

Report of:	Meeting	Date
Cllr Bridge, Street Scene, Parks and Open Spaces Portfolio Holder and Mark Billington, Corporate Director Environment	Delegated to the Chief Executive under Emergency Powers	30 September 2020

<p>Review of Consultation and Implementation of a Public Space Protection Order (PSPO) for Dog Control</p>

1. Purpose of report

- 1.1 To summarise the consultation feedback following the review of the Public Space Protection Orders (PSPOs) relating to dog controls, agree changes and to seek approval for the Senior Solicitor to make the Order in accordance with regulations published by the Secretary of State.

2. Outcomes

- 2.1 The making of the new Order will enable authorised officers to continue to enforce across the borough in relation to dog fouling and dog control measures.

3. Recommendations

- 3.1 That Cabinet agree to the making of the PSPO (six control measures) as shown in Appendix A.
- 3.2 That dog control measures are applied to Fleetwood Marsh Nature Park on the condition that Lancashire County Council (LCC) undertake a communication campaign, provide signage on site and continue to support a programme of patrolling and enforcement at their expense utilising the councils enforcement partners and that they handle customer enquiries.
- 3.3 To authorise the Senior Solicitor to correct any minor drafting errors that may be identified and make minor amendments including deletions and insertions that may be necessary to ensure the PSPO and supporting maps is accurate.

4. Background

- 4.1** On 18 October 2017, Cabinet approved a PSPO relating to a range of dog control measures across the borough following a period of statutory consultation.
- 4.2** The PSPO statutory provisions arising from the Anti-social Behaviour, Crime and Policing Act 2014, require PSPOs to be reviewed every three years.
- 4.3** A public consultation exercise was undertaken during summer 2020; the statutory consultees were notified direct along with nationally interested parties e.g. Dogs Trust / Kennel Club and local community and voluntary groups e.g. Friends of Parks, the YMCA and grassroots sports clubs alongside wider consultation on the council's website and other media channels for residents and other stakeholders.
- 4.4** Dog fouling and dog related anti-social behaviour is a concern to local residents and elected members, clearly evident from the Life in Wyre Surveys, ongoing reports to the council, observation by council officers working on site and Friends of Parks Groups. The table below shows the reported incidents over recent years.

Year	No Dog Fouling Incidents
2016/2017	417
2017/2018	356
2018/2019	381
2019/2020	303

5. Key issues and proposals

- 5.1** Consultation response - the council received 195 responses, which have proved very helpful in assessing the continued need for dog control, the scope of the need for dog control measures, and forming a better understanding on public views.
- 5.2** The level of response and wide range of views expressed illustrates what an important issue responsible dog ownership and the impact on wildlife /public open space is to both dog owners and non-dog owners. The responses received reflect users from a wide geographical spread within the borough and some from outside Wyre and capture both dog owners and non-dog owners; with 70% either currently owning (67%) or caring for a dog either in a private or professional capacity (3%).
- 5.3** The reports in the appendices provide a full summary of the findings and raw data comments. The reports are in two sections, firstly capturing the consultation on the measures currently adopted

(Appendix B) and, secondly the feedback on the proposed inclusion of measures at Fleetwood Marsh Nature Park (Appendix C).

5.4 In general the responses to key questions dealing with the continuation of the current control measures and suggestions for changes in relation to unfenced (not enclosed) sports pitches were well supported, as can be seen in the Table below.

Question summaries excluding comments. (for the comprehensive list of questions please see Appendix a16 The questionnaire under Appendix B) **Response %**

Do you have any comments or concerns regarding the extension of the order/offence in relation to...	Yes	No
Dogs fouling on land, and, the requirements of anyone in control of a dog/s to pick up the poo and put it in a bin?	23%	77%
The requirement to put dogs on leads by direction from an authorised officer?	21%	79%
The requirement to have dogs on leads in certain areas?	37%	63%
Should dogs be banned from the cemeteries?	System error. No response entries	
The practice of other authorities is that the exclusion of dogs on unfenced marked pitches applies only when an organised activity is taking place. Do you agree with this proposed change?	74%	26%
Do you think the ban on the two bathing beaches should be applied all year round?	24%	76%
Do you think the ban on the two bathing beaches should remain seasonal (1 May to 30 September) but be limited to 10:00-20:00?	56%	44%
Have you any comments or concerns regarding the extension of the order that restricts the number of dogs one person can exercise at a time in certain areas?	36%	64%
Do you have comments or concerns regarding the extension of the order, where it is an offence to not have the means to pick up after the dog under your control when asked by an authorised officer?	13%	87%
Do you agree with the level of the Fixed Penalty for non-compliance remaining at £100?	76%	24%

Please note the above percentages have been rounded.

