

MEETING

POLICY AND RESOURCES COMMITTEE

DATE AND TIME

TUESDAY 21ST MARCH, 2017

AT 7.00 PM

VENUE

HENDON TOWN HALL, THE BURROUGHS, LONDON NW4 4BG

TO: MEMBERS OF POLICY AND RESOURCES COMMITTEE (Quorum 3)

Chairman: Councillor Richard Cornelius
Vice Chairman: Councillor Daniel Thomas BA (Hons)

Dean Cohen
Tom Davey
Paul Edwards
Anthony Finn

Joan Scannell
Barry Rawlings
Alison Moore
Alon or-Bach

Ross Houston
Sachin Rajput

Substitute Members

Melvin Cohen
Alan Schneiderman

Geof Cooke
Mark Shooter

Arjun Mittra
Reuben Thompstone

In line with the Constitution's Public Participation and Engagement Rules, requests to submit public questions or comments must be submitted by 10AM on the third working day before the date of the committee meeting. Therefore, the deadline for this meeting is Thursday 16 March at 10AM. Requests must be submitted to Kirstin Lambert; 02083592177 kirstin.lambert@barnet.gov.uk

You are requested to attend the above meeting for which an agenda is attached.

Andrew Charlwood – Head of Governance

Governance Service contact: Kirstin Lambert; 02083592177 kirstin.lambert@barnet.gov.uk

Media Relations contact: Sue Cocker 020 8359 7039

ASSURANCE GROUP

ORDER OF BUSINESS

Item No	Title of Report	Pages
1.	Minutes of last meeting	5 - 14
2.	Absence of Members	
3.	Declaration of Members' Disclosable Pecuniary interests and Non Pecuniary interests (If any)	
4.	Report of the Monitoring Officer (if any)	
5.	Public Questions and Comments (if any)	
6.	Members' Items (if any)	
7.	Future of Barnet Public Health Service	15 - 30
8.	Corporate Enforcement and Prosecution Policy	31 - 64
9.	Committee Forward Work Programme	65 - 68
10.	Any other item(s) the Chairman decides are urgent	
11.	Motion to Exclude the Press and Public	
12.	Any other exempt item(s) the Chairman decides are urgent	

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Decisions of the Policy and Resources Committee

23 February 2017

Members Present:-

AGENDA ITEM 1

Councillor Richard Cornelius (Chairman)
Councillor Daniel Thomas (Vice-Chairman)

Councillor Dean Cohen
Councillor Tom Davey
Councillor Anthony Finn
Councillor Ross Houston
Councillor Joan Scannell

Councillor Arjun Mittra (in substitute for
Councillor Paul Edwards)
Councillor Alison Moore
Councillor Alon Or-Bach
Councillor Sachin Rajput
Councillor Barry Rawlings

1. MINUTES OF LAST MEETING

RESOLVED that the minutes of the meeting held on 10 January 2017 be agreed as a correct record.

2. ABSENCE OF MEMBERS

Apologies for absence were received from Councillor Paul Edwards who was substituted for by Councillor Arjun Mittra. Apologies for lateness were received from Councillor Sachin Rajput.

3. DECLARATION OF MEMBERS' DISCLOSABLE PECUNIARY INTERESTS AND NON PECUNIARY INTERESTS

The following interests were declared:

Councillor	Agenda Item	Interest declared
Councillor Arjun Mittra	Item 8 – Golders Green Station Draft Planning Brief	Non pecuniary interest as Cllr Mittra is an employee of the GLA. Cllr Mittra noted he would leave the room for consideration and voting on this item.
Councillor Arjun Mittra	Item 10 – Business Planning 2017-20	Non pecuniary interest with respect to Early Years Funding as Cllr Mittra's mother runs a nursery in the borough.
Councillor Ross Houston	Item 10 – Business Planning 2017-20	Non pecuniary interest as Cllr Houston is a Council appointed representative on the Barnet Group Board.
Councillor Alon Or-Bach	Item 9 – Implementation of IT strategy	Non pecuniary interest as he works for Samsung which produces a wide variety of products which might be purchased by the Council.
Councillor Alison Moore	Item 10 – Business Planning 2017-20	Non pecuniary interest as she is a governor of a school in the borough.

It was noted that many of the Councillors were governors of schools and a non-pecuniary interest was declared for those members relating to Item 10 – Business Planning 2017-20.

4. REPORT OF THE MONITORING OFFICER

There was none.

The Chairman proposed to vary the order of the agenda to allow for consideration of Item 7 – Referral from Full Council 31 January 2017 – Opposition Motion in the name of Councillor Phil Cohen, to be considered before public questions. This was duly agreed.

5. REFERRAL FROM FULL COUNCIL 31 JANUARY 2017 - OPPOSITION MOTION IN THE NAME OF CLLR PHIL COHEN

Councillor Helena Hart spoke on this item, having provided notice to the Chairman in advance of the meeting.

The Committee considered the report and discussed the issues raised. It was noted that the issues raised were of significant political interest and warranted further consideration by all Members as part of a collective discussion, but not necessarily in a full council meeting. It was noted that a meeting could be convened via an informal meeting of Members, a special meeting of Policy and Resources Committee, or another option. The Committee agreed that officers should liaise with Members following the meeting to agree a meeting format and time to further consider these matters, and that it may be appropriate to hold the meeting when more is known about the Sustainability and Transformation Plan. It was noted that the discussion could lead to formal recommendations and that there was a need to consider the possible outcome of the meeting to ensure that decisions can be made and implemented.

RESOLVED that officers liaise with Members to agree a meeting for further consideration of the matters raised in the motion.

6. PUBLIC QUESTIONS AND COMMENTS (IF ANY)

Details of the questions asked and the published answers were provided with the agenda papers for the meeting. Verbal responses were given to supplementary questions at the meeting.

7. MEMBERS' ITEMS (IF ANY)

There were none.

8. GOLDERS GREEN STATION DRAFT PLANNING BRIEF

Councillor Arjun Mitra left the room for consideration and voting on this item.

Councillor Peter Zinkin spoke on this item, having provided notice to the Chairman in advance of the meeting.

The Committee considered the report. On the recommendations in the report being put to the vote, the votes were declared as follows:

For	11
Against	0
Abstain	0
Absent	1

RESOLVED –

- 1. That the Committee approve the draft Golders Green Station Planning Brief for public consultation.**
- 2. That the proposed final Planning Brief is reported back to the Committee for adoption after taking into account comments made as part of the consultation.**

9. IMPLEMENTATION OF IT STRATEGY: FULL BUSINESS CASE FOR IMPLEMENTATION OF MICROSOFT SMARTER WORKING TOOLS AND A PILOT OF ELECTRONIC DOCUMENT MANAGEMENT TECHNOLOGY

The Committee considered the report.

The Chairman noted that officers had advised that not all Members in the working group were agreed on the findings.

The Head of Information Management agreed to clarify whether electronic documents are acceptable admissions in tribunals.

The Leader moved a motion, seconded by Councillor Daniel Thomas, that amendments be made to recommendation 1.6 to reflect that the decision will be made in consultation with the Chairman of Policy and Resources Committee, and to include reference to ensure that Disaster Recovery Plans are aligned as part of this decision making.

On the motion being put to the vote, the votes were declared as follows

For	7
Against	0
Abstain	5
Absent	0

The motion was passed.

On the recommendations in the report, as amended, being put to the vote the votes were declared as follows:

For	7
Against	0
Abstain	5
Absent	0

The recommendations were passed.

RESOLVED that the Committee approves:

- 1. The implementation of Microsoft Smarter Working technology at a capital cost of £1,373,725 and yearly revenue costs of £423,282. This is a maximum cost that may reduce following the technical assurance of the proposal.**
- 2. The implementation of a pilot of an Electronic Document Management System at a capital cost of £250,000. This is a maximum cost that may reduce following the technical assurance of the proposal.**
- 3. The investigation and implementation of a ‘Choose your Own Device’ approach to accessing the network at an initial capital cost of £50,000, along with the purchase of IT Peripherals at an initial capital cost of £90,000.**
- 4. That the Committee approves commissioning CSG, as part of their managed service provision to the Council, to investigate and undertake any required strengthening work on the Council IT network to ensure fast and efficient access to Smarter Working and EDM tools.**
- 5. That the Committee notes the intention to commission Leidos, the council’s contracted IT technical assurance partner, to scrutinise the technical proposals before funding is released or contracts are signed.**
- 6. That the Committee delegates authority to the Director of Resources, in consultation with the Chairman of Policy and Resources Committee, to enter into contracts and take all other necessary actions to implement the recommendations of this report and to ensure that Disaster Recovery Plans take full account of these changes.**

10. BUSINESS PLANNING 2017-20

The Committee considered the report.

Councillor Ross Houston noted the overall target for new homes of 2,313 for 2017-18 as set out in Appendix N, page 687 of the agenda report pack, and queried whether the affordable homes target of 122 represented 4% of that. The Commissioning Director Growth and Development clarified that the figures represented a phasing of big schemes rather than an overall representation.

Councillor Barry Rawlings requested that the Regeneration and Investment in Infrastructure targets set out in the Corporate Plan also include a target for 2018-19. The

Commissioning Director Growth and Development agreed to develop a range figure for the 2018-19 year, noting this would be indicative.

The Director of Resources noted that amendments to recommendations 1.16 and 1.19 had been made to update the figures in recommendation 1.16a and 1.16b and to reference additional housing fees and charges in 1.19. The committee noted the updates which had been tabled.

The Director of Resources provided an update on which reserves were deleted to balance the MTFs as follows:

- Risk Reserve;
- London Borough Grants Scheme underspend;
- Business Rates Deficit Reserve, as this is now being funded from CF surplus;
- Welfare Reserve, as this will now be funded through an on-going budget rather than a reserve;
- Grahame Park Reserve; being held to fund library which is no longer needed;
- Area Committee – Non-CIL; corporate grants programme in place to partly mitigate impact;
- Benefit Subsidy Error Mitigation Reserve; and
- Underspend on other smaller specific reserves

On the recommendations in the report as amended being put to the vote the votes were declared as follows:

For	7
Against	0
Abstain	5
Absent	0

RESOLVED that the Committee:

- 1.1 Consider the issues that have emerged from the consultation when making their decisions. That the committee are also mindful of the equalities impact assessments, including the cumulative equalities impact assessments, when making the decision below;**
- 1.2 Recommend to Council for approval the MTFs attached as Appendix A and the detailed revenue budgets in Appendices B1 and B2. The MTFs sets out all of the budget changes over the period 2017-20, including assumptions around inflation, changes to levies, pressures, savings and grant funding. It is the model around which the council's financial strategy is based. Taking the consultation responses and the equality impact assessments into consideration;**
- 1.3 Recommend to Council that the budget for 2017/18 is prepared on the basis of no increase to council tax in 2017/18, other than for the increase set out below in 1.4;**
- 1.4 Recommend to Council applying a social care precept at 3% in 2017/18 – to help fund care for the elderly;**

