

Equality Impact Analysis (EIA) – impact on residents, service users and wider community

Section 1: Introduction

Name of proposal
For the purpose of this document, 'proposal' refers to a policy, function, strategy or project
The adoption of issuing Fixed Penalty Notices in relation to breaches of the Council's byelaws.
Service area and Directorate responsible
Safer Neighbourhoods Operations – Community Safety – Health Adults and Community
Name of completing officer
Barry Scales
Approved by (Corporate Director / Divisional Director/ Head of Service)
Ann Corbett
Date of approval
05/11/2021


Where a proposal is being taken to a committee, please append the completed EIA(s) to the cover report.

Conclusion – To be completed at the end of the Equality Impact Analysis 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 negative impact on a particular group was disproportionate and the appropriate actions cannot be*

undertaken to mitigate risk. Or, based on the EIA, the proposal was amended, and alternative steps taken.

The focus of this is to analyse the impacts of the proposal on residents, service users and the wider community that are likely to be affected by the proposal. If the proposed change also has an impact on staff, the committee covering report should provide an overview of the likely equality impact for staff, residents and service users and the range of mitigating measures proposed.

Conclusion	Current decision rating (see Appendix A)
<p>The supervision, performance monitoring and reporting regime to assure proportionality already in place in the service regarding the issuing of Fixed Penalty Notices by THEOs, will enable identification of any emerging needs to mitigate impacts should they arise.</p> <p>The overall needs in this borough to tackle the high levels of ASB must be a priority for the council and its partners because it negatively impacts upon the members of all communities. There is a definition of ASB which defines it as behaviour or conduct which is, or is likely to cause harassment, alarm or distress to any person or nuisance or annoyance in relation to a person's occupancy of their home. That means all communities and individuals with and without protected characteristics can be impacted and also a range of members of all communities can be responsible for ASB and it is the role of the enforcement services to support all communities. The available data supports this and the variations that are apparent with the numbers of those from the White categories for example, although still fitting the overall distribution, is accounted for because of the types of behaviour encountered and detailed later in the assessment.</p> <p>The THEO service adopts a general approach to enforcement which is entirely in line with this and also with the Council's Enforcement Policy covering all the service's activities. This is to act proportionately and only take enforcement action where this is necessary and only after an initial engagement and support if necessary. This proposal to create the option for THEOs to issue Fixed Penalty Notices (FPNs) for breaches of byelaws whilst retaining the option to prosecute, will be treated within this same approach.</p>	

The Equality Act 2010 places a ‘General Duty’ on all public bodies to have ‘due regard’ to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
- Advance equality of opportunity between those with ‘protected characteristics’ and those without them
- Foster good relations between those with ‘protected characteristics’ and those without them

This Equality Impact Analysis 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

Describe the proposal including the relevance of proposal to the general equality duties and protected characteristics under the Equality Act 2010

Antisocial Behaviour (ASB) in the London Borough of Tower Hamlets has been and remains an extremely high priority and concern for all of our residents. It also remains a Corporate and Mayoral priority. In 2017 the Council published an ambitious ASB Blueprint for action and committed utilising all of its powers to tackle the issues that impact on the quality of life for all residents and ensuring that victims are at the heart of our actions. The recently published Community Safety Partnership Plan prioritises tackling Neighbourhood Crime and ASB.

Currently, the only means to deal with breaches of byelaws in Tower Hamlets is by way of prosecution. This restricts both the timeliness and effectiveness of our overall response to incidents of ASB. Tower Hamlets Enforcement Officers (THEOs) already have existing powers and a number of these, if offences are taking place, can be dealt with by issuing a fixed penalty notice (FPN). There is however a further range of activities and behaviours often causing ASB, covered in the Council’s byelaws. They cover a broad sweep of prohibited activity in places such as parks but also in other open spaces, all places which the whole community should be able to enjoy and not be blighted by ASB.

