

Title of Report	Enforcement and Environmental Protection Service Delivery Plans 2022/23
For Consideration By	Corporate Committee
Meeting Date	28th June 2022
Classification	Open
<u>Ward(s) Affected</u>	All
<u>Strategic Director</u>	Aled Richards

1. **Introduction**

- 1.1. The Enforcement Service Delivery Plan sets out the objectives of the Service and demonstrates how they are linked to the Mayor's Priorities and Hackney's Sustainable Community Strategy.
- 1.2. It also sets out the key areas relating to the service of environmental enforcement, addressing anti-social behaviour including the Night Time Economy and statutory nuisance, the management arrangements and resources that have been allocated for this work by the local authority and the key targets.
- 1.3. Enforcement in Hackney continues to receive a holistic approach, including environmental enforcement which looks at issues such as Highway obstructions (including A-Boards), littering and fly tipping together, so that the most appropriate action in accordance with relevant legislation can be taken, based upon the circumstances of the particular case. The service area brings together a wide range of enforcement services providing greater resilience and ability for specialists to collaborate and cases to be prioritised.
- 1.4. The Environmental Protection Service Delivery Plan sets out the objectives of the Team and demonstrates how they are linked to the Mayor's Priorities and Hackney's Community Strategy.
- 1.5. The Plan sets out the key areas relating to Environmental Protection; addressing statutory nuisance including commercial noise and odours, artificial light nuisance and construction noise, the management arrangements and resources that have been allocated for this work including key targets and performance indicators.

1.6. In fulfilling its duties both Teams provide support to individuals, communities and businesses in Hackney.

2. **Recommendations**

2.1. **There are no recommendations set out in this report, it is for information purposes. The Corporate Committee can consider both the level and scope of work being carried out to meet the requirements of both the Enforcement and Environmental Protection Service Plans.**

3. **Reason(s) for decision**

3.1. It was previously agreed that the Service Delivery Plans are presented to the Corporate Committee to ensure local transparency and accountability in relation to Enforcement and Environmental Protection.

3.2. The Plans ensure that there is a programme of enforcement activity undertaken to address issues relating to environmental enforcement, anti-social behaviour (ASB), statutory nuisance, being a responsible authority with regard to Licensing applications and preventing issues such as noise and other nuisance associated with proposed developments by providing comments to Planning on the implications on such proposals..

4. **Background**

Policy Context

4.1. The Plans have been prepared in accordance with Council guidelines and set out how the Council is going to discharge its responsibilities in relation to Enforcement and Environmental Protection.

4.2. The performance of each of the Teams is measured against its fulfilment of the Plans.

4.3. Both the Enforcement Service and Environmental Protection were established in May 2017 as part of the Community Safety, Enforcement and Business Regulation Service and the plans detail the scope and activities of both services and provide detail on the expected performance of the service for 2022/23.

4.4. The Enforcement Service is split into two Teams, North and South, each headed by a Manager. Each Team comprises six ward based Principal Officers (non-uniformed), two Technical Support Investigation Officers and fourteen uniformed Enforcement Officers together with two apprentices, one in each Team.

4.5. The ward based Principal Officer service deals with a variety of complex cases and casework, including eliminating through enforcement activity ingrained ASB, repeated larger scale fly tipping activity and complex domestic noise complaints. Most of this type of complex activity will be

delivered in close co-operation with a variety of other services namely the Police, Community Safety, Housing, Environmental Protection Service and Adult and Child Safeguarding. Principal Officers are Ward based and act as single points of contact for their Ward areas.

- 4.6. The uniformed service has no formal limits other than those imposed by legislation and by its own resources. The main objective of the service is to provide a highly visible protective and proactive service that can be deployed easily and quickly according to need. Naturally this is constrained by law on employment and particularly on health and safety. For example, it cannot respond directly to those activities concerning crime more usually dealt with by the Police e.g. stabbings, drug dealing etc, although it may have a supportive role.
- 4.7. The Service is also expected to support some of its provision through its own enforcement activities in preventing and tackling ASB, Highways obstructions (including A-Boards), waste and other nuisance type issues that occur on the Borough's public spaces and streets. This is usually determined as a tool for behaviour change, where they can have considerable impact on the casual disposal of litter on the Boroughs streets.
- 4.8. The Enforcement Officer interactions will usually be for one-off offences and are dealt with at the time of the offence. More complex and ingrained activity is passed to the relevant ward based Principal Officer. The Enforcement Officers are also tasked on a daily and weekly basis to prevent and investigate instances of nuisance and ASB on the Borough's streets and Estates. One of the key indicators on this is the administration of Fixed Penalty Notices and other types of enforcement tools such as formal cautions and prosecutions.

