



THE LONDON BOROUGH
www.bromley.gov.uk

BROMLEY CIVIC CENTRE, STOCKWELL CLOSE, BROMLEY BRI 3UH

TELEPHONE: 020 8464 3333

CONTACT: Helen Long
helen.long@bromley.gov.uk

DIRECT LINE: 020 8313 4595

FAX: 020 8290 0608

DATE: 17 October 2011

To: Members of the
PUBLIC PROTECTION AND SAFETY POLICY DEVELOPMENT AND SCRUTINY COMMITTEE

Councillor Douglas Auld (Chairman)
Councillor Kate Lymer (Vice-Chairman)
Councillors Kathy Bance, Jane Beckley, John Canvin, Peter Fortune, Gordon Norrie,
Richard Scoates and Harry Stranger

Non-Voting Co-opted Members –

Katie Chaplin, Bromley Youth Council
Judith Cross, Bromley Community Engagement Forum
Cora Green, Bromley Victim Support
Dr Robert Hadley, Bromley Federation of Residents Associations
Clifford Longley, Bromley Neighbourhood Watch
Mariam Ogunwale, Bromley Youth Council

A meeting of the Public Protection and Safety Policy Development and Scrutiny Committee will be held at Bromley Civic Centre on **TUESDAY 25 OCTOBER 2011 AT 7.00 PM**

MARK BOWEN
Director of Resources

Copies of the documents referred to below can be obtained from
www.bromley.gov.uk/meetings

PART 1 AGENDA

Note for Members: Members are reminded that Officer contact details are shown on each report and Members are welcome to raise questions in advance of the meeting.

STANDARD ITEMS

- 1 APOLOGIES FOR ABSENCE AND NOTIFICATION OF ALTERNATE MEMBERS**
- 2 DECLARATIONS OF INTEREST**
- 3 QUESTIONS FROM COUNCILLORS AND MEMBERS OF THE PUBLIC ATTENDING THE MEETING**

To hear questions to the Committee received in writing by the Democratic Services Team by 5pm on Wednesday 19th October 2011 and to respond.

- 4 **MINUTES OF THE PUBLIC PROTECTION AND SAFETY PDS COMMITTEE MEETING HELD ON 20 SEPTEMBER 2011** (Pages 3 - 10)
- 5 **MATTERS ARISING FROM PREVIOUS MEETINGS** (Pages 11 - 14)
- 6 **CHAIRMAN'S UPDATE**
- 7 **UPDATE FROM POLICE**
- 8 **PRESENTATIONS ON THE PROTECTING THE ELDERLY PORTFOLIO INITIATIVE**

HOLDING THE PORTFOLIO HOLDER TO ACCOUNT

- 9 **QUESTIONS TO THE PORTFOLIO HOLDER FROM MEMBERS OF THE PUBLIC AND COUNCILLORS ATTENDING THE MEETING**

To hear questions to the Public Protection and Safety Portfolio Holder received in writing by the Democratic Services Team by 5pm on Wednesday 19th October 2011 and to respond.

- 10 **PUBLIC PROTECTION AND SAFETY PORTFOLIO - PREVIOUS DECISIONS** (Pages 15 - 18)

- 11 **PRE-DECISION SCRUTINY OF REPORTS TO THE PUBLIC PROTECTION AND SAFETY PORTFOLIO HOLDER**

The Public Protection and Safety Portfolio Holder to present scheduled reports for pre-decision scrutiny on matters where he is minded to make decisions.

- a **BUDGET MONITORING REPORT 2011/2012** (Pages 19 - 24)
- b **ENFORCEMENT POLICY FOR ENVIRONMENTAL SERVICES** (Pages 25 - 58)

POLICY DEVELOPMENT AND OTHER ITEMS

- 12 **WORK PROGRAMME** (Pages 59 - 66)

- 13 **SCHEDULE OF VISITS**

Schedule to be tabled at meeting.

.....

PUBLIC PROTECTION AND SAFETY POLICY DEVELOPMENT AND SCRUTINY COMMITTEE

Minutes of the meeting held at 7.00 pm on 20 September 2011

Present:

Councillor Douglas Auld (Chairman)
Councillor Kate Lymer (Vice-Chairman)
Councillors Harry Stranger, Peter Fortune, Kathy Bance,
John Canvin, Gordon Norrie, Richard Scoates and
Roger Charsley

Katie Chaplin, Judith Cross, Cora Green and Dr Robert
Hadley

Also Present:

Councillor Peter Fookes

134 APOLOGIES FOR ABSENCE AND NOTIFICATION OF ALTERNATE MEMBERS

Apologies were received from Councillor Beckley and Councillor Charsley
attended as her alternate.

135 DECLARATIONS OF INTEREST

Councillor Auld declared a personal interest in Item 10 Bromley Safeguarding
as wife is a Senior Social Worker.

Councillors Roger Charsley and Harry Stranger declared an interest in Item
10 as Members of the Bromley Safeguarding Board.

136 QUESTIONS FROM COUNCILLORS AND MEMBERS OF THE PUBLIC ATTENDING THE MEETING

There were no questions from Councillors or Members of the Public.

137 MINUTES OF THE PUBLIC PROTECTION AND SAFETY PDS COMMITTEE MEETING HELD ON 26TH JULY 2011

The Committee considered the minutes of the meeting of Public Protection
and Safety PDS Committee held on 26th July were considered:

Minute 126

Susie Clark would provide an update on the newsletter at the Policy
Development and Scrutiny Committee in November.

Minute 130

The letter to the DCMS (Department for Culture, Media and Sport and the Local MP's had been sent but to date no response had been received.

Minute 131

The resolutions 3 and 4 to be altered as follows:

3. Option 2 to be considered for implementation in March 2012 after a pilot of option 3 has been completed
4. A verbal update to be considered at the January meeting.

RESOLVED that the minutes of the meeting held on 26th July 2011 be agreed.

138 MATTERS ARISING FROM PREVIOUS MEETINGS

Report RES11078

Matters arising were considered under the minutes.

RESOLVED that matters arising from previous meetings be noted.

139 UPDATE FOLLOWING THE RECENT PUBLIC DISORDER IN BROMLEY

Members considered a report that provided an overview of the actions taken by the Council in partnership with the police following the public disorder experienced in Bromley on Monday 8 August, 2011, which took place after similar, though more severe, riots in other areas of London. They also received a presentation from the Borough Commander Charles Griggs.

The Chairman addressed the committee. He reported on how the public disorder had started following the death of a civilian in Tottenham. This caused local rioting which quickly escalated and spread across the outer London boroughs

Rioting and looting took place in Bromley, Beckenham, Orpington, and the impact of the disorder was felt to a lesser extent in wards such as Biggin Hill, Penge and Cator, Hayes and Coney Hall, Petts Wood and Knoll and Plaistow and Sundridge. In total

The Borough Commander showed a DVD of some of the CCTV footage of the incidents. The images were very clear and the control room were able to "follow" certain rioters.

Initially large numbers of Bromley officers had been drafted to cover the disorder in London. On the day that the incidents happened in Bromley the numbers of available officers were severely reduced. However he was able to call upon 12 officers, trained in public disorder control, to support the other officers. A team was assembled to monitor the social network activity, the CCTV control room was put on alert and staff who were not due to be working came in to assist as the service was overstretched monitoring the number of incidents taking place. Messages went to Town Centre Managers and the Glades Shopping Centre was put on "lock down".

The motivation for the police was regain control. Mr Griggs was in contact with the Portfolio Holder and the Director. The following day all floral arrangements were removed; building sites were cleared or secured as was anything that could be used as a missile. Seventy five officers were deployed every day. This put out a strong message that this disorder would not be tolerated.

In circumstances such as this the police forces offer "Mutual Aid". 30 of the 42 Police forces sent officers to the London Area.

After the disturbances the Police and Council officers visited affected businesses that had been targeted to listen to their concerns and discuss what assistance could be given.

The Director of Environmental services then addressed members. He explained that during the disorder himself, members and partner organisation met 2 or 3 times a day to co-ordinate and monitor the situation.

He explained that one of the main problems was the misinformation on the social network sites. Most of the reports were not substantiated.

The department worked with the Town Centre managers ensure businesses knew how to claim compensation.

He highlighted how useful the CCTV coverage had been and the deployment of the police. Ward Security were drafted in to provide another uniformed presence on the streets.

After the disturbances the cleansing operation was swift to minimise the visual impact.

The Portfolio Holder echoed much of the previous comments. The cross team working between the council, Police and members was excellent. The CCTV control staff coped admirably in producing 2500 hours of high quality CCTV footage. He felt this demonstrated that, when suggestions for cutting the number of CCTV officers in the past had been rejected it was the right decision as the service had proved to be invaluable in identifying and subsequently prosecuting offenders.

The Portfolio Holder also thanked Susie Clarke who worked non-stop ensuring communication was passed on between officers the Portfolio Holder and the Leader. She also ensured partnership working by communicating with community groups and residents' associations.

In response to questions members were advised that the disorder was not, in the main, gang related.

The Borough Commander explained that it has been very difficult when looking at the social networking sites to distinguish fact from rumour. He added that the sites had been used to "stir things up".

The public reaction to the violence was incredible and the courts were supported with the harsh stance they took on offenders and the sentences handed out.

As James Cleverly, MPA member was present he was invited to comment on the disturbances. He repeated the problems with initial lack of resources in Bromley at the start of the troubles but that through mutual support from other forces this was soon rectified.

In conclusion the Chairman recorded his thanks to:

- The Communications staff for keeping the Police and the Council informed.
- The Emergency for having the plans in place.
- The CCTV staff who worked tirelessly gathering footage of the disorder.
- The Police Officers for protecting the public
- Ward Security for supporting the Police
- The street cleansing team for the rapid response in returning the borough to normality.
- The managers and staff of the Public Protection department
- And everyone else involved in the operation

HOLDING THE PORTFOLIO HOLDER TO ACCOUNT

140 QUESTIONS TO THE PORTFOLIO HOLDER FROM MEMBERS OF THE PUBLIC AND COUNCILLORS ATTENDING THE MEETING

There were no questions from Councillors or Members of the Public.

141 PUBLIC PROTECTION AND SAFETY PORTFOLIO - PREVIOUS DECISIONS

The Committee noted decisions taken by the Public Protection and Safety Portfolio Holder since the Committee's last meeting in July.

Decision reference PPS11011 was signed and circulated on 2nd August and call in expired on 9th August. However the Chairman and Portfolio Holder felt that this decision needed to be amended. A new decision notice would be circulated with the decisions from this meeting.