The types of behaviours that are covered by the byelaws within this proposal extracted from the full set of over 45, are only those that are relevant to the role of THEOs in tackling ASB in this borough. They are:

Climbing – No person shall without reasonable excuse climb on any wall or fence in or enclosing the ground, or any tree, or any barrier, railing, post or other structure.

Gates – 1) No person shall leave open any gate to which this byelaw applies and which he has opened or cause to be opened. 2) This applies to any gate to which is attached, or near to which is displayed, a conspicuous notice stating that leaving the gate open is prohibited.

Camping – No person shall without the consent of the Council, erect a tent or use a vehicle, caravan or any other structure for the purpose of camping (except in a designated area for camping).

Fires – No person shall light a fire or place, throw or drop a lighted match or any other thing likely to cause a fire. (Exceptions around properly constructed camp stove in an authorised camp ground)

Interference with lifesaving equipment – No person shall, except in case of emergency, remove from or displace with the ground or otherwise tamper with any lifesaving appliance provided by the Council.

Cycling – No person shall without reasonable excuse ride a cycle in the ground except in any part of the ground where there is a right of way for cycles or on a designated route for cycling, nor in such a way which may endanger the public.

Skateboarding – No person shall skate, slide or ride on rollers, skateboards or other self-propelled vehicles in such a manner as to cause danger or give reasonable grounds for annoyance to other persons.

Bathing – No person shall without reasonable excuse bathe or swim in any waterway.

Boats – No person shall sail or operate any boat, dinghy, canoe, sailboard or inflatable on any waterway without the consent of the Council.

Fishing – No person shall in any waterway cast a net or line for the purpose of catching fish or other animals except in a designated area for fishing and with the prior consent of the Council and in accordance with the rules governing such consent.

Model Aircraft – No person shall cause any power-driven model aircraft to, take off or otherwise be released for flight or control the flight of such an aircraft in the ground or land in the ground without reasonable excuse.

Excessive Noise – No person shall, after being requested to desist by any other person in the ground, make or permit to be made any noise which is so loud or so continuous or repeated as to give reasonable cause for annoyance to other persons in the ground by shouting or singing, playing on a musical instrument or by operating or permitting to be operated by any radio, amplifier, tape recorder or similar device (does not apply to persons holding or taking part in any entertainment held with the consent of the Council).

Obstruction – No person shall obstruct any officer of the Council in the proper execution of his duty, any person carrying out an act which is necessary to the proper execution of any contract with the Council or any other proper use of the ground.

The types of behaviour or conduct where the above byelaws can be applied and

where THEOs could consider dealing with by way of FPN, are encountered in parks and other open spaces where a range of people can be present. These can represent both those committing the offences and those who are adversely affected by them and neither are confined to groups possessing any particular protected characteristics.

This proposal is intended to address a means to improve service delivery to a priority issue that our residents consistently tell us is of greatest concern to them. They require the council and other services to tackle ASB in their neighbourhoods more effectively and provide visibility. Having the option to issue an FPN at the time to a person committing offences, often with residents witnessing the action, gives our service more opportunity to achieve this. We still retain the option to prosecute a person, for example in an extreme case or a repeat offender, but we see the benefits of issuing notices there and then in most cases to be of greatest benefit. The issue of how we ensure we do this proportionately and do not negatively impact some groups rather than others by doing this is explored below.

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 residents, service users and wider community?

ASB does not just affect some members of our community but it impacts residents and visitors from all communities and if not tackled, has a detrimental impact on the quality of all their lives. As an enforcement service, we clearly have a duty to improve the lives of all our residents but ensuring this is done in a proportionate way. The information from our reporting systems at the council only record demographic information if users reporting ASB choose to provide it and the take up is low and of course ASB is reported to a number of other agencies, not least of which is the police. Again demographic data is not available to us on the breakdown of who reports ASB to the police. Information is more available in regard to those who commit ASB in our borough and is explored later in this assessment.

