



## Council 11 July 2023

<b>Title</b>	Unauthorised Skips – Civil Enforcement Powers
<b>Date of meeting</b>	11 July 2023
<b>Report of</b>	Deputy Chief Executive
<b>Wards</b>	All
<b>Status</b>	Public
<b>Urgent</b>	No
<b>Appendices</b>	None
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### Summary

This report seeks to adopt powers available to the Council under Part 3 of the London Local Authorities and Transport for London Act 2013 (“the Act”), in order to decriminalise offences in relation to illegally operated skips on the highway and to enable the Council to use civil enforcement powers in relation to relevant offences.

In order to adopt the said powers, the Act requires a resolution of Full Council for an appointed day of adoption.

### Recommendations

#### That Council:

1. Resolve to adopt Part 3 of the London Local Authorities and Transport for London Act 2013.
2. Fix a day on which Part 3 of the London Local Authorities and Transport for London Act 2013 will come into operation (‘the appointed day’), namely Monday 6 November 2023.

**3. Authorise the Deputy Chief Executive to arrange for the necessary notices be published in accordance with the requirements of the Act.**

**1. Reasons for the Recommendations**

- 1.1 The London Local Authorities and Transport for London Act 2013 – contains provisions for boroughs to decriminalise the following offences relating to skips placed on the public highways):
- operating without a permit;
  - operating without proper lighting during the hours of darkness;
  - operating without clear and indelible markings of the owner’s name and telephone number or address;
  - not removing a full skip as soon as it is practicable to do so;
  - not moving or repositioning a skip where required as soon as it is practicable to do so;
  - not fulfilling other conditions under which the permit was granted;
- 1.2 Under the Act, where a Council has resolved to use its provisions, an authorised officer of the Council will be able to issue a fixed penalty notice against skip owners for the above offences, instead of having to pursue a criminal prosecution through the courts. This will be a speedy and convenient option which, if complied with, will avoid the bureaucracy of prosecution action.
- 1.3 As with all UK highway authorities the Council currently has responsibility for issuing Skip Licences for the placement of skips on the public highway. In most areas in the UK, including the borough of Barnet, it is the responsibility of the skip hire company to obtain the permit.
- 1.4 By adopting the powers contained in the Act, to the Council will be better able to regulate and control the placement of skips on the highway.
- 1.5 For this part of the legislation to be used by the Council it is necessary for a resolution to be passed by Full Council and for a date to be published for implementation. The date of implementation cannot be less than 1 month from the date of publication of the passing of such a resolution.

**2. Alternative Options Considered and Not Recommended**

- 2.1 As currently available, pursue prosecution action for offences relating to skips deposited on the highway, and do not adopt Part 3 of the London Local Authorities and Transport for London Act 2013.
- 2.2 This action is not recommended as the power to issue fines for skip offences will provide a quicker and more cost-effective option.
- 2.3 Prosecutions for offences in relation to unauthorised skips are not routinely undertaken due to the resource implications and cost of pursuing criminal prosecution cases.

**3. Post Decision Implementation**

- 3.1 If Full Council resolves to adopt Part 3 of the Act, notice will have to be published in the London Gazette and in a local newspaper with a gap of at least 1 month between publication in the London Gazette and the date fixed for adoption of Monday 6 November 2023.

## **4. Corporate Priorities, Performance and Other Considerations**

### **4.1 Corporate Plan**

The implementation of this will contribute to the Council's sustainability strategy through the promotion of better practices exercised by skip companies and developers in relation to the protection of the Highways network.

### **4.2 Corporate Performance / Outcome Measures**

This is an important means of protecting the condition of the highway network and ensuring that the network is safe and accessible for all users.

### **4.3 Sustainability**

The aim is to actively maintain the footway /roadway network for all users and to encouraging skip owners and developers to treat the public highway with respect, to avoid the Council bearing the cost of prosecution for illegal skips placed on the Highway.

### **4.4 Corporate Parenting**

No direct or indirect impacts on looked after children or care leavers identified beyond those applicable to the population as a whole.

