



CORPORATE COMMITTEE

Wednesday, 10th October, 2018

at 6.30 pm

Room 102, Hackney Town Hall, Mare Street,
London E8 1EA

Committee Membership

Cllr Jessica Webb (Chair)
Cllr Susan Fajana-Thomas (Vice-Chair)
Cllr Katie Hanson, Cllr Vincent Stops
Cllr Mete Coban, Cllr M Can Ozsen
Cllr Brian Bell, Cllr Ajay Chauhan
Cllr Sade Etti, Cllr Margaret Gordon
Cllr Ned Hercock, Cllr Clare Joseph
Cllr Peter Snell, Cllr Michael Levy, Cllr Tom Rahilly

Tim Shields
Chief Executive

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Governance Services Officer
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The press and public are welcome to attend this meeting

Future Meetings

8 January 2019

9 April 2019

AGENDA

Wednesday, 10th October, 2018

ORDER OF BUSINESS

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Access and Information

Location

Hackney Town Hall is on Mare Street, bordered by Wilton Way and Reading Lane, almost directly opposite Hackney Picturehouse.

Trains – Hackney Central Station (London Overground) – Turn right on leaving the station, turn right again at the traffic lights into Mare Street, walk 200 metres and look for the Hackney Town Hall, almost next to The Empire immediately after Wilton Way.

Buses 30, 48, 55, 106, 236, 254, 277, 394, D6 and W15.

Facilities

There are public toilets available, with wheelchair access, on the ground floor of the Town Hall.

Induction loop facilities are available in the Committee Rooms and Council Chamber

Access for people with mobility difficulties can be obtained through the ramp on the side to the main Town Hall entrance.

Copies of the Agenda

The Hackney website contains a full database of meeting agendas, reports and minutes. Log on at: www.hackney.gov.uk

Paper copies are also available from Governance Services whose contact details are shown on page 1 of the agenda.

Council & Democracy- www.hackney.gov.uk

The Council & Democracy section of the Hackney Council website contains details about the democratic process at Hackney, including:

- Mayor of Hackney
- Your Councillors
- Cabinet
- Speaker
- MPs, MEPs and GLA
- Committee Reports
- Council Meetings
- Executive Meetings and Key Decisions Notice
- Register to Vote
- Introduction to the Council
- Council Departments

RIGHTS OF PRESS AND PUBLIC TO REPORT ON MEETINGS

Where a meeting of the Council and its committees are open to the public, the press and public are welcome to report on meetings of the Council and its committees, through any audio, visual or written methods and may use digital and social media providing they do not disturb the conduct of the meeting and providing that the person reporting or providing the commentary is present at the meeting.

Those wishing to film, photograph or audio record a meeting are asked to notify the Council's Monitoring Officer by noon on the day of the meeting, if possible, or any time prior to the start of the meeting or notify the Chair at the start of the meeting.

The Monitoring Officer, or the Chair of the meeting, may designate a set area from which all recording must take place at a meeting.

The Council will endeavour to provide reasonable space and seating to view, hear and record the meeting. If those intending to record a meeting require any other reasonable facilities, notice should be given to the Monitoring Officer in advance of the meeting and will only be provided if practicable to do so.

The Chair shall have discretion to regulate the behaviour of all those present recording a meeting in the interests of the efficient conduct of the meeting. Anyone acting in a disruptive manner may be required by the Chair to cease recording or may be excluded from the meeting. Disruptive behaviour may include: moving from any designated recording area; causing excessive noise; intrusive lighting; interrupting the meeting; or filming members of the public who have asked not to be filmed.

All those visually recording a meeting are requested to only focus on recording councillors, officers and the public who are directly involved in the conduct of the meeting. The Chair of the meeting will ask any members of the public present if they have objections to being visually recorded. Those visually recording a meeting are asked to respect the wishes of those who do not wish to be filmed or photographed. Failure by someone recording a meeting to respect the wishes of those who do not wish to be filmed and photographed may result in the Chair instructing them to cease recording or in their exclusion from the meeting.

If a meeting passes a motion to exclude the press and public then in order to consider confidential or exempt information, all recording must cease and all recording equipment must be removed from the meeting room. The press and public are not permitted to use any means which might enable them to see or hear the proceedings whilst they are excluded from a meeting and confidential or exempt information is under consideration.

Providing oral commentary during a meeting is not permitted.

ADVICE TO MEMBERS ON DECLARING INTERESTS

Hackney Council's Code of Conduct applies to **all** Members of the Council, the Mayor and co-opted Members.

This note is intended to provide general guidance for Members on declaring interests. However, you may need to obtain specific advice on whether you have an interest in a particular matter. If you need advice, you can contact:

- The Director of Legal and Governance Services
- The Legal Adviser to the committee; or
- Governance Services.

If at all possible, you should try to identify any potential interest you may have before the meeting so that you and the person you ask for advice can fully consider all the circumstances before reaching a conclusion on what action you should take.

1. Do you have a disclosable pecuniary interest in any matter on the agenda or which is being considered at the meeting?

You will have a disclosable pecuniary interest in a matter if it:

- relates to an interest that you have already registered in Parts A and C of the Register of Pecuniary Interests of you or your spouse/civil partner, or anyone living with you as if they were your spouse/civil partner;
- relates to an interest that should be registered in Parts A and C of the Register of Pecuniary Interests of your spouse/civil partner, or anyone living with you as if they were your spouse/civil partner, but you have not yet done so; or
- affects your well-being or financial position or that of your spouse/civil partner, or anyone living with you as if they were your spouse/civil partner.

2. If you have a disclosable pecuniary interest in an item on the agenda you must:

- Declare the existence and nature of the interest (in relation to the relevant agenda item) as soon as it becomes apparent to you (subject to the rules regarding sensitive interests).
- You must leave the room when the item in which you have an interest is being discussed. You cannot stay in the meeting room or public gallery whilst discussion of the item takes place and you cannot vote on the matter. In addition, you must not seek to improperly influence the decision.
- If you have, however, obtained dispensation from the Monitoring Officer or Standards Committee you may remain in the room and participate in the meeting. If dispensation has been granted it will stipulate the extent of your involvement, such as whether you can only be present to make representations, provide evidence or whether you are able to fully participate and vote on the matter in which you have a pecuniary interest.

3. Do you have any other non-pecuniary interest on any matter on the agenda which is being considered at the meeting?

You will have 'other non-pecuniary interest' in a matter if:

- i. It relates to an external body that you have been appointed to as a Member or in another capacity; or
- ii. It relates to an organisation or individual which you have actively engaged in supporting.

4. If you have other non-pecuniary interest in an item on the agenda you must:

- i. Declare the existence and nature of the interest (in relation to the relevant agenda item) as soon as it becomes apparent to you.
- ii. You may remain in the room, participate in any discussion or vote provided that contractual, financial, consent, permission or licence matters are not under consideration relating to the item in which you have an interest.
- iii. If you have an interest in a contractual, financial, consent, permission or licence matter under consideration, you must leave the room unless you have obtained a dispensation from the Monitoring Officer or Standards Committee. You cannot stay in the room or public gallery whilst discussion of the item takes place and you cannot vote on the matter. In addition, you must not seek to improperly influence the decision. Where members of the public are allowed to make representations, or to give evidence or answer questions about the matter you may, with the permission of the meeting, speak on a matter then leave the room. Once you have finished making your representation, you must leave the room whilst the matter is being discussed.
- iv. If you have been granted dispensation, in accordance with the Council's dispensation procedure you may remain in the room. If dispensation has been granted it will stipulate the extent of your involvement, such as whether you can only be present to make representations, provide evidence or whether you are able to fully participate and vote on the matter in which you have a non pecuniary interest.

Further Information

Advice can be obtained from Suki Binjal, Interim Director of Legal and Governance Services on 020 8356 6234 or email suki.binjal@hackney.gov.uk



MINUTES OF A MEETING OF THE CORPORATE COMMITTEE

TUESDAY, 10TH JULY, 2018

- Councillors Present:** Councillor Jessica Webb in the Chair
- Cllr Katie Hanson, Cllr Vincent Stops,
Cllr Mete Coban, Cllr M Can Ozsen,
Cllr Polly Billington, Cllr Ajay Chauhan,
Cllr Margaret Gordon and Cllr Peter Snell
- Apologies:** Councillor Susan Fajana-Thomas and Councillor Brian Bell
- Officers in Attendance:** Dan Paul (Head of HR, OD and Elections) and Gerry McCarthy (Head of Community Safety, Enforcement and Business Regulations, Neighbourhoods and Housing)

1 Apologies for Absence

- 1.1 Apologies for absence were received from Councillors Fajana-Thomas and Bell.

2 Declarations of Interest - Members to Declare As Appropriate

- 2.1 There were no declarations of interest.

3 Consideration of Minutes Of The Previous Meetings

- 3.1 The minutes of the meetings held on 27 March 2018 and 23 May 2018 were agreed as a correct record.

4 HR Policy: Bereavement Leave

4.1 Dan Paul introduced the report on the revised bereavement policy, which would provide additional paid leave to employees who had experienced a bereavement or were responsible for making funeral arrangements and dealing with the estate of the deceased. Mr Paul advised that following a benchmark exercise Hackney Council had proposed to increase bereavement leave to reflect other London Councils and ACAS guidance. In 2017/18 900 days of bereavement leave was taken and the revised policy intended to offer more support to bereaved employees and provide guidance to both managers and employees concerning bereavement.

4.2 Councillor Stops asked whether 'close relative' could be defined. Mr Paul replied that an immediate relative had been defined at paragraph 3.2 of the policy however, managers also needed the flexibility to grant leave for the death of grandparents and in-laws.

4.3 Councillor Chauhan asked whether it would be feasible for an employee to phone their manager three days after taking bereavement leave as required by the current policy, whether an informal return to work interview could be undertaken in order to identify and support the employee and if HR could monitor the impact of the revised policy on reducing leave. Mr Paul clarified that a bereaved employee would be entitled to leave from 1 up to 10 days depending on their circumstances. The requirement to make an employee call in after three days was unnecessary as this was already done in practice and the manager and employee also maintained regular dialogue during the leave. Mr Paul stated that a return to work interview would not be appropriate in all cases and that the revised policy enabled a phased return to work. The Council would also support the employee by funding counselling sessions. It was emphasised that this policy provided guidance for managers however, the process would be employee led. Mr Paul confirmed that HR would monitor the impact of the revised policy and report the findings to Committee after a year.

Action: An update on the bereavement leave policy be included in the work programme for 2019/20

RESOLVED:

To approve the following changes to the Bereavement Leave policy:

- 1. Number of days leave for the death of a close relative increases from up to 3 days to up to 10 days**
- 2. Number of days leave for the death of a person who is not a close relative increases from 1 day to up to 3 days**
- 3. Number of days leave for the death of a person who is not a close relative where the employee has responsibility for arranging the funeral and dealing with the estate increases from up to 3 days to up to 5 days**

The policy has also been updated with other information to reflect best practice and ACAS guidance.

5 Business Regulation Service Delivery Plans 2018/19

5.1 Gerry McCarthy introduced the report on the Business Regulation Services Delivery Plans 2018/19 for Environmental Health Service-Food Safety, Environmental Health Service-Occupational Health & Safety and Trading Standards.

5.2 Mr McCarthy highlighted the key achievements as follows:

- **Food Safety:** The service had inspected 100% of high risk category A premises within 28 days, 100% of new premises had been inspected within 28 days excluding those not yet trading, premises broadly compliant in food hygiene outperformed the target achieving 86%, 95% of service requests and consumer complaints relating to food and other businesses had been actioned within 10 working days. The service had provided training for small businesses in relation to food hygiene.
- **Occupational Health and Safety:** The Council had been fulfilling its regulatory responsibility as outlined within the Local Authority Enforcement Code. The service had issued ten prohibition notices during its inspections of 12 butchers in Ridley Road.

The area for health and safety inspections were determined annually and were based on risk and the number of incidents that had occurred. The inspections in 2018/19 would focus on transport related health and safety.

- Trading Standards provided support to all members of the community and played a vital role in public health and safety such as seizing illegal cigarettes, knives etc. The service had successfully prosecuted a trader for the illegal sale of beauty products which had resulted in a fine of £50k.

5.3 Mr McCarthy highlighted the key priorities for the next three years for Health and Safety, Trading Standards and Food Safety Services, maximising the use of resources, effective partnership working and Health and Wellbeing. The Service would be focusing on the highest risk premises, categorised as Upper and Upper Medium inspections. Mr McCarthy reported that the Food Standards Agency audit in October 2017 identified the back log of inspections in Category C and D premises as a concern. As of 1st April 2018 the following overdue food hygiene inspections were: 340 category C inspections; 730 category D inspections; and 394 category E. During the first quarter of 2018 the following inspections had been undertaken: 71 category C inspections; 24 category D inspections and category E premises would be dealt with under the Alternative Enforcement Strategy. Furthermore, additional agency staff had been employed to tackle the backlog of inspections in relation to category C and D premises and this backlog should be completed by March 2019.

5.4 In response to a question from Councillor Stops, Mr McCarthy provided examples of low risk Category E premises which included shops and chemists.

5.5 The Chair asked whether it was necessary to undertake 100% of the food inspections due. Mr McCarthy stated that the inspections had been based on risk and the service was required to carry out 100% of due inspections. However, the Council could undertake 10% of low and medium inspections after using the Alternative Enforcement Strategy. Mr McCarthy added that the borough had a high turnover of new premises including new premises that never operated, which had adversely impacted on the Council's broadly compliant score.

5.6 Councillor Chauhan sought further clarification regarding agency staff. Mr McCarthy confirmed that agency staff had been employed for a full year to tackle the backlog and that their pay was the same as Hackney Council staff.

5.7 Councillor Coban asked how the Council had supported and educated small businesses on food hygiene. Mr McCarthy explained that Council officers had provided small businesses with support and guidance during their inspections and as a member of the Small Businesses Forum the Council had engaged with small businesses to promote food hygiene but this had been a challenge as small owners had higher priorities in their business.

5.8 Councillor Snell expressed concern at air pollution within the borough especially the air pollution emanating from food premises. Mr McCarthy replied that the issue of air pollution had been addressed within Public Realm and that the enforcement team could take action for pollution coming from extraction systems at food premises. Mr McCarthy stated that the Council had received no complaints in relation to air pollution emanating from kebab shops in the Dalston area and that any specific concerns could be discussed following the meeting. Mr McCarthy added that the service was under resourced and the lack of sufficient resources would make it a challenge to deliver the Health and Safety plan.

5.9 The Chair requested that the designated high risk of the service plan not being approved at page 39 of the report should be deleted as this was inaccurate and misleading. Mr McCarthy confirmed that this risk would be deleted.

