

# Equality Impact Assessment: Report and EIA Action Plan

## Purpose

<b>What is being reviewed?</b>	The proposal to introduce a Public Spaces Protection Order (PSPO) in the Ophir Road area around of the British Pregnancy Advisory Service Clinic.
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<b>Date/s EIA started and reviewed:</b>	6 <sup>th</sup> September 2022

## Background

This Equality Impact Assessment report relates to the portfolio holder decision record to implement a Public Spaces Protection Order (PSPO) in the Ophir Road area of the Bournemouth. The PSPO will cover the shaded area as identified within the red line on the map - Monday to Friday between 7am and 7pm in order to prevent the detrimental impact of behaviours and alleged harassment of individuals attending, working or in the vicinity of the clinic. It will also impact on and reduce the likely escalation in behaviours which would have a detrimental effect and impact on service users and staff due to pro-life and pro-choice groups both attending the clinic at the same time and the increased risk of disorder.



The BPAS clinic provides an NHS funded service offering consultations, medical abortions i.e. using medication and surgical abortions on site. The clinic has provided abortion services since the

legalisation of abortion services in England more than 50 years ago. BPAS has been running this clinic for the last 40 years.

The Clinic is located in a residential area in a road which comes to a dead-end adjacent to the A338. There is a grassed area opposite the clinic where protestors, both pro-life and pro-choice generally congregate.

Ongoing concerns have been reported to the BCP Anti Social Behaviour (ASB) Team by the Clinic and its clients about concerns relating to the presence and behaviours of pro-life protestors in the immediate area of the Clinic, reporting alarm and distress caused by this activity.

The council have identified some of the protest groups who visit the clinic site, these main groups being:

- Local church groups or groups associated to local church's
- 40 Days for Life
- Sister Supporters

However, the people involved in the activities differs from day to day and therefore makes naming the groups or individuals involved in the protesting difficult.

The main behaviours of the protestors identified:

- Standing outside the door or at the steps, and across the road, sometimes making it difficult to access the Clinic without interacting with the protestors
- Handing out leaflets, asking what a visitor was there for
- Praying, sometimes whilst kneeling
- Singing
- Holding rosaries
- Approaching and offering leaflets to people in their cars
- Sprinkling "holy water" on the pavement outside the Clinic

In February 2019 legacy Bournemouth Borough Council sought legal advice to determine if the information and evidence received since 2017, regarding the behaviours of pro-life protestors, met the legal thresholds to look at using tools and powers within the ASB, Crime and Policing Act 2014 including a Public Spaces Protection Order (PSPO). PSPOs are intended to deal with a particular nuisance or problem in a specific area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone.

At this time it was concluded that insufficient evidence was available to support further action. Advice was given to the Clinic regarding reporting methods and the requirements for collation of information and evidence of the issues being experienced outside the clinic.

In March 2022 a pro-choice organisation Sister Supporter became involved which introduced an increased risk of conflict between the pro-choice and pro-life groups who attend and hold vigils outside the clinic.

Sister Supporter also initiated a public petition which generated 2788 valid signatures which requested that:

"We the undersigned petition the council to take all measures within its power, including but not limited to the establishment of a Public Space Protection Order (PSPO), to move anti-abortion groups away from the area immediately outside the BPAS abortion clinic on Ophir Road, Charminster (to a distance of at least 150m). This will allow women and pregnant people to access

its services free from interference and intimidation and to prevent the detrimental impact this activity is having on local residents.”

This EIA reviews the evidence relating to the proposed implementation of a PSPO in Ophir Road following a public consultation which ran between 20 July and 31 August 2022.

For the purposes of this report, the evidence under consideration is that received since Feb 2019. The evidence obtained since February 2019 was assessed by legal Counsel and the view was taken there was sufficient evidence available for the Council to consider its options, including whether a PSPO would be appropriate.

The counsel's advice was based on evidence received in relation to activities being undertaken outside the BPSAS clinic by both pro-life and pro-choice groups. There had been a change in circumstance since the previous review in 2019 with the introduction of an organised support group Sister Supporters [Bournemouth — Sister Supporter](#) which has introduced the likely risk of conflict between groups in and around the premises. It also adds to the number of people present outside the clinic, which, whatever their motive, could add further distress to service users.

It should be noted that the implementation of any order and its conditions only affect activity taking place in a public place which is within the safe zone area. It does not affect activity taking place in or on a private or commercial premise.

### **BCP Response to Date**

The BCP ASB Team take an evidence led approach to dealing with issues. Information and evidence is collected and assessed to determine the most appropriate response.

Only when legal thresholds have been met, can legal tools and powers under the ASB, Crime and Policing Act 2014 be considered.

Section 59 of the Anti-Social Behaviour Crime and Policing Act 2014 permits a Local Authority to make a Public Spaces Protection Order if it is satisfied on reasonable grounds that two conditions are met.

These are:

#### First Condition

- activities carried on in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality, or.

- It is likely that activities will be carried on in a public place within that area and that they will have such an effect.

#### AND Second Condition

- The activity/activities is, or is likely to be, persistent or continuing in nature;
- is, or is likely to be, such as to make the activities unreasonable; and
- justifies the restrictions imposed.

Section 59 (5) states that

That the only prohibitions or requirements that may be imposed are ones that are reasonable to impose in the order –

a) To prevent the detrimental effect referred to above for continuing, occurring or recurring, or

b) To reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.

The ASB team have endeavoured to obtain information and evidence relating to the reports received about the impact the protestors have on staff and clients of the Clinic.

A number of multi-agency meetings with BPAS, BCP Council officers and Dorset Police have been held. These have enabled the Council to explain what evidence is required to consider the use of tools and powers.

To assess if the protestors have been having an effect on the wider community the ASB team and Neighbourhood Policing Team (NPT) have held a street corner meeting to engage with the wider public.

To date the ASB team have not received any complaints from the wider community about the protestors.

Officers have attended the BPAS location following reports from the clinic and words of advice have been given to those protestors present.

Following reports from the clinic, 40 Days for Life have also on occasion been reminded about their statement of Peace and Code of Good Practice and asked to reaffirm this with their volunteers for the duration of the 40 Day for Life period.

### **Options Appraisal**

Since legislation to deal with behaviours which are having a negative impact on individuals and communities came into force there have been many amendments with the most recent being the introduction of the Anti- Social Behaviour, Crime and Policing Act 2004. Within this legislation there are a number of tools and powers available to local authorities and Police to deal with behaviours which are having a negative impact on individuals and communities.

If the behaviour does not cease and continues to have a detrimental effect on those in the locality, then providing the council is satisfied that the behaviour meets the legal threshold, a number of options are available:

a) Use Community Protection Notices (CPN) against specific identified individuals prohibiting them from protesting in the area or doing anything that causes harm to service users and the local community

b) Consider making a Public Space Protection Order (PSPO), subject to public consultation, to prohibit protests or behaviour that causes harm to clients and the local community in the locality. Ealing and Richmond Upon Thames local authorities have successfully used PSPO's in similar circumstances. Ealing's PSPO was subject to legal challenge and was upheld in both the High Court and Court of Appeal, with the court ruling that someone using the service is in the locality even if it is a one-off visit. When weighing the service users right to privacy against persons right to protest the court ruled in favour of the service users right to privacy.

c) Pursue an injunction against specific individuals who can be identified. This would be under the same act with slightly different criteria. Other injunction options are available, including against persons unknown, although the circumstances that this could apply to are very limited.

The council has carried out an options appraisal to look at all options available to deal with the detrimental effects being experienced due to the presence of pro-life protestors in Ophir Road.

The main difficulties with options a and c above are that action can only generally be taken against named individuals and action would require victims of the behaviour to come forward in order to pursue a civil or criminal sanction. Given the reason for using the clinic is very sensitive and personal this means that many will be unwilling to be identified in this public way.

In addition, the people involved in the activities differs from day to day and therefore makes naming the individuals difficult. A solution which is attached to a Public Spaces Protection Order (as opposed to a named individual) would be more appropriate given the nature of the activities.

It became clear, through the course of the investigations, that actions to address individuals' behaviour would not prove effective in addressing the detriment caused to those affected by the behaviour.

Targeting individuals by way of injunction and/or CPN may not address "group behaviour" and may result in multiple Court applications. Recent case law on injunctions (both relating to land and political protest) suggest that the Courts have set a high threshold, especially where is a general injunction containing prohibitions against 'persons unknown'.

The Portfolio Holder considered the legislative options available in the Portfolio Holder Decision Record report 'To agree to proceed to consultation on options for a proposed PSPO regarding the BPAS Clinic, Ophir Road, Bournemouth' dated 11 July 2022 and agreed to consider the option for a Public Space Protection Order (PSPO), subject to public consultation. A PSPO would be a tool which could prohibit protests or behaviour that cause harm to clients, staff and the local community in the locality and would be the most appropriate consideration in response to the issues being reported at the clinic.

Ealing and Richmond Upon Thames local authorities have successfully used PSPO's in similar circumstances. Ealing's PSPO was upheld in both the High Court and Court of Appeal, with the court ruling that someone using the service is in the locality even if it is a one-off visit. When weighing the service users right to privacy against persons right to protest the court ruled in favour of the service users right to privacy. [Court of Appeal Judgment Template \(judiciary.uk\)](#)

The ASB team have also liaised with other local authorities, including Manchester City Council and Birmingham City Council, who have encountered similar situations in relation to activities being undertaken around abortion clinics in their area. Some of whom have already introduced PSPOs to deal with the issues. This has given us the opportunity to share experiences and discuss learning.

## **Public Consultation**

Public consultation took place for 6 weeks between 20 July and 31 August 2022. The consultation questionnaire was open to anybody who wanted to take part and could be completed via the Councils website, with hard copies being available in libraries across BCP or from the ASB Team.

The consultation asked for feedback on people's views about the proposal to consider a PSPO, provided four options for a potential PSPOs, what days and times any PSPO should be enforceable and listed the behaviour which would be prohibited under the PSPO:

### **Option 1 - Safe Zone – no designated area**

To exclude all protesting/vigils/activity by pro-life/pro-choice groups and individuals within a defined geographical area around the clinic as shown in the map below. This option does not include a designated area.





## Option 2 – Safe Zone with a Designated Area

To exclude all protesting/vigils/activity by pro-life/pro-choice groups and individuals within a defined geographical area around the clinic but to include a designated area for pro-life/pro-choice/protestors to gather which carefully limits the activity within that designated area.



## Option 3 – Safe Zone with a 2 Designated Area

To exclude all protesting/vigils/activity by pro-life/pro-choice groups and individuals within a defined geographical area around the clinic but to include 2 designated areas for pro-life/pro-choice/protestors to gather which carefully limits the activity within the two designated areas.





