



Equality Impact Analysis: (EIA)

Section 1: Introduction

Name of Proposal: Borough wide Public Spaces Protection Order to deal with possession and use of novel psychoactive substances used as intoxicants which causes or is likely to cause harassment, alarm or distress, nuisance or annoyance.

For the purpose of this document, 'proposal' refers to a policy, function, strategy or project)

Service area & Directorate responsible **Community Safety - HAC**

Name of completing officer **Barry Scales**

Approved by Director/Head of Service **Calvin McLean**

Date of approval **17 November 2020**

Conclusion - To be completed at the end of the Equality Impact Assessment process

This summary will provide an update on the findings of the EIA and what the outcome is. For example, based on the findings of the EIA, the proposal was rejected as the impact on a particular group was disproportionate and the appropriate mitigations in place. Or, based on the EIA, the proposal was amended and alternative steps taken)

The proposal will be able to continue with some minor mitigations in place and included in this Equality Impact Assessment.



The Equality Act 2010 places a 'General Duty' on all public bodies to have 'due regard' to:

- Eliminating discrimination, harassment and victimisation and any other conduct prohibited under the Act
- Advancing equality of opportunity between those with 'protected characteristics' and those without them
- Fostering good relations between those with 'protected characteristics' and those without them



Where a proposal is being taken to a Committee, please append the completed equality analysis to the cover report.

This Equality Impact Assessment provides evidence for meeting the Council's commitment to equality and the responsibilities outlined above, for more information about the Council's commitment to equality; please visit the Council's website.

Section 2 – General information about the proposal

Provide a description of the proposal including the relevance of proposal to the general equality duties and protected characteristic pursuant to Equality Act 2010.

2.1. 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. A Public Spaces Protection Order (PSPO) 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'

2.2. Introducing a PSPO requires extensive consultation including with local politicians and this process is itself resource intensive. Any prohibitions need to be carefully thought through to ensure no one group is disproportionately impacted e.g. the vulnerable and homeless. Introducing a PSPO can raise expectations within the local community that the area will be properly resourced and issues addressed, if not, this presents a reputational risk to the council and police.

2.3. 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.

2.4. The proposal is for the introduction of a borough wide PSPO in response to the increase of reported use of nitrous oxide. The use of nitrous oxide is more often associated with anti-social behaviour which takes place in a number of forms from littering 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 bi-weekly tasking process that is well established at LBTH and used in conjunction with the deployment of support/diversionary agencies. 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.

2.5. The proposal is to introduce a prohibition on the use and possession of Novel Psychoactive Substances in a public space (chemical substances which produce similar effects to illegal drugs).
Prohibition: 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.

2.6. 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 Tower Hamlets by the introduction of the PSPO. It is completely acknowledged that this step must be duly considered against both the Public Sector Equality Duty but also overall Human Rights implications. This is why 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 effect ASB. This balances the rights of individuals who might be subject to this 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.

2.7. General ASB – Police

Overall, LBTH has the second highest level of reported ASB in London. Reports made to the Police regarding ASB incidents within Tower Hamlets have also increased year on year for the past 2 years. The table below shows that there was an increase of 4.4% in FY 2018-2019 and another increase of 14.5% in FY 2019-2020.

	17-18	18-19	19-20
April	1379	1369	1327
May	1227	1310	1487
June	1159	1345	1688
July	1493	1477	2005
August	1492	1354	1891
September	1153	1168	1483
October	1286	1245	1407
November	1179	1280	1253
December	903	1029	1052
January	1195	1160	1106
February	967	1105	1095
March	1029	1254	1492
Total	14462	15096	17286
VS previous FY	Down 21%	Up 4.4%	Up 14.5%

2.8. Specifically in relation to drugs and alcohol misuse - In 2016, the Community Safety Partnership met to review the findings of a public consultation exercise and a review of the strategic assessment. As a result, anti-social behavior including drugs and alcohol misuse was identified as the issue of most concern with over 24% of those who replied identifying it as the most significant issue of concern.

2.9. Since 2018, four petitions have been received from residents concerned at the level of ASB and drug related activity taking place in their area. During the period 2019/20, 22 mayoral and members enquiries have been received concerning ASB related issues of those 4 specifically mention the use of nitrous oxide.

