



THE LONDON BOROUGH  
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DATE: 26 November 2018

To: Members of the  
**PUBLIC PROTECTION AND ENFORCEMENT POLICY DEVELOPMENT &  
SCRUTINY COMMITTEE**

Councillor David Cartwright QFSM (Chairman)  
Councillor Chris Pierce (Vice-Chairman)  
Councillors Kathy Bance MBE, Julian Benington, Mike Botting, Hannah Gray,  
Samaris Huntington-Thresher, Alexa Michael and Harry Stranger

Non-Voting Co-opted Members –

Sharon Baldwin, Chairman - Safer Neighbourhood Board  
Julie Clark, Victim Support  
Dr Robert Hadley, Bromley Federation of Residents Associations  
Fen Johnson, Bromley Youth Council  
Alf Kennedy, Bromley Neighbourhood Watch  
Cameron Ward, Bromley Youth Council

A meeting of the Public Protection and Enforcement Policy Development & Scrutiny  
Committee will be held at Bromley Civic Centre on **TUESDAY 4 DECEMBER 2018**  
**AT 7.00 PM**

MARK BOWEN  
Director of Corporate Services

*Copies of the documents referred to below can be obtained from*  
<http://cds.bromley.gov.uk/>

## **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 SUBSTITUTE MEMBERS**
- 2 DECLARATIONS OF INTEREST**
- 3 QUESTIONS FROM COUNCILLORS AND MEMBERS OF THE PUBLIC FOR THE ATTENTION OF THE CHAIRMAN OR COMMITTEE**

In accordance with the Council's Constitution, questions to this Committee must be received in writing 4 working days before the date of the meeting. Therefore please ensure questions are received by the Democratic Services Team by 5pm on Wednesday 28<sup>th</sup> November.

**4 MINUTES OF THE PUBLIC PROTECTION AND ENFORCEMENT PDS COMMITTEE HELD ON 27TH SEPTEMBER 2018--EXCLUDING EXEMPT INFORMATION (Pages 1 - 16)**

**5 MATTERS ARISING (Pages 17 - 22)**

**6 POLICE UPDATE**

**HOLDING THE PORTFOLIO HOLDER TO ACCOUNT**

**7 QUESTIONS TO THE PORTFOLIO HOLDER FROM MEMBERS OF THE PUBLIC AND COUNCILLORS.**

In accordance with the Council's Constitution, questions to this Committee must be received in writing 4 working days before the date of the meeting. Therefore please ensure questions are received by the Democratic Services Team by 5pm on Wednesday 28<sup>th</sup> November.

**8 PORTFOLIO HOLDER UPDATE**

**9 PORTFOLIO PLAN--6 MONTH PERFORMANCE OVERVIEW (Pages 23 - 24)**

**10 PRE-DECISION SCRUTINY OF PORTFOLIO HOLDER REPORTS**

Portfolio Holder decisions for pre-decision scrutiny.

**a BUDGET MONITORING 2018/2019 (Pages 25 - 30)**

**b FOOD SAFETY SERVICE PLAN 2018 TO 2019 (Pages 31 - 60)**

**c ANIMAL LICENSING LEGISLATION--REVIEW OF FEES. (Pages 61 - 84)**

**d CAPITAL MONITORING REPORT--QUARTER 2--2018-2019 (Pages 85 - 90)**

**POLICY DEVELOPMENT AND OTHER ITEMS**

**11 PLANNING ENFORCEMENT SCRUTINY REPORT (Pages 91 - 96)**

**12 VERBAL UPDATE CONCERNING THE MORTUARY CONTRACT**

**13 WORK PROGRAMME (Pages 97 - 102)**

## **14 DATE OF THE NEXT MEETING**

The next meeting is scheduled for Wednesday, 30<sup>th</sup> January 2019.

## **PART 2 AGENDA**

### **15 LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION)(VARIATION) ORDER 2006, AND THE FREEDOM OF INFORMATION ACT 2000**

The Chairman to move that the Press and Public be excluded during consideration of the items listed below as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the press or public were present there would be disclosure to them of exempt information.

- 16 EXEMPT MINUTES OF THE MEETING HELD ON 27TH SEPTEMBER 2018 (Pages 103 - 104)** Information relating to any individual.  
Information which is likely to reveal the identity of an individual.

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## **PUBLIC PROTECTION AND ENFORCEMENT POLICY DEVELOPMENT & SCRUTINY COMMITTEE**

Minutes of the meeting held at 7.00 pm on 27 September 2018

### **Present:**

Councillor David Cartwright QFSM (Chairman)  
Councillor Chris Pierce (Vice-Chairman)  
Councillors Kathy Bance MBE, Julian Benington,  
Mike Botting, Hannah Gray, Samaris Huntington-Thresher,  
Alexa Michael and Harry Stranger

Sharon Baldwin, Alf Kennedy and Cameron Ward

### **Also Present:**

Nigel Davies, Sarah Foster, Dan Jones, Superintendent  
Craig Knight, Councillor Kate Lymer, Joanne Stowell and  
Rob Vale, PC Lisa London, and Chief Superintendent Jeff  
Boothe.

### **15 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS**

Apologies were received from Fen Johnson, Julie Clark and Dr Robert Hadley.

### **STANDARD ITEMS**

### **16 DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **17 QUESTIONS FROM COUNCILLORS AND MEMBERS OF THE PUBLIC TO THE CHAIRMAN OR COMMITTEE**

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

### **18 MINUTES OF THE PUBLIC PROTECTION AND ENFORCEMENT PDS COMMITTEE MEETING HELD ON 3rd JULY 2018**

The Committee considered the minutes of the meeting of Public Protection and Enforcement PDS Committee held on 3<sup>rd</sup> July 2018. It had been noted in the previous minutes that a Member had raised a query concerning a female in need of housing because of domestic abuse, but who had allegedly been refused help because she was not in receipt of housing benefit. Mr Vale

(Head of Trading Standards and Community Safety) had promised to investigate this and to report back to the Chairman and the Member who had raised the query. It was confirmed that Mr Vale had actioned this, and that a response had been sent to the Member concerned.

**RESOLVED that the minutes of the meeting held on 3rd July 2018 be agreed and signed as a correct record.**

## **19 MATTERS ARISING**

### **CSD 18131**

Members noted the Matters Arising report.

The Executive Director for Environmental and Community Services responded to the query concerning why TfL were taking so long to remove graffiti from bus stops. He stated that this was a matter that he was continuing to pursue. The main issue relating to TfL seemed to have changed from graffiti to grass cutting, and it was noted that one side of the A21 had not been cut.

**RESOLVED that the Matters Arising report is noted.**

## **20 POLICE UPDATE**

The Chairman welcomed Chief Superintendent Jeff Boothe to the Committee. Mr Boothe was the new Tri-Borough Police Commander for Bromley, Croydon and Sutton. Mr Boothe apologised for not being able to attend the previous meeting of the Committee. It was noted that Mr Boothe would also be attending the Crime Summit which was scheduled for September 29<sup>th</sup>.

Mr Boothe stated that budgetary considerations were not the only reason why the MET was changing to the new combined BCU (Basic Command Unit) models. Previously, there had been 32 Borough Police Commanders, now there would be 12--in charge of 12 BCUs. Some BCUs would be comprised of two boroughs, some three, and some four. Mr Boothe had been in post since May 2018, and his Command Team had been in post since June 2018.

Each BCU would consist of five strands with a Superintendent in charge of each strand.

The five strands were:

- Response
- Neighbourhood Management
- Investigations
- Safeguarding
- HQ Corporate Functions

The role of the Borough Commander was now different. The role of the Tri-Borough Commander now involved having oversight of each strand. It was noted that Bromley was the largest area of responsibility in terms of geographical size, but 50% of the crime emanated from Croydon.

The H.Q. function would control how resources would be deployed going forward. It was anticipated that resources would be deployed locally, and that Bromley response teams would stay in Bromley. It was hoped that effectiveness in deployment would be enhanced and that the quality of response would be improved. If an urgent call was made concerning domestic violence or other serious offences, then a CID vehicle would attend first. This would be managed by an Operations Room.

The new model was not expected to be fully operational until February 2019. Mr Boothe assured the Committee that lessons had been learnt from previous BCU trials, not least in terms of response times. The Mayor had made a commitment that there would be two ward officers and a PCSO in each ward, and this would be honoured. All wards would be fully resourced, and these assets would be ring fenced.

There would be an uplift in resources into Neighbourhood Policing. Additional officers would be assigned to schools and from the Neighbourhood Tasking Team if there was a particular problem in a ward that required extra attention for a period of time.

A Partnership and Prevention Team (P&P Team) was being introduced. The P&P Team would be responsible for identifying and developing good practice with respect to Neighbourhood Policing.

A Member commented that she was glad the commitment to ward officers and PCSOs was being maintained. She asked how long the additional resources from the Tasking Team would be assigned to a particular ward. Mr Boothe answered that the Tasking Team would remain until the problem was solved, and then they would be used elsewhere as required.

A Member expressed concern about the transport arrangements for ward officers. She wanted to see a more effective way of officers getting to their areas of operation. A Member expressed the view that Neighbourhood Teams should ideally be located in their own ward. Mr Boothe explained that efforts were being made to work collaboratively with other blue light partners in terms of co-location. Barriers to this were funding and security arrangements. The police had also been exploring the idea of using sponsored vehicles. A Member asked if an update concerning these matters could be provided at the next meeting.

Mr Boothe made the following points regarding the transport arrangements for ward officers:

- The reality had to be understood that there were only a finite number of vehicles available

- An assessment would need to be made of what was the quickest and most practical way for officers to be transported
- The use of buses had the benefit of providing assurances from a visible police presence
- Relocation would take place as soon as practically possible

The Chairman pointed out that the matter concerning transport arrangements for ward officers had been ongoing for quite some time. Mr Boothe stated that matters had now improved thanks to the introduction of new technology. It was now the case that officers were not required to return to base unless they had to deal with a prisoner or had finished their shift.

A Member asked if cover for ward officers was available in cases of maternity leave. Commander Boothe responded that the answer to this was 'no'. The police had a budget for officers, and to employ extra resources to cover maternity leave would be an addition to the budget that was not available. If required, the Tasking Team could be utilised.

A co-opted member expressed concern over what he perceived as deficiencies in youth engagement with the police. Mr Boothe responded that this was an important issue, and the police were looking at what actions they could take in this respect. They would be looking at what had proved to be successful models in other boroughs and had been working with an independent advisory group. The police had also been engaging with Youth Council meetings. Assurance was provided to the Committee that there would be effective engagement with young people.

A Member queried if police office buildings in Bromley were going to be retained. This was because it was mentioned at the previous meeting, that as a result of a judicial review, the move to close police office buildings in the borough had been stopped. The Committee was informed that this matter was ongoing as the judicial review had been appealed.

Mention was made of the Knife and Serious Violence Action Plan. The Action Plan was being developed by the Safer Bromley Partnership. It was noted that boroughs would develop individual action plans. It was important to identify the benefits that could be provided by third sector organisations. The Chairman requested that when it was completed, the Action Plan should be presented to the PDS Committee.

The Investigations strand would be led by CID. The reactive side would be maintained, as would the emphasis on covert pro-active work. The CID would be based at Sutton and Bromley.

Mr Boothe updated Members concerning the Safeguarding strand. He referred to the 'Sapphire' Team which was the team that dealt with issues of rape, sexual abuse and child abuse. This was currently a team that was

located centrally. Under the new arrangements, Mr Boothe would be taking over control locally. The Child Abuse Investigations Team would continue and would be better resourced. The 'Missing' people team would also continue. Safeguarding was now seen by the Mayor and the MET as a key area, and there would be Safeguarding Teams located in all three boroughs.

It was noted that Bromley's policing priorities differed from MOPAC's. Assurance was provided that the police would be managing Bromley's local policing priorities. A co-opted member mentioned the link between gangs and CSE. Mr Boothe affirmed that this was an area that the police were looking at and would be adopting a holistic approach.

A co-opted member raised a question on behalf of MIND. If there was an elderly person wandering around in a confused state, which organisation would be responsible for that person. Mr Boothe clarified that if there was an emergency situation where there was a threat to life, then the police should be called. Longer term issues would be the responsibility of partners.

A Member asked who would be in charge of the Control Room, and it was clarified that this would be an Inspector. He then asked if it would be the case that in reality, the demand for resources would be drawn to Croydon. Commander Boothe responded that he had equal responsibility for three areas, and it would not be good practice to focus resources in just one borough.

Mr Boothe illustrated how tri-borough resources could be shared by citing an example of work that had been undertaken in Penge with respect to gang issues. Croydon officers had been used in Penge because of their expertise in dealing with gang related issues. The police were seeking to improve demand management. It was now the case that all ASB could be reported online, and the fact that there would be more police resourced to neighbourhood policing should reduce the number of calls to the police.

It was noted that the gang problem in Penge was current and not just historical. Mr Boothe stated that he was fully sighted with respect to the gang issue in Penge.

A Member sought clarity concerning what numbers should now be used to call the police under the new arrangements, and asked if the phone numbers of ward officers could be provided. She also said that a problem existed with ward officers not making call backs. Superintendent Knight advised that the police wanted to develop a localised ability to make call backs. A consistent approach was required. The local Safer Neighbourhood Team would retain their numbers, and the 101 service would remain. Online reporting could be used for ASB, and this information would be fed back to Neighbourhood Officers.

A Member queried if Neighbourhood Officers were informed of issues that were raised via the 101 service. Mr Boothe commented that there was a need

for more joined up and integrated communications. It was hoped that the P&P Team would help to improve this area of operations.

The Chairman asked Mr Boothe if he would be able to attend future meetings. Mr Boothe responded that all meetings were currently under review to see who would be the best person to attend specific meetings. In terms of the PP&E PDS meeting, the police would be seeking a clear understanding of what the Committee required from police representatives. Generally speaking, the main police contact from a partnership perspective would be Superintendent Craig Knight. It may be the case that if in future the Committee was seeking an update on a strand other than Neighbourhood Management, then an alternate Superintendent may be assigned to attend.

The Chairman thanked Commander Boothe for attending the meeting and for answering questions from the Committee.

Superintendent Craig Knight continued with the police update after Mr Boothe had left. He informed the Committee that his background was in Neighbourhood Policing and that he felt that the new BCU structure would be a better operating model.

Mr Knight briefed the Committee with the following data which was all based on the rolling 12 months:

- ASB offences had risen by 34
- Burglary had risen by 4.9% which equated to 118 offences.
- Robbery had reduced by 11%
- Vehicle crime had risen by 1.7% which equated to 12 offences
- Knife Crime and Serious Violence offences had reduced by 4%

The rise in burglary offences was partly due to the criminal activities of organised crime gangs, but a number of arrests had now been made.

Mr Knight attributed the reduction of knife crime and serious violence to an increased use of stop and search for which he applauded officers. The number of offences relating to being in possession of a knife had increased, but this was because perpetrators were being caught due to the stop and search policy. The Superintendent explained how the use of a Section 60 order with respect to stop and search worked and also briefed the Committee about the use of 'dispersal orders'.

The percentage of I calls responded to within the target time was 84%, which was one or two percent below the MET average. The probable cause of this was the size of the borough. In the rolling 12 months, Bromley police had received 10,860 I calls, which equated to 905 per month. During the rolling 12 month period, 14,828 S calls had been logged. The response time for these calls indicated that 81% of calls had been answered within the target response time of 80%.

A co-opted member stated that she was aware of work that was ongoing to develop a stop and search policy group. Mr Knight appraised the Committee that similarly the police were working in consultation with a community group to refine stop and search policy. There was a possibility that in the future the community group would be allowed to observe stop and search operations.

The Committee received an update on the injunction that had been obtained against the Travellers subsequent to a recent incursion. The Court would decide whether or not the injunction could be extended as it was originally limited to three months. LBB and the police had been consulting on how to respond if the injunction was breached. The injunction did not apply to private land.

A Member enquired about an accident and subsequent fatality that had occurred recently in Bromley North. Mr Knight was unable to comment on this incident as it was being investigated.

A Member was concerned that Travellers were committing offences but not being arrested. Mr Knight assured that where evidence was forthcoming, Travellers would be arrested just the same as anyone else. In fact there had been some arrests in the previous three months. The Member asked if a report could be brought back to the Committee which detailed the arrests that had been made. It was the case that in many instances, individuals may report crimes, but would not wish to appear in court to provide evidence.

The Chairman requested that information be provided to the Committee before future meetings, so that Members had time to look at the information before the meeting. Mr Knight responded that this was not a problem, but it would help if the Chairman could clarify what information was required.

The Chairman thanked Superintendent Knight for updating the Committee, and for responding to questions.

**RESOLVED that the police update is noted.**

## **21 PORTFOLIO HOLDER UPDATE**

The Portfolio Holder (Councillor Kate Lymer) updated the Committee as follows:

LBB had witnessed an intense period of multiple traveller incursions over the summer period.

She had spent many days during the summer period, dealing with emails and also fielding messages via Twitter. She had issued daily press releases and had provided information to the Daily Mail on more than one occasion. She praised the joint work that had been undertaken by the police and LBB in dealing with the Traveller incursion.

During this time, a three month court injunction had been obtained against the Travellers. Residents seemed to be satisfied with the joint response that had been generated by LBB and the police. The Chairman had drafted a letter to be sent to all of the Friends Groups thanking them for their assistance in the clear up after the Travellers had left. The letter also provided an update concerning the injunction and offering practical advice going forward.

The web link concerning this on the Bromley Council Website is:

[https://www.bromley.gov.uk/press/article/1419/borough\\_wide\\_illegal\\_encampment\\_injunction\\_successfully\\_granted](https://www.bromley.gov.uk/press/article/1419/borough_wide_illegal_encampment_injunction_successfully_granted)

The Portfolio Holder had met with Andrew Rogers (LBB Communications Executive) to plan the launch of the 'Hall of Shame' which had been agreed by the Executive. The 'Hall of Shame' would display details of individuals who had been convicted of offences such as fly tipping, blue badge fraud and doorstep scams. It was hoped that the 'Hall of Shame' would act as a deterrent.

A cold caller had been convicted and given a four year prison sentence for swindling a seventy year old man for non-existent loft and roof problems which he charged £17k for.

The Portfolio Holder stated that as Bromley's 'SCAMBassador' she had attended a joint Trading Standards and CAB stall in the Glades during the National Trading Standards Week in July.

The Portfolio Holder had visited Keston Police Dogs Centre to hand over some seized counterfeit clothing which could be used to train the dogs.

The Portfolio Holder would be visiting Barclays Bank in Chislehurst to present them with a certificate and a thank you letter. This was because of an excellent piece of work that had been undertaken between the bank, LBB and Greenwich Trading Standards which had resulted in the safeguarding of vulnerable residents.

Emergency Planning had been very busy over the summer, dealing with water shortages, cars driving into houses, and multiple fires to both buildings and grasslands. This led to LBB issuing a press release banning all barbeques in the parks during the summer period.

In August, the Portfolio Holder met the inspectors who would be judging whether the Purple Flag award could be renewed in Beckenham. The response was awaited but the inspection seemed to go very well and the Portfolio Holder was confident that the Purple Flag award would be renewed. (It was confirmed at the meeting that Beckenham had retained its Purple Flag status).

Agreement was needed with MOPAC in connection with LBB's two Local Crime Priorities. ASB and high harm crimes (domestic abuse, sexual abuse,

child sexual abuse, weapons and hate crime) were pan London priorities for all boroughs. LBB submitted burglary and non-domestic violence (town centre night economy violence)) as Bromley's two main priorities for the police for the coming year.

The Portfolio Holder attended an APPG (All Party Parliamentary Group) London round table meeting at Portcullis House in June, which focussed on Serious Youth Crime. She brought up the issue of gang nominals being moved into Bromley without any notification being provided by other boroughs. It was agreed that this was something that would be looked at, and would be dealt with by the Deputy Chief Executive.

A Member stressed the importance of ward officer offices/buildings remaining open. He asked if pressure could be maintained to this end. The Chairman suggested that Councillors should assist the police in identifying suitable buildings that could be used as police ward offices.

A murder had been committed during the end of August in Bickley. The chief suspect was in custody and was the victim's son. The police were of the opinion that the Domestic Homicide Review (DHR) threshold had been met. The Portfolio Holder had to decide whether to have a DHR or not. She would have to write to the Home Office and inform them of whether or not LBB would be conducting a DHR. If LBB decided to progress with a DHR they would be responsible for managing it and for appointing an independent chairman. The cost of this would be in the region of £10k. The decision had been made to progress with the DHR, and the Head of Trading Standards and Community Safety would write to the Home Office and inform them of the decision.

