

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

Date: Thursday 27 September 2018

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

Title: ENFORCEMENT ACTIVITY - FUTURE SCRUTINY

Contact Officer: Joanne Stowell, Assistant Director: Public Protection
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Chief Officer: Nigel Davies, Executive Director of Environment & Community Services

Ward: (All Wards);

1. Reason for report

In line with the task and finish group's terms of reference, this report identifies the different Enforcement areas which are now the responsibility of the Public Protection and Enforcement Portfolio, and highlights strategic key performance indicators that pertain to enforcement within the areas of Public Protection, Planning Enforcement, Neighbourhood Management (Street Enforcement) and Parking Enforcement.

2. **RECOMMENDATION(S)**

That the Committee:

(a) Note the contents of the report;

(b) Agree the suite of Enforcement Performance Indicators submitted for scrutiny; and

(c) Agree to further reports being produced for each enforcement area in line with the proposed work plan.

Impact on Vulnerable Adults and Children

1. Summary of Impact: Not Applicable
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Corporate Policy

1. Policy Status: Existing Policy:
 2. BBB Priority: Excellent Council Quality Environment Safe Bromley Vibrant, Thriving Town Centres:
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Financial

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

1. Number of staff (current and additional): Not Applicable
 2. If from existing staff resources, number of staff hours: Not Applicable
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Legal

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

1. Summary of Procurement Implications: None
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Not Applicable
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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 Bromley is considered to be one of the safest boroughs to live in in London, and this year saw the enforcement function within the Environmental Services Directorate move to the Public Protection & Safety Portfolio (Now Public Protection & Enforcement Portfolio), as such, Neighbourhood Management (Environmental Enforcement), Parking enforcement, and Planning enforcement are incorporated within the same Portfolio Plan.
- 3.2 The Public Protection and Enforcement Portfolio leads the delivery of the Council's individual and coordinated activity to ensure that Bromley continues to be a safe and healthy place for those who live, visit or work in the borough, now, and in the future. The scope of the Portfolio is wide and cuts across many of the key areas of work within the authority. Essentially if an enforcement issue affects the health, wellbeing or safety of the public, or the stewardship of our natural or built environment, it is likely that services within the Portfolio will have an active role to play.
- 3.3 Much of the work is carried out within a regulatory framework, and can be statutory, with standards being set by national regulators like the Food Standards Agency, the Health & Safety Executive, Environment Agency, HM Planning Inspectorate and the Health Protection Agency. However, there is a balance to be struck, between actively providing support, advice and information as well as targeting enforcement activity against those that put public health, the local economy, the environment or community at risk.
- 3.4 This regulation fulfils a number of policy objectives, and assists the Council to deliver against many themes within the 'Building a Better Bromley' vision, and achieves this through various means including:
- **Safe:** tackling antisocial behaviour and criminal activity such as doorstep crime, securing health & safety in the workplace, and coordinating the Council's response to the Prevent Strategy.
 - **Quality Environment:** through tackling nuisance behaviour, by implementing fly-tipping and littering controls, as well as taking intelligence led environmental, parking and planning enforcement,
 - **Children & Young People:** Tackling the sale of age-restricted products, particularly alcohol, tobacco and knives, through test purchase operations
 - **Housing:** assisting in the provision of safe and secure housing in the private rented sector.
 - **Involved:** Working closely with our partners and the community to develop and deliver our services.
 - **Prosperous & Thriving:** through responsible regulation and enforcement to ensure a fair and safe trading environment for residents, businesses and visitors,
 - **Quality Public Services:** delivering quality Public Protection and Enforcements services with significantly less funding, with a focus on budgetary control, contract performance monitoring and management, and commissioning opportunities.
- 3.5 The primary function of Public Protection regulatory and enforcement work is to protect the public, public funds, the environment and groups such as consumers, residents and tenants, workers and businesses. At the same time, carrying out such activity in an equitable, practical and consistent manner helps to maintain a level playing field for local businesses, individuals and our other service users.