## Option 4 – none of the above

### Definitions:

#### Safe zone

Within the safe zone the following activities would be prohibited

- Protesting with respect to issues related to abortion services, including but not limited to graphic, verbal or written means, prayer or counselling
- An attempt to or actual interfering, intimidating or harassing service users or members of staff of the BPAS clinic
- Recording or photographing a service user or member of staff of the BPAS clinic.
- Displaying text or images, playing music, voice or audio recordings in relation to abortion.
- holding vigils' where members audibly pray, recite scripture, genuflect, sprinkle holy water on the ground or cross themselves if they perceive a service-user is passing by.

#### Designated area

The council could decide to include a designated area within the safe zone. People could use this area to take part in peaceful protesting but would still need to follow restrictions including:

- no more than 4 people allowed in the designated area at a time.
- not attempting to or interfering, intimidating or harassing service users or members of staff of the BPAS clinic
- no recording or photographing a service user or member of staff of the BPAS clinic.
- no displaying text or images, playing music, voice or audio recordings in relation to abortion.
- no holding vigils' where members audibly pray, recite scripture, genuflect, sprinkle holy water on the ground or cross themselves if they perceive a service-user is passing by

Some questionnaires were received after the closing date for the public consultation and as such were not included in the consultation report. A copy of these questionnaires has been provided to the portfolio holder for consideration.

In addition, emails were also received before, during and after the consultation period from a range of people wanting to make representations about the proposals. The comments and information have been collated and added to the Portfolio Holder Report as appendices.

### Summary Consultation Findings

BCP Council ran a consultation that asked respondents their views on the proposed implementation of a Public Spaces Protection Order (PSPO) and restrictions on behaviour around the British Pregnancy Advisory Service (BPAS) building in Bournemouth. There were 2,241 responses to the survey.

## **The Proposal**

### ***Q. To what extent do you support the principle of a PSPO being implemented around the BPAS building in Bournemouth?***

75% of respondents supported the principle of a PSPO being implemented around the BPAS building in Bournemouth, while 24% did not support it. The vast majority of previous service users, staff, and BCP residents (regardless of whether they lived close to the clinic or not) supported the principle of the PSPO. Individuals living outside of the BCP Council area were significantly less likely to support it. Respondents least likely to support the proposal were aged older than 55 years, male, ethnic minorities, or Christian.

### ***Q. Please explain why you support or do not support the proposal, including details of any potential impacts you think it may have on you.***

Respondents supported the principle of the PSPO being implemented for a number of reasons. Respondents felt that:

- Service users, and staff, should feel safe and protected and not have to face harassment, interference or intimidation from protestors at what is an already emotionally distressing time
- Service users have a right to privacy when accessing a healthcare service and it is their legal right to choose what happens to their body
- Protestors do not know the individual circumstances of why someone is getting an abortion and it has nothing to do with them
- Protestors should not be allowed anywhere near the BPAS building and they have other locations and mechanisms by which they can protest and lobby for change
- Proposals should be supported because of the negative impact protestors have on local residents.

Respondents did not support the principle of the PSPO being implemented because:

- They believe they were against the fundamental rights and freedoms, as set out by The Human Rights Act 1998 and the European Convention on Human Rights (ECHR), including their rights to expression, to hold religious beliefs and their right to assemble and protest
- The PSPO would deny those considering using the service the last-minute opportunity to access information about alternative options available to them, as well as other support and counselling
- They felt that there was insufficient evidence to support the implementation, their actions were undertaken peacefully and did not constitute intimidation and harassment, and that there were already existing laws that could tackle any behaviour that was deemed to be harassment, abuse or intimidation
- They felt that the proposals discriminated against the views of Pro-life supporters and had not considered their viewpoint prior to the design of the proposals.

## **Preferred option**

### ***Q. If you had to choose a preferred option, which would it be?***

66% of respondents indicated that their preferred option was for a Safe Zone with no designated areas (option 1), 4% preferred a Safe Zone with one designated area (option 2), 8% preferred a Safe Zone with two designated areas (option 3), while 22% of respondents did not want any of the proposed options. Respondents who were most likely to not want any of the proposed options were aged older than 55 years, male, heterosexual, ethnic minorities, or Christian.

### ***Q. Please explain the reasons for your preferred option including details of any potential impacts you think it may have on you.***



Respondents who preferred option 1 did so because:

- They felt protestors should not be allowed anywhere near the clinic for the safety and privacy of service users and staff
- Service users should not have to face harassment, intimidation or interference from protestors when accessing the service, causing more emotional distress which may deter them from accessing the service at a time when it is necessary
- It is the woman's right to choose what happens to their body
- They felt that this option was best for local residents and that designated areas should be out of sight and were too close to the clinic, while protestors have alternative means and locations in which they can lobby against the service and abortion
- They felt that designated areas give credence to the views and behaviours of those protesting and the restricted behaviours would continue as they would be difficult to monitor.

Respondents who preferred option 2 did so because they felt:

- It provides a compromise between the safety of service users and their human rights
- It allows service users to be provided with information about alternative options
- A designated area would be pointless if it were further away from the clinic.

Respondents who preferred option 3 did so because:

- It allows protests and the right to free speech but at a reasonable distance from the clinic, while the designated area in option 2 was too close to the clinic
- It provides the most safety and protection to service users and staff and means that the designated areas could be avoided by service users when accessing the service.

Respondents who did not want any of the proposed options felt that:

- They were against their fundamental rights and freedoms, as set out by The Human Rights Act 1998 and the European Convention on Human Rights (ECHR), including their freedom of speech and expression, freedom to religious beliefs as well as their freedom to assembly and protest
- The proposed restrictions on behaviour were too extensive and limit the peaceful support and activities that they can take part in
- The proposals would deny service users access to last-minute support, advice and alternative options to abortion
- There was a lack of evidence that the behaviour of Pro-life supporters justified the proposals, while there are also existing laws to tackle any potential harassment or anti-social behaviour
- The proposed options discriminate against Pro-life supporters and had not considered their views before being developed.

## **PSPO Orders**

### **Proposals to restrict behaviours in the Safe Zone**

***Q. To what extent do you support or do not support the proposed restrictions on behaviour within the Safe Zone?***

Roughly two-thirds of respondents supported each proposed restriction on behaviour within the Safe Zone. Respondents who were most likely to support them were:

- Members of BPAS staff, respondents who have used the BPAS Bournemouth service before as well as BCP residents, regardless of whether they live close to the clinic or not
- Aged younger than 55 years
- Female
- Lesbian, Gay or Bi-sexual (LGB) / other sexuality
- White British
- No religion or any religion other than Christian

***Q. If applicable, please explain why you do not support any of the proposed restrictions within the Safe Zone, including details of any potential impacts you think it may have on you.***

Reasons why respondents did not support the proposed restrictions on behaviour within the Safe Zone included that:

- It was their human right to free speech, express religious beliefs and to protest
- The intentions of those who gather around the clinic are to provide support and information to those considering using the BPAS service who may not be fully informed of the procedure, consequences and alternative options available to them
- They felt that their behaviours were conducted in a peaceful and respectful manner and there was a lack of evidence that the activities constituted as harassment or intimidation.

However, respondents also commented that they did in fact support the restrictions of behaviours within the Safety Zone for the safety, protection and welfare of service users and staff.

### **Proposals to restrict behaviours within the designated areas**

#### ***Q. To what extent do you support or do not support the proposed restrictions on behaviour within the designated areas?***

More than two-thirds of respondents also supported the majority of the proposed restrictions within the designated areas, while 61% supported the limit of no more than four people allowed in them at any one time. Respondents who were most likely to support the restrictions were:

- Members of BPAS staff, respondents who have used the BPAS Bournemouth service before as well as BCP residents, regardless of whether they live close to the clinic or not
- Aged younger than 55 years
- Female
- LGB / other sexuality
- White British
- No religion or any religion other than Christian

#### ***Q. If applicable, please explain why you do not support any of the restrictions within the designated areas, including details of any potential impacts you think it may have on you.***

Reasons why respondents did not support the proposed restrictions on behaviour within the designated areas were similar to why they did not support the restrictions within the Safe Zone.

Reasons included that:

- It was their human right to free speech, express religious beliefs and to protest
- The intentions of those who gather around the clinic are to provide support and information to those considering using the BPAS service who may not be fully informed of the procedure, consequences and alternative options available to them
- The behaviours were conducted in a peaceful and respectful manner and there was a lack of evidence that it constituted as harassment or intimidation.
- The listed restrictions would make the designated areas redundant as the activities are the same as those restricted within the Safe Zone.

However, respondents also commented that they did in fact support the restriction of the behaviours within the designated areas for the safety, protection and welfare of service users and staff. In addition, respondents commented that it was their legal right to choose what happened to their body and no one else should interfere with this. The right to protest should not take precedence over this right and protestors add to the emotional distress of their decision. Respondents also expressed support for a Safe Zone with no designated areas at all (option 1) and therefore it is irrelevant if the behaviours are allowed or not.

### **Times the PSPO could cover**

#### ***Q. At what times do you think the proposed PSPO should be applicable for?***

76% of respondents felt that the proposed PSPO should apply all the time, 1% said they should apply Monday to Friday only, while 23% suggested alternative times. The majority of these indicated that it

should never apply, with others feeling that it should only apply during clinic opening hours and 1-2 hours either side of this.

The vast majority of respondents who have used the BPAS Bournemouth service before, are a member of staff, or live within the BCP Council area, regardless of whether they live close to it or not, felt that the proposed PSPO should apply all the time.

Respondents who were most likely to indicate that the PSPO should be applicable all of the time were:

- Aged younger than 55 years
- Female
- LGB / other sexuality
- White British or White ethnic minority
- No religion or any religion other than Christian

### **Behaviour in the area around the BPAS building**

***Q. Please tell us if you have witnessed and/or experienced any of the following behaviours near the BPAS building in the last 12 months.***

When asked what behaviours they have witnessed or experienced near the BPAS building in the last 12 months, the most prevalent behaviours witnessed or experienced were:

- The handing of leaflets (25%)
- Praying (25%)
- Speeches to passers-by (20%)
- Verbal harassment (17%)
- Taking photographs (11%)
- Physical harassment (7%)

BPAS staff members, BCP residents living within 200 metres of the building, as well as those who have used the BPAS Bournemouth service before were most likely to have witnessed or experienced the various behaviours over the last 12 months, while those who live outside of the BCP Council area were least likely to have witnessed or experienced them. 8

### **Equalities and Human Rights**

***Q. Are there any positive or negative impacts of this proposal that you believe that BCP Council should take into account in relation to equalities or human rights? If so, are you able to provide any supporting information and suggest any ways in which the organisation could reduce or remove any negative impacts and increase any positive impacts?***

Respondents were asked to provide any positive or negative impacts of this proposal that they believe that BCP Council should take into account in relation to equalities or human rights. Comments that were in support of the proposals related to:

- Improved safety and protection of service users and staff
- The right to protest should not adversely affect the rights of service users and that proposals should prioritise the impact of those using services
- Women's rights need to be protected in general and that it is important to maintain their right to choose to have an abortion.
- Article 8 of The Human Rights Act, and their right of respect for their private and family life
- How the proposed restrictions should consider the thoughts and needs of vulnerable groups, including those with a disability and those on low income and the LGBTQ+ community, particularly trans people.
- The need for protests taking place elsewhere.

