

**Manchester City Council
Report for Information**

Report to: Communities and Equalities Scrutiny Committee - 3 September 2020

Subject: Proposed Public Spaces Protection Order Wynnstay Grove

Report of: Head of Compliance, Enforcement and Community Safety

Summary

This report provides an update on the outcome of the consultation for the proposed Public Spaces Protection Order for Wynnstay Grove.

Recommendations

To consider and comment on the contents of the report.

Wards Affected: Fallowfield, Withington, Old Moat

Environmental Impact Assessment - the impact of the issues addressed in this report on achieving the zero-carbon target for the city

Alignment to the Our Manchester Strategy Outcomes (if applicable)

Manchester Strategy outcomes	Summary of how this report aligns to the OMS
A thriving and sustainable city: supporting a diverse and distinctive economy that creates jobs and opportunities	
A highly skilled city: world class and home grown talent sustaining the city's economic success	
A progressive and equitable city: making a positive contribution by unlocking the potential of our communities	
A liveable and low carbon city: a destination of choice to live, visit, work	This report will highlight how the Public Spaces Protection Order can support women to access healthcare services without harassment or intimidation.

A connected city: world class infrastructure and connectivity to drive growth	
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Background documents (available for public inspection):

The following documents disclose important facts on which the report is based and have been relied upon in preparing the report. Copies of the background documents are available up to 4 years after the date of the meeting. If you would like a copy please contact one of the contact officers above.

Community Safety Strategy 2018/21
ASB Policy and Procedure

1.0 Introduction

- 1.1 This report provides details of the consultation on a proposed Public Spaces Protection Order (PSPO) for the Wynnstay Grove area of Fallowfield. This includes a summary of the evidence that led to a public consultation, the findings from the consultation and the rationale for the resulting proposed order. **Appendix 4** includes the results of the consultation, **Appendix 5** is the analysis of the consultation responses by Enventure.

2.0 Background

- 2.1 To achieve our strategic objectives of a safe, clean and welcoming city the Council and the police use a wide range of informal and formal powers to protect the public and tackle crime and antisocial behaviour. Officers have undertaken analysis to explore the options available to address the specific circumstances in this case and some of these options have been tried (see 5.0). The options analysed included no action, issuing warnings and advice, mediation, changes to the physical environment or the Marie Stopes clinic itself, Section 222 Local Government Act Injunction, civil ASB Injunction, Criminal Behaviour Order, use of police powers, Community Protection Notice, Protection of Harassment Act Injunction 1997, byelaws and a PSPO. The conclusion of the options analysis was that the proposed PSPO (ASB, Crime and Policing Act 2014) is the most appropriate solution. A copy of the options analysis is available to Members on request.
- 2.2 A PSPO is a place based order which is intended to control or restrict activities, within a specific area, which are having, or may have, a detrimental effect on the quality of life of those in the vicinity. The terms of a PSPO can prohibit or require particular acts. They can apply to particular groups or to the public as a whole.

Under section 59 of the 2014 Anti-Social Behaviour Crime and Policing Act, local authorities must be satisfied on reasonable grounds that each type of activity included in an Order;

- has a detrimental effect on the quality of life of those in the locality (or it is likely that activities will take place and have such an effect)
- the effect is (or is likely to be) persistent and continuing in nature
- the effect is (or is likely to be) unreasonable
- the effect justifies the restrictions to be imposed

The sanction for breaching a prohibition or requirement included in a PSPO is solely a monetary penalty - either a Fixed Penalty Notice (£100) or a prosecution, criminal conviction and a fine (up to £1000). There is no provision for a community order, for positive requirements to be attached to a breach of the order or a custodial sentence.

Prior to introducing a PSPO the Council is legally obliged to publish the text of the proposed order and consult with;

- the chief officer of police, and the local policing body, for the police area that includes the restricted area;
- whatever community representatives the local authority thinks it appropriate to consult; and
- the owners or occupiers of land within the restricted area.

A PSPO can last for up to three years. Before a PSPO expires it must be reviewed and if the review supports an extension, it may be extended for up to a further three years. There is no limit on the number of times an Order can be reviewed and extended. PSPOs can also be varied or discharged. When PSPOs are varied, extended or discharged, there are statutory requirements regarding publishing or publicising this and councils are required to undertake a further consultation process.

- 2.3 Since early 2018, Manchester City Council, in conjunction with colleagues from Greater Manchester Police (GMP) have been investigating concerns raised about behaviours associated with individuals and represented groups involved in protests and vigils outside the Marie Stopes UK Manchester Centre. By law, anyone has the right to access abortion care. The Council is committed to protecting people from harassment and intimidation, including when using health services. The details of the investigations undertaken are identified below.
- 2.4 Marie Stopes UK is situated at 5 Wynnstay Grove in Fallowfield, Manchester. The Marie Stopes building is approximately three quarters of the way down the Grove (approximately 175 metres long) leading off Wilmslow Road. Careful consideration of the physical environment of Wynnstay Grove and the surrounding area is particularly important. Wilmslow Road is a very busy road because it is an arterial route into Manchester city centre. At the top of Wynnstay Grove at the junction with Wilmslow Road there are a number of well used bus stops. On the opposite side there is a Wetherspoon Public House (entrance on Wilmslow Road). People usually attend at Marie Stopes Clinic UK on foot, by taxi or in a vehicle. Marie Stopes Clinic UK is a relatively large building with an adjacent car park for staff and visitors. From the pavement there is a paved area leading up to steps to the main entrance of the building. Wynnstay Grove is a very narrow road. Due to the width of the road and people parking in the area it is only usually possible to allow one car in and out of the Grove at a time. Wynnstay Grove is a relatively quiet area which makes it an ideal place for the clients of Marie Stopes UK. It is not a through route. It is reasonable to expect that people would only need to enter the area if they lived there or were visiting the clinic or another property. There are a number of residential buildings but no shops or restaurants along Wynnstay Grove. Directly opposite the Marie Stopes Clinic, across the narrow road, there is a small pavement area and a few car parking spaces. This is where people usually stand to protest or hold 'vigils.' This is by no means a convenient place for people to protest due to the area being small and in immediate proximity, directly opposite, the entrance to the Marie Stopes Clinic. At the bottom of Wynnstay Grove is a block of flats and a residential car park. Further down the road on the same side as the car parking spaces there is an area of inaccessible very overgrown land.

Photographs of the area described and a map can be found at **Appendix 1**.

3.0 Evidence of Issues of Concern

3.1 As part of the investigation the Council has received numerous reports from residents, individuals and organisations. The organisational reports include information from Sister Supporter, Marie Stopes UK, British Pregnancy Advisory Service and 40 Days for Life. The anti-social behaviour is reported to be associated with groups or individuals expressing approval or disapproval of people accessing abortion services. These reports allege these behaviours have been ongoing for several years.

The reported behaviours outside the centre include:

- protesting with posters and boards by up to ten people
- posters and signage being put up
- displays of graphic images
- people being unreasonably persistent with visitors to the Centre
- distribution of rosary beads and leaflets showing graphic images
- abusive language
- intimidation and harassment
- flicking or throwing of holy water
- people being observed and filmed
- amplified music or recordings being played

In addition to the above, the information provided by 40 Days for Life explains that vigils outside the Marie Stopes clinic exist to offer support and help to often vulnerable and, at times, very frightened pregnant women, some of whom really want to keep their babies, but feel as though they don't have any option but to have an abortion.

