

## **Appendix 4**

### **Carmarthenshire County Council**

#### **Assessing Impact**

##### **The Equality Act 2010**

The Equality Act 2010 (the Act) brings together and replaces the previous anti-discrimination laws with a single Act. It simplifies and strengthens the law, removes inconsistencies and makes it easier for people to understand and comply with it. The majority of the Act came into force on 1 October 2010.

The Act includes a new public sector equality duty (the 'general duty'), replacing the separate duties on race, disability and gender equality. This came into force on 5 April 2011.

##### **What is the general duty?**

The aim of the general duty is to ensure that public authorities and those carrying out a public function consider how they can positively contribute to a fairer society through advancing equality and good relations in their day-to-day activities. The duty ensures that equality considerations are built into the design of policies and the delivery of services and that they are kept under review. This will achieve better outcomes for all.

The duties are legal obligations. Failure to meet the duties may result in authorities being exposed to legal challenge.

Under equality legislation, public authorities have legal duties to pay 'due regard' to the need to eliminate discrimination and promote equality with regard to race, disability and gender, including gender reassignment, as well as to promote good race relations. The Equality Act 2010 introduces a new public sector duty which extends this coverage to age, sexual orientation, pregnancy and maternity, and religion or belief. The law requires that this duty to pay 'due regard' be demonstrated in the decision making process. It is also important to note that public authorities subject to the equality duties are also likely to be subject to the obligations under the Human Rights Act and it is therefore wise also to consider the potential impact that decisions could have on human rights as part of the same process.

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### **Carmarthenshire's approach to Equality Impact**

In order to ensure that the council is considering the potential equality impact of its proposed policies and practices, and in order to evidence that we have done so, every proposal will be required to be supported by the attached Equality Impact Assessment. Where this assessment identifies a significant impact then more detail may be required.

### **Reporting on assessments**

Where it is clear from the assessment that the likely impact on the authority's ability to meet the general duty is substantial, then it must publish a report.

