. In discussions with faith groups, including local churches and the borough's faith forum, the common understanding is that the Pro-Life represented groups who used to congregate outside the clinic were predominantly made up of groups identifying as Roman Catholic or what has been described as more 'fringe' Christian groups.
- 7.8. It is fair to conclude then that the overwhelming majority of groups who visit the area to engage in Pro-Life protests and vigils identify as Christian. The PSPO has placed restrictions on behaviours in the immediate locality of the Clinic that negatively affect this group, so the effect of the PSPO has been considered negative for this protected characteristic.
- 7.9. Any temporal extension of the PSPO beyond April 2021 will therefore likely disadvantage and indirectly disadvantage those Christian individuals who wish to visit the area to engage in Pro-Life protest or vigil free from any restriction. The PSPO (and any extension by default) will restrict their freedom of expression by prohibiting them from participating in protests or vigils relating to abortion within that part of the safe zone which is not part of the designated area.
- 7.10. The PSPO explicitly states that protest includes graphic, verbal or written means. Crucially, the PSPO explicitly states that protest in this context also can include 'prayer' and 'counselling'. As a result, the PSPO indirectly disadvantages those who wish to attend the area to pray and to express views which are connected to the practice and expression of their Christian (or other) religion and beliefs. A decision to extend the period for which the PSPO has effect beyond April 2021 will mean a continuation of this disadvantage.
- 7.11. However this disadvantage has been carefully balanced in terms of the rights of those individuals who visit the area to express their views (even through directed prayer and what may be considered by them to be 'counselling') against the rights of the people who visit the area to access the health services offered by the Clinic, who are overwhelmingly pregnant women, some of whom are themselves children.

- 7.12. The council has to consider the rights to privacy and family life of the service users, specifically their right to access health services free from intimidation, harassment, distress and with dignity and privacy.
- 7.13. The Council is further required to consider the rights of the *staff* who work at the Clinic (also overwhelmingly women) who have the right to access their place of work without facing intimidation, harassment or distress.
- 7.14. From the evidence obtained during the 2017-2018 investigation, it was clear that clients and staff of the clinic had been significantly negatively affected by the presence of individuals in the locality of the clinic engaging in Pro-Life protests and vigils. People accessing health services at the Clinic (in nearly all cases women and in the majority of cases pregnant women) reported feeling intimidated, judged, harassed and obstructed when attempting to enter and leave the clinic.
- 7.15. The Council also heard from those who attend the Clinic to support partners, family members and friends. The information and evidence obtained from those individuals indicates the negative impact of protests and vigils on these individuals too.
- 7.16. Staff from the Clinic confirmed witnessing and intervening in upsetting incidents where women have been approached and challenged when attempting to enter the Clinic and upon exiting the Clinic following treatment. Staff have also reported being personally intimidated and even receiving malicious communications from individuals representing Pro-Life views.
- 7.17. Since its introduction in April 2018 the PSPO has had a positive impact on those people accessing the clinic (the majority being pregnant women accessing health services connected with their pregnancy). It has restricted behaviours that were evidenced to have caused a detrimental impact on the quality of life of these people and an extension of the order beyond April 2021 would likely have a continued positive impact on this group.
- 7.18. In considering the impact of the PSPO to date on those with religious views that motivate and underpin their desire to participate in protests / vigils, the Council has to undertake a delicate balancing exercise of the competing rights of all of the represented groups, but also of the clinic users and staff. Clinic users are entitled to access lawful health services without interference or fear of intimidation, harassment or the feeling of being judged. Clinic staff are also entitled to access their place of work without direct or indirect distress, intimidation or harassment.
- 7.17 Indirect disadvantage is justified by reason of the need to balance these competing rights. The PSPO was carefully limited to provide restrictions and requirements only which were necessary to address the detrimental impact of activities of the represented groups. The provision of the 'designated area' created a space where the on-going activities were facilitated, albeit with some restrictions. For all these reasons the Council considers that the PSPO, and any extension, is a proportionate means of achieving these legitimate aims.

Alternatives and mitigating actions which have been considered in order to reduce negative effect:

The Council’s previous engagement work with Pro-Life groups sought to explore the possibility for a negotiated approach to agreeing steps these groups could take to address the detrimental effect of their activities on the quality of life of those in the locality, namely clinic users, staff and others. This was unsuccessful and the explicit statements made by these groups since the introduction of the order – in the press, in social media and in legal submissions – make it clear they remain unwilling to consider any voluntary steps to address the behaviours. The Council has again considered the negative impact on those who attend the area to express views associated with their Christian faith and has sought to carefully balance these against those other protected characteristics for whom the council also has a duty.

In considering the negative impact on the protected characteristic of religion and belief, provision was made for a ‘designated area’ within the PSPO which allows represented groups to congregate in small numbers a short distance away from the clinic to engage in peaceful prayer and to engage with any persons who wish to approach them for counselling or support.

The ‘safe zone’ has been kept as small as is considered absolutely necessary to provide safe passage to the clinic for staff, service users and those that accompany them.