Examples of reports of antisocial behaviour and the investigations that have taken place are detailed below:

3.2 On 24 January 2018, a motion was put forward by Manchester City Councillors, with regard to the protection of individuals from harassment when accessing healthcare services. In response, officers from the Anti-social Behaviour (ASB) Action Team made contact with the local Neighbourhood Police Team and the staff at the Marie Stopes clinic to investigate whether anti-social behaviour was taking place at the clinic on Wynnstay Grove, and collated accounts of ongoing anti-social behaviour. It was found that the Neighbourhood Police Team had been attending the clinic and had dealt with a number of reports. The ASB team began to monitor and record incidents from this point forward, although reports of incidents have also been received about incidents before this time.

3.3 In February 2018 an individual accessing the clinic reported that there were individuals holding posters and signs with images and fetuses on them. This was reported to the British Pregnancy Advisory Service at the clinic who reported the client felt frightened, intimidated and confused about why it was

allowed. They felt shocked that this happens in the UK, and would have made sure they were accompanied if they had known protesters may have been outside the clinic.

- 3.4 In March 2018 it was reported by a member of Sister Supporter, a Pro-choice organisation, that "40 Days for Life" protestors were approaching clinic users presenting them with models of fetuses and envelopes which said "Ask to see the scan". They reported that it was likely to be upsetting for those attending the clinic.
- 3.5 In May 2018 Council staff undertook a door knock with local residents to gather further evidence of the behaviours experienced on Wynnstay Grove. Residents reported seeing signs, being approached by protestors to pray with them, and a protestor being rude. Residents reported feeling uncomfortable and feeling it would cause the people that attended the clinic upset.
- 3.6 In July 2018 it was reported to Greater Manchester Police by staff at the clinic that protestors were outside the building filming staff as they went to work. There is also an incident recorded of 8 protestors outside the building from both anti-abortion and Pro-choice groups.
- 3.7 In October 2018 there were several reports from staff at the clinic and members of Sister Supporter of individuals protesting outside the clinic with signs, and the protestors approaching staff and clients of the clinic. One incident described two males screaming at the staff and being very aggressive.
- 3.8 In February 2019 reports were received from staff attending the clinic of protestors outside the clinic with signage "You shall not murder" and approaching staff as they attended the building shouting "You murdering bastard", "God is judging you". Reports were received by Greater Manchester Police with regard to both staff and those accessing the healthcare at the facility being photographed and shouted at as they attended the premises. It was reported that staff and service users were distressed and upset.
- 3.9 In early March 2019 further reports were received from staff at the clinic about protestors outside the clinic handing out leaflets and pictures of pregnancies at different stages of gestation.

Officers from the Anti-social Behaviour Team at Manchester City Council attended and spoke to staff who reported that an individual accessing the health services was visibly upset and had counselling in her follow up appointment.

Additional reports were received from staff two days later with regard to five or six protestors standing in front of the clinic with posters and model fetuses. Officers attended and took a statement from the mother of the woman attending the clinic. Both mother and daughter were visibly upset.

- 3.10 Further reports were received two days later, from a member of Sister Supporter with regard to an individual attending the clinic. It was reported that this individual approached the protestors and shouted and swore at them, and threw the protestor's placards and other items over a fence. It was reported that the protestors were visibly distressed. This matter was subsequently resolved between all parties concerned through a Restorative Justice disposal, facilitated by the Police.
- 3.11 Also in March 2019, reports were received from a member of Sister Supporter involving an incident when a protestor from 40 Days for Life approached two individuals who were sitting on the wall by the clinic, and she handed them a leaflet. The member of Sister Supporter witnessed the individual telling the protestor that she's not interested, and intervened. An argument ensued and the Police were called as the member of Sister Supporter felt the protestor was harassing the individual. A PCSO came out of the clinic and challenged the protestor about her conduct and for breaching their own code of conduct. As part of the subsequent criminal proceedings, the PCSO stated that the protestor shouted "You're killing babies, they are killing babies in there and you're helping them, you're killing babies and when you come to judgement day, what will God do to you". The protestor was subsequently convicted of a Section 5 Public Order offence and received a 12 month conditional discharge, along with a Restraining Order for 12 months, which prohibited the individual from being within 100 metres of the Marie Stopes clinic.
- 3.12 In April 2019 a complaint was made by staff who worked at a unit of supported accommodation on Wynnstay Grove. The accommodation provides supported housing service for adults aged 18-65 years, with enduring mental health issues. It was reported that residents felt uncomfortable and intimidated when walking past the protestors and that this type of conduct can be detrimental to their recovery.
- 3.13 In June 2019 Manchester City Council's Communities and Equalities Scrutiny Committee considered an e-petition coordinated by volunteer group Sister Supporter. The petition made a request for the Council to introduce Public Space Protection Orders outside all abortion providing clinics in Manchester to protect service users and clinic staff from harassment and intimidation. From our enquiries the only area within Manchester where specific anti-social behaviour concerns have been raised is Wynnstay Grove. The committee expressed support for officers to continue their investigations and take appropriate action in relation to Wynnstay Grove.
- 3.14 In September and October 2019 officers from Anti-social Behaviour and compliance teams attended the clinic to speak to staff and make observations. Staff reported incidents of protestors with signs. On one occasion it was reported that seven individuals were present with a blackboard and an easel with "Everything you do is for love" written on it. Staff reported that this had upset some of the women attending the clinic.
- 3.15 In December 2019 further reports were received of protestors with placards outside the clinic.

- 3.16 During the “40 days for life” campaign period from 26 February to 5 April 2020 more reports were received and incidents witnessed by GMP and MCC staff of protest and counter protests outside the clinic. Those present were reported to be praying, holding rosary beads and signs and offering leaflets.
- 3.17 A number of historic reports have also been received by the council with activity dating back to 2009 from the British Pregnancy Advisory Service and Sister Supporter. Reports of anti-social behaviour have been received throughout the year but increase in intensity during the “40 Days for Life” periods that take place annually in March/April and October/November. During this period the number of protestors increases from both the Pro-life supporters and the Pro-choice supporters. As detailed in the evidence this can also result in incidents between the different protestors and organisations, in addition to the detriment caused to the individuals attending the clinic either as staff or those attending the clinic. A significant challenge in addressing the behaviour is the unorganised and unpredictable nature of the protests. Different individuals use different materials, for example different visual aids, leaflets, fetuses and toy babies and have their own way of protesting, be it praying, engaging with those attending the clinic or shouting at those attending.

4.0 Impact of the behaviour

The impact of these activities has been articulated by those attending the clinic for an abortion, those accompanying people to the clinic, the staff at the clinic and the local residents.