Enforcement Service scope and activities

Functions	Activities & Comments
Proactive area coordination and forward deployment of resources through the coordinated management arrangements with Business Regulation	This is achieved through having a shared common management structure where common objectives and working can ensure coordinated responses and planning.
Intelligence material sourced from the Community Safety Team's Intelligence Hub used directly to inform tasking and problem solving with partners across the Council and Police.	Regular weekly tasking and action centred management meetings ensure this is maintained and delivered.
Fulfilling specific requirements as set out in the Service Level Agreement (SLA) between the service and the Housing	The SLA is vital to the functionality of the service and regular contact with the Housing ASB team ensures that the work is

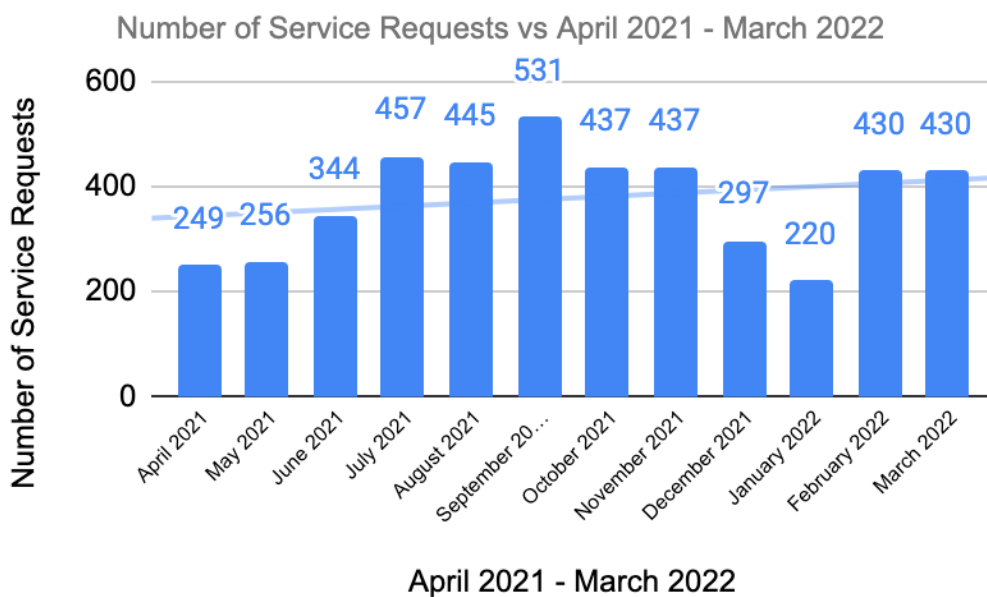
<p>Department, primarily focused in dealing with unauthorised waste disposal, ASB, and ingrained noise problems other smaller matters and issues such as the removal of pirate radio aerials and paraphernalia whilst providing a uniformed patrolling deterrent.</p>	<p>relevant and is adjusted to need. It works through tasking and other linkages to ensure complete functionality. The Enforcement service leads on the Anti-Social Behaviour Panels which primarily but not exclusively deals with Hackney Housing Tenants.</p>
<p>Preventing and managing complex and local cases through enforcement case management (for all areas of non-compliance but especially noise and ASB).</p>	<p>This is ongoing work that concerns complaint resident derived cases, for example include dog barking to extreme cases of continual noise pollution from one individual playing amplified music at all times. These can become complex matters which although local in nature can cause considerable harm and reputational damage to the council if not dealt with adequately.</p>
<p>Preventative joint operations with the Police and Partners; some ad hoc 'on the night' and others with considerable forward planning involving cross border and working through tasking processes. This can include planned activity in controlling the noise and ASB issues in localised cultural events or on street dealing of nitrogen dioxide.</p>	<p>Joint operations have targeted issues such as kerb crawling or weapon sweeps planned through tasking or eliminating noise pollution through entry and seizure of noise emitting equipment arranged on the night.</p>
<p>The deployment of uniformed generic based enforcement and patrols to deal with and prevent low level ASB casework and noise abatement issues</p>	<p>This is regular reactive activity mainly late at night to deter and deal with noise nuisance by dealing with issues on the out of hours noise service and other ASB problems experienced in the evening particularly in the Dalston and Shoreditch areas.</p>
<p>Dealing with and preventing environmental ASB and waste including fly tipping, street urination and littering through intelligence based tasking and formalised patrolling. This will include issuing FPN and prosecution offenders and publishing this.</p>	<p>This is a regular service activity and results in increased levels of on-the-spot enforcement activity. It is an essential tool in achieving compliance in ensuring a visible deterrent especially in the fly tipping of waste by business outside authorised times and limits</p>

