



Friday, 18 January 2019

Dear Sir/Madam

A meeting of the Licensing and Appeals Committee will be held on **Monday, 28 January 2019** in the New Council Chamber, Town Hall, Foster Avenue, Beeston NG9 1AB, commencing at **2.00 pm**\*\*.

Should you require advice on declaring an interest in any item on the agenda, please contact the Monitoring Officer at your earliest convenience.

***\*\*Please note the change to the normal time and day for this meeting***

Yours faithfully

Chief Executive

To Councillors:	E H Atherton	R D MacRae
	D Bagshaw	J C Patrick
	D A Burnett BEM (Chair)	M E Plackett
	M J Crow	K E Rigby
	T A Cullen	P D Simpson
	W J Longdon (Vice-Chair)	A W G A Stockwell

## AGENDA

1. APOLOGIES

To receive any apologies and notification of substitutes.

2. DECLARATIONS OF INTEREST

Members are requested to declare the existence and nature of any disclosable pecuniary interest and/or other interest in any item on the agenda.

3. MINUTES

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The Committee is asked to confirm as a correct record the minutes of the meeting held on 11 December 2018

Town Hall, Foster Avenue, Beeston, Nottingham, NG9 1AB

**[www.broxtowe.gov.uk](http://www.broxtowe.gov.uk)**

4. ANIMAL WELFARE (LICENSING OF ACTIVITIES INVOLVING ANIMALS) (ENGLAND) REGULATIONS 2018

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To advise on the changes in the licensing of animal activities legislation and to seek approval for the authorisation of officers, proposed fees and charges and associated policy and procedures arising from the new legislation.

5. EXCLUSION OF PUBLIC AND PRESS

**The Committee is asked to RESOLVE that, under Section 100A of the Local Government Act, 1972, the public and press be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 1 and 2 of Schedule 12A of the Act.**

6. APPEAL AT STAGE 3 OF THE COUNCIL'S GRIEVANCE POLICY

7. APPEAL AGAINST DISMISSAL

## LICENSING AND APPEALS COMMITTEE

11 DECEMBER 2018

Present: Councillor D A Burnett BEM, Chair

Councillors: E H Atherton	R D MacRae
D Bagshaw	M E Plackett
S A Bagshaw (substitute)	M Radulovic MBE
E Cubley (substitute)	P D Simpson
T A Cullen	A W G A Stockwell
W J Longdon	

Apologies for absence were received from Councillors M J Crow, J C Patrick and K E Rigby.

15. DECLARATIONS OF INTEREST

Councillors R D MacRae and M Radulovic MBE declared pecuniary interests in agenda item no. 8 due to pre-determination, minute no. 21 refers.

16. MINUTES

The minutes of the meetings held on 18 and 25 September were confirmed as a correct record and signed.

17. SEX ESTABLISHMENTS PROCEDURES AND CONDITIONS POLICY – LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 (AS AMENDED), POLICING AND CRIME ACT 2009

The Committee considered the report proposing that the transitional arrangements of the above Acts in relation to the licensing of sex establishments be removed from the Broxtowe Borough Council's current policy.

**RESOLVED that the Council's revised Sex Establishment Policy be approved.**

18. EXCLUSION OF PUBLIC AND PRESS

**RESOLVED that, under Section 100A of the Local Government Act, 1972, the public and press be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 1, 2 and 3 of Schedule 12A of the Act.**

19. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976  
HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE

Members considered the report which sought a decision as to whether an applicant was a fit and proper person to hold a licence.

Due to the applicant arriving late for the hearing, they having understood the hearing to commence at 11.00am rather than 10.00am, the meeting was adjourned for ten minutes to allow for the applicant to appear in person. Additionally, to allow the applicant extra time to arrive at the meeting venue and to make efficient use of the Committee's time, agenda item 7 (minute no. 20 below refers) was considered prior to this agenda item (agenda item 6). It was also noted that Councillor Radulovic did not return to the Council Chamber following debate of agenda item 7 and was not therefore present during debate or voting on this item.

Members considered the representations made by the applicant, who appeared in person, the Council's licensing representative, the relevant legislation and the Council's Licensing Policy.