Comments that were opposed to the proposals related to them:

- Being against their basic human rights
- Being against their freedom of thought, belief and religion (Article 9)
- Being against their freedom of expression and speech (Article 10)

- Being against their freedom of assembly and association (Article 11), including the right to protest
- Being against Article 13 of the European Convention on Human Rights (ECHR)
- Not considering the viewpoint of Pro-life supporters and removing the right of the unborn to life
- Removing women's right of access to additional support, information and alternative options.

## Respondent profile

Respondents were asked a series of demographic questions in order to understand how the proposals could affect different people Respondents were:

- Spread across a range of ages, with 43% of responses coming from those aged 16 – 34 years.
- 68% were female and 25% were male
- 1% of respondents did not identify their gender as the same sex that they were assigned at birth
- 14% had a disability
- 75% were heterosexual, 12% were any other sexuality
- 80% were White British, 6% were White ethnic minority, 4% were an other ethnic minority
- 52% had no religion, 35% were Christian
- 64% were a BCP resident not living near the BPAS Bournemouth building, 10% were someone who has used the BPAS Bournemouth service before, 4% were a BCP resident living within 200 metres of the building, while 2% were BPAS staff. 16% of respondents were individuals living outside of the BCP Council area.

## Research

Research by Dr Pam Lowe and Dr Sarah-Jane Page<sup>1</sup>, whose book [Anti-Abortion Activism in the UK](#) was published in April 2022, shows that the anti-abortion activism around clinics causes considerable distress to those seeking services, and it is experienced as a specific form of street harassment.

They say it draws unwelcome public attention to those entering and leaving abortion clinics and involves strangers asking personal questions about a private healthcare decision on the street. Even when they have been told that they do not want a conversation, anti-abortion activists sometimes persist in trying to persuade women not to go ahead with the procedure.

Dr Pam Lowe said that "It is experienced as unwanted surveillance and an invasion of healthcare privacy for those seeking abortion. "No one should be accosted and asked to discuss private issues by strangers in public."

The Medical Law Review article published 24 June 2022 <https://academic.oup.com/medlaw/advance-article/doi/10.1093/medlaw/fwac019/6617219> states 'In 2020, 77% of abortions funded by the National Health Service (NHS) in England and Wales were performed in independent sector clinics as opposed to NHS hospitals. Increasingly, clinic-users encounter demonstrations by pro-life advocates who oppose abortion. Cohen and Connor call this 'general clinic protest'. The activities undertaken as part of the demonstrations outside abortion clinics are wide-ranging and it is not possible to produce an exhaustive list. Nevertheless, Sarah Champion MP provides a useful summary of typical protest activities:

... *"the display of graphic images of dismembered foetuses, large marches that gather outside the clinic, filming women and staff members, following women down the street, sprinkling sites with holy water and handing out leaflets that tell women, falsely, that abortion causes breast cancer, suicidal intentions and can lead to child abuse.*

*Recently, groups have been handing out advertisements for dangerous and unproven medication to reverse an abortion. Obstructing clinic entrances, shouting at clinic-users (often addressed as 'mum' or a 'murderer'), grabbing clinic-users, and praying are further examples of typical protest activities."*

These behaviours have been reported by service users at the Ophir Road Clinic.



The Clinic has provided information from service users which shows that having people outside praying, giving out leaflets and displaying signage can be distressing and cause alarm and harassment to clinic users.

The ASB team have been liaising with other local authorities who have been investigating and have or are considering to introduce a PSPO to deal with the same issues as being experienced at the BPAS clinic in Bournemouth.

### **National statistics, Abortion statistics, England and Wales: 2020, Updated 4 May 2022**

The office of national statistics Key points in 2020, the report provides statistics on abortions recorded in England and Wales in 2020:

There were 209,917 abortions for women resident in England and Wales, the highest number since the Abortion Act was introduced.

The abortion rate for women aged under 18 has decreased compared to 2019 (from 8.1 to 6.9 per 1,000 between 2019 and 2020) but has increased for women over 35 (from 9.7 to 10.6 per 1,000 between 2019 and 2020).

85% of abortions were medically induced; which increased from 73% in 2019, and increasing by 42 percentage points since 2010.

There has been an increase in the rates for all ages 23 and above. The largest increases in abortion rates by age are amongst women aged 30 to 34 which have increased from 16.5 per 1,000 in 2010 to 21.9 per 1,000 in 2020.

Abortion rates for those aged under 18 have declined over the last ten years (from 16.5 to 6.9 per 1,000 between 2010 and 2020). The decline since 2010 is particularly marked in the under 16 age group, where the rates have decreased from 3.9 per 1,000 women in 2010 to 1.2 per 1,000 women in 2020. The abortion rate for 18 to 19 year olds has also declined from 30.7 per 1,000 women to 22.1 per 1,000 women in the same period

#### **Marital status**

81% of abortions in 2020 were for women whose marital status was given as single, a proportion that has remained roughly constant for the last 10 years. 51% were to women whose marital status was given as single with a partner. This proportion has remained similar in recent years

#### **Ethnicity**

77% of women having abortions reported their ethnicity as White, 9% as Asian, 7% as Black, 4% as Mixed and 2% as Other. Ethnicity was recorded on 95% of the forms received for 2020

#### **Area of residence within England and Wales**

By region of residence, rates of abortion are highest in the North West (21.0 per 1,000 women aged 15 to 44) and lowest in the South West (15.2 per 1,000 women aged 15 to 44).

#### **Location and funding of abortions**

In 2020, 22% of abortions were performed in NHS hospitals. The percentage performed in approved independent sector clinics under NHS contract increased in line with recent years, from 74% in 2019 to 77% in 2020, making a total of 99% of abortions funded by the NHS. The remaining 1% were privately funded.

#### **Statutory grounds for abortion**

Under the Abortion Act 1967, a pregnancy may be lawfully terminated by a registered medical practitioner in approved premises, if two medical practitioners are of the opinion, formed in good faith, that the abortion is justified under one or more of grounds A to G. (Table A). For more information about the grounds for abortion, see the [Glossary](#) and page 4 in the [Guide to Abortion Statistics](#).

#### **Table A: Grounds for abortion**

Ground	Definition
Ground A	That the continuance of the pregnancy would involve risk to the life of the pregnant woman greater than if the pregnancy were terminated.
Ground B	That the termination is necessary to prevent grave permanent injury to the physical or mental health of the pregnant woman.
Ground C	That the pregnancy has NOT exceeded its 24th week and that the continuance of the pregnancy would involve risk, greater than if the pregnancy were terminated, of injury to the physical or mental health of the pregnant woman.
Ground D	That the pregnancy has NOT exceeded its 24th week and that the continuance of the pregnancy would involve risk, greater than if the pregnancy were terminated, of injury to the physical or mental health of any existing child(ren) of the family of the pregnant woman.
Ground E	That there is substantial risk that if the child were born it would suffer from such physical or mental abnormalities as to be seriously handicapped.
Ground F	To save the life of the pregnant woman.
Ground G	To prevent grave permanent injury to the physical or mental health of the pregnant woman.

The proportion of abortions performed under different grounds has remained similar to previous years.

In 2020, 98.1% of abortions (205,930) were performed under ground C. A further 1.5% were carried out under ground E (3,083 abortions, a decrease of 100 since 2019), with 0.4% (776 abortions) under ground D. The remaining grounds account for very few abortions; 128 in total across grounds A, B, F and G. Most of the overall increase in the number of abortions is the result of ground C abortions increasing.

The vast majority (99.9%) of abortions carried out under ground C alone were reported as being performed because of a risk to the woman's mental health. These were classified as F99 (mental disorder, not otherwise specified) under the International Classification of Disease version 10 (ICD-10)

#### Legal abortions performed under ground E

Ground E abortions are those performed because of foetal abnormality at any gestation. There were 3,083 abortions performed under ground E in 2020. This is a slight fall since 2019, when there were 3,183 (2%) abortions performed under ground E.

In 2020, 73% of ground E abortions were performed medically and 85% of all abortions were performed medically. This is in comparison to 2019 when 73% of both ground E and all abortions were performed medically.

There were 229 (7%) ground E abortions at 24 weeks and over.

The age group with the highest proportion of abortions performed under ground E is 35 and over (3% of abortions for this age group were performed under ground E).

There was a total of 4,495 conditions mentioned on ground E forms in 2020. This is an increase from 3,863 in 2019. The medical diagnoses are coded to the International Classification of Diseases (ICD-10). For more information on issues with the reporting of ground E abortions see the [Guide to Abortion Statistics](#), in the link for Abortion statistics for England and Wales: 2020 (page 7).

Congenital malformations (see [Glossary](#)), were the most common medical condition mentioned on HSA4 forms, making up 55% of conditions mentioned. Chromosomal abnormalities counted for 27% of conditions mentioned

### **Gestation period**

The proportion of abortions that are performed at under 10 weeks has continued to increase since 2010. In 2020, 88% of abortions were performed under 10 weeks, increasing from 82% in 2019 and 77% in 2010

In comparison, abortions performed at 10-12 weeks decreased from 9% in 2019 to 6% in 2020. The percentage performed at 20 weeks and over decreased from 2% in 2019 to 1% in 2020.

The legal limit for a woman having an abortion is 24 weeks gestation. This is the point at which the foetus is viable outside the mother's body. Abortions may be performed after 24 weeks in certain circumstances, for example, if the mother's life is at risk or the child would be born severely disabled. Abortions where gestation is 24 weeks or over account for a very small number of abortions (0.1% of the total). There were 236 such abortions in 2020.

[Abortion statistics, England and Wales: 2020 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/abortion-statistics-england-and-wales-2020)

### **BPAS representations to the PSPO consultation**

BPAS Bournemouth on Ophir Road provides abortion services and related healthcare advice and services to around 1600 women a year. In 2021-22 around 70% of these women live in the Dorset and Solent areas, with the remaining 30% traveling from further afield.

BPAS Bournemouth is licensed to provide surgical abortions up to 18 weeks and 6 days. There are fewer than 20 sites in the UK that provide this service, so some clients have travelled exceptionally long distances to access this care (eg from Scotland).