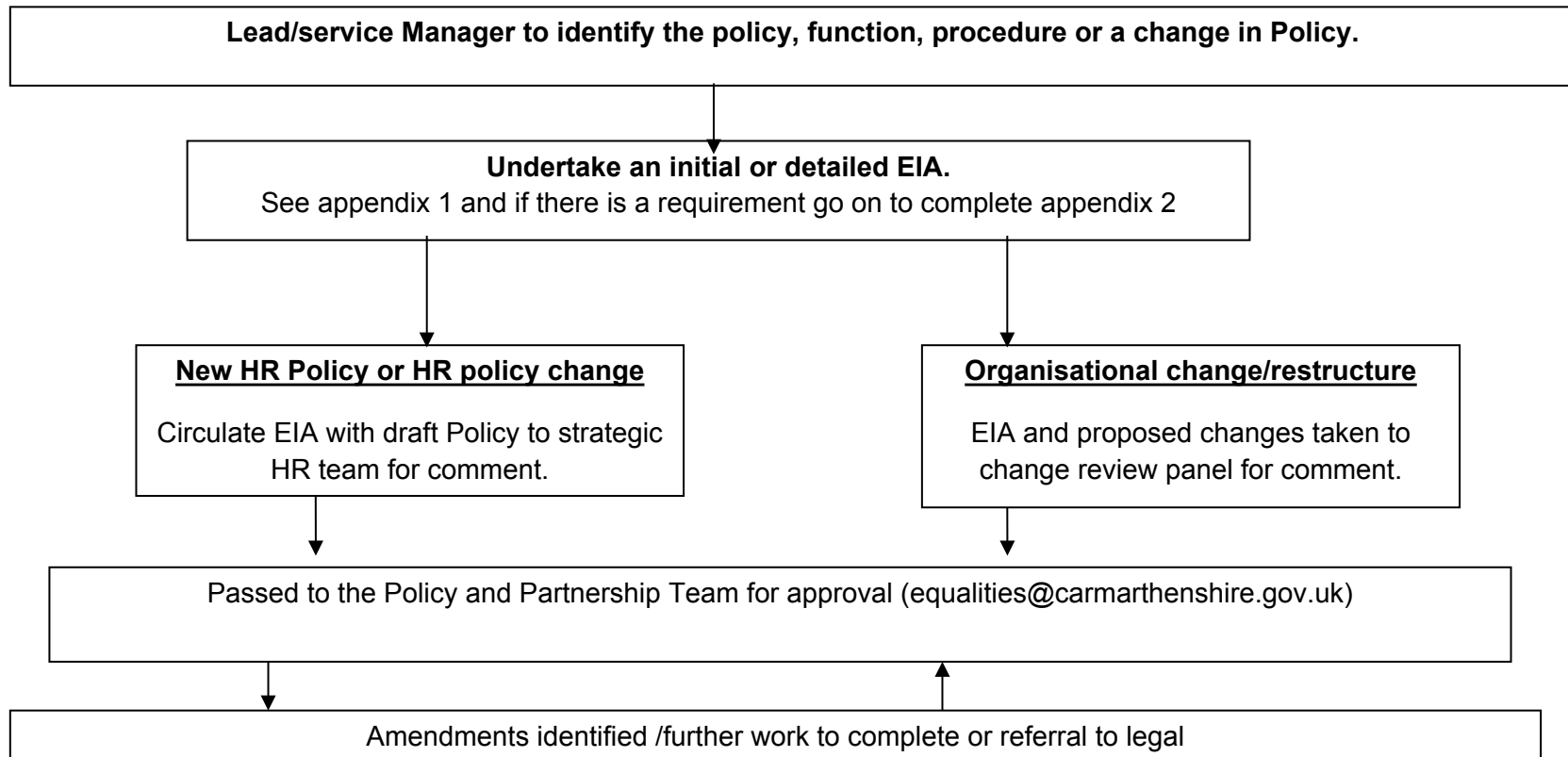
### **Initial and Detailed Equality Impact Assessments**

The initial EIA (appendix 1) is a simple and quick method of assessing the effect of a policy, function, procedure, decision including financial cuts on one or more of the protected characteristics.

The Service Manager responsible for the relevant new or revised policies, functions, procedures and financial decisions must undertake, at least, an initial EIA and where relevant a detailed Equality Impact Assessment (appendix 2); EIA must be attached as background paper with reports to Executive and Scrutiny .

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### Equality impact assessment – Process to follow where HR implications have been identified



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### Initial Equalities Impact Assessment Template

### Appendix 1

<b>Department:</b> Environment Department	<b>Completed by (lead):</b> Michael Roberts	<b>Date of initial assessment:</b> 4 <sup>th</sup> April 2019  <b>Revision Dates:</b>
<b>Area to be assessed: (i.e. name of policy, function, procedure, practice or a financial decision)</b>	Public Spaces Protection Order (Dog Controls) and the use of Fixed Penalty Notices.	
<b>Is this existing or new function/policy, procedure, practice or decision?</b>	Extension to Public Spaces Protection Orders (Dog Controls) and the use of Fixed Penalty Notices.	
<b>What evidence has been used to inform the assessment and policy? (please list only)</b>		

