

	Environment Committee 13 July 2017
Title	Regulatory Services Operations Report 2016/17
Report of	Strategic Director of Environment
Wards	All
Status	Public
Urgent	No
Key	No
Enclosures	Appendix 1 – Regulatory Services Operations Report 2016/17 Appendix 2 – Food Law Enforcement Plan 2017/18
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Summary

This report provides members of the Environment Committee with a summary of the activity undertaken by Regulatory Services (excluding Private Sector Housing) in the financial year 2016/17. It also provides details of the food law enforcement plan produced in accordance with the requirements of the Food Standards Agency, which is approved by officers under delegated powers, but provided to the Committee for information and comment.

Recommendations

1. That the Environment Committee note the Regulatory Services operations report for 2016/17 in Appendix 1 and the Food Law Enforcement Plan for 2017/18 in Appendix 2.

1. WHY THIS REPORT IS NEEDED

- 1.1 Regulatory Services are delivered by Re (Regional Enterprise) Ltd under the Development & Regulatory Services contract. Regulatory Services are responsible for delivering a complex and wide ranging set of activities. These activities are delivered to protect the health, safety and welfare of Barnet residents and visitors to the borough and to ensure that consumers are protected. This report is to provide Members with information about those activities.
- 1.2 Component services comprise Community Protection, incorporating Trading Standards, noise and anti-social behaviour; Environmental Health functions of Scientific Services (pollution control), Public Health and Nuisance and Food and Health & Safety. (Note: Health & Safety responsibility relates to the enforcement of the Health & Safety at Work etc Act 1974 and associated regulations at premises which fall to the local authority for enforcement. These include premises such as shops and offices, amongst others. Premises such as construction sites and manufacturing premises are enforced by the Health & Safety executive (HSE). Recent changes in national priorities for enforcement of health and safety, set by the HSE have reduced the amount of proactive inspections required to be carried out, with, except for the highest risk premises, no inspection being carried out without a reason, such as a complaint or targeted survey for example).
- 1.3 Regulatory Services also deliver private sector housing (enforcement and grants) and licensing functions. These activities are under the remit of the Housing Committee and the Licensing Committee respectively and are not included in this report.
- 1.4 Regulatory Services also manage and operate Hendon Cemetery & Crematorium.
- 1.5 The teams are responsible for application and enforcement of a wide range of regulatory legislation to deliver important public health outcomes and contribute to reduced likelihood, frequency and severity of reliance on more acute health services. Officers operate inspection programmes targeted at premises posing the greatest risk and a reactive response service to investigate complaints, outbreaks and accidents involving the many people living, working and visiting Barnet. The service also delivers proactive public health interventions in partnership with the wider public health community and government agencies. At times, the service is called upon to take immediate action to halt imminent risks to health and in some cases officers are involved in serving enforcement notices, the emergency closure of premises, prohibition of dangerous activities and the prosecution of offenders.
- 1.6 It is often the case that Regulatory Services may only be highlighted when things go wrong, such as a food poisoning outbreak, or other major incident. However this does not mean that these services do not play a vitally important part in ensuring residents are kept safe and well. The fact that in 2016/17 there were no significant public health or safety incidents, or outbreaks of

infectious disease are testament to the good work that goes on behind the scenes to tackle issues such as the causes of ill health, accidents and rogue trading in the borough.