4. Main Service Responsibilities

4.1 Neighbourhood Management (Street Enforcement)

4.2 The remit of the Street Enforcement team within Neighbourhood Management is to achieve regulatory compliance recognising that prevention through education and advice is preferable. However there will be instances where it will become necessary to take formal action against a business or individual, and the main areas of enforcement covered by this service are:

- Abandoned/nuisance vehicles;
- fly tipping on public and private land;
- overhanging vegetation onto the highway from private properties;
- illegal highway crossovers, and illegal obstructions and trading on the highway;
- illegal use of the highway such as for storing builder's materials;
- unauthorised use of skips, scaffolding and hoarding;
- illegal traveller incursions from any LBB public land; and
- the issuing of fines for street litter and dog fouling.

4.3 Parking Enforcement

4.4 The principle aim of parking enforcement is to continue to improve compliance through a firm, fair and transparent form of traffic enforcement. As such, the ethos is to be as informative as possible for the public to understand restrictions for their chosen place to park.

4.5 On street officers are trained in all aspects of traffic restrictions and customer service and the issue of a PCN is only part of their function. Direction to the public, or moving vehicles on, is a preferred method of enforcement with prevention through education and advice being preferable.

4.6 Since 1998 Parking within Bromley has been decriminalised from the Police whereby civil action can be enforced. The Teams that sit within the Client unit within Shared Parking Services that have an enforcement function are:

- On & Off Street Parking Enforcement (APCOA Services);
- CCTV Traffic Enforcement;
- Contract Monitoring;
- Asset Management (signs & lines);
- Disable Badge Enforcement; and
- Parking Appeals Service.

4.7 Planning Enforcement

4.8 Planning enforcement deals with all allegations of breaches of planning controls, as set out in the Council's Planning Enforcement Policy to guide any actions to be taken including where building work requiring planning permission is undertaken without such permission, where conditions attached to a planning condition are not complied with, the team also looks at the condition of land/property or where the use of a building or site is changed without planning permission.

4.9 The Council has a statutory duty to investigate planning enforcement enquiries/complaints, but has discretionary powers as to whether to instigate formal enforcement action in each individual case. In each individual case an expediency test is considered before instigating any formal enforcement action. This can be:

- unauthorised built development (new buildings, extensions and alterations to existing buildings, etc.);
- unauthorised land uses (unacceptable uses in the Green Belt, businesses running from homes, etc.);
- building works not in accordance with approved plans;

- breaches of planning conditions;
- illegal works to protected trees and listed buildings;
- illegal advertisements;
- illegal gypsy/traveller incursions;
- neglected land and property that is an eyesore; and
- proceeds of crime act.

4.10 Public Protection

4.11 The enforcement remit of Public Protection is varied; it includes (amongst other things): protecting people from excessive noise or nuisance, advising businesses on food safety, reacting to outbreaks of food poisoning, acting as an environmental custodian, protecting vulnerable groups from doorstep crime, issuing licences for the selling of alcohol, and improving housing standards through inspecting houses in multiple occupation (HMOs).

4.12 The Teams that sit within Public Protection that have an enforcement function are:

- Food Safety;
- Health & Safety;
- Environmental Protection & Nuisance;
- Housing Enforcement (e.g. Private rented sector and HMOs);
- Licencing;
- Anti-social Behaviour;
- Trading Standards; and
- Community Safety.

4.13 There are a variety of enforcement actions available to the Public Protection, these are:

- Education, compliance advice and support;
- Review, revocation, suspension of any licence and/or licence conditions;
- written warning;
- legal enforcement notice;
- fixed penalty notice;
- work in default/cost recovery action/direct works for planning enforcement;
- seizure/application for forfeiture;
- the issue of a caution;
- administrative penalty;
- prosecution or other legal proceedings including injunctive action;
- Proceeds of Crime Act confiscation proceedings;
- Voluntary undertaking; and
- Community resolution.

5. Legislation

5.1 In delivering these roles, each service area is governed and guided by legislation, policy and guidance. The main legislation used by the services within PP&E are presented in Appendix 1.

6. Enforcement Performance Indicators

6.1 Of the four enforcement services within the PP&E Portfolio, Neighbourhood Management (Street Enforcement) and Parking and Public Protection sit within Environment & Community Services Department, whereas Planning Enforcement sits within Renewal & Recreation.