<b>1. Describe the aims, objectives or purpose of the proposed function/policy, practice, procedure or decision and who is intended to benefit.</b>	<b>1. Describe the item you are assessing and the outcomes you want from it ?</b> <ul style="list-style-type: none"> <li>• In 2016 Carmarthenshire County Council introduced a Public Spaces Protection Order to tackle irresponsible dog ownership that is occurring in the County. At the time we consulted with the public to find out if there was public support for further dog controls in the County. Based on the results of that consultation exercise, the Authority introduced a draft Public Spaces Protection Order, containing 3 proposed dog controls, which included:</li> <li>• A provision requiring people to clean up after their dogs immediately, if it defecates on public land. This will apply on ALL publicly accessible land in the County of Carmarthenshire.</li> <li>• A provision requiring people to place their dog on a lead of no more that 2 metres in Length, when directed to do so by an authorised officer of the Council. This will also apply on ALL publicly accessible land in the County of Carmarthenshire.</li> <li>• A provision prohibiting dogs from all outdoor enclosed children's play areas in the County of Carmarthenshire</li> </ul>
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Anyone who breaches the order could be issued with a Fixed Penalty of up to £100, or they may receive a fine of up to £1,000 if convicted in the magistrates' court.

The dog fouling provisions in the Order did not apply to a person who:

- (a) is registered as partially sighted or blind, in a register compiled under section 29 of the National Assistance Act 1948; or
- (b) is registered as "sight-impaired", "severely sight-impaired" or as "having sight and hearing impairments which, in combination, have a significant effect on their day to day lives", in a register compiled under section 18 of the Social Services and Well-being (Wales) Act 2014; or
- (c) has a disability which affects his mobility, manual dexterity, physical coordination, or ability to lift, carry, or otherwise move everyday objects, such that he cannot reasonably be expected to remove the faeces; or
- (d) has some other disability, such that he cannot reasonably be expected to remove the faeces.

The dog exclusion does not apply to a dog trained by a registered charity to assist a person with a disability and upon which a disabled person relies for assistance.

If we are satisfied that a disabled person relies on assistance dog which has not been trained by a registered charity, we will not consider it in the public interest to prosecute them if they breach the exclusion order. However, it will be up to the disabled person to provide us with evidence to show that the dog is suitably trained and that they rely on it for assistance. We will consider each case on its merits.

Anybody who fails to comply with a requirement of order would have a defence against prosecution if they can show that they have a "reasonable excuse" for doing so.

The 2016 order applied for 3 years from the 1<sup>st</sup> July 2016. The Council is now proposing to extend the order for a further period of 3 years from the 1<sup>st</sup> July 2019.

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### 2. Who is intended to Benefit, what is the full scope of the item and who is it aimed at ?

The aim of the policy is to:

- Help make Carmarthenshire a cleaner, greener and safer environment through the appropriate use of FPN's with the Public Spaces Protection Orders
- These would address Dog Fouling, a pest free environment and a culture change in people's attitude to dog fouling and controlling their dogs in public areas.
- Ensure enforcement action is transparent, accountable, proportionate, consistent and targeted.
- Provide Enforcement Officers with a policy and guidelines to enable them to issue FPN's appropriately and in line with the general enforcement principles
- To inform the public, business and the community of the principles by which enforcement action is taken.

### 3. Do the anticipated outcomes meet or hinder any other things that the authority is doing ?

The aims of the policy is to link in to the strategic priorities in line with the Integrated Community Strategy 2011 – 2016 (<http://www.carmarthenshire.gov.wales/media/1000254/IntegratedCommunity-Strategy2011-2016.pdf>), to serve our communities effectively by

- Maintaining a clean, green and safe County
- Improving the health, safety & welfare of people working in, living in and visiting the County
- Increasing the levels of street scene related enforcement activities

The Policy is supplementary to Carmarthenshire County Council's Overarching Environmental Enforcement Policy and has been **drafted in line with the** <https://www.gov.uk/guidance/fixed-penalty-notice-issuing-and-enforcement-by-councils>

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### **4. Who defined the Policy, Function or service provision and who are the main stakeholders.**

The PSPO has been developed by officers in conjunction with members and approved by the Executive Board.

The enforcement Policy has been defined by members of the Environmental Enforcement Unit, Corporate Strategies, statutory Functions and guidance laid down by external organisations such as DEFRA, Crown Prosecution Service etc.

The Main stakeholders are :

Members of the Environmental Enforcement Unit.

