

# Appendix 2

## Integrated Impact Assessment Form

Promoting Equality, Human Rights and Sustainability



Integrated Impact Assessment Form

## Promoting Equality, Human Rights and Sustainability

<b>Title of Policy/ Proposal</b>	Issuing of a Section 14 Notice under the terms of the Land Reform Act 2003 to have access rights reinstated along Cairnbank Road, Penicuik
<b>Completion Date</b>	23 December 2016
<b>Completed by</b>	James Kinch
<b>Lead officer</b>	James Kinch

### Type of Initiative:

- Policy/Strategy
- Programme/Plan  New or Proposed
- Project  Changing/Updated
- Service  Review or existing
- Function
- Other Issuing of a notice to reinstate access rights

### Briefly describe the policy/proposal you are assessing.

A letter was sent to landowners in accordance with the Land Reform (Scotland) Act 2003 regarding an access route they had blocked and erected deterrent signs along. This was prior to an Integrated Impact Assessment (IIA) as required by the Equality Act 2010 (Specific Duties)(Scotland) Regulations 2012 being carried out. Accordingly, a report that had already been approved by the Council's Corporate Management Team (CMT) to issue a Section 14 Notice, the next step in the Land Reform process was suspended until an IIA had been completed and considered.

### Background

The Council understands that access rights have been available along Cairnbank Road, Penicuik for many years. The landowners erected fencing and signage in June 2016 which blocks access rights. Despite an exchange of correspondence and meetings to try and agree a compromise (which includes a reasonable adjustment that considers the rights of the disabled family member) the landowner refuses to remove the fencing and signage.

One landowner considers that family privacy including the right of a disabled family member is impacted upon, particularly by what he considers is the anti social behaviour of a large number of people who use the route.

Meanwhile, the Council has received complaints from nearly 100 individuals, and in addition the Midlothian Access Forum, has asked that the powers contained within the Land Reform Act 2003 be used to reinstate access rights.

The landowners have not complied with the Council's initial written request to remove the fencing and signage. The next step is to issue a Section 14 Notice under the terms of the Land Reform Act which requires the landowners to remove the blockage and signage. If landowners do not comply with the Notice the Council has powers under the Act to remove these items.

The landowners can appeal to the Sheriff Court which ultimately would result in the Sheriff determining if the fence and signage should be removed.

This IIA needs to be considered before a decision is taken to issue a Section 14 Notice.

**Issuing of Section 14 Notice under the Land Reform (Scotland) Act 2003 to Residents Owning the Private Section of Cairnbank Road Penicuik**

A Section 14 Notice is a legal instrument which gives the council powers to secure access rights where these rights have been blocked and/or deterred by a landowner(s). Two residents of Cairnbank Road, who are also the landowners, have failed to remove a high fence and deterrent signage they erected in June 2016 which was designed to stop the public using a path which goes past their properties linking Penicuik Estate with the town centre. The Section 14 Notice would request that the high fence and signage is removed so that public access is restored to what it was before June 2016.

The council has acted reasonably throughout the process offering a mediated solution to establish if there was a compromise position that could be reached that might accommodate some of the residents' concerns. This was rejected by the key landowner who erected the blockage.

## 1. What will change as a result of this policy?

It is a legal requirement that the Council upholds access rights where these have been breached. The changes as a result of issuing a Section 14 Notice will be that if access rights are upheld by a Sheriff then the public will once again have access along Cairnbank Road into Penicuik Estate.

If it is agreed that a Section 14 Notice is sent out then the historical access rights will be re-instated.

However, the rights of the landowner's disabled family member (both as a protected characteristic of the Equality Act 2010, and their human right to the peaceful enjoyment of their home) need to be considered.