5.5 The requirement to apply a borough wide PSPO to pick up dog foul and to have the means to pick up when requested by an authorised officer was heavily supported.

5.6 This reflects the ill feeling towards dog fouling, the impact it can have on health, affect quality of place/enjoyment of an environment and mess it can create. It is recognised that some respondents have concerns about the level of enforcement action in relation to dog fouling. On a positive, the number of reports of dog fouling incidents has fallen over the last three years and since working with an external enforcement partner the number of fixed penalty notices issued for dog fouling has increased (Full Council Reports by the Street Scene, Parks and Open Spaces Portfolio Holder, provide regular updates on fixed penalty notices issued).

- 5.7** However, catching irresponsible dog owners / walkers allowing their dog to foul and not clearing up is notoriously difficult owing to the large geographical area that needs to be covered and the times that some dog owners walk their dogs. It is human nature that many people comply when they can be observed by others, especially when uniformed officers are within close proximity. Enforcement is intelligence led by complaints and information from the public.
- 5.8** Authorised officers patrol reported hot-spot areas and respond to intelligence from local residents of times / locations for known offenders. However the officers cannot be everywhere all of the time, so welcome feedback / reports from the general public to work with the council to combat dog fouling and ensure that the small minority of offenders become more responsible. The council needs local residents and visitors to be willing to assist in this process and provide statements for court where necessary.
- 5.9** In order to increase the pressure on irresponsible owners, a new requirement was included in 2017 which required those in charge of a dog(s) to be equipped with suitable means when walking their dog(s) to pick up dog faeces. Rather than having to catch a person in the act of not picking up, this means an offence is committed if a person does not have a means of picking up the faeces should the dog defecate. This continues to be supported by 87% of respondents.
- 5.10** Many responders', have made reference to litter being more prevalent than dog fouling, in particular on beaches, suggesting that people leave a greater mess and are contributing to a bigger problem for the quality of bathing water and beaches. It is acknowledged that this is also a concern, and sadly during the current pandemic, appears to be a national issue. Enforcement officers patrol and regulate both contraventions. The council is committed to a cleaner, greener environment.
- 5.11** It is recognised that some respondents have questioned the provision of litterbins. Over recent years there has been a standardisation of bins and removal of the small singular dog bins, which were not fit for purpose with new dual purpose litter bins. Street and park litter bins can accept both litter and bagged dog foul and the council continues to promote this message. There are over 900 bins across the borough. The absence of a litterbin is not a reasonable defence against the offence of failing to clear up after a dog. Dog owners / keepers should bag the waste and carry it to the next nearest bin or take it home with them. The same applies to all litter.
- 5.12** A number of people responded suggesting that the council should provide free 'poo' bag dispensers or vending machines on popular sites as offered on the continent. This has been evaluated previously, but it is questionable as to whether it is making the minority more responsible as they are not accepting responsibility to provide bags themselves and become reliant on

the council, whereas other responsible dog owners happily provide their own and pick up. It raises the question of what would happen if they went to areas without a dispenser or the dispenser was empty, or if the dog fouled prior to getting to a site with a dispenser. Similarly, reports from other Local Authorities have suggested that the dispensers become a focus for vandalism and littering.