The proposal to extend the period for which the PSPO has effect does not change the balancing exercise which had been undertaken. Insofar as there is a negative impact on this group it is considered to be justified.

<b>8. SEX: Someone being a man or a woman.</b>
State whether the impact is positive, negative, a combination of both, or neutral: <b>POSITIVE</b>
Describe the Impact
<p>8.1. While the Clinic offers some medical services for men, the overwhelming majority of service users are women. During their investigation in 2017-18 the council also established evidence that Pro-Life groups chose not to congregate outside the clinic during hours when a ‘male only’ service was being run.</p> <p>8.2. Similarly, while the witness testimony of service users and staff includes some evidence provided by men who raised concerns about the behaviours of those congregating outside, the overwhelming majority of concerns raised were made by or on behalf of women accessing the Clinic in relation to their pregnancy.</p> <p>8.3. Almost all staff and contractors practising at the Clinic are women. Witness testimony from members of staff, reports to police and staff incident reports almost exclusively feature a female victim. The purpose of the PSPO has been to tackle the behaviours driving incidents and therefore provide some protection to staff members and contractors as well as to the service users.</p> <p>8.4. The effect of the PSPO to date has been positive for women, given women as a group were disproportionately adversely affected by the behaviours the PSPO has sought to address.</p>

- 8.5. The NHS and Public Health England advise that females are more likely than adult males to access sexual health services. Whilst sexual health issues affect anyone who is sexually active, inequalities in sexual health mean some groups have poorer sexual health outcomes; this includes women.
- 8.6. When the PSPO was made, consideration was given to consultation responses highlighting the potentially negative impact of the 'designated area' within the PSPO on persons accessing services at the Gordon House Surgery and others passing through along Mattock Lane near the 'designated area', given that behaviours established to have had a detrimental impact have been permitted to continue here, albeit on a smaller scale. Although the Council has received complaints about the use of the designated area (which are addressed further below) there is no evidence to suggest that those using Gordon House Surgery have been affected.
- 8.7. In terms of those who have previously attended the location to engage in protest from a Pro-Choice perspective, the majority have been women. Pro-Choice protest has discontinued in the locality since the introduction of the PSPO and 'designated area'. The impact of a PSPO on this specific group is considered to be neutral on grounds of sex.
- 8.8. There is no specific data relating to the representation of men and women among groups attending the locality to engage in Pro-Life related protest / vigils and the make-up of these groups by gender has been observed by Council officers as changing day-to-day, with men sometimes making up the majority of a group on some days and women on others.
- 8.9. The impact of the PSPO on individuals and groups attending the locality to engage in Pro-Life related protest / vigil is negative, given it places restrictions on their behaviours. However, there is no evidence to indicate this has disproportionately affected any person within this group by virtue of their sex.
- 8.10. The Council has received reports from those living in and visiting the locality of the 'designated area' which the Pro-Life groups have used since the PSPO was implemented. The complainants are concerned about the repeated efforts by those using the designated area targeting them because they are women who may be in the area in order to visit the clinic.
- 8.11. Engagement or attempted engagement which takes place from the designated area is permitted by the PSPO. Such activity is very different from the direct targeting of service users at the entry point of the Clinic immediately before or after treatment. It is *that* activity which had a detrimental impact on the quality of life in the locality.
- 8.12. The Council has had to balance this (new) negative impact on women near the designated area against the negative impact on those who wish to congregate to impart information, express their views and express a manifestation of their religious beliefs (from the designated area). The balance lies in favour of continuing the period for which the PSPO has effect.

Alternatives and mitigating actions which have been considered in order to reduce negative effect:

Prior to the PSPO being introduced the Council undertook engagement work with Pro-Life groups in order to better understand their activities and in an attempt to negotiate a compromise that could address the detrimental effect of their activities on the quality of life of those in the locality, namely Clinic users, staff and others. This was unsuccessful. The extension of the period for which the PSPO has effect does not affect this analysis.

**9. SEXUAL ORIENTATION:** A person's sexual attraction towards his or her own sex, the opposite sex or to both sexes.

State whether the impact is positive, negative, a combination of both, or neutral:

**NEUTRAL**

Describe the Impact

- 9.1. There is no evidence to indicate that lesbian, gay or bi-sexual people are disproportionately represented among any group which have been affected by the PSPO, whether by controlling their behaviour or seeking to protect them. There is no available data on the sexual orientation of the persons affected by the PSPO.
- 9.2. While sexual health affects anyone who is sexually active, inequalities in sexual health mean some groups have poorer sexual health outcomes; this includes men who have sex with men (MSM). The PSPO area includes another clinic, Gordon House Surgery, which offers sexual health services. Consideration has been given to the potentially negative impact the behaviours addressed by the PSPO (and any extension of the period for which it has effect) could have on this group and the potentially negative impact the 'designated area' may have for MSM clients accessing sexual health services. There is no evidence of an impact on this group (MSM).

