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# Merton Council

## Council meeting

### Membership

**The Mayor:** Councillor Janice Howard

**The Deputy Mayor:** Councillor Edward Foley

**Councillors:** Agatha Mary Akyigyina OBE, Stephen Alambritis, Mark Allison, Stan Anderson, Laxmi Attawar, Eloise Bailey, Thomas Barlow, Nigel Benbow, Hina Bokhari, Kelly Braund, Mike Brunt, Adam Bush, Omar Bush, Ben Butler, Tobin Byers, Billy Christie, David Chung, Caroline Cooper-Marbiah, Pauline Cowper, Stephen Crowe, Mary Curtin, David Dean, John Dehaney, Nick Draper, Anthony Fairclough, Brenda Fraser, Jenifer Gould, Edward Gretton, Joan Henry, Daniel Holden, James Holmes, Andrew Howard, Natasha Irons, Sally Kenny, Linda Kirby, Paul Kohler, Rebecca Lanning, Najeeb Latif, Edith Macauley MBE, Russell Makin, Peter McCabe, Simon McGrath, Nick McLean, Oonagh Moulton, Aidan Mundy, Hayley Ormrod, Dennis Pearce, Owen Pritchard, Carl Quilliam, David Simpson CBE, Marsie Skeete, Peter Southgate, Geraldine Stanford, Eleanor Stringer, Dave Ward, Martin Whelton, Dickie Wilkinson and David Williams MBE JP

**Date: Wednesday 18 September 2019**

**Time: 7.15 pm**

**Venue: Council chamber - Merton Civic Centre, London Road, Morden SM4 5DX**

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# Council meeting

## 18 September 2019

1	Apologies for absence	
2	Declarations of Pecuniary Interest	
3	Minutes of the previous meeting	1 - 8
4	Announcements by the Mayor, Leader of the Council and Chief Executive	
5	Public questions to cabinet members The questions and written responses will be circulated at the meeting.	
6	Councillors' ordinary priority questions to cabinet members The questions and written responses will be circulated at the meeting	
7	Strategic theme: Councillors' questions to cabinet members The questions and written responses will be circulated at the meeting.	
7a	Strategic Theme: Main Report	9 - 50
7b	Strategic theme: motions	
8	Report of the Raynes Park Community Forum 13 June 2019	51 - 56
9	Report of the Wimbledon Community Forum 19 June 2019	57 - 60
10	Notice of motion: Liberal Democrat motion	61 - 62
11	Notice of motion: Labour motion	63 - 64
12	Approval of Merton's Local Development Scheme 2019-2022	65 - 72
13	Children and Young People's Plan	73 - 90
14	Dock-less Bikes Bye-Law	91 - 100
15	Preparing the Council for the United Kingdom's exit from the European Union	101 - 124
16	Appointment of Monitoring Officer	125 - 126
17	Changes to membership of committees and related matters	127 - 130

18 Petitions

131 -  
134

19 Business for the next ordinary meeting of the Council

**Note on declarations of interest**

Members are advised to declare any Disclosable Pecuniary Interest in any matter to be considered at the meeting. If a pecuniary interest is declared they should withdraw from the meeting room during the whole of the consideration of that matter and must not participate in any vote on that matter. If members consider they should not participate because of a non-pecuniary interest which may give rise to a perception of bias, they should declare this, withdraw and not participate in consideration of the item. For further advice please speak with the Assistant Director of Corporate Governance.