RESOLVED to:

- 1. Approve the Food Law Enforcement Service Plan for 2018/19**
- 2. Approve the level and scope of work being carried out to meet the requirements of the plan.**
- 3. Note the level and scope of work being carried out to meet the requirements of the Occupational Health and Safety and Trading Standards Service Delivery Plans.**

6. Enforcement Service Delivery Plan 2018/19

6.1 Gerry McCarthy introduced the report outlining the Enforcement Service Delivery Plan 2018/19, which set out the objectives for the Service and demonstrated how they linked into the Mayor's Priorities and Hackney's Sustainable Community Strategy. It also set out the level and scope of work being carried out to meet the requirements of the plan and key areas of the service including Environmental Enforcement, addressing anti-social behaviour including from the Night Time Economy, statutory nuisance, management arrangements and key targets.

6.2 Mr McCarthy briefly outlined the team's structure, resources, the Service's functions and activities including tackling and preventing environmental waste such as fly tipping, highway obstructions and littering through intelligence based tasking and patrolling. It also focused on dealing with unauthorised waste disposal, anti-social behaviour, ingrained noise problems and removal of pirate radio aerials as set out in a Service Level Agreement (SLA) between Enforcement Service and other Council services such as the Housing. It also held joint operations with the police and partners on targeted issues such as kerb crawling, the night time economy, localised noise and anti-social behaviour. The service also undertook highways licensing enforcement and patrolled areas in the borough that were suspected to have highway obstructions. Enforcement officers were also embedded within the Waste Team and had issued fixed penalty notices for fly tipping and business waste outside authorised times.

6.3 Councillor Snell noted that the Enforcement Team structure chart was inaccurate and it needed to reflect the staffing level as set out in the report and enquired about the large scale of unauthorised waste. Mr McCarthy confirmed that the chart would be updated and advised that the increase in unauthorised waste had been the direct result of the growing number of residents in the area which had generated more rubbish as a consequence.

6.4 A Councillor referred to the Service's resources and Mr McCarthy advised that the recruitment and retention turnover was high in this service and this had been due to various factors including staff having to work late shifts and religious beliefs.

6.5 Councillor Gordon asked how the new service intended to measure customer satisfaction and queried whether an Equality Impact Assessment (EIA) should have been completed in the report. Mr McCarthy advised that the service planned to

Tuesday, 10th July, 2018

conduct a public satisfaction survey and that Enforcement Officers would be engaging with the public at Ward Forum and Police Panel meetings to address any issues or concerns about the service. Another measure service satisfaction would include the monitoring of the number of complaints resolved at stage 1 of the complaints process. Mr McCarthy indicated that he sought and was advised that it was not necessary to complete the EIA section of the report. Councillor Webb asked if Legal Services could provide advice on whether it was necessary to complete the EIA section of the report.

Action: Legal Services to provide guidance on EIA.

6.5 Councillor Stops enquired about the waste activity and enforcement action in relation to the illegal use of tables and chairs causing an obstruction on the public highway and the outcome of the meeting held with TfL regarding A-boards on Kingsland High Street. Mr McCarthy explained that Market Services was responsible for the enforcement of street furniture on the public highway and would refer the Committee's concern to them. Mr McCarthy advised that a meeting had been arranged with TfL to discuss whether it could delegate authority to Hackney Council for the enforcement of A- boards and also provide resources for the additional work.

6.6 The Chair asked about the contract expiry date for the licensed free-standing advertising boards on pavements. Councillor Stops stated that he had been advised that the contract would expire in August 2021 and the Council would not renew the contract.

RESOLVED:

To note the level and scope of work being carried out to meet the requirements of the plan.

7 Draft Work Programme 2018/19

7.1 Members considered the Committee's draft work programme for 2018/19.

RESOLVED:

To note the draft work programme for 2018/19.

8 Any Other Business Which In The Opinion Of The Chair Is Urgent

8.1 There was no other urgent business.

Duration of the meeting: 6.30- 7.55pm

Contact:
Rabiya Khatun
Governance Services Officer
020 8356 6279

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EMPLOYER DISCRETION POLICIES	
CORPORATE COMMITTEE MEETING DATE 2018/19 10 October 2018	CLASSIFICATION: Open If exempt, the reason will be listed in the main body of this report.
WARD(S) AFFECTED All Wards	
GROUP DIRECTOR Ian Williams, Finance and Corporate Resources	

1. INTRODUCTION

- 1.1 It is the employer's responsibility i.e. the London Borough of Hackney, to set out its own policies in respect of the discretionary elements within the Local Government Pension Scheme Regulations (LGPS). It has been customary in the past for the Pensions Committee to review and agree the employer discretions, but under the LGPS Regulations this is not required. The policies need only be reviewed and agreed by the Council Committee responsible for maintaining regulatory functions, including human resources. Under the Council's Constitution this falls under the remit of the Corporate Committee.

2. RECOMMENDATIONS

- 2.1 **The Corporate Committee is recommended to:**
- **Approve the updated and amended Employing Authority Discretion Policies**
 - **Note the ongoing delegated authority to the Group Director, Finance and Corporate Resources and the Director of Legal, to amend the Employing Authority discretions policies where changes are necessitated by new regulations and provided that the policy changes will have no significant financial implications**

3. RELATED DECISIONS

- 3.1 14th January 2015 - Pensions Committee agreed updated Employing Authority Discretions Policies
- 3.2 17th October 2012 – Regulatory Committee (Employer Discretions Policies) – Agreed amended employer discretion policies following recommendations from Pensions Sub-Committee 20th September 2012 – Pensions Sub-Committee (Employer Discretions Policies) – Recommend amended discretion policies to Regulatory Committee
- 3.4 17th March 2010 – Regulatory Committee (Employee Contribution Policy) – Agree policy on employee contributions
- 3.5 16th January 2008 – Regulatory Committee (Employer Discretions Policies) – Agreed amended employer discretion policies following recommendations from Pensions Sub-Committee
- 3.6 7th January 2008 – Pensions Sub-Committee (Employer Discretions Policies) – Recommend amend employer discretion policies to Regulatory Committee

4. COMMENTS OF THE GROUP DIRECTOR, FINANCE & CORPORATE RESOURCES

- 4.1 The new policies being proposed are in most cases due to the introduction of The Local Government Pension Scheme (Amendment) Regulations 2018, and changes are in relation to clarifying the policy and decision maker. Any such changes are consistent with the general principles of existing policies where relevant and therefore any financial impact over and above the existing policies is expected to be minimal.
- 4.2 Having clear policies and procedures for areas of discretion is both good practice and ensures proper financial governance of the Fund.

- 4.3 There are no immediate financial impacts from agreeing to the updating of these policies.

5. COMMENTS OF THE DIRECTOR OF LEGAL

- 5.1 There are a range of circumstances under the Local Government Pension Scheme Regulations 2013 in which the Council, as an employing authority, has discretionary decision-making power.
- 5.2 It is lawful and reasonable for the Council, as an employing authority, to have policies about how it will exercise discretions given to it by legislative provisions. Such policies promote consistency in administrative decision-making.
- 5.3 The Constitution provides the Corporate Committee with the remit to agree the policies in respect of employer discretions.
- 5.2 There are no immediate legal implications arising from this report.

6. BACKGROUND/TEXT OF THE REPORT

- 6.1 The London Borough of Hackney is a scheduled body under the terms of the Local Government Regulations and as such is required to set out its policies in respect of the discretionary elements with the Local Government Pension Scheme Regulations (LGPS). These policies cover a wide range of discretions from allowing late transfer elections to compassionate release of pension, setting employee contribution policies to discretionary payments on redundancy. The Council as an employer first reviewed its policies in entirety in 2005 and then again in 2008 when the new LGPS Regulations came into force. They were further amended in 2010, 2013 to take account of the auto-enrolment regulations and again in 2015.
- 6.2 Since that time, there has been a restructure of the Council's Financial Services team requiring a change in designated decision maker for some the policies, and there have been amendments to the LGPS which came into effect in May 2018, and others retrospectively from 1 April 2018. Given these changes, and to ensure best practice, it is sensible to review all of the employer discretions to make sure any new discretionary policies are incorporated and existing policies remain fit for purpose.
- 6.3 The Pension Fund's Benefits Consultants, Aon, have worked with officers of the Council to review and update the discretions policies to ensure that they reflect the most up-to-date legislation and best practice.
- 6.4 The review identified a number of new discretions under the Local Government Pension Scheme (Amendment) Regulations 2018, and the attached appendix to this report sets out the Regulation where there is a discretion policy required, a description of the discretion to be determined, what the existing policy is and, where appropriate, the proposed changes.
- 6.5 It is for all employers in the Pension Fund to determine their own policies and officers will be asking the other employers in the Fund to confirm their policy decisions. In most circumstances, it is typical for other employers to closely align their employer discretion policies to those of the Council.
- 6.6 It is also being recommended that as a matter of best practice, both the Administering and Employing Authority Discretions be reviewed by Committee on a regular cycle to

ensure that the policies are scrutinised on a regular basis and that they remain fit for purpose. There may of course be occasions when the policies need amending either due to changes to the regulations or due to changing circumstances or requirements.

- 6.7 Whilst it is the intention therefore to review these discretions again in 2021, there may be a requirement to amend these discretions as and when changes to regulations come into force, which may see the need for additional discretion policies. The policies may therefore see ad-hoc amendments or requirement for new policy areas to be addressed in between formal review of the policy documents in their entirety. Where there have been minor regulatory changes to the policies in between reviews, delegated powers have already been provided to the Group Director, Finance and Corporate and the Director of Legal, to make amendments where these do not materially affect the outcome.

Ian Williams
Group Director, Finance & Corporate Resources

Report Originating Officers: Julie Stacey ☎020-8356 3565
Financial Considerations: Michael Honeysett ☎020-8356 3332
Legal Comments: Sean Eratt ☎020-8356 6012

Appendices

Appendix 1 - London Borough of Hackney Employing Authority Discretion Policies

LONDON BOROUGH OF HACKNEY
STATEMENT OF EMPLOYING AUTHORITY
DISCRETIONS POLICIES

(AS AN EMPLOYER IN THE
LONDON BOROUGH OF HACKNEY PENSION FUND - LGPS)

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Employing Authority Statement of Policy on Discretions – effective 11 October 2018

Introduction

Hackney Council, as an employing authority in the London Borough of Hackney Pension Fund, has determined their discretionary policies in accordance with the Local Government Pension Scheme Regulations 2013 (as amended) and related legislation, and these are outlined in this statement. We will apply these policies to all current members in the Pension Fund who are employed by Hackney Council. Where relevant, these policies equally apply to members who left pensionable service prior to 1 April 2014 (albeit only in relation to discretions exercised since the effective date of these policies), to councillor members and to pension credit members.

We reviewed and updated the content of these policies in line with current legislation. These amended policies were approved by the Council's Corporate Committee on 10 October 2018 and are effective from 11 October 2018 unless stated otherwise within this statement.

We retain the right to change these policies at any time as long as we republish the amended policy at least within one month of when the change(s) we are introducing come(s) into effect.

These policies do not give, nor shall they be deemed to give, any contractual rights to any member of the Pension Fund, or to any other person whatsoever. Nothing in this document will cause Hackney Council's capacity to exercise its discretionary powers to be unlawfully fettered or restricted in any way.

We will exercise these discretions in line with the provisions of the various LGPS Regulations and other legislation. Nothing within this statement can overwrite the legal requirements within those provisions.

We will review the policies within this statement as required in the light of future changes to the LGPS legislation or other relevant legislation. It will also be reviewed at least every 3 years.

Employing Authority Discretions under the Local Government Pension Scheme

Key to changes

- **New discretion/policy or an existing provision that was not previously included**
- **Change to existing policy – explained in final column**

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Hackney Employer Policy	Description of Change where applicable
<i>Disputes</i>				
1	R13 - 74	Each employer must appoint a person for dealing with applications under stage one of the dispute resolution procedures.	Except in ill-health cases, the Head of Pensions Administration acts as the stage one adjudicator to consider and determine whether or not the scheme member was treated within the terms of the LGPS regulations. Where the Head of Pensions Administration has previously been involved in the case, the Head of Pension Fund Investments will carry out this role. Where the appeal relates to ill-health, the 3 rd party pension administrators, Equiniti, will carry out the stage one adjudicator role.	<i>Change in decision maker</i>

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Hackney Employer Policy	Description of Change where applicable
<i>Contributions and Pay</i>				
2	R13 – 9(1) and 9(3)	Determination of annual contribution rate to be paid by active members by reference to pay band and how those rates are to be reassessed.	Please see our separate Employee Contributions Policy.	
3	R13 – 20(1)(b)	Whether any benefit specified in an employee's contract should be treated as a pensionable emolument.	We do not treat any contractual benefits as pensionable emoluments other than those specified by R13 – 20(1)(a).	Amended to clarify Hackney policy to be unambiguous
4	R13 – 21(5)	For certain periods of absence on reduced pay, benefits are calculated using "Assumed Pensionable Pay" (APP). Where a lump sum has been paid in the previous 12 months, the APP figure may be increased if there is a reasonable expectation that the lump sum would be paid on a regular basis.	Only permanent, recurring, non-variable payments will be used to increase the APP.	
5	R13 – 21(5A)	Where APP applies, regulation 21(4) sets out how APP is calculated. Where the outcome of the prescribed calculation is, in the employer's opinion, materially lower than the actual level of pensionable pay the member would normally receive had they been at work, the employer may substitute a higher level of pensionable pay than the APP value.	The APP will, in such cases, be increased to reflect the level of pay the member would normally have received. This will usually be based on the pensionable pay received by the member in the previous 12 months.	New

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Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Hackney Employer Policy	Description of Change where applicable
6	TP14 – 3(6), 4(6)(c), 8(4), 10(2)(a) and 17(2)(b) B - 11(2)	Whether to allow a member to select their final pay period, where their pay consists of fees.	Where a scheme member's final pay consists of fees then the most advantageous final pay period as permitted by the relevant regulations will be used for the calculation of benefits, unless the member specifies otherwise.	Amended to refer to member selecting their own final pay period
7	TP14 - 3(1)(a) T08 – Sch1 R97- 23(4)	Whether to issue a certificate of protection of pension benefits where eligible non-councillor member fails to apply for one (pay reduction / restrictions occurring pre 1 April 2008).	The Head of Pensions Administration will decide whether to extend the period for election in exceptional circumstances on a case by case basis.	Minor amendment to Regulation reference and Change in decision maker
8	R13 – 17(1) and Sch1 TP14 – 15(1)(d) A - 25(3) B- 15(3)	Whether to establish and maintain a shared cost Additional Voluntary Contributions (SCAVC) arrangement to receive contributions by both employee and employer.	We will not establish or pay towards a SCAVC.	