Alternatives and mitigating actions which have been considered in order to reduce negative effect:

None applicable other than in relation to the 'designated area'. The Council continues to keep under review the location, the size and the scope of conduct permitted within the "designated area" to ensure that safe passage is being provided to the clinic and to the Gordon House Surgery nearby for service users and staff. However, the outcomes of the appeals processes to date and feedback within the consultation, combined with the on-going evidence of impact of the PSPO, provide strong indicators that the council has overall achieved the right balance in defining the location and restrictions for the 'designated area'. This analysis applies if the period for which the PSPO has effect is extended.

**10. PREGNANCY & MATERNITY:**

Description: 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.

State whether the impact is positive, negative, a combination of both, or neutral:

**POSITIVE**

Describe the Impact

- 10.1. There is no data to indicate that pregnant women make up a disproportionate number of those attending the locality to engage in protest or vigils from either a Pro-Life or Pro-Choice perspective or of staff of the Clinic, residents and visitors in the area.
- 10.2. The overwhelming majority of Clinic service users are pregnant women. The impact of the PSPO on this group is considered to have been positive, as it has facilitated pregnant women to access health services specific to their needs.
- 10.3. In introducing the PSPO, the council considered the rights of pregnant women to access health services free from intimidation, harassment, distress and with dignity and privacy. It was clear that activities outside the Clinic among the represented groups were having a detrimental impact on quality of life for this group. In considering an extension of the period for which the PSPO has effect to beyond April 2021, this has been revisited and the impact on this group by the proposed extension is considered to be positive.
- 10.4. The engagement and research work undertaken by the council established a key explanation offered by those engaged in Pro-Life protest and vigils was that women may want to know the alternatives to termination of their pregnancy. Consideration was therefore given to the possibility that some pregnant women attending the Clinic, despite the advice and counselling offered to them as part of the Clinic's processes and the array of information available online, may remain unaware of alternatives to termination and may wish to engage with support from voluntary groups on the day they attend the Clinic for a consultation or procedure. With this in mind, the 'designated area' was created to allow a person wishing to do so to engage with groups offering 'Pro-Life' advice. By way of balance, the location of the designated area and the restrictions which apply there mean that any service users who wish to avoid interaction with Pro-Life groups whilst accessing the Clinic may do so.
- 10.5. All abortion clinics are registered with the Department of Health and abortion is a regulated activity under the Health and Social Care Act 2012 which means that they are governed by the statutory standards of care and procedures for regulation and governance. The Department of Health also issues standard operating procedures for the operation of independent abortion clinics with specific requirements including the provision of 24-hour aftercare (to enable women to contact the Clinic if they are worried about symptoms or side-effects), non-directive and non-judgemental pre- and post-abortion counselling from trained pregnancy counsellors, contraception counselling and provision, and sexually transmitted infection screening. The counselling offered by the Clinic is delivered by trained and appropriately qualified professionals and by virtue of the standard operating procedures this counselling is required to be non-directive.

10.6. In addition to this there are a range of regulated professional and voluntary services that exist for pregnant women who may be experiencing crisis (such as exploitation, domestic abuse or financial hardship). The Council will always seek to protect support for pregnant women who are affected by these issues. However, the evidence obtained by the council indicates that women do not wish to be approached on the street regarding decisions they have reached about their pregnancy at the moment they are accessing termination services. Prior to the implementation of the PSPO, the council had evidence of women being approached by members of Pro-Life groups upon *exiting* the clinic as well as attempting to enter it (i.e. after they have already received treatment), which these women would understandably have found particularly distressing).

Alternatives and mitigating actions which have been considered in order to reduce negative effect:

The 'designated area' is situated within sight of the entry point to the Clinic. Those wishing to seek information or support from the represented groups will be aware of their presence (due to the location of the area) and will be able to exercise a choice to seek assistance or engage with those groups. The council's position is that this will substantially mitigate any negative impact for pregnant women which results from the restriction of the representative groups' activities. This analysis remains valid if the period for which the PSPO has effect is extended.

## 11. MARRIAGE & CIVIL PARTNERSHIP:

Description: Marriage: A union between a man and a woman, or of the same sex, which is legally recognised in the UK as a marriage

Civil partnership: Civil partners must be treated the same as married couples on a range of legal matters.

State whether the impact is positive, negative, a combination of both, or neutral:

**NEUTRAL**

Describe the Impact

11.1. There is no data in relation to the proportion of clinic service users, staff, residents or groups involved in Pro-Life or Pro-Choice protest and vigils, who are single, married or in civil partnerships.

11.2. The impact on this group remains neutral, given there is no evidence that the PSPO has or would negatively or positively impact any person on the basis of their relationship status.

Alternatives and mitigating actions which have been considered in order to reduce negative effect:

NOT APPLICABLE

## 12. Human Rights

12a. Does your proposal impact on Human Rights as defined by the Human Rights Act 1998?

Yes  No

12b. Does your proposal impact on the rights of children as defined by the UN Convention on the Rights of the Child?

Yes  No

12c. Does your proposal impact on the rights of persons with disabilities as defined by the UN Convention on the rights of persons with disabilities?