As part of the *Back Off* campaign we have gathered reports from clients, people accompanying clients, local residents, healthcare workers, and passers-by about their personal experience of clinic protests. We currently have 2903 individual reports of anti-abortion clinic activity in our *Back Off* database from both clients and healthcare workers. This evidence-gathering has shown 50 clinics affected by protestors in England and Wales since 2018. In 2019, the latest year for which national figures are available, more than 100,000 women a year attend these clinics for care.

**597 of the reports in the Back Off database, including 541 reports from people who do not work for BPAS (clients, client escorts, local residents, and passers-by) refer directly to BPAS Bournemouth on Ophir Road.**

There are currently three PSPOs addressing clinic harassment in place across England – two of which, in Ealing and Richmond, have recently been renewed for another three-year period. It is our experience that the introduction of a PSPO has been the **only effective way of addressing this activity**. Outside BPAS Richmond, in the years running up to the introduction of a PSPO, anti-abortion groups were present outside every day that the clinic was open. Since the PSPO has been in place, there has not been a single person present outside the clinic. Separately, the courts have upheld these PSPOs. The Ealing PSPO was subject to a legislative challenge in the High Court, partly on the grounds that it unduly interfered with the protesters' Article 9 and 10 rights. **The Court dismissed this claim and the Ealing PSPO was upheld in full** – acknowledging that although the PSPO interfered with the rights of protesters, it was justified in order to uphold the rights of others in the vicinity, notably the Article 8 right to a private and family life. The ruling also made clear that when considering behaviour that has 'had a detrimental effect on the quality of life of those in the locality', people attending the clinic or working at the clinic should also be considered, and that experience should not simply be limited to local residents.

L Turner in *Dulgheriu v London Borough of Ealing* found that –

*"I am satisfied that their rights to a private life were engaged. Their position is very different to the person who walks down a public street knowing that they will inevitably be casually observed by others.*

*In particular, **women of reproductive age who are entering the Centre are quite likely to be going there in order to have an abortion.** Those leaving may well have undergone an abortion. They thereby become objects of attention not as ordinary members of the public but as women in the early stages of pregnancy who are considering the prospect of an abortion or who have just had an abortion. The fact of being pregnant is often, in itself, one that a mother reasonably wishes to be kept private, to a greater or lesser extent, in the early stages. The fact that one is considering, or has undergone, an abortion is, if anything, likely to be an even more intensely private affair for many women and their partners. **To be the focus of open public attention, often at the very moment when sensitivities are at their highest, is an invasion of privacy even when it occurs in a public place.**"*

The Court of Appeal's ruling on the same case found that –

*"The decision of a woman whether or not to have an abortion is an intensely personal and sensitive matter. **There is no doubt that it falls within the notion of private life within the meaning of article 8...** We consider it is clear, nevertheless, that [the protesters] engaged the article 8 rights of those visiting the Centre both from the perspective of the right to autonomy on the part of service users in wishing to carry through their decision to have an abortion and from **the reasonable desire and legitimate expectation that their visits to the Centre would not receive any more publicity than was inevitably involved in accessing and leaving the Centre across a public space and highway.**"*

**Roughly 20% of women who book an initial appointment with BPAS do not proceed to treatment with us.**

## Findings

### • **Different Ages**

National statistics show:

The abortion rate for women aged under 18 has decreased compared to 2019 (from 8.1 to 6.9 per 1,000 between 2019 and 2020) but has increased for women over 35 (from 9.7 to 10.6 per 1,000 between 2019 and 2020).

There has been an increase in the rates for all ages 23 and above. The largest increases in abortion rates by age are amongst women aged 30 to 34 which have increased from 16.5 per 1,000 in 2010 to 21.9 per 1,000 in 2020.

Abortion rates for those aged under 18 have declined over the last ten years (from 16.5 to 6.9 per 1,000 between 2010 and 2020). The decline since 2010 is particularly marked in the under 16 age group, where the rates have decreased from 3.9 per 1,000 women in 2010 to 1.2 per 1,000 women in 2020. The abortion rate for 18 to 19 year olds has also declined from 30.7 per 1,000 women to 22.1 per 1,000 women in the same period

The public consultation highlighted the following breakdown of respondents to the questionnaire:

Breakdown of Age	Number of respondents	% Respondents
Under 16	116	5%
16 – 24 years	466	21%
25 – 34 years	476	22%
35 – 44 years	364	16%
45 – 54 years	313	14%



55 – 64 years	347	16%
65+ years	128	6%
Prefer not to say	116	5%

Therefore showing the highest response to the consultation questionnaire were those under 34 years, which is reflective of the age groups which access the services at the BPAS Clinic.

The PSPO is likely to have a positive impact on women of reproductive age who attend the clinic because the Order would restrict behaviours that have been reported as upsetting and distressing.

We do not hold any data in relation to the age of the individuals from the pro-life and pro-choice groups who attend outside the clinic in order to protest and/or hold vigils, or those living in the immediate locality, or staff members.

The Council understands that these groups are made up of a diverse range of ages. The Council believes the behaviours involved in the protests or 'vigils' cause or are likely to have a detrimental impact to people, including women of reproductive age, regardless of their age and therefore there is no disproportionate negative impact of introducing and enforcing a PSPO.

The pro-life and pro-choice groups/individuals are free to continue their protests and/or vigils anywhere outside of the relatively small safe zone area and as a result the impact on them by reason of age is likely to be neutral.

Except for children, age is not a factor that will influence any enforcement decisions. The Council's approach is not to take PSPO enforcement action against children aged 10 – 17 years. If a child was engaged in any of the behaviours described an alternative supportive and if appropriate safeguarding response would be followed. There will be no disproportionate impact because the investigation has never found children involved in any of the behaviours detailed in the PSPO.

Although the order will not have a discriminatory or disproportionate impact by reason of Age any possible impact will be minimised through officer training and awareness. Authorised officers are trained to enforce the order fairly and proportionately.

Each behaviour / requirement has been considered in relation to any discrimination or disproportionate impact;

- 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. This includes but is not limited to graphic, verbal or written means, prayer or counselling – There is no disproportionate impact on age.
- Interfering, or attempting to interfere, whether verbally or physically, with a service user or member of staff of the BPAS clinic – There is no disproportionate impact of age.
- Intimidating or harassing, or attempting to intimidate or harass, a service user or a member of staff, of the BPAS clinic - There is no disproportionate impact of age.
- Recording or photographing a service user or member of staff of the BPAS Clinic – There is no disproportionate impact on age.
- Displaying text or images relating directly or indirectly to the termination of pregnancy and or playing or using amplified music, voice or audio recordings – There is no disproportionate impact on age.
- Holding vigils' where members audibly pray, recite scripture, genuflect, sprinkle holy water on the ground or cross themselves if they perceive a service-users is passing by - There is no disproportionate impact on age.
- Remaining in the Safe Zone, when asked to leave by a Police Officer or police community support officer or any other person designated by BCP Council or returning to the Safe Zone before 7pm on the day you have been asked to leave. There is no disproportionate impact on age.

- ***Current/Previous members of the Armed Forces***

We do not hold any data in relation to current or previous members of the armed forces in relation to those accessing/working at the clinic or in relation to the individuals from the pro-life and pro-choice groups who attend outside the clinic in order to protest and/or hold vigils, or those living in the immediate locality.

The proposed PSPO will not directly or indirectly discriminate, or otherwise have a disproportionate impact on grounds of disability. The Council will seek to minimise any impact through officer training and awareness. Authorised officers are trained to enforce the order fairly and proportionately. The approach to enforcement will allow officers to consider individual circumstances to determine when help and support is the most appropriate option as an alternative to enforcement.

Each behaviour / requirement has been considered in relation to any discrimination or disproportionate impact;

- 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. This includes but is not limited to graphic, verbal or written means, prayer or counselling – There is no disproportionate impact on those who are currently or have previously been members of the armed forces.

- Interfering, or attempting to interfere, whether verbally or physically, with a service user or member of staff of the BPAS clinic – There is no disproportionate impact on those who are currently or have previously been members of the armed forces.

- Intimidating or harassing, or attempting to intimidate or harass, a service user or a member of staff, of the BPAS clinic – There is no disproportionate impact on those who are currently or have previously been members of the armed forces.

- Recording or photographing a service user or member of staff of the BPAS Clinic – There is no disproportionate impact on those who are currently or have previously been members of the armed forces.

- Displaying text or images relating directly or indirectly to the termination of pregnancy and or playing or using amplified music, voice or audio recordings – There is no disproportionate impact on those who are currently or have previously been members of the armed forces.

- Holding vigils' where members audibly pray, recite scripture, genuflect, sprinkle holy water on the ground or cross themselves if they perceive a service-users is passing by - There is no disproportionate impact on those who are currently or have previously been members of the armed forces.

- Remaining in the Safe Zone, when asked to leave by a Police Officer or police community support officer or any other person designated by BCP Council or returning to the Safe Zone before 7pm on the day you have been asked to leave - There is no disproportionate impact on those who are currently or have previously been members of the armed forces.

Form Version 1.2      Prepared by: Julia Howlett    Date: 23/09/22

## **Equality Impact Assessment: Report and EIA Action Plan**

- ***Those with caring responsibilities***

We do not hold any data in relation to those who may have caring responsibilities in relation to people who accessing/working at the clinic or in relation to the individuals from the pro-life and pro-choice groups who attend outside the clinic in order to protest and/or hold vigils, or those living in the immediate locality.

It has been highlighted however, that people who escort service users to the clinic are also affected by the behaviours of protestors. In clinic have highlighted that some service users may have additional needs or be vulnerable and those accompanying them may well be classed as their carer.

The impact of a PSPO on this group will be positive given that women as a group are disproportionately adversely affected by the behaviours the PSPO seeks to address. The PSPO will safeguard and facilitate and allow women to access the clinic without fear of harassment or having to pass a group of protestors or a vigil.

The proposed PSPO will not directly or indirectly discriminate, or otherwise have a disproportionate impact on grounds of somebody having caring responsibilities. The Council will seek to minimise any impact through officer training and awareness. Authorised officers are trained to enforce the order fairly and proportionately. The approach to enforcement will allow officers to consider individual circumstances to determine when help and support is the most appropriate option as an alternative to enforcement.

Each behaviour / requirement has been considered in relation to any discrimination or disproportionate impact;

- 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. This includes but is not limited to graphic, verbal or written means, prayer or counselling – There is no disproportionate impact on those who have caring responsibilities.
- Interfering, or attempting to interfere, whether verbally or physically, with a service user or member of staff of the BPAS clinic – There is no disproportionate impact on those who have caring responsibilities.
- Intimidating or harassing, or attempting to intimidate or harass, a service user or a member of staff, of the BPAS clinic – There is no disproportionate impact on those who have caring responsibilities.
- Recording or photographing a service user or member of staff of the BPAS Clinic – There is no disproportionate impact on those who have caring responsibilities.
- Displaying text or images relating directly or indirectly to the termination of pregnancy and or playing or using amplified music, voice or audio recordings – There is no disproportionate impact on those who have caring responsibilities.
- Holding vigils' where members audibly pray, recite scripture, genuflect, sprinkle holy water on the ground or cross themselves if they perceive a service-users is passing by - There is no disproportionate impact on those who have caring responsibilities.
- Remaining in the Safe Zone, when asked to leave by a Police Officer or police community support officer or any other person designated by BCP Council or returning to the Safe Zone before 7pm on the day you have been asked to leave - There is no disproportionate impact on those who have caring responsibilities.