Night and weekend enforcement including basic Premises Licensing enforcement in conjunction with police, Trading Standards and Licensing	Joint tasked activity arising from intelligence of business noncompliance such as trading beyond authorised hours and selling age-controlled products (e.g. Alcohol) to juveniles.
Highways Licensing Enforcement including unlicensed skips and scaffolding undertaking patrols and intelligence received from Street Scene	The Uniformed Service will patrol areas of the Borough where there are suspected highway obstructions such as unlicensed skips. Street Scene will also provide intelligence relating to highway obstructions.
Uniformed patrolling service dealing with other non-compliant issues such as unauthorised street trading, unlicensed external tables and chairs and A boards.	These non-compliances are usually generated by businesses and are proactive in nature, operations can be set up relatively quickly.

- 4.9. Given the above, both elements of the service work through a close proactive and reactive intelligence based tasking processes, which are continually adjusted to ensure that resources are directed and managed to the best most efficient effect. Consequently they work very closely with the Intelligence Hub and the other statutory services in and throughout the Council.
- 4.10. Both services provide the staffing for the out-of-hours noise service, which is challenging as the demand is unpredictable and at times of peak fluctuation can result in up to twenty service requests in an hour. In each reported case research needs to be done, prior to responding to establish past history which could impact the risk to Officers attending reports of noise.
- 4.11. Equally the time taken to attend a service request and deal with it can range enormously from fifteen minutes to attend an address, provide advice and get a co-operative response that resolves the original complaint, to half a shift spent dealing with for a complex rave in a remote area such as Hackney Marshes or a derelict industrial building, often in liaison with Police. In the case of the latter, there would be no further Officer availability to deploy to other calls received on that shift.
- 4.12. In relation to commercial noise, the initial triage process when new service requests were received, in addition to physically logging a case, requires research to ensure past history and action is collated so that a full history is available.
- 4.13. Each service request requires this research process, which is more resource intensive than a basic call handling role, but essential to prevent new cases being logged and not dealt with in their true historical and risk based context.

However with the use of the online reporting form and the ongoing planned automation changes, this triage process is less resource intensive.

- 4.14. The activities of the Environmental Protection Officers, especially in respect of commercial licensed premises are routinely directed through the weekly tasking process where inspections and engagement are co-ordinated. Officers work closely with Licensing and are routinely involved in all Licensing consultations and applications. Officers also lead on taking licensing reviews through Licensing Committee and the Courts where appropriate.
- 4.15. In summary, this approach balances a need to have a service that can respond to service requests for Officer attendance at incidents, with a proactive approach that appoints Officers to investigate often complex cases that have high risk or vulnerability attached and/or involve persistent perpetrators or premises.
- 4.16. In July 2021, the government fully removed the restrictions on the hospitality industry and premises were allowed to return back to similar service levels prior to the lockdown. As a result, the Environmental Protection Service experienced a surge in the number of new service requests. Whilst this was welcoming for the service in terms of returning back to normal work, it also caused a delay to addressing the complaints due to the backlog of complaints awaiting for inspection that came through during the lockdown. The two graphs below show a monthly breakdown of service requests in relation to commercial premises from April 2021 to the end of March 2022. December and January have always historically been low in service demand.



Equality impact assessment

- 4.17. In undertaking any enforcement, all Officers need to comply with the requirements of the Public Sector Equality Duty, which was created by the Equality Act 2010.

The equality duty was developed in order to harmonise the equality duties and to extend it across the protected characteristics. It consists of a general equality duty, supported by specific duties which are imposed by secondary legislation. In summary, those subject to the equality duty must, in the exercise of their functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

- 4.18. A service-wide Enforcement Policy was approved by Cabinet on 21st January 2019.

- 4.19. Officers recognise that whilst businesses want to maximise margins, they also seek in most instances to comply with legal requirements, without incurring excessive expenditure and administrative burdens. In considering enforcement action, Officers will assist businesses to meet their legal obligations in the first instance, whilst taking firm action that may include prosecution or other formal action, where appropriate, against those who knowingly disregard the law or act irresponsibly.