- 1.5 Note that the Chief Finance Officer, under their delegated powers in accordance with para 4.3.2 of the Financial Regulations, has calculated 139,049 (band D equivalents) as the amount for the Council Tax base for the year 2017/18 [item T in the formula in Section 31B (1) of the Local Government Finance Act 1992, as amended (the “Act”)];
- 1.6 Recommend to Council for approval, the following amounts calculated for the year 2017/18 in accordance with Sections 31(A) and (B), 34, 35 and 36 of the Act:
- a) £936,231,444 being the aggregate of the amounts which the council estimates for the items set out in Section 31A(2) (a) to (f) of the Act;
 - b) £775,671,564 being the aggregate of the amounts which the council estimated for the items set out in Section 31A(3) (a) to (d) of the Act;
 - c) £160,559,880 being the amount by which the aggregate at 1.6(a) above exceeds the aggregate at 1.6(b) above, calculated by the council in accordance with Section 31A(4) of the Act as its Council Tax requirement for the year (Item R in the formula section 31A(4) of the Act);
 - d) £1,154.70 being the amount at 1.6(c) above (item R), divided by Item T (Item 1.5 above), calculated by the council, in accordance with Section 31B(1) of the Act, as the basic amount of its Council Tax for the year;

London Borough of Barnet Valuation Bands (£)

A	B	C	D	E	F	G	H
769.80	898.10	1,026.40	1,154.70	1,411.30	1,667.90	1,924.50	2,309.40

Being the amounts given by multiplying the amounts at 1.6(d) above by the number which, in proportion set out in Section 5(1) of the Act, is applicable to dwellings listed in valuation band D, calculated by the council, in accordance with Section 36(1) of the Act, as the amounts to be taken into account for the year in respect of categories of dwellings listed in different valuation bands;

- 1.7 Recommend to Council, on the advice of the Chief Finance Officer, that it determines that the council’s basic amount of Council Tax for 2017/18 as set out in 1.6(d) above is not excessive in accordance with the principles approved under section 52ZB and 52ZC of the Local Government Finance Act 1992, set out in the Referendums Relating to Council Tax Increases (Principles)(England) Report 2017/18 - subject to any changes to that Report; which at the time of publication of this report was still in draft;
- 1.8 Note that for the year 2017/18 the Greater London Authority has provisionally indicated that the following amounts in precepts will be issued to the council, in accordance with Section 40 of the Local Government Finance Act 1992, for each of the categories of the dwellings shown below:

Greater London Authority Valuation Bands (£)

A	B	C	D	E	F	G	H
186.68	217.79	248.91	280.02	342.25	404.47	466.70	560.04

- 1.9 Recommend that having calculated the aggregate in each case of the amounts at 1.6(d) with the amounts at 1.8, the council, in accordance with Section 30(2) of the Local Government Finance Act 1992, sets the following amounts as the amounts of Council Tax for the year 2017/18 for each of the categories dwellings shown below:

Council Tax for Area (£)

A	B	C	D	E	F	G	H
956.48	1,115.89	1,275.31	1,434.72	1,753.55	2,072.37	2,391.20	2,869.44

- 1.10 Recommend to Council for approval the Barnet Council Tax Support Scheme, adopted in January 2015, remain unchanged except for uprating in line with Department for Work and Pension changes for housing benefit (see 1.11 below).
- 1.11 Notes that the working age non-dependent (ND) charges be uprated as set out in paragraph 1.7.13
- 1.12 Recommend to Council that in accordance with Section 38(2) of the Act the Chief Executive be instructed to place a notice in the local press of the amounts set under recommendation 1.9 above within a period of 21 days following the Council's decision;
- 1.13 Recommend to Council for approval the capital programme as set out in Appendix C1 and C2, and the capital budget changes as set out in Appendix C3 and that the Chief Officers be authorised to take all necessary actions for implementation;
- 1.14 Recommend to Council that the Chief Finance Officer be authorised to adjust capital project budgets and financing in 2017/18 throughout the capital programme after the 2016/17 accounts are closed and the amount of slippage and budget carry forward required are known;
- 1.15 Recommend to Council the approval of the Treasury Management Strategy for 2017/18 as set out in Appendix I;
- 1.16 Approve the following in relation to the Housing Revenue Account:
- a) The proposed rent decrease by 1% for council dwelling as set out in paragraph 1.10.3 to take effect from 1 April 2017;
 - b) The proposed increase to service charges for council dwelling as set out in paragraph 1.10.9 to take effect from 1 April 2017; and
 - c) The proposed rent increase of 2.2% for council garages as set out in paragraph 1.10.9 to take effect from 1 April 2017.
- 1.17 Approve the Housing Revenue Account estimates for 2017/18 as set out in Appendix D;
- 1.18 Note the submission of the Authority Proforma Tool in relation to the Dedicated Schools Budget as set out in Appendix E;

- 1.19 Approve the fees and charges for hire of Hendon Town Hall as detailed in Appendix F2 and note the Adult's, Children's, Environment and Housing fees and charges that were approved at their relevant Theme Committee as detailed in Appendix F1 and F3;**
- 1.20 Note the summary equality impact assessment (EIA) and cumulative assessment set out in section 5.6. Appendix H provides the cumulative impact and individual Delivery Unit assessments where significant changes to service delivery are proposed;**
- 1.21 Recommend to Council approval of the reserves and balances policy as set out in Appendix K and indicative amounts as set out in para 1.12 and the Chief Finance Officer's assessment of adequacy of reserves in section 1.12. The Committee recommend to Council that the CFO be authorised to adjust balances in 2017/18 after 2016/17 accounts are closed and the amount of balances carry forward required are known;**
- 1.22 Approve revenue budget movements as set out in para 1.14;**
- 1.23 Note the progress of the transformation programme as detailed in Appendix J;**
- 1.24 Recommend to Council to approve the debt write offs as detailed in Appendix L and summarised in para 1.14.11;**
- 1.25 Note the corporate risk register and recommend it to Council as set out in Appendix M; and**
- 1.26 Recommend to Council for approval the Corporate Plan – 2017/18 addendum attached as Appendix N.**

11. ANY OTHER ITEM(S) THE CHAIRMAN DECIDES ARE URGENT

The Committee agreed to vary the order of the agenda to allow for consideration of Item 13 – Any other items the Chairman decides are urgent, as it was noted that an urgent item had been requested by Councillor Barry Rawlings, and that the remaining agenda item 15 (Decision taken under delegated powers – Integrated Community Equipment Service (ICES) – Agreement of short extension of existing service for safe transition to new single provider contract framework) involved exempt papers.

Councillor Barry Rawlings introduced the item, citing the recent DWP proposals to close Finchley and Edgware Job Centres and deliver these services instead at Barnet and Hendon respectively. It was noted that building leases are up for renewal shortly, and the Government are trying to save money by merging with a closing date of 28 February. The Committee noted that the consultation had been launched on 30 January with a closing date of 28 February.

The Commissioning Director Growth and Development provided the committee with an update on the issue. Following consideration it was noted that a response to the consultation was being drafted which addressed many of the concerns raised. The Committee requested that the draft consultation response be circulated to the Committee for their comment which was duly agreed.

RESOLVED that officers circulate the draft consultation response to Policy and Resources Committee members for their comment.

12. DECISION TAKEN UNDER DELEGATED POWERS - INTEGRATED COMMUNITY EQUIPMENT SERVICE (ICES)- AGREEMENT OF SHORT EXTENSION OF EXISTING SERVICE FOR SAFE TRANSITION TO NEW SINGLE PROVIDER CONTRACT FRAMEWORK

The Committee considered the report. The Chairman invited Members to indicate whether they had any questions regarding the information contained in the exempt report, which would require the Committee to go into private session. There were none.

On the recommendations in the report being put to the vote the votes were declared as follows:

For	12
Against	0
Abstain	0
Absent	0

RESOLVED - That the Policy and Resources Committee notes the decision taken by Adults and Health Commissioning Director through emergency waiver of Contract Procedure Rule (CPRs), under the Council's Constitution.

13. DECISION TAKEN UNDER DELEGATED POWERS - INTEGRATED COMMUNITY EQUIPMENT SERVICE (ICES)- AGREEMENT OF SHORT EXTENSION OF EXISTING SERVICE FOR SAFE TRANSITION TO NEW SINGLE PROVIDER CONTRACT FRAMEWORK (EXEMPT)

The Committee;

RESOLVED that the information contained in the exempt report be noted.

14. COMMITTEE FORWARD WORK PROGRAMME

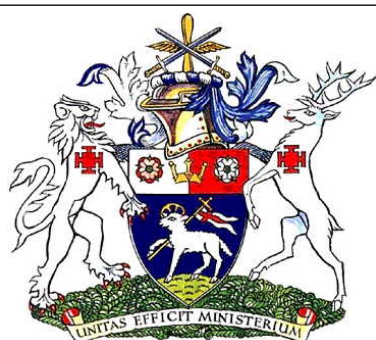
The Committee noted the Forward Work Programme.

The Committee noted that the Draft Green Infrastructure Supplementary Planning Document and the Draft Affordable Housing Supplementary Planning Document scheduled for 21 March 2017 meeting may need to be moved due to co-dependencies with other on-going work. The Commissioning Director Growth and Development agreed to provide the Committee with an update on the timing of these items.

The Chief Operating Officer noted that an additional item would be added to 16 May 2017 meeting to update the Committee on the Customer Transformation Programme.

The meeting finished at 8.40 pm

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Policy and Resources Committee
21 March 2017

Title	Future of Barnet Public Health Service
Report of	Dawn Wakeling, Adults and Health Commissioning Director
Wards	All
Status	Public
Urgent	No
Key	Yes
Enclosures	None
Officer contact details	Joanne Humphreys, Project Lead, Commissioning Group joanne.humphreys@barnet.gov.uk ; 020 8359 3311

Summary

The Council’s Inter-Authority Agreement with the London Borough of Harrow for the provision of public health services expires on 31 March 2018. The options for future public health services in Barnet are:

1. Extend the current contract with the London Borough of Harrow by a further period of up to two years, with Harrow either continuing to host the service, or transferring hosting responsibility to Barnet
2. Develop a stand-alone public health service for Barnet.
3. Implement shared arrangements for public health with other neighbouring boroughs in the North Central London region.

This paper outlines each of these options and recommends that, in order to ensure a stable service, the Council should begin preparing to establish a stand-alone public health service, while at the same time exploring opportunities to develop shared services with other boroughs within the North Central London footprint.

Recommendations

- 1. That Policy and Resources Committee approves the proposed approach to developing the option of a stand-alone public health service for Barnet from April 2018, with a progress report considering options to be presented to the Committee in June 2017.**
- 2. That Policy and Resources Committee:**
 - a. Notes the development of the North Central London (NCL) Sustainability and Transformation Plan, and the opportunities that it presents for sharing health and social care functions across the NCL region.**
 - b. Delegates authority to officers to explore the potential for some or all aspects of the current public health service to be delivered in partnership with other boroughs in the NCL region, with a progress report considering options to be presented to the Committee in June 2017.**

1. WHY THIS REPORT IS NEEDED

National policy context

- 1.1 The Health and Social Care Act 2012 transferred public health responsibilities from the NHS to local authorities with effect from 1 April 2013. From this date local authorities inherited responsibility for a range of public health services previously provided by the NHS including most sexual health services and services to address drug or alcohol misuse. Councils also took on a new duty to take such steps as they consider appropriate for improving the health of everyone living and working within the local authority area.
- 1.2 In every local authority area the public health service has four key responsibilities:
 - Leading health improvement and reducing health inequalities.
 - Health protection and ensuring appropriate plans are in place.
 - Public health support to health service commissioning and joint commissioning.
 - Providing public health knowledge and intelligence.
- 1.3 Public health services are funded through a ring-fenced public health grant which runs until 1 April 2018. It is not known whether the grant will be extended beyond this date. The government has indicated that delivery of statutory public health functions will be included in the new responsibilities of local authorities under the proposed business rates retention scheme.