- ***Those with physical disabilities***

The proposed PSPO will not directly or indirectly discriminate, or otherwise have a disproportionate impact on grounds of disability. The Council will seek to minimise any impact through officer training and awareness. Authorised officers are trained to enforce the order fairly and proportionately. The approach to enforcement will allow officers to consider individual circumstances to determine when help and support is the most appropriate option as an alternative to enforcement.

Research completed by Public Health and the NHS highlights 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, that people with learning disabilities maybe disproportionality among those accessing the clinic for services, and if so they will be positively affected by the PSPO in that they would be able to access the clinic without having to pass the vigils / protestors and access services more easily and thus there being less detrimental impact on their lives.

Each behaviour / requirement has been considered in relation to any discrimination or disproportionate impact;

- 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. This includes but is not limited to graphic, verbal or written means, prayer or counselling - This prohibition does not create a disproportionate impact on disability.
- Interfering, or attempting to interfere, whether verbally or physically, with a service user or member of staff of the BPAS clinic - This prohibition does not create a disproportionate impact on disability.
- Intimidating or harassing, or attempting to intimidate or harass, a service user or a member of staff, of the BPAS clinic - This prohibition does not create a disproportionate impact on disability.
- Recording or photographing a service user or member of staff of the BPAS Clinic - This prohibition does not create a disproportionate impact on disability.
- Displaying text or images relating directly or indirectly to the termination of pregnancy and or playing or using amplified music, voice or audio recordings - This prohibition does not create a disproportionate impact on disability.
- Holding vigils' where members audibly pray, recite scripture, genuflect, sprinkle holy water on the ground or cross themselves if they perceive a service-users is passing by - This prohibition does not create a disproportionate impact on disability.
- Remaining in the Safe Zone, when asked to leave by a Police Officer or police community support officer or any other person designated by BCP Council or returning to the Safe Zone before 7pm on the day you have been asked to leave - This requirement does not create a disproportionate impact on disability.

Authorised officers are trained and will apply their discretion in the amount of time given in the circumstance if a person identifies as disabled and is asked to leave the area.

- ***Those with mental disabilities***

Through our research it has been identified in the National abortion statistics that the vast majority (99.9%) of abortions carried out under ground C (That the pregnancy has NOT exceeded its 24th week and that the continuance of the pregnancy would involve risk, greater than if the pregnancy were terminated, of injury to the physical or mental health of the pregnant woman). alone were reported as being performed because of a risk to the woman's mental health. These were classified as F99 (mental disorder, not otherwise specified) under the International Classification of Disease version 10 (ICD-10)

We do not hold any data in relation to those who access the clinic or those who partake in the actives outside the clinic and their mental health.

From the national statistic it can be deduced that some women who attend the clinic for treatment could have some kind of mental health disability.

The impact of a PSPO on this group will be positive given that women with any kind of mental health disability as a group are disproportionately adversely affected by the behaviours the PSPO seeks to address. The PSPO will safeguard and facilitate and allow women with mental health disabilities to access the clinic without fear of harassment or having to pass a group of protestors or a vigil.



The proposed PSPO will not directly or indirectly discriminate, or otherwise have a disproportionate impact on grounds of somebody having a mental health disability. The Council will seek to minimise any impact through officer training and awareness. Authorised officers are trained to enforce the order fairly and proportionately. The approach to enforcement will allow officers to consider individual circumstances to determine when help and support is the most appropriate option as an alternative to enforcement.

Each behaviour / requirement has been considered in relation to any discrimination or disproportionate impact;

- 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. This includes but is not limited to graphic, verbal or written means, prayer or counselling – There is no disproportionate impact on those who have a mental health disability.
- Interfering, or attempting to interfere, whether verbally or physically, with a service user or member of staff of the BPAS clinic – There is no disproportionate impact on those who have a mental health disability.
- Intimidating or harassing, or attempting to intimidate or harass, a service user or a member of staff, of the BPAS clinic – There is no disproportionate impact on those who have a mental health disability.
- Recording or photographing a service user or member of staff of the BPAS Clinic – There is no disproportionate impact on those who have a mental health disability.
- Displaying text or images relating directly or indirectly to the termination of pregnancy and or playing or using amplified music, voice or audio recordings – There is no disproportionate impact on those who have a mental health disability.
- Holding vigils' where members audibly pray, recite scripture, genuflect, sprinkle holy water on the ground or cross themselves if they perceive a service-users is passing by - There is no disproportionate impact on those who have a mental health disability.
- Remaining in the Safe Zone, when asked to leave by a Police Officer or police community support officer or any other person designated by BCP Council or returning to the Safe Zone before 7pm on the day you have been asked to leave - There is no disproportionate impact on those who have a mental health disability.

• ***Different ages (young and old)***

National statistics show:

The abortion rate for women aged under 18 has decreased compared to 2019 (from 8.1 to 6.9 per 1,000 between 2019 and 2020) but has increased for women over 35 (from 9.7 to 10.6 per 1,000 between 2019 and 2020).

There has been an increase in the rates for all ages 23 and above. The largest increases in abortion rates by age are amongst women aged 30 to 34 which have increased from 16.5 per 1,000 in 2010 to 21.9 per 1,000 in 2020.

Abortion rates for those aged under 18 have declined over the last ten years (from 16.5 to 6.9 per 1,000 between 2010 and 2020). The decline since 2010 is particularly marked in the under 16 age group, where the rates have decreased from 3.9 per 1,000 women in 2010 to 1.2 per 1,000 women in 2020. The abortion rate for 18 to 19 year olds has also declined from 30.7 per 1,000 women to 22.1 per 1,000 women in the same period

The public consultation highlighted the following breakdown of respondents to the questionnaire:

Breakdown of Age	Number of respondents	% Respondents
Under 16	116	5%
16 – 24 years	466	21%
25 – 34 years	476	22%
35 – 44 years	364	16%
45 – 54 years	313	14%
55 – 64 years	347	16%
65+ years	128	6%
Prefer not to say	116	5%

Therefore, showing the highest response to the consultation questionnaire were those under 34 years, which is reflective of the age groups which access the services at the BPAS Clinic.

The PSPO is likely to have a positive impact on women of reproductive age who attend the clinic because the Order would restrict behaviours that have been reported as upsetting and distressing.

We do not hold any data in relation to the age of the individuals from the pro-life and pro-choice groups who attend outside the clinic to protest and/or hold vigils, or those living in the immediate locality, or staff members.

The Council understands that these groups are made up of a diverse range of ages. The Council believes the behaviours involved in the protests or 'vigils' cause or are likely to have a detrimental impact to people, including women of reproductive age, regardless of their age and therefore there is no disproportionate negative impact of introducing and enforcing a PSPO.

The pro-life and pro-choice groups/individuals are free to continue their protests and/or vigils anywhere outside of the relatively small safe zone area and as a result the impact on them by reason of age is likely to be neutral.

Except for children, age is not a factor that will influence any enforcement decisions. The Council's approach is not to take PSPO enforcement action against children aged 10 – 17 years. If a child was engaged in any of the behaviours described an alternative supportive and if appropriate safeguarding response would be followed. There will be no disproportionate impact because the investigation has never found children involved in any of the behaviours detailed in the PSPO.

Although the order will not have a discriminatory or disproportionate impact by reason of Age any possible impact will be minimised through officer training and awareness. Authorised officers are trained to enforce the order fairly and proportionately.

Each behaviour / requirement has been considered in relation to any discrimination or disproportionate impact;

- 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. This includes but is not limited to graphic, verbal or written means, prayer or counselling – There is no disproportionate impact on age.

- Interfering, or attempting to interfere, whether verbally or physically, with a service user or member of staff of the BPAS clinic – There is no disproportionate impact of age.

- Intimidating or harassing, or attempting to intimidate or harass, a service user or a member of staff, of the BPAS clinic – There is no disproportionate impact on age.

- Recording or photographing a service user or member of staff of the BPAS Clinic – There is no disproportionate impact on age.

- Displaying text or images relating directly or indirectly to the termination of pregnancy and or playing or using amplified music, voice or audio recordings – There is no disproportionate impact on age.

- Holding vigils' where members audibly pray, recite scripture, genuflect, sprinkle holy water on the ground or cross themselves if they perceive a service-users is passing by - There is no disproportionate impact on age
- Remaining in the Safe Zone, when asked to leave by a Police Officer or police community support officer or any other person designated by BCP Council or returning to the Safe Zone before 7pm on the day you have been asked to leave - There is no disproportionate impact on age.

- ***Different genders***

The information below outlines the response to the public consultation by gender:

Female	1,500	68%
Male	546	25%
Prefer not to say	166	8%

In response to the questions:

'To what extent do you support the principle of a PSPO being implemented around the BPAS building in Bournemouth?' - Respondents least likely to support the proposal were aged older than 55 years, male, ethnic minorities, or Christian

'If you had to choose a preferred option, which would it be?' - Respondents who were most likely to not want any of the proposed options were aged older than 55 years, male, heterosexual, ethnic minorities, or Christian.

There is no data available to confirm the gender of those who attend the clinic to protest or hold 'vigils.' The evidence suggests that males and females participate in both the pro-life and pro-choice protests and although the PSPO places restrictions on their activities, there is no evidence to suggest that these groups will be disproportionately affected by reason of their sex.

The overwhelming majority of service users to the clinic are pregnant women, with the clinic seeing around 1600 women a year for abortion consultation, counselling, abortion treatment, and post-abortion contraception appointments.

The impact of a PSPO on this group will be positive given that women as a group are disproportionately adversely affected by the behaviours the PSPO seeks to address. The PSPO will safeguard and facilitate and allow women to access the clinic without fear of harassment or having to pass a group of protestors or a vigil.

The council has to consider the rights of pregnant women to access health care and advice, free from harassment, intimidation, distress and being able to access services with dignity and privacy and it is clear the activities taking place outside the clinic among the groups is having a detrimental impact on the services users lives.

The council did engage with some of the individuals and groups they had identified as attending the clinic. This included representative from both pro-life and pro-choice backgrounds to try and facilitated a negotiated agreement. A number of proposals were put forward but it was not possible to reach an agreement.

All were informed of the public consultation and advised to complete the consultation questionnaire so that their views were captured.