This amended decision would change the second [art of the decision to:

“That option 2 be implemented at the beginning of March following the trial for of Option 3 prove.

RESOLVED that the decisions be noted.

A) COMMUNITY SAFETY BUDGET 2011/12

The Committee considered a report which gave an updated on the latest Community Safety budget for 2011/12.

Members noted that In 2011/12, the decision was made by the GLA to simply ‘passport’ the grant allocations to each Borough based on previous years’ allocation formula. Each local authority was required to submit a detailed spending plan for 2011/12 to the Mayor’s Office for approval and there is a requirement for quarterly progress reports to be submitted to the GLA. The 2011/12 grant resources were 80% of the 2010/11 SSC fund and it is expected that the 2012/13 CS grant will be reduced by a further 50%, making the resultant grant 40% of the 2010/11 grant level. Members should note that a further report will be brought to the October meeting which will have details of budget saving proposals to meet the reduction in grant expected for 2012/13 in order to set a balanced budget.

RESOLVED that:

- 1. the report is noted.**
- 2. a further report will be brought back to the October meeting of the Public Protection and Safety Policy Development and Scrutiny Committee.**

B) REVIEW OF THE FOOD SAFETY TEAM

In May 2011 the findings of an ‘Aligning Policy and Finance’ review carried out by the Organisational Improvement Team was presented to Cabinet which recommended among other things that the Food Safety function be subject to a review with the aim of saving operating costs.

A review was undertaken by Paul Lehane (Head of Food, Safety & Licensing) and Clive Davison (Assistant Director Public Protection) with the assistance of the Team Coordinators.

Members considered the outcomes of the review and the 2 possible options. With Option 2 they were aware that the loss of an Environmental Health Officer would have implications on the service. The Team undertook an average of 4.3 inspections per day and if this is added to the number of reviews undertaken it would take the number of visits per day to 5.6. This workload would not be possible if another team member was lost.

Then team had already been reduced as one team member had retired and had not been replaced due to the recent budget cuts.

Members then considered options 1a and 1b. They recognised that if the Admin posts were both cut this would then mean that qualified staff and divisional administrators would have to carry out these duties. This would not be possible if Option 2 were agreed.

Option 1b would see a reduction in the responses to complaints about food manufactured, prepared or sold in the borough. In the review it was noted that a minimal service could be provided for a budget of £6000 with a minimal risk.

Members discussed the options and concluded that option 2 was not the preferred option but that Option 1a and b should be recommended to the Portfolio Holder.

RESOLVED that:

- 1. the review is noted.**
- 2. that the Portfolio Holder be recommended to adopt options 1a and 1b and that no further action be taken on option 2.**

142 UPDATE ON LBB MENTORING SCHEME

At it's meeting on 6th April the committee had agreed to the establishment of a Mentoring Scheme. The recommendation was greed that £45k per annum for 3 years would be approved to support the imitative.

Officers updated members on the current position. Due to the recent public disorder and the school holidays there had not been a large take up for the scheme. However this had increased since the beginning of the new school term and the prediction was that this would continue to increase.

Members noted that all the mentors were volunteers and that each one had more than one case, but this would increase from October as the number of referrals increased.

The recommendation was for a further report would be brought back to the committee at the end of the financial year. It was felt that this should be brought back to the January meeting.

RESOLVED THAT

- 1. the report is noted**
- 2. A further report is brought back to the January meeting of the Public Protection and Safety Policy Development and Scrutiny Committee.**

143 ADULT SAFEGUARDING - IMPACT OF WORK CARRIED OUT BY PUBLIC PROTECTION & SAFETY TEAMS

Members considered a report which contained an overview of the work carried out by Public Protection and the impact it had on older and vulnerable adults.

The Portfolio Holder had made it clear that this area was a priority in the coming year and the meeting of the Committee in October would focus on this topic.

Officers and Members felt that certain partner agencies and officers should be asked to make short presentations at the meeting. This would include: Victim Support, Trading Standards, Bromley Carers, BCEF and the Police.

RESOLVED that the report is noted and the groups listed above are invited to the Public Protection and Safety Policy Development and Scrutiny Committee on 25th October.

144 BROMLEY SAFEGUARDING ADULTS BOARD ANNUAL REPORT 2010/11

Members were presented with a report giving an overview of the main issues raised from the 2010/11 annual report of the Bromley Safeguarding Adults Board (BSAB).

Officers explained that the role of the board was to safeguard vulnerable. They highlighted the joint working between the board, health service and the Police.

RESOLVED that the report is noted.

145 SCHEDULE OF VISITS

Councillor Auld gave feedback on the recent visit to SLAM. Unfortunately only 3 of the 9 members who had asked to attend did so. He said the managers of SLAM had made themselves available and put together a very interesting programme. He encouraged others to go.

It was agreed that the clerk would remind members of the 2 forthcoming visits.

In addition there was still an ongoing offer for members to accompany officers on food safety visits and the clerk was arranging a visit to a drug treatment centre.

A full list would be brought back to the next meeting so that future visits could be agreed.

146 WORK PROGRAMME

Report RES11079

The Committee considered its Work Programme for 2011/12.

Some changes were made to the programme:

A verbal update on the noise service and an update on the mentoring scheme would be added to the January meeting.

RESOLVED that the Work Programme, including the above additions, for the Public Protection and Safety PDS Committee be approved.

The Meeting ended at 9.40 pm

Chairman

Agenda Item 5

Report No.
RES11111

London Borough of Bromley

Agenda
Item No.

PART 1 - PUBLIC

Decision Maker: Public Protection and Safety PDS Committee

Date: 25th October 2011

Decision Type: Non-Urgent Non-Executive Non-Key

Title: **MATTERS ARISING FROM PREVIOUS MEETINGS**

Contact Officer: Helen Long, Democratic Services Officer
Tel: 020 8313 4595 E-mail: helen.long@bromley.gov.uk

Chief Officer: Mark Bowen, Director of Resources

Ward: All

1. Reason for report

At each meeting the Committee reviews matters arising from previous meetings that are still outstanding or active. There are currently 6 Items outstanding.

2. **RECOMMENDATION(S)**

That the Committee reviews progress with matters arising from its recent meetings.

Corporate Policy

1. Policy Status: Existing policy. "Building a Better Bromley"
 2. BBB Priority: Excellent Council.
-

Financial

1. Cost of proposal: No cost
 2. Ongoing costs: N/A.
 3. Budget head/performance centre: Democratic Services
 4. Total current budget for this head: £344,054 (controllable budget)
 5. Source of funding: Existing 2011/12 revenue budget
-

Staff

1. Number of staff (current and additional): There are 10 posts (9.22fte) in the Democratic Services team.
 2. If from existing staff resources, number of staff hours: Maintaining the matters arising report takes less than an hour per meeting.
-

Legal

1. Legal Requirement: No statutory requirement or Government guidance.
 2. Call-in: Call-in is not applicable. This report does not involve an Executive decision
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): This report is primarily intended for Members of the PDS Committee.
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? N/A.
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

- 3.1 The Committee normally considers a report on matters arising from previous meetings. This report covers current outstanding matters - see **Appendix 1**.
- 3.2 In addition to the issues summarised in the appendix, the Committee receives reports at most meetings on matters arising from previous meetings, the work programme and budget monitoring and has the opportunity to pre-scrutinise the Portfolio Holder's forthcoming agenda. Minutes for these items are only detailed in the appendix when there were specific actions to follow up.

Non-Applicable Sections:	Policy/Financial/Legal/Personnel
Background Documents: (Access via Contact Officer)	Previous matters arising reports and minutes of meetings from May 2007 onwards.

Appendix 1

<u>Minute Number/Title</u>	<u>Decision</u>	<u>Update</u>
14th December 2010 - Special	A DAT update report be submitted to a future meeting and a visit to be arranged for Members to a drug treatment centre.	Update report 20 th September. Visit to Drug treatment being arranged.
1st February 2011		
84. A Report on the effectiveness of Anti-social Behaviour Orders and Acceptable Behaviour Commitments in the Borough of Bromley.	The Safer Bromley draft Strategy would contain the relevant police statistics relating to ASBO's.	Ongoing
26th July 2011		
130. Licensing Fees	Portfolio Holder to write to Department of Culture, Media and Sport highlighting that the statutory fees under the Licensing Act 2003 had not been increased since 2005.	completed
131. Out of Hours Noise Service	Update report after the 6 month Pilot scheme	13 th March 2012
131A. Partnership Budget	Deferred	25 th October 2011
142 Mentoring Scheme	Further report with breakdown of finances	January 2012
145 Schedule of visits	Members to attend Food Safety Visits	Ongoing

LONDON BOROUGH OF BROMLEY

STATEMENT OF EXECUTIVE DECISION

The Portfolio Holder for Public Protection and Safety, Councillor Tim Stevens J.P. has made the following executive decision:

COMMUNITY SAFETY BUDGET 2011-2012

Reference Report:

Community Safety Budget 2011/2012

Decision:

- 1. That the Community Safety Budget for 2011/2012 be noted.**
- 2. That a further report be submitted to the October Committee with details of budget reduction proposals to meet the decrease in Community Safety Grant due for 2012/2012.**

Reasons:

The funding that has been available for the delivery of community safety services within Bromley has always been made up of a combination of core funding and grant received from Central Government. The majority of this grant funding has been provided for the purpose of generic community safety activity, most recently, the Safer, Stronger Communities Fund but has also included more specific grants such as that received for Preventing Violent Extremism. In addition, various members of the Safer Bromley Partnership have historically made contributions towards the budgets for specific posts e.g. Metropolitan Police and Primary Care Trust.

Reducing crime and disorder, providing reassurance and making Bromley safer are key elements of both Building a Better Bromley and the Safer Bromley Partnership's Strategic Assessment.

The proposed decision was scrutinised by the Public Protection and Safety PDS Committee on 20 September 2011 and the Committee supported the proposal.