- 4.20. Officers are committed to the principles of good enforcement and take account of the principles of the Enforcement Concordat, the Regulator's Code, and have regard to Crown Prosecution Service guidelines and Equality Impact issues.

Sustainability and climate change

- 4.21. N/A

Consultations

- 4.22. N/A .

Risk assessment

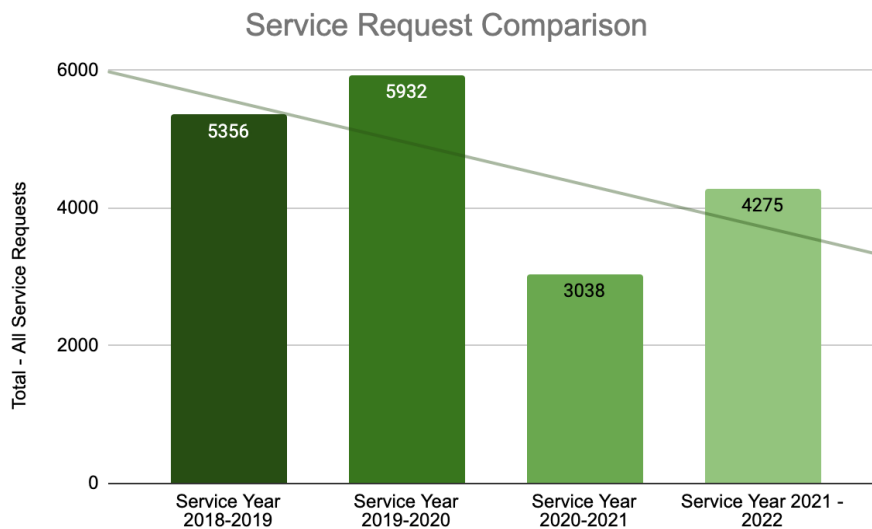
- 4.23. The Enforcement and Environmental Protection Service Delivery Plans sets out how both Teams take actions that contribute to achieving corporate priorities and desired outcomes. Without these being agreed, (that being clearly stated priorities and this plan), the service will be at risk of not effectively focussing its work and efficiently directing limited resources.

- 4.24. During the lockdown as a result of the pandemic, Environmental Protection Officers were prohibited from entering residential properties to carry out an internal assessment as part of their nuisance investigation. The requirement for an internal assessment is set in legislation in order to serve an abatement notice. Therefore in order to proceed onto legal enforcement action and to witness a breach of a notice, officers are required to assess from within a residential property. As a result of the lockdown, internal visits were temporarily put on hold to prevent the spread of Covid-19. This prohibition was only lifted in May 2022 and as a consequence, there is a large backlog of assessments which are awaiting an internal assessment.
- 4.25. In order to further existing investigations (backlog) with visits and to completion, any new report received by the Team will have to experience a delay in the investigation due to Officers working on their backlog and ensure they respond to all consultation applications (Planning, Licensing & Section 61 Applications). For new reports to be addressed within the service target period, it was proposed that the initial stage of the investigation would be investigated by a First Response Officer (FRO). The role of the FRO is to filter and triage all new complaints received by the service. An agency staff was recruited in November 2021 to cover this role so that the ward Officers can continue to investigate complaints received in the pandemic period and to also respond to consultation applications.
- 4.26. The role of the FRO is to address all new and incoming service requests received by the Environmental Protection Service. The officer will instigate the initial complaint, send out acknowledgement letters and emails, carry out site visits and refer any complaints onto the ward officer should a statutory nuisance be witnessed or require further complex investigation. This process will save the time ward officers would have spent on new complaints and thus can work on all their backlog of service requests.
- 4.27. The data below shows a monthly breakdown of the service requests carried out by the First Response Officer since the role was created in November 2021.

	Nov 2021	Dec 2021	Jan 2022	Feb 2022	March 2022	April 2022	May 2022
Total Complaints	101	84	91	99	78	89	107
Total Warnings	22	17	23	25	21	17	21
Total Referrals	14	11	9	12	9	10	7
Total Visits	37	42	39	52	41	48	56
Total Cases Closed	33	23	39	36	28	27	31