The Portfolio Holder reminded everyone that the Crime Summit would be held on the 29<sup>th</sup> September. The 'Bromley Stars' awards event was also held in the summer. She congratulated the Bromley Mentoring Initiative which won the award for 'Voluntary Team of the Year'. She also congratulated the Trading Standards Team who won 'Team of the Year' award once again.

**RESOLVED that the Portfolio Holder update is noted.**

## **HOLDING THE PORTFOLIO HOLDER TO ACCOUNT**

### **22 QUESTIONS TO THE PORTFOLIO HOLDER FROM MEMBERS OF THE PUBLIC AND COUNCILLORS**

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

#### **a CAPITAL PROGRAMME MONITORING - 1ST QUARTER 2018/19**

**FSD 18074**

The Committee was presented with the Capital Programme Monitoring Report. This was with respect to the first quarter period of 2018/2019.

On 11th July 2018, the Executive had received a report summarising the current position on capital expenditure and receipts following the first quarter of 2018/19 and agreed a revised Capital Programme for the four year period 2018/19 to 2021/22. The report highlighted the changes agreed by the Executive in respect of the Capital Programme for the Public Protection and Enforcement Portfolio.

**RESOLVED that the Portfolio Holder notes the report and confirms the changes that had been agreed by the Executive on 11<sup>th</sup> July 2018.**

**23 PRE-DECISION SCRUTINY OF REPORTS TO THE EXECUTIVE**

**a PLANNED ENFORCEMENT OF LEGISLATION WHICH REGULATES THE LETTING AGENTS AND PROPERTY MANAGEMENT SECTOR**

**ES18068**

The report was presented to the Committee for initial scrutiny and would subsequently be presented to the Executive to seek approval to use the planned enforcement of legislation which regulated the letting agent and property management sector in the Borough.

The report explained that all letting agents and property management operators in England were now required to be a member of a government approved redress scheme.

The Head of Trading Standards and Community Safety informed the Committee that this was a new area of enforcement for LBB. It was planned to create a temporary post for up to three months so that the level of compliance could be established. Non-compliance would be followed with enforcement action which could include the use of penalty charge notices. The scheme would be funded from the £48,125 which was now available from the Asset Recovery Incentivisation Scheme.

A Member referred to section 6.3 of the report which stated:

*At this stage it is not known how many, if any, non-compliant letting agents there are in the borough, and therefore any potential income that may be generated from issuing the FPNs cannot be quantified.*

She asked why LBB should spend money in this area if it could not be quantified how much money LBB may recover via enforcement. The Head of

Trading Standards and Community Safety responded by revealing data that had been gathered from a recent London Trading Standards Survey. The survey revealed that 53% of businesses had failed to comply with the requirement for displaying fees, charges and penalties; 37% were not registered with a deposit holding scheme.

Mr Vale expressed the view that the planned enforcement of the legislation would be a good investment and would also have the additional positive effect of benefiting vulnerable people. It was also the case that the enforcement of the legislation was gathering momentum across the capital.

A Member referred to section 3.1 of the report which explained that letting agents and property management operators in England were required to join a redress scheme. He asked if they had to pay a fee to join the scheme. Mr Vale said that he would look into this and come back with an answer.

The Chairman commented that the enforcement of legislation which regulates the letting agents and property management sector may need to be an enforcement item that will be required to be added to the Portfolio Plan.

**RESOLVED that the report is noted and that the Committee's views are fed back to the Executive via the Portfolio Holder.**

## **24 REGULATON OF INVESTIGATORY POWERS ACT AUTHORISATIONS REPORT**

### **ES18071**

The report on the Regulation of Investigatory Powers Act Authorisations was presented to the Committee by the Head of Trading Standards and Community Safety.

The report was written to ensure the Committee was kept up to date on RIPA applications being undertaken on behalf of the Council. It was a requirement that the Council regularly reviewed and updated their RIPA policy and processes in line with Home Office Codes of Practice, legislation and guidance.

The Committee was being asked to note the report.

Mr Vale explained that there was a statutory duty to provide regular updates with respect to RIPA, so that it could be seen that the Council were using their investigative powers correctly. It was noted that the primary objective of RIPA was to ensure that covert investigations protected the rights of individuals, and also protected Council officers from legal challenge.

The Committee heard that before RIPA could be used, a serious crime threshold would need to be applied. This would align to offenses that would carry a maximum prison sentence of six months or more, or that related to underage sales of tobacco or alcohol. Enforcement powers had to be used in

accordance with Article 8 of the Human Rights Act 1998 and the Protection of Freedoms Act 2012.

The Committee was informed that a new code of practice had been issued by the Home Office on 15<sup>th</sup> August 2018. The Council's policy was under review so that it could be aligned with Home Office guidance, and a report on this would come back to the Committee next year.

A Member asked for a definition of fly-tipping. The Assistant Director for Public Protection and Enforcement clarified that this would equate to approximately 3-4 large black bags of rubbish.

**RESOLVED that the report be noted and that an update report relating to RIPA policy be brought back to the Committee in 2019.**

## **25 ENFORCEMENT ACTIVITY--FUTURE SCRUTINY**

### **ES 18069**

The Enforcement Activity (Future Scrutiny) report was presented by the Assistant Director for Public Protection and Enforcement.

The report identified the different Enforcement areas which were now the responsibility of the Public Protection and Enforcement Portfolio, and highlighted the strategic key performance indicators that pertained to enforcement within the areas of Public Protection, Planning Enforcement, Neighbourhood Management (Street Enforcement) and Parking Enforcement.

The Chairman expressed his gratitude for the report and said that the report had been well received.

Post Grenfell it had been decided that a new performance indicator should be added relating to fire safety. The Vice Chairman stated that he was happy to accept the initial performance indicators, but that in the future the various indicators may be subject to challenge.

**RESOLVED that the report is noted, and that future reports will be produced for each enforcement area in line with the proposed work plan.**

## **26 FLY TIPPING ACTION INITIATIVE REPORT**

### **ES18069**

The Committee was presented with the Fly Tipping Action Initiative report that had been drafted by the Assistant Director for Environment and Neighbourhood Management.

Members heard that the action plan was being developed and that an update report would follow in about six months.

A Member was pleased to see that target hardening was being looked at. She commented that materials used needed to be unbreakable. The Vice Chairman stated that 'hard targets' had in the past been cut down by angle grinders.

A Member was pleased to hear that Environmental Enforcement Campaigns were being used, alongside multi-agency stop and search operations. She suggested that consideration could be given to attaching conditions to planning applications stipulating that waste carriers with licenses should be used for the disposal of waste. The Executive Director for Environmental and Community Services stated that he would take the suggestion to the Chief Planner for consideration.

A Member raised the issue of public waste bins outside of shops and schools that were being used by the public for general household waste. It was noted that if the use of signage and patrols failed in this regard, then it may be the case that the bins would need to be removed.

A co-opted member stated that there was a particular difficulty for certain groups of people that lived in flats where there were no bins available; sometimes this problem was compounded by language problems. The Chairman asked to be informed of where these locations were.

A Member asked how they could know if an area that they were concerned about, was on the fly tipping hotspot list. It was suggested that the Assistant Director for Environment and Neighbourhood Management be asked to run a new report that would identify the hotspot locations.

The Director for Environment reported on the successful seizure of a vehicle that had been used by Travellers for fly tipping. If the vehicle was claimed, then it was likely that there would be prosecution for fly tipping; if the vehicle was unclaimed then it would be crushed.

The Chairman thanked Dan Jones (Director for Environment) for his service to the Council.

**RESOLVED that the report is noted and that the Committee receive a six monthly update report on the progress of the action plan.**

## **27 RISK REGISTER EXEMPTION ORAL UPDATE**

There was a verbal update given on the Risk Register from the Head of Performance Management and Business Support (Sarah Foster).

Ms Foster referred to the risks that had been highlighted by the Food Standards Agency (FSA) regarding food safety. The FSA had accepted the difficulties that LBB was facing with respect to the recruitment of food safety

officers, and had therefore agreed to a modification in the work plan which had now been finalised.

It was noted that there was a national shortage of food safety officers. This was a matter that the Assistant Director for Public Protection would be raising with the Corporate Leadership Team.

An update with respect to the Mortuary Contract was provided in the Part two section of the meeting.

## **28 PUBLIC PROTECTION AND ENFORCEMENT CONTRACTS REGISTER REPORT AND DATABASE EXTRACT--PART 1**

### **ES18066**

The Part 1 Contract Register report drafted by the Head of Performance and Business Support was presented to the Committee.

The report showed an extract from September 2018's Contracts Register for detailed scrutiny by the PDS Committee. The report was based on information covering all Portfolios, which was produced on 24<sup>th</sup> August 2018 and presented to Contracts Sub-Committee on 19 September 2018.

Members noted and commented on the report.

### **RESOLVED that:**

**1) The Contract Register report and the appended £50k Contracts Register is noted**

**2) The Committee notes that the Contracts Register in Part 2 contained additional, potentially commercially sensitive material in its commentary.**

## **29 WORK PROGRAMME**

### **CSD18130**

Members noted the Work Programme report.

An updated copy of the work programme was tabled at the meeting.

**RESOLVED that the Work Programme report is noted.**

## **30 DATE OF THE NEXT MEETING**

The date of the next meeting was confirmed as 4<sup>th</sup> December 2018.

The meeting would take place as usual at Bromley Civic Centre at 7.00pm.

The Chairman thanked Cameron Ward from Bromley Youth Council for his contribution to the meeting, and for staying to the end.

**31 LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION)(VARIATION) ORDER 2006, AND THE FREEDOM OF INFORMATION ACT 2000**

**32 CONTRACTS REGISTER DATABASE EXTRACT--PART 2**

Members discussed the Mortuary Contract under the Part 2 section of the meeting as this was deemed to be commercially sensitive.

**33 PPE/PDS ENFORCEMENT ACTIVITY PERFORMANCE INDICATORS**

Members noted and commented on the PP&E PDS Enforcement Indicators for 2018/2019.

The Meeting ended at 10.00 pm

Chairman

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Report No.  
CSD18177

London Borough of Bromley

PART ONE - PUBLIC

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**Decision Maker:** Public Protection and Enforcement PDS Committee

**Date:** 4th December 2018

**Decision Type:** Non Urgent Non Executive Non Key

**Title:** MATTERS ARISING

**Contact Officer:** Steve Wood, Democratic Services Officer  
Tel: 020 8313 4316 E-mail: [stephen.wood@bromley.gov.uk](mailto:stephen.wood@bromley.gov.uk)

**Chief Officer:** Mark Bowen, Director of Corporate Services

**Ward:** N/A

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1. Reason for report

1.1 **Appendix A** updates Members on matters arising from previous meetings.

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## 2. RECOMMENDATION

2.1 The Committee is asked to review progress on matters arising from previous meetings.

|   |  |
|---|--|
| <b>Non-Applicable Sections:</b>                       | Policy/Financial/Legal/Personnel   |
| Background Documents:<br>(Access via Contact Officer) | Previous Matters Arising reports and Minutes of meetings.<br>Previous Agenda Document. |

## Corporate Policy

1. Policy Status: Existing Policy
  2. BBB Priority: Safe Bromley
- 

## Financial

1. Cost of proposal: No Cost
  2. Ongoing costs: Not Applicable
  3. Budget head/performance centre: Democratic Services
  4. Total current budget for this head: £350,650
  5. Source of funding: 2018/19 revenue budget
- 

## Staff

1. Number of staff (current and additional): 8 posts (6.87fte)
  2. If from existing staff resources, number of staff hours: Completion of "Matters Arising" Reports for PP&S PDS meetings can take up to a few hours per meeting.
- 

## Legal

1. Legal Requirement: None
  2. Call-in: Not Applicable
- 

## Customer Impact

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

## Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: N/A

| <u>Minute Number/Title</u>                                    | <u>Matters Arising</u>   | <u>Update</u>  |
|---|--|--|
| <b>Minute 20</b><br><b>27/09/2018</b><br><b>Police Update</b> | <p>A Member expressed concern about the transport arrangements for ward officers. She wanted to see a more effective way of officers getting to their areas of operation. A Member expressed the view that Neighbourhood Teams should ideally be located in their own ward. Mr Boothe explained that efforts were being made to work collaboratively with other blue light partners in terms of co-location. Barriers to this were funding and security arrangements. The police had also been exploring the idea of using sponsored vehicles. A Member asked if an update concerning these matters could be provided at the next meeting.</p> | <p>An update has been requested from Superintendent Knight.</p>  |
| <b>Minute 20</b><br><b>27/09/2018</b><br><b>Police Update</b> | <p>A Member queried if police office buildings in Bromley were going to be retained. This was because it was mentioned at the previous meeting, that as a result of a judicial review, the move to close police office buildings in the borough had been stopped. The Committee was informed that this matter was ongoing as the judicial review had been appealed.</p>  | <p>An update has been requested from Superintendent Knight.</p>  |
| <b>Minute 20</b><br><b>27/09/2018</b><br><b>Police Update</b> | <p>Mention was made of the Knife and Serious Violence Action Plan. The Action Plan was being developed by the Safer Bromley Partnership. It was noted that boroughs would develop individual action plans. It was important to identify the benefits that could be provided by third sector organisations. The Chairman requested that when it was completed, the Action Plan should be presented to the PDS Committee.</p>  | <p>The Knife and Serious Violence Action Plan will be presented to the Committee when it is completed.</p> <p>Ongoing.</p>       |
| <b>Minute 20</b><br><b>27/09/2018</b><br><b>Police Update</b> | <p>A Member was concerned that Travellers were committing offences but not being arrested. Mr Knight assured that where evidence was forthcoming, Travellers would be arrested just the same as anyone else. In fact there had been some arrests in the previous three months. The Member asked if a report could be brought back to the Committee which detailed the arrests that had been made. It was the case that in many instances, individuals may report crimes, but would not wish to appear in court to provide evidence</p>   | <p>The request for a report/written update regarding the arrest of Travellers has been requested from Superintendent Knight.</p> |

|  |   |   |
|--|---|---|
| <p><b>Minute 21</b><br/><b>27/09/2018</b><br/><b>Portfolio Holder Update</b></p>   | <p>The Portfolio Holder attended an APPG (All Party Parliamentary Group) London round table meeting at Portcullis House in June, which focussed on Serious Youth Crime. She brought up the issue of gang nominals being moved into Bromley without any notification being provided by other boroughs. It was agreed that this was something that would be looked at, and would be dealt with by the Deputy Chief Executive.</p>   | <p>The matter has been referred to the Executive Director for Environment and Community Services as the Lead for Community Safety.</p> <p>The Executive Director will provide an update in due course.</p>  |
| <p><b>Minute 23</b><br/><b>27/09/2018</b><br/><b>Enforcement of Legislation relating to the Letting Agents and Property Management Sector.</b></p> | <p>A Member referred to section 3.1 of the report which explained that letting agents and property management operators in England were required to join a redress scheme. He asked if they had to pay a fee to join the scheme. Mr Vale said that he would look into this and come back with an answer.</p>  | <p>The Head of Trading Standards and Community Safety will provide an update at the meeting.</p>  |
| <p><b>Minute 26</b><br/><b>27/09/2018</b><br/><b>Fly Tipping Action Initiative Report</b></p>  | <p>A Member was pleased to hear that Environmental Enforcement Campaigns were being used, alongside multi-agency stop and search operations. She suggested that consideration could be given to attaching conditions to planning applications stipulating that waste carriers with licenses should be used for the disposal of waste. The Executive Director for Environmental and Community Services stated that he would take the suggestion to the Chief Planner for consideration</p> | <p>The planning and pollution control systems are separate but complementary systems of control and regulation designed to protect the environment from harm as a result of development and related operations. Planning control focuses primarily on whether the development itself is an acceptable use of the land, rather than on the control of the processes or substances involved-- and considers the application of conditions to enhance the quality of a development, and to enable development proposals to proceed where they may have been refused by mitigating the adverse effects of the development. Policy requires that conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects-- and warns against applying broad or unnecessary controls. The pollution control regime is concerned with the control and regulation of</p> |

|  |  |   |
|--|--|---|
|  |  | <p>proposed operations and processes and with their day to day operation. The objective is to ensure that the waste is disposed of or treated without endangering human health or causing harm to the environment. Government policy considers that planning control should not duplicate other statutory controls or be used to achieve objectives relating to other legislation, and Local Planning Authorities must make their decisions on the basis that the pollution control regimes will be properly applied and enforced. As such, the relevant expertise and statutory responsibility for pollution control rests with the relevant pollution control authorities, and so a broad condition stipulating that carriers be licensed would not be in line with policy.</p> |
|--|--|---|

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**PP&E PERFORMANCE MONITORING (2018/19)**

| Outcome  | No. | INDICATOR<br>(National / Local) | DESCRIPTION  | PP & E PORTFOLIO<br>PLAN AIM | 2014-15<br>ACTUAL | 2015-16<br>ACTUAL   | 2016-17<br>TARGET | 2016-17<br>ACTUAL | 2017-18<br>TARGET | 2017/18<br>ACTUAL | Q1          | Q2          | Year End<br>Projection | GOOD<br>PERFORMANCE | 2018-19 TARGET  | 2018-19 RAG<br>STATUS | COMMENTARY (BY EXCEPTION)   |
|--|-----|---------------------------------|--|------------------------------|-------------------|---|-------------------|-------------------|-------------------|-------------------|-------------|-------------|------------------------|---------------------|---|-----------------------|---|
| 1: We will keep Bromley safe                   | 1   | 1A                              | Number of Community Impact Days  | Aim 1.1                      | 12                | 12  | 12                | 12                | 12                | 12                | 3           | 1           | 12                     | HIGH                | 12  | GREEN                 | The remaining 8 events will be delivered during Q3 and Q4.  |
|  | 2   | 1B                              | Number of mentoring relationships forged   | Aim 1.2                      | 154               | 146   | 100               | 145               | 125               | 165               | Annual Data | Annual Data | 125                    | HIGH                | 125   | GREEN                 | The target in the published PP&E Portfolio Plan has been updated from 100 to 125 to align to the MOPAC target. Performance is exceeding expectations. It should be noted that in 2017/18, £58k of MOPAC funding was awarded, however, for 2018/19, this has been reduced to £46k (though the MOPAC expectation is that outcomes will still be delivered). During Q2, evaluation was undertaken with 65 young people. 91% said that they felt their confidence/self-esteem has improved, 94% reported an improvement in their health/wellbeing, 95% reported an improvement in their attitude to learning, 90% reported an improvement in their behaviour and 95% reported an improvement in relationships with their family and members of their community. |
| 2: We will protect consumers                   | 3   | 2A                              | Number of awareness raising events & training to groups & partners                                     | Aim 2.1                      | 45                | 80  | N/A               | 115               | 70                | 129               | 18          | 17          | 70                     | HIGH                | 70  | GREEN                 |   |
|  | 4   | 2B                              | % of Level 1 calls responded to within 2 hours   | Aim 2.2                      | N/A               | N/A   | N/A               | N/A               | N/A               | New KPI for 18/19 | 100% (13)   | 100% (3)    | 100% (32)              | OUTCOME             | The level of calls is outcome based. The target is to respond to 100% of level 1 calls within 2 hours   | OUTCOME               |   |
|  | 5   | 2C                              | Number of test purchase operations to detect the sale of age-restricted products                       | Aim 2.3                      | 156               | 129   | N/A               | 113               | 100               | 175               | 32          | 21          | 100                    | HIGH                | 100   | GREEN                 |   |
| 3: We will support and regulate businesses     | 6   | 3A                              | Number & % of inspections of high-risk business undertaken (Risk A and B food premises)                | Aim 3.1                      | N/A               | 100   | 100               | 100% (A) 96% (B)  | 100% (A) 97% (B)  | 100% (A) 97% (B)  | Annual      | Annual      | Annual                 | HIGH                | 100% (A) 97% (B)  | GREEN                 |   |
|  | 7   | 3B                              | Number of overdue Food Hygiene inspections completed   | Aim 3.2                      | N/A               | N/A   | N/A               | N/A               | N/A               | New KPI for 18/19 | 135         | 226         | 722                    | HIGH                | 648   | GREEN                 | The Food Team have deployed a pay per inspection (PPI) regime for a limited period which enabled the backlog to be dealt with quickly.  |
|  | 8   | 3C                              | Number of overdue Food Standards inspections completed   | Aim 3.2                      | N/A               | N/A   | N/A               | N/A               | N/A               | New KPI for 18/19 | 103         | 247         | 700                    | HIGH                | 129   | GREEN                 | The Food Team will utilise the PPI regime. Resources have been reallocated, leading to an improvement in performance in this area.  |
|  | 9   | 3D                              | Number of unrated premises inspected   | Aim 3.2                      | N/A               | N/A   | N/A               | N/A               | N/A               | New KPI for 18/19 | 63          | 70          | 266                    | HIGH                | 327*  | AMBER                 | The FSA met with the team and advised them to shift the focus away from unrated premises. The target has therefore been adjusted from 427 down to 327. However the team will still tackle this and have made progress.  |
|  | 10  | 3E                              | Number of significant complaints and accident reports/notifications investigated                       | Aim 3.3                      | 135               | 112 complaints investigated<br>29 accidents selected for investigation out of 119 reports | N/A               | 387               | 250 complaints    | 300 complaints    | Annual      | Annual      | Annual                 | OUTCOME             | This Performance Indicator is outcome based, as the number of complaints and accident reports is outside our control. The service aims to investigate all complaints, accidents and notifications received. | OUTCOME               |   |
| 4: We will protect and improve the environment | 11  | 4A                              | Number of packages of evidence supplied  | Aim 4.1                      | N/A               | 660   | 700               | 717               | 700               | 115*              | Annual      | Annual      | Annual                 | HIGH                | 650   | GREEN                 | *a software update enabled multiple packages to be spliced and provided on a single disk.   |
|  | 12  | 4B                              | Number of reports produced on contaminated land  | Aim 4.2                      | 20                | 26  | 25                | N/A               | 32                | 32                | Annual      | Annual      | Annual                 | OUTCOME             | This is outcome based and number of reports will be linked to the number of requests, which cannot be predicted.  | OUTCOME               |   |
|  | 13  | 4C                              | Number of notices served (nuisance and pollution)  | Aim 4.3                      | N/A               | N/A   | N/A               | N/A               | N/A               | New KPI for 18/19 | 42          | 27          | 138                    | OUTCOME             | This is outcome based and number of notices served will be linked to the number of requests, which cannot be predicted.   | OUTCOME               |   |
|  | 14  | 4D                              | Number of HMO licences issued in time  | Aim 4.5                      | N/A               | N/A   | N/A               | N/A               | N/A               | New KPI for 18/19 | 7           | 7           | 28                     | OUTCOME             | This Performance Indicator is outcome based, as the number of licences issued is outside our control. The service aims to issue all licences within the statutory timeframes.                               | OUTCOME               |   |
|  | 15  | 4E (NI 196i)                    | Number of Fly-tipping enforcement actions  | Aim 4.6                      | 375               | 330   | 325               | 328               | 325               | 258               | 55          | 50          | 210                    | HIGH                | 300   | AMBER                 | Further review of Enforcement Service procedures will assist in contributing to delivering this objective. A Fly-Tipping and Enforcement Working Group has met three times this year and is delivering against the Fly-Tipping Action Plan. This will include issuing additional enforcement warning letters.   |
|  | 16  | 4F (NI 196ii)                   | Number of Fly-tipping incidents  | Aim 4.6                      | 3373              | 3343  | 3250              | 3246              | 3250              | 3067              | 890         | 761         | 3302                   | LOW                 | 3000  | AMBER                 | Q2 has seen a reduction in fly-tipping incidents. A further reduction is expected in Q3 with programmed enforcement activity (i.e. vehicle stop and search) contributing to further reductions.   |
|  | 17  | 4G (ES8)                        | Number of appeals heard by Environment and Traffic Adjudicators (ETA) against PCNs issued by LBB (ES8) | Aim 4.7                      | 459               | 331   | N/A               | 274               | 300               | 213               | 53          | 44          | 194                    | LOW                 | 300   | GREEN                 |   |
|  | 18  | 4H (ES9)                        | ETA cases won by LBB (ES9) (% of cases heard)  | Aim 4.7                      | 74                | 75.0%   | N/A               | 81.0%             | 80.0%             | 80.0%             | 79.0%       | 88.0%       | 84%                    | HIGH                | 80%   | GREEN                 |   |
|  | 19  | 4I                              | Number of cases determined where a breach of planning control may have occurred                        | Aim 4.7                      | N/A               | N/A   | N/A               | N/A               | N/A               | New KPI for 18/19 | Annual      | Annual      | Annual                 | OUTCOME             | 750   | OUTCOME               |   |