.....
Councillor Tim Stevens J.P.
Portfolio Holder for Public Protection and Safety

Mark Bowen
Director of Resources
Bromley Civic Centre
Stockwell Close
Bromley BR1 3UH

Date of Decision: 23 Sep 2011
Implementation Date (subject to call-in): 7 October 2011
Decision Reference: PPS11012

LONDON BOROUGH OF BROMLEY

STATEMENT OF EXECUTIVE DECISION

The Portfolio Holder for Public Protection and Safety, Councillor Tim Stevens J.P. has made the following executive decision:

REVIEW OF THE FOOD SAFETY TEAM

Reference Report:

Review of the Food Safety Team

Decision:

- 1. That the review of the Food Safety Team be noted;**
- 2. That Option 1a (Reduce Admin Support – total savings £27,170) and Option 1b (Reduce the Food Sampling and Analysis Budget – Total Savings £5,680) be agreed.**

Reasons:

The current budget for the Food Safety Team is £344,000. Option 1 will result in savings of £32,850 from the deletion of 0.92fte administration support and a reduction of the food sampling and analysis budget. The Council is the Food Authority and has statutory duties to enforce food related legislation and Infectious disease. Options 1 a and 1b have a minimal impact on the performance of these functions. Option 1b will result in a reduction in the Council's capability but would not prevent it from meeting the minimum requirements.

The proposed decision was scrutinised by the Public Protection and Safety PDS Committee on 20 September 2011 and the Committee supported the proposal.

.....
Councillor Tim Stevens J.P.
Portfolio Holder for Public Protection and Safety

Mark Bowen
Director of Resources
Bromley Civic Centre
Stockwell Close
Bromley BR1 3UH

Date of Decision: 23 Sep 2011
Implementation Date (subject to call-in): 7 October 2011
Decision Reference: PPS11013

LONDON BOROUGH OF BROMLEY
STATEMENT OF EXECUTIVE DECISION

The Portfolio Holder for Public Protection and Safety, Councillor Tim Stevens J.P. has made the following executive decision:

REVIEW OF THE OUT OF HOURS NOISE SERVICE

Reference Report:

PPS PDS 260711 Out of Hours Noise Service

Decision:

- 1. That following a review of the options for the provision of an out of hours noise service in Bromley, Option 3 be run for a period of three months with a view to being made permanent if successful.**
- 2. That Option 2 be implemented at the beginning of March if the trial for Option 3 proves unsuccessful.**

Reasons:

The Council operates a 7 day per week, 24 hours per day noise service. The decision to introduce an 'out of hours' noise service was based on the duty implied under the Environmental Protection Act 1990 and the increased demand from both residents and the police out of hours. The potential savings for each of the Options are outlined in the report.

The proposed decision was scrutinised by the Public Protection and Scrutiny Committee on 26th July 2011 and the Committee supported the proposal.

.....
Councillor Tim Stevens J.P.
Portfolio Holder for Public Protection and Safety

Mark Bowen
Director of Resources
Bromley Civic Centre
Stockwell Close
Bromley BR1 3UH

Date of Decision: 23 Sep 2011
Implementation Date (subject to call-in): 7 October 2011
Decision Reference: PPS11014

This page is left intentionally blank

Report No.
ES11135

London Borough of Bromley

PART 1 - PUBLIC

<Please select>

Decision Maker: Public Protection and Safety Portfolio Holder

**For Pre-decision scrutiny by the Public Protection & Safety
PDS Committee on 25th October 2011**

Date: 25 October 2011

Decision Type: Non-Urgent Executive Non-Key

Title: BUDGET MONITORING 2011/12

Contact Officer: Claire Martin, Head of Finance
Tel: 020 8313 4286 E-mail: claire.martin@bromley.gov.uk

Chief Officer: Nigel Davies, Director of Environmental Services

Ward: Boroughwide

1. Reason for report

This report provides an update of the latest budget monitoring position for 2011/12 for the Public Protection and Safety Portfolio based on expenditure and activity levels up to 31st August 2011. This shows a balanced budget.

2. **RECOMMENDATION(S)**

The Portfolio Holder is requested to endorse the latest 2011/12 budget projection for the Public Protection and Safety Portfolio.

Corporate Policy

1. Policy Status: Existing policy. Sound financial management
 2. BBB Priority: Excellent Council.
-

Financial

1. Cost of proposal: N/A
 2. Ongoing costs: Recurring cost.
 3. Budget head/performance centre: All Public Protection & Safety Portfolio Budgets
 4. Total current budget for this head: £3.7m
 5. Source of funding: Existing revenue budgets 2011/12
-

Staff

1. Number of staff (current and additional): 59ftes
 2. If from existing staff resources, number of staff hours: N/A
-

Legal

1. Legal Requirement: Statutory requirement. The statutory duties relating to financial reporting are covered within the Local Government Act 1972; the Local Government Finance Act 1998; the Accounts and Audit Regulations 1996; the Local Government Act 2000 and the Local Government Act 2002
 2. Call-in: Call-in is applicable
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): The services covered in this report affect all Council Taxpayers, Business Ratepayers, those who owe general income to the Council, all staff, Members and Pensioners.
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? N/A.
2. Summary of Ward Councillors comments:

3. COMMENTARY

- 3.1 The 2011/12 projected outturn is detailed in Appendix 1, with a forecast of projected spend for each division compared to the latest approved budget and identifies in full the reason for any variances.
- 3.2 Costs attributable to individual services have been classified as “controllable” and “non-controllable” in Appendix 1. Budget holders have full responsibility for those budgets classified as “controllable” as any variations relate to those factors over which the budget holder has, in general, direct control. “Non-controllable” budgets are those which are managed outside of individual budget holder’s service and, as such, cannot be directly influenced by the budget holder in the shorter term. These include, for example, building maintenance costs and property rents which are managed by the Property Division but are allocated within individual departmental/portfolio budgets to reflect the full cost of the service. As such, any variations arising are shown as “non-controllable” within services but “controllable” within the Resources Portfolio. Other examples include cross departmental recharges and capital financing costs. This approach, which is reflected in financial monitoring reports to budget holders, should ensure clearer accountability by identifying variations within the service that controls financial performance. Members should specifically refer to the “controllable” budget variations relating to portfolios in considering financial performance. These variations will include the costs related to the recession.

4. POLICY IMPLICATIONS

- 4.1 The Resources Portfolio Plan includes the aim of effective monitoring and control of expenditure within budget and includes the target that each service department will spend within its own budget.
- 4.2 Bromley’s Best Value Performance Plan “Making a Difference” refers to the Council’s intention to remain amongst the lowest Council Tax levels in outer London and the importance of greater focus on priorities.
- 4.3 The four year financial forecast report highlights the financial pressures facing the Council. It remains imperative that strict budgetary control continues to be exercised in 2011/12 to minimise the risk of compounding financial pressures in future years.
- 4.4 Chief Officers and Departmental Heads of Finance are continuing to place emphasis on the need for strict compliance with the Council’s budgetary control and monitoring arrangements.

5. FINANCIAL IMPLICATIONS

- 5.1 There are a few minor variations to report as detailed in Appendix 1, however, the controllable budget for the Public Protection and Safety Portfolio is projected to be balanced by the year end.

Non-Applicable Sections:	Legal, Personnel
Background Documents: (Access via Contact Officer)	2011/12 budget monitoring files within ES finance section

This page is left intentionally blank

Public Protection & Safety Budget Monitoring Summary

2010/11 Actuals £'000	Division Service Areas	2011/12 Original Budget £'000	2011/12 Latest Approved £'000	2011/12 Projection £'000	Variation £'000	Notes	Variation Last Reported £'000	Full Year Effect £'000
	Public Protection							
755	Community Safety	516	524	524	0		0	0
336	Mortuary & Coroners Service	344	344	344	0		0	0
2,891	Public Protection	2,586	2,578	2,578	0	1	0	0
3,227		3,446	3,446	3,446	0		0	0
3,227	TOTAL CONTROLLABLE FOR PPS PORTFOLIO	3,446	3,446	3,446	0		0	0
381	TOTAL NON CONTROLLABLE	6	6	6	0		0	0
527	TOTAL EXCLUDED RECHARGES	269	269	269	0		0	0
4,135	PORTFOLIO TOTAL	3,721	3,721	3,721	0		0	0

Budget Monitoring Notes as at 31 August 2011**1. Public Protection £0k**

There is currently a small net deficit projected for licence fee income of £6k which is being offset by an underspend within third party payments (Cr £6k) which relates to costs for the City of London animal welfare service. Over the next few months, the income position will be re-assessed following the recent increase in non-statutory licence fees from 1st October 2011.

The budget for Stray Dogs is projected to be balanced due to the part year residual budget for Pest Control being available in 2011/12. If the original Stray Dogs budget and current spend remain the same in 2012/13, there could be a projected overspend of around £15k, however, it is anticipated that this deficit should be addressed through the current re-tendering of the stray dogs contract.

This page is left intentionally blank

Report No.
ES 11134

London Borough of Bromley

PART 1 - PUBLIC

Decision Maker: Public Protection & Safety PDS Committee

Date: 25 October 2011

Decision Type: Non-Urgent Executive Non-Key

Title: Enforcement Policy for Environmental Services

Contact Officer: Paul Lehane, Head of Food Safety. Occupational Safety & Licensing
Tel: 020 8313 4216 E-mail: paul.lehane@bromley.gov.uk

Chief Officer: Nigel Davies - Director of Environmental Services

Ward: All

1. Reason for report

To seek Members views on an Enforcement Policy for the Environmental Services Directorate.

To reaffirm the Council's indemnification of officers appointed as 'Inspectors' under the Health & Safety at work etc Act 1974.

2. **RECOMMENDATION(S)**

Members are asked to

1. **Recommend that the Portfolio Holder endorse the Enforcement Policy for the Environmental Services Directorate as set out in Appendix A.**
2. **Refer the Enforcement Policy to the Environment PDS for consideration.**
3. **Recommend that all Officers authorised under the Health and Safety At Work etc Act be Indemnified as set out in Appendix B**

Corporate Policy

1. Policy Status: Existing policy. Health and Safety Enforcemnt Policy adopted 2003.
 2. BBB Priority: Safer Bromley. Vibrant thriving Town Centres & An Excellent Council
-

Financial

1. Cost of proposal: Estimated cost No Cost
 2. Ongoing costs: Non-recurring cost. N/A
 3. Budget head/performance centre: Public Protection & Safety Portfolio Holder budget
 4. Total current budget for this head: £3.7m
 5. Source of funding: Exisiting revenue budget 2011/12
-

Staff

1. Number of staff (current and additional): 59
 2. If from existing staff resources, number of staff hours:
-

Legal

1. Legal Requirement: Non-statutory - Government guidance.
 2. Call-in: Call-in is applicable Yes
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): All businesses and residents
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? N/A.
2. Summary of Ward Councillors comments:

3. COMMENTARY

- 3.1 The Government is keen to ensure that businesses are not burdened by compliance with unnecessary regulatory requirements and are pursuing a 'deregulatory approach' when appropriate.

For its part the Council wishes to reassure residents and businesses who trade within the Borough that where regulations exist which affect them, we will adopt a consistent and measured approach to enforcement.

