

**Report for: Overview and Scrutiny  
Committee and Scrutiny  
Sub-Committees**

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<b>Date of Meeting:</b>	14 <sup>th</sup> December 2021
<b>Subject:</b>	<b>Council's approach to Enforcement: Licensing and Enforcement Update</b>
<b>Responsible Officer:</b>	Dipti Patel, Corporate Director of Community
<b>Scrutiny Lead Member area:</b>	Councillor Peymana Assad – Portfolio Holder for Community Cohesion, Crime and Enforcement
<b>Exempt:</b>	No
<b>Wards affected:</b>	All
<b>Enclosures:</b>	None

## **Section 1 – Summary and Recommendations**

This report sets out the approach taken with enforcement by the Licensing and Enforcement team. It outlines the scope of the service, current issues and how the team is working to continually improve the service to local residents and businesses.

### **Recommendations:**

1. **That the Committee review and note the work being undertaken by the Licensing and Enforcement team as set out in this report.**

## **Section 2 – Report**

### **Introduction**

1. The Licensing and Enforcement team is part of the Communities directorate. The team comprises of residential and commercial licensing, environmental protection, food and health and safety.
2. The team oversee the delivery of Kingdom LA Services contract, who undertake enforcement work for the service in relation to non-compliance with the Council's Public Spaces Protection Orders (PSPO). The team also oversee the delivery of the trading standards service which is currently provided on Harrow's behalf by Brent.

### **Scope of the Service**

3. The scope of the service includes:

#### **Commercial Licensing**

- Processing applications under the Licensing Act 2003 including premises and personal licences and temporary event notices
- Processing representations and requests for review of premises licences
- Processing gambling premises licences and permits
- Undertaking film classifications
- Processing special treatments, animal welfare, street trading and scrap metal licences
- Investigating complaints about licensed premises and activities
- Dealing with businesses operating without a required licence

#### **Residential Licensing**

- Processing HMO (Houses in Multiple Occupation) and selective licence scheme licence applications
- Investigating complaints about licensed premises and activities
- Dealing with premises operating without a required licence

## **Environmental Protection**

- Investigating service requests relating to:
  - the abatement of statutory nuisance from noise and light and odour
  - air pollution e.g. emissions of smoke, dust, effluvia and odours, from industry, shops, houses and vehicles.
  - Contamination of land.
  - Asbestos.
  - Filthy and Verminous premises
- Investigating service requests from residents about private sector housing conditions
- Providing advice and taking enforcement action where appropriate to bring housing up to standard

## **Food, Health and Safety.**

- Investigation and control of infectious disease and food poisoning
- Investigation of complaints from employees about safety at work and workplace accident notifications
- Investigation of complaints from consumers about food and food premises conditions
- Delivery of a risk based planned programme of food hygiene, food standards and health and safety interventions
- Delivery of the national Food Hygiene Rating Scheme in the borough
- Food sampling for contamination, labelling, composition and authenticity
- Provision of advice and enforcement where appropriate to bring workplaces and food premises up to standard
- Regulation of smoke free requirements in workplaces and buildings open to the public

## **Trading Standards**

- Managing product safety inspections and complaints
- Managing fair trading inspections and complaints
- Managing counterfeit inspections and complaints
- Providing primary authority and business support

## **Demands on the service**

4. In the last 12 months the demands on the service were:
  - 3,734 Environmental protection service requests
  - 1,103 Commercial Licence applications
  - 238 Houses in multiple occupation Licence applications
  - 483 Selective Licence applications
  - 488 Programmed food hygiene inspections undertaken

## **Enforcement Action taken**

5. In the last 12 months the following enforcement action has been taken:

- 252 FPNs (Fixed Penalty Notice) served in relation to fly tipping
- 727 FPNs served in relation to PSPO offences

### **Service objectives and outcomes**

6. The service aims to:
  - Protect and improve the health and wellbeing of residents and visitors to the borough, in particular by ensuring that they have a safe place to live;
  - Maintain and improve the health and wellbeing of the borough's residents, consumers, workers and visitors by ensuring that they have safe places in which to eat, work, shop and pursue leisure activities.
  - Maintain an environment which encourages a highly complaint, strong and diverse local economy
  - Maintain or improve public health and safety
  - Reduce pressure/demand on other services/organisations, for example the NHS
  - improve service access for customers and improve customer satisfaction with the services

### **Strategic challenges**

7. There are a number of strategic challenges for the department:
  - **Change in customers' expectations** – customers continue to expect a higher quality of service in line with the immediate culture that new technology innovation has brought e.g. immediate access 24/7 to report issues, monitor case progress and provide feedback. This needs to be balanced with the older customers who still need to communicate with the Council through more traditional methods.
  - **Reducing business burdens** – The Government's current drive to reduce burdens on business contradicts public expectation of high standards for consumer protection, health, safety and hygiene.
  - **Increasing demands** – An increasing population means more and more demand on the service resulting in a need for prioritisation of work. Due to lockdown people have spent more time in and around their homes in the past twelve months. The result has been that they have become more aware of the issues within their local vicinity which has led to an increase in demands in some areas.
  - **Finances** – Local government budgets are very tight and available funding has been reduced by central government.