**RESOLVED unanimously that the applicant is a fit and proper person to hold a hackney carriage/private hire driver's licence and the application be granted. However, the Committee considered that the three offences were very serious and advised the applicant to pay due care and attention whilst driving.**

20. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976  
HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE

The Committee noted the report which advised of the revocation of a licence by the Head of Public Protection. The decision to revoke the licence was taken in light of information provided to the Council's Licensing Manager by the Nottinghamshire Safeguarding Board.

The Licensing Manager advised that at a follow-up meeting of the Safeguarding Board the previous week, the Police had disclosed that the person the subject of the licence revocation had been the subject of criminal investigation in respect of an allegation made by a subsequent employer and that a Court hearing was awaited in respect of that.

The Licensing Manager further advised that the DBS check undertaken by Broxtowe in respect of the applicant had come back clear, although information had been known to the Police which they had not disclosed to the Council and the reasons for this would be further explored with the Police.

Notwithstanding the report's recommendation asking the Committee to note the report, Councillor Radulovic proposed that the resolution should seek to

endorse members' whole-hearted support of the revocation of licence. Councillor M E Plackett seconded the proposal which, on being put to the meeting, was carried.

**RESOLVED unanimously that the decision to revoke the hackney carriage/driver's licence be endorsed by the Committee.**

21. APPEAL AGAINST STAGE 2 DECISION UNDER THE COUNCIL'S GRIEVANCE POLICY

Prior to discussion on the item, an amendment to recommendation 2 was tabled to remove the words 'or revoke' which had been included in error.

Members considered details relating to an appeal of a former employee in respect of the treatment of claims of outstanding leave upon termination of employment.

Outcomes were sought on three grounds of appeal.

**RESOLVED that:**

- 1. The Interim Monitoring Officer's decision be amended and the appellant be awarded the sum of £405 (minus tax and national insurance) in full and final settlement.**
- 2. The Interim Monitoring Officer's decision be upheld.**
- 3. The Interim Monitoring Officer's decision be upheld unanimously.**

(Having declared interests in the item, Councillor R D MacRae and Councillor M Radulovic MBE left the meeting prior to debate or voting on the item. Councillor M E Plackett had to leave the meeting for personal reasons during the Committee's deliberations on the item and therefore did not vote on it.)

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## Report of the Chief Executive

**ANIMAL WELFARE (LICENSING OF ACTIVITIES INVOLVING ANIMALS) (ENGLAND) REGULATIONS 2018**1. Purpose of report

To advise on the changes in the licensing of animal activities legislation and to seek approval for the authorisation of officers, proposed fees and charges and associated policy and procedures arising from the new legislation.

2. Background

The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 came into force on 1<sup>st</sup> October 2018. The legislation introduces an updated licensing system in England for activities including the sale of animals as pets, providing or arranging boarding for cats and dogs (including home dog sitting), hiring out horses, dog breeding and keeping or training animals for exhibition.

The legislation gives updated powers to ensure high standards of animal welfare and provides the mechanism for local authorities to effectively recover the cost of administering the licences.

Under the new legislation, licences can be issued for 1, 2 or 3 years instead of the current annual licence. Licences will be issued with a rating based on the history of compliance and the control of activities and risks. Local Authorities are encouraged to publish ratings.

Additional background information is shown in appendix 1. The proposed fees are detailed in the attached appendix 2 and are based on national guidance on what can be included in fees and an estimation of the cost to administer and licence such activities.

**Recommendation**

**The Committee is asked to:**

**i) RESOLVE that Environmental Health Officers and Environmental Health Technical Officers in Public Protection are authorised under the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.**

**ii) RESOLVE that the Chief Executive, Head of Public Protection, and the Chief Environmental Health Officer are delegated responsibility for the issue, refusal, variation and amendment of animal licences and associated conditions.**

**iii) RECOMMEND the proposed fees and charges in respect of animal activities licensing to Finance and Resources Committee for approval and thereafter be subject to the regular review in accordance with other fees and charges.**

**iv) To determine a date to publish premises ratings.**

## APPENDIX 1

Background to the legislation

The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 replaces a number of pieces of legislation covering the licensing and registration of animals, widens the range of activities requiring a licence and permits local authorities to set fees for the cost of considering such licences, including any inspections required to monitor conditions at premises carrying out such activities.