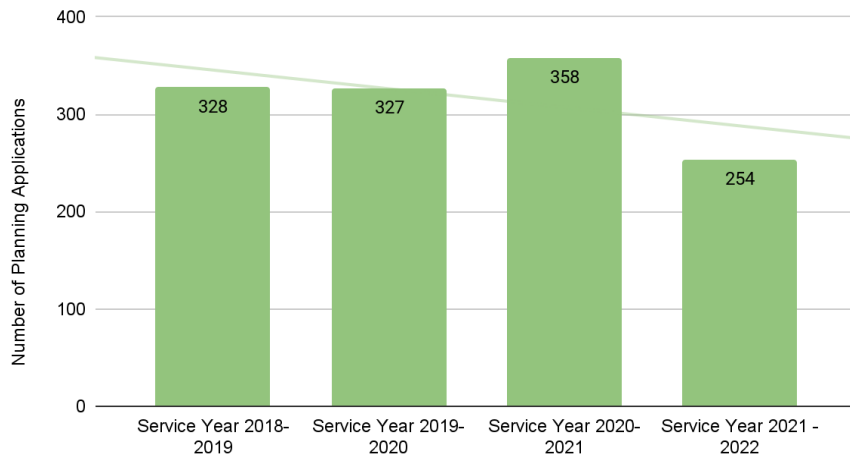
4.28. From November 2021 to May 2022, the FRO has received on average 93 Service Requests. In the table above, total referrals are reports where the FRO has witnessed nuisance amounting to a statutory nuisance. The investigation is then referred to the original ward Officer to move forward with the next stage of enforcement action. On average, the FRO is carrying out 45 site visits a month and from those visits, an average of 10 investigations are referred onto the ward Officer for further enforcement action. From the number of reports received each month, on average, 31 reports are closed by the FRO. The introduction of the FRO not only has reduced the number of new Service Requests being taken on by the ward Officer, it has given the ward officers the time and tools to address ongoing and complex complaints, Planning, Licensing and Section 61 applications.

4.29. The graph below presents a comparison of service requests to previous years highlighting the extent of the reduction of service requests received during the pandemic.

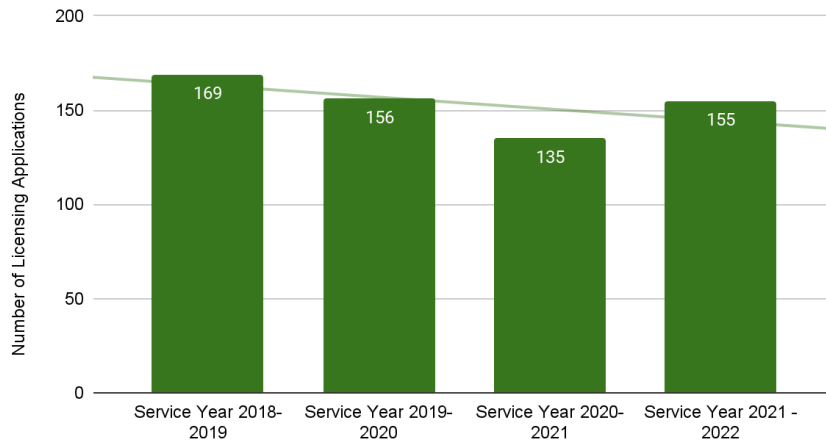


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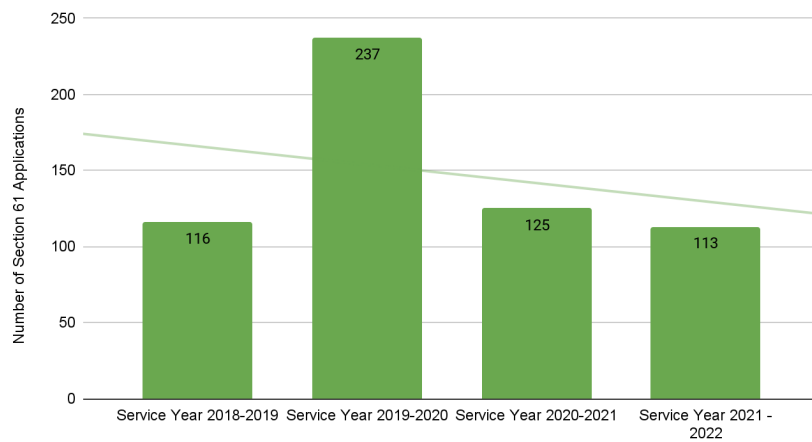
Planning Applications - Service Year Comparison