Delivery of public health services in Barnet

- 1.4 In March 2013 the Council entered into an Inter-Authority Agreement (IAA) with the London Borough of Harrow for the shared provision of public health services. The agreement was set for an initial term of five years, with provision to extend the agreement for a further two years, subject to the agreement of both organisations.
- 1.5 The decision to pursue a shared public health service reflected the position of both Councils that it was vitally important to establish a centre of public health expertise with a sufficient critical mass of public health specialists.
- 1.6 In setting up the shared service both Councils were able to achieve efficiency savings through sharing a single Director of Public Health, shared administration and commissioning, and more efficient contracts in areas such as School Nursing, Health Visiting, Pharmaceutical Needs Assessment and Substance Misuse services.
- 1.7 Following a reorganisation of the shared public health service in 2015, the structure of the service is as follows:
- **Director of Public Health (DPH) and business support team.**
3.6 FTEs shared and funded 50% by Barnet and 50% by Harrow.
2016/17 budget: £405,000.

The DPH role is a statutory function and every local authority must have a DPH. DPHs are employed by the local authority with a line of accountability into Public Health England¹ which is also involved in the recruitment of each DPH.
 - **Public health services commissioning team.**
9.0 FTEs shared and funded 60% by Barnet and 40% by Harrow.
2016/17 budget: £528,000.

The responsibilities of this team include reviewing current services; developing service specifications; procurement; contract negotiation; contract monitoring; and supporting commissioning activity within the Councils, CCGs, NHS England and Public Health England. The team commissions sexual health services (total budget of £4.5m for Barnet in 2016/17), substance misuse services (£3.1m), tobacco control (£300,000), health checks and associated services (£545,000), and wider health improvement services (£824,000) including employment support (£195,000) and self-care services (£208,000).
 - **Barnet Health Improvement Team.**
14.7 FTEs funded 100% by Barnet.
2016/17 budget: £729,000.

¹ One of six arms-length bodies created by the Health and Social Care Act 2012 to run the NHS nationally.

This team focuses upon public health in Barnet only. Responsibilities include coordination, monitoring and evaluation of health improvement projects; interpretation and application of new policies; collection, analysis and dissemination of health data and intelligence.

- **Harrow Health Improvement Team.**

12.2 FTEs funded 100% by Harrow.

2016/17 budget: £761,000.

This team focuses upon public health in Harrow only.

- 1.8 The current service is considered to be effective, following the restructure in 2015. The creation of dedicated local public health teams for Barnet and Harrow has strengthened the links between the public health service and the various directorates within the Council and has enabled public health perspectives to be embedded in the commissioning and delivery of services, for example the delivery of public health outcomes through the forthcoming new leisure management contracts.
- 1.9 The shared service with Harrow has shown that a public health service shared with another borough can deliver benefits including:
 - Improved resilience, greater workforce development opportunities and increased expertise.
 - Commissioning at a larger scale, as Barnet will do with other North Central London boroughs for sexual health services from April 2017, makes it possible to drive quality improvement through greater purchasing power; and there are economies of scale in contracting.

Strategic context

- 1.10 In December 2015, the NHS outlined a new approach to ensure that health and care services are built around the needs of local populations. Every health and care system has been working together to produce a Sustainability and Transformation Plan (STP), showing how local services will evolve and become sustainable over the next five years.
- 1.11 Local health and care systems have come together in STP 'footprints'. The five London boroughs of Barnet, Camden, Enfield, Haringey and Islington make up the North Central London (NCL) footprint.
- 1.12 The NCL draft STP was published in October 2016. It sets out plans to meet the challenges faced locally and to deliver high quality and sustainable services in the years to come.
- 1.13 To support delivery of the NCL STP a programme of transformation has been designed with four fundamental aspects:

- Increasing efforts around prevention and early intervention to improve health and wellbeing outcomes for the whole NCL population. This will include development of systemic and consistent preventative services across the NCL footprint.
- Transforming health services to meet the changing needs of our population.
- Identifying ways to drive down unit costs, remove unnecessary costs and achieve efficiencies.
- Building capacity in digital, workforce, estates and new commissioning and delivery models to enable transformation.

1.14 Increasingly, preventative and public health services are being developed along STP boundaries, mirroring patient flows through health systems. This means Barnet potentially has a much greater strategic fit with the other four boroughs in the NCL region than with Harrow, which falls within the North West London STP region.

1.15 The largest commissioned public health service is sexual health services. The total budget of £4.5m for sexual health services in 2016/17 (Barnet only) reflects almost 50% of the total value of public health services for Barnet that are currently commissioned by the shared service public health commissioning team (£9.8m)².

1.16 As part of the London Sexual Health Transformation Project, Barnet will jointly commission sexual health services with the other four NCL boroughs. The London Borough of Camden is leading the procurement.

Financial context

1.17 On 23 February 2017 the Policy and Resources Committee approved the Council's savings proposals and capital programme for the period 2017-2020. The Council's budget for public health to 2020 has been confirmed as follows:

Year	2017/2018	2018/2019	2019/2020
Public health budget	£17.609m	£16.735m	£15.898m
Reduction from previous year	-£0.935m	-£0.874m	-£0.837m

1.18 The Council's public health budgets have been modelled based on the notified ring-fenced grant allocation for 2017/18, plus 2.65% reductions thereafter. To contain spend within the grant allocation, the Public Health outcomes have been reviewed to ensure key priorities remain funded.

² A further £6.68m of public health expenditure is commissioned directly by the Council.

1.19 On 8 December 2016 the Cabinet of the London Borough of Harrow approved Harrow's Medium Term Financial Strategy for the period 2017-2020. Harrow's budget for public health to 2020 was confirmed as follows:

Year	2017/2018	2018/2019	2019/2020
Public health budget	£11.093m	£8.829m	£8.829m
Reduction from previous year	-£0.725m	-£2.264m	£0

1.20 Harrow plans to make a significant reduction to its public health budget in 2018/19. Of the £2.264m savings planned for 2018/19, £1.50m will be realised through contract related savings from a reduction in Harrow's substance misuse service. A further saving of £795,000 will be realised through staffing reductions, including staff savings from the substance misuse service.

2. REASONS FOR RECOMMENDATIONS

2.1 Four main options for delivering future public health services in Barnet have been considered:

1. Extend the current contract with the London Borough of Harrow by a further period of up to two years, with Harrow continuing to host the service.
2. Extend the current contract with the London Borough of Harrow by a further period of up to two years, with hosting responsibility transferring to Barnet.
3. Develop a stand-alone public health service for Barnet.
4. Implement shared arrangements for public health with other neighbouring boroughs in the North Central London region.

Extend current contract with Harrow; Harrow continues to host the service

2.2 Under this option the current Inter-Authority Agreement (IAA) would continue. However, given the required savings to Harrow's staffing costs in 2018/19, the structure of the Harrow Health Improvement Team and the public health services commissioning team would need to change significantly.

2.3 As an extension of the current arrangements, this option would be the least disruptive and potentially most straightforward of the four options to implement. It would allow Barnet and Harrow to continue to realise the benefits that the two Councils have already demonstrated through the shared public health service.

2.4 However, continuation of the shared service with Harrow would mean that Barnet would forego the opportunity to realise additional benefits through

working more closely with other local authorities and CCGs within the NCL health economy.

- 2.5 The reductions that Harrow plans to make to its public health budget in 2017/18 and 2019/20 would also make the shared service very unbalanced across the two Councils, and put pressure upon the viability and sustainability of the Barnet service. This would have a major impact upon the shared commissioning team in particular.

Extend current contract with Harrow; Barnet hosts the service

- 2.6 Under this option the current IAA would continue, and Barnet would become the host authority for the shared service. Given Harrow's planned reduction to its staffing costs, this would be a more appropriate arrangement than Harrow continuing to host the service, and it would ensure greater sustainability of the service for Barnet. The two Councils could continue to realise the benefits of the current shared public health service.
- 2.7 This option has the same drawbacks as the first option: it would limit Barnet's opportunities to explore joined-up working with partner organisations in the NCL health economy, with which it has a much greater strategic fit. Barnet would also still be subject to the significant imbalance of the service that would result from the reductions to Harrow's public health budget.
- 2.8 This option also carries additional costs and considerations: there would be transition costs associated with the transfer of staff from Harrow to Barnet, and for some staff there would be issues relating to NHS pensions and the assumption of liabilities by the Council. There would also be additional accommodation requirements which may be difficult to factor into the future estates and accommodation strategy given the lead time involved, although there would also be some benefits associated with the team being physically present in Barnet.

Develop a stand-alone public health service for Barnet

- 2.9 This option would ensure a stable and effective public health service for Barnet while enabling Barnet to pursue opportunities to work within the NCL health economy. The Council would also benefit from having the full public health team, including the DPH, located in Barnet. Full staff consultation would be required before staff could be transferred to Barnet employment.
- 2.10 This option could be more expensive than the current shared service with Harrow, particularly with regard to commissioning activity. However this consideration would be mitigated by:

- Cessation of the annual payment of £186,000 that the Council currently pays to the London Borough of Harrow (this is a contribution towards Harrow's overheads).
- Efficiency savings equal to at least 10% of the current contribution budget for public health staff costs (£118,400) which are assumed in the Council's public health service model for 2018/19 onwards.
- The potential to share commissioning costs with other NCL boroughs, such as the new arrangement for jointly commissioned sexual health services.
- The potential to absorb other public health commissioning activity into the Joint Commissioning Unit and wider Commissioning Group structure.

2.11 The benefits of resilience, workforce development opportunities and increased expertise that have been realised through the shared service with Harrow would be lost. This could be mitigated through closer links with the wider Commissioning Group and through the Council's existing joint commissioning arrangements with Barnet CCG.

Implement shared arrangements with other boroughs in the NCL region

2.12 The inclusion of preventative services as one of the four key workstreams in the NCL STP indicates interest and appetite amongst the NCL partner organisations to work together to deliver improved health and wellbeing outcomes for the NCL population. There are a number of different forms that such joint working could take, such as a full shared service hosted by one of the boroughs, sharing a DPH, or joint arrangements for health improvement, intelligence, commissioning, procurement and contract management.

2.13 This option would allow the Council to work closely with other NCL boroughs and CCGs to deliver improved health and wellbeing outcomes and realise efficiency savings.

2.14 However, to transition directly from a shared public health service with Harrow to a full structural shared service with one or more NCL boroughs would be very difficult to achieve within the necessary timescales (i.e. before the current IAA expires on 31 March 2018). Lead time would be required for engagement with the other NCL boroughs in order to obtain a clear indication that other NCL boroughs were committed to pursuing this option. It could also be highly complex to transfer staff directly from one shared service to a different shared service.

Conclusion

- 2.15 The development of STPs has resulted in a situation where there are no strategic links between Barnet and Harrow in respect of adult social care and health. The commissioning of the largest commissioned service managed by the public health team (sexual health) with other NCL boroughs pulls Barnet even further into alignment with its NCL partners. There is therefore no strategic rationale for continuing to share a public health service with Harrow.
- 2.16 The proven benefits of a shared service, plus the additional benefits that can be realised through working more closely with other local authorities and CCGs within the NCL health economy, mean the option of a shared public health model with one or more NCL boroughs should be explored fully. However it may not be feasible to develop and implement such joint arrangements before the Council's IAA with Harrow expires on 31 March 2018.
- 2.17 It is crucial that the Council maintains a stable and effective public health service, and therefore it is proposed to begin work to establish a stand-alone public health service, while exploring opportunities to develop public health shared services and joint arrangements with NCL partner organisations.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 As outlined in paragraph 2.15 there is no strategic rationale for continuing to share a public health service with Harrow (options one and two).