4.1 For local residents

Local residents have been contacted in the course of the investigation and local residents have also contacted the police and clinic directly to report concerns. Residents have reported that they felt angry and upset by the presence of the protestors. A resident reported feeling affronted and unsafe. “The protestors there had the ability to intimidate me and made me feel like an awful person having had an abortion in the past”

4.2 For staff at the clinic

For staff at the clinic they have reported that it is distressing for clients coming to the clinic. But also that it is distressing and intimidating for the staff attending their place of work. Staff at the clinic have reported, “It upset me seeing the young women being approached uninvited when they were already upset”

4.3 For those attending for healthcare services

The impact on those attending the clinic for services has been more difficult to collate as individuals attending the clinic are dealing with significant emotional, mental and physical health issues and understandably do not always want to speak directly to council or police officers to talk about the impact of the behaviour they experience. We have had some direct testimony, but have also had details of people’s experience shared by those who are

accompanying people visiting the clinic and those staff at the clinic that are supporting the service users.

The impact has been described as people feeling intimidated, anxious, distressed and people feeling judged. People have also reported feeling harassed and unsafe.

One individual attending with a service user said they found the situation unbearable and caused upset to the point they could not get out of their car. "They took my decision away from me. Choosing abortion isn't easy, it's emotionally and mentally draining and is a private matter. I just couldn't face walking through them"

A woman reported "I felt extremely tense and threatened, and the intensity of the interaction triggered my anxiety"

5.0 Action Taken to address the issues reported

Manchester City Council and Greater Manchester Police have worked together to both investigate and respond to the reports of anti-social behaviour from the Marie Stopes clinic on Wynnstay Grove. Evidence has been collated from reports from staff and service users at the clinic as well as organisations that support the provision of abortion services such as British Pregnancy Advisory Service and Sister Supporter. Officers have engaged with individuals and organisations protesting at the clinic including 40 Days for Life and Society for the Protection of the Unborn Child, and also sought information from local residents and businesses. Officers have also attended the clinic regularly, to observe behaviours at different times and to take witness statements from those experiencing anti-social behaviour.

5.1 Initial activity focussed on individuals committing crime and anti-social behaviour where there was witness support. Individuals were invited to an investigatory interview with regard to reported activities and behaviours. This, however, was more challenging where witnesses did not want to make a formal statement. On one occasion an investigatory interview led to admission and restorative justice was employed to address the behaviour. As a result of another investigatory interview an individual was summoned to court for a public order offence. The individual pleaded guilty and received a conditional discharge and a restraining order. However despite the work to address individual behaviours this approach was not effective in addressing the ongoing issues at the clinic, for a number of reasons:

- Individuals attending the clinic that were subjected to the behaviour, were often very upset and experiencing trauma and consequently did not feel able to support enforcement activity as a witness.
- Whilst some individuals regularly attended the clinic as protestors or as supporters of those attending the clinic, there were often many different individuals in attendance over a period of time. Action taken against individuals did not address the cumulative impact of the ongoing behaviours from the range and volume of people attending the clinic.

- 5.2 Engagement with all parties involved in supporting the clinic and the protests continued and efforts were made to bring representatives together in a facilitated meeting. This was sought to enable the organisations to come to an agreement about acceptable behaviours and protests that could take place without causing distress to employees and visitors to the clinic. A meeting was arranged on 24 April 2019 and took place with representatives from Marie Stopes, British Pregnancy Advisory Service, Society for the Protection of the unborn Child, 40 days for Life, Greater Manchester Police and Manchester City Council's Anti-social Behaviour Team. The meeting was facilitated by an independent Mediation Service. Whilst a discussion did take place with all the parties involved, they were not able to reach a compromise that would be acceptable to everyone.

As a part of the ongoing investigation officers from the Council and Police have listened to representatives of groups and organisations who express support for the introduction of a PSPO and those who do not. Engagement with representatives from groups and organisations from all sides has been used to explore the possibility of reaching a negotiated agreement. Unfortunately, this has not been successful.

- 5.3 The Council has carried out an options analysis to look at whether there are alternatives to making a PSPO which could deal with the detrimental effects being experienced. The main difficulties with the other options are that they would require victims of the behaviour to come forward in order to pursue a civil or criminal sanction when the sensitive nature of seeking an abortion 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, a solution which attaches to the public space (as opposed to a named individual) is more appropriate given the nature of the activities. As stated above, a copy of the analysis is available to Members on request.
- 5.4 It became clear, through the course of the investigations, that actions to address individuals' behaviour was not proving effective in addressing the detriment caused to those affected by the behaviour. After the attempts to reach a negotiated agreement also failed to make an impact on the behaviour a Public Spaces Protection Order was then considered as a means to regulate the behaviours taking place outside the clinic.

6.0 Area for consultation

- 6.1 Based on the findings from the investigation, data on reports of crime and ASB and taking into account the possibility of displacement, the area of the prohibitions and requirements of the proposed PSPO for consultation is identified in Appendix 2. The area was defined to take into account the local geography and the routes that those attending the clinic for work or health services may take to access the clinic, for example the bus stop on Wilmslow Road and the main roads to the clinic, Wilmslow Road, Moseley Road and Wilbraham Road.

- 6.2 In addition to this, following a site survey of the local neighbourhood a number of sites within the proposed prohibition area were selected for consultation on providing a designated zone that would facilitate protest within the prohibition area. These were identified using site surveys to assess the impact of protests to the local community and the likelihood of detriment to those accessing the clinic. Consideration was given to line of sight to the clinic and public transport as well as the width of the pavement and likely obstruction for local residents, businesses and visitors to the area.
- 6.3 The proposal that was included in the consultation sought to gain the views of local residents, those accessing and working at the clinic and others that may be affected by an order, about how designated areas of protest may impact them and whether they would be an appropriate way to facilitate the protest, or whether they could potentially displace antisocial behaviour to other local areas. This was the approach taken to address detrimental behaviours that had been experienced outside a clinic in Ealing.

7.0 Consultation on a PSPO

- 7.1 The consultation provided the opportunity to seek a broad range of views on the issues and determine the most appropriate way forward to address the detrimental effects of the activities taking place on Wynnstay Grove.
- 7.2 The Council undertook an eight week consultation from 20 September 2019 to 15 November 2019. Information and an online survey was published on the Council's website. In accordance with relevant guidance the information included;
- Why the Council was undertaking the consultation together with a summary of the evidence in relation to each of the behaviours
 - A draft PSPO including the proposed behaviours, requirements and maps outlining the geographical areas where the terms may apply
 - The consequences of breaching a PSPO
 - The right to appeal a PSPO.
- 7.3 The survey included closed and open questions regarding the proposed order. Respondents were given the option to choose which questions they answered in relation to each of the behaviours and requirements. The Respondents were able to complete free text fields to provide additional feedback and suggestions.

The draft proposed order which was the subject of the consultation and lists the prohibitions and requirements which were originally under consideration can be found at Appendix 3.

- 7.4 Awareness of the consultation was promoted extensively through a communications and stakeholder plan. Methods of communication included social media and hard copies of the survey were available in local libraries. It was reported in the media and promoted on the council's social media channels and website. Officers also engaged with residents in the Fallowfield

area who may be impacted by the proposed PSPO and drop in sessions were held locally.

- 7.5 Awareness of the consultation was raised through resident and business groups who live or work in the area, councillors, the Community Safety Partnership, Macc and local partnership meetings, and meetings with voluntary and community organisations. Written correspondence was sent to owners and occupiers of land in the proposed area inviting them to participate in the online survey.

Consultation took place with statutory consultees;

- Greater Manchester Police
- Police and Crime Commissioner
- Community representatives
- Occupiers and owners of land in the proposed PSPO area.