It is acknowledged by the Safer Neighbourhood Operations Service that enforcement alone is not the solution to long term reductions to the very high numbers of incidents, but it is nevertheless a key tool for providing respite for our communities. We work with a number of key partners to deliver our services which includes joint working with a range of support services such as drugs and alcohol services, young people's services and housing support. The role of effective

partnerships across council/police/social housing providers is also clearly a factor in ensuring that enforcement is applied proportionately and this is a priority for the Community Safety Partnership at LBTH. This statutory partnership body has recently established a specific board reporting to it, focussing solely on the delivery of services to tackle neighbourhood ASB and crime and that focus includes the balance of engagement, support and diversion before enforcement.

Reports of ASB

The evidence is that regarding the impact of ASB, LBTH still has a very high 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 with additional pressure from the COVID-19 situation. At the time of this report, for 2021 to date, calls to the 101 number for support from the police have fallen although the reason for this is not yet clear and overall, reports to the council and police are still higher than most other boroughs, LBTH is regularly highest or second highest in London.

	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%
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Population

The borough has a very diverse population.

Age – 0 to 19 years accounts for 25% around the average for London
 20 to 39 years accounts for 46% which is higher than the London average
 65 and over only 6% compared to 12% in London

Gender – Male 52% which is a higher ratio to females than the London average

Sexual Orientation – Data from the 2011 census is limited but is being updated by the 2021 census. Experimental estimates published in 2015 for LBTH are that around 4.3% of the population is from the LGBT+ community

Ethnicity – Bangladeshi 32%, White British accounts for 31.2%, White Other 12.4%, Black/Black British is 7.3%.

Means to assure proportionate use of FPNs in relation to breaches of the proposed selected byelaws:

The range of ASB that our THEO enforcement service encounters involves perpetrators from across all of our communities and with some variations for types of behaviour, this distribution reflects the basic demographics set out in the previous paragraph but numbers within the groups vary due to the circumstances and behaviours encountered and details are included in the statistics section below. For example, a large number of those engaged in ASB behaviours related to their drugs or other substance misuse are from the street population with a variety of complex needs and vulnerabilities. They are mainly older, from the white British or white other categories and male with only 20% female. There remains our longstanding approach, shared with our support service partners, of engagement, support and with enforcement as a last resort. This is the tailored approach to this group and incidents of ASB that occurs. If enforcement does have to be the result, routes to it are taken that ensure that conditions such as positive requirements to engage in support activities which are provided by powers such as civil injunctions are most appropriate and not the issuing of a fixed penalty notice to this cohort.

Another example is the enforcement of the recently introduced Public Spaces Protection Order (PSPO) for the misuse of Nitrous Oxide (NOx). There is a

declared commitment to engagement, particularly with young people but also with adults, regardless of ethnic background, signposting to support services suitable for each before considering enforcement. Again this is a monitored intervention, to ensure that the proportionate approach is effective but also of course properly balanced against our overall obligation to deal with the ASB that results from these activities for the benefit of the whole community. The support offered before enforcement takes into account age and ethnicity with commitment from support agencies to work with us. Fixed penalty notices are not issued by THEOs to persons under 18 years of age for any offence and those individuals are managed by more diversion and support interventions unless behaviour is such that it requires the intervention of police using other powers. However with adults, the use of FPNs to deal with breaches of the PSPO will be used, taking into account the general stance set out above.

With all this in mind, supervised, monitored and proportionate means of dealing with particular groups according to the circumstances of each incident and the behaviour encountered has been and remains our adopted approach. Additionally the activities of our enforcement service is informed and tasked through intelligence and identification of hot spots and not simply random patrolling and therefore interventions have evidenced proportionality.

Statistics regarding those committing ASB at LBTH – ASB is dealt with by a large number of agencies and the data available across the piece relating to the ethnicity of those committing ASB is far from definitive or complete. However, this proposal is about the activities of our THEO service specifically and some useful data is available showing the ethnicity and ages of those they encounter and/or to whom they issue fixed penalty notices using their existing powers.