Environmental Services Enforcement Policy

- 3.2 Regulations relating to the work of Environmental Services have all been introduced with a view to ensuring the health, safety or well being of people, animals or the environment, and the Council has to balance the business interests against its wider responsibilities on behalf of the residents, other local businesses and visitors.
- 3.3 Each regulatory requirement placed on a business or person is designed to provide protection against some form of harm or loss
- 3.4 Officers in the Directorate have a wide range of responsibilities including
1. Public Health – noise nuisance, Fly tipping and accumulations, pest control
 2. Pollution Control – air, land and water.
 3. Trading Standards – Rouge traders, underage sales and counterfeiting
 4. Food Safety, Health & Safety and Licensing
 5. Nuisance vehicles
 6. Markets and Street Trading
 7. Littering and dog control
 8. Highways matters
- 3.5 Members will be aware of the nature and extent of the Divisions' enforcement actions through the six monthly Enforcement Reports. This level of enforcement activity only represents a small proportion of the total work undertaken by the Division as the vast majority is aimed at securing a resolution of a complaint or compliance with a requirement through informal approaches.

Only where these informal approaches fail to secure the desired results will the more formal approaches be considered.

- 3.6 The attached Enforcement Policy seeks to set out how the Council will approach its enforcement responsibilities.(See Appendix A Enforcement Policy)

Health and Safety Enforcement Policy

- 3.7 Appendix B to the main Enforcement Policy contains a revised Health and Safety Enforcement Policy originally published in 2003. This has been reviewed In light of the Government's aim to reduce regulatory burdens on businesses and the changing approach to Health & Safety inspection and enforcement adopted by the Health and Safety Executive.
- 3.8 Uniquely under the Health and Safety at Work etc Act 1974 Officers are authorised to act in a personal capacity. The Council has previously agreed to indemnify Officers appointed under the Act. In light of the review of the Enforcement Policy it is timely to seek Members agreement to continue to indemnify officers and for new letters of indemnification to be issued.

3.9 Local Authorities are enforcing authorities for the Health and Safety at Work etc Act 1974 and have a duty to discharge their functions in accordance with standards published in 2008 by the HSE under Section 18 of the Act

3.10 These standards require the Council to:

- Have an enforcement policy and procedures
- Undertake inspections based on prioritised risk assessments
- Produce and publish a service plan.
- Under go periodic audits
- Have trained and competent inspectors
- Support the Primary / Lead Authority Partnership Scheme when dealing with certain businesses.

3.11 The policy sets out how we will undertake our health and safety enforcement role and includes how we will address the 4 enforcement principles of **proportionality, targeting, transparency and accountability**. In particular it sets out our approach to the investigation of complaints and accidents and contains guidance on how we will use the various enforcement options available to us (prosecution, formal cautions, prohibition / improvement notices or informal warnings).

3.12 There are over 4000 businesses in the Borough for which the Council has a duty towards under the Health and Safety at Work etc Act 1974. The business sectors covered by the team are

- a. Retail sale
- b. wholesale and warehousing
- c. Consumer services
- d. Leisure services

4. POLICY IMPLICATIONS

The Health and Safety Enforcement Policy is being reviewed and incorporated with a new general Enforcement Policy for the Environmental Services Directorate .

5. LEGAL IMPLICATIONS

The Enforcement Policies set out the Council's approach to enforcement and guides enforcement related decisions. In establishing these it is required to follow the Regulator's Compliance Code and the regulatory principles set out in the Legislative and Regulatory Reform Act 2006. Failure to follow the policy could enable a challenge to be made to subsequent decisions or actions. Any actions taken in accordance with the Policies will take account of the Human Rights Act 1998, the Regulation of Investigatory Powers Act 2000, The Police and Criminal Evidence Act 1984 and associated Codes of Practice, the Criminal Procedure and Investigations Act 1996 .

Non-Applicable Sections:	FINANCIAL AND PERSONNEL IMPLICATIONS.
Background Documents: (Access via Contact Officer)	Health and safety Enforcement Policy 2003.

London Borough of Bromley
Environmental Services
Enforcement Policy

Approved by Councillor T. Stevens

Public Protection and Safety Portfolio holder

on

DD/MM/YY

And Councillor C. Smith

Environment Portfolio Holder

on

DD/MM/YY

ENVIRONMENTAL SERVICES ENFORCEMENT POLICY

CONTENTS

Summary	3
Introduction	4
General Advice	5
Investigations	5
General Principles	6
Notifying Alleged Offenders	7
Levels of enforcement action	7
No Action	8
Informal Action and Advice	8
Warning	8
Fixed Penalty Notices	9
Penalty Charge Notices	9
Formal Notice	9
Seizure	10
Forfeiture Proceedings	10
Closure	10
Injunctive Actions	10
Anti Social Behaviour Orders	10
Refusal, Suspension and Revocation of Licence	10
Simple Caution	11
Prosecution	12
Proceeds of Crime Applications	12
Determining if a Prosecution or Simple Caution is appropriate	12
Covert Surveillance	13
Liaison with other regulatory bodies and enforcement agencies	14
Considering the views of those affected by offences	14
Review	14
Complaints about the Service	14
Appeals against Enforcement Action	16
Appendix i: Principles of the Enforcement Concordat	17
Appendix ii: Occupational Health Safety & Welfare Enforcement Policy	18

SUMMARY

The enforcement policy provides guidance to Councilors, Officers, businesses and individuals on the range of options that are available to achieve compliance with legislation enforced by the London Borough of Bromley (The Council).

The primary objective is to achieve regulatory compliance recognising that prevention through education and advice is preferable; however there will be instances where it becomes necessary to take formal action against a business, or individual.

A wide range of enforcement mechanisms are available to Officers working in the Environmental Services Directorate, ranging from informal action such as verbal warnings to formal action such as formal notices and prosecution.

In all instances an enforcement method that is relevant and proportionate to the offence or contravention will be used and this will include taking into account an individual's or a business's past history. The policy is built around a process of escalation. Prosecutions will only take place in circumstances where a defendant has acted willfully and where their actions are likely to cause material loss or harm to others, or where they have ignored written warnings or formal notices, endangered, to a serious degree, the health, safety or well being of people, animals or the environment, or assaulted or obstructed an officer in the course of their duties.

Environmental Services covers a wide range of functions and this enforcement policy encompasses these, however a separate section has been prepared for Health & Safety enforcement to meet the expectations of the Health and Safety Executive. (See appendix ii for the Occupational Health, Safety & Welfare Enforcement Policy).

This policy is designed to help the reader understand the objectives of the council's Environmental Services, the methods for achieving compliance and the criteria that is considered when deciding what the most appropriate response is to a breach of legislation. The policy is supported by detailed procedures for enforcement officers

All decisions will have regard to current statutory guidance and codes of practice, particularly the Regulators' Compliance Code, the Code for Crown Prosecutors and the Human Rights Act 1998.

Introduction

Bromley's Environmental Services Directorate is responsible for the enforcement of a wide range of law (or statutory provisions) which is centered mostly on securing public health and safety, the regulation of the trading environment and the protection of the environment.

It is accepted that most businesses and individuals wish to comply with the law. This policy aims firstly, to help business and individuals avoid coming into conflict with the law and secondly, provides information on the application of any enforcement provisions if these are deemed necessary i.e. that it is:

- **proportionate** to the offence and risks, and mindful of any previous transgressions;
- **transparent** - in that any person affected understands what is expected of them, what they should expect from the local authority and the reasons for the action;
- **consistent** in approach, and appropriate.

Copies of this policy are available from
Environmental Services
Bromley Civic Centre,
Stockwell Close BR1 3UH
tel 0208 464 3333 during normal working hours or from the Council website
(www.bromley.gov.uk)

Whenever possible, Environmental Services will work in partnership with other departments, agencies and authorities to achieve common goals on matters of mutual concern. These include

- Safer Bromley Partnership
- Metropolitan Police
- London Fire Brigade
- Health and Safety enforcing authorities
- Planning Dept.
- Trading Standards
- Public Health Nuisance Team
- Children's Safeguarding Board
- Veterinary Surgeons and Animal Health Inspectors
- DVLA

The following documents have been produced to ensure a high standard of compliance. These also make sure that compliance is assessed in a consistent and fair manner:

- Public Protection services inspection and complaint procedures
- The Enforcement Concordat (Summary in Appendix A)

- The Council's Statement of Licensing Policy – Licensing Act 2003
- The Council's Statement of Licensing Policy – Gambling Act 2005

General advice

The aim of this enforcement policy is to ensure compliance with legislation, in all areas covered by Environmental Services by:

1. Assisting and supporting individuals and businesses so that they do not breach legislative requirements;
2. Setting out a graduated approach to enforcement, trying wherever possible to resolve matters in an informal manner; and

The service will advise individuals and businesses directly on how to follow legislative requirements, and will promote and encourage good practice in all circumstances. Advice will be provided by:

- responding to enquiries;
- Attending informal meetings e.g. residents associations, business forums
- using media, leaflets and the internet;
- running events which could include training courses, seminars and forums

INVESTIGATIONS

Inspections and investigations will be carried out in a thorough professional and consistent manner as set out below.

Authorisations

Officers authorised by the Council under the various statutes will be responsible for undertaking investigations. They will only be authorised to deal with such investigations as they have qualifications or experience to undertake in accordance with documented procedures. Officers are issued with a personal warrant card, which will be carried with them at all times and will be shown upon request.

Targetting

Enforcement activities will be targeted towards situations which carry higher risks or where there is or could be a considerable impact as a result of the non-compliance with the law. Enforcement activities may also be targeted towards individuals who are primarily responsible, who have the greatest responsibility to ensure compliance with the law or who have been the subject of previous enforcement action. From time to time, the service may engage in enforcement initiatives which are directed towards issues where there is a need to draw attention to the existence of legislation and its enforcement.

Risk Assessments

Risk assessments are carried out according to the individual merits of a particular business regulatory area and always in conjunction with the view to protecting health and safety.

The approach of using risk assessments allows officers to carry out more frequent inspections for high risk activities and to provide advice on how to reduce any risk.

Levels of Enforcement

Business or individuals are expected to comply with legislation and ignorance of the law is no defence.

The term 'enforcement' covers a wide variety of activities, ranging from informal action such as verbal warnings to formal action such as notices and prosecution.

Minor breaches of requirements will normally be dealt with using an informal approach. More serious breaches or a continual pattern of minor breaches will normally involve a formal approach.