Yes  No

12.1. In preparing this EIA the Council has had particular regard to the rights contained in Articles 10 and 11 of the European Convention on Human Rights. It has also had regard to the Public Sector Equality Duty found in s.149 of the Equality Act 2010 a copy of which is appended hereto.

12.2. Consideration has been given to the Equality Act (2010) and the European Convention on Human Rights, as well as the Council's Public Sector Equality Duty.

**The Equality Act 2010 and the European Convention on Human Rights ('ECHR')**

12.3. The Council is a public authority and the Human Rights Act 1998 requires it to act compatibility with the ECHR.

12.4. In addition, section 72(1) of the 2014 Act requires the Council to have *particular* regard to the rights protected by Article 10 (Freedom of Expression) and Article 11 (Freedom of Assembly and Association) when deciding whether to extend a PSPO.

12.5. The decision whether to extend the PSPO gives rise to some difficult issues arising under the Equality Act 2010 and the ECHR. These are difficult issues because the proposed extension of the order requires the Council to have regard to the *competing* rights of members of the various represented groups who engage in protest and vigils outside the Clinic and the rights of the service users/clinic staff.

12.6. A consideration of these rights requires the Council to consider how to achieve the appropriate balance between the respective rights. They are also difficult because an ECHR right can only be interfered with where the interference is in accordance with the law, necessary and in furtherance of a permitted objective. These issues are considered more fully below.

12.7. The Council must take account of Articles 8, 9, 10, 11 and 14 of ECHR. These are a combination of ‘absolute rights’ (meaning they cannot be interfered with by the state under any circumstances) and ‘qualified rights’ (meaning they may only be interfered with under specific circumstances). In considering interference with qualified rights, the Council is required to consider that any interference is:

*In accordance with the law and necessary in a democratic society in the interests of: National Security, Territorial integrity or public safety, the prevention of disorder or crime, the protection of health or morals or the protection of the reputation or rights of others*

12.8. The protection of the rights of others is engaged here. The following paragraphs outline the key Articles relevant to the decisions Members are asked to make. Members will then find a summary of how any interference is said to be permissible.

#### Article 8: Right to Private and Family Life

12.9. Article 8 of the ECHR protects a person’s right to *respect* for their private and family life, their home and their correspondence. Article 8 is a qualified right, which means it can be interfered with in certain situations, for example, to protect the rights of others

12.10. The PSPO does not interfere with any person’s right to private and family life. However, it does seek to *protect* the private and family life of those persons accessing services at the Clinic. Service users and staff are entitled to a degree of privacy when seeking or providing medical treatment, and access to treatment without fear of or actual harassment or distress. The High Court and Court of Appeal agreed with the Council’s submissions that Article 8 Rights of those accessing the Clinic are engaged.

#### Article 9: Right to Freedom of Thought, Conscience and Religion

12.11. Article 9 of the ECHR protects a person’s right to hold both religious and non-religious beliefs and protects a person’s right to choose or change their religion or beliefs. The PSPO is not seeking to interfere with this right and it does not seek to prohibit any activities that affect a person’s right to hold religious or non-religious views.

12.12. Article 9 additionally protects a person’s right to manifest their beliefs in worship, teaching, practice or observance. For example the right to talk and preach about their religion or beliefs and to take part in practices associated with those beliefs. The right to manifest one’s religion or beliefs is a qualified right, which means it can be interfered with in certain situations, for example, to protect the rights of others.

12.13. The Council is aware that some of the represented groups believe that their activities are part of their right to manifest their religion or beliefs. Members are advised that these are important rights and that the Council should be reluctant to interfere with those rights. Where the Council does interfere it must ensure that any interference is in accordance with the law (this is addressed later in this report), and is necessary (also addressed more fully later in this report) to ensure the protection of the rights of others. The proposed PSPO extension would interfere with these Article 9 rights. This is a delicate balancing exercise in which any interference with the right must be in accordance with the law and necessary to protect the rights of others.

#### Article 10 Right to Freedom of Expression

12.14. Article 10 of the ECHR protects the right of everyone to freedom of expression. This includes freedom to hold opinions and to receive and impart information and ideas without interference by public authority. Article 10 is a qualified right, which means it can be interfered with in certain situations, for example, to protect the rights of others.

12.15. Again, this is an important fundamental right in any democracy. It includes the entitlement to express views that others might disagree with, find distasteful or even abhorrent. Article 10 provides a protection to express those views and is an important part of a free and democratic society.

12.16. It is important to consider that individuals from Pro-Life represented groups stated that they attended the Clinic to impart information to women accessing services and that the proposed PSPO would interfere with their Article 10 rights. It should also be noted that the PSPO has interfered with the Article 10 rights of Pro-Choice represented groups. In addition, the PSPO interferes with the rights of people to receive the information being imparted. Consequently an extension of the PSPO would continue to interfere with those rights.

12.17. In deciding whether to extend the period for which the PSPO has effect, the Council has to balance the rights of pregnant women to access health services free from fear of intimidation, harassment or distress and with an appropriate level of dignity and privacy against the Article 10 rights of Pro-Life and Pro-Choice represented groups to impart information and ideas relating to the termination of pregnancy and the rights of people to receive information. This is a delicate balancing exercise in which any interference with the right must be in accordance with the law and necessary to protect the rights of others. Both of these considerations are addressed more fully later in this section.