## **Partnership working**

8. In order to meet the service aims the team works in partnership with:
  - Customers, including residents and businesses and ward Councillors within the London Borough of Harrow. In particular the service relies on information provided from residents and ward Councillors in relation to illegal and unlawful activities taking place.
  - Other service areas within the Council including Highways, Community Safety, HB Public Law and Planning, to deliver safety and compliance in co-regulated businesses, and legal advice.
  - Other regulatory services such as the police, fire brigade, HMRC and Immigration Service where there is a substantial and broad lack of compliance and joint working is the most effective solution to significant public health and amenity issues.
  - The Public Health Team
  - Government partners, such as the Gambling Commission, who help regulate Gambling premises, Public Health England, Regulatory Delivery. Public Health England on infectious disease control, the Food Standards Agency on food safety, the Health and Safety Executive on delivery of national priorities in health and safety and DEFRA on animal welfare and drinking water quality.
  - City of London Animal Welfare Service on animal welfare licensing

## **Case studies**

### **A. Public Space Protection Orders (PSPO)**

#### **Borough Wide Renewal June 2020**

This provides an alternative to prosecution as a means of enforcement for minor ASB (Anti-Social Behaviour) which is managed through a system of fixed penalty fines currently £150 usually served and exercised by Kingdom LA Support on our behalf.

Harrow's Borough wide PSPO was introduced from 1<sup>st</sup> July 2017 and renewed following consultation in 2020. It was developed to replace previous controls over street drinking and low level ASB across Harrow.

The offences in this order are:

- To urinate, defecate or spit in public places
- Not cleaning up and/or not being prepared to clean up after their dog
- Smoking in children's play areas
- Driving on footpaths and verges
- Consuming alcohol in a public place

#### **Introduction of additional PSPO's**

In November 2015, Cabinet granted the Corporate Director of Community authority to approve any PSPO affecting up to three bordering wards following consultation with the Portfolio Holder. Any PSPOs falling outside of this limitation need Cabinet approval. If proposed orders meet the requirements

above the decision to introduce them lies with the Portfolio Holder and Corporate Director. Consultation must take place regardless of decision maker.

### **Town Centre July 2020**

Following consultation between July and August 2020 an order specific to Harrow Town Centre was introduced in August 2021. Beginning with a soft launch the order is now in place and being enforced by Kingdom LA support and introduces the offences relating to the following, specific to the Town Centre

- Amplification - No use of amplifiers without authorisation
- Signing up of people to Financial Agreements on the Street unless within 2 meters of a permitted stand
- Placing of tables, stands, or other furniture / fixings without consent
- Feeding of Birds and Vermin anywhere in the zone
- Distribution of leaflets without permission or exempt for political religious or charitable purposes
- Illegal Street Trading - No sales of any goods without a licence/permission
- Obstruction of Authorised Officer in relation to this PSPO

### **Parks Consultation Dec 2020**

Consultation on the introduction of an order took place between 11<sup>th</sup> December 2020 and 22<sup>nd</sup> January 2021.

Proposal to introduce specific controls to address matters of concern and complaint in five key open spaces:

In:

- Bentley Nature Reserve
- Pear Wood Nature Reserve
- Pinner Memorial Park

To address:

- Dogs to be kept under proper control
- Endangerment or Nuisance to Wildlife
- Feeding of Wildlife (i.e Feeding of birds in Pinner Memorial)
- Lighting of fires or using barbeques

In:

- Harrow Weald Cemetery
- Wealdstone Cemetery

To Address:

- Dogs to be kept under proper control
- Access and Egress

The consultation which took place between 11<sup>th</sup> December 2020 to 22<sup>nd</sup> January 2021 was wholly within the COVID 19 Lockdown period which is not considered to reflect normal activity within open spaces. We did receive responses, but they were limited from some areas partly as a result of the nature of the timing.