Existing licences will continue to their expiry date (31<sup>st</sup> December 2018 for animal boarding, dog breeding and pet shops, within the next 12 months for riding establishments and by the end of March 2019 for existing performing animals registrations).

Dangerous Wild Animals and Zoos are outside the scope of the new legislation and will continue to be regulated in accordance with the existing specific legislation. New licences are issued for 1, 2 or 3 years depending on their rating and activities carried out. A national rating scheme has been introduced and takes into account the compliance history of premises, the risk of the activity being offered and the control of such risks. Many existing businesses will not be able to achieve higher than a 3 star rating. This is due to the higher standards requiring larger accommodation sizes for animals which may not be easily achievable in existing premises.

An overview of the scoring matrix is detailed below and includes an indication of frequency of inspection.

Scoring Matrix		Welfare Standards		
		Minor Failings	Minimum standards	Higher standards
Risk	Low Risk	1 Star (1 year licence) Min 1 unannounced visit within 12 month period	3 Star (2 year licence) Min 1 unannounced visit within 24 month period	5 Star (3 year licence) Min 1 unannounced visit within 36 month period
	Higher Risk	1 Star (1 year licence) Min 1 unannounced visit within 12 month period	2 Star (1 year licence) Min 1 unannounced visit within 12 month period	4 Star (2 year licence) Min 1 unannounced visit within 24 month period

Multiple activities will be covered on one licence with the activity with the lowest rating determining the overall rating of the premises. Due to the additional time on site to check these activities, fees must be paid for each of the activities if applied for at the same time but a 30% reduction on the least expensive additional activity will be given to account for reduction in travel time and some reduced processing costs.

Frequency of inspections, including interim inspections are determined by the risk rating, the type of activity being carried out and the compliance history of the premises.

Appeals against the risk rating must be submitted within 21 days of the decision and will initially be dealt with by the Chief Environmental Health Officer. Re-course to the Licensing and Appeals Committee will be available if an appeal is made following this decision.

Performing animal licences are issued for 3 years and are not risk rated. Appeals for refusals can be made to a first tier tribunal.

Re-rating requests can be submitted and will be chargeable. Conditions and requirements have been determined nationally for each activity type and introduce significant changes for certain sectors – for example home dog boarders and dog crèches and extend the scope of licensing to those providing animal boarding even if they do not directly look after the dog. New licences will incorporate all of these standard licence conditions.

Standard applications and inspection proformas will be implemented as part of the licensing process.

An annual return is required to be submitted to confirm the number of licences within each category, the ratings and the fees charged.

#### Publishing of Ratings

Authorities are encouraged to publicise ratings of premises. Whilst such information would be available on request under the Freedom of Information Act, a decision needs to be made on whether Broxtowe publish such information proactively on a regular basis in order to assist customers in making decisions about which premises to use (There is a requirement for the rating to be detailed on the licence and a copy of the licence to be displayed at the premises).

The proposal considers whether the ratings shall be published on our website within a short timescale of being issued or whether publication should be deferred for a set period (for example 18 months) to allow premises to complete any additional works and let the system be settled in.

## APPENDIX 2

Proposed licence fees

An application for a licence must be accompanied by a fee. The fee is to be set locally by each local authority on a cost recovery basis having had due regard to the guidance from the Home Office and relevant legal decisions. The basis of fees must proportionately reflect the time and cost in administering such licences.

The fees have been determined using a cost calculator and are predicted for considering the grant of a licence, the cost of enforcement and inspection (including where required by a nominated Veterinarian), the cost of training Officers and the cost of completing the statutory annual return. The fees have been based on an inspection before grant or renewal and a minimum of one additional unannounced inspection during the period of the licence. Fees have not taken into account the cost of enforcement against unlicensed premises.

Fees must not be set to make a profit and fees will need to be reviewed. It is proposed to review the fees tri-annually.

Each fee incorporates an element relating to the grant of a licence. In the event of a licence not being granted, this element of the fee would be refunded to the applicant.