- 5.13** There remains strong support (79%) for the requirement for an authorised officer to request a dog to be put on a lead in certain areas; this provides reassurance in areas where there may be a clash with other users and if a dog is not under close control. This is considered more favourable by some than the requirement to have dogs on a lead in nominated areas; whilst still a majority support this (63%) some respondents feel that it restricts opportunities to exercise dogs. These areas are where there is likely to be a safety concern e.g. highways and car parks or conflict is likely with other users or wildlife requiring close control at all times.
- 5.14** It is recognised that dogs in cemeteries can be a very emotive issue and these areas should be respected. However many families wish to take dogs to visit their loved ones whilst paying their respects. Over the last three years, officers have noticed and received reports of problems with dog fouling or owners using the cemeteries as a general exercise area. Unfortunately there was a glitch in the consultation software system and the responses in relation to whether dogs should be banned from cemeteries were not captured. It is therefore suggested the current measures remain; requiring dogs to be on a lead under close control and restricted to pathways.
- 5.15** The current Order includes areas where dogs are excluded, ranging from multi-use play areas, tennis courts, playing fields, bowling greens, skate parks, pitch and putt sites, picnic areas, Sites of Special Scientific Interest (SSSI) and the bathing beaches. 53% of respondents had no concerns or comments regarding the extension of this order. There has always been strong support for play areas; however the beaches and playing fields that are not enclosed have been subject to queries over the last three years. Hence separate questions were asked to gauge feedback on this issue specifically.
- 5.16** For playing fields with marked pitches that are not enclosed / unfenced; the consultation asked for feedback on allowing access to dogs when not in use for organised activity. This practice is commonplace across other Local Authority areas and reportedly easier to manage and provides a more balanced approach for all users of the land. This was supported by almost three quarters of respondents; the main concern being about the level of fouling and reports of groups having to spend considerable time checking pitches ahead of use. This however already has to take place. It is recommended this amendment is made and to support this change enhanced signage and signage for groups to display when in use will be developed alongside regular enforcement patrols.

- 5.17** The exclusion of dogs to two sections of beach on a seasonal basis (May – September) continues to split views. The bans have been in place for a number of years in the amenity beach areas recognising that these are the areas safer for bathing and patrolled by the lifeguards in the bathing season.
- 5.18** The localised seasonal beach ban equates to a seasonal ban on just 1.43km of beach, with a further 11.07km open access / no restrictions. The council recognises that children and dogs should be able to socialise under supervision, but equally some families may choose to come to the beach to be away from dogs. By limiting the ban to the amenity areas only, this leaves wide expanses either side that dogs can roam freely.
- 5.19** The consultation asked for feedback on whether the exclusion of dogs on the two bathing beaches should be applied all year round or restricted seasonally with a timeframe of 10.00 – 20.00.
- 5.20** The majority of respondents (76%) were against the exclusion applying all year round, favouring the summer months only; with many indicating it is quieter and not used for bathing outside this time; whilst some dog owners, clearly aware that not everyone is comfortable with dogs agreed that this would be acceptable as it is such a small area.
- 5.21** The suggestion was put to restrict the exclusion to a timeframe of 10.00-20.00, based on anecdotal evidence and feedback from users that the beaches are quieter outside these times, with families and bathers not necessarily using at this time. There was a slight majority for this, with many commenting that a timeframe was a fairer approach. However respondents suggested a range of alternative timeframes based on their own interpretations of when families would use these sections of beach. It is therefore suggested the current conditions remain in place. They have been in place for many years now, locals are aware, the bathing water quality has improved, it prevents confusion, allows safe access for bathers around the different tide conditions and is easier to manage and it keeps in line with our neighbouring councils' bathing beach restrictions.
- 5.22** The consultation questions on beaches returned many comments in relation to wider litter issues on beaches; this has been addressed above.
- 5.23** 64% of respondents agreed that a maximum of four dogs exercised by one person should be continued in the designated areas. On reviewing the feedback, it seems that some respondents have included comments in this section in reference to the proposed changes at Fleetwood Nature Park. This will be discussed further in section 5.47.
- 5.24** 76% agreed with the level of the fixed penalty for non-compliance; a slight majority were in favour of a higher penalty. It is felt this remains proportionate.
- 5.25** It is essential that enforcement works hand-in-hand with education. The

council will continue to promote responsible behaviour change campaigns, including 'bag it and bin it – any bin will do', alongside other anti-littering messages. We will work with partner agencies, both nationally and locally and local schools to help promote this message.