- 1.7 Regulatory Services do not solely undertake regulatory activity. The approach to achieving desired outcomes involves a combination of providing advice and support to aid compliance, but where this is not effective, or where matters warrant immediate action, then enforcement action is taken.
- 1.8 Key headlines from the operations report at Appendix 1 are as follows:
 - Of 2208 complaints received about noise, 71% were about noise originating from residential premises.
 - 39% were about loud music from residential premises
 - 26% were about noise from construction sites
 - 16% of all nuisance complaints were about waste on private land
 - The noise team and the licensing team jointly served a closure notice on Guns and Smoke, Church Passage, High Barnet in relation to significant nuisance from the premises.
 - The noise team and the licensing team worked together to review the premises licence for The Wallace, 1023 Finchley Road in relation to noise from music at the premises. The licence was revoked by the Sub Committee.
 - In terms of noise outcomes, the team were able to resolve the majority of issues informally and the remainder with the use of 28 enforcement notices.
 - Proactive work has been undertaken with Thames water to try and streamline the process for dealing with misconnections in the borough where they have been identified as causing pollution to watercourses.
 - In February officers were involved in a cross agency operation organised by the Police in Burnt Oak looking at accumulations and public health issues.
 - Officers continue to work closely with Street Scene, Refuse and Community Safety to ensure that the most effective solution is found for dealing with problem cases and areas.
 - There have been 229 cases of anti-social behaviour reported to the Community Protection (Regulation) team. A total of 9 Community Protection Notice warnings were issued.
 - The ASB team have been working closely with Green Spaces and other partners in relation to on-going issues with illegal raves at Scratchwood. The ASB team have been supporting the work of both the Joint Tasking Group (JTAG) and the Multi Agency Risk Assessment Committee (MARAC) by regularly attending meetings and undertaking project work related to issues of ASB around the Borough.
 - 1,264 cases have been reported to the trading standards team during the year.
 - The trading standards team remain 97% effective in their interventions in 16/17 with only 3% of cases where the team investigated the matter resulting in a repeat complaint within 12 months.
 - A targeted week of action undertaken at the end of June 2016. This resulted in a 100% compliance rate in relation to membership of redress scheme and fee information, which is one of the highest compliance rates seen across

London. The week of action has significantly impacted on levels of complaints.

- A week of week of action on electric safety of goods took place at the start of March 2016. 22 premises were visited, issues found at 5 (23%). Issues related to cord sets, adaptors and travel plugs. Emerging trend that retailers are using eBay and other pound shops to source their stock.
- In relation to illicit tobacco an Intelligence package was used to target the *Wagtail* operation in June 2016. A further week of action was undertaken focused on the Golders Green area at the end of August 2016. High levels of compliance found due to previous advice and operations undertaken in June. The premises found with high levels of illicit or counterfeit tobacco had a review of their premises licence submitted and all premises have had their licence revoked as a result.
- There has been a 73% reduction in complaints following the 2016/17 project work in relation to counterfeiting.
- A number of test purchase operations were undertaken for underage sales in 16/17 and followed up with significant formal action.
- The Trading Standards team concluded a lengthy and complex fraud investigation, resulting in the successful conviction against Martin Marcus, who ran fraudulent letting agencies. He was convicted at Harrow Crown Court and sentenced to four and a half years imprisonment in June 2016
- A total of 1006 food hygiene inspections were carried out with 100% high risk inspected and only 16 medium risk premises missed that were due an inspection.
- 808 lowest risk premises were overdue an inspection and a plan has been put in place for 2017 to address these premises.
- A total of 4 food establishments were subject to Voluntary Closure agreements.
- A total of 7 food establishments were subject to Hygiene Emergency Prohibition Notices, which were all confirmed by the Magistrates Court, with Prohibition Orders being issued until the premises were deemed to no longer provide a continuing risk to health.
- 25 food establishments received formal Hygiene Improvement Notices and 656 establishments received a written warning. No food hygiene prosecutions were taken in 2016/17.
- For Food Standards, all 5 high risk A category premises were inspected on time in 2016/17.
- 3 establishments were subject to formal enforcement (seizure, detention or surrender of food) and 69 establishments were subject to formal written warnings. No food standards prosecutions were taken in 2016/17.
- 144 food samples were taken for analysis or examination in 2016/17.