Data derived from the issuing of ASB Incident Reports by THEOs regarding the ethnicity and age of those they encountered and who were engaged in ASB shows the following and informs our proportionate enforcement approach.

In the years 2019/2020 and 2020/21 combined, there were 2985 ASB Incident Reports recorded.

Of the 860 reports for females, 102 were without details of ethnicity for reasons of preference or it was not recorded. Of the 758 remaining records, 640 (84.43%), were White British or White Other. The remainder shows that 33 (4.35%) were Mixed/Dual Heritage – White and Black Caribbean, 25 (3.3%) were Black/Black British – Somali and 19 (2.51%) were Asian – Bangladeshi. There were very low numbers for the remaining recorded ethnicities.

Of the 2125 reports for males, 386 were without details of ethnicity for reasons of

preference of was not recorded. Of the 1739 remaining records, 1152 (66.24%) were White British or White Other. The remainder shows that 233 (13.4%) were Asian – Bangladeshi, 87 (7.53%), 62 (5.38%) were Black/Black British African and 30 (2.6%) were Black/Black British Caribbean.

The ages of those encountered for females was mainly within the range 26 to 45 years and for males, 21 to 50. Young people aged 13 to 20 represented just 2.8% for females and 10.24% for males. Traditionally there remains a perception that ASB is associated predominately with the activities of young people. Consistently the perceptions of residents are not confirmed by either the experience of enforcement officers or national statistics. Young people of course are involved in ASB, sometimes serious ASB, but in general as the above figures show, it is older aged people that commit the most. We have included some byelaws that might be viewed as putting young people's behaviour disproportionately in focus. For example the climbing byelaw is included in this proposal but it is included not to be aimed at young people who may be climbing trees in parks, this would likely be dealt with by intervening, engaging and possibly a warning. It is included to deal with the more dangerous activities that older people engage in, such as climbing and jumping from old cranes and gantries in places like Shadwell Basin in the summer months and additionally the swimming, fishing, interference with safety equipment and noise byelaws will also be used most where the behaviour is committed by older people.

The UK/London trend relating to those from a Black ethnicity background is that they are generally overrepresented in some enforcement activity such as stop and search and arrests. The data above does not indicate that this is the case for the interactions THEOs have in their enforcement activities.

Conclusion - It is contended through consideration of the content of this assessment, that the introduction of the option using FPNs to deal more effectively with breaches of byelaws to tackle ASB will not disproportionately affect any particular group of people within those possessing protected characteristics. However, means to assure this will be our regular monitoring. It is already part of the overall performance monitoring, reported through the established performance management regime of the THEO service, through the service's senior management to the regular corporate performance boards including the Equalities Board.

Section 4: Assessing the impacts on different groups and service delivery

Groups	Positive	Negative	Neutral	Considering the above information and evidence, describe the impact this proposal will have on the following groups?
Protected				
Age (All age groups)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p>The approach adopted of engagement, support then enforcement will apply to the enforcement of byelaws as with all the activities of our services. Support is tailored to age with options for all age groups to be supported before enforcement by FPN is considered for breach of byelaws.</p> <p>The positive impact is that overall and in line with our duty to deal with ASB that impacts all communities, is that those in this group will be given more respite from the effects of ASB.</p>
Disability (Physical, learning difficulties, mental health and medical conditions)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Monitoring information on protected characteristics other sex, age and ethnic background were not available.