#### Article 11 Right to Freedom of Assembly and Association

12.18. Article 11 of the ECHR protects everyone's right to freedom of peaceful assembly and to freedom of association with others. Article 11 is again a qualified right, meaning it can be interfered with in certain situations, for example, to protect the rights of others.

12.19. The right to freedom of assembly includes peaceful protests and demonstrations of the kind seen outside the Clinic. The PSPO will interfere with the Article 11 rights of both Pro-Life and Pro-Choice represented groups in the locality of the Clinic. The Council therefore needs to balance the rights of pregnant women to access health services free from fear of intimidation, harassment or distress against the Article 11 rights of Pro-Life and Pro-Choice groups. This is a delicate balancing exercise in which any interference with the right must be in accordance with the law and necessary to protect the rights of others.

#### Article 14 Right to Freedom from Discrimination

12.20. Article 14 of the ECHR provides '*The enjoyment of the rights and freedoms set forth in this European Convention on Human Rights shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.*' It is therefore not a free-standing Article but rather one which relates to the engagement of other Articles, and discrimination in the manner in which people are entitled to enjoy those rights.

12.21. Article 14 needs to be considered by the Council, given the proposed PSPO targets the activities of groups which identify with a specific religion and belief (namely Christianity).

#### **Is the interference 'in accordance with the law'?**

12.22. If Members are satisfied that the statutory tests and conditions for extending the period for which the PSPO has effect are met, and that any disadvantage caused to protected groups by the PSPO is a proportionate means of achieving a legitimate aim, any interference with the relevant ECHR right will be in accordance with the law.

#### **Is the interference 'necessary in a democratic society'?**

12.23. The Council has had regard to the content of the relevant rights as summarised above. The Council recognises that all of the rights highlighted, but Articles 10 and 11 in particular, are important rights in a free and democratic society.

12.24. If the Council wishes to interfere with these rights, the interference must be 'necessary' in order to achieve a stated aim; in this case the aim the Council

has sought to achieve is the protection of the rights and freedoms of others. Those rights and freedoms include the freedom to access healthcare services without impediment or interference. The Council has to consider whether this objective is sufficiently important to justify limiting fundamental rights.

12.25. 'Necessary' means that the interference must be connected to achieving the stated objective and must not interfere to any greater extent than is required in order to achieve it. In other words the PSPO must strike a fair balance between the competing rights of the represented groups and those affected by their activities.

12.26. The ECHR rights were firmly in mind during the formulation of PSPO. These considerations have been kept under review throughout the process of considering whether the period for which the PSPO has effect should be extended.

12.27. The principle issue identified by the evidence is the presence of the represented groups at the entry point to the Clinic and their desire to engage with the service users and staff. The evidence obtained by the Council investigation in 2017-18 demonstrated that the location of the groups, independently of what they do whilst they are there, is a problem in and of itself because service users were sometimes impeded from entering the clinic, feel as though they are being watched or 'judged', are approached and spoken to about the procedure they are considering having or have already undergone, are given leaflets and 'boy' and 'girl' colour-coded rosary beads, and are called 'Mum'. Partners and relatives supporting service users have also been approached and spoken to and have reported being distressed by the activities. Several service users provided evidence to the Council that these activities had a long-term impact on their mental health and wellbeing. These activities have continued within the 'designated area' throughout the time the PSPO has been in place and it is very likely that the activities will return in full to the area outside the Clinic should no action be taken and the PSPO be allowed to expire.

12.28. The evidence base demonstrates that there was a detrimental effect on the quality of life of other persons who are living in or otherwise visiting the locality. There is no evidence to suggest that the activities would not cause further detrimental effect if they recurred or recommenced outside the Clinic. The PSPO restrictions are directed at reducing the identified detrimental effect.

12.29. Balanced against this, represented groups say that their presence (of itself) should not be problematic, nor should the handing out of leaflets or attempting to speak to the service users/staff. They deny filming, shouting at or following Clinic service users or their partners, relatives and friends; they deny calling Clinic users 'murderers' or telling clinic users that they will be 'haunted'.

12.30. The Council's position is that whilst it may be correct that not *all* of the Pro-Life represented groups or their members engaged in all of these behaviours, there was a reasonable body of evidence that *some* Pro-Life activists did and that there would be no alteration in their behaviour absent an order which imposed restrictions on their activities.

12.31. The Council has considered its previous Options Assessment, which formed part of the report to Cabinet in January 2018. Officers had regard to a broad range of powers to deal with the activities that are having a detrimental effect on the quality of life of those in the locality. Careful consideration was given to whether there were alternative means of achieving a reduction or elimination of the detrimental effect on the quality of life of those in the locality. Each option had its own advantages and disadvantages.