- Four gold awards and four silver awards under the Health Catering Commitment were presented in person at a ceremony which took place in September by Councillor Hart, Chairman of the Health and Wellbeing Board.
- A total of 27 visits to premises serving shisha were completed during the year and at year end 52% were compliant compared to 43% at year start. A Public Health anti-shisha-smoking campaign gained major publicity and recognition aimed at reducing attendance at shisha premises as that was seen as key to reducing smoking related ill health.
- . The Scientific Services team completed 100% due inspections and issued permits for prescribed (polluting) processes such as Dry Cleaners (67), Petrol Stations (23), Cremators (5) and others (6).
- Advice was provided to Planning on 776 Planning Application consultations, an increase of 117 on the previous year.
- The Scientific Services team produced a 2016 annual status report for air quality monitoring in Barnet which revealed that overall, air quality had improved in Barnet by up to 30% over the last 10 years until 2015.
- In the 2016 the results showed the air quality improvements were not continuing now at all monitoring sites. Monitoring results from locations near busy roads continue to fall outside of National objectives for Nitrogen Dioxide and to a lesser extent Fine Particles (PM10).
- The team submitted an air quality action plan for 2016-21 to reduce air pollution which was accepted by the GLA and DEFRA leading to the award of “Cleaner Air Borough” status. This has been updated with measures undertaken in the last year.
- The team have recruited a North London Construction dust enforcement officer, funded by the Mayor’s Air Quality Fund to make sure all the non-road mobile machinery (NRMM) on major construction sites is using the latest, cleanest equipment to reduce emissions and ensure the builders use dust suppression on the earth works and demolition which reduces coarser dust. The officer will not have any enforcement powers with respect to waste management sites.

2. REASONS FOR RECOMMENDATIONS

- 2.1 The content of this report is provided for information and noting.
- 2.2 The work of the Council as a Food Authority is regulated by the Food Standards Agency. The Framework Agreement on official feed and food law controls, by local authorities, sets out what the Food Standards Agency expects from local authorities in their delivery of official controls on feed and food. (Feed relates to animal feeding stuffs). The Framework Agreement specifies that Food Authorities should have a Service Plan that sets out how, and at what level, official feed and food controls will be provided, in accordance with the Codes of Practice. Service plans are an expression of

local authorities' own commitment to the development of the feed and food service. However, it is also important to consider the use made of the plans by the Food Standards Agency, which will require information about official feed and food control activities in a common format to enable it to assess local authorities' delivery of the service. Authorities have the flexibility to decide locally whether or not service plans should be approved at Member level. Through delegated powers, officers have approved the Plan included at Appendix 2.

- 2.3 In March 2017 the Food Standards Agency notified the authority of its intention to conduct an audit of the management of food law enforcement on 17th May 2017. At the time of writing this report the final version of the FSA report had not been received, however some recommendations from the draft report have been included in the Service Plan in relation to inspection and interventions at lowest risk Category D and E premises. The final outcome of the audit will be reported in a subsequent report to the Environment Committee. The draft audit report suggests that the information recommended to be included in the Service Plan should be made available to Members to consider and so it is included with this report for noting.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 Not to report on these activities means that the work of these important services will not be evident to the Committee.

4. POST DECISION IMPLEMENTATION

- 4.1 No implementation is required as this report is for noting.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 The Corporate Plan 2015-2020 is based on the core principles of fairness, responsibility and opportunity to make sure 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 taxpayer

- 5.1.2 Regulatory Services contribute to the Corporate Priorities in the following ways:

Responsible growth and regeneration

- 5.1.3 By providing advice to developers and Planners throughout the planning process to ensure that developments are designed in such a way as to prevent detrimental effects upon the environment, ensure a good quality of

residential living accommodation where residents are not exposed to excessive noise or pollution and meet regulatory requirements.

Managing demand for services

- 5.1.4 By working with businesses to ensure the highest levels of compliance means that the risk posed by those businesses is reduced and so the need for regulatory visits is reduced as are the number of reactive visits as a result of complaints (service requests).
- 5.1.5 A safe and healthy environment and safe and compliant businesses will in turn ensure residents are safer and less likely to suffer effects of ill health, which would otherwise place demands on other services such as the NHS and social services.
- 5.1.6 A responsive and effective pest treatment service will ensure that pests are adequately controlled and eradicated, resulting in less complaints and need for enforcement action.
- 5.1.7 Effective licensing and conditions applied to licences will ensure that licensed premises support the local economy and also operate in a way that does not have an adverse impact on residents, leading to complaints that require investigation.
- 5.1.8 Working with multi-site businesses in Primary Authority relationships ensures that the businesses are in receipt of assured advice that is applied across their estate and so reducing the regulatory burden on the business and both Barnet and other enforcing authorities.