8.0 Consultation Responses

- 8.1 The consultation received 2,172 responses (2,015 completed online questionnaires and 152 public written responses. Five responses were from organisations with an interest in the PSPO. 1,098 email responses were also received during the consultation period. These were identical in nature and had the same responses, these will be commented on separately later in the report.

Details of the survey responses can be found at Appendix 4. An independent organisation was commissioned to provide an analysis of the free text fields completed in the consultation, this analysis is provided in Appendix 5.

- 8.2 Statutory Consultee Responses:

Greater Manchester Police (GMP) supports the implementation of a PSPO stating that a PSPO would enhance the Neighbourhood Teams' ability to take positive action against the individuals involved in the intimidation and harassment of service users and staff and an order is fully supported by GMP.

The Mayor of Greater Manchester (fulfilling the Police and Crime Commissioner statutory obligation to consult) responded to say that they fully support the implementation of the PSPO but asked for some consideration to the resources that would be required to enforce this once introduced.

The views of community representatives and owners / occupiers of land were captured through the consultation survey.

- 8.3 Written responses were received from the organisations listed below. These responses include feedback on the draft PSPO, testimonials and submissions in respect of equalities and Human Rights.

- ADF International (a legal organisation dedicated to protecting fundamental freedoms)
- Aston University (Anti-Abortion Activism at Abortion Service Providers and Pregnancy Advice Services)
- British Pregnancy Advisory Service (Reproductive healthcare charity)
- The Manifesto Club (Civil liberties group)
- Marie Stopes UK (Independent provider of abortion care services)

These responses were considered alongside all other responses and are available to the Committee for review upon request.

8.4 All the consultation responses are considered in relation to each of the specific behaviours and requirements contained within the draft PSPO and with reference to the legal threshold. It is important to consider each behaviour individually to ensure the legal threshold for that behaviour is met, rather than comparing the survey results across the different behaviours. Proposals have been made as to whether or not the evidence justifies the prohibition/requirement being included in the final Order or if any amendments should be made. The proposed PSPO has taken into consideration, initial evidence that demonstrated the grounds to consult, further evidence provided from the consultation responses, support for the PSPO, alternative suggestions and local and national developments since the consultation was undertaken.

9.0 Consideration of the articles for a PSPO

Respondents were asked to consider which behaviours they wanted to give their views on, they were then asked the same five questions for each of the responses, the questions listed below.

1. How problematic do you think this [named] behaviour is in the proposed PSPO area?
2. How often have you personally experienced problems with this [named] behaviour?
3. Do you agree or disagree that this [named] behaviour should be included in the PSPO?
4. Has this [named] behaviour had a detrimental effect on your quality of life?
5. If yes, please tell us how you or others were affected.

Prohibitions

9.1 Protest - namely engage 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.

Of the responses 1,746 (87%) gave their views on this prohibition, Respondents were then asked how problematic they felt this behaviour was in

the area, to which 83% thought it was 'a major problem'. Respondents that were a client or visitor to Marie Stopes and supporters of Pro-choice activities were more likely to say the behaviour was a major problem than supporters of Pro-life activities.

Respondents who identified as being residents, were more likely to say the behaviour wasn't a problem (19% compared to 7%). However as detailed in 3.11 those residents that have reported experiencing problems have been vulnerable residents that live in a supported housing scheme in the neighbourhood.

606 of the 1515 respondents had personally experienced problems with this behaviour, just over a quarter (27%) of respondents said they had experienced it once, with 1% saying they experienced it daily. A total of 6% said they experienced it weekly and 5% said annually. Three in five (60%), said that they had never experienced this behaviour. Clients or visitors to the clinic were more likely to have experienced the behaviour (218 out of 264 respondents)

64 % of respondents stated that it had a detrimental impact on their quality of life.

In response to whether the prohibition be included in any PSPO, 82% agreed it should be included as a prohibition. The survey responses demonstrate the unreasonableness of the problem and whilst the persistence is less evident in total responses for the visitors there is a persistence for those visiting or clients of the clinic. Evidence demonstrates the detriment of this behaviour.

It is proposed that this article is included in the order.

9.2 Interfere, or attempt to interfere, whether verbally or physically, with a staff member or service user of the Centre

Of the responses four out of five (85%) felt interfering or attempting to interfere with staff or service users was a major problem.

36% of 1607 respondents reported personally experiencing this behaviour including one in five (18%) responded they had experienced it once and 4% had experienced it more than five times, although this rises to 68% of the 255 visitors or clients of the clinic.

88% of respondents agreed the behaviour should be included in the proposed PSPO order.

30% of respondents said that this behaviour had a detrimental effect on their quality of life. Over half the respondents (52%) who were a client or visitor said this behaviour had a detrimental effect on their quality of life.

Respondents were then asked to explain why it had a detrimental effect on them, the most common response (51%) was that it was intimidating or

frightening for service users and staff. The second most common response (46%) was it was upsetting, stressful and had a negative mental health impact on those accessing the service, nearly a quarter (24%) said people had the right to choose and it was a legal form of healthcare. The responses also showed that 60% of respondents who were clients or visitors to the service said it was upsetting and stressful and had a negative impact on mental health.

The unreasonableness of the behaviour is demonstrated in the responses to the survey and persistence for those who are visitors and clients of the clinic. The detriment of this behaviour is evidenced in the reports from staff and clients from the clinic.

It is proposed that this article is included in the order.

9.3 Intimidate or harass, or attempt to intimidate or harass, a staff member or service user of the Centre

Of the responses almost nine in ten (86%) thought it was a major problem with a further 3% saying it was a minor problem, and 4% said it was not a problem. Further analysis showed that 91% of supporters of Pro-choice said it was a major problem, compared to 38% of supporters of Pro-life activities.

When asked how often the respondents had personally experienced intimidation or harassment, one in five (20%) said they had, 8% saying more than once and a further 4% saying more than five times. Just over three in five (63%) respondents said they had never experienced this behaviour. Respondents that are a client or visitor to the service are more likely to say that they had experienced this behaviour once 48% compared to 20% overall.

When asked if the behaviour should be included in the proposed order, 89% or one in nine respondents agreed it should be included.

When asked if the behaviour had had a detrimental impact on the respondents life, 32% of respondents said this behaviour had a detrimental effect on the quality of their life, this rose to 58% for clients or visitors to the clinic.

Respondents were asked if it had a detrimental effect on their quality of life and were asked to explain how they or others were affected. The most common response, provided by 62% of respondents was that the behaviour was intimidating and frightening for service users and staff. The second more common response mentioned by 42% of respondents that said the behaviour had a detrimental effect on the quality of their life, was that it was upsetting, stressful and had a negative mental health impact, from these responses 56% of respondents that were clients or visitors to Marie Stopes said it was upsetting, stressful and had a negative mental health impact.

A large proportion of those responding to the survey identified this behaviour as a major problem. Experiences of this behaviour are more likely for clients and visitors to the clinic and the detriment of that behaviour is clearly identified

in the evidence from the staff service users .This is also detailed in the Marie Stopes written submission in response to the consultation.

It is proposed that this article is included in the order.

9.4 Record or photograph a staff member or service user of the Centre without the explicit consent of that person

Respondents were asked how problematic they thought recording or photographing behaviour was in the proposed PSPO area. Just over three-quarters (77%) said it was a major problem, with 6% saying it was a minor problem. A total of 5% said it was not a problem at all. This was further explored with 80% of supporters of Pro-choice stating it was a major problem, compared to 36% of supporters of Pro-life activities.