2.10. As part of the recent consultation for the renewal of the current borough wide responsible drinking PSPO, of 172 responses, all of which were in favour of renewal, 41 said they wanted to see misuse of NOX added as a prohibition. This was not practicable but consideration of a separate order began. Further extensive consultation will be undertaken in relation to this journey of this specific proposal.

11. Discussions with support services have indicated that although misuse of NOX is often undertaken by usually groups perhaps along with alcohol, it is also used on occasions in conjunction with class B and Class A drugs. There is concern that the Finds of the NOX cannisters indicate that even without any more evidence of harder drugs misuse, it is a driver for ASB both environmentally with the large numbers of cannisters discarded, but also the links to its use and antisocial behaviour.

12. In September this year, an extensive exercise of accurately monitoring finds of 5 or more cannisters by the public, park rangers, waste operatives, THEOs, Tower Hamlets Homes staff and staff from housing associations was undertaken to comprehensively map the incidences. There were 536 individual finds of 5 or more in that month with many thousands of cannisters found overall. This allowed for the production of a hot spot map and when overlain with maps of reported ASB, revealed similar areas of incidents of both NOX cannisters and ASB. Of course, this does not prove a direct sole



attribution of misuse of NOX to all ASB but indicates that it is still a key element of a serious and growing problem of antisocial behaviour.

Section 3 – Evidence (Consideration of Data and Information)

What evidence do we have which may help us think about the impacts or likely impacts on service users or staff?

3.1. Obtaining definitive data both locally and nationally about users of NOX and other similar intoxicants is challenging. It is not possible to provide explicitly relevant targeted data relating to categories of the protected characteristics as regards use of these substances. Because use and possession is not an offence there is also very little useful data from police sources. There is anecdotal evidence through ASB reports and consultation with groups such as support agencies and other practitioners that it is a range of individuals and not, as is often thought to be the case, an exclusively young (sub 18 years old) cohort or in the main from one BAME group for example. In particular one of the areas affected by this form of substance misuse along with other substances and connected with ASB is the north of the borough and the Night Time Economy area adjacent to that of the London Borough of Hackney. Here the groups involved are from a broad demographic.

3.2. A number of consultations were conducted while preparing the PSPO proposal, with several active Third Sector, In-House and other commissioned services providing a range of support for young people and young adults in the borough. This did reveal growing concern that more and more young people and young adults from different backgrounds and communities overall, are trying out this activity which is becoming more casual.

3.3. Work with the LBTH Youth Hubs indicated that it is also a misconception that NOX use is exclusively linked to groups of young people that are more prone to be causing ASB as a result, or within the NEET category (not in education, employment or training). It is certainly used by college students and older school children. The views expressed inferred that although it is accepted that misuse does link with ASB to a significant degree, general recreational use, not necessarily leading to ASB, also is now another significant feature.

3.4. A number of views from the support organisations did indicate that there is usage amongst Bangladeshi, mainly male members of the population of ages into late 20s, often using in and from vehicles. But as mentioned above, it is not exclusively this group of users, with those from other communities in the Borough also more actively represented. The implementation of the PSPO will be controlled by intelligence led and tasked enforcement to incidences of ASB only and not simply targeting general possession and use. This will therefore be a key control measure to ensure that there will be no disproportionate impact upon any particular group.

3.5. The approach intended for any implementation of a PSPO for these substances has been informed by and is comparable to the borough's approach to the misuse of alcohol, the possession and use of which like NOX is not an offence. There is alcohol related antisocial behaviour in this borough and with the current responsible drinking PSPO, it is only enforced where the misuse is causing or likely to cause ASB and so is designed to reduce the detrimental impact on the community in a targeted manner.

3.6. There is an important deterrent effect of implementing a PSPO and ensuring it is well publicised. The communications will be planned and conducted effectively, taking into account the various groups that are involved in this behaviour and the best means of communication with them generally but also specifically for those with protected characteristics, reducing the likelihood that any will be disproportionately affected.

3.7. Specific questions posed of a range of young people attending the Youth Hubs also revealed that there was paradoxically both ignorance by some of the effects of NOX but also by others, some quite detailed knowledge. Taking this into account and also comments from some of the third party providers



and others, that often parents are also ignorant of the effects of such intoxicants, it does indicate that a wider awareness and education strand to the implementation of this PSPO will be key. A full communications strand is being established in advance of implementation and during its first months if implemented.