During discussions and in the consultation, the pro-life groups have advised one of the key reasons they gather outside the clinic is so they can offer support, help and counselling to the women accessing the clinic and offer them alternatives to a termination. The Council has considered this representation, but as part of our investigation we have also worked with the clinic who have advised that alternatives to a termination are always discussed and considered as part of the counselling and advice services users access with trained staff at the point of accessing services.

BPAS have informed the council that service users receive a consultation before any decision is made. The majority of women accessing BPAS services access this consultation remotely via telephone or video call, but women can choose to come to a clinic if they prefer.

Additionally, some clients who are vulnerable and unable to access consultation care remotely – such as women (including young women under 18) with safeguarding concerns, a lack of private space to hold a conversation, or who are homeless – are asked to visit the clinic in person. BPAS Bournemouth provides more than 500 face to face consultations every year.

The consultation includes a pregnancy options discussion to explore a woman's feeling about her pregnancy and to discuss whether to continue with the pregnancy and become a parent, continue with the pregnancy and pursue adoption, or end the pregnancy. Although many women are certain of their choice when they book an appointment, other women are keen to discuss their options. Women are able to book more time and speak to a counsellor in depth if they are unsure of their options.

Women are always seen on their own during the consultation to ensure they are not under any pressure to make a particular decision, or asked if they can talk privately without being overheard if they receive a consultation remotely. If any concerns are raised by the woman or about her situation at this point, trained safeguarding staff may become involved. Clinic activity can and does include, for instance, the clinic phoning police and related services about an abusive partner and the woman going directly from the clinic to a refuge; involving social services with concerns about Child Sexual Exploitation for the girl involved; and reporting concerns about existing children who are at risk of domestic violence.

**Roughly 20% of women who book an initial appointment with BPAS do not proceed to treatment with BPAS.**

However, the information the council has received and in the consultation responses, it clearly shows that the women accessing the clinic do not want to be approached when accessing the clinic or leaving the clinic, some women have reported this to be particularly distressing.

The council hopes that the prohibitions in the PSPO will deter and ensure the behaviour from the groups is negated. This order will affect the protected characteristic for Gender due to pregnancy but will support and help the vast majority of women accessing the services and ensure they can access services free from harassment, intimidation and with privacy.

Each behaviour / requirement has been considered in relation to any discrimination or disproportionate impact;

- 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. This includes but is not limited to graphic, verbal or written means, prayer or counselling - The impact of this prohibition on women accessing the services of the clinic will be positive, as women will be allowed to freely enter and leave the clinic and not be in fear of intimidation or harassment from protestors, with their privacy respected.

- Interfering, or attempting to interfere, whether verbally or physically, with a service user or member of staff of the BPAS clinic – The impact of this prohibition on women accessing the services of the clinic will be positive, as women will be allowed to freely enter and leave the clinic and not be in fear of intimidation or harassment from protestors, with their privacy respected.

- Intimidating or harassing, or attempting to intimidate or harass, a service user or a member of staff, of the BPAS clinic - The impact of this prohibition on women accessing the services of the clinic will be positive, as women will be allowed to freely enter and leave the clinic and not be in fear of intimidation or harassment from protestors, with their privacy respected.

- Recording or photographing a service user or member of staff of the BPAS Clinic - The impact of this prohibition on women accessing the services of the clinic will be positive, as women will be allowed to freely enter and leave the clinic and not be in fear of intimidation or harassment from protestors, with their privacy respected.



- Displaying text or images relating directly or indirectly to the termination of pregnancy and or playing or using amplified music, voice or audio recordings - The impact of this prohibition on women accessing the services of the clinic will be positive, as women will be allowed to freely enter and leave the clinic and not be in fear of intimidation or harassment from protestors, with their privacy respected.

- Holding vigils' where members audibly pray, recite scripture, genuflect, sprinkle holy water on the ground or cross themselves if they perceive a service-users is passing by - The impact of this prohibition on women accessing the services of the clinic will be positive, as women will be allowed to freely enter and leave the clinic and not be in fear of intimidation or harassment from protestors, with their privacy respected.

- Remaining in the Safe Zone, when asked to leave by a Police Officer or police community support officer or any other person designated by BCP Council or returning to the Safe Zone before 7pm on the day you have been asked to leave - The impact of this prohibition on women accessing the services of the clinic will be positive, as women will be allowed to freely enter and leave the clinic and not be in fear of intimidation or harassment from protestors, with their privacy respected.

The terms of the PSPO apply to all genders. Gender is not a factor when considering any enforcement decisions and therefore this requirement means there will be no disproportionate impact on Gender

• ***Those who identify as trans***

We do not hold any data about those who identify as trans in relation to those accessing or working at the clinic or in relation to the individuals from the pro-life and pro-choice groups who attend outside the clinic in order to protest and/or hold vigils, or those living in the immediate locality.

The proposed PSPO will not directly or indirectly discriminate, or otherwise have a disproportionate impact on those who identify as trans. The Council will seek to minimise any impact through officer training and awareness. Authorised officers are trained to enforce the order fairly and proportionately. The approach to enforcement will allow officers to consider individual circumstances to determine when help and support is the most appropriate option as an alternative to enforcement.

Each behaviour / requirement has been considered in relation to any discrimination or disproportionate impact;

- 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. This includes but is not limited to graphic, verbal or written means, prayer or counselling – There is no disproportionate impact on those who identify as trans.

- Interfering, or attempting to interfere, whether verbally or physically, with a service user or member of staff of the BPAS clinic – There is no disproportionate impact on those who identify as trans.

- Intimidating or harassing, or attempting to intimidate or harass, a service user or a member of staff, of the BPAS clinic – There is no disproportionate impact on those who identify as trans.

- Recording or photographing a service user or member of staff of the BPAS Clinic – There is no disproportionate impact on those who identify as trans.

- Displaying text or images relating directly or indirectly to the termination of pregnancy and or playing or using amplified music, voice or audio recordings – There is no disproportionate impact on those who identify as trans.

- Holding vigils' where members audibly pray, recite scripture, genuflect, sprinkle holy water on the ground or cross themselves if they perceive a service-users is passing by - There is no disproportionate impact on those who identify as trans.

- Remaining in the Safe Zone, when asked to leave by a Police Officer or police community support officer or any other person designated by BCP Council or returning to the Safe Zone before 7pm on the day you have been asked to leave - There is no disproportionate impact on those who identify as trans.

- ***Those who are pregnant/on maternity***

The overwhelming majority of service users to the clinic are pregnant women, with the clinic seeing around 1600 women a year for abortion consultation, counselling, abortion treatment, and post-abortion contraception appointments.

The council has to consider the rights of pregnant women to access health care and advice, free from harassment, intimidation, distress and being able to access services with dignity and privacy and it is clear the activities taking place outside the clinic among the groups is having a detrimental impact on the services users lives.

L Turner in *Dulgheriu v London Borough of Ealing* found that –

*“I am satisfied that their rights to a private life were engaged. Their position is very different to the person who walks down a public street knowing that they will inevitably be casually observed by others.*

*In particular, **women of reproductive age who are entering the Centre are quite likely to be going there in order to have an abortion.** Those leaving may well have undergone an abortion. They thereby become objects of attention not as ordinary members of the public but as women in the early stages of pregnancy who are considering the prospect of an abortion or who have just had an abortion. The fact of being pregnant is often, in itself, one that a mother reasonably wishes to be kept private, to a greater or lesser extent, in the early stages. The fact that one is considering, or has undergone, an abortion is, if anything, likely to be an even more intensely private affair for many women and their partners. **To be the focus of open public attention, often at the very moment when sensitivities are at their highest, is an invasion of privacy even when it occurs in a public place.**”*

The Court of Appeal's ruling on the same case found that –

*“The decision of a woman whether or not to have an abortion is an intensely personal and sensitive matter. **There is no doubt that it falls within the notion of private life within the meaning of article 8...** We consider it is clear, nevertheless, that [the protesters] engaged the article 8 rights of those visiting the Centre both from the perspective of the right to autonomy on the part of service users in wishing to carry through their decision to have an abortion and from **the reasonable desire and legitimate expectation that their visits to the Centre would not receive any more publicity than was inevitably involved in accessing and leaving the Centre across a public space and highway.**”*

The impact of a PSPO on this group will be positive given that women, especially pregnant women as a group are disproportionately adversely affected by the behaviours the PSPO seeks to address. The PSPO will safeguard and facilitate and allow women to access the clinic without fear of harassment or having to pass a group of protestors or a vigil.

- ***Those who are married/in a civil partnership***

The proposed PSPO will not directly or indirectly discriminate, or otherwise have a disproportionate impact on grounds related to marriage or civil partnership. Although an order will not have a discriminatory or disproportionate effect on this group, any possible impact will be minimised through officer training and awareness. Authorised officers are trained to enforce the order fairly and proportionately.
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Each behaviour / requirement has been considered in relation to any discrimination or disproportionate impact;

- 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. This includes but is not limited to graphic, verbal or written means, prayer or counselling – this prohibition does not create a disproportionate impact on marriage or civil partnership.

- Interfering, or attempting to interfere, whether verbally or physically, with a service user or member of staff of the BPAS clinic – this prohibition does not create a disproportionate impact on marriage or civil partnership.

- Intimidating or harassing, or attempting to intimidate or harass, a service user or a member of staff, of the BPAS clinic – this prohibition does not create a disproportionate impact on marriage or civil partnership.

- Recording or photographing a service user or member of staff of the BPAS Clinic– this prohibition does not create a disproportionate impact on marriage or civil partnership.

- Displaying text or images relating directly or indirectly to the termination of pregnancy and or playing or using amplified music, voice or audio recordings – this prohibition does not create a disproportionate impact on marriage or civil partnership.

- Holding vigils' where members audibly pray, recite scripture, genuflect, sprinkle holy water on the ground or cross themselves if they perceive a service-users is passing by - this prohibition does not create a disproportionate impact on marriage or civil partnership.

- Remaining in the Safe Zone, when asked to leave by a Police Officer or police community support officer or any other person designated by BCP Council or returning to the Safe Zone before 7pm on the day you have been asked to leave - This requirement does not create a disproportionate impact on marriage or civil partnership.

- ***People from different ethnic groups***

The proposed PSPO will not directly or indirectly discriminate, or otherwise have a disproportionate impact on grounds of race. The Council will seek to minimise any impact through officer training and awareness. Authorised officers are trained to enforce the order fairly and proportionately. To promote compliance and reduce any disadvantage created by language barriers officers are aware of support services and how to access translation services.

BCP council data identifies: 88% of the population are from a White British background, and 12% from a non-'White British' background.

The respondent data from the public consultation identified: 80% were White British, 6% were White ethnic minority, 4% were an other.

There is no specific ethnic monitoring data available for the people who attend protests / vigils outside the clinic.