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# Agenda Item 3

COUNCIL  
10 JULY 2019

(7.15 pm - 10.17 pm)

PRESENT            The Mayor, Councillor Janice Howard  
                         The Deputy Mayor, Councillor Edward Foley

Councillors Agatha Mary Akyigyina OBE, Stephen Alambritis, Mark Allison, Stan Anderson, Laxmi Attawar, Eloise Bailey, Thomas Barlow, Nigel Benbow, Hina Bokhari, Mike Brunt, Adam Bush, Omar Bush, Ben Butler, Tobin Byers, Billy Christie, David Chung, Caroline Cooper-Marbiah, Pauline Cowper, Mary Curtin, David Dean, John Dehaney, Nick Draper, Anthony Fairclough, Brenda Fraser, Jenifer Gould, Edward Gretton, Joan Henry, Daniel Holden, James Holmes, Andrew Howard, Natasha Irons, Sally Kenny, Linda Kirby, Paul Kohler, Rebecca Lanning, Najeeb Latif, Edith Macauley MBE, Russell Makin, Peter McCabe, Simon McGrath, Nick McLean, Oonagh Moulton, Aidan Mundy, Hayley Ormrod, Dennis Pearce, Owen Pritchard, Carl Quilliam, David Simpson CBE, Marsie Skeete, Peter Southgate, Geraldine Stanford, Eleanor Stringer, Dave Ward, Martin Whelton, Dickie Wilkinson and David Williams MBE JP

## 1        APOLOGIES FOR ABSENCE (Agenda Item 1)

Apologies for absence were received from Councillors Braund and Crowe. Apologies for lateness were received from Councillor Kirby.

## 2        DECLARATIONS OF PECUNIARY INTEREST (Agenda Item 2)

There were no declarations of interest made.

## 3        MINUTES OF THE PREVIOUS MEETING (Agenda Item 3)

RESOLVED: That the minutes of the meeting held on 3 April 2019 are agreed as an accurate record.

## 4        ANNOUNCEMENTS BY THE MAYOR, LEADER OF THE COUNCIL AND CHIEF EXECUTIVE (Agenda Item 4)

The Leader of the Council, Leader of the Conservative Group, Leader of the Liberal Democrat Group and Leader of the Merton Park Ward Independent Residents all paid tribute to Councillor Williams on his recent MBE in the Queen's Birthday Honours. Councillor Williams spoke briefly in response.

The Mayor provided a brief update on her activities since the annual Council meeting and encouraged people to attend the Mayor's Charity Cricket Match on 28 July 2019.

## 5 PUBLIC QUESTIONS TO CABINET MEMBERS (Agenda Item 5)

The responses to the written public questions were circulated prior to the meeting. The Mayor then invited each of the questioners in turn to ask (if they wished) a further question to the Cabinet Member. A copy of the supplementary questions and responses will be included in the 'public questions to Cabinet Members' published document.

## 6 COUNCILLORS' ORDINARY PRIORITY QUESTIONS TO CABINET MEMBERS (Agenda Item 6)

The responses to the written member ordinary priority questions were circulated prior to the meeting. The Mayor then invited each of the members in turn to ask (if they wished) a further question to the Cabinet Member. A copy of the supplementary questions and responses will be included in the 'member ordinary priority questions to Cabinet Members' published document.

## 7a STRATEGIC THEME: COUNCILLORS' QUESTIONS TO CABINET MEMBERS (Agenda Item 7a)

The responses to the written member strategic theme priority questions were circulated prior to the meeting. The Mayor then invited each of the members in turn to ask (if they wished) a further question to the Cabinet Member. A copy of the supplementary questions and responses will be included in the 'member strategic theme priority questions to Cabinet Members' published document.

It was also noted that a copy of the remaining Member questions and responses will be published after the meeting, in line with Constitutional requirements.

## 7b STRATEGIC THEME: MAIN REPORT (Agenda Item 7b)

The Strategic Theme report on Safer and Stronger Communities with a focus on Equalities and Diversity was moved by Councillor Macauley and seconded by Councillor Attawar.

Councillor Simpson and Bokhari also spoke on the item.

RESOLVED: That the Strategic Theme report is agreed.

## 7c STRATEGIC THEME: MOTIONS - CONSERVATIVE MOTION (Agenda Item 7c)

The motion was moved by Councillor Barlow and seconded by Councillor Dean.