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Report No.  
FSD18089

London Borough of Bromley

PART ONE - PUBLIC

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**Decision Maker:** Public Protection and Enforcement Portfolio Holder

**For Pre-decision scrutiny by the Public Protection & Enforcement PDS Committee on**

**Date:** 4<sup>th</sup> December 2018

**Decision Type:** Non-Urgent Non-Key

**Title:** BUDGET MONITORING 2018/19

**Contact Officer:** Claire Martin, Head of Finance  
Tel: 020 8313 4286 E-mail: [claire.martin@bromley.gov.uk](mailto:claire.martin@bromley.gov.uk)

**Chief Officer:** Nigel Davies, Executive Director of Environmental and Community Services

**Ward:** Boroughwide

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1. Reason for report

This report provides an update of the latest budget monitoring position for 2018/19 for the Public Protection and Enforcement Portfolio based on expenditure and activity levels up to 30 September 2018. This shows an under spend of £118k.

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2. **RECOMMENDATION(S)**

2.1 The Portfolio Holder is requested to:

2.1.1 Endorse the latest 2018/19 budget projection for the Public Protection and Enforcement Portfolio.

### Impact on Vulnerable Adults and Children

1. Summary of Impact: None directly from this report.
- 

### Corporate Policy

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

### Financial

1. Cost of proposal: Not Applicable
  2. Ongoing costs: Recurring Cost
  3. Budget head/performance centre: Public Protection & Enforcement Portfolio Budget
  4. Total current budget for this head: £2.917m
  5. Source of funding: Existing revenue budgets 2018/19
- 

### Staff

1. Number of staff (current and additional): 51 ftes
  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: Applicable
- 

### Procurement

1. Summary of Procurement Implications: None directly from this report.
- 

### 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? Not Applicable
2. Summary of Ward Councillors comments:

### **3. COMMENTARY**

- 3.1 The 2018/19 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. IMPACT ON VULNERABLE ADULTS AND CHILDREN**

- 4.1 The 2018/19 budget reflects the financial impact of the Council’s strategies and service plans which impact on all of the Council’s customers and users of our services.

### **5. POLICY IMPLICATIONS**

- 5.1 The “Building a Better Bromley” objective of being an Excellent Council refers to the Council’s intention to provide efficient services and to have a financial strategy that focuses on stewardship and sustainability. Delivering Value for Money is one of the Corporate Operating Principles supporting Building a Better Bromley.
- 5.2 The “2018/19 Council Tax” report highlighted the financial pressures facing the Council. It remains imperative that strict budgetary control continues to be exercised in 2018/19 to minimise the risk of compounding financial pressures in future years.
- 5.3 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.

### **6. FINANCIAL IMPLICATIONS**

- 6.1 The latest projections from managers show that there is a projected under spend of £118k expected for the Public Protection and Enforcement Portfolio for 2018/19 based on financial information available to 30 September 2018. Within this variation there are variations which are detailed in Appendix 1 and summarised below:
- 6.2 Due to delays in recruiting two of the additional temporary posts and a number of part year vacancies, there is an under spend of £164k across the division. £89k of this will need to be carried forward to 2019/20 and 2020/21 to meet the costs of the temporary posts for the remaining agreed period.
- 6.3 Due to a number of large inquests being undertaken, the cost of the Coroners service is expected to overspend by at least £84k. This will be partly offset by the release of a balance of a provision which is no longer required of £55k.

6.4 Officers are currently negotiating a new Mortuary contract and it is expected that the contract price will be more expensive than the current price. At this stage it is expected that there will be additional costs of £25k for 2018/19.

6.5 Other net variations total Cr £8k.

6.6 The table below summarises the main variances: -

| <b>Summary of Major Variations</b>                        | <b>£'000</b> | <b>£'000</b>       |
|---|--------------|--------------------|
| Underspend on temporary staffing (c/f request)            | -89          |                    |
| Part year vacancies                                       | <u>-75</u>   |                    |
| Total underspend on staffing                              |              | <b>-164</b>        |
| Overspend on Coroners service from several large inquests |              | 84                 |
| Release of balance of a provision no longer required      |              | <b>-55</b>         |
| Estimated additional costs of new Mortuary contract       |              | 25                 |
| Other minor variations                                    |              | <u><b>-8</b></u>   |
|   |              | <u><b>-118</b></u> |

|   |   |
|---|---|
| <b>Non-Applicable Sections:</b>                       | Legal, Procurement and Personnel Implications                 |
| Background Documents:<br>(Access via Contact Officer) | 2018/19 budget monitoring files within ECS<br>finance section |

## Public Protection &amp; Enforcement Budget Monitoring Summary

| 2017/18<br>Actuals<br>£'000 | Service Areas                         | 2018/19<br>Original<br>Budget<br>£'000 | 2018/19<br>Latest<br>Approved<br>£'000 | 2018/19<br>Projected<br>Outturn<br>£'000 | Variation<br>£'000 | Notes | Variation<br>Last<br>Reported<br>£'000 | Full Year<br>Effect<br>£'000 |
|-----------------------------|---------------------------------------|--|--|--|--------------------|-------|--|------------------------------|
| 138                         | Public Protection<br>Community Safety | 151                                    | 151                                    | 139                                      | Cr 12              | 1     | 0                                      | 0                            |
| 96                          | Emergency Planning                    | 115                                    | 120                                    | 104                                      | Cr 16              | 2     | 0                                      | 0                            |
| 447                         | Mortuary & Coroners Service           | 485                                    | 485                                    | 539                                      | 54                 | 3     | 0                                      | 0                            |
| 1,265                       | Public Protection                     | 1,673                                  | 1,722                                  | 1,578                                    | Cr 144             | 4     | Cr 85                                  | 0                            |
| <b>1,946</b>                | <b>TOTAL CONTROLLABLE</b>             | <b>2,424</b>                           | <b>2,478</b>                           | <b>2,360</b>                             | <b>Cr 118</b>      |       | <b>Cr 85</b>                           | <b>0</b>                     |
| 250                         | <b>TOTAL NON CONTROLLABLE</b>         | 11                                     | 11                                     | 11                                       | 0                  |       | 0                                      | 0                            |
| 391                         | <b>TOTAL EXCLUDED RECHARGES</b>       | 428                                    | 428                                    | 428                                      | 0                  |       | 0                                      | 0                            |
| <b>2,587</b>                | <b>PORTFOLIO TOTAL</b>                | <b>2,863</b>                           | <b>2,917</b>                           | <b>2,799</b>                             | <b>Cr 118</b>      |       | <b>Cr 85</b>                           | <b>0</b>                     |

## Reconciliation of Latest Approved Budget

£'000

## Original Budget 2018/19

2,863

## Carry Forward Requests approved from 2017/18

|   |    |    |
|---|----|----|
| Asset Recovery Incentivisation Scheme - Income      | Cr | 48 |
| Asset Recovery Incentivisation Scheme - Expenditure |    | 48 |
| Additional ECS resources - delay in recruitment     |    | 67 |

## Other

|  |    |    |
|--|----|----|
| Transfer of Health & Safety post to HR | Cr | 13 |
|--|----|----|

## Latest Approved Budget for 2018/19

2,917

**REASONS FOR VARIATIONS****1. Community Safety Cr £12k**

A minor underspend of £12k on staffing across the community safety budgets.

**2. Emergency Planning Cr £16k**

Within the Emergency Planning service, there is a £16k underspend on staffing due to part year vacancies.

**3. Mortuary and Coroners Service Dr £54k**

At the end of 2017/18 a provision was made for the outstanding quarter 4 payment for the Coroners service, based on information provided by LB Croydon who administer the Consortium service. The actual cost for quarter 4 was £104k, resulting in a balance of £55k of the provision which is no longer required.

Based on the latest information from Croydon, Officers anticipated an overspend of £84k due to number of large inquests. This includes the additional counsel and legal costs for the Butler case and other potential large cases that will be heard in 2018/19.

Officers are currently negotiating a new Mortuary contract and it is anticipated that there could be a potential overspend of £25k in 18/19 as result of the new contract price. Until the new contract has been agreed with the provider, the full year effect cost cannot be calculated.

| <b>Summary of variations within Mortuary and Coroners Service</b> | <b>£'000</b>     |
|---|------------------|
| Release of provision no longer required on Coroners               | Cr 55            |
| Estimated cost of large inquests                                  | 84               |
| Additional cost on Mortuary Contact                               | 25               |
| <b>Total variations</b>   | <b><u>54</u></b> |

**4. Public Protection Cr £144k**

On 21 May 2018, Members approved a carry forward request of £67k relating to additional resources for the temporary fixed term Food Safety officers and interim PP&E Assistant Director post. Delays with recruiting the final temporary food safety officer has resulted in a further underspend of £22k. In total, £89k will need to be carry forward to 2019/20 and 2020/21 to enable the temporary posts to be funded for the remaining agreed term.

There is a net underspend of £67k on staffing mainly due to part year vacancies which partly offsets the £20k additional cost for Food Safety 'Pay as you go' inspections.

Other minor variations have resulted in a small underspend of £8k.

| <b>Summary of variations within Public Protection</b>                       | <b>£'000</b>         |
|---|----------------------|
| Underspend on fixed term Food Safety officers and interim PP&E AD to be c/f | Cr 89                |
| Underspend on staffing  | Cr 67                |
| Food Safety Pay as you go inspections                                       | 20                   |
| Other minor variations  | Cr 8                 |
| <b>Total variations</b>   | <b><u>Cr 144</u></b> |

**EARLY WARNING**

£48k income and expenditure budget was carried forward from the 2017/18 Proceeds of Crime Act prosecution (Asset Recovery Incentivisation Scheme). £28k of this has been committed and it is likely that Officers will request that the remaining unspent balance of £20k be carried forward to 2019/20 as reported to the PPE PDS on 27 Sep 2018.

**Waiver of Financial Regulations:**

The Council's Contract Procedure Rules state that where the value of a contract exceeds £50k and is to be exempt from the normal requirement to obtain competitive quotations the Chief Officer has to obtain the agreement of the Director of Corporate Services, the Director of Finance and the Director of Commissioning and (where over £100,000) approval of the Portfolio Holder and report use of this exemption to Audit Sub committee bi-annually. Since the last report to the Executive, the following waivers have been actioned.

1) £45k for a 6 months extension on the Coroners Post Mortem & Mortuary Services contract, cumulative value £396k.

**Virements Approved to date under Director's Delegated Powers**

Details of virements actioned by Chief Officers under delegated authority under the Financial Regulations "Scheme of Virement" will be included in financial monitoring reports to the Portfolio Holder. Since the last report to Executive, no virement has been actioned.

Report No.  
ES18093.

## London Borough of Bromley

### PART ONE - PUBLIC

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**Decision Maker:** PUBLIC PROTECTION AND ENFORCEMENT PORTFOLIO HOLDER

For pre-decision scrutiny by the Public Protection and Enforcement PDS Committee on:

**Date:** Tuesday 4 December 2018

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

**Title:** FOOD SAFETY SERVICE PLAN 2018 -- 2019

**Contact Officer:** Joanne Stowell, Assistant Director: Public Protection  
Tel: 020 8313 4332 E-mail: Joanne.Stowell@bromley.gov.uk

**Chief Officer:** Executive Director of Environment & Community Services

**Ward:** (All Wards);

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#### 1. Reason for report

The Council is the Food Safety Authority under the Food Safety Act 1990 and has a duty to enforce food safety, food standards and feed requirements. The Food Standards Agency (FSA) requires the Council to publish an annual Food Safety Service Plan and that such plans have senior management or member approval.

This report sets out the Council's annual plan for effective enforcement of food safety legislation. The objective of the plan is to satisfy the FSA that the intended enforcement and inspection regime, ensures that food, in the Borough, is produced and sold under hygienic conditions, is without risk to health and is of the quality expected by consumers.

The plan has been developed to reflect progress made against the Action Plan submitted to the FSA September 2017 and to show the total resource available to the Council to deliver the service demands and review the outcomes of the service in the previous year.

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#### 2. RECOMMENDATION(S)

The Portfolio Holder is asked to:

2.1 Approve the Service Plan for the Food Safety Team.

- 2.2 Note the progress made against the resubmitted Action Plan - September 2017, agreed with the Food Standards Agency.
- 2.3 Note that the targets to reduce the backlog of inspections remain dependent on being able to recruit to the additional food safety posts.

#### Impact on Vulnerable Adults and Children

1. Summary of Impact: Premises providing food for vulnerable adults and children will continue to be inspected according to the risks they present to food safety.
- 

#### Corporate Policy

1. Policy Status: Existing Policy:
  2. BBB Priority: Children and Young People Excellent Council Quality Environment Safe Bromley Vibrant, Thriving Town Centres Healthy Bromley Regeneration:
- 

#### Financial

1. Cost of proposal: N/A
  2. Ongoing costs: N/A
  3. Budget head/performance centre: Food Safety
  4. Total current budget for this head: £390k plus £52k that will be carried forward to 21019/20
  5. Source of funding: Existing revenue budget 2018/19
- 

#### Personnel

1. Number of staff (current and additional): 7.3FTE permanent and 3FTE Temporary
  2. If from existing staff resources, number of staff hours:
- 

#### Legal

1. Legal Requirement: Statutory Requirement: Legal Requirement: Statutory Requirement:
  2. Call-in: Applicable:
- 

#### Procurement

1. Summary of Procurement Implications: The additional temporary food safety officers ordinarily need to be recruited through the Council's preferred employment agency, however, if they cannot provide the appropriately qualified officers, approval to use additional agencies has been agreed.
-

## Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Estimated number of users/beneficiaries (current and projected): There are some 2600 registered food businesses in the Borough that come under the remit of the team for inspection. The protection afforded though those businesses being inspected extends to everyone who buys or eats food in the Borough.
- 

## Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: Not Applicable

### **3. COMMENTARY**

- 3.1 Following the outcome of the Food Standards Agency (FSA) Audit of the Food Safety Service in April 2017, an action plan was agreed by the Portfolio Holder (29 June 17 Report ES 17041). Following this, the Executive (9 August 2017) agreed to the additional resources sought as part of that report, and funding was given for 2 extra full time permanent and three full time temporary food safety officers for up to 18 months, to implement the action plan and clear the backlog of inspections.
- 3.2 An updated action plan was submitted to the FSA and the Food Safety Service annual service plan was updated to reflect this (Report 27 September 2017 ES17071).
- 3.3 Despite the additional funding, recruitment issues still remained. Initially the recruitment of agency staff was restricted to Adecco; however, they were unable to provide the necessary qualified officers. In response, permission to approach alternative recruitment agencies to provide the necessary qualified officers was sought (and granted). Despite widening the available recruitment pool, the national shortage of qualified food safety Officers, together with recruited temporary officers leaving the team and an officer taking extended maternity leave has impacted on the ability to fill the vacant posts. As such, the food team only has 1.6 FTE of the 3 temporary food safety officers required in post, and in addition a permanent post will become vacant by the end of November 18.
- 3.4 On the 19 July 18 the FSA requested an update on progress made against the action plan, and their initial response was that they felt that the Authority was still carrying a significant food safety risk due to lack of progress made on the inspection of unrated premises, and overdue inspections for Category C and D premises. As a result of this, a further meeting was scheduled with the FSA for 11 September 18, and the finalisation of the Food Safety Plan for 2018 -19 was delayed pending the outcome of that visit.
- 3.5 Following the meeting on 11 September 18, the FSA noted the efforts that had been made and acknowledged the impact that the recruitment issues had on the progress to date. They further advised the Team to focus on completing the A -D inspections that were due and the overdue C-D inspections; in agreeing this strategy, they accepted that the focus would be shifted away from inspecting unrated premises.
- 3.6 As a result of the refocus in September 18, and by employing a pay per inspection regime, significant progress has been made against the action plan, and the FSA in their follow up meeting of 26th October 18 confirmed that current performance projections indicate that they expect that the audit will be signed off in 6 months.
- 3.7 The 2018-19 Food Safety Plan has been updated to demonstrate the progress made against the Action Plan, and reflects the refocus from rating the unrated premises, to that of completing the due A -D inspections and overdue C-D inspections.
- 3.8 A copy of the annual service plan is attached for Members comments; section 8 shows Progress against the KPI's in the FSA Action Plan since April 2018, section 9 shows the Key Performance Areas for 2018-19, and Appendix B provides a performance review for 2017-18.

### **4. IMPACT ON VULNERABLE ADULTS AND CHILDREN**

Premises providing food for vulnerable adults and children will continue to be inspected according to the risks they present to food safety.

## 5. POLICY IMPLICATIONS

Providing a resilient Food Safety Service in compliance with the FSA audit supports Building a Better Bromley through being an Excellent Council and maintaining minimum standards in food business helps to ensure Bromley is both safe and healthy.