- 5.26** Following the last review, the council created a Dog Friendly Wyre facebook page which encourages sharing of information on places to walk or eat out with your dog, with local businesses advertising services, such as private fields / indoor areas to rent to exercise your dogs individually or in groups, dog training / behavioural advice / dog walking companies to dog friendly establishments in the borough e.g. cafes and the sharing of health concerns, events. This currently has over 800 followers.
- 5.27** It should be noted that the comments across all areas are very mixed with some suggestions that the council are discriminating against responsible dog owners and clearly 'anti-dog', even restricting business practices, whilst others suggesting the actions are not restrictive enough. This illustrates that this continues to be a very complex area and it is difficult to achieve the full consensus of everyone as opinions will vary widely depending on individual / organisational interests / experiences with dogs. In making this Order the approach taken is one that is necessary and proportionate in response to the problems caused by the activities of dogs and those in charge of them. The Order seeks to balance the interests of those in charge of dogs against the interests of those affected by the activities of dogs.
- 5.28 Fleetwood Marsh Nature Park (FMNP)**
There are currently no dog control orders on FMNP at Fleetwood. This land is owned and under the jurisdiction of LCC. LCC officers wish to introduce a range of control measures for the site bringing it in line with measures for other public spaces in Wyre following concerns about the impact on wildlife at the site and as a result of complaints about irresponsible dog owners / walkers.
- 5.29** LCC have suggested a range of measures for the site that continue to allow dogs access to much of the site, with the restrictions suggested to curb the detrimental impacts dogs and dog walkers are having on the wildlife on parts of the reserve.
- 5.30** FMNP sits on the site of the former Fleetwood power station. The site lay derelict for a number of years before it was acquired by LCC in the 1980s. Using funding from English Partnerships Derelict Land Grant the 20 hectare site was opened to the public in the late 1990s.
- 5.31** It is not a nature reserve by accredited status, but has the title Nature Park as this recognises the high biodiversity interest the site has / had. With limited public access during its working days as a power station the diverse nature of the site provided for a range of habitats to develop. Cooling lagoons, estuarine environments and herb rich grasslands developed

providing a host of habitats for breeding birds, wildflowers, insect colonies and other invertebrates. The site is recognised as a county Biological Heritage Site. FMNP of today, presents a very different picture; it is now an established green space serving a large urban population that has in recent years grown resulting in significant pressures on site.

- 5.32** LCC officers report that like many urban fringe open spaces FMNP has its fair share of challenging issues to deal with. Fly tipping, motorbikes, illicit evening drinking and drug taking, BBQs, fires and fireworks all happen in the park. The County Council and its contracted ranger deal with this on a regular basis. They report in addition to this, dogs, dog walkers and the sheer number of dogs is become a challenging issue across the site; suggesting that over the last five years they have seen an increase in reports and concerns about the levels of dog use, dog related issues and inconsiderate dog owners (and dog walkers). They have received feedback that parents with young children will no longer visit FMNP and older dog owners are keeping away as a result of safety concerns – particularly the fear of being knocked over and the level of dog foul.
- 5.33** The proposals made do not stop dogs and dog owners or professional dog walkers from using the site; the purpose is to ensure that one particular type of user does not dominate, to the detriment of others or the biological importance of the site.
- 5.34** In the summer of 2018 Fleetwood Town Council led a consultation on site about the future of FMNP. Without exception the issue and concerns about dogs, professional dog walkers and dog related "issues" came out as key concerns.
- 5.35** In the summer of 2018 LCC employed a "contract ranger" to provide a level of regular attendance on site, to help assure visitors, kerb anti-social activity, encourage responsible behaviour and provide maintenance cover. The ranger has a number of years' experience of working at FMNP and has observed behaviours of all types with no noticeable improvement during this period.
- 5.36** When FMNP was first developed there was no need for a dog waste bin. With the start of development at Leeward Avenue visitor numbers have increased and bins have been provided. Four additional bins have had to be provided illustrating the heavy use by dog walkers although on a positive note it should be recognised that that the bins are being used.
- 5.37** LCC report that in the time the Nature Park has been open to the public, biodiversity interest has decreased. The species rich grassland areas close to the car parks have seen an increase in grass species and a decline in herbs / wildflowers. Trampling (human and canine) and increases in nutrients are most likely to be the cause. Ground nesting birds, sky lark as an example, are now down to one pair on the accessible open areas.

- 5.38** The new lagoon was a renowned site for Black-tailed Skimmer and Red-veined Darter, (dragon flies) and the presence of dogs using the lagoon as a play area is having a damaging effect on both the adult insects and the aquatic larvae.
- 5.39** In the period 2015 to 2020 LCC have received over 30 reports of dog related incidents on site; including a broken leg, 10 dogs walked by one person and a huskie dog out of control jumping up at an elderly visitor.
- 5.40** The Section 2 report in Appendix C provides the full summary reports and raw data comments. The table below illustrates the headline findings.