4. POST DECISION IMPLEMENTATION

- 4.1 The recommendations would be implemented through two workstreams:
- 1. Closing down the shared service and implementing a stand-alone service.** A formal project would be initiated to implement the transfer, and a timetable of key activities and milestones drawn up. A target operating model would be developed, setting out the functional areas of responsibility of the stand-alone public health team. From this operating model, the proposed staffing establishment for the stand-alone service can be developed. This will show the roles required to deliver the service, the number of posts needed, and the total staffing cost. This information would be presented to the Policy and Resources Committee in June 2017 for approval before work begins to implement the stand-alone service, including:
 - Development of a communication and engagement plan.
 - Development of options for appointment of a Director of Public Health.
 - Following a formal period of staff consultation, the TUPE transfer of a number of staff from the shared service to the stand-alone service.

- Back office transition, including the transfer of staffing records and financial records relating to contract management.
- Identification of accommodation requirements.
- Resolution of NHS Pensions issues for any transferring staff who are active members of the NHS pension scheme.

2. **Exploring opportunities for greater shared functions in public health with NCL partners.** Officers would begin exploratory discussions with officers from other NCL boroughs. An update on the emerging shared service options would be provided to the Committee in June 2017, alongside the proposals for implementing a stand-alone service.

5. IMPLICATIONS OF DECISION

Corporate Priorities and Performance

5.1 Through continued delivery of a stable and effective public health service, this work will help to support the vision for health and wellbeing in Barnet, as set out in the Joint Health and Wellbeing Strategy for Barnet 2016-2020:

- Providing a shared vision and strategic direction across partners.
- Continuing the emphasis on prevention and early intervention including secondary prevention (slowing the progression of disease).
- Making health and wellbeing a personal agenda as well as increasing individual responsibility and building resilience.
- Joining up services so residents have a better experience.
- Developing greater community capacity; increasing community responsibility and opportunities for residents to design services with us.
- Strengthening partnerships to effect change and improvement.
- Putting emphasis on working holistically to reduce health inequalities.

Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

5.2 The ring-fenced public health grant paid by central government to the Council in 2017/18 will be £17.62 million. The Council's contribution budget for the public health team staff in 2017/18 is £1.184m.

5.3 The Council's Public Health Commissioning Plan 2015-2020 sets out the net revenue budget for each of the public health priority areas which include:

Priority objective	Net revenue budget (£m)					
	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
Give every child the best start in life	2.03	2.14	2.00	2.34	2.68	3.02
Enable all children, young people and adults to maximise their capabilities and have control over their lives	0.87	0.93	0.70	0.67	0.66	0.65
Create fair employment and good work for all, which helps ensure a healthy standard of living for all	0.20	0.30	0.29	0.29	0.28	0.28
Create and develop healthy and sustainable places and communities	8.23	7.82	8.38	8.15	7.98	7.68
Strengthen the role and impact of ill health prevention	1.01	1.25	1.10	1.03	1.01	0.99
Staffing	1.96	1.86	1.82	1.82	1.69	1.69
Total	14.30	14.30	14.30	14.30	14.30	14.30

- 5.4 The public health service model for 2018/19 onwards will assume efficiency savings equal to at least 10% of the current contribution budget for the public health team staff (£118,400).
- 5.5 As part of the shared service agreement the Council makes a payment of £186,000 per annum towards Harrow's overhead costs.
- 5.6 The costs of the Project Team for the transition of the public health service will be met from the Council's Joint Commissioning Unit.

Legal and Constitutional References

- 5.7 The Health and Social Care Act 2012 gave councils new statutory responsibilities in respect of public health functions. Under this Act which amends the National Health Service Act 2006, (73A Appointment of Directors of Public Health) each local authority must, acting jointly with the Secretary of State, appoint an individual to have responsibility for:
- the exercise of public health functions.
 - the exercise by the authority of any of its functions that relate to planning for, or responding to, emergencies involving a risk to public health, including such other functions relating to public health as may be prescribed.

- 5.8 The individual so appointed is to be an officer of the local authority and is to be known as its Director of Public Health.
- 5.9 A local authority may terminate the appointment of its Director of Public Health. Before terminating the appointment of its Director of Public Health, a local authority must consult the Secretary of State.
- 5.10 A local authority must have regard to any guidance given by the Secretary of State in relation to its Director of Public Health, including guidance as to appointment and termination of appointment, terms and conditions and management.
- 5.11 Council Constitution, Responsibility for Functions, Annex A sets out the terms of reference of the Policy and Resources Committee including 'Strategic Partnerships', 'Ensuring effective Use of Resources and Value for Money' and 'To be responsible for those matters not specifically allocated to any other Committee affecting the affairs of the Council'.
- 5.12 Under paragraph 1.6 of section 15 of the Constitution all policy matters and new proposals relating to significant partnerships with external agencies and local authority companies are a function of Full Council.
- 5.13 On 25 February 2013 a report was presented to Barnet's Cabinet meeting and it was agreed that there would be a delegation of function to Harrow from Barnet of the public health function under section 101 of the Local Government Act 1972.

Risk Management

- 5.14 The establishment of a stand-alone public health service and the development of any new shared public health models will be managed within the Council's risk management framework.

Equalities and Diversity

- 5.15 The public sector equality duty is set out in s149 of the Equality Act 2010: a public authority must, in the exercise of its functions, have due regard to the need to:
- a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 5.16 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
- a) Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - b) Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; and
 - c) Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- 5.17 The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.
- 5.18 Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, the need to:
- a) Tackle prejudice, and
 - b) Promote understanding.
- 5.19 Compliance with the duties in this section may involve treating some persons more favourably than others but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.
- 5.20 The relevant protected characteristics are:
- Age;
 - Disability;
 - Gender reassignment;
 - Pregnancy and maternity;
 - Race;
 - Religion or belief;
 - Sex; and
 - Sexual orientation.
- 5.21 It is important that the equalities duties are considered in the provision of public health. It is not expected that provision to the public would be changed with the creation of a stand-alone service. An equalities impact assessment would be completed prior to the beginning of formal staff consultation on the creation of a stand-alone public health service.

Consultation and Engagement

5.22 The proposed transfer of staff from the shared public health service to a stand-alone service would be subject to a period of formal staff consultation.

6. BACKGROUND PAPERS

- 6.1 On 25 February 2013 Cabinet approved delegation of authority to the Cabinet Member for Public Health and the Leader of the Council to sign an Inter-Authority Agreement for the shared Public Health service between the Council and the London Borough of Harrow.
<http://barnet.moderngov.co.uk/documents/s7491/Public%20Health%20Transition.pdf>
- 6.2 On 13 November 2014 the Health and Wellbeing Board approved the Public Health Commissioning Plan, subject to public consultation.
<https://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=177&MID=7783>
- 6.3 The Policy and Resources Committee received an update on the North Central London Sustainability and Transformation Plan on 1 December 2016.
<http://barnet.moderngov.co.uk/documents/s36323/North%20Central%20London%20Sustainability%20and%20Transformation%20Plan.pdf>
- 6.4 On 8 February 2016 the Barnet Scrutiny Committee noted Barnet and Harrow Joint Public Health Service's plans to participate in the North Central London sub-regional arrangements for sexual health commissioning, as part of the London Sexual Health Transformation Project.
<https://barnet.moderngov.co.uk/documents/s29341/London%20Sexual%20Health%20Transformation%20Project.pdf>
- 6.5 On 8 December 2016 the Cabinet of the London Borough of Harrow approved Harrow's Medium Term Financial Strategy for the period 2017-2020.
<http://www.harrow.gov.uk/www2/documents/g62840/Public%20reports%20pack%20Thursday%2008-Dec-2016%2018.30%20Cabinet.pdf?T=10>
- 6.6 On 23 February 2017 the Policy and Resources Committee approved the Council's savings proposals and capital programme for the period 2017-2020.
<http://barnet.moderngov.co.uk/mgAi.aspx?ID=20662#mgDocuments>

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	<p>Policy and Resources Committee</p> <p>21st March 2017</p>
<p style="text-align: right;">Title</p>	<p>Corporate Enforcement and Prosecution Policy</p>
<p style="text-align: right;">Report of</p>	<p>Jamie Blake, Commissioning Director, Environment</p>
<p style="text-align: right;">Wards</p>	<p>ALL</p>
<p style="text-align: right;">Status</p>	<p>Public</p>
<p style="text-align: right;">Urgent</p>	<p>No</p>
<p style="text-align: right;">Key</p>	<p>No</p>
<p style="text-align: right;">Enclosures</p>	<ol style="list-style-type: none"> 1. Consultation findings 2. Equalities Impact Assessment 3. Corporate Enforcement and Prosecution Policy
<p style="text-align: right;">Officer Contact Details</p>	<p>Matt Leng, Community Safety Manager, Matt.Leng@Barnet.gov.uk, 0208 359 2995</p>

<h3>Summary</h3>
<p>On the 28th June 2016 the Policy and Resources Committee were presented with the draft copy of the Corporate Enforcement and Prosecution Policy.</p> <p>Members noted the purpose of the policy and agreed to the public consultation going ahead for the Corporate Enforcement and Prosecution Policy and for an Equalities Impact Assessment to be conducted by officers.</p> <p>This report provides feedback on the public consultation and the outcome of the Equalities Impact Assessment and seeks agreement from the Policy and Resources Committee to implement the Corporate Enforcement and Prosecution Policy with effect from 1st April 2017.</p>

Recommendations

- | |
|---|
| 1. That the Policy and Resources Committee consider the findings of the public consultation (Appendix 1) |
| 2. The Committee consider the Equalities Impact Assessment (Appendix 2) |
| 3. The Committee approves the Corporate Enforcement and Prosecution Policy (Appendix 3) |
| 4. The Committee approves the implementation of the Corporate Enforcement and Prosecution Policy with effect from 1st April 2017. |

1. WHY THIS REPORT IS NEEDED

- 1.1 At the Policy and Resources Committee meeting on 28th June 2016, members were presented with the draft Corporate Enforcement and Prosecution Policy. Members noted and agreed to the public consultation going ahead for the and for an Equalities Impact Assessment to be conducted by officers.
- 1.2 This report is being presented in accordance with the Member's request that officers provide a summary of the consultation feedback and the Equalities Impact Assessment and seek final member approval of the Corporate Enforcement and Prosecution Policy.

2. REASONS FOR RECOMMENDATIONS

- 2.1 The Policy and Resources Committee asked officers to present the final policy, consultation feedback and the Equalities Impact Assessment. These tasks have now been completed and therefore final approval is being sought.
- 2.2 Service specific enforcement policies are already in place across the council. This Corporate Enforcement and Prosecution Policy sets out the minimum standards which all the Council's departmental/service enforcement policies and enforcement approach should comply with.
- 2.3 Members are being asked to agree the implementation date of 1st April 2017. This will allow sufficient time for the policy to be uploaded on the council web page and for all relevant departments/services to be notified about the policy and the process for self-assessment.
- 2.4 Members are being asked to note that an annual Corporate Enforcement Performance report shall be provided to the appropriate committee with the first annual report being presented in June 2018.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 The alternative option presented to the Policy and Resources Committee on the 28th June 2016 was to do nothing.
- 3.2 This option risked the Council applying an inconsistent approach to enforcement and prosecution and the potential risk of non-compliance with the Cabinet Office Enforcement Concordat and the Statutory Code for Regulators (2014). It also represented a risk of cases prosecuted being subjected to judicial review as a result of the Council not adhering to the Statutory Code.
- 3.3 This option was therefore not recommended.