Where informal methods have been unsuccessful, or a serious breach of the law has occurred or is likely to occur which may endanger the health and safety of the public, formal enforcement mechanisms will be taken to ensure compliance.

General Principles

Prevention is better than cure and the role of the Service involves actively working with individuals and businesses to advise on, and assist with compliance.

Where it is considered that formal action is necessary each case will be considered on its own merits. However, there are general principles that apply to the way each case must be approached. These are set out in this Policy and in the Regulators' Compliance Code.

For more information about the Regulators' Compliance Code visit: http://bre.berr.gov.uk/regulation/reform/enforcement_concordat/index.asp

This enforcement policy helps to promote efficient and effective approaches to enforcement, which improve outcomes without imposing unnecessary burdens. This is in accordance with the Regulator's Compliance Code. In certain instances it may be concluded that a provision in the code is either not relevant or is outweighed by another provision. We will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.

Enforcement decisions will be fair, independent and objective and will not be influenced by issues such as ethnicity or national origin, gender, religious beliefs,

political views or sexual orientation. Such decisions will not be affected by improper or undue pressure from any source.

The service will take into account the views of any victim, injured party or relevant person to establish the nature and extent of any harm or loss, and its significance, when considering the appropriate level of enforcement.

Notifying Alleged Offenders

If information is received (for example from a complainant) that may lead to enforcement action against a business or individual we will notify that business or individual as soon as is practicable of any intended enforcement action, unless this could impede an investigation or pose a safety risk to those concerned or the general public.

During the progression of enforcement investigations/actions, business proprietors or individuals and witnesses will be kept informed of progress. Confidentiality will be maintained and personal information about individuals will only be released to a Court when required and/or in accordance with the Data Protection Act 1998.

Levels of enforcement action:

Under normal circumstances, a process of escalation will be used until compliance is reached starting at the lowest appropriate level.

Exceptions would be where there is a serious risk to public safety, animals or the environment or the offences have been committed deliberately or negligently or involve deception, or where there is significant economic detriment.

Examples of the main types of action that can be considered are shown below:

Informal

- No action;
- Information, advice and guidance
- Verbal Warnings
- Written Warnings

Formal

- Fixed Penalty Notices;
- Penalty Charge Notices;
- Formal Notice;
- Forfeiture Proceedings;
- Seizure of goods/equipment;
- Injunctive Actions;
- Review of a licence (Licensing Act 2003, Gambling Act 2005)
- Refusal/revocation of a licence;

- Simple Caution;
- Prosecution;
- Proceeds of Crime Applications.

In assessing what enforcement action is necessary and proportionate, consideration will be given to:

- The seriousness of compliance failure
- The individual or business's past performance and its current practice;
- The risks being controlled;
- Legal, official or professional guidance;
- Local priorities of the Council.

No Action

In certain circumstances, contraventions of the law may not warrant any action. This can be where the breach is of very minor nature with inconsequential risk, the cost of compliance to the offender outweighs the detrimental impact of the contravention, or the cost of the required enforcement action to the Council outweighs the detrimental impact of the contravention on the community. A decision of *no action* may also be taken where formal enforcement is inappropriate in the circumstances, such as where a trader has ceased to trade, or the offender is elderly, frail or seriously ill and formal action would seriously damage their wellbeing. In such cases we will advise the offender of the reasons for taking no action.

Informal Action and Advice

For minor breaches of the law, verbal or written advice may be given. Any contraventions of the law will be clearly identified and advice given on how to put them right, including a deadline by which this must be done. The time allowed will be reasonable, and take into account the seriousness of the contravention and the implications of the non-compliance.

Sometimes offenders will be advised about 'good practice', but there will be a clear distinction between what they *must do* to comply with the law and what is advice only. Failure to comply could result in an escalation of enforcement action.

Warning

If there has been a minor incident where the law has been broken, it may be decided that the most appropriate course of action is to issue the offender with a verbal and or written warning. Previous warnings will be taken in to account when considering taking formal action.

A written warning will:

- clearly state the nature of the problem and suggest either specific remedies or a standard to achieve
- state the actions which may follow if matters do not improve

- designate a named officer as a point of contact
- clearly distinguish between legal requirement and desirable standard
- indicate any follow up action e.g. a re-visit in 14 days
- offer to work with the person(s) responsible in finding a solution
- point the way to specialist advice or additional information
- be firm, businesslike, unambiguous, polite and helpful

Fixed Penalty Notices and Penalty Charge Notices

Certain offences are subject to Fixed Penalty Notices or Penalty Charge Notices e.g. noise nuisance from licensed premises or litter. They are recognized as a low-level enforcement tool and avoid a criminal record for the defendant.

Where legislation permits an offence to be dealt with by way of a Fixed Penalty Notice or a Penalty Charge Notice this may be administered on a first occasion, without issuing a warning first.

Failure to pay the Fixed Penalty Notice will result in the offender being prosecuted for the original offence.

Failure to pay the PCN will result in the offender being pursued in the County Court for non-payment of the debt.

Formal Notice

Certain legislation allows notices to be served requiring offenders to take specific actions or cease certain activities. Notices may require activities to cease immediately where the circumstances relating to health, safety, environmental damage or nuisance demand. In other circumstances, the time allowed will be reasonable, and take into account the seriousness of the contravention and the implications of the non-compliance.

All notices issued will include details of any applicable Appeals Procedures.

Non compliance with a Formal Notice will always be considered for prosecution.

Certain types of notice allow works to be carried out in default. This means that if a notice is not complied with (a breach of the notice) any necessary works to satisfy the requirements of the notice may be carried out by the council. Where the law allows, a charge may be levied against the person/business served with the notice for any cost incurred in carrying out the work.

Seizure

Certain legislation enables authorised officers to seize goods, equipment or documents for example unsafe food, sound equipment that is being used to cause a statutory noise nuisance, unsafe products or any goods that may be required as evidence for possible future court proceedings. When goods are

seized the person from whom the goods are taken will be given an appropriate receipt.

Forfeiture Proceedings

This procedure may be used in conjunction with seizure and/or prosecution where there is a need to dispose of goods in order to prevent them re-entering the market place or being used to cause a further problem. In appropriate circumstances an application for forfeiture will be made to the Magistrates' Court.

Closure

Certain legislation enables authorised officers to close business activities with immediate effect in some instances or after a period of notice. For example food businesses presenting an immediate risk to health or some unlicensed activities such as selling alcohol. Action to close a business activity will only be taken where the officer is satisfied that the circumstances are such that the risk to health or breach is sufficiently serious.

Injunctive Actions

In certain circumstances, for example, where offenders are repeatedly found guilty of similar offences or where it is considered that injunctive action is the most appropriate course of enforcement, then injunctive actions may be used to deal with repeat offenders, dangerous circumstances or significant consumer detriment.

Under the Enterprise Act 2002; proceedings may be brought where an individual or organisation has acted in breach of community or domestic legislation with the effect of harming the collective interests of consumers. In most circumstances action will be considered where there have been persistent breaches or where there is significant consumer detriment. Action can range from:

- Informal undertakings;
- Formal undertakings;
- Interim Orders;
- Court Orders;
- Contempt Proceedings.

Anti Social Behavior Orders: Where non-compliance law amounts to anti-social behavior such as persistent targeting of an individual or a group of individuals in a particular area then, following liaison with the Council's Anti-Social Behavior Unit where appropriate, an ASBO will be sought to stop the activity.

Refusal, Suspension and Revocation of Licence

Where there is a requirement for a business to be licensed by the local authority, the licence may be granted unless representations or objections are received

against the application. In such cases the Licensing Committee will hear the case and decide to grant, grant with conditions, or refuse the licence application.

The Councils scheme of delegation requires that all licensing applications where refusal, suspension or revocation are possible are decided a licensing sub committee

Under the Licensing Act 2003, where a Review of a Premises Licence is sought under Section 51 of the Act, the options available to the Licensing Committee are:-

- To modify the conditions of Licence
- To exclude a Licensable activity from the scope of the Licence
- To removed the Designated Premises Supervisor
- Suspend the Licence for a period not exceeding three months
- Revoke the Licence
- Issue a warning letter
- No action

Where a review is based on criminal activity the licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual holder of the premises licence. Where this is the case deterrence is an appropriate consideration.

Under the Gambling Act 2005, where a Review of a Premises Licence is sought under Section 202 of the Act, the options available to the Licensing Committee are:-

- Revocation of the Licence
- Suspend the Licence for a specified period not exceeding three months
- Exclude a condition attached to the Licence, under Section 168 or remove or amend an exclusion
- Add, remove or amend a condition under Section 169

Simple Caution

A Simple Caution is an admission of guilt, but is not a form of sentence, nor is it a criminal conviction.

For a Simple Caution to be issued a number of criteria must be satisfied:

- Sufficient evidence must be available to prove the case;
- The offender must admit the offence;
- It must be in the public interest to use a Simple Caution;
- The offender must be 18 years or over.

For details on the Home Office guidance (Circular 30/2005) visit:
<http://www.homeoffice.gov.uk>

We will also take into account the following when making our decision:

- The offender should not have received a simple caution for a similar offence within the last 2 years.

A record of the Caution will be kept on file for 2 years and in appropriate circumstances will be submitted to the Consumer Regulation Website.

If the offender commits a further offence, the Caution may influence our decision to take a prosecution. If during the time the Caution is in force the offender pleads guilty to, or is found guilty of, committing another offence anywhere in England and Wales, the Caution may be cited in court, and this may influence the severity of the sentence that the court imposes.

Determining whether a Prosecution or Simple Caution is viable and appropriate

Two 'tests' will be applied to determine whether a Prosecution or Caution is viable and appropriate. Guidance set by the Crown Prosecution Service will be followed when applying the tests:

For more information about the 'Code for Crown Prosecutors' visit:

http://www.cps.gov.uk/victims_witnesses/code.html

A Caution or Prosecution proceedings will only be progressed if the case has passed both the evidential test and the public interest test. The principles outlined apply equally to the other types of formal enforcement action that are available.

The Evidential Test

The service must be satisfied that there is enough evidence to provide a 'realistic prospect of conviction' against each defendant on each charge. A realistic prospect of conviction is an objective test that means that a jury or bench of magistrates, properly directed in accordance with the law, is more likely than not to convict the defendant of the charge alleged. This is a separate test from the one that the criminal courts themselves must apply. A jury or Magistrates' Court should only convict if it is sure of a defendant's guilt.

The Public Interest Test

The public interest must be considered in each case where there is enough evidence to provide a realistic prospect of conviction. Factors for and against prosecution will be balanced carefully and fairly. Public interest factors that can affect the decision to prosecute usually depend on the seriousness of the offence or the circumstances of the suspect. Some factors may increase the need to prosecute but others may suggest that another course of action would be better.