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Hackney Employer Policy	Description of Change where applicable
9	R13 – 16(2)(e) and 16(4)(d)	<p>Whether to pay towards some or all of an Additional Pension Contract (APC) where a scheme member elects to buy up to £6,822* of annual pension.</p> <p><i>*note that this amount increases each year in line with inflation so the policy should be read as if the current valid amount is stated</i></p>	<p>We will only contribute to an APC where it is entered into in order to purchase pension lost due to a period of unpaid leave with permission (other than leave due to illness or injury, relevant child-related leave or reserve forces service leave), and where the election to buy back the lost pension was made within 30 days or such longer period as London Borough of Hackney may allow (see below).</p>	<p><i>Amended to update maximum APC amount and to update Hackney policy to be unambiguously clear on position</i></p>
10	R13 – 16(6)	<p>Whether to extend the 30 day deadline for a member to elect for a shared cost APC upon return from a period of absence from work with permission with no pensionable pay (other than leave due to illness or injury, relevant child-related leave or reserve force service leave).</p>	<p>We will generally <u>not</u> extend the 30 day deadline, except in exceptional circumstances which will be considered by the Head of HR & Electoral Services on a case by case basis.</p>	<p>New</p>
Enhancement of Benefits and Early Retirement				
11	R13 - 31	<p>Power to award additional pension to an active scheme member only or within 6 months of redundancy or leaving through business efficiency of not more than £6,822* per year.</p> <p><i>*note that this amount increases each year in line with inflation so the policy should be read as if the current valid amount is stated</i></p>	<p>We will not award additional pension to members of the scheme in any circumstance. Please also see our separate Termination on Redundancy or Business Efficiency Policy.</p>	

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Hackney Employer Policy	Description of Change where applicable
12	R13 – 30(6) and 30(8) TP14 – 11(2)	Flexible retirement – whether to consent to payment of benefits where there has been a reduction in hours or grade of post and whether to waive (in whole or in part) any actuarial reduction that would otherwise apply to those benefits.	Please see our separate Flexible Retirement Policy.	
13	R13 – 30(7)	Early payment of benefits on grounds of redundancy/business efficiency.	Please see our separate Termination on Redundancy or Business Efficiency Policy.	
14	R13 – 30(8)	Whether to waive, in whole or in part, any early retirement reduction that might otherwise apply to a scheme member's benefits on voluntary retirement. These provisions only apply to scheme members who have reached age 55 and also only have scheme membership after 31 March 2014.	We will not waive reductions unless the scheme member meets the criteria for compassionate grounds and, where this is so, such cases will be considered on a case by case basis in accordance with Appendix A.	Update Hackney policy to be unambiguously clear on position
15	TP14 – Sch 2, Paras 1(2) and 2(2)	Whether to allow rule of 85 protections to apply to a scheme member's benefits on voluntary retirement. In doing this some or all of the early retirement reduction would not apply. This provision can only apply to scheme members who have reached age 55.	We will not apply rule of 85 protections unless the scheme member meets the criteria for compassionate grounds and, where this is so, such cases will be considered on a case by case basis in accordance with Appendix A.	

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Hackney Employer Policy	Description of Change where applicable
16	<p>TP14 – 3(1), Sch 2, paras 2(1) and 2(2)</p> <p>B - 30(5) and 30A(5)</p> <p>R97 – 31(5)</p>	<p>Whether to waive any reduction to benefits that might otherwise apply. This can also apply to former Tier 3 Ill-Health members. In some circumstances there is no discretion to waive reductions where compassionate grounds do not apply.</p>	<p>We will not waive reductions unless the scheme member meets the criteria for compassionate grounds and, where this is so, such cases will be considered on a case by case basis in accordance with Appendix A.</p>	<p>Update Hackney policy to be unambiguously clear on position</p>
17	<p>R97 – 31(2)</p> <p>R95 - D11(2)(c)</p>	<p>Whether to consent to the early payment of retirement benefits for scheme members between age 50 and 55, who are deferred members and who left before 1 April 2008. For those who left on or before 1 April 1998 there is no discretion to release benefits where compassionate grounds do not apply.</p>	<p>We will not consent to the early payment of benefits prior to age 55 except on compassionate grounds where they will be considered on a case by case basis as detailed in Appendix A. It should be noted that payments made prior to age 55 will be subject to additional tax charges.</p>	<p>Amended to allow for regulation changes</p>

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Hackney Employer Policy	Description of Change where applicable
18	R13 – 35(1)	Where the independent registered medical practitioner (IRMP) certifies that a scheme member is permanently incapable of efficiently carrying out the duties of his/her employment, the employer may terminate the employee's employment and they will be entitled to ill-health retirement benefits.	The Ill Health Retirement Panel (consisting of the Head of HR and Electoral Services (or their representative) and the Head of Pensions Administration (or their representative)) will determine whether employment will be terminated on ill-health grounds and whether to award Tier 1, 2 or 3 ill-health benefits. When reviewing cases the Ill Health Retirement Panel will refer to the findings of the IRMP certificate and other available evidence to confirm if the scheme member meets the relevant requirements.	Change in decision makers
19	TP14 – 12(6)	Whether to use a certificate produced by an IRMP under the 2008 Scheme for the purposes of making an ill health determination under the 2014 Scheme.	We will not accept certificates produced under the 2008 Scheme for making a decision under the 2014 Scheme.	New
20	R13 – 37(3) and 37(4)	Determining whether a member receiving Tier 3 ill-health pension has started gainful employment, and whether to recover payments relating to the period of gainful employment.	Members in receipt of Tier 3 ill-health benefits will be asked to provide notification as soon as they commence gainful employment. Any payments made during a period of gainful employment will be recovered in full.	

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Hackney Employer Policy	Description of Change where applicable
21	R13 – 38(3) and 38(6) B - 31(4) and 31(7)	Decide whether a deferred member meets the criteria for permanent ill health. This also applies to a scheme member who was formerly in receipt of Tier 3 ill-health benefits.	The Deferred Ill Health Retirement Panel (consisting of the Head of HR and Electoral Services (or their representative) and the Head of Pensions Administration (or their representative)) will determine whether the criteria for permanent ill health has been met, taking account of the information within the IRMP medical certificate.	Change in decision makers
22	R97 – 31(7A)	Where a member opted out of the scheme before 1 April 2008 and has continued working in the same employment, whether to allow the member to draw benefits from their NRD if still working at that date.	We will generally allow the employee to draw their benefits at NRD, except in exceptional circumstances which will be considered by the Head of HR & Electoral Services on a case by case basis.	New
Transferring or Linking Benefits				
23	R13 – 22(8)(b) and 22(7)(b) TP14 – 10(6)	Whether to extend the 12 month option period for aggregation of deferred benefits in respect of former or concurrent periods of LGPS membership.	The Head of Pensions Administration may extend the period for election in exceptional circumstances and will decide on a case by case basis.	Regulatory reference updated and Change in decision maker

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Hackney Employer Policy	Description of Change where applicable
24	R13 – 100(6)	Whether to extend the 12 month time limit for scheme members to elect to receive a transfer from another non-LGPS pension scheme.	We expect scheme members to request all transfers within 12 months, and will only extend the 12-month time limit in exceptional circumstances where the scheme member can demonstrate the reason for their late request was outside of their control. Where there is evidence of administrative delays the member will be given 2 additional months from the receipt of complete information outlining the transfer options. The Head of Pensions Administration will determine any such requests.	<i>Change in decision maker</i>
25	TP14 – 15(1)(b) T08 – Sch 1 R97 – 66(8) and 66(9)(b)	In certain circumstances a scheme member can use their AVC fund to buy membership in the pension scheme. Such an election should be made within 30 days of leaving, but this time limit can be extended by the employer if they wish. This only applies to AVC contracts which commenced before 13 November 2001.	The Head of Pensions Administration may decide to extend the period for election in exceptional circumstances and will decide on a case by case basis.	<i>Change in decision maker</i>

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Hackney Employer Policy	Description of Change where applicable
<i>Other Miscellaneous Discretions</i>				
26	R13 – 19(2), 91(1) & 91(8), 91(4), 92(1) & 92(2), 93(2) and 95 A - 47(2), 72 to 76 R97 – 88(2), 111 to 115	Whether to claim monies from a scheme member's pension benefits in cases of fraud, misconduct and other similar situations or direct those monies to another person (subject to the meeting the criteria in the regulations).	The Head of Pensions Administration and the Head of HR and Electoral Services will jointly decide how to proceed on a case by case basis.	Change in decision makers
27	A – 49 R97 – 92	Whether to reclaim some state related payments (contribution equivalent premiums) from the Pension Fund.	We will not reclaim these payments from the Pension Fund.	
28	R13 – Sch 2, Part 3, para 12(c)	An admission agreement must include a provision allowing outstanding pension payments to be offset against contract payments due to the transferring employer. The transferring employer must consider whether it wishes to make use of this provision.	The Council will decide on any such cases as they arise to ensure that the Pension Fund receives payments in a timely manner in accordance with the Fund's Administration Strategy.	

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Hackney Employer Policy	Description of Change where applicable
29	R97 - 34(1)(b) R95 – D10	Decide in the absence from a pre 1 April 2008 leaver of an election from the member within 3 months of being able to elect, which benefit is to be paid where the member would be entitled to a pension or retirement grant under 2 or more regulations in respect of the same period of Scheme membership.	The Head of Pensions Administration will decide on a case by case basis which benefits are to be paid.	<i>Change in decision maker</i>

Employing Authority Discretions under Discretionary Compensation Provisions

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Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Hackney Employer Policy	Description of Change where applicable
30	D06 - 5	Whether to base redundancy payments on actual week's pay where it exceeds the statutory week's pay limit.	Please see our separate Termination on Redundancy or Business Efficiency Policy.	
31	D06 - 6	Whether to award lump sum compensation of up to 104 weeks' pay in cases of redundancy, termination of employment on efficiency grounds, or cessation of a joint appointment.	Please see our separate Termination on Redundancy or Business Efficiency Policy.	

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Hackney Employer Policy	Description of Change where applicable
32	D06 - 8	If a lump sum compensation overpayment is made to an employee under regulation 6 above (over and above any statutory redundancy payment), whether to take such steps as are appropriate to recover the overpayment.	The Head of Pensions Administration will consider the appropriate action to be taken in any such circumstances.	Change in decision maker
33	D00 - 17	Whether and to what extent to reduce or suspend the member's annual compensatory added years payment during any period of re-employment in local government.	We will reduce or suspend these payments in accordance with regulations	
34	D00 - 19 and 22(3)	How to reduce the member's annual compensatory added years payment following the cessation of a period of re-employment in local government. We can also choose to apply this to any spouses' or children's pensions.	We will reduce or suspend these payments in accordance with regulations. The reduction or suspension will be ignored when calculating spouses' or children's pensions.	
35	D00 - 21(4)	How to apportion any surviving spouse's or civil partner's compensatory added years payment where the deceased person is survived by more than one spouse or civil partner.	The Head of Pensions Administration will decide the appropriate apportionment on a case by case basis.	Change in decision maker
36	D00 - 21(5)	If suspension rules applied under 21(7) below, whether the spouse's annual compensatory added years payment should be reinstated after the end of the remarriage, new civil partnership or cohabitation.	Not applicable as no suspension applies.	

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Hackney Employer Policy	Description of Change where applicable
37	D00 - 21(7)	<p>Whether to suspend an annual compensatory added years payment in respect of the spouse or civil partner of a person who ceased employment before 1 April 1998, where the spouse or civil partner remarries or cohabits or enters into a civil partnership on or after 1 April 1998.</p> <p>Further, where the remarriage, cohabitation or civil partnership is with another person who is also entitled to a spouse's or civil partners annual compensatory added years payment, the normal rule requiring one of them to forego payment whilst the period of marriage, civil partnership or co-habitation exists, could be disapplied (i.e. whether the spouse's or civil partners' annual CAY payments should continue to be paid to both of them).</p>	<p>We will not suspend payments in these circumstances.</p>	
38	D00 - 25(2)	<p>How the employer will decide to whom any children's annual compensatory added years payments are to be paid where children's pensions are not payable under the LGPS (because the employee was not a member) and in such a case how the annual compensatory added years payments will be apportioned amongst the eligible children.</p>	<p>The Head of Pensions Administration will decide these matters on a case by case basis.</p>	<p>Change in decision maker</p>
39	D11- 3 to 7	<p>Whether to award injury allowances including on reduction in pay, loss of employment or death.</p>	<p>No injury allowances will be paid.</p>	

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Hackney Employer Policy	Description of Change where applicable
40	D96 – 40-42	Whether to award a gratuity including on retirement, redundancy or death.	The power to award gratuities was removed from the regulations with effect from 16 January 2012. Payments will be considered on a case by case basis for any employees who have a standing contractual arrangement to receive a gratuity payment.	

***Key to Regulation References:**

- R13 – The Local Government Pension Scheme Regulations 2013
- TP14 – The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014
- A – The Local Government Pension Scheme (Administration) Regulations 2008
- B – The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007
- T08 – The Local Government Pension Scheme (Transitional Provisions) Regulations 2008
- R97 – The Local Government Pension Scheme Regulations 1997
- R95 - The Local Government Pension Scheme Regulations 1995
- D06 – The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006
- D00 - The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000
- D11 – The Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011
- D96 – The Local Government (Discretionary Payments) Regulations 1996

*Note that references to old provisions (e.g. R97) generally apply in relation to scheme members who left under those provisions.

Appendix A – Criteria and Process for Payment of Benefits on Compassionate Grounds

We may consider the early payment of benefits on compassionate grounds or applying the rule of 85 for a former scheme member or active member who leaves employment. These will be considered on a case by case basis where the following criteria are met:

- The employee left employment to care for one or more dependants
- The dependant(s) require(s) constant supervision
- There is no recourse to alternative care
- Without the award of benefits, the former employee would be suffering severe hardship, and
- As a result of the need to provide care to the dependant(s), the opportunity for employment for the former employee is severely limited

Where the employee considers he or she can demonstrate that all of the above criteria are met, the Group Director, Finance and Corporate Resources and the Head of HR and Electoral Services will jointly consider the evidence available and then determine whether benefits should be paid on compassionate grounds. Any costs to the Fund that are incurred must be paid by the service/department where the employee was employed immediately prior to ceasing employment.

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ENVIRONMENTAL ENFORCEMENT – ANNUAL ASSESSMENT OF THE LOCAL ENVIRONMENTAL QUALITY ENFORCEMENT STRATEGY AND ANNUAL PERFORMANCE REPORT 2017/18

**CORPORATE COMMITTEE
MEETING DATES 2018/19**

10th October 2018

CLASSIFICATION:

Open

If exempt, the reason will be listed in the main body of this report.