It is proposed that the consultation be rerun to allow as much opportunity for communities to consider the impact and respond in support or to raise concerns regarding the additional controls. Prior to recommencing consultation, a meeting will be held with stakeholders to decide if anything should be removed or added prior to putting the final proposals to the public.

### **Issues and Timescale**

The introduction of the additional controls for the Town Centre and for Open Spaces has inevitably been delayed by the redirection and loss of resources within the Enforcement Service.

During the height of the pandemic a decision was taken to suspend normal enforcement patrols and for our enforcement team to concentrate on patrolling communities to ensure that residents and business were complying with COVID Regulations and good practice.

During this time service and enforcement of FPN's was suspended which made introduction of new controls untenable. The departmental restructure has also had a significant effect on available resources as well as changes in key personnel.

In May 2021 a petition was received calling in the proposed PSPO for the Town Centre to be reviewed, the Call in sub committee unanimously agreed to uphold the decision of the Council to introduce the PSPO but with several recommendations for additional clarification. Subsequently the decision was taken to introduce the controls in a measured way with clear communications on what was and was not covered.

A phased introduction then commenced in July and Kingdom who have now recommenced on street enforcement have commenced issuing tickets under the new rules. A new area related to PSPOs is being created on the Council webpage which will be the go to section on what the Council's PSPO currently prevent, where to pay any fines and also request permissions in relation to PSPO activities.

## **B. Shisha and working with Planning**

The Health Act makes it an offence for anyone in control of buildings open to the public to allow smoking indoors- i.e. anywhere with a roof which is more than 50% enclosed. Shisha, which is captured under the definition of smoking in the Health Act, can be smoked in the open air where there is no roof or ceiling above the smoker. Where there is a roof or ceiling, at least 50% of the walls of the structure must be permanently open including any doors windows or retractable mechanisms.

Shisha is not directly regulated under planning law but when seeking to change the use of a building or to build any kind of shelter or extension (for shisha), planning legislation will dictate whether planning permission will be needed, depending on the extent of the use. Poorly designed and ill-thought-out structures which are not consulted on either directly with Licensing and Enforcement or through the planning process are could fall foul of smoking and or planning controls.

Despite Public Health concerns it is a relatively low-cost business with significant potential for profits so is currently popular in Harrow. Some businesses have gone ahead with development or conversion of premises to allow shisha and some have got away with a gradual change in structure in the past which means that we have identified a number of non-compliant premises.

To tackle the problem during lockdown a small team from EH developed a project to provide guidance to all known shisha premises followed up with a Health Act compliance visit. Prior to and following these visits officers checked in with Planning Enforcement and Licensing to identify the current permission status of each premises and report back any potential breaches found by the onsite assessment.

So far the project has targeted 25 businesses. All premises have now been assessed and advised of their requirements under the Health Act, licencing and planning. Warnings have been given for premises which are not more than 50% open.

Shisha is a public health issue and the source of many nuisance complaints. It is not captured by any licensing act nor is it covered directly under planning or other specific legislation. There is pressure for a change in regulation to close this loophole and change the law. Members may wish to support this proposal and lobby Government for a change in the law related to Shisha.

### **C. Partnership working - Residential Licensing ASB case Licensed HMO HA2 area**

A Licenced HMO with 5 rooms, 4 occupied by Housing tenants, 3 of whom have been placed by Harrow Council and 1 placed by another Borough's Housing Team

Towards the end of September 2021, we became aware of increasing levels of ASB including noise, intimidation aggression, drugs, plus the occupant placed by another authority had 6 dogs in a bedsit room.

28<sup>th</sup> September 2021 - the Residential Licensing officer in consultation with the Enforcement Manager set up a multiagency meeting involving Community Safety, Police, Housing, Social Care, Enforcement and Residential Licensing.

All agencies involved shared intelligence and took away actions for their own role. The Landlord & Agent were served a Community Protection Notice (CPN) warning letter requiring that they take control of their property and better manage their tenants.

After a further period of pressure from all sections the residents were moved from the premises and the ASB and nuisance were removed.

- Housing withdrew Harrow Tenants and wrote to the other Council
- Police and Environmental Health (EH) worked to address the noise and dog issues
- Residential Licensing put further pressure on the landlord and his agent
- The tenant with dogs left after about 3 weeks

Further enforcement action is being considered due to outstanding issues related to the condition of the property.

### **D. COVID 19 monitoring Enforcement and reporting**

Following the advice to staff delivered by the Chief Executive on 23<sup>rd</sup> March 2020 most staff across the council shifted from working at their desk in council offices to working from home. At the same time several teams across the Council stepped up to a new role in monitoring and enforcing a range of new rules and regulations.