**Proposed Charges – 1 October 2018 – 31 March 2020**

<b>Activity</b>	<b>Cost*</b>	<b>Additional Comments</b>
<b>Animal Boarding Establishment <sup>1</sup></b>		
Grant/Renewal – Cats only or Dogs only – less than 40 animals.	<b>£260</b>	<sup>1</sup>
Grant/Renewal – Cats <b>and</b> Dogs – less than 40 animals.	<b>£295</b>	<sup>1</sup>
Grant/Renewal – Cats and/or Dogs – for every 50 additional animals or part thereof.	<b>£52.50 per 50 animals</b>	<sup>1</sup> e.g. £347.50 for up to 90 animals, £400 for 91 – 141 animals.
<b>Home Boarding Establishment (Domestic)<sup>1</sup></b>		
Grant/Renewal – up to 4 dogs	<b>£185</b>	<sup>1</sup>
Grant/Renewal -Providers/franchisors boarding at hosts (add cost for each host listed on application)	<b>£145</b>	<sup>1</sup> This may just involve matching customers with hosts rather than direct provision of boarding. Inspection covered by host fee.
Hosts	<b>£185</b>	<sup>1</sup> May be in other local authority areas. If not licensed in own right as home boarder
<b>Day Care (Crèche Commercial ) for Dogs<sup>1</sup></b>		
Grant/Renewal	<b>£295</b>	<sup>1</sup>
<b>Dog Breeding</b>		
Grant – Domestic up to 5 breeding bitches	<b>£205</b>	Vet inspection required before issue and actual cost will be invoiced separately
Renewal – Domestic up to 5 breeding	<b>£205</b>	<sup>1</sup>

bitches		
Grant – Domestic 6 to 12 breeding bitches	<b>£260</b>	Vet inspection required before issue and actual cost will be invoiced separately
Renewal – Domestic 6 to 12 breeding bitches	<b>£260</b>	<sup>1</sup>
Grant – Commercial up to 10 breeding bitches	<b>£260</b>	Vet inspection required before issue and actual cost will be invoiced separately
Renewal – Commercial up to 10 breeding bitches	<b>£260</b>	<sup>1</sup>
Grant – Commercial – for every additional 6 (or part thereof) breeding bitches	<b>£35</b>	Vet inspection required before issue and actual cost will be invoiced separately
Renewal – Commercial – for every additional 6 (or part thereof) breeding bitches above	<b>£35</b>	<sup>1</sup>
<b>Hiring of Horses</b>		
Grant/Renewal	<b>£260</b>	Vet inspection required before issue and actual cost will be invoiced separately
Variation/Addition of Horses	<b>£50</b>	Vet inspection of horses and actual cost will be invoiced separately.
<b>Pet Vending<sup>1</sup></b>		
Grant/Renewal Single Species	<b>£260</b>	<sup>1</sup>
Grant/Renewal Multiple Species	<b>£305</b>	<sup>1</sup>
<b>Performing/Exhibiting/Training Animals<sup>1</sup></b>		
Grant/Renewal	<b>£260</b>	<sup>1</sup>
<b>Variation of Activities – e.g. additional species/additional bitches need adding to licence</b>	<b>£60</b>	<sup>1</sup> Where visit required. For certain activities, additional vets fees will also be charged
<b>Combination of Activities</b>	<b>Combined fees – less 30% of lowest fee</b>	<sup>1</sup>
<b>Re-rating Inspection</b>	<b>£120</b>	<sup>1</sup> On request of licence holder

<sup>1</sup> Any additional Veterinary inspections (at officers discretion or following complaint) will be recharged in addition to the licence fee.

\*A grant fee of £50 is included in all application and renewal fees – this element will be refunded if the application is refused. Where more than one activity is carried out on the same premises the cost of additional activities should also be paid for.

The fees and charges set will aim to achieve the full cost recovery of providing the service. Fees are not set to be an economic deterrent to certain activities or to raise funds.

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## **Equality Impact Assessment**

The Equality Act 2010 replaces the previous anti-discrimination laws with a single Act. It simplifies the law, removing inconsistencies and making it easier for people to understand and comply with it. It also strengthens the law in important ways, to help tackle discrimination and equality. The majority of the Act came into force on 1 October 2010.