WARD(S) AFFECTED

All Wards

GROUP DIRECTOR

Kim Wright, Neighbourhood and Housing

1. INTRODUCTION AND PURPOSE

- 1.1 This report sets out the annual performance report across the environmental enforcement remit for the 2017/18 financial year and an annual strategic assessment of the Local Environmental Quality Enforcement Strategy.
- 1.2 The Corporate Committee has requested annual reports on the development of the Council's response to environmental enforcement and the [Local Environmental Quality Enforcement Strategy](#).
- 1.3 The report sets out the key areas relating to environmental enforcement, the management arrangements and resources that have been allocated for this work by the local authority and the key targets.
- 1.4 In fulfilling its duties, the service provides support to individuals, communities and businesses in the borough.
- 1.5 The enforcement service Hackney continues to take a holistic approach to environmental enforcement that looks at issues such as littering and fly tipping together, so that the most appropriate action and legislation can be taken based upon the circumstances of the particular case. The service has brought together a wide range of enforcement services providing greater resilience and ability for specialists to collaborate and cases to be prioritised.

2. RECOMMENDATION(S)

The Corporate Committee is recommended to:

- 2.1 **Note the annual performance report for the service and the annual strategic assessment of the Local Environmental Quality Enforcement Strategy 2017/18.**

3. REASONS FOR DECISION

- 3.1 This report which is for noting, adheres to the requirement previously agreed by Regulatory Committee to report annually on Environmental Enforcement.

4. BACKGROUND

- 4.01 The Environmental Quality Enforcement Strategy sets out the Council's approach to environmental enforcement:
- 4.02 This includes enforcement activities in relation to:
 - Graffiti
 - Unregulated Waste
 - Highways Obstructions

- Dog Fouling and Dog Control
- Littering
- Illegal street trading
- Flyposting
- Street Urination, fouling and vomiting

4.1 Policy Context

4.1.1 The overarching objectives as set out in the Local Environmental Quality Enforcement strategy are to:

- Ensure that improvements proposed and implemented are sustainable and incorporated into systems and procedures to ensure standards are maintained and not short lived.
- Improve local environmental quality in neighbourhoods.
- Be persistent and determined to tackle the potential extent of non-compliance, particularly where offenders seek to gain financially from their behaviour at the Council's expense.
- Reduce overall costs of non-compliance
- Improve public satisfaction with their local environment

4.1.2 The overarching priorities as set out in that strategy are:

- To minimise the environmental impact of the growing Night Time and Weekend Economy
- To reduce Graffiti and control the level of Street Art within the borough.
- To reduce Fly posting
- To reduce unregulated waste
- To reduce Illegal highway obstructions
- To reduce non-compliance costs
- To reduce Dog Fouling and Improve Dog Control
- To change behaviours

4.1.3 The objectives for 2017/18 were as follows:

- Tackling Unregulated Waste
- Behaviour change and associated cost avoidance including, but not limited to tackling volume crime such as litter, responsible dog ownership, increasing recycling take up.
- Improved levels of compliance, cost avoidance and sustained improvements in Local Environmental Quality particularly in Night Time Economy and contribution to Area Regeneration.
- Reviewing current time bands in conjunction with Waste Operations.
- Fly-tipping Campaign

4.1.4 The priorities for 2017/18 were as follows:

- Ensure compliance improvements delivered in 2016/17 are sustained.

- Work with Hackney Housing to ensure processes are in place to tackle estate based fly tipping and dog control aligned to on street processes.
- Campaign to tackle litter and stain age via a voluntary agreement with NTE premises, deploying litter control legislation in the worst cases.
- Continue to review and propose licence conditions on NTE premises to improve levels of prevention of environmental impacts such as through waste training of staff etc.
- Prioritise tackling the worst fly-tipping cases and deliver tonnage reductions of unregulated waste as a proportion of total waste through unregulated waste project and fly-tipping campaigns.
- Improve standards of cleanliness on RSL land through the Ward Improvement Programme processes and applying appropriate legislative controls.
- Minimise the spread of Street Art Graffiti containing any new art to an appropriately defined area.
- Tackling local issues/problems through locally defined and targeted, enforcement and communications campaigns.

The Corporate Performance Indicators and targets for 17/18 are set out in the table below.

Overall the service has performed very well against set performance indicators.

PI Code	Short Name	Frequency of reporting	2015/16	Annual Target 2015/16	2016/17	Annual Target 2016/17	2017/18	Annual Target 2017/18
			Outturn	Outturn	Outturn			
HCS PR 058	Tonnage of unregulated waste	Years	5458	5250	5380	5230	4564	5230
HCS PR 063	Number of Environmental Enforcement formal notices served (cumulative measure)	Quarters	3263	2500	2734	2500	1657	N/A
HCS PR 057	Number of businesses in the borough with a trade waste agreement in place	Quarters	6171	6000	6359	6000	TBA	TBA
HCS PR 059	Number of litter, dog fouling, graffiti and highway obstruction operations carried out in the period	Quarters		260	280	75	75	N/A
HCS PR	% of environmental	Quarters	98.0%	98.0%	99.0%	98.0%	N/A	N/A

060	crime complaints responded to within 2 working days of receipt							

SERVICE HIGHLIGHTS

The following sections provides detail on work undertaken against our wider outcomes.

A-Boards: The A-board policy which was implemented in 2013/14 is continuously being enforced by Enforcement Officers. There are high levels of compliance with the policy once businesses become aware of the Councils approach to dealing with A-boards. There still remains a challenge with new businesses often displaying A-boards but once notified they fall into compliance. Officers are still proactive in identifying A-boards and taking relevant action. We also received referrals from members of the public where they have also seen A-boards as they are aware of this offence due to the publicity and information being published about A-boards.

TFL are responsible for the red route areas throughout Hackney and have uniformed officers who visit periodically and take action where required in line with their policy which mirrors the process we currently have in place in Hackney. We also have good working relationship where cases referred or identified by Hackney is actioned and feedback provided. However we are aware that some further work is required regarding timely action being taken by TFL when requested by the Council, so that actions and enforcement work across the borough are consistent.

Unregulated Waste: The main objective of the unregulated waste programme is to deliver behaviour change amongst residents and businesses so that the local environment would benefit from improved compliance with waste management processes. This principle was embedded in each operational objective delivered within the programme in relation to environmental enforcement to identify non-compliant residents and businesses, take appropriate action and change behaviours.

Specific streams of the project targeted the main roads which had amongst the highest volume of unregulated waste, namely the A10 (Kingsland Road through to Stamford Hill), Broadway Market and Chatsworth Road. The programme has produced a reduction in unregulated waste through direct enforcement; changes to contracts (both private and Hackney), new contracts where none were in place previously, positive behaviour change around placing out of waste in the right locations and during the correct time for collection (time bands in place). Positive changes have also been progressed through wider findings and changes to operational resources i.e. dedicated

Waste Enforcement Officers with a focus on the night time economy and weekends with scheduled and robust monitoring and enforcement in key locations/areas of concern.

Enforcement Officers in the service are continuing to address the issue of unregulated waste by undertaking targeted patrols with staff from waste operations and in the first instance will engage with businesses by speaking to the owner/manager of the business in the first instance and providing them with an advisory leaflet. If the business fails to comply with this informal approach then a second visit undertaken to ensure compliance when a warning letter is issued. Failure to comply with this request will result in formal action being undertaken.

Officers are undertaking visits with staff from Waste Operations and undertaking visits during the day, evenings and at night in an effort to reduce the impact of unregulated waste. Two waste Enforcement Officers are embedded within the Waste Operations service at Millfields Depot.

The service instituted a number of legal proceedings against a number of businesses who operate in Hackney and are unwilling to adhere to the Council's initial requests to change their behaviour or rectify issues through informal and formal channels. Prosecutions are normally the last resort. A summary of some of the fines and costs associated with cases that have been taken to Court from the service is shown below

Offender	Fine	Costs	Victim Surcharge	Total
Lekki Restaurant and Bar Limited, 323 Kingsland Road, Dalston, E8	£300	£350	£30	£680
Nation Food Centre, 158 Stoke Newington Road, N16	£700	£610	£70	£1380
Panda Oriental, 123 Green Lanes, N16	£1000	£415	£50	£1465
Rezapan Ltd, T/A Pizza Go Go, 122 Green Lanes N4	£450	£490	£30	£970
Perfect Chicken, 352a Mare Street, Hackney	£1035	£2700	£103.50	£3838.50
Premium Printing, 12 Stamford Hill, N16 6XZ	£2000	£772.50	£120.00	£2842.50
Viva Cocktails and Tapas, 2 Stoke Newington Road,				£830

N16 7XN				
Sweet Lemon Indian Take-Away Manor Parade, 6 Manor Road, N16 5SG				£1272.50
Cukurova Restaurant,73 Green Lanes,N16 9BU	£1,000	£820	£0	£1820
Cukurova Restaurant, 73 Green Lanes,N16 9BU	£500	£500	£0	£1000
Total				£16,098.50

Seamless Public Realm: A number of enforcement actions have been carried out on Estates across Hackney. Enforcement activities included a number of advisory notices under the Environmental Protection Act 1990 issued against offenders. Enforcement Officers will continue to work with the Housing to maintain and improve even further the general environmental quality of the estates across the borough.

Partnership working is effected via good working relationships with cross Council services. Enforcement service managers utilise partnership tasking to share intelligence and inform other services regarding protocols and best practice. This has included risk raising and best practice planning concerning effective relationship with the Police, particularly concerning resources and support in our Night Time Economy (NTE) areas. A continued relationship of strength and effectiveness with the Waste Operations Service has supported on going communications regarding waste issues and compliance across the borough.

The LEQ strategy has been in place since 2013/14. As set out above, since its implementation the service has been restructured.

Legislative Considerations:

The Regulators Code aims to improve the way regulation is delivered at the front line. It sets out a clear framework for transparent and accountable regulatory delivery and establishes clear principles for how local authorities should interact with those they are regulating. The Code is underpinned by the statutory principles of good regulation, which provide that regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent and should be targeted only at cases in which action is needed.

All Councils were written to by the Government Department BIS in March 2014 drawing attention to the complaints process detailed in the code. In response to this the service undertook a review of its provisions in the LEQ Enforcement Strategy and processes.

The service found that the LEQ Enforcement Strategy and processes contained within were fully complying with the provisions of the code. One key area of the review related to the transparency of the complaints process in relation to Fixed Penalty Notices (FPN) and proportionality of use. The service's FPN process is transparent in relation to allowing representations to be made, describing how they can be made and in terms of spelling out the resolution process and the FPN process itself. The service further allows representations to be made in relation to the specific case where an FPN has been issued.

The LEQ Enforcement strategy also clearly defines how the service applies penalties and in what circumstances, ensuring these are appropriate to the offence committed and the individual circumstances.

Where necessary the service has reviewed operations and formal processes taking account of the Anti-Social Behaviour, Crime and Policing Act 2014. Litter Control Notices (section 92 and 93 of the Environmental Protection Act 1990) have been replaced with Community Protection Orders/Notices. Under this legislation the Councils existing Dog Control Orders (DCOs) transitioned into a Public Space Protection Order (PSPO) on 20th October 2017. A new FPN became effective in May 2016 under section 33 of the Environmental Protection Act 1990 to enable more effective progression of fly-tipping offences with the fine set at £400 as opposed to £80 for littering under section 87/88 of the Act with 59 FONs issued in 2016/17 and 29 in 2017/18.

4.2 Equality Impact Assessment

The current EIA for the LEQ Enforcement Strategy remains appropriate for the service. An EIA was undertaken for any new policy changes arising from the Enforcement review.

4.3 Sustainability

N/A

4.4 Consultations

N/A

4.5 Risk Assessment

4.5.1 Rate of growth – Business and household growth in the borough has been significant and will continue. Keeping up with this rate of growth is a particular challenge for the service within its current resource provision especially

relating to waste management and sustaining local environmental quality. This includes controlling the environmental impacts from businesses such as litter and staining throughout their operating hours and managing appropriate commercial and household waste enforcement. Officers and partners are managing this through measures including more night time weekend activities, improving behaviour of patrons, minimising highway obstructions such as A Boards and ensuring businesses and households have correct arrangements for the waste containment and disposal/recycling.

4.5.2 Administering the enforcement process – Mobile ICT working solutions and business intelligence software are currently being managed through Public Realm ICT delivery programmes. These provide Council services with new technology that assists in ensuring efficiency and effectiveness of delivery. Environmental Enforcement is part of this programme particularly in relation to the service of Fixed Penalty Notices.

4.5.3 Resource deployment - Pressure to provide a visible presence on street impacts upon resource available for high priority case progression/investigation, sustainable problem solving and behaviour change initiatives. Getting the balance right between these is critical for the Council moving forward and the joint working approach currently being developed supports this. Communications both Borough-wide and locally needs to be further utilised alongside physical resources so that together they are directed in a way that maximises the feel of “Presence” whilst ensuring a keen focus on cost and effectiveness. Enforcement currently benefits from good corporate communications support.

4.5.4 The cross cutting enforcement programme picked up on measures to ensure coordinated and accountable processes for cross departmental problem solving. This in turn supports a cross departmental approach to managing problems in localities and neighbourhoods to bring about solutions that are not within the gift of a sole service to resolve. This approach helps address problems associated with the Night Time Economy and Environmental Crime. Partnership Tasking delivers this in part in relation to the crime and anti-social behaviour agenda; however it is not designed to take a holistic approach to problem solving relating to all the matters highlighted.

5. COMMENTS OF THE GROUP DIRECTOR OF FINANCE AND CORPORATE RESOURCES

5.1 This report seeks the Corporate Committee to note the annual performance of environmental enforcement services for the 2017/18 financial year, and the annual strategic assessment of the Local Environmental Quality Enforcement Strategy.

5.2 The report is retrospective and has no immediate financial implications.

5.3 The cost of environmental enforcement services is met from the revenue budgets in Community Safety, Enforcement and Business Regulation.

6. COMMENTS OF THE DIRECTOR OF LEGAL AND GOVERNANCE SERVICES

6.1 One of the terms of reference of Corporate Committee is to develop, review, monitor and maintain a strategic overview of the Council's regulatory function. This report falls within that term of reference.

6.2 All legislation quoted within the body of this report is correct. There are no immediate legal implications arising from this report.

APPENDICES

Appendix 1- Service performance – Corporate Key Performance Indicators
Appendix 2 – Service performance breakdown, fixed penalty and other statutory notices.