4. POST DECISION IMPLEMENTATION

- 4.1 The Corporate Enforcement and Prosecution Policy will be publicised on the Council Website and communicated to all staff.
- 4.2 All service specific Enforcement and Prosecution Policies and procedures that have not undergone a review in the last six months will be reviewed to ensure they are aligned with the Corporate Policy. The identified affected departments include:
- Private Sector Housing
 - Planning
 - Public Health and Nuisance
 - Food, Health & Safety
 - Trading Standards & Licensing
 - Building Control
 - Barnet Homes
 - Barnet Council Community Safety
- 4.3 The Council's Corporate Anti-Fraud Team commenced an audit of all Re policies and procedures in June 2016. The findings and recommendations will form part of the council's audit for compliance with the Corporate Enforcement and Prosecution Policy. The final report was completed on 31st January 2017.

5. IMPLICATIONS OF DECISION

Corporate Priorities and Performance

- 5.1 The Council's Corporate Plan 2015-20 sets out the following strategic objectives:

That Barnet Council, working with local, regional and national partners, will strive to make sure that Barnet is the place:

- Of opportunity, where people can further their quality of life.
 - Where responsibility is shared, fairly.
 - Where people are helped to help themselves, recognising that prevention is better than cure.
 - Where services are delivered efficiently to get value for money for the taxpayer.
- 5.2 Agreement of this policy will ensure the Council's approach to regulating compliance and applying any enforcement action is fair, consistent and transparent and that the responsibility of being compliant is equally shared across the council, residents and businesses.

6. Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

- 6.1 There are no financial implications as a direct result of establishing this policy.
- 6.2 The application of the Corporate Enforcement and Prosecution Policy and the self-audit tool across all the relevant departments/services will ensure consistency in delivery of 'business as usual', reduced demand upon services resulting in higher service user and stakeholder satisfaction including reputational benefit for the Council's Enforcement and Prosecution services.

7. Legal and Constitutional References

- 7.1 In drafting enforcement policies the Council is required to have regard to the statutory guidance in the Regulators Code.
- 7.2 Council Constitution, Responsibility for Functions, Annex A (not appended to this report) sets out that the terms of reference of Policy and Resources Committee includes:
- 'To be the principal means by which advice on strategic policy and plans is given and coordinated'
 - and 'To be responsible for those matters not specifically allocated to any other committee affecting the affairs of the Council'.

8. Risk Management

- 8.1 Legal services have been consulted on the draft Corporate Enforcement and Prosecution Policy to ensure it accurately represents the statutory powers of the Local Authority and relevant codes of compliance.
- 8.2 The use of the Corporate Enforcement and Prosecution Policy self-audit tool will act as an assurance that the departments/services affected are compliant in their policies, practices and procedures thus reducing the risk to the Council as highlighted in point 3.2.

9. Equalities and Diversity

- 9.1 All Council policies are required to undergo an equalities impact assessment to ensure the approach does not have a disproportionate adverse impact resulting in service inequality to the residents of Barnet.
- 9.2 Being fair and giving equal chances to all our residents is central to Barnet's Corporate Plan 2016 -2022 and the council's strategic equalities objective, (SEO), that "Citizens will be treated equally, with understanding and respect, and will have equal access to quality services which provide value to the taxpayer". Barnet and organisations acting on its behalf are committed to fair treatment for all our citizens balancing their different needs and rights as we support our more vulnerable residents and incorporate the principles of equality into everything we do as a Council. The general duty on public bodies is set out in Section 149 of the Equality Act 2010.
- 9.3 A public authority must, in the exercise of its functions, have *due regard* to the need to:
- (a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9.3.1 The protected characteristics are:

- age
- disability
- gender reassignment
- pregnancy and maternity
- race / ethnicity
- religion or belief
- gender / sex
- sexual orientation
- marital status (including civil partnership)

9.3.2 Where appropriate the council considers the impact of proposals on other vulnerable groups including:

- a. Unemployed people and young people not in employment education and training (NEETs)
- b. People with specific disabilities including people mental health problems
- c. Lone parents and some families
- d. People with a low income
- e. Carers including young and parent carers

9.4 Enforcement and prosecution action has the potential to affect all equalities groups. The development of the performance management framework for enforcement and prosecution could also capture data on the protected characteristics to measure impact.

9.5 The initial Equalities Impact Assessment has highlighted that there are eight groups with protected characteristics that have been identified as having the potential to be impacted by this Enforcement Policy.

The groups identified are:

- All persons aged above 10 years old – the age of criminal responsibility in the UK
- People whose first language is not English– those with limited or no ability to understand how the policy/law affects them day to day
- People who do not speak English as a first language (or at all) – those with limited or no ability to understand how the policy/law affects them day to day
- People with mental health issues – those who lack capacity to understand the way this policy may affect them day to day
- Households with a low income – those households who may lack the financial income to pay fixed penalty notices or fines
- Unemployed people – those individuals who may lack the financial income to pay fixed penalty notices or fines
- Young people not in employment education or training – those who may lack financial income to pay fixed penalty notices or fines and be financially dependent upon their parent(s)/carer(s).
- Rough Sleepers/homeless – those who may lack the financial income to pay fixed penalty notices or fines

9.6 The groups identified in the Equalities Impact Assessment for the Corporate Enforcement and Prosecution Policy are in alignment with those groups identified in the Street Scene Alternate Delivery Model which was presented to the Environment Committee on 14 July 2016.

9.7 The Equality Impact Assessment undertaken and approved by the Council's Commissioning and Equalities Policy Officer within the Commissioning Group is at Appendix 2 of this report and is to be reviewed annually as part of the

annual performance report that will be submitted to the Policy and Resources Committee to inform the Council's response to the groups that are *likely to be affected* identified in point 9.5 above.

9.8 In order to mitigate the potential impact upon the groups identified by the initial Equalities Impact Assessment the balance of proceeding with an enforcement action will need to be on a case by case basis.

10. Consultation and Engagement

10.1 The consultation was conducted using the approach which was recommended by the consultation team and agreed by members on the 28th June 2016.

10.2 The full survey, including all questions and analysis has been appended to this report at Appendix 1.

10.3 There were 15 responses to the consultation therefore there is a need to exercise caution when considering the statistical data representation due to the small sample size.

10.4 Comments of note recorded in the free text responses mentioned dissatisfaction at the lack of parking enforcement around primary schools. There were comments around asking that cautions¹ were not overused, and that the council undertook operations against fast food premises that did not effectively manage the litter created from their businesses.

10.5 In terms of problems related to anti-social behaviour, the problems that ranked highest on the list of priorities were 'people being drunk or rowdy in public places' and 'abandoned or burnt out cars'.

10.6 When respondents were asked the extent to which they agree with the aims of the Corporate Enforcement and Prosecution Policy 67% (10 respondents) agreed with the aims.

10.7 43% (6 respondents, 1 respondent didn't know) of respondents said they were undecided as to the extent to which they found the policy clear and easy to understand.

10.8 The most important principle for respondents identified in the Corporate Enforcement and Prosecution Policy was to have consistency between inspections by officers.

10.9 In terms of enforcement and compliance activities, the activities that respondents supported most were educational activities supporting people to comply.

¹ The Council has the power to issue simple cautions (previously known as 'formal cautions') as an alternative to prosecution for some less serious offences, where a person admits an offence and consents to the simple caution. Where a simple caution is offered and declined, the Council is likely to consider prosecution.

10.10 As a result of the consultation, a plain English summary of the policy is attached at Appendix 4 of this report.

11. BACKGROUND PAPERS

Recent papers to various committees on enforcement and some examples of web links to the council's service specific enforcement actions are listed below.

Policy and Resources Committee Paper entitled 'Enforcement and Prosecution Policy' that was heard at the 28th June Policy and Resources Committee

<http://barnet.moderngov.co.uk/documents/s32723/Barnet%20Draft%20Corporate%20Enforcement%20and%20Prosecution%20Policy.pdf>

Street Scene Enforcement Policy and Procedure

<https://barnet.moderngov.co.uk/documents/s30193/Streetscene%20Enforcement.pdf>

Environmental Crime – Fixed Penalty Notices

<https://www.barnet.gov.uk/citizen-home/parking-roads-and-pavements/Street-cleaning/litter-enforcement/fixe-penalty-notice.html>

Moving Traffic Conventions

<https://barnet.moderngov.co.uk/documents/s23696/Moving%20Traffic%20Contraventions.pdf>

Planning enforcement

<https://www.barnet.gov.uk/citizen-home/planning-conservation-and-building-control/planningenforcement.html>

HMO Licensing

<https://barnet.moderngov.co.uk/documents/s29179/Additional%20Licensing%20Scheme%20for%20Houses%20in%20Multiple%20Occupation.pdf>

Parking Enforcement

<https://www.barnet.gov.uk/citizen-home/parking-roads-and-pavements/parking/parkingenforcement.html>

Trading Standards and licensing enforcement complaints

<https://www.barnet.gov.uk/citizen-home/business/forms/Trading-Standards-Licensingenforcement-complaints.html>

Barnet Enforcement locations

<https://www.barnet.gov.uk/citizen-home/parking-roads-and-pavements/parking/moving-trafficcontraventions/driving-rules.html>

Report Name:	Corporate Enforcement and Prosecution Policy Consultation	
Purpose:	Summary of the public responses	
Date:	16 th February 2017	
Report Author:	Matt Leng (Community Safety Manager, Barnet)	
Outcome Required:	Information Only: <input type="checkbox"/>	
	Decision Required: <input checked="" type="checkbox"/>	
	Feedback/comments required: <input type="checkbox"/>	
GPMS marking:	Official Sensitive	
Appendix		

1. Summary:

- 1.1 On the 28th June 2016 the Policy and Resources Committee were presented with the draft copy of the Corporate Enforcement and Prosecution Policy.
- 1.2 Members provided feedback on the draft policy and agreed for the Corporate Enforcement and Prosecution Policy which have been made to the policy. Members approved officers to go out to public consultation and for the Equalities Impact Assessment to be conducted by officers.
- 1.3 This report provides a summary of that public consultation.

2. Process and methodology:

- 2.1 The consultation was undertaken using the methodology recommended by the consultation team. This consisted of a survey monkey survey asking questions about the draft policy.
- 2.2 The consultation for the general public was undertaken on the Barnet Engagement Hub which opened on the 26th September 2016 and closed on the 2nd November 2016. It received 15 responses, but not all respondents answered every question. The consultation was publicised via twitter. The consultation team advised this was an appropriate way in which to conduct a consultation, given the non-contentious nature of the policy that was being consulted upon. The consultation team have advised that the level of response is expected given the nature of the policy.

3. Responses to the consultation:

3.1 Although the duty to consult has been undertaken through this process, officers and members are asked to exercise caution when looking at these results because of the small sample size (15).