Prosecution

A prosecution will normally ensue where the individual or organisation meets one or more of the following criteria:

- Deliberately, negligently or persistently breached legal obligations, which were likely to cause material loss or harm to others;
- Deliberately or persistently ignored written warnings or formal notices;
- Endangered, to a serious degree, the health, safety or well being of people, animals or the environment;
- Assaulted or obstructed an Officer in the course of their duties.

Proceeds of Crime Applications

Applications may be made under the Proceeds of Crime Act for confiscation of assets in serious 'criminal lifestyle' cases. Their purpose is to recover the financial benefit that the offender has obtained from his criminal conduct. Proceedings are conducted according to the civil standard of proof. Applications are made after a conviction has been secured.

Who decides what enforcement action is taken

Decisions about the most appropriate enforcement action to be taken are based upon professional judgment, legal guidelines, statutory codes of practice and priorities set by the Council and/or Central Government.

Where appropriate, decisions about enforcement will involve consultation between or approval from:

- Investigating Officer(s);
- Senior managers from Environmental Services ;
- Council Solicitors;

All enforcement related decisions will only be taken by Officers authorised under the Councils Scheme of Delegation.

Covert Surveillance

On rare occasions in the interests of public safety or to detect crime, certain officers may be authorised to carry out surveillance of individuals as part of their investigations. This may include using remote sound or video monitoring equipment as well as personal observation.

Where covert surveillance is necessary the requirements of the Regulation of Investigatory Powers Act 2000 will be complied with.

Requests for the authorisation of surveillance will be made in writing by the investigating Officer. All such requests will be accompanied by a statement which details the reason why covert surveillance is appropriate and proportionate, how it is to be undertaken, who is likely to be involved and any impact that might result from the surveillance.

Covert surveillance will only be undertaken with the express permission of an authorised manager who is not directly involved with the investigation.

A register of authorised covert surveillance operations under Regulation of Investigatory Powers Act will be held by the Council. Authorisations will not be made public whilst there is an on-going investigation.

Liaison with other regulatory bodies and enforcement agencies

Where appropriate, enforcement activities will be coordinated with other regulatory bodies and enforcement agencies to maximise the effectiveness of any enforcement.

Where an enforcement matter affects a wide geographical area beyond the Borough boundaries, or involves enforcement by one or more other local authorities or organisations; where appropriate all relevant authorities and organisations will be informed of the matter as soon as possible and all enforcement activity coordinated with them.

Intelligence relating to wider regulatory matters will be shared with other regulatory bodies and enforcement agencies, examples including:

- Government Agencies;
- Police Forces;
- Fire Authorities;
- Statutory undertakers;
- Other Local Authorities.

Considering the views of those affected by offences

Enforcement will be undertaken on behalf of the public at large and not just in the interests of any particular individual or group. However, when considering the public interest test, the consequences for those affected by the offence, and any views expressed by those affected will, where appropriate, be taken into account when making enforcement decision.

Protection of Human Rights

The Council recognises the rights of individuals, especially those outlined under the Human Rights Act 1998. At all times, the Human Rights of the individual will be considered. Of particular importance to the Council's enforcement policy are Article 6 (the right to a fair trial) Article 8 (the right to respect for private and family life) and Protocol 1, Article 1 (Protection of property).

Review of the Enforcement Policy

This Policy will be reviewed as necessary but at least once every three years.

Complaints about the Service

If anyone wishes to complain about enforcement action they may do so initially by contacting the

Environmental Services Directorate
London Borough of Bromley
Civic Centre
Stockwell Close
Bromley BR 1 3UH

tel: 0208 464 3333
or by email to corporate.complaints@bromley.gov.uk

It is also possible to complete a complaint form online at: www.bromley.gov.uk

What will happen next?

The complaint will usually be investigated by the manager responsible for providing the service. They will try to sort out any problem as quickly as possible - mistakes and misunderstandings can often be sorted out on the spot. If not, the complaint will normally be responded to within five working days. If the issue is very complicated, a longer period might be necessary but nevertheless will aim to reply within 20 working days, letting the complainant know if that is the case.

If the complainant is unhappy with this response, the Chief Officer of the department can be contacted who will either investigate the complaint personally or will nominate a senior officer to carry out the investigation.

If still unhappy with this reply, the complainant can appeal to the Chief Executive, who will review the complaint

Appeals against Enforcement Action

Where we take enforcement action and there is a legal right of Appeal we will inform the individual or business about this and the timescale in which they must act. Making a complaint, as outlined above, is not the same as lodging an appeal. An individual or business may wish to do both and are advised to take independent legal advice.

Appendix i: Principles of the Enforcement Concordat

The Enforcement Concordat specifies the principles of good enforcement. The Council has decided accordingly that enforcement action undertaken by the Licensing Service will reflect the following principles;

Proportionality – Action that we may decide to take must reflect the actual risk to public health or safety.

Transparency – We will endeavour to ensure that those subjected to any form of enforcement clearly understand the reasons for action being taken and can easily recognise the difference between legal requirements and advice or guidance.

Consistency – The service will strive to achieve consistency of enforcement such that actions taken and decisions reached will be similar in similar circumstances.

Targeting – The service will prioritise scheduled inspections in order to focus on activities that represent the most serious risks or premises where hazards are least well controlled.

Equality and Fairness – We aim to demonstrate a fair and even handed approach to our enforcement activities. The Council will act in a manner that is responsive to the needs of any party that is involved in enforcement issues and will act in a manner that is especially sensitive to the needs of those that may be particularly vulnerable during the enforcement process (for example minors). Decisions will not be influenced by gender, ethnic origin, religious or political beliefs, whether or not any party has a disability or the sexual orientation of the alleged offender or those of any victims, witnesses or any other party involved in the enforcement process.

Appendix ii: Occupational Health, Safety & Welfare Enforcement Policy

Enforcement Policy



Introduction

Bromley Council is an enforcement authority under the Health and Safety at Work etc Act 1974 (the 'Act'). This means we are responsible for ensuring that:

- The health safety and welfare of people at work are adequately protected by their employers
- The self employed protect their own health safety and welfare and
- Anyone else who may be affected by work are adequately protected

These responsibilities apply mainly to the retail, wholesale, office and leisure businesses in the Borough.

This policy sets out the general principles and approaches we will follow when carrying out our function.

The Act places duties on various people including employers, the self-employed and staff (called 'duty holders' in this policy).

We will make appropriate use of our enforcement powers, including prosecution, so that we can:

- secure compliance with health and safety law, and
- ensure that people who have duties under the Act are held to account for any failures to safeguard health, safety and welfare.

Enforcement: why, how and when we do it

Enforcement means all dealings between Bromley Council and duty holders.

We seek to ensure that duty holders effectively manage and control risks to health, safety and welfare to prevent harm. We will do this by:

- promoting and achieving substantial compliance with the law by advice and guidance whenever possible
- ensuring that duty holders take action to deal with serious risks immediately
- ensuring that duty holders who breach the Act are held to account. This may include prosecution.

We will carry out enforcement by:

- preventative action – taken before any incidents, accidents or ill health occurs – to assess, promote and enforce compliance
- reactive actions after incidents, accidents or ill health has occurred to identify the causes, take preventative actions and enforce compliance.

We will undertake our enforcement activities at the appropriate time. The majority of enforcement work will be carried out during the normal working day (between 8am and 6pm), but inspectors will work at other times when necessary.

How we co-operate with civil claims for compensation

We do not take enforcement action in all situations where those who have been affected by a work activity might wish to claim compensation in the civil courts.

We will co-operate with people making civil claims if we receive requests via the courts by way of subpoena or other orders for disclosure. You can also make a request for information under the Freedom of Information Act 2000. Please note we may charge for this type of request.



Our appointed inspectors and their powers

We appoint inspectors to enforce the Act. All inspectors carry a "warrant card" setting out their powers.

Inspectors have a range of enforcement options to ensure compliance with the law and respond to criminal offences.

Our inspectors may:

- offer information and advice to duty holders, either face to face, in writing or both
- give warnings to duty holders that they are failing to comply with the law
- serve **improvement notices** stating that an offence has been committed and requiring remedial action within a stated time
- serve **prohibition notices** stating that an offence has been committed in circumstances where a risk of serious personal injury exists.
- issue **simple cautions** (formally known as formal cautions)
- bring **prosecutions**.

Simple cautions and prosecutions are important ways to bring duty holders to account for alleged breaches of the law. Where appropriate and in accordance with this policy, we may use these and other enforcement options.

Please see Appendix A for more information about how our inspectors apply the enforcement options.

To use any of these options, inspectors have the right to:

- enter premises
- take a police officer or other person with them
- examine, investigate, measure or photograph
- take samples
- interview people

Our enforcement principles

We believe in firm but fair enforcement of the Act. Our policy will be informed by the principles of:

- **proportionality** – in applying the law and securing compliance with it
- **targeting** – of enforcement action
- **transparency** – in the way we operate and what those who are regulated can expect
- **accountability** – for our actions and those of our inspectors.

These principles are explained below.

Proportionality

This means that inspectors will take enforcement action that is appropriate to the health safety and welfare risks or breach of duty and the response to previous enforcement action.

Inspectors will take account of:

- how far the duty holder has fallen short of what the law requires, and
- the extent of the risks to people from the breach.

Some health and safety duties are specific and absolute. Others require action "so far as is reasonably practicable". Our inspectors will apply the principles of proportionality to both kinds of duty.

Deciding what is a "reasonably practicable" way to control risk involves an inspector making a judgement. He or she will balance the degree of risk against the time, cost and effort needed to control it.

Unless these factors are grossly disproportionate to the risk, the duty holder must take measures to reduce the risk. Our inspectors will expect duty holders to follow relevant good practice. If good practice is not clearly established, the Act requires duty holders to explicitly assess the significance of the risk to determine what actions they must take. Ultimately the courts decide what is "reasonably practicable" in any particular case.

Targeting

This means that inspectors will:

- concentrate their efforts on activities that give rise to the most serious risks or where hazards are least well controlled, and
- focus enforcement action on duty holders who are responsible for the risks and are best placed to control them. If several duty holders have responsibility, enforcement action may be taken against more than one where appropriate.

Inspectors will give particular attention to how competently the duty holder manages health, safety and welfare risks. A poorly managed, relatively low-risk site can present a higher risk to staff and others than a well-managed, higher-risk site.