BACKGROUND PAPERS

None

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APPENDIX 1

SERVICE PERFORMANCE - CORPORATE KEY PERFORMANCE INDICATORS

- 1.1 The service monitored performance against a set of 3 performance indicators (PIs). The performance information provided in this Appendix provides the annual out-turns with commentary.
- 1.2 **HCS PR 057 (Quarterly)** – (Number of businesses in the borough with a trade waste agreement in place).
- 1.3 A business that produces waste is required to have a Trade Waste Agreement (TWA) which confirms that arrangements are in place for the disposal of waste produced by that business. There are 14,725 businesses within Hackney which is 3.3% of all businesses across London however an unknown proportion of these businesses are operated from home and are low risks in terms of breaches of waste legislation. An overall definitive figure for non-domestic rated premises that are likely to produce waste isn't available at present.
- 1.4 The number of businesses known to have a TWA in place shows an overall increase/decrease of XX from 6171 in 2016/17 to XXX in 2017/18. Whilst these are known to have a TWA in place this does not indicate whether those businesses are compliant with the terms of those agreements however the work to improve levels of compliance are available in later sections of this report.
- 1.5 **HCS PR 058 (Annual -Tonnage of Unregulated Waste).**
- 1.6 This indicator is reported on an annual basis and captures the estimated amount of unregulated waste within the borough. The tonnage of unregulated waste decreased from 5380 tonnes in 2016/17 to 4564 tonnes in 2017/18 which is a decrease of 816 tonnes. As the economy of the Borough grows, particularly the night time economy, regulated (contracted) commercial waste tonnage also increases along with unregulated waste and therefore is a good reflection on the service. The percentage of unregulated waste in 2017/18 was 21.4% as opposed to 29% in 2016/17 and 34% in 2015/16. This is very positive as commercial waste tonnage increased by 15% in 2017/18 compared to 2016/17 and reflects the work being undertaken by Environmental Enforcement in relation to targeting unregulated waste commercial waste contract sales and underlying economic factors (indicated by an overall reduction in waste of 6.5%).
- 1.7 **HCS PR 059 (Quarterly)** – (Number of litter, dog control/fouling, graffiti and highway obstruction etc. operations and patrols).

- 1.8 The above represents the planned, structured operations undertaken by the environmental enforcement team. These are driven by intelligence generated from service requests, corporate complaints, Ward Improvement Programme (WIP), Partnership Tasking and the Enforcement officers' awareness and knowledge of their own areas.
- 1.9 In 2017/18 75 targeted patrols/operations were delivered, this is a significant reduction from the figure of 272 for 2016/17 and continued the previous approach at the beginning of 2015/16 to deliver larger planned campaigns producing higher quality operations and patrols based on intelligence rather than a continual quantity. It also need to be acknowledged that Officers are undertaking a wide range of duties including environmental enforcement.
- 1.10 **HCS PR 060 (Monthly)** – (% of environmental crime service requests responded to within 2 working days of receipt)
- 1.11 When the Team receives a request, Officers contact the person highlighting the issue (where possible) and advise them of the action the Officer proposes to take. This invariably involves a visit to the site, an assessment of the issue and determination of the action to be taken. Subsequent to this the person may be contacted again for further information and/or updated on the action taken by the Officer.
- 1.12 This breakdown below represents all external service requests for initial contact with the customer/complainant, the KPI does not reflect the internal service requests dealt with. The service did not monitor this indicator in 2017/18.
- 1.13 This breakdown below represents the number of external service requests for initial contact with the customer/complainant:

Animal Fouling	41
Flyposting	14
Graffiti	36
Highway Obstruction	438
Fly Tipping Private Land	230
Fly Tipping Public Land	167
Litter on Private Land	9
Litter on Public Land	39
Overgrown Hedge	2
Residential Waste –Duty of Care	30
Street Trading	20
Vehicle Over Highway	3
Dog Control Orders	6
Vehicles for Repairs	8
Vehicles for Sales	1
Other	7
Grand Total	1051

Detailed Quarterly Breakdown of External Service Requests received:

Q1 (April-June)	282
Fly Posting - Enforcement	3
Fly Tipping - Private Land	83
Fly Tipping - Public Land	46
Graffiti - Enforcement	16
Highway Obstruction	94
Litter on Private Land	4
Litter on Public Land	9
Overgrown Hedge	1
Dog Control Orders	2
Animal Fouling	7
Residential Waste Duty of Care	10
Street Trading - Enforcement	4
Other	1
Vehicles for Repairs on Highway	2
Q2 (July-Sept)	239
Dog Control Orders	1
Fly Posting - Enforcement	3
Fly Tipping - Private Land	46
Fly Tipping - Public Land	28
Graffiti - Enforcement	5
Highway Obstruction	117
Litter on Private Land	5
Litter on Public Land	12
Residential Waste Duty of Care	8
Vehicle over Highway	2
Vehicle for Sales Highway	1
Vehicle Repairs Highway	2
Street Trading - Enforcement	3
Animal Fouling	6
Q3 (Oct-Dec)	291
Fly Posting - Enforcement	8
Fly Tipping - Private Land	48
Fly Tipping - Public Land	49
Graffiti - Enforcement	9
Highway Obstruction	131
Dog Control Orders	2
Litter on Public Land	13
Residential Waste Duty of Care	6
Street Trading - Enforcement	7
Animal Fouling	13

Vehicle Over Highway	1
Vehicles for Repairs on Highway	2
Overgrown Hedge	1
Q4 (Jan-Mar)	239
<hr/>	
Dog Control Order- Enforcement	1
Fly Tipping - Private Land	53
Fly Tipping - Public Land	44
Graffiti - Enforcement	6
Highway Obstruction	96
Litter on Private Land	1
Litter on Public Land	8
Animal Fouling	15
Vehicles for Sale Highway	0
Residential Waste Duty of Care	7
Street Trading - Enforcement	6
Vehicle for repairs Highway	2
Grand Total	1051

1.15 **HCS PR 063 (Quarterly)** – (Number of formal notices issued)

1.16 The current enforcement strategy is in line with the nationally accepted enforcement concordat. This requires a balanced graduated approach through education and advice to more formal legal action including prosecution. Generally such an approach is effective in tackling enviro-crime however the service is careful to ensure that the type of enforcement action is proportionate to the seriousness of the offence. A revised Enforcement Policy for the service is expected to be approved by Cabinet in November 2018.

1.17 The number of “formal notices” (part of the formal enforcement process) including advisory notices, issued in line with the guidance on PR 063, but does not include the range of other actions undertaken to ensure compliance or intended outcomes are achieved, such as education, verbal warnings, advisory letters, etc. Effective enforcement relies upon sound selection of an appropriate level of enforcement proportionate to the offence and circumstances, with the aim of achieving compliance and resolution of problems.

1.19 The figure of 1657 formal notices served in 2017/18 represents a decrease of in the number of formal notices issued compared to 2016/17. This is due to the volume crime of fly-posting which identified as a priority area in 2014-15, but did not have this as a set priority for 2015/16, 2016/17 or 2017/18 and that Enforcement Officers are

undertaking a broader range of duties staff and are not solely undertaking environmental enforcement.

- 1.20 For the financial year 2017/18 the payment receipts for FPN's was £62,747 which is decrease of £7,020 in comparison to 2016/17.

2. LEGAL CASEWORK AND PROSECUTION ACTIONS

- 2.1 Officers have progressed a number of cases to the prosecution stage. Depending on the nature of the offence, offenders still have the opportunity to settle before the start of the hearing. In settling this may lead to:

- The fine being paid and no further action is taken in relation to that offence.
- A simple caution signed by the offender which stays on file for 5 years
- A simple caution issued and costs are also paid by the offender. Costs may include the recharge for clearing the waste, and any other rechargeable costs incurred as a result of the case being progressed to this level.
- Decision taken by our legal team that the case might not be in the public's interest to progress.

- 2.2 A total of 7 simple cautions have been signed by offenders over the period April 2017 to March 2018 and these relate to duty of care and fly tipping offences.

- 2.3 Fixed penalty notices (FPN) have always been a very useful tool for the enforcement service. We have a number of offences where FPNs can be used an option to discharge liability from prosecution and also acts as a deterrent to future offences.

APPENDIX 2

1. SERVICE PERFORMANCE BREAKDOWN– Fixed Penalty and other Statutory Notices

1.1 Concerning our delivery of formal enforcement notices (including fixed penalty and statutory notices), please see the below table which outlines our outturns of these formal notices by the offence (environmental crime action) type with a total 1657 notices served.

1.2 As you can see a large proportion (47%) of enforcement actions have concerned volume crime issues regarding littering and urination; this primarily related to work progressed in our two biggest commercial and NTE neighbourhoods of Shoreditch and Dalston. 19% of actions taken are aligned to Waste Enforcement which includes commercial and residential waste enforcement and the tackling of unregulated waste and fly-tipping. Highways enforcement such as skips, A-boards, graffiti and flyposting is the second most active area for formal action taking up 22% of our outturn. These actions are reflective in the services priority work and achievements throughout 2017/18 concerning unregulated waste, and Highways Act Enforcement and volume crime.