More resilient communities

- 5.1.9 Effective regulatory services help to provide a safer and healthier environment and so build resilience into communities as they need to seek the support of the council to resolve issues that would otherwise affect them.
- 5.1.10 The Joint Health & Wellbeing Strategy 2015-2020 sets out the following aim:

1. Keeping Well

Based upon a strong belief that 'prevention is better than cure', the JHWB Strategy aims to begin at the very earliest opportunity by giving every child in Barnet the best possible start to live a healthy life. It aims to create more opportunities to develop healthy and flourishing neighbourhoods and communities as well as to support people to adopt healthy lifestyles in order to prevent avoidable disease and illness.

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

- 5.2.1 Regulatory Services are delivered by Re (Regional Enterprise) Ltd under the Development and Regulatory Services contract and the staff and resources are managed by Re. Performance of the service is monitored through a

comprehensive range of key performance indicators and through performance reports submitted to the council under the terms of the contract. These reports provide a wide range of quantitative and qualitative data detailing both operational outputs and the outcomes achieved as well as customer satisfaction data. This report does not seek to exhaustively replicate these reports, instead providing more of an annual summary.

5.2.2 In 2016/17 all of the comprehensive suite of KPIs for Regulatory Services were met, except one, which was due to the failure to respond to a single urgent request the same day. Detail of KPI performance is reported through the Policy & Resources Committee.

5.2.3 The cost of delivering Regulatory Services is part of the management fee paid to Re to deliver the whole of Development & Regulatory Services.

5.2.4 In terms of resources, the total of FTE for the whole of Regulatory Services, which includes Licensing, Private Sector Housing, Land Charges and commercial growth activity, is 83.95. At 31st March 2016 there were 8.8 FTE vacancies across all teams.

5.3 Legal and Constitutional References

5.3.1 Council constitution Section 15 - Responsibility for functions states that the Environment Committee includes specific responsibilities for commissioning Environmental Health Services (excluding Private Sector Housing).

5.3.2 It goes on to state that Environmental Health functions, include the regulation of the following:

- Food hygiene, safety and standards, including composition and labelling.
- Infectious Disease Control
- Drinking Water Quality
- Animal Feeding stuffs
- Health and Safety at Work where the Council is the Enforcing Authority
- Animal Health and Welfare
- Business training and advice
- Air Quality
- Contaminated Land
- Pollution Control
- Electromagnetic radiation
- Exhumations
- Statutory Nuisance, including noise, smoke, dust and odours
- Drainage
- Anti-social behaviour
- Pest Control
- Health Promotion in relation to any of the matters included above

5.3.3 Trading Standards functions, include regulation of the following:

- Age Related Sales
- Metrology

- Fair Trading
- Safety
- Quality
- Consumer Protection

5.4 Risk Management

5.4.1 Many of the functions of Regulatory Services are statutory and so the Council must undertake the statutory duties and functions set out in legislation. The Council has contracted the delivery of the services to Re. The services are comprehensively described in the service output specifications that form part of the contract to ensure that the Council's statutory duties are met. Staff delivering statutory functions are jointly employed between Re and London Borough of Barnet and when exercising statutory powers, do so solely as an employee of the Council.

5.4.2 Recruitment to vacant posts has become an issue across the country in Regulatory Services as there is a shortage of suitable qualified staff for the number of positions available. Failure to recruit to vacancies will place achievement of KPIs and meeting customer service standards at risk. Re are working closely with recruitment colleagues to find suitable candidates for vacancies.

5.4.3

5.5 Equalities and Diversity

5.5.1 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.

5.5.2 The relevant protected characteristics are:

- Age;
- Disability;
- Gender reassignment;
- Pregnancy and maternity;
- Race;
- Religion or belief;
- Sex; and
- Sexual orientation.

5.5.3 The Corporate Plan 2015-2020 sets the Strategic Equalities Objective, which is: that citizens will be treated equally, with understanding and respect, and will have equal access to quality services which provide value to the tax payer. Changes to policies and services are analysed in order to assess the potential equalities impacts and risks and identify any mitigating action possible before final decisions are made.

5.5.4 Regulatory Services are services which can be accessed by all residents and businesses within the borough. Regulatory sanctions may be more difficult for those on low incomes. Sanctions are only taken against those who break the law and so can be avoided if there is a willingness to comply.

5.6 Consultation and Engagement

5.6.1 None in connection with this report.

6. BACKGROUND PAPERS

6.1 None