## 6. FINANCIAL IMPLICATIONS

- 6.1 In 2018/19 the Council has a dedicated budget of £390k to run the food safety service. This includes a sum of £6.3k set aside for food sampling and analysis. There are also additional resources of £150k for three temporary staff appointed to clear the backlog of food inspections. This excludes any budget that needs to be carried forward to 2019/20.
- 6.2 The overall cost of the food service for 2017/18 was £296k, of which £23k was for additional temporary staff.

## 7. PERSONNEL IMPLICATIONS

- 7.1 We can only achieve the targets set out in the service plan and meet the FSA expectations following their audit if we are able to recruit and retain the additional posts.

## 8. LEGAL IMPLICATIONS

- 8.1 The Council is the Food Authority under the Food Safety Act 1990. Our performance is monitored by the FSA who have undertaken an audit and published its findings. They will continue to monitor our performance closely until we have reduced our backlog of inspections and have established a resilient service. Once compliant, the FSA have made it clear they will continue to monitor our performance via a balance score card approach and will intervene if our performance deteriorates.
- 8.2 The powers of the FSA are derived from Section 40 Food Safety Act 1990. The Secretary of State may issue code of practice as regards the execution and enforcement of the Act and Regulations. This is the 'Food Law Code of Practice (England). Where a Food Authority fails to comply with the Code of Practice; the FSA can issue a direction to them requiring them to take specified steps to comply. The recent audit by the FSA is not a formal Direction under Section 40 of the Food Safety Act 1990 but is an informal intervention designed to assist the Council comply with its duties.
- 8.3 The Council as the Food Authority shall have regard to the Code of Practice and shall comply with any direction given by the FSA (Food Safety Act 1990 Section 40(2)).
- 8.4 Under Section 42 Food Safety Act 1990 the Secretary of State may order another food authority or the Food Standards Agency to discharge our duties.

## 9. PROCUREMENT IMPLICATIONS

- 9.1 The additional temporary food safety officers ordinarily need to be recruited through the Councils preferred employment agency, however, if they cannot provide the appropriately qualified officers, approval to use additional agencies has been agreed.

|   |  |
|---|--|
| <b>Non-Applicable Sections:</b>                       |  |
| Background Documents:<br>(Access via Contact Officer) | Reports to: ES16008 20 January 2016, PP&S PDS ref ES 17041<br>29 June 2017 and PP&S PDS ref ES 17071 27 September 17 |



**London Borough of Bromley  
Environmental Services  
Public Protection**

**Food Standards Agency Framework Agreement on  
Local Authority Food Law Enforcement**

**Food Service Plan 2018-19  
and  
Performance Review 2017-18**

## 1. Introduction

- 1.1 This Food and Safety Service Plan 2018-19 covers the key areas of Food Safety and the relevant management arrangements and objectives against which the Council will monitor service delivery, and has been compiled in accordance with the Framework Agreement issued by the Food Standards Agency (FSA).
- 1.2 The FSA audits Local Authority food and feed enforcement activities and publishes reports of their findings. Local Authorities are audited against the feed and food law standard in the Framework Agreement, and the Code of Practice (CoP), which is a document that sets out the minimum standards of performance required from Local Authorities, across the full range of their feed and food law enforcement activities.
- 1.3 During the FSA audit of the Food Service in 2017, the Council was not deemed to have met all the necessary standards, and the lack of dedicated resources was identified as the main reason why. As a result an action plans were implemented in April and September 2017, and funding was secured for additional resources.
- 1.4 This service plan, is subject to approval by the Public Protection & Enforcement PDS Committee, and makes clear the arrangements Bromley Council will put in place to ensure that there are adequate arrangements for food safety enforcement moving forwards, it will demonstrate the progress against the FSA priorities expressed in the action plan submitted in September 2017, provide a performance review against the previous year's plan (2017-18), and state the objectives for the 2018-19 period.

## 2. Aims, Objectives and Description of the Service

- 2.1 Bromley's Food Safety Service is delivered in accordance with the Food Law Code of Practice (FLCoP), the latest version of which was released in March 2017. The Code is issued by the FSA and governs the manner in which a Competent Authority enforces relevant food safety legislation and delivers 'official controls' to secure food law compliance. The Code is issued under the Food Safety Act 1990 and has statutory force.
- 2.2 The key objectives of the service are to:
  - Ensure by education and enforcement that food intended for human consumption which is produced and/or sold in Bromley is safe to eat and complies with food safety requirements;
  - Deliver a programme of inspections and interventions in relation to primary producers and food businesses, on a risk-based frequency;
  - Provide support to help businesses comply with their legal obligations;

- Investigate and take appropriate action concerning complaints about food and food premises to protect public health;
- Provide a fair and equitable service that provides value for money;
- Take enforcement action when necessary in a consistent, transparent and proportionate basis;
- Carry out targeted and reactive environmental and food microbiological sampling;
- Prevent the spread of specified infectious and food borne diseases;
- Advise and educate consumers and service users on food safety matters;

### **3. Links to Corporate Plans and Objectives and Regulation Policy**

3.1 The service, and the manner in which it is delivered, contributes to three key priorities as set out in the Council's organisation vision of Building a Better Bromley particularly:

- Vibrant Town Centres' - by engaging with and supporting businesses to thrive, and through enforcing where necessary,
- Safe Bromley –by safeguarding the vulnerable particularly in relation to food safety in educational and care homes settings
- Healthy Bromley' – by supporting Health and Well Being outcomes.

3.2 The work of the Team also delivers The Public Protection & Enforcement Portfolio Plan 2018 -19, in particular to Outcome 3 - We will support and regulate businesses by:

- Inspecting 100% of high-risk food businesses (Risk A and B premises) to ensure food safety standards are met;
- Implementing the Action Plan following the Food Standards Agency audit to address the inspection backlog;

3.3 In addition, the Public Protection Division has signed the Cabinet Office's Enforcement Concordat, and applies the Environmental Enforcement Policy to all enforcement action taken in relation to the food service. This policy is located in the Legal Process Quality Manual of Public Protection "A Guide to Our Enforcement Policy", and has been produced setting out the principles of the policy and enforcement actions. The policy is publicised on the Council's website. Finally, the Food Safety Team supports the aims of the Regulators Code.

### **4. Background:**

#### **4.1 Profile of the Food Industry in Bromley**

- 4.2 The borough of Bromley is the largest borough in London by area, and occupies 59 square miles (152.8 km<sup>2</sup>) of which the majority is Metropolitan Green Belt land; 30 % of the land is categorised as farm land.
- 4.3 It has a population of over 320,000 people, with a black and minority ethnic (BAME) population of 16% (this is less than most London boroughs). 72% of the residents are owner occupiers and over 74% of the economically active population are in employment, with only 5.3% being unemployed.
- 4.4 There are four town centres; Bromley, Orpington, Beckenham and Penge, and the latest figures show that there are over 14,000 businesses in the borough, mostly operating in property, finance, retail and construction. The majority of businesses are small with less than nine people in each. Public administration, education and health are the boroughs largest employers. Business and financial services are the second largest employers. Biggin Hill airport, the Princess Royal University, Orpington, Beckenham Beacon and Bethlem Royal NHS Hospitals are located within the borough.

#### **4.5 Organisational Structure**

- 4.6 The Food Safety Team sits within the Public Protection Division of the Environmental and Community Services Department, the feeding stuffs and alcohol authenticity enforcement are carried out by the Trading Standards team, Kent Scientific Services is appointed as the Food Analyst, and Public Health England (PHE) acts as the Council's Food Examiner.
- 4.7 Organisational structure charts are provided in Appendix A.

#### **4.8 Scope of the Food Safety Service**

- 4.8 Food safety activities currently undertaken include:
- Programmed inspections and interventions at food businesses at a frequency set out in the FLCoP risk rating scheme;
  - Revisits to premises following programmed inspections to secure compliance with legal requirements;
  - Assessing food hygiene and food standards issues (e.g. food allergens and 'use by' date labelling) during premises inspections;
  - Carrying out assessments and updating data for the National Food Hygiene Rating Scheme;
  - Food microbiological and compositional sampling which is either intelligence-led or forms part of national sampling programmes;
  - Investigating complaints about the standard of safety in food businesses in Bromley;
  - Investigating complaints about food that has been produced and/or sold in Bromley;

- Investigating food poisoning and food borne infectious disease cases;
- Responding to national Food Safety Alerts and Incidents issued by the FSA;
- Promoting food safety by education, training and business support and working with other organisations to assist food business operators.

4.9 In addition, the following additional services are provided alongside the above:

- Health and safety “hazard spotting” is carried out in food premises where the local authority is the enforcing authority and where significant health and safety matters are noted. This is in line with the Health and Safety Executives (HSE) National Local Authority Enforcement Code;
- Advice about infection control procedures is given during visits to child day care settings;
- Responding to Freedom of information requests;
- Information sharing in accordance with General Data Protection Regulations.

#### **4.10. Service demand**

4.11 In April 2018 2600 food premises were registered in Bromley, many of which are categorised as Small Minority Ethnic Businesses (SME). 333 new premises were registered in 2017/18, and the redevelopment at St Mark’s Square in Bromley, due to be completed this year, will add to this number.

4.12 The business types for food premises are varied and include:

- 11 third world country food importers;
- 1 large manufacturing baker;
- 43 supermarkets;
- 4 approved premises;
- 1 FSA approved catering butcher
- 2 weekly market and several occasional and visiting markets and events.

4.13 Demands on the service continue to be high, since April 2018 812 programmed interventions within food businesses were achieved and 267 reactive service requests have been dealt with. The focus moving forwards will remain on poorly performing and high risk food

businesses; this approach has led to an increase in the level of enforcement activity since April 18, which in turn impacts on the resources available to carry out programmed inspections.

## 5 Service Delivery 2018-19

### 5.1 Food Premises Inspections, Interventions, Ratings and Enforcement

5.2 Food businesses will continue to be risk-rated according to prescribed criteria relating to food type, method of processing, customers at risk and level of compliance. Businesses will then be inspected on the basis of an intervention risk rating which determines the frequency of inspection. Inspection frequencies are set out in the FLCoP.

5.3 The risk profile of food businesses (with inspection intervals) in Bromley, as at 1st April 2018, is shown in Table 1.

Table 1 Risk Profile by Category with Inspection Intervals

| Rating Category                  | Minimum Inspection Frequency                 | Number |
|----------------------------------|--|--------|
| A                                | 6 Monthly                                    | 16     |
| B                                | 12 Monthly                                   | 116    |
| C                                | 18 Monthly                                   | 597    |
| D                                | 2 Yearly                                     | 698    |
| E                                | 3 Yearly or Alternative Enforcement Strategy | 378    |
| Outside the inspection programme | none   | 295    |
| Unrated                          | Awaiting Inspection                          | 500    |
|                                  |  | 2600   |

5.4 E-rated low or minimal risk food businesses will be dealt with through an Alternative Enforcement Strategy (self-assessment or inspection on an alternate cycle) where possible. Follow-up inspections following self-assessment will be carried out if deemed necessary i.e. if the risk profile of the business has increased since the last assessment.

5.5 After each inspection food businesses are rated under the national Food Hygiene Rating Scheme (FHRS), this gives a measure of compliance against three key criteria: hygiene practice, premises structure and food safety management. The rating scale ranges from 5 ('very good') to zero ('urgent improvement necessary'). Most food businesses are included in the scheme but those that do not supply food directly to members of the public are exempted.

5.6 The FHRS profile of the registered food businesses in Bromley as at 5th November 18 is shown in Table 2

**Table 2 FHRS Profile for Bromley November 2018**

| Rating | Descriptor                   | Number |
|--------|------------------------------|--------|
| 0      | Urgent improvement necessary | 7      |
| 1      | Major improvement necessary  | 77     |
| 2      | Improvement necessary        | 59     |
| 3      | Generally Satisfactory       | 308    |
| 4      | Good                         | 374    |
| 5      | Very Good                    | 980    |
|        | Total no of rated premises   | 1805   |

5.7 To reduce the burden on business and to increase efficiency, food standard and hygiene inspections will be combined where feasible, however, separate food standards inspections will be carried out in high risk premises. Following a food hygiene inspection, food premises will be rated in accordance with the FSA's Food Hygiene Rating Scheme (FHRS). Premises given a food hygiene rating of 0 - 2 will receive additional follow up visits and written guidance to ensure compliance and improved standards. Formal action will be considered where informal action has not been successful; this is in line with our Enforcement Policy.

5.8 Food safety enforcement will continue to be undertaken in a graduated manner, and in accordance with the Environmental Enforcement Policy and FSA guidance. Informal action, advice and persuasion are the usual methods of achieving compliance but other enforcement measures (including serving statutory notices and prosecutions) will be taken if the circumstances dictate. In 2017/18, 35 individual Hygiene Improvement notices were served to ensure non-compliant businesses improve, and a prosecution has been prepared and is with the Legal Department. Additionally, 1 Simple Caution had been administered to a business as an alternative to prosecution.

5.9 The action taken depends on the issue identified and the risk it presents to the public, and since April 2018 the level of enforcement/complex work carried out by the team has been at an unprecedented level including:

- 1 successful prosecution
- 6 simple cautions administered
- 3 voluntary closures of food premises
- 2 voluntary surrenders of unfit foods
- 2 product withdrawals of unsafe food
- 3 food poisoning outbreaks investigated

Much of this marked increase in enforcement activity is directly related to the increased number of inspections made this year to premises which were previously overdue.

#### **5.10 Food Complaints and Service Requests**

5.11 The team will respond to complaints about food and food premises within the borough where a breach of food safety legislation is suspected. The speed of response and level of investigation will depend on the severity of the complaint. This will be decided by the investigating officer with advice from the Lead Officer for food and/or the team manager, as required and in accordance with our internal procedures. Urgent complaints will be responded to within 24 hours and non-urgent ones within 5 working days.

#### **5.12 Primary Authority Partnerships**

5.13 Currently there are no Primary Authority partnerships in Bromley, however, the Home Authority principles will be followed when dealing with requests about or from premises based in our borough, even where no formal agreement exists.

#### **5.14 Advice to Businesses**

5.15 The provision of advice and guidance to secure compliance with food law is an integral part of the work carried out by the service. Advice to existing food businesses will continue to be offered during inspections and revisits, and this includes giving businesses advice on allergen management within the Food Information Regulations 2014.

5.16 Businesses seeking advice which is not directly related to a current food safety inspection or investigation will be directed to our website where food safety advice is available on a self-serve basis. Where this is insufficient to meet the businesses need, they may need to seek advice from a food safety consultant

### **5.17 Food Sampling**

5.18 Food sampling is an essential part of our enforcement service and is carried out in line with our sampling policy and programme. Our food sampling will continue to be intelligence led, focusing on existing and emerging issues, especially for food manufactured in the borough or imported from third world countries. Where possible, food sampling will be combined with food inspections or revisits. The Team will also continue to participate in the South East London Food Liaison Group, London Food Coordinating Group (FLCG), Food FSA, PHE and EU sampling programmes for both analysis and examination.

### **5.19 Control and Investigation of Food Related Cases and Outbreaks**

5.20 The Public Health (Control of Disease) Act 1984 as amended, and the Public Health (Infectious Disease) Regulations 1988 require certain communicable diseases to be notified to the Proper Officer within a Local Authority. Food Team officers investigate food borne diseases and food poisoning to establish the source of infection and prevent further spread. Outbreaks will be investigated along with the South East London Health Protection Team, who provide infection control advice along with statistical analysis.

5.21 Infectious disease investigations are made in accordance with a Single Case Plan which was updated by PHE in November 2016. Priority will be given to those cases involving persons who work in the food industry or have contact with vulnerable groups. The Council will continue to work in partnership with PHE to prevent and control cases and investigate wider outbreaks of food related disease that fall outside the scope of the single case plan.

5.22 In 2017-18 441 infectious disease notifications were received by the Council, which is a 5% decrease on the year before, and 270 have been received since April 18. It is generally recognised that the number of reported cases is a small proportion of the actual number of cases of food borne illness each year in the UK.

### **5.23 Food Safety Incidents and Alerts**

5.24 There is a documented Food Alert and Incident procedure covering the issue of warnings arising from a food related issue in the Borough and the response to warnings issued by the FSA.

- 5.25 Responses to Food Incidents and Alerts are determined by the Head of Service and Lead Practitioner in consultation as necessary with the Food Standards Agency and PHE etc.
- 5.26 In March 2018 the FSA updated its communication platform to improve the notification of incidents and food hazards / alerts to local authorities. Although very few notifications require any form of direct action on the part of the service, these continue to emphasise the value of food safety intelligence and 'horizon scanning' in reducing public health risks.
- 5.27 1 food alert requiring action was received in 2017-18 this was a 50 % decrease on the previous year, and 4 have been received from April 18 to date. It is difficult to predict the number of warnings likely to be received in 2018 / 2019, however, should incidents rise there will be a negative effect on the ability of the team to achieve the programmed work.

#### **5.28 Liaison with Other Organisations**

- 5.29 The Service remains committed to formal inter-agency liaison relationships as set out in the FLCoP. Additional communication will continue to take place at officer level during the process of investigating offences, sharing information and exchange of intelligence.
- 5.30 The Team is a member of the South East London Food Liaison Group, Environmental Health Working Group and the Public Health Group, London Food Fraud group and has designated members to attend. The team will also continue to liaise with other enforcement organisations such as the Food Standards Agency and Department for Environment, Food and Rural Affairs etc, other Environmental Health Departments and professional organisations such as The Association of London Environmental Health Managers.
- 5.31 The Team will continue to send representatives to the South East London Food Liaison Group, Environmental Health Working Group and Public Health Group.

#### **5.32 Promoting Food Safety**

- 5.33 The promotion of food safety issues is an important means to secure food safety compliance in food businesses. Website and press releases will be used to highlight key issues such as food safety week, and the team will participate in the FSA Food Hygiene Rating Scheme and will encourage businesses to display the rating received.

#### **5.34 Team Performance against the 2017-18 Plan**

5.35 A summary of the key activities undertaken by the team for 2017-18 is shown in Appendix B.

## **6. Resources**

### **6.1 Financial Allocation**

6.2 In 2018/19 the Council has a dedicated budget of £390k to run the food safety service. This includes a sum of £6.3k set aside for food sampling and analysis. There are also additional resources of £150k for three temporary staff appointed to clear the backlog of food inspections. This excludes any budget that needs to be carried forward to 2019/20.

6.2 The overall cost of the food service for 2017/18 was £296k, of which £23k was for additional temporary staff.

### **6.3 Staff Development**

6.4 A minimum of 20 hours CPD training each year on food safety related topics is required by the FLCoP and this will be met via a mixture of in-house and external training, and through 1-2-1's, cascade training, staff meetings and online training.

### **6.5 Staffing Resources**

6.6 Following the FSA audit in April 2017, where the food serviced was found to be under resourced, an Action Plan was agreed and additional funding was provided for 2 full time permanent and three full time temporary food safety officers for up to 18 months, to implement the Action Plan.

6.7 Despite the additional funding being made available, recruitment issues still remained due to the national shortage of qualified food safety Officers, and due to permanent and temporary members of staff leaving the team. This has impacted on the ability to recruit to the vacant posts.

6.8 2 permanent officers have now been recruited; however, due to a member of staff leaving, a vacant post will occur at the end on November 18. With regards to the temporary officers, the number retained fluctuates, and .4 of a post remains vacant. Efforts are ongoing to recruit to the vacant temporary post.

6.9 The Food Team is run and managed in-house with:

- 6 FTE food safety officers (1 food safety officer is currently on maternity leave and is due to return in April 19. Another is due to leave in Nov 18 to take up a post with another LA and this post is to be covered by a contractor until a permanent replacement has been recruited.)
- 1.4 FTE Temporary consultant Food Safety Officers (1 X FTE post started on 5/11 and 0.4 X FTE is still to be recruited)
- 1.6 FTE Temporary food safety officers on fixed term contracts due to end on 31/3/19.
- 0.8 FTE Food Team Coordinator, who does not have a caseload.
- 0.5 FTE technical admin support Officer.

#### **6.10 Inspection Programme 2018/19 and Required Resources**

6.11 In 2018-19 following inspections are due:

- 455 Category A – D Food Hygiene inspections
- 8 Category A Food Standards inspections
- 40 Rescore requests (approx.)
- 350 (approx) newly registered businesses

6.12 The above work is undertaken in addition to the routine work of the team, and will require a minimum of 5.3 X FTE food safety officers to deliver. However, if the unprecedented enforcement work as detailed in 5.9 continues at the same or similar rate, and if recruitment continues to be an issue, the ability to deliver the inspection regime will be compromised.