3.8. Public Health colleagues at LBTH were consulted and asked for their views on the use of a PSPO to manage the negative issues of the misuse of these substances. They expressed the view that they were in favour of such a measure with some suggestions about warnings initially and with clear signposting to support services for those subject to any actions. This is picked up below.

3.9. Feedback from the respondents at the Youth Hubs when they spoke of their experiences of using or witnessing use of NOX, along with evidence from other sources and research shown below does indicate, both physiological and practical negative health impacts resulting from use of NOX and other psychoactive substances. Research has developed in recent years demonstrating negative impacts on physical health. Some of these include:

- Nitrous oxide is more water soluble than oxygen which decreases oxygen delivery to the brain and can lead to asphyxia (Ehirim, Naughton, Petróczi; 2017);
- Abuse of nitrous oxide can lead to a vitamin B12 deficiency. Low or low-normal levels of B12 are associated with psychiatric effects such as psychosis, peripheral neuropathy and other medical effects relating to blood flow (Ehirim, Naughton, Petróczi; 2017);
- Severe negative impact on mental health from NPS misuse includes; agitation, insomnia, catatonia, anxiety, aggression, psychosis, hallucinations and suicidal ideation (Public Health England; 2017);
- NPS affect many physical systems in the body, such as; the cardiovascular system, leading to conditions like tachycardia, hypertension, and cardiac arrest; the central nervous system, resulting in seizures, collapse, dystonia; the pulmonary and the renal system; the musculoskeletal system and many more (Karila L, et al.; 2015).

From a purely safety perspective and in relation to how we know such substances are currently misused concerning motor vehicles, use whilst driving is clearly a significant risk to the user and other members of the community. However, this already falls to be dealt with by current Road Traffic legislation enforced by the police separately outside of any powers conferred by a PSPO.

3.10. To ensure that there is meaningful support/engagement for those dealt with as a result of the PSPO, whether subject to enforcement or not, implementing the PSPO in the way set out, will provide an opportunity for enforcement officers to engage with those found in possession of nitrous oxide and significantly, offer a referral pathway into our substance misuse services where there has been considerable investment by the council.

3.11. Dealing with misuse of NOX and other substances when it is connected with ASB plus an awareness and education campaign and routes to treatment or diversion, will impact all groups but not have any disproportionate impact on any particular groups. Overall, the impact on the wider community will be very positive as it addresses key issues that have been highlighted in resident's surveys as being of significant concern to them for many years.



Name of officer completing the EIA: Barry Scales

Service area: Community Safety – Health, Adults and Community

EIA signed off by:

Date signed off:



Section 4 – Assessing the impacts on residents and service delivery

	Positive	Negative	Neutral	Considering the above information and evidence, describe the impact this proposal will have on the following groups?
Age (All age groups)	<p>Results of targeting NOX misuse and ASB will positively impact the wider community and all age groups.</p> <p>Those of younger groups engaged in misuse and ASB will also be able to benefit from any diversion away from substance misuse if encountered.</p>	<p>Younger persons (up to late 30s) are mainly engaged in this behaviour and will be likely to be subject of any actions</p>		<p>The purpose of a PSPO and the test to be met before implementation is that the behaviour being addressed must be having or likely to have a detrimental effect on the life of those in the locality. It must be persistent or continual and be unreasonable. Misuse of NOX and as a result causing ASB fits this test and overall, benefits the whole community regardless of age if addressed by the PSPO.</p> <p>However, although younger age groups are likely to be subject to any enforcement, it will only be if they are engaging in ASB, not just possessing the substances in other circumstances and so would be subject to enforcement in any case if encountered committing ASB. They will also be able to take advantage of any referrals to support services.</p>
Disability (Physical, learning				<p>It is not anticipated that the proposal will have a disproportionately negative or positive impact as it</p>