In the case of individuals attending to represent pro-choice views, the impact of the PSPO is thought to be neutral as their motivation for attending is likely to be reduced. The impact on those representing pro-life views is considered negative overall, given the restrictions it will place on their activities. However, this impact is not specific to race.

Each behaviour / requirement has been considered in relation to any discrimination or disproportionate impact;

- 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. This includes but is not

limited to graphic, verbal or written means, prayer or counselling - This prohibition does not create a disproportionate impact on race.

- Interfering, or attempting to interfere, whether verbally or physically, with a service user or member of staff of the BPAS clinic - This prohibition does not create a disproportionate impact on race.

- Intimidating or harassing, or attempting to intimidate or harass, a service user or a member of staff, of the BPAS clinic - This prohibition does not create a disproportionate impact on race.

- Recording or photographing a service user or member of staff of the BPAS Clinic - This prohibition does not create a disproportionate impact on race.

- Displaying text or images relating directly or indirectly to the termination of pregnancy and or playing or using amplified music, voice or audio recordings – This prohibition does not create a disproportionate impact on race.

- Holding vigils' where members audibly pray, recite scripture, genuflect, sprinkle holy water on the ground or cross themselves if they perceive a service-users is passing by - There is no disproportionate impact on age. - This prohibition does not create a disproportionate impact on race.

- Remaining in the Safe Zone, when asked to leave by a Police Officer or police community support officer or any other person designated by BCP Council or returning to the Safe Zone before 7pm on the day you have been asked to leave - This requirement does not create a disproportionate impact on race.

- ***People with different religions or beliefs***

Within BCP Council area data from the 2011 census of Population shows the religious or beliefs of residents as follows:

Christian	59.7%
No religion	29.3%
Religion not stated	7.7%
Muslim	1.2%
Other religion	0.6%
Buddhist	0.5%
Hindu	0.5%
Jewish	0.5%
Sikh	0.1%

Although we have some information about those who are part of pro-life groups and attend the area to engage in vigils and protests our engagement with them has identified that they tend to represent religious groups such as Christian and Roman Catholic.

The largest attendance of groups at the Ophir Road Clinic is during the 40 days for Life organised vigils, which tend to be in March and Oct. 40 Days for Life state that their mission 'aims to end abortion locally through prayer and fasting, community outreach, and a peaceful all-day vigil in front of abortion businesses'. Many local church groups also attend these vigils.

The 40 Days for Life Code of Good Practice states that conduct at vigils should appeal to all Christian denominations and involves catholic prayers.

It is therefore, possible to conclude that the majority of people who visit the area to engage in pro-life protests and vigils identify as Christian. The proposed PSPO would place restrictions on behaviours in the locality of the Ophir Road clinic that are likely to disadvantage and indirectly discriminate against these groups and individuals.

With regard to service users, some national monitoring by the BPAS in relation to religion and belief shows that in the five year period between 2013 – 2017 services users accessing abortion health care services identified as:

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

This data highlights that a large proportion of women accessing the clinic identified as 'No religion' this is a higher figure than BCP Council census data. While the number of those who are identified as Christian is around half the amount of BCP's residents, it is accepted that most people accessing the clinic are reluctant to disclose personal information.

However, the information from the BPAS and the public consultation is useful when considering the type of activities outside the clinic, some which use Christian imagery and language in efforts to influence people leaving or arriving at the clinic. The figures suggest that most people accessing the clinic may not share the same faith or religious beliefs as those protesting or holding vigils.

In considering the views of pro-choice groups, the national group Sister Supporter states on their website:

*"Sister Supporter is a pro-choice, anti-harassment organisation, founded by local Ealing residents in November 2015. We successfully campaigned for a Public Space Protection Order outside our local Marie Stopes clinic, after more than two decades of intimidation and harassment of women by the anti-abortion lobby. However, this gender-biased intimidation doesn't just affect Ealing - many other clinics are also targeted. We are now working towards achieving a national solution because we believe that those who wish to exercise their legal right to healthcare should be free to do so without interference and judgement. We are not anti-religion, nor are we pro-abortion. We are, however, opposed to anyone, with any agenda, placing themselves outside health facilities in order to discourage or deter access. This includes religious groups conducting prayer vigils in the immediate vicinity".*

The public consultation results identified the largest number of respondents identified as 'no religion'

Breakdown	Number of Respondents	% of Respondents
No religion	1,128	52%
Christian	765	35%
All other religions	95	4%
Prefer not to say	196	9%

A PSPO would not interfere with the ability of these groups/individuals to hold a religious belief. However, the primary prohibition on "protest" includes "any act of approval or disapproval, or attempted act of approval or disapproval, with respect to issues related to abortion services by any means". The draft makes express reference to "prayer" as being included when it occurs as a form of protest as defined in the PSPO.

As a result the proposed PSPO does not create a blanket ban on "prayer", the primary restriction is on abortion related "protest" which is further defined in the order and this restriction is not connected to any religious belief.

The council is required to balance the competing rights of those individuals who visit an area to express their religious views and beliefs against the rights of people have experienced or likely to experience a detrimental effect associated with the behaviours involved in such an expression.



Human Rights considerations are detailed separately within this report. A PSPO will have a positive impact on those accessing the clinic for healthcare services, staff members and others within the locality.

An order will restrict behaviours which have caused or are likely to cause a detrimental effect inside the safe zone which is relatively small in scope. There are no restrictions on these groups/individuals outside the restricted area.

Any indirect discrimination is justified by reason of the need to balance the competing rights. The proposed PSPO is limited in both its terms and its geographical scope and is proportionate and necessary response to the detrimental effect being caused.

The Council will undertake to complete a review of the PSPO 12 months after any enforcement commences to include the disproportionate impact on religion and belief. As set out above, all of the prohibitions and requirements of the PSPO may indirectly discriminate on grounds of religion and belief. It is likely that these prohibitions and requirements are most relevant to the pro-life Christian groups. It is anticipated that if the PSPO is introduced the pro-choice groups, particularly Sister Supporter, would consider there was a lesser need to have a presence in the area. When balanced against the need to protect those accessing lawful healthcare, any indirect discrimination is both necessary and justified.

• ***People with different sexual orientations***

There is no evidence to suggest that lesbian, gay or bi-sexual people are disproportionately represented within any group that will be affected by the PSPO.

Although an order will not impact on Sexual Orientation – we will ensure any possible impact is minimised and Authorised officers are given training to enforce any order fairly and proportionately.

Each behaviour / requirement has been considered in relation to any discrimination or disproportionate impact;

- 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. This includes but is not limited to graphic, verbal or written means, prayer or counselling – this prohibition does not create a disproportionate impact on sexual orientation.

- Interfering, or attempting to interfere, whether verbally or physically, with a service user or member of staff of the BPAS clinic - this prohibition does not create a disproportionate impact on sexual orientation.

- Intimidating or harassing, or attempting to intimidate or harass, a service user or a member of staff, of the BPAS clinic- this prohibition does not create a disproportionate impact on sexual orientation.

- Recording or photographing a service user or member of staff of the BPAS Clinic - this prohibition does not create a disproportionate impact on sexual orientation.

- Displaying text or images relating directly or indirectly to the termination of pregnancy and or playing or using amplified music, voice or audio recordings - this prohibition does not create a disproportionate impact on sexual orientation.

- Holding vigils' where members audibly pray, recite scripture, genuflect, sprinkle holy water on the ground or cross themselves if they perceive a service-user is passing by - this prohibition does not create a disproportionate impact on sexual orientation.

- Remaining in the Safe Zone, when asked to leave by a Police Officer or police community support officer or any other person designated by BCP Council or returning to the Safe Zone before 7pm

on the day you have been asked to leave— this requirement does not create a disproportionate impact on sexual orientation.

- **People in different socio-economic groups**

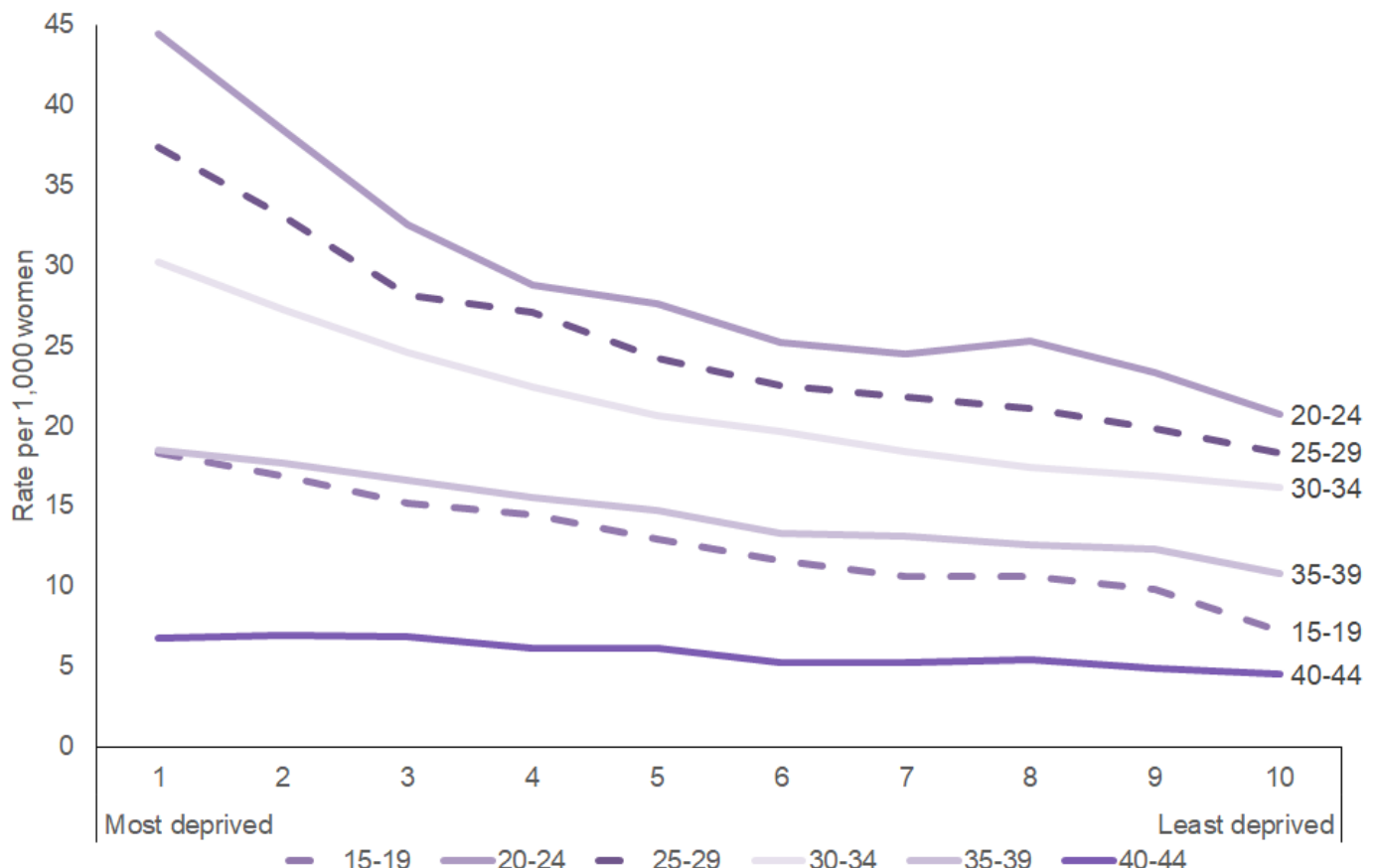
National statistics show:

**Abortion rates by Index of Multiple Deprivation, (IMD), deciles**

Women living in the most deprived areas are more than twice as likely to have abortions than women living in the least deprived areas. The rate in the most deprived decile is 26.8 per 1,000 women, compared to 12.1 per 1,000 women for women living in the least deprived areas. (Figure 14).