6.13 In addition to the above there are also approximately 500 unrated businesses, which have been determined (by questionnaire) to present a low risk e.g. home based cake makers. However, the Code requires all premises to receive an inspection before they can be dealt with using alternative enforcement strategies; a project will be undertaken to inspect these premises using 1.2 X FTE food safety officers. Due to the refocus steer provided by the FSA during their follow up to our audit mentioned at 8.1, these are viewed as low priority and will be undertaken once the backlog of overdue inspections has been fully addressed.

6.14 A summary of staff resources required for the Food Service delivery is provided in Appendix C

## 7. Quality Assessment

- 7.1 The Team has reviewed the documented internal monitoring procedures, and has subscribed to RIAMS to ensure that it covers the full range of food law enforcement activities, in accordance with the Food Law Code of Practice and centrally issued guidance. In addition, activities which are used to monitor and maintain service quality will include:
- Monthly team meetings;
  - Review by the Lead Practitioner of any FHR inspection resulting in a rating of 0
  - Peer review of statutory notices before service;
  - Random post inspection checks by the Lead Practitioner officer of records and enforcement decisions made by team members;
  - Benchmarking activities and information exchange between Bromley and the South East London Food Liaison Group;
  - Examination of any customer complaints;
  - Examination of any appeals against enforcement notices
  - Examination of appeals against Food Hygiene Ratings –

## 8. Progress against the KPI's in the FSA Action Plan since April 2018

- 8.1 The FSA revisited the authority in September 18, and noted the efforts made thus far against the action plan and acknowledged the impact resultant of the recruitment issues. They advised the Team to focus on completing the due A -D inspections and overdue C-D inspections, and accepted that the focus would be shifted from inspecting unrated low risk premises.
- 8.2 This Food Safety Plan has been updated to demonstrate the progress made against the Action Plan, and reflects the refocus from rating unrated premises to that of completing the due A -D inspections and overdue C-D inspections.
- 8.3 In April 2018 the authority had 1193 due and 677 overdue food hygiene inspections; by September 2018 620 due inspections were completed (4.4% above the expected cumulative total) and 361 overdue inspections had been completed (11% above the expected cumulative total). The FSA agreed to review progress for the following 6 months (at 3 month intervals) and anticipated that the 2017 FSA audit will be closed at that time should progress against targets thus far achieved be maintained.

## 9. Key Performance Areas for 2018-19

|            | OBJECTIVES   | PERFORMANCE MEASURES   |
|------------|--|--|
| <b>8.1</b> | <b>Food Premises Interventions</b>   |  |
| 1          | To carry out 853 due food hygiene interventions, largely by inspection, including rescore requests. <b>This is a KPI.</b>  | 100% of all inspections due  |
| 2          | To reduce the backlog of overdue inspections by 100%. <b>This is a KPI</b>   | Overdue inspections reduced by 100%  |
| 3          | To reduce the backlog of high risk unrated premises by 100%, focussing on high risk businesses. <b>This is a KPI.</b>  | High risk unrated inspections reduced by 100 %                                       |
| 4          | To carry out 250 food standards interventions, largely by inspection. <b>This is a KPI.</b>  | 100% of food standards interventions carried out.                                    |
| 5          | To send up to 600 schedules of improvement / warning letters to improve standards following interventions.   | Number of schedules of improvements / warning letters sent =>600                     |
| 6          | To maintain the percentage of premises broadly compliant* for food hygiene at the time of inspection at 70%. (* Food Hygiene Rating of 5,4 or 3) <b>This is a KPI.</b> | Number of Premises broadly compliant as a % =>70%                                    |
| 7          | To carry out up to 200 follow-up visits, focusing on zero - 2 star premises.   | Number of follow-up visits carried out. =>200  |
| 8          | To improve the 6 rated zero premises.  | Number of zero rated premises which have improved their rating =6.                   |
| 9          | To improve 30 of the 60 1 rated premises.  | Number of 1 rated premises which have improved their rating = >30                    |
| 10         | To serve improvement notices on all non-compliant businesses where informal action has been unsuccessful.  | Number of non-compliant businesses and number improvement notices served = 100%      |
| 11         | To prosecute / offer simple cautions to all non-compliant food business operators where other actions have been unsuccessful.  | Number of prosecutions/simple cautions against no of non-compliant businesses = 100% |
| 12         | To assess newly registered unrated business by sending a questionnaire   | Number of questionnaires sent = no of newly registered businesses.                   |
| <b>8.2</b> | <b>Food Complaints /Service Requests</b>   |  |
|            | <b>OBJECTIVES</b>  | <b>PERFORMANCE MEASURES</b>  |

|            |   |   |
|------------|---|---|
| 1          | To respond to up to 300 complaints/enquiries about food and food premises within 5 working days.  | Number of complaints/service enquiries responded to within 5 working days= 80%. |
| <b>8.3</b> | <b>Home Authority Principle/ Primary Authority Partnerships</b>   |   |
|            | <b>OBJECTIVES</b>   | <b>PERFORMANCE MEASURES</b>   |
| 1          | To use Primary Authority Inspections forms where appropriate and refer to the Primary Authority to resolve issues found during inspection.  | No performance measure  |
| 2          | To refer to Primary Authorities when dealing with food complaints about food manufactured outside the Borough.  | No performance measure  |
| <b>8.4</b> | <b>Advice to Food Businesses</b>  |   |
|            | <b>OBJECTIVES</b>   | <b>PERFORMANCE MEASURES</b>   |
| 1          | To continue to provide advice to business during inspections.   | Advice given at every inspection = 100%   |
| <b>8.5</b> | <b>Food Inspection and Sampling</b>   |   |
|            | <b>OBJECTIVES</b>   |   |
| 1          | To participate in South East London Food Liaison Group, London Food Coordinating Group(FLCG), Food Standards Agency (FSA) and Public Health England (PHE) and EU sampling programmes for both analysis and examination. . | Number of food samples analysed or examined 46                                  |
| 2          | To carry out intelligence-led local sampling projects as a result of inspections, complaints or other information   |   |
| <b>8.6</b> | <b>Control and Investigations of Outbreaks and Food Related Infectious Disease</b>  |   |
|            | <b>OBJECTIVES</b>   | <b>PERFORMANCE MEASURES</b>   |
| 1          | To investigate cases of food poisoning or suspected food poisoning connected with premises within the Bromley, in line with South East London Health Protection Team guidelines   | Number of cases reported against No investigated = 100%                         |
| 2          | To investigate outbreaks of food poisoning/suspected food poisoning/viral gastroenteritis.  | Number of outbreaks reported against No investigated = 100%                     |
| <b>8.7</b> | <b>Food Safety Incidents</b>  |   |
|            | <b>OBJECTIVES</b>   | <b>PERFORMANCE MEASURES</b>   |

|             |  |  |
|-------------|--|--|
| 1           | To respond to all food alerts and other food safety incidents issued by the FSA, as appropriate.   | Number of food alerts/incidents = 100% of applicable alerts  |
| <b>8.8</b>  | <b>Liaison with Other Organisations</b>  |  |
|             | <b>OBJECTIVES</b>  | <b>PERFORMANCE MEASURES</b>  |
| 1           | To ensure the food service liaises with and participates in joint initiatives with other Council Departments, organisations and Borough as required. | Attendance at the South East London Food Liaison Group, Environmental Health Working Group and Public Health Group |
| 2           | To send representatives to the South East London Food Liaison Group, Environmental Health Working Group and Public Health Group                      | Attend 6 meetings  |
| <b>8.9</b>  | <b>Food Safety and Standards Promotion</b>   |  |
|             | <b>OBJECTIVES</b>  |  |
| 1           | To update the food service's website.  | Evaluated by the Website Coordinator.  |
| 2           | To publicise food hygiene myths during Food Safety Week  | Prepare press release  |
| 3           | To continue to participate in the FSAs FHRs scheme   | No performance measure.  |
| <b>8.10</b> | <b>Health and Safety in Food Premises</b>  |  |
|             | <b>OBJECTIVES</b>  | <b>PERFORMANCE MEASURES</b>  |
| 1           | To carry out up to health and safety "hazard spotting" in food premises where significant offences are noted.  | Number of health and safety "hazard spotting" inspections carried out  |
| 2           | To liaise with the Health and Safety Team where formal action in food premises is required.  | No performance measure.  |

## 10. Review

10.1 The process of review of the Plan as a whole will be undertaken in March next year based on:

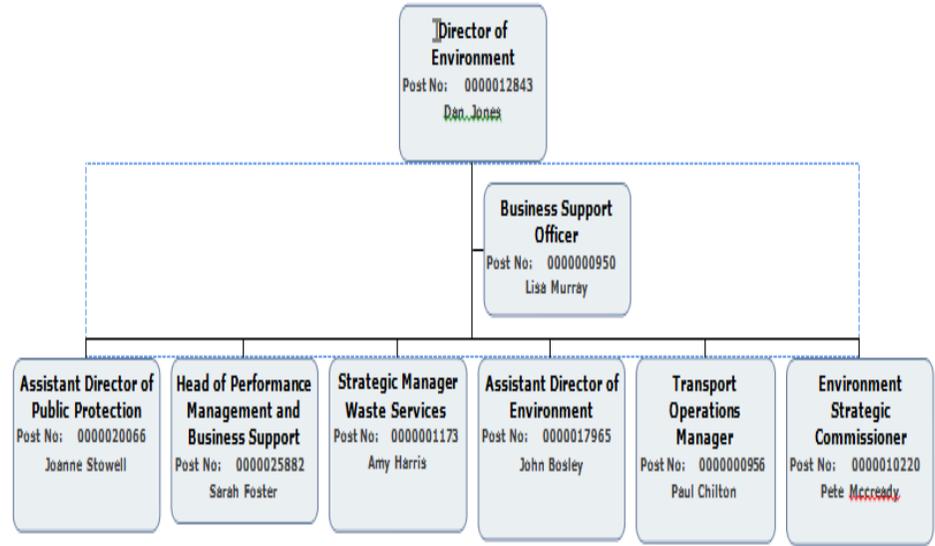
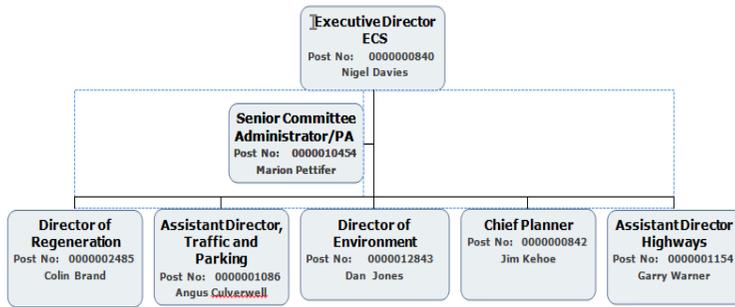
- performance and resources available over the previous 12 months;
- responses to feedback from local businesses and the community;
- observations from members and the food safety team;

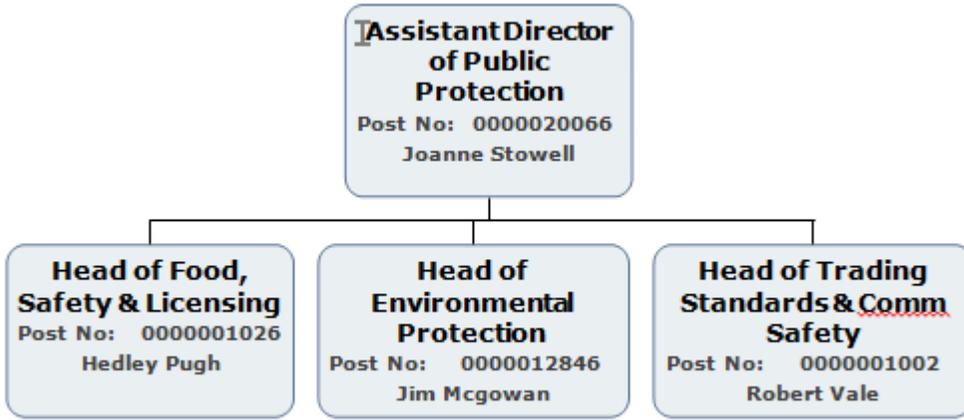
- advice and guidance issued by the FSA and other agencies;

10.2 The review of this document will then inform the development of the Food Safety Plan for 2019 / 2020 which will be scheduled for member consideration in June 2019.

10.3 Review of officer workload and priorities will be done on an ongoing basis throughout the year.

## Appendix A - Organisational Structure Charts





## APPENDIX B PERFORMANCE REVIEW 2017-18

|            | OBJECTIVES 2017/2018   | PERFORMANCE MEASURES   |
|------------|--|--|
| <b>3.1</b> | <b>Food Premises Interventions</b>   |  |
| 1          | To carry out 682 food hygiene interventions, largely by inspection, including rescore requests.  | 639 hygiene interventions were carried out = - 6.3% below target                                     |
| 2          | To carry out 250 food standards interventions, largely by inspection.  | 480 food standards interventions were carried out = 80% over target.                                 |
| 3          | To send up to 600 schedules of improvement / warning letters to improve standards following interventions.                                       | 741 schedules of improvements / warning letters were sent = 23.5 % over target.                      |
| 4          | To maintain the percentage of premises broadly compliant* for food hygiene at the time of inspection at 70%. (* Food Hygiene Rating of 5,4 or 3) | 75 % of premises remained broadly compliant = 7.14% over target.                                     |
| 5          | To carry out up to 200 follow-up visits, focusing on zero - 2 star premises.   | 146 follow up visits were carried out = -27% below target  |
| 6          | To improve the 4 rated zero premises (This is a key performance indicator)   | 4 zero rated premises had their ratings improved (target met 100%)                                   |
| 7          | To improve 40 of the 80 1 rated premises. (This is a key performance indicator)  | 68 1 rated premises have improved their rating = 70% above target.                                   |
| 8          | To serve improvement notices on non-compliant businesses where informal action has been unsuccessful.  | Number of non compliant businesses requiring a Notice 35, No of improvement notices served 35 (100%) |
| 9          | To prosecute food business operators where other actions have been unsuccessful.   | No prosecutions were undertaken but 1 simple caution was administered.                               |
| 10         | To enforce the Food Information Regulations 2014 via FIRINs  | Number of FIRINs served. 2   |
| 11         | To assess newly registered unrated business.   | Number of questionnaires sent 110 ((no target set)   |
| 12         | To carry out an AES survey of E rated businesses   | AES survey carried out in March 18   |
| 13         | To reduce the level of unrated premises by 25%   | Unrated premises due in 2017/18 reduced by 50% =100% above target.                                   |

|            |   |   |
|------------|---|---|
| 14         | To reduce the level of outstanding inspections by 25%   | Outstanding inspections due in 2017/18 reduced by 25%     |
| <b>3.2</b> | <b>Food Complaints /Service Requests</b>  |   |
|            | <b>OBJECTIVES</b>   | <b>PERFORMANCE MEASURES</b>                               |
| 1          | To respond to up to 250 complaints/enquiries about food and food premises within 5 working days.  | 378 complaints/enquiries responded to = 51.2% over target |
| <b>3.3</b> | <b>Home Authority Principle/ Primary Authority Partnerships</b>   |   |
|            | <b>OBJECTIVES</b>   | <b>PERFORMANCE MEASURES</b>                               |
| 1          | To use Primary Authority Inspections forms where appropriate and refer to the Primary Authority to resolve issues found during inspection.  | No performance measure                                    |
| 2          | To refer to Primary Authorities when dealing with food complaints about food manufactured outside the Borough.  | No performance measure                                    |
| <b>3.4</b> | <b>Advice to Food Businesses</b>  |   |
|            | <b>OBJECTIVES</b>   | <b>PERFORMANCE MEASURES</b>                               |
| 1          | To continue to provide advice to business during inspections.   | 682 interventions and 682 businesses advised              |
| <b>3.5</b> | <b>Food Inspection and Sampling</b>   |   |
|            | <b>OBJECTIVES</b>   |   |
| 1          | To participate in South East London Food Liaison Group, London Food Coordinating Group(FLCG), Food Standards Agency (FSA) and Public Health England (PHE) and EU sampling programmes for both analysis and examination. . | Groups attended, and 46 food samples analysed or examined |
| 2          | To carry out intelligence-led local sampling projects as a result of inspections, complaints or other information   |   |
| <b>3.6</b> | <b>Control and Investigations of Outbreaks and Food Related Infectious Disease</b>  |   |
|            | <b>OBJECTIVES</b>   | <b>PERFORMANCE MEASURES</b>                               |
| 1          | To investigate cases of food poisoning or suspected food poisoning connected with premises within the Bromley, in line with South East London Health Protection Team guidelines   | Number of cases reported 441 No investigated 441 = 100%   |
| 2          | To investigate outbreaks of food poisoning/suspected food poisoning/viral gastroenteritis.  | Number of outbreaks reported 2 No investigated 2 = 100%   |

|             |  |   |
|-------------|--|---|
| <b>3.7</b>  | <b>Food Safety Incidents</b>   |   |
|             | <b>OBJECTIVES</b>  | <b>PERFORMANCE MEASURES</b>   |
| 1           | To respond to all food alerts and other food safety incidents issued by the FSA, as appropriate.   | Number of food alerts/incidents issued 1 No responded to is 1 = 100%  |
| <b>3.8</b>  | <b>Liaison with Other Organisations</b>  |   |
|             | <b>OBJECTIVES</b>  | <b>PERFORMANCE MEASURES</b>   |
| 1           | To ensure the food service liaises with and participates in joint initiatives with other Council Departments, organisations and Borough as required. | Attended the South East London Food Liaison Group, Environmental Health Working Group and Public Health Group 6 times |
| 2           | To send representatives to the South East London Food Liaison Group, Environmental Health Working Group and Public Health Group                      | Attended 6 times  |
| <b>3.9</b>  | <b>Food Safety and Standards Promotion</b>   |   |
|             | <b>OBJECTIVES</b>  |   |
| 1           | To update the food service's website.  | Evaluated by the Website Coordinator.   |
| 2           | To publicise food hygiene myths during Food Safety Week  | 4 press releases sent   |
| 3           | To Prepare Press Releases  | 4 press releases sent   |
| <b>3.10</b> | <b>Health and Safety in Food Premises</b>  |   |
|             | <b>OBJECTIVES</b>  | <b>PERFORMANCE MEASURES</b>   |
| 1           | To carry out up to health and safety "hazard spotting" in food premises where significant offences are noted.  | Number of health and safety "hazard spotting" inspections carried out was 32.   |
| 2           | To liaise with the Health and Safety Team where formal action in food premises is required.  | No performance measure.   |

## Appendix C SUMMARY OF STAFF RESOURCES REQUIRED FOR FOOD SERVICE

| SERVICE DELIVERY   | FULL TIME EQUIVALENT OFFICERS - BELOW MANAGER LEVEL REQUIRED TO UNDERTAKE 2018/19 WORK PLAN (IF NO ENFORCEMENT WORK IS UNDERTAKEN) | FULL TIME EQUIVALENT OFFICERS - BELOW MANAGER LEVEL TO CARRY OUT ALL OVERDUE INSPECTIONS) (IF NO ENFORCEMENT WORK IS UNDERTAKEN) |
|--|--|--|
| Food Premises Inspections  | • 5.3 *FSO   | • 3.0 *FSO   |
| Food Complaints  | • 0.4 FSO  | • 0.0 FSO  |
| Home Authority Advice  | • 0.0 (No longer offered directly)   | • 0.0 (No longer offered directly)   |
| Advice to Businesses   | • 0.0 (No longer offered directly)   | • 0.0 (No longer offered directly)   |
| Advice to Consumers  | • 0.0 (No longer offered directly)   | • 0.0 (No longer offered directly)   |
| Food Sampling  | • 0.10 FSO   | • 0.0 FSO  |
| Control and Investigation of Outbreaks and Food Related Infectious Disease                     | • 0.20 FSO   | • 0.0 FSO  |
| Food Safety Incidents  | • 0.03FSO*/LO  | • 0.0FSO   |
| Liaison - with the South East London Sector food liaison & Environmental Health Working Groups | • 0.01 LO  | • 0.0 LO   |
| Food Safety and Standards Promotion  | • 0.00 FSO (No longer offered directly)  | • 0.0 FSO  |
| Health and Safety in Food Premises   | • 0.10 FSO   | • 0.0 FSO  |
| Staff Training and Development   | • 0.10 FSO/LO  | • 0.0 FSO  |
| FOIs and FHRS appeals and right of reply   | • 0.05 FSO/LO  | • 0.0 FSO/LO   |
| Quality Assessment   | • 0.10 LO  | • 0.0 LO   |
| Technical Support  | • 0.50 LO  | • 0.0 LO   |
| Administration   | • 0.30   | • 0.0  |
| <b>TOTAL STAFF RESOURCE REQUIRED</b>   | • <b>7.3</b>   | • <b>3.00</b>  |
| <b>TOTAL RESOURCE PROVIDED</b>   | • <b>7.3</b>   | • <b>3.00</b>  |

\*FSO = Food Safety Officer LO = Lead Officer

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Report  
No.ES18086

London Borough of Bromley

PART ONE - PUBLIC

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**Decision Maker:** PUBLIC PROTECTION AND SAFETY PORTFOLIO HOLDER  
**FOR PRE-DECISION SCRUTINY BY THE PUBLIC PROTECTION & ENFORCEMENT PDS COMMITTEE ON**

**Date:** Tuesday 4<sup>th</sup> December 2018

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

**Title:** Animal Licensing Legislation - Review of Fees

**Contact Officer:** Steve Phillips Lead Practitioner Licensing Team  
Tel: 020 8313 4659 E-mail: [steve.phillips@bromley.gov.uk](mailto:steve.phillips@bromley.gov.uk)

**Chief Officer:** Nigel Davies, Executive Director of Environment & Community Services

**Ward:** (All Wards);

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1. Reason for report

On the 1 October 2018 a new statutory instrument (2018 No.486) came into force, namely the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018. The new legislation introduced an updated licensing framework in England for five activities involving animals, these being: selling animals as pets, providing for or arranging for the provision of boarding for cats and dogs, hiring out horses, dog breeding and keeping or training animals for exhibition. The introduction of the legislation has highlighted the need to revise both current procedures and the fee structure.