12.32. The main issue for the Council is whether the PSPO remains a proportionate means of achieving a reduction / elimination of the detrimental effect on the quality of life of those in the locality. Enforcement options which attach to an individual are not thought to be appropriate here as the people present outside the Clinic differ from day to day. In addition, any such options would likely require evidence to be provided or action to be taken (such as making reports to the police or the Council) by individual Clinic service users or staff who had interacted with the individual concerned. This is not thought to be realistic or appropriate given the circumstances in which service users attend the Clinic. The best fit is thought to be a solution which attaches to the space as opposed to an individual. The Council concludes that the continued interference with ECHR rights is in accordance with the law and necessary to protect the rights and freedoms of others.

12.33. The Council has also had regard to the fact that (as outlined in the Report to Cabinet) there have only been three alleged breaches of the PSPO since it was introduced in April 2018. Only one of these incidents resulted in a Fixed Penalty Notice, which was paid in full and on time. This suggests that the PSPO is working well, is clearly understood by members of the public and the represented groups, and has had its intended effect. Moreover this does not suggest that the PSPO or its enforcement is imposing an unreasonable or disproportionate burden on the police or Council officers.

### **The public sector equality duty ('PSED')**

12.34. Section 149 of the Equality Act 2010 requires the Council in the exercise of its functions to have due regard to the need to:

- a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the 2010 Act;

- b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are:

- Age
- Disability
- Gender reassignment
- Pregnancy and maternity
- Race
- Religion or belief
- Sex,
- Sexual orientation

12.35. Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

12.36. Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- (a) tackle prejudice, and
- (b) promote understanding.

12.37. Members should be aware that compliance with the duties in this section may involve treating some persons more favourably than others.

12.38. The law also requires that the duty to have 'due regard' is demonstrated in the decision making process and the Council must be able to demonstrate that decisions are made in a fair, transparent and accountable way, considering the needs and the rights of different members of the community.

This is achieved through assessing the impact that imposing restrictions and prohibitions through a PSPO could have on different protected groups and, where possible, identifying methods for mitigating or avoiding any adverse impact on those groups.

12.39. The Council's assessment of the impact of the PSPO on different protected groups and the mitigation steps identified in relation to each group has been set out in previous sections of this EIA. In deciding whether the period for which the PSPO has effect should be extended, the Council has had full and proper regard to its continuing duties under the PSED.

### **Summary**

12.40. The Council has considered whether:

- I. the need to provide service users, staff and visitors with safe, unimpeded access to the Clinic and through the safe zone is sufficiently important to justify continuing to limit important fundamental rights;
- II. whether the proposed extension of the period for which the PSPO has effect meets the objective of facilitating that access;
- III. whether the proposal is no more than is necessary to accomplish that objective and
- IV. whether the proposal strikes a fair balance between the rights of the represented groups and those affected by their activities.

12.41. In making a decision on whether to introduce an order, the Council must balance the various rights of the Clinic service users, staff, family members, residents, visitors and those of the vigil and protest members, ensuring due consideration of these competing interests.

12.42. This EIA identifies that some protected groups are negatively affected by the PSPO, as well as the mitigating measures that have been implemented.

12.43. On balance the Council considers that it is appropriate to extend the period for which this carefully drafted PSPO has effect.

## **CONCLUSION**

### **13. Conclusion**

13.1. The PSPO has been successful in addressing the detrimental impact of abortion related protests and vigils taking place outside the Clinic. The positive impact of the council's action has been felt by Clinic staff, service

users, those that attend to support service users, residents of and visitors to the area.

- 13.2. The evidence obtained by the council through its investigation, substantial consultation and continual review of the order, provides a reasonably sufficient evidence base to reach this conclusion.
- 13.3. Reports submitted to the Council as part of its consultation exercise demonstrate that the impact of the order has been largely welcomed by those who use the area and those who have visited the clinic. The impact on women and, in particular, pregnant women has to this extent been positive.
- 13.4. Written responses to the consultation from *Sister Supporter* and responses from others involved from a Pro-Choice perspective note there has been no negative impact on them and that the overall impact of the order has been positive for people living in the area and, in particular women and pregnant women.
- 13.5. Responses to the consultation indicate a smaller number of people who have raised significant concerns that the PSPO has prevented individuals from manifesting their religious views and imparting advice to women accessing the Clinic. Some of these comments have come from individuals who have participated in protest from a Pro-Life perspective and others from people who sympathise with their views or simply have concerns about the interference by the local authority in the matter of prayer and protest. It is acknowledged that, in implementing a PSPO, the council did negatively impact some individuals in relation to their expression of religious beliefs. Significant steps were taken in the implementation of the PSPO to mitigate this negative impact (including through careful formulation of the restrictions and by inclusion of the designated area). As part of the recommended extension of the order to April 2024, the negative impact on these groups has again been carefully considered and balanced against the wider positive impact on others.
- 13.6. Alternatives to extending the PSPO have been considered, such as taking no action and allowing the order to expire. A full Options Assessment was prepared prior to the decision in April 2018 to make the PSPO and the alternative options to extending the order have been considered again. However, efforts by the council to previously engage with Pro-Life represented groups and agree on acceptable activities outside the Clinic by way of a negotiated settlement were not successful and it has been clear from the information presented by those groups in court, through the recent consultation and in the press and social media, that they remain very firmly committed to the argument that a number of the behaviours targeted by the PSPO (including approaching Clinic service users directly and using graphic images) are critical to their mission and their work. It is evident from their current actions and words that, should the PSPO be allowed to expire, they will likely return to the same behaviours that have been established to cause distress, harassment and intimidation to those the PSPO is designed to protect.
- 13.7. Pro-Life groups maintain that their location and tactics are key to their strategy to engage with service users and to offer them counselling and

support. Pro-Choice representatives were similarly clear, prior to the introduction of the PSPO, that they would be unwilling to voluntarily cease their own protest activities and vacate the area without corresponding concessions from Pro-Life groups.