We will target our enforcement action as follows:

1. A programme of planned inspections based on a system of risk assessment developed by the Health and Safety Executive (HSE). Details of the system are set out in Local Authority Circular 67/2 issued by HELA (HSE/LA Enforcement Liaison Committee)
2. Investigation of accident reports and the analysis of accident data
3. Investigation of complaints about health, safety or welfare.
4. The need to provide advice, guidance and information to businesses.
5. Other information from HSE or other sources which indicates that enforcement action needs to focus on particular areas.



Consistency

Consistency of approach does not mean uniformity. It means that our inspectors will take a similar approach in similar circumstances to achieve similar results.

We understand that duty holders managing similar risks expect to be dealt with consistently in the way our inspectors give advice, use enforcement notices and decide whether or not to prosecute.

Inspectors face many variables when dealing with businesses, including the degree of risk, the attitude and competence of management, the history of the business and the seriousness of the breach.

It is difficult to achieve consistency among inspectors, but we will establish internal systems and procedures that will ensure it, as far as possible. In particular we will follow the Enforcement Management Model developed for local authorities by the HSE.

We authorise all inspectors in writing, setting out the extent of their powers. They must show their authorisation when requested. We will decide their level of authorisation after assessing their competence based - qualification, training and experience.

We support the principles of the Lead Authority Partnership scheme and the Primary Authority Scheme, under which a local authority partners a business to help it comply with health and safety requirements. The businesses involved are usually national chains with outlets in many areas. When dealing with a business involved in the Lead Authority Partnership scheme or Primary Authority Scheme, our inspectors will liaise with the relevant lead authority:

- before taking formal action, except in the case of immediate danger
- after serving a prohibition notice
- when significant shortcomings have been identified which need to be dealt with at a national level
- following on-site investigation of a death, major injury or case of work-related illness or dangerous occurrence.

Transparency

Transparency means:

- helping duty holders to understand what is expected of them and what they should expect from our inspectors
- making clear to duty holders what health and safety law requires them to do and what would be desirable but not compulsory. This applies both when inspectors are dealing with businesses face to face and in writing.

We will establish procedures to ensure that employees and their representatives, complainants, victims and members of their families, and the public are informed about health, safety and welfare matters. These procedures will take into account appropriate legal requirements and restrictions.

It is important that duty holders and others affected by our enforcement decisions know what to expect from an inspector when he or she calls and what rights of complaint are open to them.

When an inspector visits premises to carry out any enforcement actions, he or she will leave written information setting out what the duty holders can expect. In particular:

- Inspectors will always identify themselves and give their name both in face to face and written communication. The name and contact details of their line managers will be given if requested and will be set out in all written communication.
- When inspectors offer duty holders information, advice or warnings, either face to face or in writing, they will tell the duty holder what to do to comply with the law and explain why. If asked, inspectors will write to confirm any advice and make a clear distinction between legal requirements and best practice.
- If an improvement notice has to be served, the inspector will discuss the notice with the duty holder and if possible resolve points of difference before serving it. The notice will say that in the inspector's opinion a breach of the law has been committed; set out what needs to be done and why; and set a date by which it should be done.
- If a prohibition notice has to be served, the inspector will explain why action is necessary.
- If notices are served, inspectors will provide information about the right of appeal to an industrial tribunal.

During our enforcement work, we receive, require or otherwise identify a range of information relating to health, safety and welfare. Its disclosure is subject to various legal requirements.

We will maintain a public register of notices that relate to matters of public safety. The register will be available from the Public Protection Department at the Civic Centre, Bromley, during normal office hours (9am – 5pm Monday to Friday).

Each year we will prepare and publish a "Service Plan" that sets out the aims and objective of our enforcement work for the year ahead and reviews our performance for the last year.

Accountability

We are accountable to businesses and the public for our actions. This is why we have:

- policies and standards against which we can be judged, and
- an effective and easily accessible way of dealing with comments and complaints.

Our complaints procedure is called "Getting it Right". This is available from all our offices and libraries. We will follow it to deal with complaints to us about our health and safety enforcement work.



A complaint may be defined as:

"An expression of dissatisfaction, however made, which alleges a failure by the Council or its inspectors to perform in line with its stated practices or policies but does not include complaints about actions by inspectors where there are statutory appeals procedures through the courts or industrial tribunals". (HELA Local Authority Circular 40/1).

Complaints may be made in face to face contact, in writing or by electronic means.

If a complaint is not resolved satisfactorily, the complainant has the right to refer the complaint to either:

The Health and Safety Executive (Local Authority Unit), Rose Court, 2 Southwark Bridge, SE1 9HS, or

The Local Government Ombudsman, whose address is in the "Getting it Right" leaflet which is available from any council office or library.



We want inspectors to view complaints as constructive and positive and as an opportunity to improve the service. We encourage inspectors to be open about recognising and recording complaints themselves as well as accepting those that come directly from service users.

We will give the HSE an annual summary of any complaints received about our enforcement work, as requested in HELA (HSE/Local Authorities Liaison Committee) Local Authority Circular 40/1.

If we have served statutory notices, we will explain that there is the right to appeal against the notice to an industrial tribunal.

Investigating accidents and complaints

Investigations try to determine the following:

1. The causes.
2. Whether action has been taken or needs to be taken to prevent a recurrence or ensure compliance with the law.
3. Lessons to be learnt, thus influencing good practice and the law.
4. The appropriate level of enforcement action.

To maintain a "proportional" approach to investigation and a balance between preventative and reactive work, our inspectors will give the most serious incidents the most attention. This means they will not investigate some accidents or complaints at all or as thoroughly as others.

To help inspectors make these decisions, they follow an Incident Investigation Selection Procedure

In general our policy is to:

1. Investigate all work-related deaths.
2. Investigate accidents, occupational ill health and dangerous occurrences based on –
 - the actual or potential severity of the event
 - the seriousness of the potential breach
 - the duty holder's previous record
 - our enforcement priorities
 - the practicalities of achieving results
 - the relevance of the event to a wider range of premises or operations
 - legal factors
 - our resource constraints (i.e., budget and staffing)
 - political factors and public expectations.
3. Investigate complaints about occupational health, safety and welfare taking into account:
 - whether the circumstances could cause death, injury, a dangerous occurrence or ill health
 - the imminence of the risk
 - the type and number of people at risk
 - the duty holder's previous record
 - the reliability of the information
 - attempts at self-resolution
 - the practicalities of investigation
 - political factors and public expectations.

Appendix A

Policy on the use of enforcement options

1. Prosecution

The main aim of our enforcement work is preventative and to ensure that duty holders manage and control risks to prevent harm, but prosecution is an essential part of our enforcement role. The Health and Safety Commission (HSC) expects a prosecution to proceed if, during their enforcement work:

- inspectors collect enough evidence to give a realistic prospect of conviction, and
- a decision to prosecute has been taken in accordance with this policy, the Enforcement Management Model and the Code for Crown Prosecutors.

We may prosecute without prior warning or use alternative enforcement options if circumstances merit this. The decision to prosecute rests with us and our inspectors.

In general, we will normally prosecute if:

- death results from a breach of health, safety or welfare legislation
- it is merited by the seriousness of the alleged offence, the seriousness of any actual or potential harm, and the general record or approach of the duty holder
- there has been reckless disregard for health, safety and welfare requirements
- there have been repeated breaches giving rise to significant risk, or persistent and significant poor compliance
- a duty holder's standard of managing health, safety and welfare is far below what is required and has created significant risk
- a duty holder has failed to comply with an improvement notice or a prohibition notice or there has been a repetition of a breach that has been subject to a simple caution
- false information has been deliberately supplied, or there has been intent to deceive over a matter that might cause significant risk
- inspectors have been deliberately obstructed.

We will also consider prosecution if:

- it is appropriate in all the circumstances as a way of drawing attention to the need for compliance with the law, and if conviction and the maintenance of standards required by the law may deter others from similar failures, or
- a breach that gives rise to significant risk has continued despite relevant warnings from employees or their representatives or others affected by a work activity.

An impartial 'instructing officer' will review all reports from inspectors recommending prosecution to ensure they are being properly brought in accordance with this policy, the Enforcement Management Model and the Code for Crown Prosecutors.

Prosecution: Crown Court or Magistrates' Court?

Certain offences under health, safety and welfare law can be heard at either a Magistrates' Court or the Crown Court.

If we consider that alleged offences are more serious and that the Crown Court's higher sentencing powers may be appropriate, we will ask the magistrates' court to commit the matter to the Crown Court for trial.

Sentencing is ultimately a matter for the courts, but the Court of Appeal has given guidance on factors that should be considered (*R v F Howe and Sons (Engineers) Ltd 1999*). If appropriate, we will draw the court's attention to factors that are relevant in sentencing.

Death at work

If a death at work occurs as a result of a possible breach of the Act, we must consider the possibility of manslaughter charges along with the police, Crown Prosecution Service (CPS) and other enforcement agencies.

The police are responsible for deciding whether to pursue a manslaughter investigation and refer the matter to the CPS for manslaughter charges. Our inspectors are responsible for investigating and prosecuting possible health, safety and welfare offences.

When investigating a work-related death, our inspectors will follow the principles in "Work Related Death – A Protocol for Liaison" and work in close co-operation with the police and CPS.

Prosecutions of individuals

If necessary, we will identify and prosecute individuals if this is in accordance with this Policy and the Enforcement Management Model.

When considering this action, we will take into account the management chain and the role played in the breach by the individual (director, manager or employee). We will consider action against them if the inspection or investigation reveals that the offence was committed with their consent or connivance or is the result of their neglect.

Following a conviction we will generally seek to publicise the case and factual information about the charges and penalties imposed by the court.

We will publish annually the names of all those convicted or issued with a simple caution for breaches of the Act during the previous year, and information about improvement and prohibition notices served. This will include passing such information to the HSE.

3. Prohibition notices

Where an Inspector believes that there is a "Risk of serious personal injury" he/she may serve a prohibition notice to stop a work activity.

The authority to serve prohibition notices will be specified in an inspector's authorisation. The decision to serve a prohibition notice lies with the inspector.

Inspectors will decide on the use of prohibition powers in accordance with the following general principles and the Enforcement Management Model:

- There is the potential to cause death, serious injury, a dangerous occurrence or serious ill health from a breach of law.
- The risk is imminent.
- The type and number of people at risk merit this.
- The duty holder's previous record indicates that alternative enforcement options are not appropriate.

In appropriate circumstances, prohibition notices are likely to be served without prior warning or the use of alternative enforcement options such as warnings or improvement notices.