3.2 Responses to some of the more telling and overarching questions have been included below.

**Q1) Thinking about your local area, how much of a problem do you think the following are?
(Please select all that apply)**

	A very big problem	A fairly big problem	Not a very big problem	Not a problem at all	No opinion	Total	Weighted average
Noisy neighbours or loud parties	0.00% 0	30.77% 4	30.77% 4	38.46% 5	0.00%	13	3.08
Teenagers hanging around the streets	7.69% 1	30.77% 4	30.77% 4	30.77% 4	0.00% 0	13	2.85
Rubbish or litter lying around	46.67% 7	26.67% 4	13.33% 2	13.33% 2	0.00% 0	15	1.93
Vandalism, graffiti and other deliberate damage to property or vehicles	33.33% 5	20.00% 3	26.67% 4	20.00% 3	0.00% 0	15	2.33
People using or dealing drugs	13.33% 2	26.67% 4	33.33% 5	20.00% 3	6.67% 1	15	2.80
People being drunk or rowdy in public places	23.08% 3	15.38% 2	38.46% 5	23.08% 3	0.00% 0	13	3.15
Abandoned or burnt out cars	7.69% 1	7.69% 1	46.15% 6	38.46% 5	0.00% 0	13	3.15
Fly tipping	50.00% 7	28.57% 4	7.14% 1	14.29% 2	0.00% 0	14	1.86

Q2) Respondents were asked 'To what extent do you agree with the above aims? (in relation to the Enforcement and Prosecution Policy)

The responses to the question are detailed below

Strongly agree	46.67%
Tend to agree	20.00%
Neither agree nor disagree	13.33%
Tend to disagree	13.33%

Strongly disagree	6.67%
Don't know	0.00%

Q3) One of the questions asked was 'To what extent do you agree or disagree that the Council's Draft Enforcement Policy is clear and easy to understand?'

The responses to the question are detailed below:

Strongly agree	7.14%
Tend to agree	14.29%
Neither agree nor disagree	42.86%
Tend to disagree	14.29%
Strongly disagree	14.29%
Don't know	7.14%

Q4) Please rank the following principles in order of importance for you 1 being the least important and 6 being the most important.

	1	2	3	4	5	6	total	score
Standards: We will have clear standards that are published and easily available.	28.57% 2	14.29% 1	14.29% 1	0.00% 0	0.00% 0	42.86% 3	7	3.43
Openness: We will provide clear information and advice in plain language on the rules applied.	0.00% 0	0.00%	42.86% 3	14.29% 1	28.57% 2	14.29% 2	7	2.86
Helpfulness: We will provide a helpful advice service that actively involves working with the community to advise and assist with compliance.	0.00% 0	42.86% 3	0.00% 0	42.86% 3	14.29% 1	0.00% 0	7	3.71
Having a clear appeals process: We will provide a well publicised, effective and timely complaints procedures that are easily accessible to the local community.	12.50% 1	25.00% 2	25.00% 2	0.00% 0	12.50% 1	25.00% 2	8	3.50
Proportionality: We will minimise the costs of compliance for business by ensuring that any action we require is proportionate to the risks.	25.00% 2	0.00% 0	25.00% 2	0.00% 0	37.50% 3	12.50% 1	8	3.38
Consistency: We will have arrangements in place to promote consistency between inspections	44.44% 4	22.22% 2	0.00% 0	33.33% 3	0.00% 0	0.00% 0	9	4.78

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Q5) To what extent do you agree or disagree with the activities that have been identified to ensure compliance?

	Strongly agree	Tend to agree	Neither agree nor disagree	Tend to disagree	Strongly disagree	Don't know	Total	Weighted Average
We will undertake proactive education programmes.	36.36% 4	27.27% 3	27.27% 3	0.00% 0	9.09% 1	0.00% 0	11	2.18
We will explain legal requirements and, where appropriate, the means to achieve compliance.	50.00% 5	20.00% 2	20.00% 2	0.00% 0	10.00% 1	0.00% 0	10	2.00
We will provide an opportunity to discuss points in issue where appropriate consideration of alternative means and reasonable timescales to achieve compliance.	50.00% 5	10.00% 1	20.00% 2	0.00% 0	10.00% 1	10.00% 1	10	2.40
We may serve advisory letters, earnings, statutory notices or prohibitions detailing non-compliance.	60.00% 6	0.00% 0	30.00% 3	0.00% 0	10.00% 1	0.00% 0	10	2.00
We will undertake enforcement actions including, but not limited to, formal caution, seizure of documents or goods, closure of premises, caution, prosecution and/ or injunction.	60.00% 6	0.00% 0	20.00% 2	10.00% 1	10.00% 1	0.00% 0	10	2.10

4. Recommendations as a result of the consultation

4.1 The Commissioning Lead for Safer Communities should consider appending an executive summary to the existing policy that provides a plain English summary of the policy.

Report ends

Initial Equality Analysis (EIA) Resident/Service User

1. Details of function, policy, procedure or service:	
Title of what is being assessed: Corporate Enforcement and Prosecution Policy	
Is it a new or revised function, policy, procedure or service? New Corporate Enforcement and Prosecution Policy	
Department and Section: Commissioning Group for Environment and all affected delivery units in Regulated Services (Re) and ALMO services (Barnet Homes).	
Date assessment completed: 22/12/16	
2. Names and roles of people completing this assessment:	
Lead officer	Kiran Vagarwal, Strategic Lead for Safer Communities
Other groups	N/A
3. Employee Profile of the Project	<p>Will the proposal affect employees? YES</p> <p>If no please explain why.</p> <p>If yes, please seek assistance from HR to complete the employee EIA.</p>

4. How are the following equality strands affected? Please detail the effect on each equality strand, and any mitigating action you have taken / required. Please include any relevant data. If you do not have relevant data please explain why / plans to capture data			
Equality Strand	Affected?	Explain how affected	Indicate what action has been taken / or is planned to mitigate impact?
1. Age	Yes	May impact a varying range of ages of residents and general public	As the council does not have any data to currently assess the impact the action to be taken is that this data will be collated and reviewed quarterly upon approval of the policy.
2. Disability	Yes	Offences may be committed by persons without capacity	As the council does not have any data to currently assess the impact the action to be taken is that this data will be collated and reviewed quarterly upon approval of the policy.
3. Gender	No	N/A	N/A

reassignment			
4. Pregnancy and maternity	No	N/A	N/A
5. Race / Ethnicity	Yes	May impact service users who do not speak English as a first language.	As the council does not have any data to currently assess the impact the action to be taken is that this data will be collated and reviewed quarterly upon approval of the policy.
6. Religion or belief	No	N/A	N/A
7. Gender / sex	No	N/A	N/A
8. Sexual orientation	No	N/A	N/A
9. Marital Status	No	N/A	N/A
10. Other key groups?	Yes	N/A	N/A
Carers	No	N/A	N/A
People with mental health issues	Yes	Offences may be committed by persons without capacity	As the council does not have any data to currently assess the impact the action to be taken is that this data will be collated and reviewed quarterly upon approval of the policy.
Households with a low income	Yes	Offences may be committed by family members	
Unemployed people	Yes	Offences may be committed by persons without the means to pay fines.	
Young people not in employment education or training	Yes	Offences may be committed by persons without the means to pay fines.	
Rough Sleepers/homeless	Yes	Offences may be committed by persons	

		without the means to pay fines.	
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5. Please outline what data sources, measures and methods could be designed to monitor the impact of the new policy or service, the achievement of intended outcomes and the identification of any unintended or adverse impact?

Include how frequently monitoring could be conducted and who will be made aware of the analysis and outcomes

The council currently have in place various service specific enforcement policies and procedures for the respective delivery units who have a duty of care regarding enforcement.

The Corporate Enforcement and Prosecution Policy will ensure there is a consistent approach to enforcement and prosecution by the council and any other organisation delivering regulatory/enforcement services on behalf of the council, therefore ensuring Council compliance with the Cabinet Office Enforcement Concordat and the Statutory Code for Regulators introduced in 2014.

As the policy is embedded into all services areas one way of measuring the impact will be the collation and assessment of the tools and powers used broken down by demographic and assessing against the assessment strands identified.

This will form two impact streams for further assessment:

1. The impact assessment against those identified with protected characteristics
2. The identification of any other unknown groups or persons being affected by the policy.

By proactive quarterly monitoring of this data captured by the Delivery units with enforcement tools and powers we will be able to ensure that the Council is continually re assessing the impact of this policy upon the community it is seeking to protect.

This will serve to meet the Council's Corporate Plan 2015-20 which sets out the following strategic objectives:

That Barnet Council, working with local, regional and national partners, will strive to make sure that Barnet is the place:

- Of opportunity, where people can further their quality of life.
- Where responsibility is shared, fairly.
- Where people are helped to help themselves, recognising that
- prevention is better than cure.
- Where services are delivered efficiently to get value for money for the
- taxpayer.

Additional methods have yet to be agreed by Commissioning Group Community Safety Project Board to monitor the impact of the Corporate Enforcement and Prosecution Policy but are likely to include; resident satisfaction surveys, use of council-held demographic data (per

household), and real-time monitoring by the appropriate service areas (Community Safety Team, Re Planning, Re Trading Standards & Licensing, Re Private Sector Housing, Re Highways, Re Building Control, Re Food, Health & Safety, Re Public Health and Nuisance, Barnet Homes, Street Scene Delivery Unit ,NSL contracted services).

6. Initial Assessment of Overall Impact		
Positive Impact	Negative Impact or Impact Not Known¹ √ (Impact not yet known)	No Impact
7. Scale of Impact		
Positive impact	Negative Impact or Impact Not Known √ (Scale of impact not yet known)	

8. Outcome			
No change to decision √	Adjustment needed to decision	Continue with decision <i>(despite adverse impact / missed opportunity)</i>	If significant negative impact - Stop / rethink

9. Please give a full explanation for how the initial assessment and outcome was decided.

¹ 'Impact Not Known' – tick this box if there is no up-to-date data or information to show the effects or outcomes of the function, policy, procedure or service on all of the equality strands.

As referred to in section 5 above, the actual impact on service users is not yet known because the detail of how the Corporate Enforcement and Prosecution Policy will affect the community and visitors to the borough is not known.

However, there are eight service user groups with protected characteristics that have been identified as having the potential to be impacted by the Corporate Enforcement and Prosecution Policy as noted in section 4 above.

These groups are:

- All ages above 10 years old
- People whose first language is not English
- People who do not speak English as a first language (or at all)
- People with mental health issues
- Households with a low income
- Unemployed people
- Young people not in employment education or training
- Rough Sleepers/homeless

These groups have been noted because they are currently impacted by business as usual service delivery, so it is not unreasonable to assume that they would be in scope of any potential changes which may be implemented by the Council's Corporate Enforcement and Prosecution Policy.

This assumption is founded on evidence from previous engagement with service users as part of; policy/strategy consultation, ongoing performance monitoring through resident satisfaction surveys, complaints monitoring, and requests for supported services and complex case management issues for the Council and Safer Communities Partnership.

However, it is not yet known if these groups will definitely be affected and, if so, to what extent. As the Corporate Enforcement and Prosecution Policy is to be embedded into all delivery unit and partnership work areas a further EIA will be conducted in line with project consultation requirements and in accordance with Barnet project management methodology.

By proactive quarterly monitoring of this data captured by the Delivery units with enforcement tools and powers we will be able to ensure that the Council is continually re assessing the impact of this policy upon the community it is seeking to protect.