Public bodies are required in it to have due regard to the need to:

- eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited under the Act
- advance equality of opportunity between people who share a protected characteristic and people who do not share it, and
- foster good relations between people who share a protected characteristic and people who do not share it.

The public sector Equality Duty came into force on 5 April 2011. The duty ensures that all public bodies play their part in making society fairer by tackling discrimination and providing equality of opportunity for all. It ensures that public bodies consider the needs of all individuals in their day to day work – in shaping policy, delivering services and in relation to their own employees.

The Equality Duty encourages public bodies to understand how different people will be affected by their activities so that policies and services are appropriate and accessible to all and meet different people's needs. By understanding the effect of their activities on different people, and how inclusive public services can support and open up people's opportunities, public bodies are better placed to deliver policies and services that are efficient and effective.

The new equality duty replaces the three previous public sector equality duties, for race, disability and gender. The new equality duty covers the following protected characteristics:

- age
- disability
- gender reassignment
- pregnancy and maternity
- race – this includes ethnic or national origins, colour or nationality
- religion or belief – including lack of belief
- sex
- sexual orientation.

It also applies to marriage and civil partnership, but only in respect of the requirement to have due regard to the need to eliminate discrimination.

Having due regard means consciously thinking about the three aims of the equality duty as part of the process of decision-making. This means that consideration of equality issues must influence the decisions reached by public bodies, including how they act as employers, how they develop, evaluate and review policies, how they design, deliver and evaluate services, and how they commission and procure from others.

Having due regard to the need to advance equality of opportunity involves considering the need to:

- remove or minimise disadvantages suffered by people due to their protected characteristics
- meet the needs of people with protected characteristics, and
- encourage people with protected characteristics to participate in public life or in other activities where their participation is low.

Fostering good relations involves tackling prejudice and promoting understanding between people who share a protected characteristic and others.

Complying with the equality duty may involve treating some people better than others, as far as this is allowed by discrimination law. For example, it may involve making use of an exception or the positive action provisions in order to provide a service in a way which is appropriate for people who share a protected characteristic.

The Equality Duty also explicitly recognises that disabled people's needs may be different from those of non-disabled people. Public bodies should therefore take account of disabled people's impairments when making decisions about policies or services. This might mean making reasonable adjustments or treating disabled people better than non-disabled people in order to meet their needs.

There is no explicit requirement to refer to the Equality Duty in recording the process of consideration but it is good practice to do so. Keeping a record of how decisions were reached will help public bodies demonstrate that they considered the aims of the Equality Duty. Keeping a record of how decisions were reached will help public bodies show how they considered the Equality Duty. Producing an Equality Impact Assessment after a decision has been reached will not achieve compliance with the Equality Duty.

It is recommended that assessments are carried out in respect of new or revised policies and that a copy of the assessment is included as an appendix to the report provided to the decision makers at the relevant Cabinet, Committee or Scrutiny meeting.

Where it is clear from initial consideration that a policy will not have any effect on equality for any of the protected characteristics, no further analysis or action is necessary.

Public bodies should take a proportionate approach when complying with the Equality Duty. In practice, this means giving greater consideration to the Equality Duty where a policy or function has the potential to have a discriminatory effect or impact on equality of opportunity, and less consideration where the potential effect on equality is slight. The Equality Duty requires public bodies to think about people's different needs and how these can be met.