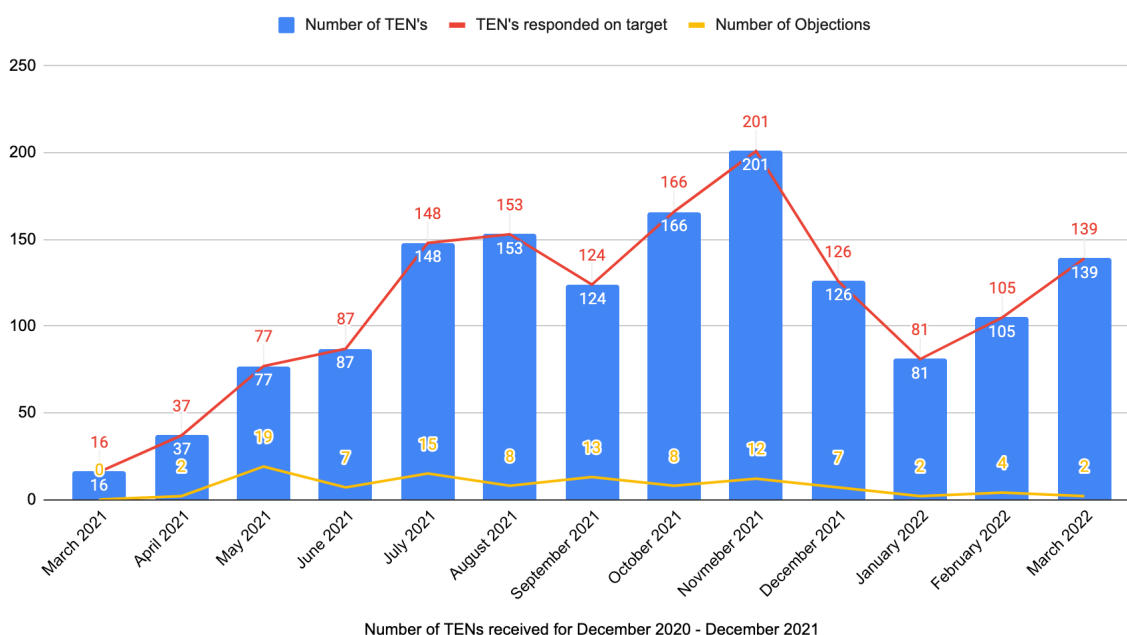
Licensing Applications - Service Year Comparison



Section 61 Applications - Service Year Comparison



Number of TEN's, TEN's responded on target and Number of Objections - March 2022



- 4.31. The above graph provides a more detailed breakdown of Temporary Event Notices (TEN's) received by the service. The number of applications started to increase slowly from April 2021 and have continued this trend. Please note that Historically December and January have the lowest number of TEN's due to applications being submitted in the build up to the festive season.
- 4.32. As part of a service improvement, a new procedure was introduced to the Temporary Event Notice(TEN) process which included more stringent checks on documentation and the requirement for Noise, Dispersal, Covid and Smoking Policies to be submitted with the application. This allowed the service to be in a better position to approve TEN's as there was concern that the return to TEN' would cause much disruption to residents living areas with significant night time economy activity who had experienced a lengthy quiet period.
- 4.33. The Environmental Protection Team (EPT) also supported the Covid Response Team (CRT) by temporarily providing three officers to the team. Officers who are registered with the Environmental Health Registration Board (EHRB) can be legally authorised under the new Covid legislation to instigate enforcement action. Please note that the EPT did not experience a loss of function as a result of this support to the CRT primarily due to the reduction in service demand in the EPT. It should also be noted that this support is only possible due to the EHORB status of officers in the team which is a very limited resource in the Council. The service returned to full Officer numbers in April 2022 when the secondment ended and the Officers II returned back

to the service though only two Officers returned as external funding for the other Officer ceased on 31st March 2022.

5. **Comments of the Group Director of Finance and Corporate Resources**

5.1. This report requests that the Corporate Committee note work being carried out to meet the requirements of both the Enforcement and Environmental Protection Service Plans. There are no financial implications arising from this report.

6. **Comments of the Director of Legal, Democratic and Electoral Services**

6.1. The Enforcement and Environmental Protection Service Delivery Plans set out the organisational structure of both services, their aims and objectives and the scope of both services.

6.2. The Service Delivery Plans make reference to the Council's Enforcement Policy, which was approved on the 21st January 2019.

6.3. When considering any enforcement action in line with the Enforcement and Environmental Protection Service Delivery Plans, Offices should ensure that they act in accordance with the Council's Enforcement Policy, together with any other relevant legislation and the Regulators Code, Crown Prosecution Service Guideline and Equality Act 2010.

6.4. There are no legal implications arising from this report.

Appendices

Appendix 1 - Enforcement Service Delivery Plan

Appendix 2 - Environmental Protection Service Delivery Plan

Background documents

None

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