This report sets out the revised fees to be implemented, which have been based upon cost recovery in relation to the licensing of Animals.

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2. **RECOMMENDATION(S)**

**The Portfolio Holder is asked to:**

**1. Approve the fees as set out in Appendix 1 to be implemented with effect from the 1<sup>st</sup> January 2019.**

## Impact on Vulnerable Adults and Children

1. Summary of Impact: Not Applicable
- 

## Corporate Policy

1. Policy Status: Existing Policy:
  2. BBB Priority: Excellent Council Quality Environment Safe Bromley
- 

## Financial

1. Cost of proposal: Cannot be quantified [at this moment in time](#)
  2. Ongoing costs: Cannot be quantified [at this moment in time](#)
  3. Budget head/performance centre: Food Safety and Licensing
  4. Total current budget for this head: £350k
  5. Source of funding: Existing revenue budget 2018/19
- 

## Personnel

1. Number of staff (current and additional): *5.5 FTE*
  2. If from existing staff resources, number of staff hours:
- 

## Legal

1. Legal Requirement: Statutory Requirement:
  2. Call-in: No
- 

## Procurement

1. Summary of Procurement Implications:

The City Of London Vet Service may decide not to renew their contract in the future. Or the function is continued to be jointly provided by the Licensing Authority's own officers. There is a need in next three years for the existing Licensing Officers to undertake the prescribed "animal inspector" level provision qualification. This is required as the existing officers competence will only be accepted until the end of 2021 without the new formal qualification. This will then maintain the ability to inspect and deal with complaints of an animal welfare or licensing issues.

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## Customer Impact

1. Estimated number of users/beneficiaries (current and projected): There are 64 businesses that hold a relevant licence.
- 

## Ward Councillor Views

1. Have Ward Councillors been asked for comments? No

2. Summary of Ward Councillors comments: Not applicable

### 3. COMMENTARY

#### Introduction and Background

- 3.1 The Council has responsibility for licensing various animal businesses, pet shops and riding establishments. Businesses are expected to meet the conditions associated with the licence relating to the welfare of the animals concerned.
- 3.2 As part of their responsibility, The Council must consider applications and issue a range of animal welfare licences under the following legislation:
- Domestic Dog Boarding under the Animal Boarding Act 1963,
  - Catteries – Animal Boarding Act 1963,
  - Dog Breeding – Breeding of Dogs Act 1973 and 1991, and Breeding and sale of Dogs (Welfare) Act 1999,
  - Pet Shops – Pet Animals Act 1951,
  - Kennels – Animal Boarding Act 1963,
  - Riding Establishments – Riding Establishments Act 1964 and 1970.
- 3.3 The New legislation namely; The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 came into force on the 1<sup>st</sup> October 2018 and this regulation combined all of the above pieces of legislation into one place.
- 3.4 The new regulations provide for licensing by the Council of the following five activities involving animals: i. Selling animals as pets. ii. Providing for or arranging for the provision of boarding for cats or dogs (includes boarding kennels or catteries, home boarding for dogs and day care for dogs). iii. Hiring out horses. iv. Dog breeding. v. Keeping or training animals for exhibition
- 3.5 'Zoos' and 'Dangerous Wild Animal' establishments will continue to operate under their current respective licensing regimes.

#### Key Changes

- 3.6 Under the new regulations, all current licences will continue to be subject to the same restrictions until their relative expiry date. Other than current animal exhibition registrations, which will continue to be valid until 1 April 2019, and riding establishments which have unique expiry dates, all current licences affected are due to expire on 31 December 2018.
- 3.7 Licences will no longer be issued in accordance with the calendar year but will be issued for 12 months, or longer for a period up to 3 years.
- 3.8 A new risk rating system resulting in a 1-5 star score for the business will be implemented, with licence duration for each business being determined by the level of compliance and extent to which they meet or exceed the required standards. All premises will require an inspection prior to determination of a new or renewal licence application.
- 3.9 Those carrying out inspections will be required to be suitably qualified. In addition, inspections of dog breeders will require a veterinarian to be present. Horse riding establishments will require a listed equine veterinarian to carry out an annual inspection.
- 3.10 Premises that meet higher standards (as defined within the statutory guidance), and are fully compliant, may be eligible for a licence to be granted for of up to a 3 year duration, which provides a financial incentive to attain higher standards.

- 3.11 There is an appeal process for aggrieved applicants to appeal against a star rating decision. If a business appeals against the risk level determination, the appeal must be heard by a party other than the inspecting officer who carried out the inspection and risk assessment.
- 3.12 Licence holders will be required to display their licence number on any of their websites.
- 3.13 Businesses that fail to meet minimum standards in relation to animal welfare (as defined within the statutory guidance), will not be able to renew their licence. An operator who is aggrieved by the Council's decision not to grant a licence can appeal to "The First Tier Tribunal" within 28 days.
- 3.14 Licensing Authorities are encouraged to publish a list of licensed businesses and star ratings on the Council's website.
- 3.15 All licences will be subject to new national standard conditions determined by the type of licensable activity. These will replace the Council's current licence conditions for any licence granted after 1st October 2018, including existing operators. For businesses providing multiple licensable activities, only one licence will be required. These conditions were presented in the report approved by the General Purposes and Licensing Committee on 26<sup>th</sup> Sept 2018 (insert report number)
- 3.16 At any time the Council may suspend, vary or revoke a licence in the interests of protecting animal welfare by way of notice. The Council can consider representations from the licence holder submitted within 7 days. An operator who is aggrieved by the Council's decision following representation can appeal to "The First Tier Tribunal" within 28 days.

## **Fees**

- 3.17 Based on the above, the new licensing regime will necessitate additional work by the Council and accordingly a new fee regime should be implemented to ensure the Council covers its full costs.
- 3.18 Regulation 13 helpfully sets out what the Council may charge fees for, as follows: i) The costs of considering an application and associated inspections. ii) The reasonable anticipated costs associated with considering a licence holders compliance and associated additional inspections. iii) The reasonable anticipated costs of enforcement in relation to any licensable activity or an unlicensed operator. iv) The reasonable anticipated costs of providing statutory returns.
- 3.19 The length of the licence can vary between one and three years, and the length is determined from the risk rating (see 3.8). The fee has been calculated to allow for these variables and is shown in appendix A.
- 3.20 In preparing this fee schedule, the Licensing Service has had regard to "Open for business: LGA guidance on locally set licence fees" and "BEIS Guidance for Business on the Provision of Service Regulations". It is intended that fee levels will be regularly reviewed to ensure that fees are kept to a minimum, whilst ensuring Council costs are met. It is not proposed to change existing fees for Dangerous Wild Animal or Zoo licences.
- 3.21 The new fee schedule in Appendix A has been calculated on a full cost recovery basis and reflects the Council's anticipated costs in relation to the matters set out in paragraph 3.18, and also to account for the variables mentioned in 3.19.

- 3.22 In line with current guidance the new fees have been calculated in two parts, Part A which forms the application fee, and Part B which forms the enforcement fee. Both parts are payable before the licence can be issued, however, Part B fees would be refundable to the applicant should the licence for any reason not be issued. This guidance has been followed in calculating both Part A and B fee levels and is presented in appendix B.
- 3.23 Appendix A shows the proposed fee breakdown for all of the new licensable activities and also shows in brackets the current fee in place for comparison.
- 3.24 The legislation does not provide any statutory requirements in terms of consulting on or publishing new fee levels prior to their adoption. The terms of reference within the Licensing Committee's constitution permit the committee to make decisions as to whether to charge fees in respect of the new licensing regime and determine what those fees will be.

## **Impact**

- 3.25 The new licence conditions are largely reflective of the Council's current standards and it is anticipated that most operators are unlikely to have significant difficulties with compliance. However, those that have not updated their facilities may find that the renewal of their licence is refused.
- 3.26 The number of inspections carried out will increase, as all premises will require an inspection prior to granting of a licence or renewal of a licence. The City of London Vet Service currently provides the service of inspection for all animal licensing activities for the Council (for both animal inspector and certified vet level inspections), as inspectors need specialist qualifications to carry out their role. They have confirmed they will continue to provide this service under the new 2018 Regulations. However they have stated that the new provisions will increase demand on their service, which will require the employment of additional staff, and, they have indicated that their new fees (once determined) will be higher.
- 3.27 The Licensing Team will continue to work with legitimate businesses to ensure compliance and will provide support and guidance during this transitional period. All licensed businesses have been sent the relevant updated licence conditions with a covering explanatory letter on the different levels of criteria that will need to be met. This is to ensure that licence holders are aware of the standards at which their business will be assessed. The updated conditions are also available on the Council's website.

## **4. Financial Implications**

- 4.1 Officers have assessed the time expected to be spent on processing the new animal licenses, in accordance with the regulation guidance that has been issued. They have included the anticipated amount of officer time that will be involved in processing each application, as well as associated costs including overheads such as administration buildings and computer recharges. The recommended fees are detailed in Appendix A.
- 4.2 At this moment in time, it is not possible to quantify what the actual costs will be, nor the level of income that may be received, as the actual volume of licenses that may be submitted, as officers cannot predict how many applications will be received under the new regulations.
- 4.3 The service will be monitored to assess the level of actual staffing resources required and to review the fees and charges, to ensure that all costs are fully recovered via the charges levied.
- 4.4 A future report will be brought back to Members with details of the review and any recommendations for additional resources and any changes to fees.

**5. Legal Implications**

5.1 A delegation of the powers granted to the Council to grant or renew a licence for a licensable activity to the Director of Environment and Community Services has been approved to ensure the day to day implementation of the Council’s functions pursuant to the Regulations.

**6. Procurement Implications**

6.1 The City of London Vet Service currently provide the service of inspection for all animal licensing activities for the Council (for both animal inspector and certified vet level inspections), as inspectors need specialist qualifications to carry out their role.

6.2 They have confirmed they will continue to provide this service under the new 2018 Regulations. However they have stated that the new provisions will increase demand on their service, which will require the employment of additional staff, and, they have indicated that their new fees (once determined) will be higher.

**7. Policy Implications**

7.1 Existing policy

|   |   |
|---|---|
| <b>Non-Applicable Sections:</b>                       | <b>Personnel Implications, Impact on Vulnerable Adults and Children</b> |
| Background Documents:<br>(Access via Contact Officer) |   |

# **Animal Welfare Licence Fees - A Practical Guide to Fee Setting**

**(A local authority guide to setting fees for  
licenses issued under the Animal Welfare  
(Licensing of Activities Involving Animals)  
Regulations 2018**

**DRAFT**

**Contents**

1. Introduction..... 3

2. General Principals..... 3

    2.1 Types of licence fee ..... 4

3. Activities covered by the licensing fees ..... 4

    3.1 Underpinning activities ..... 4

    3.2 Application costs ..... 5

    3.2 Compliance/enforcement costs, ..... 5

    3.3 Vets fees ..... 6

4. Activities not covered by licence fees ..... 6

5. The licence setting/review process ..... 7

6. Licensing Process steps ..... 7

7. Staffing costs ..... 8

    7.1 Direct Staffing Costs ..... 8

    7.2 On-costs..... 8

8. Equipment and other costs ..... 8

9. Advice and Enforcement ..... 9

10. Profits and losses..... 10

11. Proportionality ..... 10

12. Member approval and Publication..... 11

Appendix 1 – example workflow for Pet Shop Premises ..... 12

## 1. Introduction

The Animal Welfare (Licensing of Activities Involving Animals) Regulations 2018 (AW Regulations) are an important step forward in modernising and streamlining a number of previous Acts and Regulations. As well as updating the powers of local authorities to ensure high standards of animal welfare, the AW regulations also provide robust charging mechanisms that allow local authorities to more effectively recover their costs for this work.

Locally set fees are a vital means of ensuring that costs can be recovered by local authorities, rather than relying on subsidy from local tax payers. Businesses that benefit from an Animal Welfare License should be asked to pay any reasonable costs incurred by the local authority in providing that licence. However, they must also be able to depend on local authority licence fees being fair and reasonable.

When setting fees, local authorities should have regard to [Open for business: LGA guidance on locally set licence fees](#), which sets out the steps that must be taken to set fair and reasonable fees, and explains the [EU Services Directive](#) upon which the LGA guidance is based. Local authorities should also have regard to the BIS [Guidance for Business on the Provision of Services Regulations](#). As with other areas of licensing, regard should also be had to the principles in the [Regulators' Code](#)

Much of this guidance was put to the test in the Westminster V Hemmings case, which has been considered by a number of Courts and concluded in the [Supreme Court in July 2017](#). This case confirmed a number of points, including that local authorities could charge for enforcement in respect of a licence, but not as part of the initial application fee.

This practical guide explains how fee setting could work in practice, and gives examples of what should and should not be included in the licence fee. It is not exhaustive, and those setting fees should always be aware of the underpinning legislation and guidance.

## 2. General Principles

The important underlying principles when looking at fee setting are that

### Local Authorities should

- 1 Recover any reasonable costs of administering and enforcing each licence,
- 2 Charge separately for application processing and enforcement
- 3 Continually seek service improvements to help reduce costs for businesses
- 4 Use evidence based data wherever possible as the basis of their fee charges, and retain this information for the purposes of transparency.

### Local Authorities should not

- 5 Charge for matters that do not relate directly to that licence
- 6 Seek to make a profit

As a general principle, the two most important questions for those setting fees are “is it fair”, and “do I have the evidence needed to explain the fee”.

## 2.1 Types of licence fee

Local authorities will need to calculate fees for, as a minimum

- 1 New Licences
- 2 Renewal licences
- 3 Licence and other replacement costs
- 4 Variation and transfer fees

## 3. Activities covered by the licensing fees

Section 13 of the AW Regulations makes it clear that license fees can be charged to cover all activities directly relating to the administration and issuing of a licence, and any subsequent direct costs such as enforcement.

There are three types of activity to be considered when considering costs

- 1 Underpinning activities that support the licensing process
- 2 Administration of the licence application, and
- 3 Compliance and enforcement costs

The tables below list activities that can be included, although this is not exhaustive.

### 3.1 Underpinning activities

There are a number of activities that underpin any licensing activity and without which the licensing functions cannot operate effectively. These will need to be in place as part of any application process, and may be charged as part of the administration fee, although some costs will also relate to enforcement and could be charged accordingly.

| Activity       | Examples of what may be included  |
|----------------|---|
| Policy setting | <ul style="list-style-type: none"><li>• Consultation processes</li><li>• Development of policy documents</li><li>• Member approval processes</li></ul>  |
| Fee setting    | <ul style="list-style-type: none"><li>• Time management/information gathering processes</li><li>• Process charts</li><li>• Liaison with finance</li><li>• Calculation of fees</li><li>• Member approval processes</li></ul> |
| Staff          | <ul style="list-style-type: none"><li>• Specialist staff training</li><li>• Authorisation processes</li><li>• General PPE</li></ul>   |
| Equipment      | <ul style="list-style-type: none"><li>• Specialist databases used to record information</li><li>• Specialist software packages used to produce licences etc.</li></ul>  |

Some of these costs will be shared with other licensing regimes. Specialised software packages, for example, may be used for a range of different licences whilst fee setting

may share the same consultation and Member approval processes as other licence fees. A fair pro-rata share therefore needs to be assessed for each licence type.

Some costs will also relate to non-licensable activities – for example unlicensed premises, those seeking advice who do not then apply for a licence, Freedom of Information requests etc. Service request and investigation records should be used to assess a fair pro-rata figure so that licensed businesses pay a share but not all of the underpinning costs.

### 3.2 Application costs

The actual application costs will perhaps be the easiest to identify and cost, and will include all of the costs of actually processing an application from receipt of any initial query through to issue. These costs will include

| Activity               | Examples of what may be included  |
|------------------------|---|
| Advice and guidance    | <ul style="list-style-type: none"> <li>• General advice (pro rata costs for the production of leaflets or promotional tools, online advice etc.)</li> <li>• Specific advice to applicants (but not those who do not apply)</li> </ul>   |
| Administration         | <ul style="list-style-type: none"> <li>• Office administration to receive/ process licence applications,</li> <li>• The cost of handling fees through the accounts department.</li> <li>• Specialist equipment/materials needed to process the licence</li> <li>• Printing and posting licences and other materials.</li> </ul> |
| Initial advice/ visits | <ul style="list-style-type: none"> <li>• The average cost of officer time if an inspection/premises visit is requested or is required as part of the authorisation process</li> </ul>   |
| Third party costs      | <ul style="list-style-type: none"> <li>• veterinary attendance during licensing inspections where required as part of the authorisation process</li> </ul>  |
| Overview costs         | <ul style="list-style-type: none"> <li>• reports to managers/committee for specific applications</li> <li>• approval by senior managers</li> </ul>  |
| Appeal costs           | <ul style="list-style-type: none"> <li>• expenditure not covered through court costs</li> </ul>   |

### 3.2 Compliance/enforcement costs,

These will include the reasonable costs of ensuring compliance with licensing legislation and conditions – which will include risk based inspections, investigating complaints etc.

| Activity              | Examples of what may be included   |
|-----------------------|--|
| Routine visits        | Planned risk based monitoring and inspection visits during the licence period, including any resulting enforcement action  |
| Reactive matters      | Dealing with service requests and complaints from or about licensed premises, including any resulting enforcement action   |
| Local democracy costs | Training for Councillors sitting on committees considering licence reviews<br>Committee meetings or hearings to review existing licences or respond to problems. |
| Registers             | Inclusion on any national data-base  |

Licences should not be issued until the enforcement fee is paid, and a separate fee for taking the second payment can be charged. For renewals that remain in force until the

new licence is determined, a licensing condition making the licence inoperable on the non-payment of the enforcement fee is suggested.

Enforcement costs can be difficult to assess, particularly for a new licensing regime. The inclusion of known/expected costs can be readily justified, but costs should not be included where they haven't happened and/or cannot reasonably be expected to happen. Instead, costs such as unexpected licence reviews can be included as a loss in future fees (up to three years is suggested) so that the costs are recouped over time.

### **3.3 Vets fees**

It is recommended that vets fees are charged by the authority as part of the fee, although it could be shown separately. There are a number of advantages to this, including that:

- (i) Visits can sometimes be grouped, reducing the costs to businesses,
- (ii) Vet costs can be recovered as part of the licence fee prior to the issue of the licence, and
- (iii) The vet remains a contractor for the authority, with clear lines of accountability.

## **4. Activities not covered by licence fees**

Costs that are not directly related to licence applications cannot be financed through the license fees, but are instead borne by the authority. This means that there are a number of activities that cannot be charged as part of a licence fee, including

- 1 Advice and enforcement relating to unlicensed premises (but see below), to premises that do not become licenced or to members of the public making general queries about AW licensing, for example.
- 2 Freedom of Information and Data protection requests to which we are obliged to respond under other legislation
- 3 Non-licensing activities – for example departmental/corporate activities over and above normal expectations, general professional meetings etc.
- 4 Prosecution costs that have been covered by costs awarded to the authority

In *Hemmings V Westminster*, the Supreme Court found that the Services Directive didn't prevent LAs from charging fees to licence holders that are proportionate to the cost of administering and enforcing the licensing framework, including against unlicensed operators, and indeed the AW Regulations make specific provision for local authorities to charge licensed premises in respect of unlicensed premises investigations. However, this must be balanced against the requirement to ensure that this is fair to businesses seeking a licence. It could be reasonable, for example, to add a small contributory cost to licenses that clearly benefit from the work to remove unlicensed competitors.