Other Internal Departments that manage public assets such as Country Parks, County Parks etc.

All Members of Public inc visitors to the County.

Town & Community Councils

Dyfed Powys Police Authority.

Sports Associations and other groups.

### **5. Who Implements your proposal and who is responsible for delivery?**

The Policy will be implemented and delivered by Officers of the Environmental Enforcement Unit and partner organisations such as Dyfed Powys Police.

### **6. Is this Policy, Practice, service or function affected by external drivers for changes ? e.g. new legislation, national policy, external inspection etc.**

Anti Social Behaviour Crime and Policing Act 2014 in relation to dealing with ASB issues which include Irresponsible dog ownership.

### **7. How is the information about the Policy, practice, service or function publicised?**

Authority's web page.

Fact Sheets

Community News

Word of Mouth

Social Media i.e. Facebook, Twitter

Local Newspaper reports

Signage

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The Public Sector Equality Duty requires the Council to have “due regard” to the need to:-  (1) eliminate unlawful discrimination, harassment and victimisation;  (2) advance equality of opportunity between different groups; and  (3) foster good relations between different groups  (see guidance notes)		2. What is the level of impact on each group/ protected characteristics in terms of the three aims of the duty?  Please indicate high (H) medium (M), low (L), no effect (N) for each.	3. Identify the risk or positive effect that could result for each of the group/protected characteristics?		4. If there is a disproportionately negative impact what mitigating factors have you considered?
			Risks	Positive effects	
P L O	Age	L	Juveniles are specifically covered within the Children & Young adults Policy. Warning letters and restorative justice techniques are normally used where offences are committed by children, to avoid criminalising children. We liaise with youth offending teams as appropriate.  The elderly could be impacted if they have medical conditions which contribute to their ability to comply with the legislation.	People who fail to clean up after their dogs on publicly accessible land cause nuisance to others. The presence of dog faeces is a potential hazard to all members of the public alike. It causes risks to health, defaces land and has the potential to deface people and their property. Young children can be at particular risk from dog mess.  The order should make public areas safer for all.	Warning letters and restorative justice techniques are normally used where offences are committed by children, to avoid criminalising children. We liaise with youth offending teams as appropriate.  All staff issuing FPN's will be appropriately briefed to use a common sense approach at all times.  Whilst there is no appeal mechanism for FPN's, if additional information is made available to the council it may result in the FPN being cancelled. Guidelines will be drafted, which will include a section on medical conditions that contribute to the offence.



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s			<p>All staff issuing FPN's will be appropriately briefed to use a common sense approach at all times.</p> <p>Whilst there is no appeal mechanism for FPN's, if additional information is made available to the council it may result in the FPN being cancelled. Guidelines will be drafted, which will include a section on medical conditions that contribute to the offence.</p>		
	<b>Disability</b>	M	<p>The Council recognises that some people will not be able to clean up after their dogs for reasons that are related to a disability. For example, people with serious sight issues may not be able to see their dog defecate, and people with mobility or manual dexterity problems might not be able to remove the faeces.</p>	<p>The order should make public areas safer for all, including disabled people.</p>	<p>The Council has included exemptions in the order (as set out in box 2 above) to display these requirements to people with appropriate physical and mental impairments.</p> <p>The Council recognises that some disabled people rely on assistance dogs and that prohibiting assistance dogs from children's play areas could prevent these people and their families from using play areas. To prevent this, the Council has included an exemption in the order stating that the dog exclusion will not apply to trained assistance dogs.</p>