The Health Protection (Coronavirus) Regulations 2020 came into force in February 2020 and changed the emphasis of all our enforcement teams, not least in Environmental Health and Licensing. Kingdom LA Support were tasked with monitoring the Borough for compliance with the various stages of control and lockdown. Environmental health staff suspended business as usual and moved to a 7 day a week format providing support to the Public Health England Track and Trace Service, monitoring parks and neighbourhoods and providing the enforcement escalation for businesses.

Guidance was issued locally and Nationally at the beginning of the 1<sup>st</sup> lock down and subsequently to ensure that businesses were aware of the restrictions in place. Premises operating when they should have been formally closed were subject to enforcement actions including Prohibition Notices and FPN's

Licensing issued refunds for the first lockdown to Special Treatment Premises and issued extended licences for the second because of the complexity and cost.

Working with HSE many small and medium businesses were directly contacted to assess their compliance in the workplace, with escalation to Environmental Health Officers for lack of response.

Supporting the recovery of High Streets with guidance and simplified street trading or 'pavement licences' took place.

The Food Standards Agency advised LA's to suspend face to face visits for a period in 2020/21 and issued recovery guidance in May 2021. We are now expected to have fully caught up with the 300+ outstanding new businesses and backlogs of low to medium premises by July 2023.

We have seen Increased activity with approvals and health certificates because of the unstable trading relationship post Brexit.

The EH and Licensing role has varied over time since March 2020 and we only really started to reintroduce the day job in June 2021.

### **Continuing service improvements**

The team are currently undertaking the following transformation and continuing service improvements.

- **Area Based Enforcement Teams**

The team has restructured, moving away from traditional subject matter-based teams to an area-based model. The benefits of this model are that it creates a multi discipline environment where the area team can all pull their combined expertise together to resolve complex issues. It provides capacity to deal with emerging issues as the teams will meet the demands of the ward area rather than being focused on individual subject areas. The ability to focus and manage a team of officers by areas will also enable priorities to be set for different areas depending on need.

Being based by area means closer working relationships can be established with the local police, other council departments, resident, businesses and ward members.

- **Priority Enforcement delivery**

Targeting priority issues and delivering quick results to residents is a key area the service will be improving in the next six months.

Areas that have been identified as being priority enforcement include:

- Visiting fly tip hotspots, securing evidence and taking enforcement action.
- Undertaking evening/morning visits to evidence possible HMO properties
- Monitoring commercial licensed premises in evenings and weekends
- Responding to ongoing nuisance such as bonfires

Six additional officers are being recruited to undertake this work with the plan that all are recruited by mid-December.

As part of this delivery an 8 week rolling calendar has been created, moving resources around ward by ward to deal with priority enforcement issues in each area. Each week the focus will be on a particular ward undertaking enforcement and engagement focused on the specific problems in that area/ward.

Feedback will be given to the ward Councillors at the end of each focus week and an opportunity for members to comment on the plans for the next focus week. Due to varying levels of priority enforcement need in each ward, different actions may be undertaken in each ward and the levels of resources given to a focus ward in each week will differ.

Local policing teams and other Council departments will be informed of the focus ward programme for the forthcoming weeks and be given an opportunity to attend where appropriate.

- **Targeting Fly Tipping**

The levels of fly tipping are a concern that many Harrow residents have. There were 8,844 fly tips reported in the 12 months ending April 2021. The average number of fly tips reported since October 2019 is 715 per month.

In Harrow the trend appears to be waste predominately left in black bags and in small numbers. This suggests that the individuals fly tipping in Harrow are more likely to be from local residential properties.

Enforcement action can be taken when the perpetrator can be easily identified, however unless there is a witness to the act of dumping or the bags themselves contain evidence clearly identifying the owner it is difficult to take action.

Waste on the public highway is cleared by the waste team, however many of the significant fly tip locations within Harrow are on private land. If an owner is easily identified, action can be taken, however when it is a shared private area getting someone to take responsibility for the clear up can be difficult. Fly tips also often occur on "orphaned land" where there is no landowner to hold responsible for the removal of the fly tip and any preventative measures required.

Areas once known locally for fly tipping will repeatedly attract further fly tipping. As a result clearing a fly tip does not solve the problem. It is also costly for the council to repeatedly clear locations of fly tip rubbish

The action of fly tipping needs to be made socially unacceptable in all wards of the Borough. Publicity and communications will be used to educate the public to dispose of their waste correctly. It will also focus on the fact that the continual clearance of the fly tip is a cost borne by the public purse.