Failure to comply with a prohibition notice is likely to result in prosecution.

4. Improvement notices

The authority to serve improvement notices will be specified in the inspector's authorisation. The decision to serve an improvement notice lies with the inspector.

Improvement notices are a formal way of notifying duty holders of a breach of legal requirements.

Inspectors will decide on the use of improvement notices in accordance with the following general principles and the Enforcement Management Model. Their use must be:

- proportional to the seriousness of the breach
- appropriate to the potential of the circumstances to cause death, injury, a dangerous occurrence or ill health
- appropriate to the imminence of the risk
- appropriate to the type and number of people at risk from the breach
- assessed in view of the previous record of the duty holder.

Improvement notices will not usually be the inspectors' first choice of enforcement action and we expect that improvement notices will usually be served where informal approaches (advice or letters) have failed to achieve compliance, or we have identified repeated breaches.

Failure to comply with an improvement notice is likely to result in prosecution.

5. Informal warnings

All appointed inspectors can issue warnings.

A warning is a statement by an inspector (verbally or in writing) that a breach of health, safety and welfare law has been identified.

Failure to act on a warning is not an offence but could lead to other enforcement action including the service of improvement notices or possibly prohibition notices if there has been a significant change in the situation. Prosecution following only an informal warning is unlikely, but in keeping with this policy an inspector can bring prosecution at any time without the use of other enforcement options.

Informal warnings will be the usual means of informing duty holders of breaches where circumstances do not merit other enforcement options.

6. Advice and Guidance

All inspectors can give advice and guidance.

Providing advice and guidance to duty holders is our preferred method of working with "Duty Holders" and will be used in the first instance unless the situation makes one of the other enforcement options necessary.



020 8313 4443

Nigel Davies
Nigel.Davies@bromley.gov.uk

Date

Dear

INDEMNIFICATION OF OFFICERS.

Section 26 of the Health and Safety at Work etc Act 1974 allows Local Authorities to indemnify inspectors appointed under that Act.

On [] Cllr Tim Stevens, the Public [Protection and Safety Portfolio Holder, having considered the recommendation of his PDS committee and advice from the Director of Resources, David Mark Bowen, agreed to issue an indemnity in the following terms:

Any officer appointed by the Council [?] to carry out the functions of an inspector under the Health and Safety at Work etc Act 1974 in their own name shall be indemnified against all claims proceedings actions damages legal costs expenses and any other liabilities whatsoever arising out of , in respect of, or in connection with the performance of their functions as an Inspector subject to being satisfied that the Inspector honestly and genuinely believed that the act complained of was within his/her powers and that his/her duty as an inspector required or entitled him/her to do it, and provided that the inspector was not wilfully acting against instructions.

With regard to all other duties undertaken by you the Director of Resources has confirmed that any work undertaken in good faith connected with the discharge of any statutory function associated with your employment will be indemnified under sections 265 of the Public Health Act 1875 and Section 39 of the Local Government (Miscellaneous) Provisions Act 1976.

Yours sincerely

Nigel Davies
Director of Environmental Services

This page is left intentionally blank

Report No.
RES11079

London Borough of Bromley

Agenda
Item No.

PART 1 - PUBLIC

Decision Maker: Public Protection and Safety PDS Committee

Date: 20th September 2011

Decision Type: Non-Urgent Non-Executive Non-Key

Title: WORK PROGRAMME 2011/12

Contact Officer: Helen Long, Senior Democratic Services Officer
Tel: 020 8313 4595 E-mail: Helen.Long@bromley.gov.uk

Chief Officer: Mark Bowen, Director of Resources

Ward: All

1. Reason for report

This report provides an opportunity for the Committee to consider its work programme and make any necessary adjustments.

2. RECOMMENDATION(S)

2.1. That the Committee considers its work programme and indicates any changes that it wishes to make.

Corporate Policy

1. Policy Status: Existing policy. "Building a Better Bromley"
 2. BBB Priority: Excellent Council.
-

Financial

1. Cost of proposal: No cost
 2. Ongoing costs: N/A.
 3. Budget head/performance centre: Democratic Services
 4. Total current budget for this head: £344,054
 5. Source of funding: Existing 2011/12 revenue budget
-

Staff

1. Number of staff (current and additional): There are 10 posts in the Democratic Services Team (9.22 fte).
 2. If from existing staff resources, number of staff hours: Maintaining the Committee's work programme takes less than an hour per meeting.
-

Legal

1. Legal Requirement: No statutory requirement or Government guidance.
 2. Call-in: Call-in is not applicable. This report does not involve an Executive decision
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): This report is primarily for the benefit of Members of the Committee, to enable them to plan their future meetings.
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? N/A.
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

- 3.1 This report presents the Committee's updated work programme – see **Appendix 1**. The Work Programme has been updated following the committee's last meeting and includes all dates for the 2011/12 Council year. The Council's Policy Development and Scrutiny Toolkit provides guidance and on Selecting Topics (chapter 7) and Setting Work Programmes (chapter 8.)
- 3.2 The Executive and Resources PDS Committee recommends that all PDS Committees should monitor the Council's Forward Plan of Key Decisions for their respective portfolios and use it to identify issues where they could contribute views in advance of Executive decisions being made. The last edition of the Council's Forward Plan was published on 15th July 2011.
- 3.3 As part of their work programmes, PDS Committees may appoint Member working groups to carry out reviews of particular issues and develop recommendations for consideration by the Executive and the Portfolio Holder.
- 3.4 The Police and Justice Act 2006 put in place provisions under Sections 19 and 20 for the scrutiny of Crime and Disorder Reduction Partnerships. The bulk of these provisions came into force on 30 April 2009. However, the provisions putting in place a Councilor Call for Action for crime and disorder issues, came into force 1 April 2009. The Committee may wish to review its powers under the Police and Justice Act 2006 from time to time.

Non-Applicable Sections:	Policy/Financial/Legal/Personnel
Background Documents: (Access via Contact Officer)	Previous Work Programme Reports

PUBLIC PROTECTION AND SAFETY DEPARTMENT FORWARD PROGRAMME 2011-2012

Report Title	Report Author	Pre-Scrutiny (Y/N)	Referred		Information	Deadline to Helen Long
			From	To		
Public Protection and Safety Policy Development and Scrutiny Committee 28th June 2011						
Matter Arising from Previous Meetings	HL	No				
Portfolio Holder Decisions	HL	No				
Schedule of visits	CN/HL	No				
Work Programme	HL	No				
Budget Reports	CM	Yes				
Enforcement Activity – 6 month update	CD	Yes				
Co-opted members.	HL	No				
Fire reduction Officer	CN	Yes			Deferred to 26 th July	
Public Protection and Safety Policy Development and Scrutiny Committee 26th July 2011						
Matter Arising from Previous Meetings	HL	No				
Portfolio Holder Decisions	HL	No				
Schedule of visits	CN/HL	No				
Work Programme	HL	No				
Budget Reports	CM	Yes				
Licensing Fees	CD					
Out of Hours Noise – Savings Options	CD					
Fire reduction Officer – outcome of discussions	CN	Yes			Deferred	
Public Protection and Safety Policy Development and Scrutiny Committee 20th September 2011						
Matter Arising from Previous Meetings	HL	No				
Portfolio Holder Decisions	HL	No				

Report Title	Report Author	Pre-Scrutiny (Y/N)	Referred	Information	Deadline to Helen Long
Police Update					
Schedule of visits	CN/HL	No			
Budget Reports	CM	Yes			
Work Programme	HL	No			
Baseline Youth Project?				Danny Vance to do a report on how the grant was spent?	
OIP Food Safety Inspections	PLH				
Mentoring - Update	JMC/CD			Inc. Structure and spending to go to future meeting	
Vulnerable adults and Elderly Protection - Overview					
Annual report on Safeguarding Adults				Susannah Simpson	
Children and Young People Policy Development and Scrutiny Committee 29th November 2011 (members to attend for the first item)					
Youth Offending team Annual Report	CN/KW				
Safer Bromley Partnership					
Public Protection and Safety Policy Development and Scrutiny Committee 25th October 2011					
Matter Arising from Previous Meetings	HL	No			
Portfolio Holder Decisions					
Schedule of visits	HL	No			
Work Programme	HL	No			
Budget Monitoring	CM	Yes			

Report Title	Report Author	Pre-Scrutiny (Y/N)	Referred		Information	Deadline to Helen Long
Elderly Protection	CN	Yes			Invite Cora green - Victim Support, Rob Vale – Rogue traders, Susannah Simpson – Elderly Protection team and Maureen Falloon - Age UK	
Partnership Budget						
Police Update						
Youth Offending Team: Annual Update report		Y	From CYP		Considered by CYP on 18/10/11	
Public Protection and Safety Policy Development and Scrutiny Committee 22nd November 2011						
Matter Arising from Previous Meetings	HL	No				
Portfolio Holder Decisions						
SBP Agenda		No				
Schedule of visits	HL	No				
Work Programme	HL	No				
Environmental Protection presentation						
Police Update						
DAT	CL/DP				Claire Lynn and Dave Prebble – Reminders sent 2/8/11	
Safer Bromley Partnership 15th December 2011						
Public Protection and Safety Policy Development and Scrutiny Committee 24th January 2012						
Budget Monitoring	CM	Yes				

Report Title	Report Author	Pre-Scrutiny (Y/N)	Referred	Information	Deadline to Helen Long
Matter Arising from Previous Meetings	HL	No			
Portfolio Holder Decisions					
Schedule of visits	HL	No			
Work Programme	HL	No			
Verbal Update on the out of hours pilot	PLH	Yes			
Police Update					
Youth Offending Service: Outcomes from the Inspection			From CYP		Considered by CYP on 17/12
Mentoring Update	JMg/CD				
CCTV Operation and Maintenance Contract Award	CD	Yes	On forward Plan		PART 2
Public Protection and Safety Policy Development and Scrutiny Committee 13th March 2012 (joint meeting with ACS starting in the Council Chamber at 6pm)					
Safer Bromley Partnership Budget					
Strategic Assessment					
Bethlam Hospital - Update					
Beckenham and West Wickham Town Centre Working Party update					
Presentation by James Cleverly					
DAT Annual Report					With ACS
Update on licensing fees					
Update on the Out of Hours Service pilot	JG				
Safer Bromley Partnership 22nd March 2010					

Other Items to be scheduled

Integrated offender management/probation
ASBO
Outcome of shared regulatory discussions
Presentation by Safer Neighbourhood Officers
Update of Safer Neighbourhood Officers – Fire Reduction
Baseline
Fire Reduction Officer