Lancashire County Council have asked if respondents agree with the control measures that...	Yes	No
Dogs be excluded from the lagoons and areas marked on the map 001 at all times?	41%	59%
Dogs must be on a lead in certain areas (see Map 002)	41%	59%
A maximum of 4 dogs be walked / under the control of one person is applied across the whole site (see Map 003)	65%	35%
There will be a requirement to pick up dog foul, and have the means to pick up foul across the whole site (map 004 /005)	98%	2%
An authorised officer can instruct a dog to be put on a lead (see Map 006)	76%	24%

- 5.41** A majority of respondents were against the proposal to exclude dogs from parts of the site including the lagoons, suggesting that there are not enough areas for dogs to be allowed to run freely and the lagoons provided a place to cool down when hot. Many indicated they had never seen dogs out of control and that greater efforts should be made to tackle those that are rather than penalise everyone. The feedback from LCC and the exercise by Fleetwood Town Council suggests different.
- 5.42** Parts of the site will still allow dogs to be off the lead and this approach provides relief to the wildlife negatively impacted by trampling and dog activity. There appears to be a misconception by some that dogs cannot go on the beaches at Fleetwood; as stated earlier the restriction only applies to a small section at Marine beach from May to September. LCC have recently invested £10,000 in a new 700m all season perimeter trail suitable for wheelchairs, mobility scooters and visitors with mobility issues to assist with site access for all.
- 5.43** The responders in support were in favour of supporting wildlife and suggested that signage could be used to clearly display why the ban exists and what wildlife people could expect to see and that they are helping to protect. This will be suggested to LCC. LCC have confirmed access to some parts of the water will still be available but prefer limited

access for safety and ecology and advisory signage will support this approach.

5.44 Natural England commissioned a study to assess the recreational activity and interactions with birds on the north-west coast (Footprint Ecology, (2020) *recreational activity and interactions with birds on the north-west coast*). Whilst this part of the estuary was not assessed, Rossall Point and Flukehall in Wyre were chosen along with eight other NW sites and key headlines published in the report on their website on 26 August 2020 include:

- Dog walking was the activity that resulted in a behavioural response; for example dog walking caused 77% of major flights and flushed 89% of the birds seen.
- They found significant differences between dog walkers comparing dogs off leads to dogs on leads.
- Birds typically responded to the presence of people when they were in close proximity, with birds tending to take flight when people were around 50m away or closer.

This supports the findings of LCC officers who have witnessed similar activity and results at FMNP.

5.45 The proposal for dogs on a lead on certain parts of the site, generated the same response to the exclusion, with the common thread being it was considered unfair and restrictive. Others were in support, suggesting it should be applied to the whole site, especially during the breeding season.

5.46 There was majority support (65%) for a limit on the number of dogs that could be walked under the control of one person. Much of the feedback was that four was actually too many for one person to be in full control of at all times and others indicating issues on site with dog walking businesses. Of those that commented and were against the measure, many of them were professional dog walkers explaining their ability to maintain control of more than four dogs and the negative impact it could have on their business. Whilst professional dog walkers should be insured and only walk the number of dogs cited on their policy, there has been guidance produced for professional dog walkers that has been endorsed by known industry bodies, for example, Dogs Trust, RSPCA and Pet Industry Federation that recommends no more than four should be walked together.

5.47 The support for the requirement to pick up foul and have the means to pick was almost unanimously supported (98%) and the ability for an authorised officer to request a dog out of control is put on a lead was also strongly supported.

5.48 LCC have committed to put in place a communication campaign to promote the changes in advance of any enforcement, provide clear signage across the site, seek to make clear the exclusion zones and will

commit to paying for enforcement patrols on site using Wyre approved partners.