One in eight (12%) of respondents had personally experienced problems once, with 5% saying they had experienced problems more than once and 2% saying more than five times. Respondents that are a client or visitor to the service are more likely to say that they had experienced this behaviour once (29% compared to 12% overall).

Over three quarters of respondents (76%) agreed this behaviour had a detrimental effect on the quality of their life with most (40%) giving the reason for this as intimidating and frightening for service users and staff and 37% stating it was an invasion of privacy and being filmed led to a loss of anonymity for those accessing or working at the service.

The unreasonableness and detriment of the behaviour is demonstrated both from survey responses and the evidence from staff and service users. When asked if this should be included in the proposed order nine in ten (89%) of respondents agreed that this behaviour should be included in the PSPO.

It is proposed that this article is included in the order.

9.5 Display any text or images relating directly or indirectly to the termination of pregnancy

Respondents were asked how problematic they thought displaying text or images relating directly or indirectly to the termination of pregnancy was in the proposed PSPO area, just over four in five (82%) said it was a major problem, with 5% saying it was a minor problem and 7% stating it was not a problem.

When asked how frequently the respondents had personally experienced problems one in five (20%) stating they had personally experienced this behaviour. However 75% of 251 clients and visitors experienced the behaviour.

87% of respondents agreed this behaviour should be included in the proposed PSPO.

When asked if this had a detrimental effect on the respondents life, 66% agreeing it did and 61% of respondents who identified as a visitor to the service or staff said this behaviour had a detrimental effect on their quality of life.

Respondents were then asked to explain why it had a detrimental effect on their lives, the most common response at 52% was that the behaviour was upsetting, stressful and had a negative mental health impact on the respondents. The second most common response at 44% of respondents stating that the behaviour had a detrimental effect on the quality of their life, when distressing, graphic and misleading protest material was being shown.

The behaviour is identified as a major problem and evidence of the persistent and detrimental effects has been demonstrated for clients and visitors to the clinic.

It is proposed that this article is included in the order.

9.6 Distribute any text or images relating directly or indirectly to the termination of pregnancy

Respondents were asked how problematic they thought distributing text or images relating directly or indirectly to the termination of pregnancy was in the proposed PSPO area. Just over four in five (81%) said this behaviour was a major problem, with 5% saying it was a minor problem, a total of 7% said it was not a problem. Once again Pro-choice respondents (87%) said this was a major problem, compared to 27% of Pro-life respondents, however the highest number (91%) who reported this behaviour as a major problem were clients and visitors to the service.

When asked if they had personally experienced the behaviour 40% of the 1514 respondents had some experience. 19% reported they had personally experienced the behaviour once, 10% saying they had experienced it more than once and 6% confirming they had experienced the behaviour more than five times. 60% of respondents had never experienced the behaviour.

When asked if this behaviour should be included in the proposed PSPO almost nine in ten (86%) agreed that this behaviour should be included in the PSPO and 14% disagreeing.

When asked if this behaviour had a detrimental impact on the respondents 31% of respondents said the behaviour had a detrimental effect on their quality of life. 53% of the 242 respondents that identified as a visitor or service use of the clinic reported a detrimental effect.

When asked why it had a detrimental effect on their quality of life and how it affected them, the most common response (45%) was the behaviour was upsetting, stressful and had a negative mental health impact. The second more common response mentioned by 35% of respondents that said the

behaviour had a detrimental effect on the quality of their life, was that it was distressing, graphic and misleading protest material was being shown.

The unreasonableness of the behaviour is demonstrated in the consultation responses. Evidence of the persistent and detrimental effects has been demonstrated for clients and visitors to the clinic.

It is proposed that this article is included in the order.

9.7 Play amplified music, voice or audio recordings with respect to the approval or disapproval of abortion services

Respondents were asked how problematic this behaviour was in the proposed PSPO area, seven in ten (71%) said it was a major problem, with 10% saying it was a minor problem, 4% of respondents stated it was not a problem.

When asked if respondents had personally experienced the behaviour, 451 of the 1504 respondents had personally experienced the behaviour 15% of respondents said they experienced problems once, with 7% saying more than once and a further 4% saying more than five times. 70 % of respondents said they had never experienced this behaviour. Respondents who identified as a client or visitor to the service were most likely to have experienced this behaviour (32%) compared with 15% overall.

When asked if this behaviour should be included in the proposed order nine in ten (90%) of respondents agreed that this behaviour should be included in the PSPO with only 10% disagreeing.

25% of respondents said this behaviour had a detrimental effect on the quality of their life, this rose to 36% for clients or visitors to the clinic. When asked how this behaviour affected the respondents the most common response provided (44%) was that the behaviour was upsetting, stressful and had a negative mental health impact. The second more common response mentioned by 33% of respondents that said the behaviour had a detrimental effect on the quality of their life, was that it was intimidating and frightening for service users and staff. of these respondents 64% identified as a client or visitor to the service and stated it was upsetting, stressful and had a negative mental health impact this behaviour taking place.

Evidence of unreasonableness of the behaviour is demonstrated in the survey responses and the detrimental effects are detailed in the survey responses and the evidence from staff and clients.

It is proposed that this article is included in the order.

9.8 Requirements

The consultation responses in respect of the requirements included in the PSPO consultation are detailed below. Requirements are not blanket bans but support a formal request from an authorised officer. Currently there is no

opportunity for officers to challenge this behaviour. The inclusion of requirements will give additional powers to both council and police officers to be able to formally request actions to address the behaviour.

Requests from authorised officers

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know	Response Total
Request to leave the PSPO area and not return within 24 hours	68%	18%	2%	3%	8%	1%	1989
Request to provide their name, address and date of birth	65%	18%	5%	0	10%	2%	1983
						answered	
						skipped	

86% of those who answered strongly agreed or agreed that a person should be asked by an authorised officer to leave the PSPO area and not return within a 24 hour period. This is slightly lower at 83% when the question asked an authorised officer for an individual to provide their name, address and date of birth.

When respondents were asked if they had any further comments about the requirements the main responses 32% felt the penalties were not strong enough to deter the behaviour and 28% of respondents felt the request to leave the designated area for 24 hours was not long enough and would not deter protesters.

It is proposed that these articles are included in the proposed order.

Direct quotes taken from the consultation survey responses provide examples regarding how people or people they know have experienced a detrimental effect by the behaviours outside the clinic:

"I used the clinic 6 years ago. As I entered they were standing across the road and had pictures and shouted at me. They're entitled to their opinions but they should not be allowed to stand there in judgement of law abiding people. It was a difficult day for me and I had spent weeks in emotional turmoil deciding whether to end the pregnancy. The care I received from the clinic was

excellent. The only negative part of the day was being subjected to their intimidation. The memory of how they were that day will always be with me. I crying writing this. I feel as strongly for the staff providing a valuable service as I do the clients of the clinic. They should not be subjected to this abhorrent behaviour for simply providing medical care. I'm appalled that 6 years later people are still suffering because of these people. Please put a stop to this.”