Borough Data

The link below is to demographic data held by the council, by borough and by ward, which can be used to identify who the protected groups might be and where they might be located. This data is not only useful for conducting an EIA but can also be used as a tool for effective demand management; whereby services can be targeted to those who need them most:

<https://employeeportal.lbbarnet.local/home/departments-and-services/central-services/Barnet-Facts-and-Figures.html>

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Enforcement and Prosecution Policy

London Borough of Barnet

2017

Document Control

POLICY NAME	Enforcement and Prosecution Policy – Barnet Council		
Document Description	This document summarises the Council’s approach to ensure compliance with regulatory requirements and applies to all service areas. This policy will be supported by more detailed service specific enforcement policies and procedures which will be in line with the approach set out in this document.		
Document Author Team: Officer Contact Details:	Community Safety Team Kiran Vagarwal, kiran.vagarwal@barnet.gov.uk		
Status: (Live/Draft/Withdrawn)	Final Draft 10.03.2017	Version	1.0
Last Review Date:	New	Next Review Date	
Approval Chain:	28.6.2016 – Policy and resources committee – 1 st Draft 21.03.2017 Policy and Resources – Final policy	Date Approved	

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1. Introduction

1.1 Barnet Council shares the Government's view that effective and well-targeted regulation is essential in promoting fairness and protection from harm and that as regulators we should adopt a positive and proactive approach towards ensuring compliance by:

- helping and encouraging those who are subject to regulatory and legal requirements to understand and meet those requirements more easily; and
- responding proportionately to regulatory and legal breaches

1.2 Barnet Council will take a more collaborative approach to those who comply with regulatory and legal requirements and those who work with us to achieve compliance. We will not hesitate to take all necessary enforcement action against those who commit serious and/or persistent breaches and offences, and refuse to work with us to achieve compliance

1.3 This enforcement and prosecution policy will apply to all service areas of the Council and will be supported by additional service-specific policies/or procedures. Information about these service specific policies and procedures can be obtained from the relevant service areas and are accessible on the council's website. Service specific policies include:

- planning
- building control
- environmental health
- food safety
- trading standards
- licensing health and safety
- highways and parking
- housing (private sector i.e. Houses in multiple occupation and council managed housing)
- Social Services
- Councils Anti-Fraud Team (CAFT).

1.4 The appropriate use of the full range of enforcement powers, including prosecution, is important, both to secure compliance with regulation and the law and to ensure that those who have duties under it may be held to account for failures to safeguard health, safety and welfare or breach of regulations enforced by the Council.

1.5 The key principles of the council's Corporate Enforcement and Prosecution Policy are in line with the Cabinet Office Enforcement Concordat:

We Will:

- have clear standards, setting the level of service the public and businesses can expect to receive
- deal with the public and businesses in an open and honest way
- provide a courteous, efficient and helpful service
- respond promptly and positively to complaints about the service
- take an evidence based approach to determine the risks and ensure enforcement action is proportionate
- carry out our duties in a fair, equitable and consistent manner

1.6 Barnet Council's Corporate Plan sets out the following objectives that are underpinned by the principles of Fairness, Responsibility and Opportunity:

'The council, working with local, regional and national partners, will strive to ensure that Barnet is a place:

- Of **opportunity**, where people can further their quality of life
- Where people are helped to help themselves, recognising that **prevention** is better than cure
- Where **responsibility** is shared **fairly**
- Where services are delivered **efficiently** to get **value for money** for the tax payer
- With improved Customer Services and increased transparency

1.7 However, we also recognise that our local businesses and individual residents have a role to play in helping us achieve the objective set out above.

1.8 Ultimately it is the responsibility of individuals and businesses to comply with regulations and the law to:

- Address the negative impact their behaviour may have on the wider community and Barnet's environment.
- Prevent the unnecessary demand on public services.
- Avoid escalating costs to the council and the tax payer as a result of addressing non-compliance.

1.9 This policy supports Barnet Council's objective of being a transparent and open council, in that it sets out publicly the Council's intended approach to bring about compliance with regulatory and legal requirements. This policy also supports Barnet's vision where responsibility is shared fairly. In doing so, the Council will adhere to fair and practical enforcement policy and practice across the full range of the Council's regulatory activity.

2. Purpose of the policy

2.1 One of the functions of the Council is to act as a regulator and an enforcement agency for a large range of legal duties and powers applied by Statutes and the Regulations and Orders made under them (including various byelaws). This policy sets out standards that will be applied across the Council when acting in its role as regulator and enforcement agency and what residents, businesses, consumers and workers can expect from Barnet Council.

2.2 This policy sets out the approach to be followed by authorised officers when making decisions in respect of the Council's compliance and enforcement activities. The Council is committed to ensuring that all authorised officers will act in accordance with this policy.

3. Policy Aims

3.1 The aims of this policy are to:

- Provide clear guidance to all enforcement officers;
- To set out clearly what is expected from the Community in terms of compliance
- Ensure enforcement that is proportionate
- Provide an element of flexibility to recognise officer judgment through not being over prescriptive but ensuring decisions remain consistent with council policy
- Provide equal treatment for all.
- Enforcing the law, protecting the community
- To reduce unnecessary demand on and costs to Council services resulting from Council services having to address repeat offending and breaches

4. Enforcing the Law and protecting the community

4.1 The primary function of Barnet Council's enforcement work is to ensure compliance with regulations and the law and to protect the public, the environment and groups such as consumers and workers.

- 4.2 We recognise that most businesses and members of our community want to comply with the law. We will therefore take care to help businesses and others to meet their legal obligations. We will take firm action, including prosecution where appropriate, against those who flout the law.
- 4.3 We have therefore adopted the Cabinet Office Enforcement Concordat¹ which commits the council to good enforcement policies and procedures and will show due regard to the Statutory Regulators Code (2014). In carrying out enforcement and when sharing information with other law enforcement agencies, the Council will have due regard to the Data Protection Act 1998, the Human Rights Act 1998, the Equality Act 2010 and Section 115 of the Crime and Disorder Act 1998.
- 4.4 Included in the term ‘enforcement’ are advisory visits and assisting with compliance as well as licensing and formal enforcement action.
- 4.5 If a regulator concludes, on the basis of material evidence, that the specific provision of the Code is not applicable or it is outweighed by another relevant consideration, the regulator is not bound to follow that provision, but should record the decisions and reasons for it.
- 4.6 Where a decision to prosecute is made, this decision will be taken in accordance with the Code for Crown Prosecutors², which details the considerations to be taken into account when bringing proceedings.
- 4.7 All cases that are being considered for enforcement should be compliant with the Counter Fraud Framework. All Enforcement Officers must refer to the Council’s Corporate Anti-Fraud Team (CAFT) at the earliest opportunity where fraud, bribery, corruption and/or money laundering offences against the council are suspected or come to light within an enforcement investigation as they are the only authorised council service to conduct these types of investigations

5. Principles of Barnet’s Enforcement and Prosecution Policy

5.1 Principle One: Standards

We will draw up clear standards setting out the level of service and performance the public and business people can expect to receive. Where appropriate we will consult with businesses and other relevant parties, including technical experts.

5.2 Principle Two: Openness

5.2.2 We will provide information and advice in plain language on the rules that we apply and will disseminate this widely. We will be open about how we set about our work, including any charges that we set. We will consult as appropriate, business, voluntary organisations, charities, consumers and workforce representatives.

5.2.2 We will provide an annual performance report on the implementation of this policy to the appropriate committee.

¹ Web link provided at the end of this document

² A link to the document is provided at the end of this policy

5.3 Principle Three: Helpfulness

- 5.3.1 We believe that prevention is better than cure and that our role therefore includes actively working with business, especially small and medium sized businesses, to advise on and assist with compliance in relevant areas.
- 5.3.2 We will provide a courteous and efficient service and our staff will identify themselves.. We will provide a point of contact and we will encourage businesses to seek advice and information from us. We will ensure that, wherever practicable, our enforcement services are effectively coordinated to minimise unnecessary overlaps and time delays

5.4 Principle Four: Complaints about the services provided

- 5.4.1 We will provide well publicised, effective and timely complaints procedures easily accessible to business, the public, employees and consumer groups. In cases where disputes cannot be resolved, any right of complaint or appeal will be explained, with details of the process and the likely time-scales involved.

5.5 Principle Five: Proportionality

- 5.5.1 We will take an evidence based approach to determine the risks and ensure enforcement action is proportionate
- 5.5.2 We will take particular care to work with small businesses and voluntary and community organisations so that they can meet their legal obligations.

5.6 Principle Six: Consistency

- 5.6.1 All council regulatory and enforcement services will carry out their duties in a fair, equitable and consistent manner across each service.

6. Compliance and Non-compliance

- 6.1 A range of activities will be undertaken to ensure compliance with legislation. Advice and guidance will be provided; proportionate, programmed and intelligence led inspections will be undertaken and where necessary, inspections will be undertaken in response to complaints from third parties. Some enforcement services will also have officers patrolling the streets whose role is to detect non-compliance and enforce in accordance with this policy.
- 6.2 Where non-compliance is discovered, options to promote/seek compliance will include:
- undertaking pro-active education programmes
 - explaining legal requirements and, where appropriate, the means to

achieve compliance

- service of advisory letters, warnings, statutory notices, prohibitions detailing non-compliance
- enforcement actions including, but not limited to, formal caution, seizure of documents or goods, issue of penalty notices, closure of premises,
- prosecution and/or injunction

6.3 Immediate, without notice, enforcement action may be taken where appropriate.

6.4 In some instances, the Council may have shared responsibilities or a complementary role with another enforcement agency. In these circumstances, officers will liaise with that other agency to ensure effective co-ordination to avoid inconsistencies and to ensure that any proceedings taken are proportionate and appropriate.

6.5 The Council may publicise information about enforcement action that is taken in line with the relevant Government guidance on publishing sentencing outcomes.
(<http://www.justice.gov.uk/information-access-rights/sentencing-outcomes>).

6.6 This is usually once an investigation has been brought to a conclusion via a successful prosecution at Court. Any news releases of this nature will be sent to the Council's Corporate Communications Team electronically who will review and authorise issue for broadcast. This information can also be publicised on the Council's website and via other social media.

7. How action taken is determined

7.1 Where evidence is found that a business or other regulated person is showing disregard for the law by deliberately or persistently failing to comply despite advice or requests made by the Council, it may be deemed that providing advice alone is not sufficient. Under these circumstances enforcement action may be escalated directly to prosecution.

7.2 Where there is specific Legislative Guidance and Regulations which set out the enforcement requirements these will be followed.

8. Conduct of investigations

8.1 Enforcement action may result in either civil or criminal proceedings being instituted by the Council. The process that will be followed by officers in the investigation of alleged breaches of the law will depend on whether civil or criminal proceedings are considered. As the enforcing authority in any proceedings it instigates, the burden of proof falls to the Council.

8.2 Investigations will be carried out in compliance with the following legislation and in accordance with any associated guidance or codes of practice, in so far as they relate to Barnet Council:

- the Criminal Procedure and Investigations Act 1996
- the Regulation of Investigatory Powers Act 2000
- the Criminal Justice and Police Act 2001
- the Human Rights Act 1998
- the Police and Criminal Evidence Act 1984

8.3 These Acts and associated guidance control how evidence is collected and used and give a range of protections to citizens and potential defendants.

8.4 Authorised officers of the Council will also comply with the requirements of the particular legislation under which they are acting, and with any associated guidance or codes of practice. Officers are authorised through the Council's scheme of delegation.