- 13.8. Evidence collected in November – December 2017 showed that activities causing concern were continuing outside the Clinic, despite the Council's prior engagement with the representative groups involved and explaining to them the harm their activities were having. The Pro-Life groups did not accept that there is evidence to suggest their activities are having any detrimental impact on those in the locality, including on service users and Clinic staff. Since that time, represented Pro-Life groups have suggested within the court proceedings and through the tenor of their consultation submissions that any detrimental effects on service users are outweighed by their overall goal of reducing the number of abortion procedures.
- 13.9. The Pro-Life groups have had ample time to suggest alternative proposals both before the original PSPO was made and in response to consultation when consideration has been given to extending the period for which it has effect. No alternative proposals were made in 2018 and no suggestions have been offered in the responses to the recent consultation on whether the period of the PSPO should be extended. In addition, as explained above, the Pro-Life groups have continued to use the designated area (as they are permitted to do). There is presently no evidence to suggest that they would remain in that location when the PSPO expires or would otherwise restrict or amend their activities. Further it is noted that GCN has continued its protest/vigil activity at other clinic locations and maintains staff on its payroll for such purposes (the evidence adduced in the legal challenges was that it had 12 staff on its payroll).
- 13.10. The Council concluded in 2018 that lesser measures would not be effective to address the behaviours impacting residents and visitors, and that some form of order was necessary and proportionate in order to achieve its aim of ensuring that service users can enjoy safe access to health care services without fear of harassment, alarm or distress and with an assurance of dignity and privacy which they were previously denied. Since being in place, the PSPO has reduced the detrimental effect of the activities on the quality of life of staff, residents and visitors.
- 13.11. The Council remains of the view that lesser measures will not be effective to address the behaviours complained of, and that an extension of the PSPO is necessary and proportionate in order to maintain the improvement in quality of life.
- 13.12. In completing this EIA the Council has had due regard to its Public Sector Equality Duty pursuant to s.149 of the Equality Act 2010. In particular the council considers that its aims in adopting and seeking to extend the PSPO dovetail with its duties to have due regard to the need to eliminate discrimination, harassment, victimisation and other conduct prohibited by the Equality Act; and to advance equality of opportunity, eliminate discrimination and remove or minimise disadvantages suffered by persons who share a

relevant protected characteristic when compared to persons who do not have that characteristic.

- 13.13. Balanced against this, the Council acknowledges and recognises that continuing the PSPO will adversely affect persons of the Christian faith, to the extent that it will prohibit their protest / vigil activities within a limited geographical area and restrict their ability to express their political and religious views, particularly by imposing restrictions on their right to engage in abortion-related prayer within the safe zone. The Council acknowledges that this represents a continued infringement of their rights to freedom of expression, thought, conscience and religion which will cause them particular disadvantage compared to persons who do not share their faith or any faith, and which thus causes them disadvantage.
- 13.14. However, moving forward (and with the benefit of clear judgements from the High Court, Court of Appeal and Supreme Court), the Council's position is that this infringement of rights remains justified as a proportionate means of achieving a legitimate aim and thus does not amount to indirect discrimination. Balanced against the adverse impact on persons of the Christian faith, there are clear positive benefits for women, particularly pregnant women and young women under the age of 19, who are over-represented within the Clinic's service users. It is important to recognise that this group includes children accessing health services, who may be considered vulnerable and in particular need of protection from harassment and distress. The analysis also identifies likely positive benefits for persons from BAME backgrounds who appear to be over-represented amongst both service users and residents of the area, and who are particularly likely to benefit from any overall improvement in access to the Clinic and in quality of life as a result of the continuing PSPO.
- 13.15. The Council has sought to ensure that adverse impacts on Pro-Life representative groups and their members as a result of the PSPO are minimised as much as possible. The safe zone created by the PSPO has been kept as small as possible and is limited to the area immediately adjacent to the Clinic. The restriction of activities within the safe zone is further mitigated by the creation of the 'designated area', where a small number of persons (4) are permitted to congregate and engage in protest activities / vigils, displaying posters, text or images and engaging in prayer and counselling. Pro-life groups have made use of this facility more or less on a full-time basis since the PSPO was first introduced. GCN's consultation response confirms that the group have in fact been able to contact and/or interact with Clinic service users from the designated area, albeit in lower numbers than when they previously sought to do so at the entrance to the Clinic. Pro-life groups have also carried out prayer vigils at the boundary of the PSPO safe zone, and local protests outside the Council's offices a short walk away from the PSPO area.
- 13.16. Although concerns have been raised since the introduction of the PSPO and through the consultation that the 'designated area' and activities permitted therein may cause a negative impact for groups including women, pregnant women, young women and members of the LGBT community accessing the clinic, the council has concluded that the provision of the 'designated area'

strikes a more proportionate balance between the competing rights of those affected by the order.