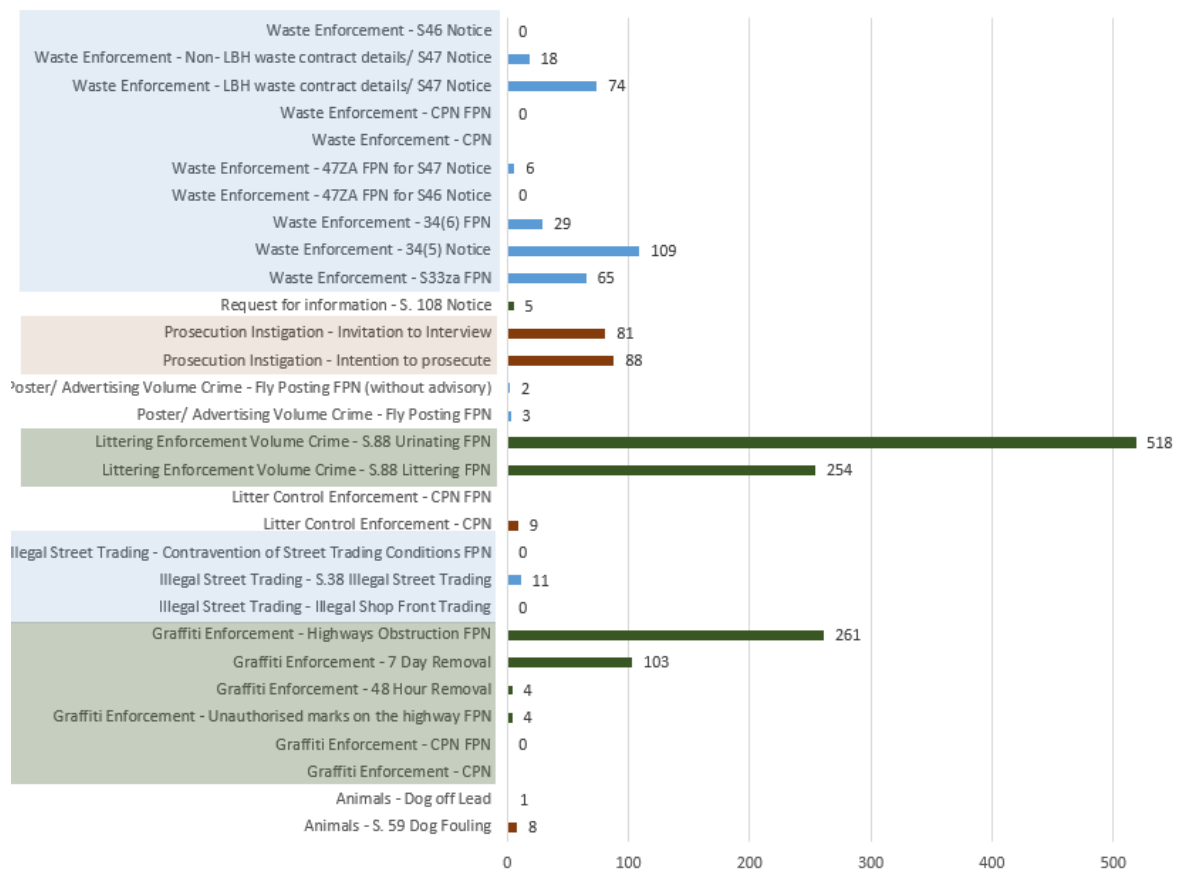
1.3 Table Breakdown 2017/18

HCS PR 063 Formal Notice

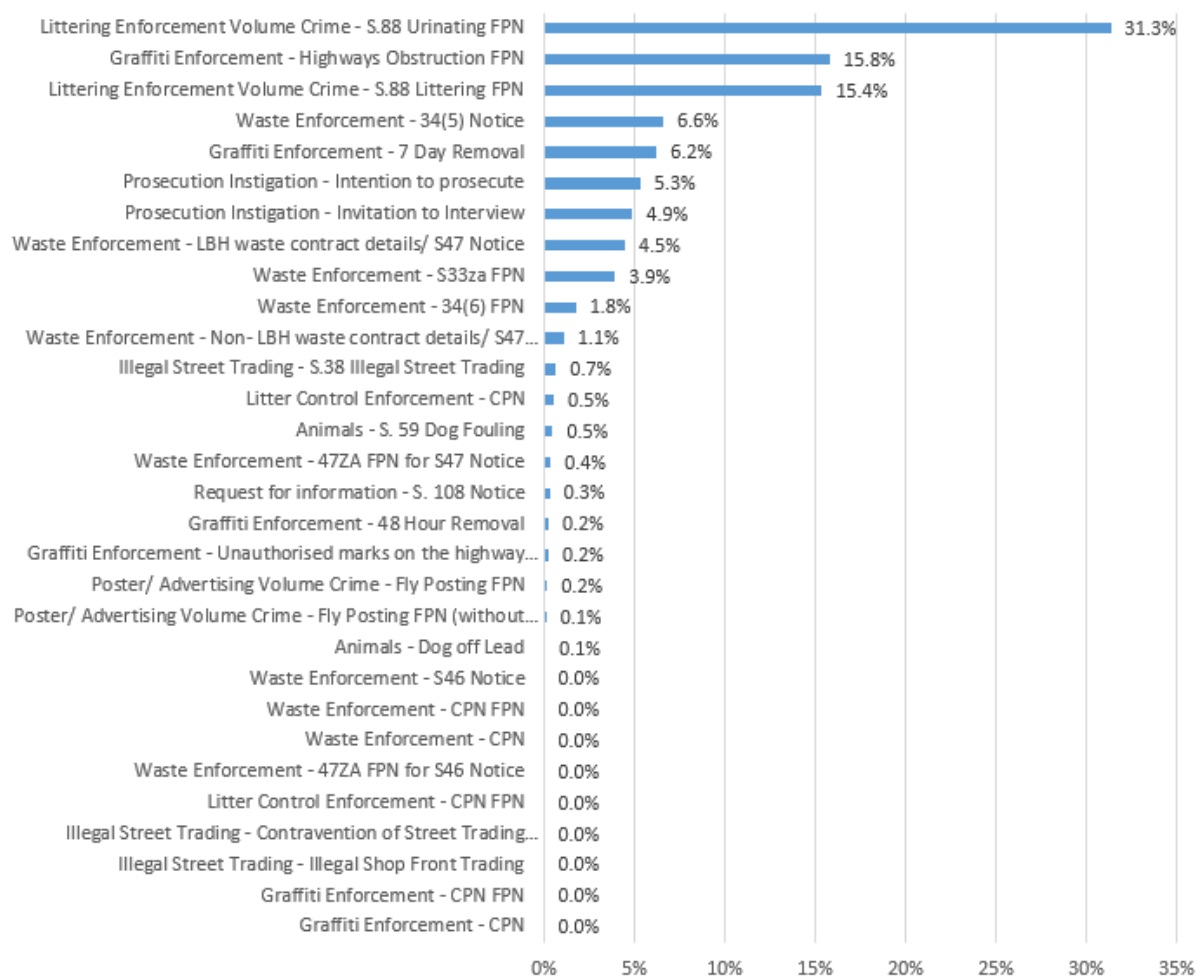
Formal Notice Issued	No.	% of overall (rounded up)
S. 59 Dog Fouling	8	0.5
Dog off Lead	1	0.0
Graffiti Enforcement		
CPN		
CPN FPN	0	0
Unauthorised marks on the highway FPN	4	0
Highways Act Enforcement		
48 Hour Removal	4	0
7 Day Removal	103	6.2
Highways Obstruction FPN	261	15.8
Illegal Street Trading		
Illegal Shop Front Trading	0	0
S.38 Illegal Street Trading	11	0.67
Contravention of Street Trading Conditions FPN	0	0
Litter Control Enforcement		
CPN	9	0.54
CPN FPN		
Littering Enforcement Volume Crime		
S.88 Littering FPN	254	15.3
S.88 Urinating FPN	518	31.3
Poster/ Advertising Volume Crime		
Fly Posting FPN	3	0

Fly Posting FPN (without advisory)	2	0
Prosecution Instigation		
Intention to prosecute	88	5.3
Invitation to Interview	81	4.89
Request for information		
S. 108 Notice	5	0.3
Waste Enforcement		
S33za FPN	65	3.9
34(5) Notice	109	6.58
34(6) FPN	29	1.75
47ZA FPN for S46 Notice	0	
47ZA FPN for S47 Notice	6	0
CPN		
CPN FPN	0	
LBH waste contract details/ S47 Notice	74	4.47
Non- LBH waste contract details/ S47 Notice	18	1.08
S46 Notice	0	0
Total	1657	100%

Number of formal notices issued



Formal Notice as a % of all Notice Activity



1.4 Detailed Quarterly Breakdown 2017/18

Quarter 1

Formal notice type	No. of formal notices	No. of FPN issued
Section 88 Urinating FPN	204	204
Section 88 Litter FPN	21	21
Highway Obstruction FPN	28	28
34(6) FPN	9	9
Section 38 Illegal Street Trading FPN	1	1
47ZA FPN for Section 47 Notice	1	1
Section 59 Dog Fouling FPN	7	7
Fly Posting FPN	1	1
Fly Posting FPN (without advisory)	0	0

Community Protection Penalty Notice	0	0
Dog Off Lead in General Public Area	0	0
Unauthorised Marks on the Highway FPN	3	3
34(5) Notice	26	0
Community Protection Notice	3	0
Highway Obstruction 5 Day Removal Notice	0	0
Highway Obstruction 7 Day Removal Notice	28	0
Highway Obstruction 48 Hour Removal Notice	2	0
Intention To Prosecute Letter	26	0
Intention to Interview	27	0
LBH Waste Contract Details / Section 47 Notice	27	0
NON-LBH Waste Contract Details / Section 47 Notice	6	0
Section 33za FPN	15	15
Section 108 Notice	2	0
Total	437	290

Quarter 2

Formal notice type	No. of formal notices	No. of FPN issued
Section 88 Urinating FPN	73	73
Section 88 Litter FPN	17	17
Highway Obstruction FPN	9	9
34(6) FPN	5	5
Unauthorised Marks on the Highway FPN	1	1
Fly Posting FPN (without advisory)	8	8
47ZA FPN for Section 47 Notice	4	4
Community Protection Penalty Notice	0	
Section 59 Dog Fouling FPN	1	1
Dog Off Lead in General Public Area	0	
Section 38 Illegal Street Trading FPN	0	
34(5) Notice	44	
Community Protection Notice	3	
Highway Obstruction 5 Day Removal Notice	0	
Highway Obstruction 7 Day Removal Notice	25	
Highway Obstruction 48 Hour Removal Notice	2	
Intention To Prosecute Letter	12	
Invite to Interview	38	
LBH Waste Contract Details / Section 47 Notice	20	
NON-LBH Waste Contract Details / Section 47 Notice	1	
Section 33za FPN (N2U)	20	20
Section 108 Notice	1	
Total	286	138

Quarter 3

Formal notice type	No. of formal notices	No. of FPN issued
Section 88 Urinating FPN	127	127
Section 88 Litter FPN	135	135
Highway Obstruction FPN	93	93
34(6) FPN	9	9
47ZA FPN for Section 47 Notice	0	
Section 38 Illegal Street Trading FPN	4	4
Dog off Lead in General Area	1	
Community Protection Penalty Notice	0	
Contraventions Of Street Trading Conditions FPN	0	
Unauthorised Marks on the Highway FPN	0	
34(5) Notice	25	
Community Protection Notice	4	
Highway Obstruction 7 Day Removal Notice	43	
Highway Obstruction 48 Hour Removal Notice	0	
Fly Posting FPN	2	2
Fly Posting FPN (without advisory)	1	1
Intention to Prosecute Letter	33	0
Invite to Interview	9	
LBH Waste Contract Details / Section 47 Notice	8	
NON-LBH Waste Contract Details / Section 47 Notice	4	
Section 33za FPN	21	21
Section 108 Notice	1	
Total	520	392

Quarter 4

Formal notice type	No. of formal notices	No. of FPN issued
Section 88 Urinating FPN	114	114
Section 88 Litter FPN	85	85
Highway Obstruction FPN	131	131
Section 33za FPN	9	9
34(6) FPN	6	6
Section 59 Dog Fouling FPN	0	
Section 38 Illegal Street Trading FPN	6	6
47ZA FPN for Section 47 Notice	1	1
Community Protection Penalty Notice	0	
Fly Posting FPN(without advisory)	1	1
Contraventions Of Street Trading Conditions FPN	0	
34(5) Notice	14	
Community Protection Notice	0	

Highway Obstruction 7 Day Removal Notice	7	
Intention To Prosecute Letter	17	
Invite to Interview	7	
LBH Waste Contract Details / Section 47 Notice	19	
NON-LBH Waste Contract Details / Section 47 Notice	7	
Section 108 Notice	1	
Total	425	353

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ANNUAL PERFORMANCE REPORT OF SHOP FRONTS LICENSING AND ENFORCEMENT

**CORPORATE COMMITTEE
MEETING DATES 2018/19**

10th October 2018

CLASSIFICATION:

Open

WARD(S) AFFECTED

All

GROUP DIRECTOR

Kim Wright, Neighbourhoods and Housing

1. INTRODUCTION AND PURPOSE

- 1.1 This report sets out the year to date performance of the shop fronts service, specifically focusing on the enforcement aspect of tables and chairs within the borough for the period 1st April-30th September 2018.
- 1.2 The Corporate Committee has requested a report on how the Council licences and enforces its shop fronts trading within Hackney.
- 1.3 A shop front licence is the specific licence businesses need to trade goods and services outside their shop, including everything from fruit and vegetables outside convenience stores, to tables and chairs outside local cafes, bars and restaurants.
- 1.4 The licensee may only sell goods that the shop is legally registered to sell (excluding alcohol, tobacco and tobacco products and refreshments).
- 1.5 Temporary and permanent shop front licence applications are available, however permanent shop front applications are only available for licenced streets. You have to hold a temporary licence for six months before you can apply for a permanent licence.
- 1.6 All applications to become a permanent licence holder are decided by an Officers Licencing Panel (OLP) which consists of the Markets and Street Trading Manager and the Head of Service currently, who meet on a monthly basis. The applicant must meet a set criteria for the OLP to sign off on a permanent licence.
- 1.7 This licensing and enforcement process is managed by the Markets and street trading service and the shop front licence is a service that helps stimulate the local economy, drive employment and attract footfall into the borough.
- 1.8 Shop front trading within Hackney is growing significantly on last year and in line with the growth we are seeing double digit growth across our markets and street trading operation with the shop fronts aspect of the service delivering an increase of 18% year on year growth in 2018.

1.9 The table below highlights the growth in Live Licences and new applications since April 2018:

	2018	2017	Overall +/-
Live			
Perm SHF	98	89	10%
Temp SHF	121	103	18%
New			
Perm SHF	17	13	31%
Temp SHF	69	54	28%
Overall YTD			
Perm SHF	115	102	13%
Temp SHF	190	157	21%
Overall	305	259	18%

*Tables & Chairs is the highest volume of shop front licences we issue across Hackney, accounting for over 60% of our total Shop front trading sites. This is also the main area for complaints and enforcement action required.

2. RECOMMENDATION(S)

The Corporate Committee is recommended to:

2.1 **Note the content of this report and level and the scope of work being carried out in relation to Shop Fronts Licensing and Enforcement.**

3. REASONS FOR DECISION

3.1 This report which is for noting, adheres to the requirement previously agreed by Corporate Committee to report annually on the Shop Fronts Licensing and Enforcement.

4. BACKGROUND

4.1 In April 2018 the service invested £12,500 in a new Licensing system for shop fronts. This system enables Inspectors to access shop front records on the go and they have been equipped with iPads to complete shop front application visits on site in real time.

4.2 Policy Context

LICENSING AND ENFORCEMENT

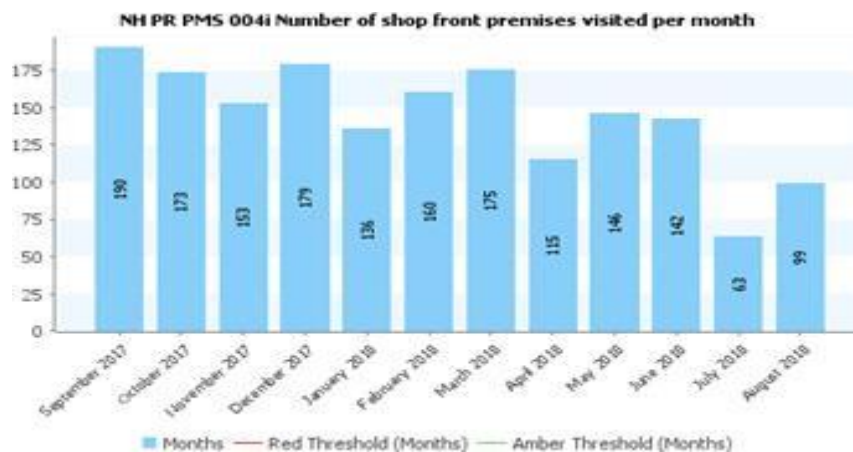
4.2.1 When an application for a shop front licence arrives it is allocated to an Inspector to complete and on site visit and assessment of the application. The officer will arrange with the proprietor to attend and complete the assessment.

The new system also includes the facility for the inspecting Officer to now add a drawing for the dimensions of the shop front directly to the account of the applicant, by April 2019 this dimension drawing will not only appear on the account but will also appear on the licence itself, making it significantly easier for any enforcement service to highlight a breach of licencing conditions, thus creating a consistent joined up approach to enforcement.

4.2.2 Once licensed all shop front licensees are required to display their licence within the window of their business, ensuring it is visible at all times. Failure to do so is a contravention of the terms and conditions of their licence. Initially we revisit a new licensee twice within the first month of trading and at least once a month thereafter unless we receive a complaint or intelligence to suggest non-compliance or breaches of the terms and conditions of their licence.

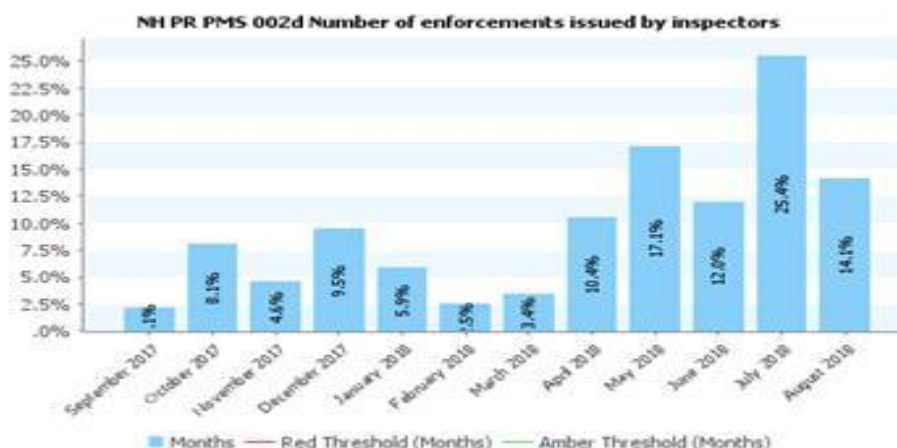
4.2.3 The Inspectors currently complete on average 175 visits per month. These visits will be for the below reasons:

- Complaints
- Debtors
- Licence Measurements
- Routine inspections
- Revisits
- Enforcement Action
- Illegal Trading



4.2.4 The current approach in dealing with any shop front licence breaches or complaints involves case management techniques and when identified proactive deployment against persistent offending premises or the persons responsible for causing the non-compliance. This has resulted in year on year increase enforcement visits and action taken on licence breaches or complaints by 20% in 2018.

4.2.5 The below graph highlights the increase of enforcement visits in 2018:



4.2.6 This increase was expected and is proportionate to the number of historic or legacy enforcement issues with non-complaint businesses that are trading without a licence within the Borough and these premises include:

- Nature , 219 Stoke Newington High Street, N16
- Clapton Pound Plus, 122 Upper Clapton Rd, E5
- Coldcom, 136 Upper Clapton Rd, E5
- Household Furniture , 132 Upper Clapton Rd
- By The Bridge Café, 283 Kingsland Rd, E5
- L and G Disposables, 2-3 Market Parade, Oldhill Street, N16

Five out of the six listed premises are in the process of being prosecuted for persistent trading without a valid Shop front licence.