Fly tips themselves are often found where there are other local issues that may be contributing to the issue, such as unlicensed HMOs, commercial premises without a trade waste agreement, etc. Areas susceptible to fly tipping may also experience other nuisance issues or anti-social behaviour.

The Licensing and Enforcement service have identified the top twenty hot spot areas and created a strategy to deal with these. This involves taking a bespoke and holistic approach to each fly tip hot spot area.

The hotspot areas will be visited and a site-specific action plan created to address the wider issues. A Zero tolerance approach will be taken to offenders, with clear communications and messages on this stance. The webpages and webforms will clearly identify to residents the evidence we need to secure successful enforcement action.

- **Customer Journey/IT - Database/Intelligence lead approach**

The Licensing and enforcement team are involved in several wider Council initiatives which will deliver service improvements.

Due to the changing demands of customers the team, among several other departments, are looking at the journey that their customers undertake with a view to ensure that this meets the needs of all residents. Including those who cannot access online or mobile Application (App) based solutions.

The current database for the service is being upgraded to be able to provide webforms for customer interaction which will allow the service to be accessed more quickly and easily and in some cases with real time updates. The new system will also improve how the officers interact with their cases which should bring time efficiencies and mean that officers can spend more time resolving the cases and less on data entry.

The Licensing and Enforcement team have also adopted an intelligence lead approach in responding to issues across the Borough. This will support the area-based teams who will be able to view real time information and data on the demands of the service and respond quickly to emerging issues.

- **Improved Partnership working**

The Licensing and Enforcement team are still in the early stages of planning improved partnership working.

Once the area-based teams are established and embedded this should lead to closer working with the relevant departments and partners.

Other areas that are currently being explored are looking at establishing a cross departmental working group focused on the most problematic premises. Closer working with housing and social services in relation to issues such as hoarders.

## **Financial Implications**

The works outlined in the report are delivered using existing revenue budgets of Licensing & Enforcement Service. In addition, a one-off funding of £300k in total has been allocated from Members Investment Fund for a Priority Enforcement Team to tackle a range of environmental issues.

## **Performance Issues**

Improving the environment and reducing matters of nuisance and business non-compliance will have a positive impact on helping make a difference to families, businesses and communities.

It is expected that the work outlined above will have a positive impact on performance with improved feedback from residents both indirectly and in resident surveys. It is also expected that there will be a reduction in the backlog of “aged” cases across the service.

## **Environmental Impact**

The continuing service improvements outlined in this report are expected to have a hugely positive impact on the Environment, by putting in place actions that address the priority matters across the Borough in relation to enforcement and licensing.

## **Risk Management Implications**

Risks included on corporate or directorate risk register? **No**

Separate risk register in place? **No**

The relevant risks contained in the register are attached/summarised below.  
**n/a**

The following key risks should be taken into account when agreeing the recommendations in this report:

None identified

Equalities implications / Public Sector Equality Duty

Was an Equality Impact Assessment carried out? **No**

If no, state why an EqIA was not carried out below:

**This report is for information only and does not propose any actions.**

## **Council Priorities**

Please identify how the decision sought delivers these priorities.

- **Improving the environment and addressing climate change**

The work undertaken by the licensing and enforcement team help improve the environment in Harrow by:

\*Reducing fly tips

\* Dealing with Filthy and verminous properties

\*Reducing nuisance from smoke, odour, light and noise

- **Tackling poverty and inequality**

The work undertaken by the licensing and enforcement around the enforcement of unlicensed HMOs and selective licensing ensures that residential accommodations is safe, well maintained and of a good quality for all Harrow residents.

- **Thriving economy**

The licensing and enforcement service supports and encourages a highly compliant, strong and diverse local economy.

## **Section 3 - Statutory Officer Clearance**

**Statutory Officer: DAWN CALVERT**

Signed by the Chief Financial Officer

**Date: 29 12 2021**

**Statutory Officer: Paresh Mehta**

Signed on behalf of the Monitoring Officer

**Date: 01 12 2021**

**Chief Officer: Dipti Patel**

Signed by the Corporate Director of Community

**Date: 26 11 2021**

## **Mandatory Checks**

**Ward Councillors notified: NO\*, as it impacts on all Wards**

## **Section 4 - Contact Details and Background Papers**

None.

**Contact:** Emma Phasey, Head of Licensing & Enforcement

Emma.phasey@Harrow.gov.uk

### **Background Papers:**

If appropriate, does the report include the following considerations?

- |                 |           |
|-----------------|-----------|
| 1. Consultation | <b>NO</b> |
| 2. Priorities   | <b>NO</b> |