13.17. The Council has continually kept the impact of the PSPO, and in particular its impact on all groups affected, under continuous review. In particular the size, location and activities permitted within the 'designated area' have been kept under review to ensure that the PSPO achieves its intended aims of eliminating or reducing harassment and distressing behaviour on the one hand, without causing a disproportionate interference with the rights of representative groups and their members on the other.

13.18. The order has additionally been subject to significant additional scrutiny, with an appeal of the PSPO having been considered by the High Court and subsequent appeals which upheld the order, being considered by the Court of Appeal and Supreme Court. The outcome of that process to date has been that the order has been upheld in its entirety and a conclusion that the Council has struck the right balance in relation to the competing rights and impact on equalities matters for all involved.

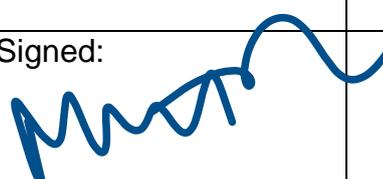
**14. What evidence, data sources and intelligence did you use to assess the potential impact/effect of your proposal?** Please note the systems/processes you used to collect the data that has helped inform your proposal. Please list the file paths and/or relevant web links to the information you have described.

Office for National Statistics (ONS):

- 2011 Census data (UK)
- 2011 Census data (Ealing)
- Ealing's 2016 Annual Population Survey (APS)
- Monitoring data from British Pregnancy Advisory Service (BPAS)
- Appendix 1: Copy of April 2018 Cabinet report and link to all appendices and evidence considered by Cabinet in April 2018.
- Appendix 2: Copy of Cabinet report of November 2020
- Appendix 3a: High Court judgement, dated 2<sup>nd</sup> July 2018
- Appendix 3b: Court of Appeal judgement, dated 21<sup>st</sup> August 2019
- Appendix 3c: Supreme Court certificate of decision, dated 10<sup>th</sup> March 2020
- Appendix 4a(i): Summary of online survey responses
- Appendix 4a(ii): Detailed report of online survey
- Appendix 4b: Responses from statutory and non-statutory consultees
- Appendix 4c (CONFIDENTIAL): Copies of email / letter responses to consultation.
- Appendix 4d (CONFIDENTIAL): Full unabridged data collation from online survey.
- Appendix 5: Equalities Impact Analysis

<b>Action Planning: (What are the next steps for the proposal please list i.e. what it comes into effect, when migrating actions<sup>1</sup> will take place, how you will measure impact etc.)</b>				
Action (in event of decision to implement a PSPO)	Outcomes	Success Measures	Timescales/ Milestones	Lead Officer (Contact Details)
Notification to all statutory consultees to notify them of the outcome of the Cabinet decision	All statutory consultees are personally informed of the order	Awareness across statutory partners of the order's prohibitions and enforcement strategy	April 2021	Mark Wiltshire
Engagement and education of local residents, represented groups and clinic staff and members.	Use of local engagement exercises, enhanced patrols, signage and publicity to educate interested parties	Local awareness of the PSPOs conditions and enforcement plan	April 2021	Jess Murray
Additional Comments:				

**Sign off: (All EAA's must be signed off once completed)**

Completing Officer Sign Off:	Service Director Sign Off:	HR related proposal (Signed off by directorate HR officer)
Signed:  Name: Paul Murphy (Safer Communities Operations Manager)	Signed:  Name: Mark Wiltshire (Director of Community Development)	Signed: N/A Name (Block Capitals): N/A Date:

2020 Full Equalities Analysis Assessment

Date: 27/01/2021	Date: 28/01/2021	
For EA's relating to Cabinet decisions: received by Committee Section for publication by (date):		

## Appendix 1: Legal obligations under Section 149 of the Equality Act 2010:

As a public authority we must have due regard to the need to:

- a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
  - The protected characteristics are: AGE, DISABILITY, GENDER REASSIGNMENT, RACE, RELIGION & BELIEF, SEX, SEXUAL ORIENTATION, PREGNANCY & MATERNITY, MARRIAGE & CIVIL PARTNERSHIP
  - Having due regard to advancing equality of opportunity between those who share a protected characteristic and those who do not, involves considering the need to:
    - a) Remove or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic
    - b) Take steps to meet the needs of persons who share a relevant characteristic that are different from the needs of the persons who do not share it.
    - c) Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
      - Having due regard to fostering good relations between persons who share a relevant protected characteristic and persons who do not, involves showing that you are tackling prejudice and promoting understanding.

Complying with the duties may involve treating some people more favourably than others; but this should not be taken as permitting conduct that would be otherwise prohibited under the Act.