4.2.7 The current approach taken as part of the implementation of a clear and robust disciplinary process as of April 1st 2018 which consists of:

- Verbal Warning
- Written Warning and FPN issued
- Final Written warning and FPN issued
- Revocation of licence and / or prosecution
- Right of Appeal via the Head of Service

4.2.8 The Shop Fronts Officers are specialists in this field and are separate from the Market Inspector resource pool. However they are currently reliant on crossover and co-working between teams within Transport for London (TFL) and the Enforcement Team to carry out enforcement action across the service. This is very resource heavy workloads and are reliant on the availability of enforcement officers to discharge these duties on our behalf, following the removal of the delegated powers in a restructure in 2013.

4.2.9 A resolution to this issue would be to provide the markets and shop fronts service officers with the delegated powers to enforce across our markets, shop fronts and street trading sites. This will further enhance the services

ability to effectively manage and deliver an end to end process and support our colleagues within the enforcement services without drawing on their resources.

RED ROUTES ENFORCEMENT

4.2.10 Red routes are managed and enforced by TFL who have a dedicated enforcement team for Shop Fronts. However they are currently significantly understaffed and we have seen a sharp decline in visits and enforcement action on the red routes in Hackney since the end of 2017.

4.2.11 In February 2018 Officers met with TFL to discuss these concerns and an agreement was reached for the markets service and TFL entered into a collaborative approach to enforcing on Shop Front violations across the borough of Hackney. This further enhanced our ability to police and enforce the compliance to the shop front terms and conditions and build a better working relationship with TFL.

4.2.12 Both teams now meet on a quarterly basis to review case load and collaborative enforcement actions and carry out regular joint enforcement operations.

4.2.13 TFL are currently resourced and engaged in large recruitment drive but at present only have two Officers and a manager dedicated to red route enforcement across Hackney and Tower Hamlets.

4.1.14 If we are to continue with the current enforcement across sites that sit within Hackney and TFL jurisdiction then the power to enforce this will need to be delegated to us from TFL and staffing transferred from TFL or capital provided to ensure the correct volume of officers are tasked to manage and enforce accordingly.

4.2 Equality Impact Assessment

N/A

4.3 Sustainability

4.3.1 Developments of the Shop Fronts Service will continue over the next 12 months and we will be introducing a number of changes that will see a change in how we operate and enforce our shop fronts service.

4.3.2 In November 2018 consultation will commence on our Shop Fronts fees and Charges where we will change the current fees and charges from a banding system to a pay by Square metre system. This will help support the local business and economy by reducing fees for smaller business and ensuring costs of shop front trading are more proportionate to the size of space that is being used to trade from.

4.3.3 At the same time as the consulting on fees and charges we will also be consulting on a specific shop front terms and conditions document. Currently shop fronts licensees are issued with the street trading terms and conditions and the tables and chairs terms and conditions and are licensed according to these terms and conditions.

4.3.4 The new Terms and Conditions will consist of:

- **Oversaturation Policy** as we currently do not legislate for oversaturation of specific commodities trading form shop fronts like we do in markets which is leading to overpopulation of the same commodities on the same highstreets and not offering value for money or variety for the public.
- **Mobile Kiosk Policy** as these kiosks are popping up across the borough and are becoming a hotspot for illegal activity and crime.
- **A Board Policy** restating the borough wide A board policy to be brought in line with TFLs zero tolerance approach of enforcement.
- **Tables and Chairs**, Update the current policy document to ensure it adds more clarity and in line with current legislation document as the last changes to this were made in 2008.

4.3.5 Shop Fronts specific job descriptions will be introduced for Shop Fronts Officers who currently work under market inspectors job descriptions with minimal aspects included for such a specialised role. An additional two FTE inclusive of a Team Leader to manage a total of three Officers within the shop fronts aspect of the markets service to deliver more effective management and enforcement across a significant growth area of the service.

4.4 Consultations

N/A

4.5 Risk Assessment

N/A

5. COMMENTS OF THE GROUP DIRECTOR OF FINANCE AND CORPORATE RESOURCES

There are no direct financial implications emanating from the recommendations in the report.

6. COMMENTS OF THE DIRECTOR OF LEGAL AND GOVERNANCE SERVICES

There are no immediate legal implications arising from this report.

APPENDICES

Appendix 1 is a copy of the current Street Trading Shop Front Trading and Tables and Chairs Regulations

BACKGROUND PAPERS

None

Report Author	Dan O'Sullivan, daniel.o'sullivan@hackney.gov.uk 020 8356 5981
Comments of the Group Director of Finance and Corporate Resources	Nurur Rahman, nurur.rahman@hackney.gov.uk 020 8356 2018
Comments of the Director of Legal and Governance Services	Pauline Neita, pauline.neita@hackney.gov.uk 020 8356 2775

STREET TRADING (SHOP FRONT TRADING AND TABLES AND CHAIRS) REGULATIONS

Prescribing Standard Conditions Applicable to Shop Front Trading and tables and chairs licences.

REGULATIONS MADE BY THE LONDON BOROUGH OF HACKNEY PURSUANT TO SECTION 27(3) OF THE LONDON LOCAL AUTHORITIES ACT 1990 (AS AMENDED) PRESCRIBING STANDARD CONDITIONS APPLICABLE TO SHOP FRONT TRADING AND TABLES AND CHAIRS LICENCES.

DEFINITIONS

- 1.1. In the regulations, unless the context otherwise requires, the following expressions shall have the following meanings
- a. "Advertisement" means any word, letter, model, sign, placard, board, notice, whether illuminated or not, in the nature, and employed wholly or partly for the purposes of advertisement, announcement or direction and includes any hoarding or similar structure or any balloon used, or adapted for use for the display of advertisements, and references to the display of advertisement shall be constructed accordingly.
 - b. "Child" means a child who has not reached school leaving age
 - c. "Goods" means any goods, wares or merchandise for sale at a stall
 - d. "Licensed Area" means an area in any street authorised as a place at which street trading may be engaged in by a street trader, and includes any temporary alternative place approved by the Council or a duly authorised officer of the Council. This will normally be an area adjoining the frontage of a commercial premises
 - e. "Licence Holder" means the person authorised to carry out shop front trading activity from a licensed area as permitted under the Act.
 - f. "Premises" means any commercial premises immediately behind the licensed area.
 - g. "Receptacle" includes a box, vessel, table or stand or thing which is used (whether or not constructed or adapted for such use) as a container for the display of any article or thing or equipment used in the provision of any such service.
 - h. "Refuse" - includes empty and discarded receptacles and any waste material.
 - I. "Shop Front Trading" shall have the meaning as "Street Trading" in Section 21 (1) of the London Local Authorities Act 1990.
 - J. Street Trading licence includes licences issued for shop front trading or the placing of tables and chairs outside premises whether issued under the London Local Authorities Act 1990 (as amended) or the Highways Act 1980
 - k. The Act" means the London Local Authorities Act 1990 as amended
 - l. "The Council" means the London Borough of Hackney. "
 - m. "Trader" – means a person in whose name a current licence is held authorising shop front trading.

2. GENERAL

- 2.1. The grant of a Shop front trading licence shall not be deemed to give any approval or consent which may be needed under any Bye-law, enactment, or Regulation other than under the Act(s).
- 2.2. These conditions may be dispensed with or modified by the Council in any individual case by means of a licence variation in accordance with the statutory requirements.
- 2.3. Where in these conditions there is reference to the consent or agreement of the Council such consent or agreement may be given on such terms and conditions and subject to such restrictions as may be specified;
- 2.4. If a trader wishes any of the terms of a licence to be varied or the Council's agreement under these rules, an application must be made in writing to the Council in accordance with the statutory requirements.
- 2.5. The, trade, business, activity shall comply and be conducted in a manner that conforms to other relevant legislation enforced by the Local Authority or other Agencies. These include but are not limited to General Health and Safety, Food Safety, Trading Standards and Fire Prevention and Highways Regulations.
- 2.6. The Council's Shop Front Trading Regulations set out the framework of the Street Scene in the London Borough of Hackney in so far as it relates to shop front trading areas as permitted under licence by the Council under the Act and other activities as may be permitted by Part VII of the Highways Act 1980. The regulations do not override the Act(s) or other statutory provisions.
- 2.7. Headings inserted in these regulations are for the purpose of convenience only and shall not in any way affect the meaning or construction thereof.
- 2.8. The licence does not authorise the Licence Holder to trade at anytime in contravention of any Order made under the Shops Act or any other statutory enactment

- 2.9. Traders shall ensure that they comply with all relevant legislation including:
- The Highways Act 1980, and,
 - London Local Authorities Act 1990,
- together with all associated legislation including orders and regulations. Failure to comply with such legislation may result in the revocation of the licence.

3. LICENCE

- 3.1. A copy of the Shop Front Trading licence must be displayed in the window of the premises outside which trading is permitted. The copy licence is to be displayed so as to be clearly visible and legible from the street.
- 3.2. A full copy of the licence, including explanatory notes and the conditions attached to the licence, shall be kept on the premises together with a copy of the licensees' public liability insurance.
- 3.3. A Shop Front Trading licence is not transferable.
- 3.4. Only the licence holder can engage in Shop Front Trading.
- 3.5. Only those commodities sold in shop premises can be displayed outside premises provided they are not excluded items as defined in these regulations.
- 3.6. Only those services provided within the premises can be provided in the licensed area where a licence permits tables and chairs to be placed on the street.

4. CLEARANCES

- 4.1. The size of any receptacle or display or the area taken up by any table(s) and Chair(s) shall not exceed the maximum dimensions stated in the licence.
- 4.2. A minimum of 1.2m clear of any obstruction shall be maintained for safe access to and egress from the premises to which the licence relates.
- 4.3. No receptacle, display or tables(s) or Chair(s) shall at any time be permitted to obstruct an entrance or exit to any adjacent premises or to any part of the building to which the licence applies that is under separate occupation.
- 4.4. Where table(s) and Chair(s) are permitted under a licence issued by the council the number of tables and chairs on the street shall not exceed the numbers prescribed in the Licence.
- 4.5. The sizes of table(s) and chair(s) shall not exceed those prescribed in the Licence.
- 4.6. The maximum dimensions of the area permitted to be used for table(s) and chair(s) shall be demarcated by the use of temporary barrier(s) of an approved kind and be of the size, type and kind specified in the licence. (Licensing Act 2003).
- 4.7. Where necessary, temporary barriers of an approved type must, when required by a special condition added to the licence, be in situ during licensed hours and the same must be removed outside of the hours permitted by the licence.

5. INSURANCE

- 5.1. The licensee shall indemnify the council against all actions, proceedings, claims demands and liability which may at any time be taken, made or incurred in consequence of the use or presence of the trader their stall receptacle, tables or chairs or goods and any other object or thing they bring with them or produce in the course of their business and for this purpose must take out at the licensees expense a policy of insurance approved by the council in the minimum sum of £5,000,000 (5 million pounds) (or such higher sum as may from time to time be notified to licence holders in writing) in respect of any one event and must produce to the council on request the current receipts for the premium payment and confirmation of the renewals of the policy. The council reserves the right to vary this amount from time to time and to notify traders of any increase required by letter. A copy of the certificate of insurance shall be handed to the council on request.
- 5.2. Satisfactory evidence of such insurance must be produced to the Council before a street trading licence will be granted or renewed. Failure to produce insurance certificates when requested by an authorised office of the Council will lead to temporary suspension from trading until the certificate is produced and the Council is satisfied with the level of cover.
- 5.3. Evidence of such insurance shall be produced by a licensed street trader on request by an authorised officer of the Council or a police officer. The Council reserves the right to contact insurance companies for the purposes of verifying the authenticity of the cover. Any trader who does not have full insurance for the period specified within their licence and for the value stated by the Council will be suspended from trading and will be asked to leave the market until suitable insurance is in place and the cover note or policy presented to the Council.
- 5.4. Traders must inform the Council in writing and provide an updated copy of the certificate of insurance where there are any changes to their insurance cover. The council may use the information provided to contact the licensees insurer to confirm the details of any policy held or purported to be held and the applicable level of cover and indemnity provided.
- 5.5. In all cases the policy must clearly state that it covers articles and activity on the street not just those taking place within the associated premises. The policy must be maintained throughout the full duration of the licence.
- 5.6. A certified copy of the certificate of insurance must be kept on the premises together with the licence at all times.
- 5.7. Evidence of such insurance shall be produced by a licence holder on demand to an authorised officer of the Council or a Police Officer.

6. DAYS AND TIMES

- 6.1. Trading shall only take place during the days and between the times specified in the Licence.
- 6.2. Any receptacle, display or table(s) and chair(s) shall only be placed on the street at or after the earliest time permitted by the licence and shall be removed from the street no later than the latest time permitted by the licence.

7. INSPECTION OF LICENCE

- 7.1. Licence holders shall produce their licence for inspection when requested to do so by an authorised officer of the Council or police officer.
- 7.2. Where the Council has issued a variation to a licence the varied licence must be displayed on the premises.
- 7.3. If alcoholic beverages are consumed in an area licensed for shop front trading, the licence holder or assistant shall produce on demand the appropriate premises licence given under the Licensing Act 2003 or its successor, to an authorised officer of the Council or police officer.

8. LICENSED AREA AND POSITION

- 8.1. The licence holder shall only use the licensed area prescribed in the granted licence (which may be marked or denoted on the ground by means determined by the Council) unless the circumstances under paragraph 8.4 arise.
- 8.2. The Licence Holder shall not cause or permit receptacles, goods, tables or chairs; to project, whether grounded or suspended beyond the licensed area or to be placed or to stand anywhere else in the street than within the said licensed area.
- 8.3. In respect of catering/licensed establishments, tables and chairs shall not be placed or used outside of the area defined in the licence. This area shall, when required by the council, be demarcated in the manner and by the means determined by the Council and specified in the licence. The licence holder or assistant shall inspect the licensed area periodically and if required by written notice from the council, at least once in every hour to ensure that tables and chairs are not positioned outside of the licensed area. A record shall be made of these inspections if written notice to do so has been given to the licensee by the council. The records made shall be produced to an authorised officer of the Council or police officer on request.
- 8.4. If the licensed area or an adjacent area is or is to be obstructed by road works or other hazards the licence holder shall cease shop front trading when requested to do so in writing by the council and shall not resume shop front trading without the written consent of the Council.