## 2. Do I need to undertake an Integrated Impact Assessment?

High Relevance	Yes/no
1. The policy/ proposal has consequences for or affects people	Yes
2. The policy/proposal has potential to make a significant impact on equality	Yes
3. The policy/ proposal has the potential to make a significant impact on the economy and the delivery of economic outcomes	No
4. The policy/proposal is likely to have a significant environmental impact	No
Low Relevance	
5. The policy/proposal has little relevance to equality	No
6. The policy/proposal has negligible impact on the economy	Yes
7. The policy/proposal has no/ minimal impact on the environment	Yes
<b>If you have identified low relevance please give a brief description of your reasoning here and send it to your Head of Service to record.</b>	

**If you have answered yes to 1, 2, or 3 above, please proceed to complete the Integrated Impact Assessment.**

**If you have identified that your project will have a significant environmental impact (4), you will need to consider whether you need to complete a Strategic Environmental Assessment.**

**3. What information/data/ consultation have you used to inform the policy to date?**

<b>Evidence</b>	<b>Comments: what does the evidence tell you?</b>
Data on populations in need	Data on populations in need for Midlothian is contained within the Midlothian Profile 2016 which is available on the Council website.
Data on service uptake/access	The names of over 350 people who objected to the closure are contained in a petition submitted to the Council. There have been nearly 100 complaints by the public to the closure of the route. The Midlothian Access Forum has stated that the route should be re-opened and has requested that the Council takes action accordingly.
Data on quality/outcomes	N/a
Research/literature evidence	None
Service user experience information	Route is used as an access path under the Land Reform (Scotland) Act 2003 and was used as an access route many years previous to the blockages
Consultation and involvement findings	The names of over 350 people who objected to the closure are contained in a petition submitted to the Council. There have been nearly 100 complaints by the public to the closure of the route. The Midlothian Access Forum has stated that the route should be re-opened and has requested that the Council takes action accordingly.
Good practice guidelines	Guidance notes relating to The Land Reform Act 2003 & the Equality Act 2010
.Other (please specify)	None

Is any further information required? How will you gather this?	No
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#### 4. How does the policy meet the different needs of groups in the community?

	<b>Issues identified and how the strategy addresses these</b>
<p><b>Equality Groups</b></p> <ul style="list-style-type: none"> <li>• Older people, people in the middle years,</li> <li>• Young people and children</li> <li>• Women, men and transgender people (includes issues relating to pregnancy and maternity)</li> <li>• Disabled people (includes physical disability, learning disability, sensory impairment, long-term medical conditions, mental health problems)</li> <li>• Minority ethnic people (includes Gypsy/Travellers, migrant workers, non-English speakers)</li> <li>• Refugees and asylum seekers</li> <li>• People with different religions or beliefs (includes people with no</li> </ul>	<p>Should the path be reinstated, the route will be usable by everyone except wheelchair users. (The Council has no powers to improve access without the consent of the landowner and in particular to install a wheelchair friendly gate).</p> <p>However, it is maintained by the landowner that a disabled person living along the route would have their right to a peaceful family life considerably interrupted</p>

<p>religion or belief)</p> <ul style="list-style-type: none"> <li>• Lesbian, gay, bisexual and heterosexual people</li> <li>• People who are unmarried, married or in a civil partnership</li> </ul>	
<p><b>Those vulnerable to falling into poverty</b></p> <ul style="list-style-type: none"> <li>• Unemployed</li> <li>• People on benefits</li> <li>• Single Parents and vulnerable families</li> <li>• Pensioners</li> <li>• Looked after children</li> <li>• Those leaving care settings (including children and young people and those with illness)</li> <li>• Homeless people</li> <li>• Carers (including young carers)</li> <li>• Those involved in the community justice system</li> <li>• Those living in the most deprived communities (bottom 20% SIMD areas)</li> <li>• People misusing services</li> <li>• People with low literacy/numeracy</li> <li>• Others e.g. veterans, students</li> </ul>	<p>Should the path be reinstated, the route will be usable by everyone except wheelchair users. (The Council has no powers to improve access without the consent of the landowner and in particular to install a wheelchair friendly gate).</p>
<p><b>Geographical communities</b></p> <ul style="list-style-type: none"> <li>• Rural/ semi rural communities</li> <li>• Urban Communities</li> <li>• Coastal communities</li> </ul>	<p>Should the path be reinstated, the route will be usable by everyone except wheelchair users. (The Council has no powers to improve access without the consent of the landowner and in particular to install a wheelchair friendly gate).</p>

**5. Are there any other factors which will affect the way this policy impacts on the community or staff groups?**

No

**6. Is any part of this policy/ service to be carried out wholly or partly by contractors?**

If yes, how have you included equality and human rights considerations into the contract?