“When I have visited the clinic, I have been approached and handed leaflets. The leaflets have been covered so you cannot see what they say until you've already accept them. On other occasions when I have been approached, even if it has only been a 'hello', due to the signs etc that the protesters have up, it made me feel uncomfortable / like they had ulterior motives for wanting to engage me in conversation.”

“Staff members should be allowed to do their jobs in peace. I am only there to protect vulnerable clients, but object to being abused when acting legally.”

“As a couple we experienced first-hand how it feels to be on the receiving end of the aggressive attacks verbally by the small group of pro lifers that gather frequently outside the facility.”

“It was exceptionally intimidating, I ended up going to a different clinic because I could not tolerate that level of hate.”

“It had a detrimental effect on my mental health and grieving process as I felt like a monster for simply doing what was best for me at the time.”

9.9 Identical responses

The consultation received 1,098 responses via email answering most of the questionnaire. In almost all cases, the responses were the same and are believed to have been generated via a website called www.behereforme.org which contains a link to the Council's consultation on the proposed order. On looking on the website the answers to each of the consultation questions has been completed already (both in relation to the questions where there are multiple choices and the free text boxes). These emails did not explain why they had been completed in this way (instead of completing the online survey on the Council's own website).

As these emails were all almost identical, we have considered their contents collectively and have detailed some recommendations below.

From these responses 96% identified themselves as a Pro-life supporters, we know other local authority areas that have carried out PSPO consultations on similar clinics have also reported receiving similar responses outside of their online consultation. 100% of the respondents disagreed with any making of a PSPO, 100% of these responses confirmed that none of the behaviours being sought in the PSPO were a problem. The responses all agreed it would limit freedom of speech and a right to protest and would also prevent women from

seeking support. 100% of these responses also lived outside the proposed PSPO area.

Appendix 6 is a map plotting the postcode of the responders and the distance to the clinic and PSPO area, most are national but some international responses. The Council has taken all of these emails into account in assessing the responses to the consultation and notes that all of the responders are people who live outside of the proposed restricted area. In the circumstances, the Council has chosen to place most weight on the responses of those people who are more likely to be able to comment on whether the activities taking place outside the clinic have a detrimental effect by reason of having actually witnessed or participated in them.

9.10 Designated zones and the scope of the Restricted Area

The proposed PSPO on which the Council consulted included a Restricted Area which extended to Wilbraham Road and Moseley Road with the potential for a “designated zone” within that area. There were four possible locations for the zone and the intention was to provide an allocated area to allow individuals to protest/hold vigils, but to restrict these behaviours to ensure that this would not continue to cause a detriment to those accessing the clinic, those living in or visiting the local area.

When asked whether they agreed or disagreed with a designated zone, 63% (1226 respondents) disagreed and 37% agreed (731). The majority of respondents Pro-Life respondents disagreed with a zone as did the majority of Pro-choice respondents.

The respondents were asked to choose from four options as to which zone was their preferred choice and which was their least preferred choice. Although the question asked respondents to choose only one of each, respondents did choose more than one, (resulting in the figures below adding up to more than 100%).

As shown in the results, the most preferred is Zone 1, with 35% of respondents choosing this, with Zone 2 receiving the lowest response. However, 61% of respondents have also suggested an alternative zone which mainly indicated that respondents wanted a location that was outside of the immediate area and as far away from the clinic as possible.

Fewer responses were completed in terms of the behaviours that were proposed for the designated areas (818), but the rules were supported by between 67% and 88% of the respondents that answered the questions.

In considering all the responses with regard to the designated zone - there is no clear support for a zone to be implemented, nor for any specific location for a designated zone, from either the respondents in the survey and also the email responses.

In proposing the PSPO the Council recognises the need to respect Human Rights, in particular, the right to respect for a private and family life (Article 8), freedom of thought belief and religion (Article 9) freedom of expression (Article 10) and freedom of assembly and association (Article 11). Further information is detailed in section 10.0.

The scope of the PSPO should be both justified and proportionate, not just in terms of the prohibitions/requirements themselves but also in terms of its geographical scope. Action is 'proportionate' when it is appropriate and no more than necessary to address the problem concerned. It is proposed that the size of the restricted area is reduced to the area identified in Appendix 7. This is a significant reduction in the extent of the Restricted Area to the immediate locality of Wynnstay Grove and the junction with Wilmslow Road, the area focusses on the problematic area outside the clinic and its locale. This is believed to be a more proportionate way of addressing the behaviour experienced at the clinic whilst allowing Pro-life or Pro-choice protests or vigils to take place anywhere outside of the Restricted Area without the need to prescribe a location for such activities. It is therefore proposed that no designated zone will be prescribed within the significantly reduced Restricted Area.

The reduction of the area has taken into consideration the local geography including potential displacement to a sensitive site, such as a nursery on Wilmslow Road and also the location of bus stops on Wilmslow Road that may be used by staff, service users and visitors to the clinic.

The scope of the Restricted Area has been drawn in a way which ensures that those visiting the clinic by car, bus or on foot can arrive and leave without being confronted by the protest activity. Careful consideration has been given to keeping the scope as small as possible to allow unobstructed passage to the clinic whilst also allowing the Pro-life/Pro-choice groups who choose to continue their activities to do so in close proximity to the clinic but in a location which allows clinic visitors to pass without being identified and/or obstructed.

The description and boundary have been devised using easily identifiable landmarks/door numbers to ensure that residents, visitors, Pro-life/Pro-choice groups and anyone else potentially affected by the terms of the order can easily understand the scope of the Restricted Area. Clear boundaries will also assist officers tasked with enforcement of the order to promote compliance.

In revising the Restricted Area we have taken into account:

- The feedback from the consultation responses which demonstrate a lack of clear support for a designated zone.
- The need to have a Restricted Area which is proportionate in scope
- The risk of displacement to other sites in the local area.
- Human Rights, which is explored in more detail below.

10.0 Human Rights considerations

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

- 10.1 The Council is a public authority and the Human Rights Act 1998 requires it to act compatibility with the European Convention on Human Rights.
- 10.2 In addition to this general position s.72(1) of the 2014 Act requires the Council to have *particular* regard to the rights protected by Article 10 (Freedom of Assembly) and Article 11 (Freedom of Expression) when deciding whether to make a PSPO.
- 10.3 The proposed order gives rise to some difficult issues arising under the Equality Act 2010 and the ECHR. These are difficult issues because the proposed order requires the Council to have regard to the *competing* rights of the various represented groups and the rights of the service users/clinic staff. A consideration of these rights requires the Council to undertake a delicate exercise of achieving the appropriate balance between the respective rights. They are also difficult because an ECHR right can only be interfered with where the interference is in accordance with the law, necessary and in furtherance of a permitted objective. These issues are considered more fully below and much of the analysis is taken from the report approved by the High Court and the Court of Appeal in the Dulgheriu case.