9. TABLES & CHAIRS

- 9.1. A licence issued by the council for shop front trading does not give permission to serve alcohol outside of the terms conditions restrictions of a premises licence issued under the licensing Act 2003 or successor legislation.
- 9.2. The furniture and barrier shall be suitably stored off the highway outside of the prescribed hours.
- 9.3. The council is to be expressly exempted for loss theft or damage of the tables and chairs.
- 9.4. The furniture shall be removed from the highway to allow the highway to be cleaned or maintained by the council (or its contractors), for urgent access for the emergency services or for statutory undertakers (e.g. gas, electricity, water, telecoms) to gain access to their equipment if so requested.
- 9.5. The tables are to be regularly cleared of glasses, plates, ashtrays, etc and the surrounding area to be swept clear of litter, food and smoking deposits etc. Receptacles must be provided at the tables to allow for the smoking debris to be extinguished. Waste deposited on the Highway must be removed at least once per hour at the Licensee's expense or at more frequent intervals as may be required by the Council under the Environmental Protection Act 1990. The licensee shall be liable pay the councils cost if it has to clean in default.
- 9.6. The licensee shall not affix or permit to be affixed any thing to the highway
- 9.7. Temporary barriers of the type and construction approved by the council be placed around the licensed area at the start of the licensed trading day and remain in place throughout the trading day until they are removed to a place of storage off the highway at the end of he licensed trading day.
- 9.8. The furniture permitted under the licence shall not be used in such a way as to cause unreasonable nuisance or disturbance to adjoining property or other users of the highway.
- 9.9. The furniture shall be kept within the designated area, marked-out by a physical feature, and a clear access way of no less than 1.2 metres is kept clear to allow safe entry into the area
- 9.10. No advertising boards may be placed on the highway (this includes A-boards, swing boards and rotating advertisements)
- 9.11. No awning, parasol or other cover shall be placed over the licensed area without consents or permissions being obtained from the council
- 9.12. Any table, chair or barrier used in connection with this licence shall be kept clean and in good repair and shall be repaired, repainted or replaced within 30 days of a written request from the council.

10. PERMITTED GOODS AND SERVICES

- 10.1. Only those goods or services specified on the licence may be displayed, used, provided or offered for sale. Only goods of like kind to those on sale within the premises shall be displayed outside of it and those goods for sale shall be the lawful property of the licensee. In exceptional circumstances where with the written consent of an adjoining premise owner a shop front trading licence extends to the frontage of an adjoining premise this condition may be dispensed with for the area in front of that premise only.
- 10.2. No part of any shop front display or licensed area shall be sub-let or loaned to any other person or body.
- 10.3. In respect of displays outside shop premises, cash registers, scales and other measuring devices shall be contained within the shop and not brought onto the street or licensed area.
- 10.4. No advertisement shall be displayed within the licensed area which relates to any goods or services other than those offered for sale or provided within the licensed area

11. DEALING WITH THE PUBLIC

- 11.1 The Licence holder and their assistant(s) shall ensure that the public are treated fairly and with courtesy.
- 11.2 Any breach of these regulations by an assistant shall be deemed to be a breach of these regulations by the licence holder.
- 11.3 Admission to or service provided within a licensed area shall not be refused to any person on the grounds of race, homophobia, transphobia, religion or faith, sexuality, disability, asylum or refugee status.
- 11.4 The licence holder shall not use or permit any activity, omissions or practice in the conduct of the business which will cause harassment to any person.
- 11.5 The serving of customers shall be confined to the licensed area only.
- 11.6 No customer shall be charged for admission to the licensed area
- 11.7 A Licence Holder or assistant offering a service shall make clear the nature and cost of that service by way of a notice within the licensed area.
- 11.8 All categories of goods shall be clearly marked with a price, and where appropriate an indication of the unit quantity in which they are being offered for supply.
- 11.9 The customer should be able to conveniently view the goods being weighed, measured etc within the premises before they confirm their intention to purchase.
- 11.10 A Licence Holder or assistant shall not use a megaphone or amplification equipment or a loud voice to shout out the price of goods in order to attract customers.
- 11.11 Radios or other audio equipment shall not be used in or around the licensed site other than by agreement with the council and as specified in the licence.

12. RECEPTACLES

- 12.1 Only those receptacles and containers which are suitable and fit for purpose and approved by the Council shall be used by the licence holder and assistants for shop front trading or ancillary to shop front trading. Displays shall not be formed by the use of unsuitable items such as milk crates and the like and other receptacles the Council has notified the licence holder in writing the council deems inappropriate.
- 2 Goods must not be placed directly on the street unless allowed in the licence.
- 12.3 Where the Council has licensed the display of bulky furniture or the like outside shop premises on the street and has granted an exemption under paragraph 12.2, a suitable receptacle or device to remove those goods from the street shall be available and maintained within the shop.
- 12.4 Displays shall be constructed and maintained so as not to become unbalanced or otherwise unstable.
- 12.5 Displays shall be free from protruding nails or other hazards likely to cause injury or damage to a person or their property.
- 12.6 Displays shall be constructed so as to be immediately removable.
- 12.7 Nothing shall be placed or stored underneath a display.
- 12.8 No display receptacle, table or chair shall be used if it is likely to damage the street.
- 12.9 Nothing shall be secured or temporarily or permanently affixed to either the street or street furniture in the vicinity of the licensed area.
- 12.10 Licensed areas for the display of goods outside shop premises shall not incorporate any form of seating facility, nor may any seating be used or provided by the licence holder or assistant immediately outside the licensed area or elsewhere in the street other than on a private forecourt associated with the business.
- 12.11 No permanent structure and/ or unauthorized marking of any kind will be permitted on the public highway. Unauthorized structures or unauthorized marking(s) on the public highway may be removed by the council and the cost of so doing charged to the licensee
- 12.12 The display or stand must be of sufficient contrast to its surrounding area and so constructed to prevent hazard to visually impaired footway users. (The colours and type will be agreed before grant of a licence)
- 12.13 The display/stand must be of a construction that will cause minimal damage if there is a collision. There must be no sharp edges or protruding parts.
- 12.14 The display/stand must be well maintained and kept free from litter. Any table, Chair or barrier, receptacle or display stand used in connection with this licence shall be kept clean and in good repair and shall be repaired, repainted or replaced within 30 days of a written request from the council.

12.14 The display/stand must be removed from the street when not in licensed use

13. ROOFING OF SHOP FRONTS

13.1 No parasol, awning or canopy or other cover shall be used to cover any Shop front trading display and/or tables and chairs without separate consent being sought under the Highways Act or Planning Acts having been obtained.

14. REMOVAL OF DISPLAYS AND STANDS

14.1 Goods, stands, displays, receptacles, tables and chairs etc shall be removed from the public highway to the place of storage, as notified to the council at the time of application for the licence, or such other alternative place subsequently agreed by the Council in writing by the time specified in the licence.

14.2 A Licence Holder electing to cease trading before the time denoted in the Licence shall remove the stall, goods, tables and chairs at that time to the place of storage.

14.3 A Licence holder in respect of shop premises shall remove the display, stand and goods on the cessation of trading and before closing the shop premises.

14.4 Licence holders and their assistants shall temporarily remove displays, goods, tables and chairs and anything else under their control as directed by the Council or a Police for so long as may be necessary in the event of:

14.5 an emergency (including any public demonstration, congregation or disorder in the area);

14.6 In the exercise of the Council's powers and duties which include the maintenance of the licensed area, to enable its re-marking and to check whether the stall is capable of being removed in accordance with these Regulations; and,

14.7 To enable statutory undertakings to maintain their services.

15. REFUSE

15.1 Licence Holders and their Assistants, in respect of shop front trading and catering establishments shall ensure that any refuse arising from the external activities is properly stored and disposed of.

15.2 No refuse or litter shall be allowed to accumulate or be placed in the street or street litter bins.

15.3 No vehicle shall be used for the storage of such refuse.

15.4 The Licence Holder shall produce on demand to an authorised officer, proof of a contract for the disposal of trade refuse.

15.5 The licensed area shall not be used for the storage of waste or storage of receptacles for waste other than as may be permitted in writing and specified on the licence.

15.6 Where food and/or drink is served or consumed, the licence holder when meeting the requirement in Regulation 15.1 shall also remove from tables any used and discarded articles or vessels used by or for the service of customers

15.7 The Licence Holder must ensure that litter and waste generated by the business is removed only to an authorised place of disposal.

15.8 The shop front area is to be kept clean and maintained in a clean condition throughout the day.

16. NAMES OF ASSISTANTS AND RESTRICTION OF EMPLOYMENT

16.1 Only the licence holder can engage in shop front trading.

16.2 The Licence Holder shall give any other information regarding employees acting assistants as may reasonably be required by the Council.

16.3 A Licence Holder shall not have as an assistant any child in the business of shop front trading including the putting out or stocking of receptacles, clearance of refuse, attending to a licenced area or any related activity.

16.4 The failure of an employee or any other person acting as an assistant to the licensee to comply with these regulations or any condition of the licence held by the employer shall be deemed to be a failure by the licence holder.

17. ADMINISTRATION

17.1 Licence holders and assistants shall give reasonable assistance to Council Officers and their contractors in carrying out their duties.

17.2 A permanent street trading (or shop front trading licence) shall cease to have effect (other than being revoked or having expired or on the death of the trader) only upon it being surrendered by the licence holder in exchange for a written receipt at the Council's offices or on suspension by the council on reasonable grounds which the council shall have given in writing or as may be permitted by the Act.

17.3 On submitting an application for a Licence, the applicant must provide the following:

17.3.1 Three passport sized photographs of the Licence Holder with the Licence Holder's signature on the back.

17.3.2 Two proofs of Licence Holder's home address and business premises address which is no older than 3 months

17.3.3 Documentary proof of the Licence Holder's National Insurance Number

17.3.4 Documentary proof of a commercial trade waste agreement.

17.3.5 The requisite application fee

17.3.6 Proof of Planning consent where necessary

17.3.7 Proof of ownership or other right to occupy the premises to which the shop front trading application relates

17.3.8 Such proof of having carried out consultation as may be required by the council

17.3.9 The application fee notified to the applicant in writing

- 17.4 A Licence Holder making an application for the renewal of a licence shall bring or send the completed application form and prescribed renewal fee to the Council offices by appointment.
- 17.5 Licence Holders shall notify the Council in writing of any change of their title, name of the business, trading name or home address as soon as it occurs and in any event within seven days the change occurring.
- 17.6 The sending of letters and Notices from the Council by the General Postal Service to the last notified address by the Licence Holder shall be taken by the Council as proper and good service of documents.
- 17.7 All notifications (excluding payments of weekly/monthly charges) given by the licence holder to the Council shall be to the Council's address as it appears on the licence or that subsequently amended and notified in writing to the Licence Holder.
- 17.8 Any allegations made by a shop front trader against traders or officers of the Council will be fully investigated, however should the allegations be found to be untrue, malicious or vexatious then this will be grounds for the shop front trading to be suspended or revoked.

- 17.9 Any offer of bribes or inducement will also be deemed a failure under the terms of the Act and grounds for the licence to be suspended or withdrawn absolutely.
- 17.10 Licences are not transferable.

18. PAYMENT OF CHARGES

- 18.1 A Licence Holder shall pay all fees and charges, in addition to application fees due to the Council upon dates and intervals agreed by the Council upon the issue or renewal of the Licence.

19. ENFORCEMENT

- 19.1 The Council has the responsibility to investigate and enforce against traders in breach of any of the standard terms and conditions or special conditions annexed to any licence. A license holder shall co-operate at all times with any authorised officer of the Council or Police officer in the exercise of this duty.
- 19.2 Failure to pay Licence fees and charges for 4 weeks shall be grounds for the suspension or revocation of the licence.

AS WITNESS THE HANDS OF THE PARTIES HERETO:

.....

SIGNED by or on behalf of the Council

.....

In the presence of:

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SIGNED by or on behalf of the Licensee

.....

In the presence of:

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Agenda Item 7

Draft Work Programme for the Corporate Committee 2018/19

10 July 2018				
	TITLE	DESCRIPTION	DECISION	GROUP DIRECTOR
1	HR Policy Review: Bereavement Policy	Bereavement Policy	To Approve	Tim Shields (Dan Paul)
2	Business Regulation Service Delivery Plans 2018/19 (Formerly listed as Draft Service Delivery Plan of Enforcement, Trading Standards and Health and Safety 2018/19)	Draft Service Delivery Plan	To note	Kim Wright (Gerry McCarthy)
3	Enforcement Service Delivery Plan 2018/19 (Formerly listed as Draft Service Delivery Plan of Food Safety 2018/19)	Draft Service Delivery Plan	To note	Kim Wright (Gerry McCarthy)

10 October 2018				
1	HR Policy Review (if required)		To Approve	Tim Shields (Dan Paul)
2	London Borough of Hackney - Statement of Employing Authority Discretion Policies 2018	Discretion Policies	To Approve	Julie Stacey
3	Highway Obstruction and Enforcement of street furniture	Annual report on the enforcement action in relation to tables and chairs on the public highway	For Information And Comment	Kevin Keady /Gerry McCarthy
4	Environmental Enforcement - Annual Assessment Of The Local Environmental Quality Enforcement Strategy And Annual Performance Report 2017/18	The report sets out the annual performance report across the environmental enforcement remit for the 2017/18 financial year.	For Information And Comment	Kim Wright (Gerry McCarthy)

8 January 2019				
1	Pay Policy Statement 2019/20	The Localism Act 2011 requires the Council to publish an annual pay statement for Chief Officer Pay.	To Approve	Tim Shields (Dan Paul)
2	Statutory Review of Polling Districts and Polling Places.	This report is reviewing Polling Districts and Polling Places.	To Approve	Tim Shields (Dan Paul)
3	Regulatory Services Service Plan Update	This report provides an update on the performance of the Food Safety (The Food Law	For Information And Comment	Kim Wright (Gerry McCarthy)

		Enforcement Service Plan is a statutory plan) and Trading Standards Services against the Plan.		
4	Planning - Authority Monitoring Report 2017/18	The AMR provides monitoring information on spatial planning-related activity for the financial year 2017/18 to inform and monitor policy development and performance.	To Approve	Kim Wright (Ian Rae/ Natalie Broughton)

9 April 2019

1	HR Policy Review (if required)		To Approve	Tim Shields (Dan Paul)
2	Annual Performance Report Of The Noise Service	The annual report sets out the development of the Council's response to noise nuisance.	For Information And Comment	Kim Wright (Gerry McCarthy)
3	Annual Report of the Public Spaces Protection Order (PSPO)	Annual report on the Public Spaces Protection Order.	For Information And Comment	Kim Wright (Gerry McCarthy)