No
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**7. Have you considered how you will communicate information about this policy or policy change to those affected e.g. to those with hearing loss, speech impairment or English as a second language?**

Yes, if requested we can provide information in different accessible formats as detailed in the Council's Communicating Clearly policy.

**8. Please consider how your policy will impact on each of the following?**

Objectives	Comments
<b>Equality and Human rights</b>	
Promotes / advances equality of opportunity e.g. improves access to and quality of services, status	· The Council is committed to promoting and advancing equality of opportunity by striving to protect the interests of all by finding a positive way forward.
Promotes good relations within and between people with protected characteristics and tackles harassment	The Council is committed to promoting good relations between those who share protected characteristics and those who do not.
Promotes participation, inclusion, dignity and self	The Council is committed to promoting participation, inclusion, dignity and self control in the decisions it

control over decisions	makes.
Builds family support networks, resilience and community capacity	The Council is committed to supporting families with protected characteristics who both use the route and also those families who might be affected by users of the route.
Reduces crime and fear of crime	N/A
Promotes healthier lifestyles including <ul style="list-style-type: none"> <li>diet and nutrition,</li> <li>sexual health,</li> <li>substance misuse</li> <li>Exercise and physical activity.</li> <li>Lifeskills</li> </ul>	Exercise such as walking promotes a healthy lifestyle.
<b>Environmental</b>	
Reduce greenhouse gas (GHG) emissions in East Lothian (including carbon management)	N/a
Plan for future climate change	
Pollution: air/ water/ soil/ noise	
Protect coastal and inland waters	
Enhance biodiversity	
Encourage resource efficiency (energy, water, materials and minerals)	
Public Safety: Minimise waste generation/ infection control/ accidental injury /fire risk	
Reduce need to travel / promote sustainable forms of transport	
Improves the physical environment e.g. housing quality, public and green space	
<b>Economic</b>	

Maximises income and /or reduces income inequality	The Council is committed to promoting exercise and physical activity, tourism and local employment opportunities through public access provision in the area while protecting everyone's interests.
Helps young people into positive destinations	
Supports local business	
Helps people to access jobs (both paid and unpaid)	
Improving literacy and numeracy	
Improves working conditions, including equal pay	
Improves local employment opportunities	

## 9. Action Plan

Identified negative impact	Mitigating circumstances	Mitigating actions	Timeline	Responsible person
<b>Claims of disturbance to and negative impact on the welfare of a child with special needs by passers by.</b>	Public access has been taken past the houses for many years but it is residents from a house built in 2014 that is making the claims of disturbance relating to a child with special needs. It was only once an illegal and prohibitive sign erected by the landowner was taken down by the council that disturbance to the child became an issue.	Council has met with concerned family to reach a solution but it was not possible to reach agreement. The Council has received correspondence from one of the landowner's (and key objectors) legal representative to indicate that further discussion and/or mediation would not be productive.	n/a	Head of Commercial Operations
<b>Claim of right to life being denied due to lack of privacy</b>	Public access has been taken for many years. It was only once an illegal and prohibitive sign erected by the landowner was taken down by the council that	The landowner built a house along a know access route. The issue of privacy was considered at this point though the planning process	n/a	Head of Commercial Operations

	this became an issue	prior to the house being built. There is a high fence screening the property from the path which the public use.		
<b>Claims of antisocial behaviour by residents which is impacting on family life</b>	Public access has been taken for many years. It was only once an illegal and prohibitive sign erected by a landowner was taken down by the council that this became an issue	The police have been called on by the residents on several occasions and should be called in the future. To date it has been noted by the council's community safety team that there has not been undue anti-social behaviour along this route and therefore any interventions should be commensurate with the low level of anti-social behaviour.		Head of Commercial Operations

**10. Sign off by Head of Service**



Name Ricky Moffat  
Date 4 January 2017