The ECHR

- 10.4 The Council must take account of Articles 8, 9, 10, 11 and 14 of ECHR. These are a combination of 'absolute rights' (meaning they cannot be interfered with by the state under any circumstances) and 'qualified rights' (meaning they may only be interfered with under specific circumstances). In considering interference with qualified rights, the Council are required to consider that any interference is:
1. In accordance with the law
and
 2. Necessary in a democratic society in the interests of:
 - National Security *or*
 - Territorial integrity or public safety *or*
 - The prevention of disorder or crime *or*
 - The protection of health or morals *or*
 - The protection of the reputation or rights of others
- 10.5 It is broadly under the protection of rights of others that the interferences presented by the proposed PSPO fall. The following paragraphs outline the key Articles engaged by the decisions. Members will find a summary of how any interference is said to be permissible:

Article 8: Right to Private and Family Life

- 10.6 Article 8 of the European Convention of Human Rights protects a person's right to *respect* for their private and family life, their home and their correspondence. Article 8 is a qualified right, which means it can be interfered with in certain situations, for example, to protect the rights of others.
- 10.7 The proposed PSPO does not interfere with any person's right to private and family life. However, the activities outside the clinic are an interference with Article 8 rights that the Council is entitled to take steps to protect. In the Court of Appeal's judgment in Dulgheriu and Orthova v Ealing LBC, the CoA observed that the decision of a woman whether or not to have an abortion was an intensely personal and sensitive matter which undoubtedly fell within "private life" as referenced in Article 8 of the ECHR. Article 8 protects a person's personal autonomy and there is a reasonable expectation of privacy in that visitors to the clinic are entitled to expect that their visit would receive no more publicity that was inevitable in accessing and leaving the clinic across a public space and highway. The proposed PSPO seeks to protect the private and family life of those persons accessing services at the clinic.

Article 9: Right to Freedom of Thought

- 10.8 Article 9 of the European Convention of Human Rights protects a person's right to hold both religious and non-religious beliefs and protects a person's right to choose or change their religion or beliefs. The PSPO is not seeking to interfere with this right and it does not seek to prohibit any activities that affect a person's right to hold religious or non-religious views.
- 10.9 Article 9 additionally protects a person's right to manifest their beliefs in worship, teaching, practice or observance. For example the right to talk and preach about their religion or beliefs and to take part in practices associated with those beliefs. The right to manifest one's religion or beliefs is a qualified right, which means it can be interfered with in certain situations, for example, to protect the rights of others.
- 10.10 The Council is aware that some of the represented groups believe that their activities are part of their right to manifest their religion or beliefs. These are important rights and the Council should be reluctant to interfere with those rights. Where the Council does interfere it must ensure that any interference is in accordance with the law (this is addressed later in this report), is necessary (also addressed more fully later in this report) to ensure the protection of the rights of others. The proposed PSPO would interfere with these Article 9 rights. This is a delicate balancing exercise in which any interference with the right must be in accordance with the law and necessary to protect the rights of others. Both of these considerations are addressed more fully later in this section.

Article 10 Right to Freedom of Expression and Information

- 10.11 Article 10 of the European Convention of Human Rights protects the right of everyone to freedom of expression. This includes freedom to hold opinions and to receive and impart information and ideas without interference by public authority. Article 10 is a qualified right, which means it can be interfered with in certain situations, for example, to protect the rights of others.
- 10.12 Again, this is an important fundamental right in any democracy. It includes the entitlement to express views that others might disagree with, find distasteful or even abhorrent. Article 10 provides a protection to express those views and is an important part of a free and democratic society.
- 10.13 It is important to consider that individuals from Pro-life groups have stated they attend the Clinic to impart information to women accessing services and the proposed PSPO will interfere with their Article 10 rights. It should also be noted that the PSPO will interfere with the Article 10 rights of Pro-choice represented groups. In deciding whether to implement a PSPO, therefore, the Council will have to balance the rights of pregnant women to access lawful health services free from fear of intimidation, harassment or distress and with an appropriate level of dignity and privacy against the Article 10 rights of Pro-Life and Pro-Choice represented groups to impart information and ideas relating to the termination of pregnancy and in addition the Article 10 right to *receive* such information. This is a delicate balancing exercise in which any interference with the right must be in accordance with the law and necessary to protect the rights of others. Both of these considerations are addressed more fully later in this section.

Article 11 Right to Freedom of Assembly

- 10.14 Article 11 of the European Convention of Human Rights protects everyone's right to freedom of peaceful assembly and to freedom of association with others. Article 11 is again a qualified right, meaning it can be interfered with in certain situations, for example, to protect the rights of others.
- 10.15 The right to freedom of assembly includes peaceful protests and demonstrations of the kind seen outside the clinic. The PSPO will interfere with the Article 11 rights of Pro-life and Pro-choice groups in the locality of the Clinic. The Council therefore needs to balance the rights of pregnant women to access lawful health services free from fear of intimidation, harassment or distress against the Article 11 rights of Pro-life and Pro-choice groups. This is a delicate balancing exercise in which any interference with the right must be in accordance with the law and necessary to protect the rights of others. Both of these considerations are addressed more fully later in this section.

Article 14 Right to Freedom from Discrimination

- 10.16 Article 14 of the European Convention on Human Rights provides '*The enjoyment of the rights and freedoms set forth in this European Convention on Human Rights shall be secured without discrimination on any ground such as*

sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. It is therefore not a free-standing Article but rather one which relates to the engagement of other Articles.

- 10.17 Article 14 needs to be considered by the Council, given the proposed PSPO targets behaviours largely contained within a group who identify with a specific religion and belief (namely Christianity).

Is the interference 'in accordance with the law'?

- 10.18 If the conditions for making a PSPO are met, and that the restrictions or prohibitions it imposes are reasonable to impose in order to prevent or reduce the identified detrimental effect from occurring, occurring or recurring, then the PSPO will have been made in accordance with the statutory provisions. As a result any interference with the relevant ECHR right will be in accordance with the law.

Is the interference 'necessary in a democratic society'?

- 10.19 Regard must be had to the content of the relevant rights as summarised above. All of the rights highlighted, but Articles 10 and 11 in particular, are important rights in a free a democratic society. This has been highlighted by a number of the responses to the consultation.
- 10.20 If the Council wishes to interfere with these rights the interference must be 'necessary' in order to achieve a stated aim, here the aim that the Council is seeking to achieve is the protection of the rights and freedoms of others. Those rights and freedoms include the freedom to access health care services without impediment. Consideration needs to be given to whether this objective is sufficiently important to justify limiting a fundamental right.
- 10.21 'Necessary' means that the interference must be connected to achieving the stated objective and must not interfere any more than is required in order to achieve it. The PSPO must strike a fair balance between the competing rights of the represented groups and those affected by their activities.
- 10.22 The ECHR rights have been firmly in mind when the proposed order was being formulated. In addition, these considerations have been kept under review throughout the process.
- 10.23 The principle difficulties identified by the evidence is the presence of the represented groups at the entry point to the clinic and their desire to engage with the service users and staff. The evidence base suggests that the location of the groups, independently of what they do whilst they are there, is a problem because the service users are sometimes impeded from entering the clinic, they feel as though they are being watched or 'judged', they are approached and spoken to about the procedure they are considering or have undergone, women have reported feeling upset, nervous, frightened and intimidated by being presented with models of fetuses, envelopes with

messages stating “ask to see the scan” and groups of people holding posters and signs with images including foetuses on them. Several women were distressed to the point that they were unable to continue with their treatment and had to return at a later date impacting upon their right to access healthcare as they had intended. Women report being distressed after receiving information such as having an abortion will leave them more susceptible to having cancer. They report feeling unfairly judged by the way in which the people involved in the protests or ‘vigils’ congregate outside the Marie Stopes clinic and express their views. The represented groups say that their presence (of itself) should not be problematic, nor should the handing out of leaflets or attempting to speak to the service users/staff. They deny filming, shouting at or following clinic service users or their partners, relatives and friends; they deny calling clinic users ‘murderers’ or telling clinic users that they will be ‘haunted’. Members are reminded of the evidence base (summarised at Sections 3 and 4 of this report and Appendix 4), which suggests that there is a detrimental effect on the quality of life of those in the locality. Members are advised that the prohibitions are directed at reducing the identified detrimental effect.