6.2 Performance Indicators for Environment & Community Services

6.3 Performance Indicators (PIs) are the tools of performance measurement used to measure and monitor how well services (and teams within them) are progressing towards achieving our goals, and each month a performance monitor is produced. To ensure sufficient scrutiny is given to each of the indicators, they are risk classified as Green, Amber or Red. This classification is made using outturn data, information on past performance and factors affecting the service in the current year, and is explained below:

Performance Indicators are classified according to:-

Direction of travel i.e. is performance improving, stable or worsening compared to the previous year?

Performance relative to the target i.e. is it on track to achieve target or at risk of not achieving target?

Green = If an indicator is improving and has achieved target for the past year, or is on track to achieve the current year's target.

Amber = If an indicator is (i) stable or improving but it has not achieved target or is not on track to achieve target or (ii) worsening but has met or is on track to meet the target (i.e. does not meet the criteria for Green or Red).

Red = If an indicator is worsening and has not achieved target for the past year, or is at risk of not achieving the current year's target.

6.4 The PIs developed for each team are designed either to demonstrate that the statutory minimum in terms of service provided are met, or to demonstrate progress against the aims in the Portfolio Plan. They may be set within a regulatory or statutory framework, with requirements imposed through various pieces of legislation, or with standards being set by national regulators.

6.5 It is not possible to set PIs that require a certain type of enforcement action be achieved each month (e.g. serve 5 abatement Notices, issue 50 PCNs for Parking infractions), as enforcement of this type must be in accordance with legislation, guidance and policy, moreover, enforcement of this type can only take place if the issue is witnessed, and meets a certain criteria. However, enforcement outputs taken by each team is reported to the PP&E PDS every 6 months in the Enforcement Update Report (last report dated 3rd July 2018).

6.6 Team Specific PIs

6.7 The PI for all service areas are presented in Appendix 2 (part 2 report)

7. Proposed New PI's

7.1 Post Grenfell, it is important that LB Bromley can demonstrate that fire safety improvement schedules have been created and sent to the managing agent/owner, and, that an Improvement Notice is served simultaneously, as such a new KPI is being suggested for new HMOs (see Appendix 2 PP13) that provides a record of:

1.All new HMOs that have inadequate fire precautions

2. That LBB has consulted the Lacors guide and by doing so the LFB and drawn up a FSIS
3. That the responsible parties are in receipt of a FSIS
4. LBB's intention to formally enforce fire safety improvements by serving an improvement Notice alongside a FSIS

8. Forward Plan for Individual Reports

- 8.1 It is proposed that the individual services within PP&E each provide a report updating Members demonstrating progress against the KPI's presented in this report as detailed in the table below:

PP&E PDS – 4 December 2018 Draft ready for Nigel: 13 Nov 2018 Draft Agenda: 15 Nov @ 3pm Final reports to Steve Woods: 22 Nov 2018 Publication: 26 Nov 2018	Officer	Committee
Enforcement Activity Progress– Planning	John Stephenson	PDS
PP&S PDS – 30 January 2019 Draft ready for Nigel: 8 January 2019 Draft Agenda: 10 Jan @ 3pm Final reports to Steve Woods: 18 January 2019 Publication: 22 January 2019		
Enforcement Activity Progress – Parking	Allen Herve	PDS
PP&S PDS – 21 March 2019 Draft ready for Nigel: 28 February 2019 Draft Agenda: 4 March @ 3pm Final reports to Steve Woods: 11 March 2019 Publication: 12 March 2019		PDS
Enforcement Activity Progress – Neighbourhood Management Street Enforcement	Toby Smith	PDS
Enforcement Activity Progress – Public Protection	Joanne Stowell	PDS

9. POLICY IMPLICATIONS

- 9.1 Existing policy

Non-Applicable Sections:	IMPACT ON VULNERABLE ADULTS AND CHILDREN Financial Implications, Personnel Implications, Legal Implications, Procurement Implications
Background Documents: (Access via Contact Officer)	Report to Task and Finish Group