## 5. The licence setting/review process

Fees should be reviewed annually, using the following steps

- 1 The fees setting process itself should be reviewed to ensure that it remains valid – any changes in law, guidance or case law will need to be taken into account
- 2 The underlying data determining the fees must be reviewed, and in particular
  - a. Each licence process step must be reviewed to ensure that the time calculated remains accurate (this need not be a complex process each and every year, but should be recorded to show that it has been done. Time recording should be used where available. Alternatively, a time and motion study could be undertaken on an occasional basis.
  - b. The authority's Finance department should be asked to update the staff hourly costs, including on-costs
  - c. Other costs such as IT, specialist equipment etc. should be reviewed to ensure they remain relevant.
  - d. If there was a significant profit or loss in the previous licence period, the fee for the next period will need to be reduced/increased by the same amount
- 3 The actual licence costs should then be calculated. The cost calculator developed by the [Wales Licensing Expert Panel](#) (the LGA provide a link to spreadsheet) is a useful template for this, but the data used will vary from authority to authority.
- 4 The fee structure must then be approved in accordance with the authority's constitution, and it is important that there is an overview mechanism beyond the person/team initially calculating the fee

## 6. Licensing Process steps

Understanding what is required for each licence is key to understanding what should be included in the fee. It can be helpful to work this out separately and to retain this as evidence in case of later queries. An example is given in Appendix 1, although this list is not exhaustive and is for consideration only - councils might be doing fewer or additional activities.

Each process step should be based on time monitoring, where used. Alternatively, staff involved in each process should be asked to time each process step regularly and to review this annually (although this can be a brief check).

The time measured should be a reasonable “real time” calculation rather than a “best case” time, taking into account that staff must have refreshment breaks etc., and the realities of office life such as photo-copier queues and breakdowns, fire alarms etc.

The steps calculated and included should only be those that take place, or are planned and need to be included to recover costs.

Authorities should continually examine ways in which to promote service improvements and correspondingly reduce costs. The use of text messaging and emails to issue licences and reminders to renew licences for example can reduce administration costs and increase efficiency.

## **7. Staffing costs**

The main cost in respect of licence applications will generally be staffing costs. For each officer, this will include both direct and indirect costs

### **7.1 Direct Staffing Costs**

Wages, pension contributions and National Insurance should all be included. General travel costs and personal protective equipment (PPE) etc. should be included unless specific to a particular activity against which that cost will be charged (safety boots for Riding Establishment inspections, for example). Where members of other teams, senior managers etc. are directly involved, their time should also be costed and included unless already covered by the on-costs.

In calculating an hourly rate, the Finance department will advise on the average hours worked per annum taking annual and sick leave into account. Team meetings, performance monitoring and other “back-room” activities (which are not directly related but are nonetheless integral to service delivery) can also be taken into account when working out the effective working hours of each officer.

### **7.2 On-costs**

This will include the reasonable costs of providing and heating and lighting the office, general IT, photocopying and other admin services etc. It also includes business support, such as reception services, and HR and other corporate support. Indirect management functions, above direct team leader level, and general democracy costs should be included in the on-cost calculation, but not specific identifiable costs relating to specific licences. Again, this should be determined by the Finance team

Adding on-costs to the hourly staff rate will usually be the fairest way to recoup these costs. Licence applications that take very little time will then pay less, whilst more complex applications will pay more. It also means that there will be a fair divide of these costs between chargeable activities, activities covered by statutory fees and non-chargeable activities – each will be costed based on the time taken.

## **8. Equipment and other costs**

Most equipment and specialist materials will be directly attributable to a type of licence, and can be apportioned between those licences. In doing so, the following assumptions should be made

- Equipment – specialist equipment costs such as card printers will be allocated to the specific licence types the equipment is used for, divided by the number of years that each piece of equipment is expected to last
- Specialist databases – allocated across all functions that use that software, pro-rata with non-chargeable functions such as recording unlicensed premises

Non-specialist equipment is generally covered in the on-costs calculated by the finance department, and will include photocopiers and printers, paper etc.

## 9. Advice and Enforcement

Local Authorities are entitled to charge for advice and enforcement relating to licences they have issued, and this can include, for example

Administrative costs

- 1 Initial advice where it relates to licence applications or licensed premises (but not for applications that don't proceed)
- 2 Inclusion on any register(s) as required and maintenance of this data

Enforcement costs

- 3 Checks through the lifetime of the licence, such as annual or ad-hoc checks on insurance and other matters that expire during the licence period
- 4 Planned inspections and compliance checks
- 5 Dealing with service requests and complaints following licence determination
- 6 A fair proportion of any area based or focussed inspection programme.

Proactive work is relatively straightforward to cost, as the costs of each planned inspection can be calculated.

In terms of reactive work, this can be difficult to quantify. Some premises cause more problems than others, but this tends to even out over time for most premises. Furthermore, this may not always be the fault or under the control of the licence holder – for example where malicious complaints are received. For each licence type, it will be necessary to work out how many are received over a period of time and what the average time to resolve is, and then allocate pro-rata.

The enforcement element of any fee will be worked out separately, and applicants will be able to pay this after the approval of their licence but before the issue of that licence. However, the authority is entitled to recover costs, and a fee can therefore be charged to include correspondence with the applicant to inform them that the enforcement payment is required, and the costs of processing and recording any payments.

The European Court of Justice ruling in the *Hemmings V Westminster* case was clear that the legal position is that two fees should be charged; on application (to cover the cost of processing the application), and when the application has been approved (to cover the cost of administering and enforcing the framework).

## 10. Profits and losses

An important element of the fee setting process is the calculation of any profit or loss over the past year, and local authorities must assess these annually. This could include, for example

### Profits

- 1 An increase in licensed premises that means pro-rata costs are lower
- 2 Work that was planned but not carried out
- 3 Service efficiencies/cost savings that need to be passed on

### Losses

- 1 Unexpected levels of enforcement
- 2 Appeals/prosecutions not recovered through court costs awarded.
- 3 Unexpected increases in equipment or vet fees, for example.

This process does not have to be exact. In *Hemmings V Westminster*, the High Court stated that a local authority “*does not have to adjust the licence fee every year to reflect any previous deficit or surplus, so long as it "all comes out in the wash" eventually. And the adjustment does not have to be precise: a rough and ready calculation which is broadly correct will do*”. Local Authorities would not therefore be expected to worry about whether something averaged 4 minutes rather than 5 this year, but could be expected to take into account that they hadn't done any of their planned interim inspection visits.

Local authorities should ideally budget for AW licensing work separately from other functions, so that income and expenditure can be more readily recorded and demonstrated. Where a profit or loss is made, this should be repaid/recovered over up to three years, with refunds considered where a business ceases trading in that time and any refund due is significant

## 11. Proportionality

Licence fees will generally be a more significant cost to a small business than a large business, and this could inhibit small businesses from setting up. It could also dissuade these businesses applying for a licence, thereby placing the public at risk and increasing the enforcement burden for the authority (for which there is no income). Officers may therefore wish to consider (or be asked to consider) how these issues can be resolved through the fee setting process.

There are three significant points to consider, namely that

1. Fees are about recovering cost of administering the licensing framework as a whole and, as long as the way fees are calculated are transparent and regularly reviewed, local authorities are not expected to stratify types of premises,
2. The costs of issuing and enforcing a licence are similar, regardless of the size of a business. Indeed, the costs of licensing a small business can be higher – for example where they depend heavily on the local authority for advice, or a warrant is needed to affect an entry for enforcement purposes.
3. Domestic premises are often regarded as small, but may in fact be bigger than commercial businesses (particularly taking internet sales into account) and/or could have a higher level of animal welfare activity that falls within the licensing regime.

There are some options that local authorities could consider, which include

- 1 Fees could be calculated for different types/sizes of premises, so that businesses pay a rate that more accurately reflects the work of the local authority in licensing those premises, or
- 2 The calculated fee cost could be reduced for certain types of business, although these costs cannot then be recovered from other licensed businesses

Calculating the costs for different types of business can be time consuming, and most local authorities would therefore only wish to consider this step where there is likely to be a considerable cost saving for smaller businesses, or where there is some other clearly perceived benefit.

A simpler solution is to not charge the full cost recovery fee for specified businesses. However, this needs to comply with the EU Services Directive – local authorities cannot, for example, choose to charge local businesses less than regional/national businesses. Local Authorities could, however, consider the number of customers or the size of the business when determining whether a fee reduction is appropriate.

## **12. Member approval and Publication**

One of the issues raised in *Westminster v Hemmings* was that the fees had not been approved in accordance with the process laid out within the authority, and particularly that fees had not been referred for Member approval where they had been reviewed by an officer and remained unchanged.

The outcome of that case is that the approval of fees by Members is vital, even where fees remain unchanged. Approval will depend on the constitution of each authority, based on the [Local Authorities \(Functions and Responsibilities\) \(England\) Regulations 2000](#), but will often be via or at least scrutinised by the Licensing Committee.

Once approved, it is good practice to make the fees public, for example via the web-site. Local authorities might also wish to consider providing a bit of background information on how those fees were calculated, in the interests of transparency. Information on how the fees were calculated and approved should be retained in case of judicial review or, more likely, any FOI requests.

## Appendix 1 – example workflow for Pet Shop Premises

| Headline Activity             | Detail  | Estimated time - minutes | Usual Officer | Minutes per application | Notes/Comments – assuming 20 licences                  |
|-------------------------------|---|--------------------------|---------------|-------------------------|--|
| Pro rata Process set-up costs | Fee setting, inc annual review over 3 years                           | 300                      | Officer       | 5                       | 5 hours / 20 / 3                                       |
|                               | Policy setting/updating, 3 years policy life                          | 600                      | Officer       | 7.5                     | 75% allocated to licences<br>10 hours / 20 / 3 x 0.75% |
|                               | General co-ordination & benchmarking                                  | 2400                     | Officer       | 12                      | Assume 10% AEL related<br>40 hours / 20 x 0.1          |
|                               | Standard form and letter development – 2 yearly                       | 240                      | Officer       | 6                       | 2 hours / 20 x 0.5                                     |
|                               | Web page maintenance - annual   | 60<br>60                 | Officer<br>IT | 3<br>3                  | 1 hour / 20  |
| Specialist Equipment          | None  |                          |               |                         | Standard equipment inc in on-cost                      |
| Staff set-up costs            | Staff appointment costs   |                          |               |                         | Nominal – none new                                     |
|                               | Staff authorisation costs   |                          |               |                         | Nominal – joint process with all other work            |
|                               | General PPE and equipment costs                                       |                          |               |                         | Nominal – No specialist PPE                            |
|                               | Staff training costs  | 600                      | Officer       | 15                      | training every other year<br>10 hours / 20 x 0.5       |
| Pre app advice                | Advice re application process, inc. call-backs, recording on database | 15                       | Officer       | 15                      | New applications only - not renewals (usually)         |
| App forms sent out            | Pro-rata printing & storage of app forms per annum                    | 60                       | Admin         | 3                       | 1 hour / 20 licences                                   |
|                               | Finding forms, placing in envelope, taking to post                    | 5                        | Officer       | 5                       | All new applications (see renewal reminder stage)      |
| App form receipt              | Reception costs & receipt of application                              |                          |               |                         | Inc in staff overhead costs                            |
|                               | App form check  | 5                        | Officer       | 5                       | All apps   |
| App processing & issue        | Creation of database file record                                      | 10                       | IT            | 10                      | New applications only                                  |
|                               | Entry on database   | 5                        | Officer       | 5                       | All apps   |
|                               | Phone calls, e-mails etc. re application                              | 30                       |               | 15<br>1.5               | 50% of new apps,<br>5% renewal apps                    |

|   |   |          |                  |                  |   |
|---|---|----------|------------------|------------------|---|
| Payment fees                                      | Payment fee where admin & enforcement paid separately                             | 15       | Officer<br>Admin | 1<br>14          | All applications per payment made   |
| Inspection  | Organisation of vet inspection  | 10<br>5  | Officer          | 10<br>5          | New premises<br>Renewal inspections                                       |
|   | Inspection time inc travel  | 90<br>45 | Officer          | 90<br>45         | New premises<br>Renewal inspections carried out together                  |
|   | Printing & completion of inspection form  | 15       | Officer          | 15               | All licences  |
|   | Processing of vet invoice   | 10<br>5  | Officer          | 10<br>5          | New premises<br>Renewal inspections                                       |
|   | Follow-up outstanding matters identified during inspection                        | 60       | Officer<br>Vet   | 20               | Assume 1/3 applications   |
| Licence completion                                | Preparation of licence & covering letter  | 15       | Officer          | 15               | All applications – licences produced via Word & signed by service manager |
|   | Licence approval  | 10       | Officer          | 10               | New applications  |
|   |   | 10       | SM               | 10               | Renewal applications  |
|   |   | 5        | Officer          | 5                |   |
| 5   | SM  | 5        |                  |                  |   |
| Printing licence & letter, enveloping and posting | 10  | Officer  | 10               | All applications |   |
| Enforcement                                       | Proactive in-year inspections on risk basis - every 2 years on average            | 90       | Officer          | 45               | 90 / 2  |
|   | Service requests  | 120      | Officer          | 6                | 6 SRs pa - 20 minutes, 2 hours / 20                                       |
|   | Premises complaints inc enforcement   | 240      | Officer          | 12               | assuming 2 per year taking 2 hours each 4 hours / 20 licences             |
| Renewal – where reminder letters sent             | Reminder letter and app forms sent out  | 10       | Officer          | 10               | All issued licences   |
|   | Second reminder letter  | 10       | Officer          | 5                | 50% of all applications   |
| Licence review                                    | Calculated based on actual timings  |          |                  |                  | charged on cost recovery basis if/when they occur                         |
| File closure                                      | File closure process – inc. correspondence, database update, filing and archiving | 20       | Officer          | 1                | Assume 1 closure per annum, shared pro rata.                              |

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## Appendix A

### Proposed Fees

**All fees are inclusive of the Vet charges applicable at this time**

| <b>Animals Welfare</b>  | Cost inclusive of vet fee<br>Bracketed figure shows current fee                                       |
|---|---|
|   |   |
| <b><u>Animal Boarding Establishment:<br/>Application</u></b>      | £350 at time of application Part A  |
| New and Renewal   | Total shown below includes Part B<br>calculated at :<br>1 Year = £191<br>2 Year= £252<br>3 Year= £313 |
|   |   |
| <b>Total Cost of Licence</b>                                      | <b>(Current fee £220+£4.45 per<br/>animal)</b>  |
| <b>1 Year Licence</b>   | <b>£541</b>   |
| <b>2 Year Licence</b>   | <b>£602</b>   |
| <b>3 Year Licence</b>   | <b>£663</b>   |
|   |   |
|   |   |
| <b><u>Home Animal Boarding Establishment:<br/>Application</u></b> | £206 at time of application Part A  |
| New and Renewal   | Total shown below includes Part B<br>calculated at :<br>1 Year = £191<br>2 Year= £252<br>3 Year= £313 |
|   |   |
| <b>Total Cost of Licence</b>                                      | <b>(No fee currently)</b>   |
| <b>1 Year Licence</b>   | <b>£397</b>   |
| <b>2 Year Licence</b>   | <b>£458</b>   |
| <b>3 Year Licence</b>   | <b>£519</b>   |
|   |   |
|   |   |

|   |   |
|---|---|
| <b><u>Dog Day Care : Application</u></b>    | £206 at time of application Part A  |
| New and Renewal                             | Total shown below includes Part B<br>calculated at :<br>1 Year = £191<br>2 Year= £252<br>3 Year= £313 |
| <b>Total Cost of Licene</b>                 | <b>(No fee currently)</b>   |
| <b>1 Year Licence</b>                       | <b>£397</b>   |
| <b>2 Year Licence</b>                       | <b>£458</b>   |
| <b>3 Year Licence</b>                       | <b>£519</b>   |
|   |   |
| <b><u>Breeding of Dogs: Application</u></b> | £350 at time of application Part A  |
| New and Renewal                             | Total shown below includes Part B<br>calculated at :<br>1 Year = £191<br>2 Year= £252<br>3 Year= £313 |
|   | <b>(Current fee £419)</b>   |
| <b>Total Cost of Licence</b>                | <b>£541</b><br><b>£602</b><br><b>£663</b>   |
|   |   |
| <b><u>Pet Shops: Application</u></b>        | £350 at time of application Part A  |
|   | Total shown below includes Part B<br>calculated at :<br>1 Year = £191<br>2 Year= £252<br>3 Year= £313 |
| New and Renewal                             | <b>(Current fee £239)</b>   |
| <b>Total Cost of Licence</b>                | <b>£541</b><br><b>£602</b><br><b>£663</b>   |
|   |   |

|   |   |
|---|---|
| <b><u>Riding Establishments (under 15 horses) Application</u></b> | £445 at time of application Part A                |
| New and Renewal   | Total shown below includes Part B calculated at : |
|   | 1 Year = £191<br>2 Year= £252<br>3 Year= £313     |
| <b>Total Cost of Licence</b>                                      | <b>(Current fee £315+£7.73 per animal)</b>        |
| <b>1 Year Licence</b>   | <b>£636</b>                                       |
| <b>2 year Licence</b>   | <b>£697</b>                                       |
| <b>3 Year Licence</b>   | <b>£758</b>                                       |
|   |   |
| <b><u>Riding Establishments ( 16 to 29 horses):</u></b>           | £620 at time of application Part A                |
| New and Renewal   | Total shown below includes Part B calculated at : |
|   | 1 Year = £191<br>2 Year= £252<br>3 Year= £313     |
| <b>Total Cost of Licence</b>                                      | <b>(Current fee £490+£7.73 per animal)</b>        |
| <b>1 Year Licence</b>   | <b>£811</b>                                       |
| <b>2 year Licence</b>   | <b>£872</b>                                       |
| <b>3 Year Licence</b>   | <b>£933</b>                                       |

|  |   |
|--|---|
| <b><u>Riding Establishments (over 30 horses) Application</u></b> | £760 at time of application Part A                |
| New and Renewal  | Total shown below includes Part B calculated at : |
|  | 1 Year = £191<br>2 Year= £252<br>3 Year= £313     |
| <b>Total Cost of Licence</b>                                     | <b>(Current fee £630+£7.73 per animal)</b>        |
| <b>1 Year Licence</b>  | <b>£951</b>                                       |
| <b>2 year Licence</b>  | <b>£1012</b>                                      |
| <b>3 Year Licence</b>  | <b>£1073</b>                                      |
|  |   |

|   |  |
|---|--|
| <b><u>Keeping or Training of Animals for Exhibition</u></b> | £341 at time of application Part A                   |
| New and Renewal   | Total shown below includes Part B calculated at :    |
|   | 3 Year = £133<br><br>(No mid tem vet visit required) |
| <b>Total Cost of Licence</b>                                | <b>(Current fee £97)</b>                             |
| <b>3 Year Licence</b>                                       | <b>£474</b>  |
|   |  |
| <b>OTHER FEES</b>   |  |
| Midterm inspection Vet                                      | <b>£110</b>  |
| Midterm inspection LO                                       | <b>£90</b>   |
|   |  |
| Re Rating all premises Appeal or request                    |  |
| Administration only   | <b>£60</b>   |
| Requiring Inspection  | <b>£110</b>  |
|   |  |
| Variation of a Licence                                      |  |
| Admin Only process  | <b>£60</b>   |
| Requiring inspection  | <b>£110</b>  |
|   |  |
| Replacement Licence   | <b>£45</b>   |

Report No.  
FSD18097

London Borough of Bromley

PART ONE - PUBLIC

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**Decision Maker:** PUBLIC PROTECTION & ENFORCEMENT PORTFOLIO HOLDER

**Date:** For pre-decision scrutiny by the Public Protection & Enforcement PDS Committee on 4<sup>th</sup> December 2018

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

**Title:** CAPITAL PROGRAMME MONITORING - 2<sup>ND</sup> QUARTER 2018/19

**Contact Officer:** Jo-Anne Chang-Rogers, Principal Accountant  
Tel: 020 8313 4292 E-mail: jo-anne.chang-rogers@bromley.gov.uk

**Chief Officer:** Director of Finance

**Ward:** All Wards

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1. Reason for report

On 28<sup>th</sup> November 2018, the Executive received a report summarising the current position on capital expenditure and receipts following the 2<sup>nd</sup> quarter of 2018/19 and agreed a revised Capital Programme for the four year period 2018/19 to 2021/22. This report highlights changes agreed by the Executive in respect of the Capital Programme for the Public Protection & Enforcement Portfolio. The revised programme for this portfolio is set out in Appendix A and detailed comments on individual schemes are shown in Appendix B.