difficulties, mental health and medical conditions)				relates to this characteristic.
Sex		It is mainly males involved in this activity		Any engagement using the powers of the PSPO will likely be involving males. However, they will be subject to the same approach as all other persons and only subject to any enforcement if engaged in ASB. They will be given opportunities to engage in activity that will divert them from it and thus have a positive long term impact.
Gender reassignment				It is not anticipated that the proposal will have a disproportionately negative or positive impact as it relates to this characteristic.
Marriage and civil partnership				It is not anticipated that the proposal will have a disproportionately negative or positive impact as it relates to this characteristic.
Religion or philosophical belief		A number of persons of Muslim beliefs engage in misuse of NOX and other substances and do so away from their homes for cultural reasons.		All persons encountered will be subject to enforcement if their possession or use of these substances is related to their committing antisocial behaviour. It will not affect people, including those with a Muslim faith, if they are in a cohort that does possess NOX but does not engage in any ASB that causes detriment to the wider community. The PSPO will not affect them.
Race		A number of persons		All persons encountered will be subject to enforcement if their possession or use of these substances is related



		from the Bangladeshi community engage in misuse of NOX and other substances and do so away from their homes for cultural reasons.		to their committing antisocial behaviour. It will not affect those persons, including those from the Bangladeshi community, if they are in a cohort that does possess NOX but does not engage in any ASB that causes detriment to the wider community. The PSPO will not affect them.
Sexual orientation				It is not anticipated that the proposal will have a disproportionately negative or positive impact as it relates to this characteristic.
Pregnancy and maternity				It is not anticipated that the proposal will have a disproportionately negative or positive impact as it relates to this characteristic.

Other				
Socio-economic				It is not anticipated that the proposal will have a disproportionately negative or positive impact as it relates to this characteristic. The misuse of NOX and similar substances is not an activity particularly associated with any socio economic group.
Parents/Carers	There is likely to be benefit to parents and			It appears from the research and from practitioners close to this area of work, that parents and carers are not as well versed in the prevalence or consequences



	cares by increasing their awareness because of the educational communications that are planned as part of implementation			of this activity. In order to support those they care for who may be involved of likely to be involved, the awareness and education elements of the implementation stance will be of benefit.
People with different Gender Identities e.g. Gender fluid, Non-Binary etc				It is not anticipated that the proposal will have a disproportionately negative or positive impact as it relates to this characteristic.
AOB				None



Section 5 – Impact Analysis and Action Plan

Recommendation	Key activity	Progress milestones including target dates for either completion or progress	Officer responsible	Progress
Professionally researched and delivered communications programme that will raise awareness of the prevalence, consequences and reasons for action against misuse of NOX and other similar substances.	Development of a targeted communications strategy and delivery plan	Completed strategy and action plan by February 2021	Lucy Fordham	

Section 6 – Monitoring

Have monitoring processes been put in place to check the delivery of the above action plan and impact on equality groups?

Yes?

No?

Describe how this will be undertaken:

The PSPO will be subject to annual reviews and this element will be subject to that monitoring. Feedback from practitioner groups who highlighted the issue of lack of awareness generally and in particular by parents and cares in the proposal consultation to be sought. They are in touch with the individuals and families of those who may be misusing NOX and engaging in ASB.

Appendix A

Equality Impact Assessment Decision Rating

Decision	Action	Risk
<p>As a result of performing the EIA, it is evident that a disproportionately negative impact (direct, indirect, unintentional or otherwise) exists to one or more of the nine groups of people who share a Protected Characteristic under the Equality Act. It is recommended that this proposal be suspended until further work is undertaken.</p>	<p>Suspend – Further Work Required</p>	<p>Red</p> 
<p>As a result of performing the EIA, it is evident that there is a risk that a disproportionately negative impact (direct, indirect, unintentional or otherwise) exists to one or more of the nine groups of people who share a protected characteristic under the Equality Act 2010. However, there is a genuine determining reason that could legitimise or justify the use of this policy.</p>	<p>Further (specialist) advice should be taken</p>	<p>Red Amber</p> 
<p>As a result of performing the EIA, it is evident that there is a risk that a disproportionately negatively impact (as described above) exists to one or more of the nine groups of people who share a protected characteristic under the Equality Act 2010. However, this risk may be removed or reduced by implementing the actions detailed within the <i>Action Planning</i> section of this document.</p>	<p>Proceed pending agreement of mitigating action</p>	<p>Amber</p> 
<p>As a result of performing the EIA, the proposal does not appear to have any disproportionate impact on people who share a protected characteristic and no further actions are recommended at this stage.</p>	<p>Proceed with implementation</p>	<p>Green:</p> 