9. Decision on Enforcement Action

9.1 The Range of Actions Available as set out in Legislation

There are a range of actions that are available to the Council as set out in the different legislation the Council enforces. Examples of the main types of actions which may be considered are set out below.

(a) Compliance Advice, Guidance and Support

The Council uses compliance advice, guidance and support as a first response in the case of many breaches of legislation that are identified. Advice is provided, sometimes in the form of a warning letter to assist individuals and businesses in rectifying breaches as quickly and efficiently as possible, avoiding the need for further enforcement action. A warning letter (sometimes called an 'informal caution') will set out what should be done to rectify the breach and to prevent re-occurrence. If a similar breach is identified in the future, this letter will be persuasive in considering the most appropriate enforcement action to take on that occasion. The warning letter, though not a caution or conviction may be presented at Court in evidence.

Where more formal enforcement action, such as a simple caution or prosecution, is taken, the Council recognises that there is likely to be an ongoing need for compliance advice and support, to prevent further breaches.

(b) Voluntary Undertakings

The Council may accept voluntary undertakings that breaches will be rectified and/or recurrences prevented. The Council will take any failure to honor voluntary undertakings very seriously and enforcement action is likely to result.

(c) Statutory (Legal) Notices

The Council has powers to issue statutory notices in respect of many breaches.

These include: 'Stop Notices', 'Prohibition Notices', 'Emergency Prohibition Notices', and 'Improvement Notices'. Such notices are legally binding. Failure to comply with a statutory notice can be a criminal offence and may lead to prosecution and/ or, where appropriate, the carrying out of work in default.

A statutory notice will clearly set out actions which must be taken and the timescale within which they must be taken. It is likely to require that any breach is rectified and/or prevented from recurring. It may also prohibit specified activities until the breach has been rectified and/or safeguards have been put in place to prevent future breaches. Where a statutory notice is issued, an explanation of the appeals process will be provided to the recipient.

Some notices issued in respect of premises may be affixed to the premises and/or registered as local land charges.

(d) Financial penalties

The Council has powers to issue fixed penalty notices or penalty charge notices in respect of some breaches. A fixed penalty notice or penalty charge notice is not a criminal fine, and does not appear on an individual's criminal record. If a fixed penalty/penalty charge notice is not paid, the Council may commence criminal proceedings in respect of the breach or take civil enforcement action to recover the penalty charge subject to the provisions of the relevant legislation.

If a fixed penalty/ penalty charge notice is paid in respect of a breach the Council will not take any further enforcement action in respect of that breach. Payment of a fixed penalty does not provide immunity from prosecution in respect of similar or recurrent breaches.

The Council is only able to issue fixed penalty notices where it has specific powers to do so. If fixed penalty notices are available, their issue is at the Council's discretion. In some circumstances, in particular where breaches are serious or recurrent, it maybe that prosecution is more appropriate than the issue of a fixed penalty notice.

(e) Injunctive Relief, Enforcement Orders etc.

In some circumstances the Council may seek a direction from the court (in the form of an order or an injunction) that a breach is rectified and/or prevented from recurring. The court may also direct that specified activities be suspended until the breach has been rectified and/or safeguards have been put in place to prevent future breaches.

Failure to comply with a court order constitutes contempt of court, a serious offence which may lead to imprisonment.

(f) Simple Caution

The Council has the power to issue simple cautions (previously known as 'formal cautions') as an alternative to prosecution for some less serious offences, where a person admits an offence and consents to the simple caution. Where a simple caution is offered and declined, the Council is likely to consider prosecution.

A simple caution will appear on the offender's criminal record. It is likely to influence how the Council and others deal with any similar breaches in the future, and may be cited in court if the offender is subsequently prosecuted for a similar offence. If a simple caution is issued to an individual (rather than a corporation) it may have consequences if that individual seeks certain types of employment.

Simple cautions will be used in accordance with Home Office Circular 016/2008 and other relevant guidance.

(g) Prosecution

The Council may prosecute in respect of serious or recurrent breaches, or where other enforcement actions, such as voluntary undertakings or statutory notices have failed to secure compliance. When deciding whether to prosecute the Council must give due regard to the provisions of The Code for Crown Prosecutors as issued by the Director of Public Prosecutions and the Council's Counter Fraud Framework.

Prosecution will only be considered where the Council is satisfied that it has sufficient evidence to provide a realistic prospect of conviction against the defendant(s).

If the evidential test is satisfied a prosecution will usually take place unless there are public interest factors tending against prosecution which outweigh those tending in favour. The more serious the offence or the offender's record of breaches/criminal behaviour, the more likely it is that prosecution will be required in the public interest.

Assessing the public interest is not merely a matter of adding up the number of factors on each side and seeing which has the greater number. The public interest must be decided on the merits of each individual case and making an overall assessment. It is quite possible that one factor alone may outweigh a number of other factors which tend in the opposite direction.

A successful prosecution will result in a criminal record. The court may impose a fine and in respect of particularly serious breaches a prison sentence. The court may order the forfeiture and disposal of non-compliant goods and/or the confiscation of any profits which have resulted from the breach. Prosecution may also lead, in some circumstances, to the disqualification of individuals from acting as company directors.

(h) Proceeds of Crime (POCA)

POCA sets out the asset recovery scheme which aims to deny criminals the use of their assets, recover the proceeds of crime and disrupt and deter criminality. The most commonly used power is criminal confiscation where confiscation occurs after a conviction has taken place. Other means of recovering proceeds of crime which do not require a criminal conviction are provided for in the Act, namely civil recovery.

The Act also provides for a number of investigative powers which are also used by the Local Authority (Corporate Anti-Fraud Team - CAFT Team). For example search and seizure powers, and powers to apply for production orders and disclosure orders and allows for the 'restraint' or 'freezing' of assets to prevent dissipation of assets prior to a confiscation order being made.

The CAFT has an established Financial Investigation Team within, consisting of qualified Financial Investigation Officers and an approved Senior Authorising Officer, accredited and authorised by the National Crime Agency NCA. In accordance with the Council's Financial Regulations they are the only authorised Council service to conduct Financial Investigations under the Proceeds of Crime Act 2002 on behalf of all Council Services (and subsidiary holdings and contractual partners) and to further investigate individuals who are prosecuted by the Council.

Referrals must be made to the CAFT by the service conducting an enforcement investigation / prosecution for consideration of suitability for a POCA investigation. The decision whether or not to instigate a POCA investigation lies with CAFT Financial Investigators on assessment of each case and legal advice where required.

The Proceeds of Crime Act 2002 provides for the confiscation or civil recovery of the financial benefit that a convicted person has obtained through their criminal conduct. A confiscation order assesses the amount of financial benefit a person has derived from their criminal behavior.

This financial benefit is then redistributed as follows:

- 50% goes to HM Treasury
- 12.5% goes to HM courts – for administration of the POCA (Crown

Court not Magistrates Courts)

- 18.75% goes to cost of POCA investigation
- 18.75% goes to cost of legal action by prosecutor

Although not “ring-fenced” councils receiving incentivisation payments are expected to use them to promote work under POCA, or for the prevention and detection of crime. Unless agreed CAFT retain any confiscation (after costs/compensation) for use in the prevention / detection of crime.

(i) Refusal/Suspension/Revocation of Licenses

The Council issues a number of different Licenses, Consents, Registrations and Permits. They are applied for by submission of an application, the form and content of which is sometimes specified in law. Applications are generally granted for a limited defined period and will be required to be renewed annually unless otherwise specified.

The Council may be permitted to ask supplementary questions on an application form in order to assist it in reaching a decision on whether the applicant is a fit and proper person to hold such a License.

In some cases applications are subject to either a public or interested party consultation process and any application that attracts adverse comment or objection or does not meet Council policy requirements will be referred to an internal civil hearing forum to determine the application.

Most Licenses and other permissions have conditions attached which can be standard conditions or specific conditions or a combination of both. These conditions form part of the License and lay down requirements that a business or individual must have regard to when trading. Breach of a condition may be a civil or criminal matter.

When considering applications information supplied with the application together with any previous enforcement action and compliance record can be taken into account when reaching a decision.

10. Explanation of how decisions are communicated to those affected

The Council will provide a timely explanation in writing of any rights to representation or appeal and information on the process involved.

11. Review of this policy

This policy will be reviewed periodically or in line with changes in relevant legislation, or Regulators Code.

12. Comments and Complaints

Details of processes for complaints and appeals

- All appeals in relation to enforcement action taken should be via the statutory appeals process outlined in the relevant legislation.
- Complaints about the conduct of officers should be made via the Council corporate complaints procedure.

13. Policy Status and Review

13.1 This policy was confirmed by the Policy and Resources Committee on:
TBC

Links to be inserted for the following:

- Cabinet Office Enforcement Concordat
- Statutory Regulators Code (2014)
- Barnet Counter Fraud Framework
- Barnet Council – Scheme of Delegation
- Government guidance on publishing sentencing outcome

**London Borough of Barnet
Policy and Resources
Committee Work Programme
March 2017 - July 2017**

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Title of Report	Overview of decision	Report Of (<i>officer</i>)	Issue Type (Non key/Key/Urgent)
21 March 2017			
Corporate Enforcement and Prosecution Policy	The proposed corporate policy will ensure there is a consistent approach to enforcement and prosecution by the council and any other organisation delivering regulatory/enforcement services on behalf of the council. Therefore ensuring Council compliance with the Cabinet Office Enforcement Concordat and the Statutory Code for Regulators introduced in 2014.	Commissioning Director Environment	Non-key
Barnet and Harrow shared public health service: arrangements from April 2018	The council's inter-authority agreement with the London borough of Harrow for public health services ends on 31 st March 2018. This report seeks authorisation for the arrangements for public health service delivery from 1 st April 2018 onwards.	Commissioning Director Adults and Health	Non-key
16 May 2017			
Insurance Strategy	To approve the updated insurance strategy.	Director of Resources (Deputy Section 151 Officer)	Non-key
The Barnet Group (TBG) Business Plan	To approve the budget and business plan of the Barnet Group Ltd.	Interim Chief Operating Officer	Non-key

Title of Report	Overview of decision	Report Of (<i>officer</i>)	Issue Type (Non key/Key/Urgent)
Customer Transformation Programme: Approval to proceed to phases 2-4	Following the November approval of Customer Transformation Phase 1, this report will seek agreement to continue into subsequent phases.	Interim Chief Operating Officer	Non-key
27 June 2017			
Draft Green Infrastructure Supplementary Planning Document	To approve the draft Supplementary Planning Document for Green Infrastructure for consultation.	Commissioning Director, Growth and Development	Non-key
The Local Plan	To approve Barnet's Local Plan for consultation.	Commissioning Director, Growth and Development	Key
Items to be allocated			
Draft Affordable Housing Supplementary Planning Document	To approve the draft Supplementary Planning Document for Affordable Housing for consultation.	Commissioning Director, Growth and Development	Non-key
North London Waste Plan (Reg 19 stage)	To approve the North London Waste Plan (NLWP) for public consultation.	Commissioning Director, Growth and Development	Non-key
Affordable Housing Supplementary Planning Document - Adoption	To adopt the Supplementary Planning Document for Affordable Housing.	Commissioning Director, Growth and Development	Key

Title of Report	Overview of decision	Report Of (<i>officer</i>)	Issue Type (Non key/Key/Urgent)
Green Infrastructure Supplementary Planning Document - Adoption	To adopt the Supplementary Planning Document for Green Infrastructure.	Commissioning Director, Growth and Development	Key