10.24 Members are also asked to note the options analysis: officers have had regard to a broad range of powers to deal with the activities that are having a detrimental effect on the quality of life of those in the locality. Careful consideration has been given to whether there are alternative means of achieving a reduction or elimination of the detrimental effect on the quality of life of those in the locality. Each option has its own advantages and disadvantages, which will not be repeated here.

10.25 The main issue for the Council is whether the making of the proposed order is a proportionate means of achieving a reduction / elimination of the detrimental effect on the quality of life of those in the locality. Enforcement options which attach to an individual are not thought to be appropriate here as the people present outside the clinic differ from day to day. The best fit is thought to be a solution which attaches to the space as opposed to an individual. The Court of Appeal in the Dulgheriu case gave detailed consideration of the human rights assessment applicable to this type of situation. The underlying factual position is similar, although not identical and the Council considers that the CoA’s analysis can be applied to the present situation. The revised PSPO is tailored to the activities complained of, it adopt the least restrictive means possible to protect the right of the service users and is necessary, justified and proportionate.

11.0 Equality

11.1 The public sector equality duty.

The equality duty was created under the Equality Act 2010. In summary, those subject to the equality duty must, in the exercise of their functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

The Act explains that having due regard for advancing equality involves:

- Removing or minimising disadvantages suffered by people due to their protected characteristics.
- Taking steps to meet the needs of people from protected groups where these are different from the needs of other people.
- Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The equality duty covers the nine protected characteristics: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Public authorities also need to have due regard to the need to eliminate unlawful discrimination against someone because of their marriage or civil partnership status. This means that the first aim of the duty applies to this characteristic but that the other aims (advancing equality and fostering good relations) do not apply.

- 11.2 An Equality Impact Assessment (EIA) has been completed considering each of the protected characteristics and behaviours included in the PSPO This is included as Appendix 8. Particular regard has also been given to the articles in the Human Rights Act detailing freedom of expression and freedom of assembly and freedom of thought belief or religion when deciding whether to proceed with the proposal to make a PSPO.

12.0 The Proposed PSPO

The resulting proposed Public Spaces Protection Order prohibitions and restrictions are detailed below. The order is based on a PSPO adopted by the London Borough of Ealing. The Ealing PSPO has been approved both by the High Court and the Court of Appeal. However, in proposing the PSPO, the Council is not simply adopting what another area has done, to the contrary, careful consideration has been given the nature of the problems at Wynnstay Grove, the evidence base, the outcomes of the consultation and whether a PSPO is necessary, justified and proportionate in all of the circumstances pertaining to this clinic:

The proposed PSPO reads:

No person shall in a public place in the Restricted Area:

1. protest, namely engage 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.
2. interfere, or attempt to interfere, whether verbally or physically, with a staff member or service user of the Centre.
 3. intimidate or harass, or attempt to intimidate or harass, a staff member or service user of the Centre.
 4. record or photograph a staff member or service user of the Centre without the explicit consent of that person.
 5. display any text or images relating directly or indirectly to the termination of pregnancy.
 6. distribute any text or images relating directly or indirectly to the termination of pregnancy.
 7. play amplified music, voice or audio recordings with respect to the approval or disapproval of abortion services.

These requirements will apply to the whole of the Restricted Area.

1. A person in a public place in the Restricted Area who an Authorised Person or Constable reasonably suspects of breaching any of the prohibitions or requirements in this Order shall, upon request of that Authorised Person, provide their name, address and date of birth to that Authorised Person.

A requirement under this Article is not valid if the Authorised Person is asked by the person subject to the requirement to show evidence of their authorisation and they fail to do so.

2. A person in a public place in the Restricted Area who an Authorised Person or Constable reasonably suspects of breaching any of the prohibitions or requirements in this Order shall, upon valid request of an Authorised Person or Constable, leave the Restricted Area within a reasonable time as specified in writing by that Authorised Person and not return within 24 hours.

A requirement under this Article is not valid if the Authorised Person is asked by the person subject to the requirement to show evidence of their authorisation and they fail to do so.

The Restricted Area is all public places, as defined by section 74(1) of the Act, on the whole of Wynnstay Grove and the whole of Wilmslow Road from its junction with Willow Bank (from the southern boundary of 336 Wilmslow Road - "McDonalds" - and the southern boundary of 361 Wilmslow Road) to its junction with Sherwood Street (from the southern boundary of 304 Wilmslow Road - the 'Orange Grove' apartments) and Ladybarn Road (the southern boundary of 331 Wilmslow Road) as more particularly outlined in red on the map at Appendix 7.

13.0 Enforcement

- 13.1 If the PSPO is introduced it will provide additional powers for both authorised Council and Police Officers to use when appropriate. The approach to enforcement remains as outlined in the Council's Corporate Enforcement Policy and the Anti-Social Behaviour Policy and Procedure. To become authorised to enforce the PSPO officers will undertake the appropriate training and formal authorisation. Officers will continue to work proactively with anyone or any groups who may be impacted by the PSPO.
- 13.2 Upon commencement of the PSPO, for the first three weeks, officers will spend time in the area speaking to businesses, groups with an interest and members of the public and people who may be affected by the terms of the Order to raise awareness of the prohibitions, requirements and consequences of breach. During this period the PSPO will not be enforced.
- 13.3 Members of the public will be asked to report breaches of the PSPO using the existing channels to provide details of the incident and the location. This information will be used to inform regular multi-agency operations when Council and Police Officers will target resources in the location and apply the appropriate use of powers.
- 13.4 Officers will record breach actions; the number of verbal warnings, Fixed Penalty Notices and prosecutions.
- 13.5 A Council and GMP partnership protocol will confirm the approach to the PSPO enforcement including any actions identified through the Equality Impact Assessment.

14.0 Next Steps

- 14.1 Before a final decision is made any feedback or recommendations from the committee will be considered.
- 14.2 The decision to introduce a PSPO is a key decision in the constitution delegated to the Strategic Director Neighbourhoods (in consultation with the Deputy Leader when considering objections and representations in respect of proposed PSPOs affecting highways). If the Order is made there follows a period of six weeks in which an appeal can be made to the High Court by an interested person to challenge the decision.
- 14.3 If the Order is introduced, it will be important to closely monitor any activity and review the impact of the PSPO. This will be important to establish any issues with enforcement, identify any areas of displacement, and to understand whether the PSPO is achieving the desired outcomes of the Order.

List of appendices:

1. Map and photographs
2. Proposed PSPO area on which the Council has consulted
3. Proposed PSPO prohibitions and requirements on which the Council has consulted
4. Consultation responses
5. Analysis of the consultation responses by Enventure
6. Similar email responses, map of postcode locations
7. The revised PSPO Restricted Area
8. Equality Impact Assessment