- 5.49** Signage will be reviewed and amended across the borough if necessary, this will continue to be supported with wider digital communications. LCC be required to put in place approved signage and a communication campaign to inform users of the changes to their site.
- 5.50** Parish and Town Councils will be approached to provide financial support to provide additional / upgraded signage at their sites.
- 5.51** Council officers, along with partners, will continue to use other tools available to them to tackle cases of dogs / dog owners reportedly behaving irresponsibly in a public place. This may range from acceptable behaviour contracts, community protection notices, to signposting for dog training.
- 5.52** It is considered that the continuation of dog control measures would have a positive effect on the lives of residents and the wider community making it a safer, cleaner and more attractive environment. The Life in Wyre Surveys have illustrated that irresponsible dog ownership and fouling are issues of great concern to the local community.
- 5.53** Equality Impact Screening has been reviewed in relation to the PSPO. This did identify the fact that the enforcement of the PSPO is likely to involve work with vulnerable people and disabled people. However this should not result in any group being discriminated against. For example, it continues to include exemptions for people with accredited guide or assistance dogs; recognising the need to access areas and possible limitations for them and anyone with a disability or physical impairment making them unable to pick up dog waste. Similarly Authorised Officers would assess the mental capacity of an individual at the time or on provision of supporting evidence and seek alternative support / engagement to address an issue on an individual basis from partner agencies.

Financial and legal implications	
Finance	<p>It is anticipated that there will be costs associated with new and updated signage for public space protection orders in the parks and other areas where they need to be displayed and these costs will be met from existing budgets.</p> <p>LCC will be expected to cover the costs for signage at the Fleetwood Marsh Nature Park and Town and Parish Councils will be asked to contribute towards their sites if they request additional signage.</p>

Legal	<p>The Anti-social Behaviour, Crime and Policing Act 2014 (“the Act”) came into effect on 20 October 2014. Section 59 of the Act gives local authorities the power to make PSPOs which are intended to deal with anti-social behaviour and nuisance in a particular area that is detrimental to the local community’s quality of life by imposing conditions on the use of that area.</p> <p>Before making a PSPO, councils must consult with the local police (section 72(3) and 72(4) of the Act). The Act also stipulates that councils must consult with the local community on any proposed PSPO. PSPO’s must be reviewed at least every three years. Consultation opportunities have been widely publicised within communities, councillors, business partner agencies, the media and websites and social media in addition to the statutory consultees.</p> <p>Anyone who lives in or regularly works or visits the area can appeal a PSPO in the High Court within six weeks of issue. The PSPO will be publicised locally.</p> <p>With regard to breaches of a PSPO, it is an offence for anyone, without reasonable excuse, to do anything s/he is prohibited from doing by virtue of the order. Furthermore, it is an offence for anyone, without reasonable excuse, to fail to comply with a requirement in the PSPO. Section 67 of the Act specifies that anyone found guilty of an offence can be fined up to £1,000 by the Magistrates’ Court. Section 68 of the Act provides that, in the alternative, a constable or authorised officer of the Local Authority may serve a fixed penalty notice on those in alleged breach offering them the opportunity to discharge liability by payment of Fixed Penalty Notice in an amount set by each local authority up to £100. Fixed penalty notices in Wyre for anti-social behaviour offences are currently set at £100.</p>
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Other risks/implications: checklist

If there are significant implications arising from this report on any issues marked with a ✓ below, the report author will have consulted with the appropriate specialist officers on those implications and addressed them in the body of the report. There are no significant implications arising directly from this report, for those issues marked with a x.

risks/implications	✓ / x
community safety	✓
equality and diversity	✓
sustainability	✓
health and safety	✓

risks/implications	✓ / x
asset management	x
climate change	✓
data protection	x
asset management	x

Processing Personal Data

In addition to considering data protection along with the other risks/ implications, the report author will need to decide if a 'privacy impact assessment (PIA)' is also required. If the decision(s) recommended in this report will result in the collection and processing of personal data for the first time (i.e. purchase of a new system, a new working arrangement with a third party) a PIA will need to have been completed and signed off by Data Protection Officer before the decision is taken in compliance with the Data Protection Act 2018.

report author	telephone no.	email	date
Ruth Hunter	01253 887478	Ruth.Hunter@wyre.gov .uk	

List of background papers:		
name of document	date	where available for inspection
None		

List of appendices

Appendix A – PSPO (including Schedules 1-6)

Appendix B – Consultation Summary Report Section 1, supporting raw data comments appendices a1-a10 and questionnaire a16

Appendix C - Consultation Summary Report Section 2 FMNP, supporting raw data comments appendices a11-a15

Appendix D - Equality Impact Assessment