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			<p>To address this the Council has included exemptions in the order (as set out in box 2 above) to disapply these requirements to people with appropriate physical and mental impairments. The Council recognises that some disabled people rely on assistance dogs and that prohibiting assistance dogs from children's play areas could prevent these people and their families from using play areas. To prevent this, the Council has included an exemption in the order stating that the dog exclusion will not apply to trained assistance dogs. Anybody who fails to comply with a requirement of order will have a defence against prosecution if they can show that they have a "reasonable excuse" for doing so.</p>		<p>Anybody who fails to comply with a requirement of order will have a defence against prosecution if they can show that they have a "reasonable excuse" for doing so. Any disabled person who believes that their disability gives them a reasonable excuse for failing to comply, but who is not covered by the disability exemptions within the order, will still be able to raise a "reasonable excuse" defence. By incorporating these defences and exemptions in the order, the Council has endeavoured to avoid any discrimination against disabled people. All staff issuing FPN's will be appropriately briefed to be fair and reasonable and to use a common sense approach at all times. When enforcing the orders, officer will have regard to any known disabilities and the need to eliminate discrimination and promote equality of opportunity and will be expected to take these issues in to account when deciding whether or not to take enforcement action against an individual. Guidelines will be drafted, which will include a section on medical conditions that contribute to the offence.</p>
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			<p>Any disabled person who believes that their disability gives them a reasonable excuse for failing to comply, but who is not covered by the disability exemptions within the order, will still be able to raise a “reasonable excuse” defence. By incorporating these defences and exemptions in the order, the Council has endeavoured to avoid any discrimination against disabled people.</p> <p>All staff issuing FPN’s will be appropriately briefed to be fair and reasonable and to use a common sense approach at all times. When enforcing the orders, officer will have regard to any known disabilities and the need to eliminate discrimination and promote equality of opportunity and will be expected to take these issues in to account when deciding whether or not to take enforcement action against an individual.</p>		
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			Guidelines will be drafted, which will include a section on medical conditions that contribute to the offence.		
	<b>Gender reassignment</b>	N			
	<b>Race</b>	M	<p>There could be potential impacts on those who are not fluent in English or Welsh.</p> <p>All Enforcement Staff will be briefed to ensure they recognise that there is diversity within the community and care must therefore be taken to ensure that any enforcement actions are clearly understood. Pictorial signage will be used to ensure that the requirements of the order are easily understood by all .</p> <p>Consideration will be given to providing documents in appropriate language if necessary. The Council may also arrange for interpreter in appropriate cases.</p>		<p>All Enforcement Staff will be briefed to ensure they recognise that there is diversity within the community and care must therefore be taken to ensure that any enforcement actions are clearly understood. Pictorial signage will be used to ensure that the requirements of the order are easily understood by all. Consideration will be given to providing documents in appropriate language if necessary. The Council may also arrange for interpreter in appropriate cases.</p>

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	<b>Religion/Belief</b>	N			
	<b>Pregnancy and maternity</b>	N			
	<b>Sexual Orientation</b>	N			
	<b>Sex</b>	N			
	<b>Welsh language</b>	L	<p>The orders will be made and published on the Council's website bilingually. Bilingual fixed penalty books are also used.</p> <p>Offenders can be interviewed bilingually and court proceedings can be undertaken through the medium of Welsh.</p>		<p>The orders will be made and published on the Council's website bilingually. Bilingual fixed penalty books are also used.</p> <p>Offenders can be interviewed bilingually and court proceedings can be undertaken through the medium of Welsh.</p>
	<b>Any other area</b>	N			

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5. Has there been any consultation/engagement with the appropriate protected characteristics?	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	
6. What action(s) will you take to reduce any disproportionately negative impact, if any?		
<b>7. Procurement</b>  Following collation of evidence for this assessment, are there any procurement implications to the activity, proposal, service.  Please take the findings of this assessment into your procurement plan. Contact the corporate procurement unit for further advice.		
<b>8. Human resources</b>  Following collation of evidence for this assessment, are there any Human resource implications to the activity, proposal or service?		
9. Based on the information in sections 2 and 6, should this function/policy/procedure/practice or a decision proceed to Detailed Impact Assessment? (recommended if one or more H under section 2)	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
Approved by:  Head of Service	A. Williams	Date: 5 <sup>th</sup> April 2019