## EQUALITY IMPACT ASSESSMENT (EIA)

Directorate:	<b>Chief Executive's</b>	Lead officer responsible for EIA	<b>David Gell</b>
Name of the policy or function to be assessed:	<b>Licensing of Animal Activities</b>		
Names of the officers undertaking the assessment:	<b>David Gell</b>		
Is this a new or an existing policy or function?	<b>New</b>		
<p><b>1. What are the aims and objectives of the policy or function?</b> To set out the requirements to be met by those who wish to operate in the particular areas of the animal welfare sector, and to promote the Animal Welfare Act 2006's principles. It also sets out the fees for licences and provides guidance to all involved to ensure consistency of approach.</p>			
<p><b>2. What outcomes do you want to achieve from the policy or function?</b> Standardised approach to licensing of animal activities. Improved welfare of animals</p>			
<p><b>3. Who is intended to benefit from the policy or function?</b> People wishing to undertake licensable activities People utilising such facilities and services Officers implementing the policy</p>			
<p><b>4. Who are the main stakeholders in relation to the policy or function?</b></p> <ul style="list-style-type: none"> <li>• Officers of Broxtowe Borough Council</li> <li>• People providing animal activity businesses</li> <li>• People making use of the services</li> </ul>			
<p><b>5. What baseline quantitative data do you have about the policy or function relating to the different equality strands?</b> Twenty-four percent of households were identified as dog-owning and 52% owned a pet of some type. The research suggested that households were more likely to own a dog if they had more occupants (five or more) or if they had an adult female household member. The age structure of the households was also associated with dog ownership, with households containing older children (between six and 19 years of age) and young adults (between 20 and 29 years of age), more likely to own dogs.</p> <p><b>(Factors associated with dog ownership and contact with dogs in a UK community. Carri Westgarth, Gina L Pinchbeck, John W S Bradshaw, Susan Dawson, Rosalind M Gaskill, Robert M Christley)</b></p> <p>Pet ownership (reported by the mother) differed by ethnicity of the child at all time points: at 7 years, 72% of category 'white' owned pets, compared to 59% 'mixed', 33% 'Asian', 15% 'black' and 38% 'other'. When analysed by separate pet types, the same relationship was seen for most years.</p> <p><b>(Family Pet Ownership during Childhood: Findings from a UK Birth Cohort and Implications for Public Health Research. Carri Westgarth, Jon Heron, Andy R Ness, Peter Bundred,</b></p>			

Rosalind M Gaskill, Karen P Coyne, Alexander J German, Sandra McCune, Susan Dawson

The British Equestrian Trade Association (BETA) National Equestrian Survey (2010-11) indicated that:

- 3.5 million people (6% of the GB population) had ridden a horse at least once in the previous 12 months
- 73% of riders are female
- In 2010, 8% of riders considered themselves disabled in some way
- A quarter of all GB riders are below 16 years of age; 20 % above 45 years of age

**6. What baseline qualitative data do you have about the policy or function relating to the different equality strands?**

None available

**7. What has stakeholder consultation, if carried out, revealed about the nature of the impact?**

None undertaken as changes are introduced on the basis of new legislation.

**8. From the evidence available does the policy or function affect or have the potential to affect different equality groups in different ways?**

Although research indicates certain groups are more likely than others to own pets or ride horses, there is no evidence that the policy has the potential to affect different equality groups in different ways.

**In assessing whether the policy or function adversely affects any particular group or presents an opportunity for promoting equality, consider the questions below in relation to each equality group:**

- **Does the policy or function target or exclude a specific equality group or community? Does it affect some equality groups or communities differently? If yes, can this be justified?**

No

- **Is the policy or function likely to be equally accessed by all equality groups or communities? If no, can this be justified?**

Yes

- **Are there barriers that might make access difficult or stop different equality groups or communities accessing the policy or function?**

No

- **Could the policy or function promote or contribute to equality and good relations between different groups? If so, how?**

No

- **What further evidence is needed to understand the impact on equality?**

None

**9. On the basis of the analysis above what actions, if any, will you need to take in respect of each of the equality strands?**

**Age:**

No adverse impact has been identified.

**Disability:**

No adverse impact has been identified.

**Gender:**

No adverse impact has been identified.

**Gender Reassignment:**

No adverse impact has been identified.

**Marriage and Civil Partnership:**

No adverse impact has been identified.

**Pregnancy and Maternity:**

No adverse impact has been identified.

**Race:**

No adverse impact has been identified.

**Religion and Belief:**

No adverse impact has been identified

**Sexual Orientation:**

No adverse impact has been identified.

**Head of Service:**

I am satisfied with the results of this EIA. I undertake to review and monitor progress against the actions proposed in response to this impact assessment.

**Signature of Head of Service: D Gell**

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