---

2. **RECOMMENDATION**

The Portfolio Holder is asked to note and confirm the changes agreed by the Executive on 28<sup>th</sup> November 2018.

## Corporate Policy

1. Policy Status: Existing Policy: Capital Programme monitoring is part of the planning and review process for all services. Capital schemes help to maintain and improve the quality of life in the borough. Effective asset management planning (AMP) is a crucial corporate activity if a local authority is to achieve its corporate and service aims and objectives and deliver its services. For each of our portfolios and service priorities, we review our main aims and outcomes through the AMP process and identify those that require the use of capital assets. Our primary concern is to ensure that capital investment provides value for money and matches the Council's overall priorities as set out in the Community Plan and in "Building a Better Bromley".
  2. BBB Priority: Excellent Council
- 

## Financial

1. Cost of proposal: £340k (Total Capital Scheme)
  2. Ongoing costs: Not Applicable
  3. Budget head/performance centre: Capital Programme
  4. Total current budget for this head: £32k for the PP&E Portfolio over the four years 2018/19 to 2021/22
  5. Source of funding: Capital receipts
- 

## Staff

1. Number of staff (current and additional): 1 fte
  2. If from existing staff resources, number of staff hours: 36 hours per week
- 

## Legal

1. Legal Requirement: Non-Statutory - Government Guidance
  2. Call-in: Applicable
- 

## Customer Impact

1. Estimated number of users/beneficiaries (current and projected): N/A
- 

## Ward Councillor Views

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

### 3. COMMENTARY

#### Capital Monitoring – variations agreed by the Executive on 28<sup>th</sup> November 2018

- 3.1 A revised Capital Programme was approved by the Executive on 28<sup>th</sup> November 2018, following a detailed monitoring exercise carried out after the 2<sup>nd</sup> quarter of 2018/19. The base position is the programme approved by the Executive on 11<sup>th</sup> July 2018, as amended by variations approved at subsequent Executive meetings. All changes to schemes in the Public Protection & Enforcement Portfolio Programme are shown in the table below. The revised Programme for the Public Protection & Enforcement Portfolio is attached as Appendix A whilst Appendix B shows actual spend against budget in the 2<sup>nd</sup> quarter of 2018/19 together with detailed comments on individual scheme progress.

|   | 2018/19   | 2019/20  | 2020/21  | 2021/22  | TOTAL<br>2018/19 to<br>2021/22 |
|---|-----------|----------|----------|----------|--------------------------------|
|   | £000      | £000     | £000     | £000     | £000                           |
| Programme approved by Executive 11/07/18  | 32        | 0        | 0        | 0        | 32                             |
| Variations approved by Executive 28/11/18 | 0         | 0        | 0        | 0        | 0                              |
| <b>Total Revised PP&amp;E Programme</b>   | <b>32</b> | <b>0</b> | <b>0</b> | <b>0</b> | <b>32</b>                      |

- 3.2 Schemes re-phased from 2018/19 into future years

There were no re-phasings carried out during the 2<sup>nd</sup> quarter monitoring exercise. This quarterly report will monitor the future position and will highlight any schemes where rephasing is required.

#### Post-Completion Reports

- 3.3 Under approved Capital Programme procedures, capital schemes should be subject to a post-completion review within one year of completion. After major slippage of expenditure in prior years, Members confirmed the importance of these as part of the overall capital monitoring framework. These reviews should compare actual expenditure against budget and evaluate the achievement of the scheme's non-financial objectives. No post-completion reports are currently due for the PP&E Portfolio, but the quarterly reports will monitor the future position and will highlight any further reports required.

### 4. POLICY IMPLICATIONS

- 4.1 Capital Programme monitoring and review is part of the planning and review process for all services.

### 5. FINANCIAL IMPLICATIONS

- 5.1 These were reported in full to the Executive on 28<sup>th</sup> November 2018. No changes were agreed by the Executive for the Public Protection & Enforcement Portfolio Capital Programme.

|   |  |
|---|--|
| <b>Non-Applicable Sections:</b>                       | Legal, Personnel & Procurement Implications, Impact on Vulnerable Adults and Children  |
| Background Documents:<br>(Access via Contact Officer) | Capital Programme Monitoring Qtr 1 2018/19 (Executive 11/07/18)<br>Capital Programme Monitoring Qtr 2 2018/19 (Executive 28/11/18) |

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## Appendix A

| PUBLIC PROTECTION & ENFORCEMENT PORTFOLIO - APPROVED CAPITAL PROGRAMME 28TH NOVEMBER 2018 |                                   |                         |                    |                  |                  |                  |                  |                     |         |
|---|-----------------------------------|-------------------------|--------------------|------------------|------------------|------------------|------------------|---------------------|---------|
| Code  | Capital Scheme/Project            | Total Approved Estimate | Actual to 31.03.18 | Estimate 2018/19 | Estimate 2019/20 | Estimate 2020/21 | Estimate 2021/22 | Responsible Officer | Remarks |
|   |                                   | £'000                   | £'000              | £'000            | £'000            | £'000            | £'000            |                     |         |
| 939446  | CCTV Control room - refurbishment | 340                     | 308                | 32               | 0                | 0                | 0                | Jim McGowan         |         |
| <b>TOTAL PUBLIC PROTECTION &amp; ENFORCEMENT PORTFOLIO</b>                                |                                   | <b>340</b>              | <b>308</b>         | <b>32</b>        | <b>0</b>         | <b>0</b>         | <b>0</b>         |                     |         |

## Appendix B

| PUBLIC PROTECTION & ENFORCEMENT PORTFOLIO - APPROVED CAPITAL PROGRAMME 2018/19 - 2ND QUARTER MONITORING |                                   |                             |                    |                           |  |
|---|-----------------------------------|-----------------------------|--------------------|---------------------------|--|
| Code  | Capital Scheme/Project            | Approved Estimate July 2018 | Actual to 21.11.18 | Revised Estimate Nov 2018 | Responsible Officer Comments   |
|   |                                   | £'000                       | £'000              | £'000                     |  |
| 939446  | CCTV Control room - refurbishment | 32                          | 0                  | 32                        | The scheme has completed. A sum of retention has been applied and the system will need to run successfully for a period of 12 months before final payment is made. This scheme will be reviewed and any residual balance will be removed from the capital programme in due course. |
| <b>TOTAL PUBLIC PROTECTION &amp; ENFORCEMENT PORTFOLIO</b>  |                                   | <b>32</b>                   | <b>0</b>           | <b>32</b>                 |  |

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Report No.  
ES/18092

London Borough of Bromley

PART ONE - PUBLIC

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**Decision Maker:** PUBLIC PROTECTION AND ENFORCEMENT POLICY  
DEVELOPMENT & SCRUTINY COMMITTEE

**Date:** Tuesday 4 December 2018

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

**Title:** PLANNING ENFORCEMENT SCRUTINY REPORT

**Contact Officer:** John Stephenson, Head of Planning Appeals and Enforcement Manager  
Tel: 0208 313 4687 E-mail: John.Stephenson@bromley.gov.uk

**Chief Officer:** Jim Kehoe, Chief Planner

**Ward:** (All Wards);

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1. Reason for report

This report provides an update on the progress of the current cases under investigation / pending consideration, cases which are currently at appeal, cases which are also waiting compliance period, cases where enforcement action has been instigated, cases awaiting prosecution action. Enforcement action authorised, cases that are currently with our legal department awaiting further action, cases where direct action has been authorised, cases which have now been closed together with a full breakdown on the range of current complaints.

---

2. **RECOMMENDATION(S)**

Members to consider the report

### Impact on Vulnerable Adults and Children

1. Summary of Impact: None directly from this report
- 

### Corporate Policy

1. Policy Status: Existing Policy:
  2. BBB Priority: Quality Environment:
- 

### Financial

1. Cost of proposal: Not Applicable:
  2. Ongoing costs: Not Applicable:
  3. Budget head/performance centre:
  4. Total current budget for this head: £
  5. Source of funding: 2017/18
- 

### Personnel

1. Number of staff (current and additional): 50.42ftes
  2. If from existing staff resources, number of staff hours: N/A
- 

### Legal

1. Legal Requirement: Statutory Requirement:
  2. Call-in: Not Applicable:
- 

### Procurement

1. Summary of Procurement Implications: None directly from this report
- 

### Customer Impact

1. Estimated number of users/beneficiaries (current and projected): N/A
- 

### Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments:

### 3. COMMENTARY

- 3.1 Planning Enforcement team investigates allegations of breaches of planning control across the whole of the Borough, as set out in the Council's Planning Enforcement Policy. This policy was approved by Members in order to provide some guidance on any actions the Council may wish to consider when enforcement action could be taken. This includes where building work requiring planning permission is undertaken without such permission and where conditions are attached to an approved scheme and the conditions are not complied with. The team investigates the condition of land or property or where the use of a building or land is changed without the benefit of planning permission. The team investigates alleged unauthorised advertisements, which may not have express consent.
- 3.2 Based on the information provided above I can confirm that progress has been achieved in reaching our projected target as set out in our portfolio Plan 2017/2018
- 3.3 The Planning investigations team is currently made up of five investigating officers, 3 full time permanent planning investigating officers and in November 2017 the team had been given two additional temporary full time investigating officers in order to be able to meet the demands on our current service delivery. As a result from the additional resources in staffing albeit temporary the current levels of enquiries although it has exceeding the projected figures, we are able to keep our current outstanding cases to within targets. We are being more proactive in our approach to investigating breaches of planning control.
- 3.4 The Council has a statutory duty to investigate planning enforcement enquires/complaints, but they are given discretionary powers as to whether/ when to instigate formal enforcement action in each individual case. In each and every individual case expediency test/assessment is carried out before considering instigating any formal enforcement action.
- 3.5 We liaise very closely with our legal department to get clear advice as part of the expediency test in order that we can be satisfied that we are taking the appropriate actions on all enforcement matters at any given time as we may leave the Council open to an award of costs if at appeal the Planning Inspectorate allows an appeal and if the Council may have been unreasonable..
- 3.6 We have had seen a steady increase over the last couple of years in the amount of enquires received where the condition of land or property is causing an adverse effect on the amenities under Section 215 of the Planning Act 1990 (as amended). In some instances where voluntary compliance cannot be achieved the Council may consider taking direct action to remedy the breach of planning control. In the last 11 months **87** cases have been reported for further investigation, **52** of the 87 cases have now been closed as compliance has been achieved and no further action is required.
- 3.7 Direct action will always involve a cost, and as a result quotes will be obtained in order for the Council to carry out the works in default of the notice. These cases will be presented to a Committee with a recommendation for Members to consider. It is for Members to make a decision to agree to authorise direct action, as this type of action may involve some considerable financial cost to the Council. A charge on the property/land can be considered by the Council in order to recover the Council's initial cost together with the appropriate interest rate charged until the bill is paid.
- 3.8 In June 2018 a report was presented to committee of the **370** open enforcement cases which were currently under investigation or pending consideration. Since the report to members last June 2018 we have received an additional 390 new cases.

3.9 As of 15<sup>th</sup> November 2018 a total number of **362 current** open enforcement cases pending consideration.

These cases consist of:

| <b>Range of Complaints</b>      |            |     |
|---------------------------------|------------|-----|
| Operational Development         | 100        | 28% |
| Untidy Sites (S215)             | 35         | 10% |
| Commercial Activity             | 14         | 4%  |
| Breach of condition             | 35         | 10% |
| Adverts                         | 7          | 2%  |
| Boundary treatment              | 15         | 4%  |
| Plans - not built according to  | 33         | 9%  |
| Commercial vehicle - parking of | 2          | 1%  |
| Change of Use                   | 71         | 20% |
| Access                          | 0          | 0%  |
| Shop shutters                   | 4          | 1%  |
| Satellite Dishes                | 0          | 0%  |
| Trees                           | 9          | 2%  |
| General                         | 37         | 10% |
|                                 | <b>362</b> |     |

3.10 **22** enforcement cases are currently held in abeyance pending the outcome of an appeal with the Planning Inspectorate against the enforcement notices served or are the subject of an appeal against a S78 refused planning decisions.

3.11 **34** cases has as a result of the planning investigation/enforcement action have now submitted a planning application for material consideration in an attempt to remedy the breach of planning control , further enforcement action is currently on hold pending the outcome/decision of these planning applications.

3.12 **80** Enforcement Notices have been served in connection with breaches of planning control within the last 11 months.

3.13 A total of **785** Cases which have been closed since the 1st January 2018 within the last 11 months.

3.14 In **14** cases where an enforcement notice has been effective and has not been complied with, the Council may exercise its powers by taking prosecution action. The council is currently in the process of prosecuting on the following cases.

- i. Property in Market Meadow - located in Cray Valley East Ward.

- ii Property in Midfield Way – located in Cray Valley East Ward.
  - iii Site in Skeet Hill Lane – located in Cray Valley East Ward.
  - iv Property in Queens Road – located in Clock House Ward.
  - V Property in Blandford Road – located in Clock House Ward.
  - Vi Land Adj to Top Awards – located in Farnborough and Crofton Ward.
  - Vii Site in Farnborough Common – located in Farnborough and Crofton Ward.(HIA)
  - Viii Property in New Year’s Lane - located in Chelsfield and Pratts Bottom Ward.
  - ix Site in High Street, Green Street Green–located in Chelsfield and Pratts Bottom Ward.
  - X Site in Sevenoaks Road – located in Chelsfield and Pratts Bottom Ward.
  - Xi Property in Babbacombe Road – located in Plaistow and Sundridge Ward.
  - Xii Property in Manor Way – located in Kelsey and Eden Park Ward.
  - Xiii Property in High Street, Penge – located in Penge and Cator Ward.
  - Xiv Property in Lower Gravel Road – located in Bromley Common and Keston Ward.
- 3.15 A property owner in Lullingstone Close, which is located in Cray Valley West Ward, was successfully prosecuted for failing to comply with a Section 215 Notice. The Notice was served by the Council as it considered that the condition of the land was adversely affecting the amenity of the local area. The owner of the land had failed to clear the land and direct action was authorised by Members. The land has now been cleared through taking direct action and the Council are in the process of placing a charge on the land to recover the cost to the Council. This action has been recently publicised by our communications unit in the Safer Bromley newsletter winter addition. We currently are pursuing 5 other cases where direct action has been duly authorised by Members at planning sub-committees.
- 3.16 Our next Planning Enforcement Progress and Monitoring Report are due to be presented to Public Protection and Enforcement Policy Development and Scrutiny Committee and Development Control Committee in June 2019.

|   |  |
|---|--|
| <b>Non-Applicable Sections:</b>                       | Policy, Legal and Personnel Implications |
| Background Documents:<br>(Access via Contact Officer) | Bromley Council Enforcement Policy       |

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Report No:  
CSD18153

London Borough of Bromley

**PART ONE - PUBLIC**

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**Decision Maker:** PUBLIC PROTECTION AND ENFORCEMENT PDS  
COMMITTEE

**Date:** 4<sup>th</sup> December 2018

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

**Title:** WORK PROGRAMME

**Contact Officer:** Stephen Wood, Democratic Services Officer  
Tel: 020 8313 4316 E-mail: stephen.wood@bromley.gov.uk

**Chief Officer:** Mark Bowen, Director of Corporate Services

**Ward:** All

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1. Reason for report

1.1 Members are asked to review the Committee's Work Programme, and also to make suggestions for any modifications to the Work Programme as considered appropriate

1.2 Members should note that the Work Programme is fluid and subject to change as required.

---

**2. RECOMMENDATIONS**

**2.1 That the Committee:**

(1) Notes the current Work Programme.

(2) Comments on any matters that it thinks should be incorporated into the Work Programme going forward.

### Corporate Policy

1. Policy Status: Existing Policy: Committees normally receive a report on the Work Programme and Contracts Register at each meeting.
  2. BBB Priority: Excellent Council Safer Bromley
- 

### Financial

1. Cost of proposal: No Cost
  2. Ongoing costs: Not Applicable:
  3. Budget head/performance centre: Democratic Services
  4. Total current budget for this head: £350,650
  5. Source of funding: 2018/2019 revenue budget
- 

### Staff

1. Number of staff (current and additional): 8 posts (6.87fte)
  2. If from existing staff resources, number of staff hours: Maintaining the Committee's Work Programme normally takes approximately an hour per meeting, but is fluid and may need to be modified as required.
- 

### Legal

1. Legal Requirement: None:
  2. Call-in: 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 Committee Members.
- 

### Ward Councillor Views

1. Have Ward Councillors been asked for comments? No
2. Summary of Ward Councillors comments: N/A

**3. COMMENTARY**

Forward Programme

- 3.1 The table at **Appendix 1** sets out the Public Protection and Enforcement PDS Forward Work Programme. The Committee is invited to comment on the schedule and to propose any changes it considers appropriate. The Committee is also invited to make suggestions with regard to Member visits.
- 3.2 Other reports may come into the programme - schemes may be brought forward or there may be references from other Committees, the Portfolio Holder or the Executive.
- 3.3 Members are asked to note the update concerning the **CCTV monitoring report**. The CCTV monitoring report was originally due to be presented to PP&E PDS on 4<sup>th</sup> December. However this has not proved feasible. The report has been delayed due to the need to conduct 'Invitation to Tender Interviews'. The report will now be scrutinised at the Executive, Resources and Contracts PDS Committee on 8<sup>th</sup> January, and then will go to the Executive for decision on 16<sup>th</sup> January. PP&E PDS members are naturally free to attend either or both of these meetings.
- 3.4 The item on the Mortuary contract is a verbal update as negotiations are ongoing.

**4. POLICY IMPLICATIONS**

- 4.1 Each PDS Committee is responsible for setting its own work programme.

|   |  |
|---|--|
| Background Documents:<br>(Access via Contact Officer) | Previous Work Programme Reports and Minutes of the previous meeting. |
|---|--|

**PP&E PDS COMMITTEE - FORWARD WORK PROGRAMME****PUBLIC PROTECTION AND ENFORCEMENT PDS—3<sup>rd</sup> July 2018**

Appointment of Co-opted Members

Police Update

Enforcement Activity Report

Budget Monitoring 2018/19

Provisional Outturn 2017/18

Public Protection and Enforcement Portfolio Plan

MOPAC Update Report

Trading Standards update report on Under Age Sales

Setting of Statutory Fees for Licensing Houses in Multiple Occupation

Contracts Register Report

Work Programme

**PUBLIC PROTECTION AND ENFORCEMENT PDS—27<sup>th</sup> September 2018**

Matters Arising

Police Update

RIPA update report

Enforcement Activity Future Scrutiny report

Capital Programme Monitoring report

Mortuary Contract Update report.

Contracts Register Report and Database Extracts

Planned enforcement of legislation which regulates the Letting Agents and Property Management Sector

Work Programme

**PUBLIC PROTECTION AND ENFORCEMENT PDS—4<sup>th</sup> December 2018**

Matters Arising

Police Update

Portfolio Holder Update

Budget Monitoring 2018/19

Food Safety Service Plan Report

Performance Report against the Portfolio Plan

Animal Licensing Legislation—Review of Fees

Planning Enforcement Scrutiny Report

Verbal Update on Mortuary Contract

Work Programme

**PUBLIC PROTECTION AND ENFORCEMENT PDS—30<sup>th</sup> January 2019**

Matters Arising

Police Update

Portfolio Holder Update

Draft Budget for 2019/2020

Air Quality Action Plan Report (TBC)

Parking Enforcement Scrutiny Report

Contracts Register Report and Database Extract

|  |
|--|
| Work Programme   |
| Emergency Planning and Business Continuity Update Report—(To be confirmed) |
| MOPAC Update Report  |
| Risk Register Update for the Public Protection Portfolio                   |
| <b>PUBLIC PROTECTION AND ENFORCEMENT PDS—21<sup>st</sup> March 2019</b>    |
| Matters Arising  |
| Police Update  |
| Portfolio Holder Update  |
| Prevent Update Report--TBC   |
| Budget Monitoring  |
| Contracts Register Report  |
| Enforcement Scrutiny Neighbourhood Management                              |
| Enforcement Scrutiny Report—Public Protection                              |
| Enforcement Activity Progress Report                                       |
| Report on Expenditure on Consultants                                       |
| Work Programme   |
| <b>POSSIBLE FUTURE PRESENTATIONS and AGENDA ITEMS</b>                      |
| Knife and Serious Violence Action Plan                                     |
| Mortuary Contract Update   |
| <b>POSSIBLE FUTURE VISITS</b>  |
| None decided yet   |

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By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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