This is true across different age groups and different regions of England (Table 14 and Figure 14).

**Abortion rate per 1,000 women, by age and IMD decile, England, 2020**



We do not hold any data into the socio-economic background of those accessing/working at the clinic or in relation to the individuals from the pro-life and pro-choice groups who attend outside the clinic in order to protest and/or hold vigils, or those living in the immediate locality.

The proposed PSPO will not directly or indirectly discriminate, or otherwise have a disproportionate impact on the grounds of an individual's socio-economic background. The Council will seek to minimise any impact through officer training and awareness. Authorised officers are trained to enforce the order fairly and proportionately. The approach to enforcement will allow officers to consider individual circumstances to determine when help and support is the most appropriate option as an alternative to enforcement.

Each behaviour / requirement has been considered in relation to any discrimination or disproportionate impact;

- 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. This includes but is not limited to graphic, verbal or written means, prayer or counselling – There is no disproportionate impact on the grounds of an individual's socio-economic background.

- Interfering, or attempting to interfere, whether verbally or physically, with a service user or member of staff of the BPAS clinic – There is no disproportionate impact on the grounds of an individual's socio-economic background.

- Intimidating or harassing, or attempting to intimidate or harass, a service user or a member of staff, of the BPAS clinic – There is no disproportionate impact on the grounds of an individual's socio-economic background.

- Recording or photographing a service user or member of staff of the BPAS Clinic – There is no disproportionate impact on the grounds of an individual's socio-economic background.

- Displaying text or images relating directly or indirectly to the termination of pregnancy and or playing or using amplified music, voice or audio recordings – There is no disproportionate impact on the grounds of an individual's socio-economic background.

- Holding vigils' where members audibly pray, recite scripture, genuflect, sprinkle holy water on the ground or cross themselves if they perceive a service-users is passing by - There is no disproportionate impact on the grounds of an individual's socio-economic background.

- Remaining in the Safe Zone, when asked to leave by a Police Officer or police community support officer or any other person designated by BCP Council or returning to the Safe Zone before 7pm on the day you have been asked to leave - There is no disproportionate impact on the grounds of an individual's socio-economic background.

- ***People's human rights***

Which convention rights are engaged?

#### ARTICLE 10 - Freedom of expression

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

#### ARTICLE 11 - Freedom of assembly and association

1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

#### ARTICLE 9 - Freedom of thought, conscience and religion

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

The European Convention on Human Rights (ECHR), provides protections for human rights and this includes:-

- Article 9 freedom of thought, conscience and religion,
- Article 10 - the right of freedom of expression and
- Article 11 the right of freedom of assembly

We must consider these freedoms as the proposal under consideration includes the potential to introduce a safe zone to prohibit such behaviours which will impact on these freedoms if introduced.

The behaviours that will be prohibited through the proposed PSPO are: -

- 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. This includes but is not limited to graphic, verbal or written means, prayer or counselling.
- Interfering, or attempting to interfere, whether verbally or physically, with a service user or member of staff of the BPAS clinic.
- Intimidating or harassing, or attempting to intimidate or harass, a service user or a member of staff, of the BPAS clinic.
- Recording or photographing a service user or member of staff of the BPAS Clinic.
- Displaying text or images relating directly or indirectly to the termination of pregnancy and or playing or using amplified music, voice or audio recordings.
- Holding vigils' where members audibly pray, recite scripture, genuflect, sprinkle holy water on the ground or cross themselves if they perceive a service-users is passing by.
- Remaining in the Safe Zone, when asked to leave by a Police Officer or police community support officer or any other person designated by BCP Council or returning to the Safe Zone before 7pm on the day you have been asked to leave.

The legal basis for restricting the engaged Convention Rights by the action proposed is the Anti- social Behaviour Crime and Policing Act 2014.

The legitimate aim of introducing the restrictions is:

- Public safety
- Prevention of disorder or crime
- Protection of health
- Protection of the rights and freedoms of others

The restriction is necessary in a democratic society:

To prevent:

Harassing and intimidating behaviour including, approaching those entering the clinic, blocking the pavement, making their views known to anyone in the proposed safe zone, taking away from those using the clinic their ability to attend in confidence, free from intimidation, harassment or judgment.

From the evidence and information obtained, the council believes clients and staff of the Clinic have and are likely to be significantly detrimentally affected by the presence of individuals in the locality of the clinic engaging in pro-life and pro-choice protests and vigils. People accessing health services at the Clinic (in nearly all cases women and in the majority of cases pregnant women) report feeling intimidated, judged, harassed and obstructed when attempting to enter and leave the clinic.

Women accessing services at the clinic will be doing so for a number of reasons, some deeply personal, and have a reasonable expectation of their privacy when doing so. The council has also heard from people who attend the Clinic to support partners, family members and friends. The information and evidence obtained from those individuals indicates the detrimental impact of protests and vigils on these individuals too.

Staff from the Clinic have confirmed witnessing 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 being followed by individuals representing pro-life views.

To protect:

Those attending the clinic so that they may do so in safety in confidence and free from intimidation or judgment. It would safeguard and facilitate their access to sexual health services.

Local residents and regular visitors to the area, so that they may go about their daily lives without interference.

The behaviour of protesters has had or is likely to have a detrimental effect on the quality of life of those in the locality. It is likely to impact on the safety of the local community. By those in the locality the Council means all those effected in different ways by the protesters actions including those going about their normal lives moving around the area where the clinic is, those who live in the area where the clinic is, those who work in the area where the clinic is, those who work at the clinic or attend at the clinic as part of their employment or as a service user or accompany a service user.

There is the potential of the protests leading to a significant risk of harm. With both pro-life and pro-choice representative attending the BPAS clinic site leading to a risk of confrontation.

Protecting the health of those visiting the clinic is necessary. There is evidence that service users are deterred by the presence of the protesters. This could impact on the health of women particularly pregnant women.

To protect the rights and freedoms of others

#### ARTICLE 8 Right to respect for private and family life

1 Everyone has the right to respect for his private and family life, his home and his correspondence.

2 There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

The Council has considered the Article 8 rights of the abortion clinic visitors.

The Council has considered 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.

The Council has considered the rights of the staff who work at the clinic.

The Council has considered the rights of those who live in the restricted area.

A PSPO will have a positive impact on those people accessing the clinic (the majority being pregnant women accessing health services connected with their pregnancy), as it will restrict behaviours evidenced to have caused distress, intimidation and harassment to those individuals. Women accessing services at the clinic will be doing so for a number of reasons, some deeply personal, and have a reasonable expectation of their privacy when doing so.

To try to resolve this matter.

The council has considered actions against individual protesters such as CPN or injunctions however the council think it likely that new protesters will appear and there would have to be long term legal action which wouldn't provide the on-going protection a PSPO would provide.

Another alternative option to a PSPO considered was no action.

However 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.

It has been noted that due to the presence of pro-life and pro-choice groups in the area there is a risk of an escalation in behaviours likely to cause nuisance, and on occasions anti-social behaviour, therefore having a detrimental effect on the quality of life of those in the locality.

The Council has taken into account the interests of those in the locality to be kept safe and balanced those interests with the rights of the groups.

Taking into account the evidence, counsel's advice obtained and the responses to the public consultation it has been concluded that there has to be a limit on the activities of the protesters in the form of a PSPO in order to ensure the prevention of disorder, protection of health and protection of the rights and freedoms of others-. A PSPO is capable of achieving the legitimate aim set out above.

There are other locations the protesters can make known their views.

## Conclusion

### Summary of Equality Implications

The Portfolio Holder considered the legislative options available in the Portfolio Holder Decision Record report dated 11 July 2022 and agreed to consider the option for a Public Space Protection Order (PSPO), subject to public consultation. A PSPO would be a tool which could prohibit protests or behaviour that cause harm to clients, staff and the local community in the locality and would be the most appropriate consideration in response to the issues being reported at the clinic.

It is recommended that after taking into account the evidence, counsel's advice obtained and the responses to the public consultation that there has to be a limit on the activities of the protesters in the form of a PSPO in order to ensure the prevention of disorder, protection of health and protection of the rights and freedoms of others-. A PSPO is capable of achieving the legitimate aim set out above.

There will be no designated area in the safe zone and the PSPO will only be enforceable on the following days and between the times stated:

- Monday: 7am – 7pm
- Tuesday: 7am – 7pm
- Wednesday: 7am – 7pm
- Thursday: 7am – 7pm
- Friday: 7am – 7pm

The conditions set out in the PSPO will have a disproportionate effect on some of the protected characteristics and certain groups rights as highlighted above, however, the council has considered those impacts and justified why the action is proportionate and justifiable.

As highlighted above the Ealing PSPO was subject to a legislative challenge in the High Court, partly on the grounds that it unduly interfered with the protesters' Article 9 and 10 rights. **The Court dismissed this**



**claim and the Ealing PSPO was upheld in full** – acknowledging that although the PSPO interfered with the rights of protesters, it was justified in order to uphold the rights of others in the vicinity, notably the Article 8 right to a private and family life.

The ruling also made clear that when considering behaviour that has 'had a detrimental effect on the quality of life of those in the locality', people attending the clinic or working at the clinic should also be considered.

Form Version 1.2      Prepared by: Julia Howlett    Date: 23/09/22

## Equality Impact Assessment: Report and EIA Action Plan

### Equality Impact Assessment Action Plan

*Please complete this Action Plan for any negative or unknown impacts identified above. Use the table from the Capturing Evidence form to assist.*

Issue identified	Action required to reduce impact	Timescale	Responsible officer
Groups and individuals will be prohibited from undertaking certain behaviours within the safe zone.	As highlighted in the report there are no mitigating actions, it is outlined in case law, the restrictions are legitimate as the rights of the service users supersede those of the protestors.	Not applicable	Julia Howlett

Form Version 1.2

Prepared by: Julia Howlett

Date: 23/09/22