Sex	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p>Males are over-represented in local data and therefore most likely to be impacted by this proposal, however the impact is not assessed as being disproportionate.</p> <p>The positive impact is that overall and in line with our duty to deal with ASB that impacts all communities, the introduction of this proposal will enhance our ability to deal with ASB and give those within this group as with all other residents, more respite from what is of major concern.</p>
Gender reassignment	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Monitoring information on protected characteristics other sex, age and ethnic background were not available.
Marriage and civil partnership	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Monitoring information on protected characteristics other sex, age and ethnic background were not available.
Religion or philosophical belief	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Monitoring information on protected characteristics other sex, age and ethnic

				background were not available.
Race	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p>Those of white ethnic backgrounds are over-represented in local data and therefore most likely to be impacted by this proposal, however the impact is not assessed as being disproportionate.</p> <p>The positive impact is that overall and in line with our duty to deal with ASB that impacts all communities, the introduction of this proposal will enhance our ability to deal with ASB and give those within this group as with all other residents, more respite from what is of major concern.</p>
Sexual orientation	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Monitoring information on protected characteristics other sex, age and ethnic background were not available.
Pregnancy and maternity	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Monitoring information on protected characteristics other sex, age and ethnic background were not available.
Other				
				Monitoring information on protected

<p>Socio-economic</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<p>characteristics other sex, age and ethnic background were not available.</p> <p>The imposition of an £80 Fixed Penalty Notice could have a negative impact upon those from those with socio-economic challenges and have less impact upon the wealthier. However the proposal to permit the issuing of FPNs for breaches of byelaws does not replace the option to prosecute an offender and permit the conduct to be evaluated by a court and a penalty imposed following this process. If a person does not pay an FPN they will most usually be prosecuted for non-payment and in both cases this can lead to a criminal conviction. Payment of an FPN discharges the person's liability completely.</p>
<p>Parents/Carers</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p>Monitoring information on protected characteristics other sex, age and ethnic background were not available.</p>
<p>People with different Gender Identities e.g. Gender fluid, Non-Binary etc</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p>Monitoring information on protected characteristics other sex, age and ethnic background were not available.</p>



Any other groups	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Monitoring information on protected characteristics other sex, age and ethnic background were not available.
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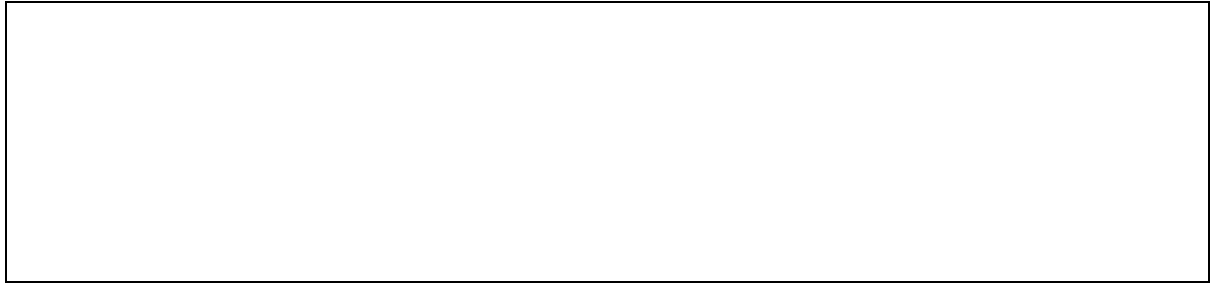
Section 5: Impact analysis and action plan

Recommendation	Key activity	Progress milestones including target dates for either completion or progress	Officer responsible	Update on progress
Ensure current monitoring of all the enforcement activities of the THEO service includes the use of FPNs for breaches of selected byelaws	Include in performance monitoring dashboard	Dashboard updated for reporting in the first quarter after the proposal becomes live	Keith Stanger Head of Safer Neighbourhood Operations	

Section 6: Monitoring



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

The activities of the THEO service in relation to the use of FPNs for breach of byelaws will be monitored as part of current performance management processes.. Regular oversight will be maintained of the use of FPNs for byelaws in relation assuring proportionate use involving groups with protective characteristics.



Appendix A

EIA 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 and appropriate mitigations cannot be put in place to mitigate against negative impact. 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>Impact analysis and action plan</i> section of this document.</p>	<p>Proceed pending agreement of mitigating action</p>	<p>Amber</p> 