### **4.5 Risk Management**

The Council, as Highway Authority, has various responsibilities and duties. To address these responsibilities and duties the council has established policies, systems and processes that are regularly audited, reviewed, and amended where necessary to reflect current policy and guidance and provide the council with a robust defence against insurance claims on the public highway.

This initiative is a means of ensuring that safety and integrity of the footway and carriageway is maintained for all users.

### **4.6 Insight**

Not applicable to this report, however the work is informed Highways Officers and inspections.

### **4.7 Social Value**

The Public Services (Social Value) Act 2012 requires people who commission public services to think about how they can also secure wider social economic and environmental benefits.

The purpose of this report is to adopt civil enforcement powers made available to London local authorities in order to maintain the integrity, condition, safety of the public highway without recourse to the criminal courts.

## **5. Resource Implications (Finance and Value for Money, Procurement, Staffing, IT and Property)**

- 5.1 There are no financial, procurement, staffing IT or property implications for the Council in adopting the legislation itself. There may be resource implications once an approach is developed. This approach will be subject to appropriate governance and any necessary financial approvals will be sought.
- 5.2 By seeking to deal with unauthorised skips via PCNs rather than via the criminal courts is a cost-effective method of enforcement.

5.3 This approach will be subject to appropriate governance.

## **6. Legal Implications and Constitution References**

6.1 In order to use Part 3 of the London Local Authorities and Transport for London Act 2013, the legislation requires a resolution of the Council to be passed.

6.2 Part 2A of the Council's Constitution sets out the terms of reference of Full Council including "all other matters which by law must be reserved to Council".

6.3 Once Part 3 has been adopted by a Council, the option to prosecute for an offence under the Highway Act 1980 is no longer available. The power to prosecute for the offence of not providing information to identify the owner of a skip is however available.

6.4 The legislation also provides for someone served with a penalty charge notice to make representations/appeals against the notice on certain grounds specified in the Act. The London Local Authorities Act 2007 sets out a regime for the administration of Penalty Charges and the London Councils' Transport and Environment Committee (TEC) have set penalty fine levels for these offences.

## **7. Consultation**

7.1 A consultation was not required for the recommendations in this report and has not been carried out.

## **8. Equalities and Diversity**

8.1 The Equality Act 2010 requires organisations exercising public functions to demonstrate that due regard has been paid to:

- Elimination of unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010.
- Advancement of equality of opportunity between people who share a protected characteristic and people who do not.
- Fostering of good relations between people who share a protected characteristic and people who do not.

8.2 The Equality Act 2010 identifies the following protected characteristics: age; disability; gender reassignment; marriage and civil partnership, pregnancy, and maternity; race; religion or belief; sex and sexual orientation.

8.3 To assist in meeting the duty the council will:

- Try to understand the diversity of our customers to improve our services.
- Consider the impact of our decisions on different groups to ensure they are fair.
- Mainstream equalities into business and financial planning and integrating equalities into everything we do.
- Learn more about Barnet's diverse communities by engaging with them.

8.4 The broad purpose of this duty is to integrate considerations of equality into day-to-day business and keep them under review in decision making, the design of policies and delivery of services.

- 8.5 Good roads and pavements benefit all sectors of the community by removing impediments and assisting quick, efficient, and safe movement to access school, work and leisure facilities. This is particularly important for the elderly, people caring for children and those with mobility difficulties and sight impairments. The condition of roads and pavements is regularly at the top of concerns expressed by residents and ensuring safe use for all.
- 8.6 The physical appearance and the condition of the roads and pavements also have a significant impact on the quality of life of and accessibility for residents and visitors to the borough. A poor-quality street environment will give a negative impression of an area, impact on people's perceptions and attitudes as well as increasing feelings of insecurity.

## **9. Background Papers**

- 9.1 [London Local Authorities and Transport for London Act 2013 \(legislation.gov.uk\)](http://legislation.gov.uk)