The Labour amendment as set out in agenda item 18 was moved by Councillor Macauley and seconded by Councillor Mundy.

The Labour amendment was put to a vote and was carried unanimously.

The substantive motion (as amended) was then put to a vote and was agreed.

RESOLVED:

This council condemns the rise in knife related murders and robberies in Britain in recent years. Whilst the increase in London is considerably less than in the rest of the country, and whilst Merton has seen less knife crime than other London boroughs, there have been a number of incidents in recent months.

Council therefore calls upon the MET Police to consider installing knife surrender bins at appropriate locations around the Borough, although the Mayor of London has previously expressed the opinion that they are not a particularly effective deterrent.

7d STRATEGIC THEME: MOTIONS - CONSERVATIVE MOTION (Agenda Item 7d)

The motion was moved by Councillor Omar Bush and seconded by Councillor Benbow.

The Labour amendment as set out in agenda item 19 was moved by Councillor Irons and seconded by Councillor Henry.

Councillor Bokhari also spoke on this item.

The Labour amendment was put to a vote and was carried – votes in favour: 49, votes against: 0, abstentions: 7.

The substantive motion (as amended) was then put to a vote and was agreed.

RESOLVED:

This council congratulates Unique Talent and other organisations in the borough for the outstanding work they do in the community to combat gang related violence, intervening to remove young residents from gangs, and mentoring and preparing young people for a life away from crime.

Council calls upon Cabinet to:

- Investigate way of strengthening Merton's partnership with organisations including but not limited to Unique Talent;
- Continue to discuss the strategies that meet the aims of the new Community Plan and Children's and Young People's Plan, with our young residents and organisations including Unique talent and to continue reporting on this progress to Cabinet.

7e STRATEGIC THEME: MOTIONS - LIBERAL DEMOCRAT MOTION (Agenda Item 7e)

The motion was moved by Councillor Fairclough and seconded by Councillor Bokhari.

The Labour amendment as set out in agenda item 20 was moved by Councillor Attawar and seconded by Councillor Allison.

The Labour amendment was put to a vote and was carried – votes in favour: 34, votes against: 22, abstentions: 0.

The substantive motion (as amended) was then put to a vote and was agreed.

#### RESOLVED:

Commends the Cabinet on its 2017 Equalities and Community Cohesion Strategy and the annual process of reviewing and updating its current operational guidance on equality assessments (The website is last dated August 2011, however this needs to better reflect the annual review process). This guidance is fit for purpose and is in line with best practice, particularly in relation to the timing of assessments, and specific consultation on mitigation measures, and the strategy includes a commitment to undertake equality analysis in the council's service planning process, and with the introduction of all major policies and plans.

#### 8 REPORT OF THE RAYNES PARK COMMUNITY FORUM 26 MARCH 2019 (Agenda Item 8)

Councillor Omar Bush presented the report which was received by the Council.

#### 9 REPORT OF THE WIMBLEDON COMMUNITY FORUM 28 MARCH 2019 (Agenda Item 9)

Councillor Holmes presented the report which was received by the Council.

#### 10 NOTICES OF MOTION: CONSERVATIVE MOTION (Agenda Item 10)

The motion was moved by Councillor Holden and seconded by Councillor Gretton.

The Liberal Democrat amendment as set out in agenda item 21 was moved by Councillor Fairclough and seconded by Councillor Kohler.

The Liberal Democrat amendment was put to a vote and fell – votes in favour: 25, votes against: 31, abstentions: 0.

The Labour amendment as set out in agenda item 22 was moved by Councillor Whelton and seconded by Councillor Pritchard.

The Labour amendment was put to a vote and was carried – votes in favour: 32, votes against: 25, abstentions: 0.

The substantive motion (as amended) was then put to a vote and was carried – votes in favour: 32, votes against: 25, abstentions: 0.

RESOLVED:

This council advises the Cabinet to:

- Pay due diligence to the need to improve air quality in considering the cabinet agenda item *Public health, air quality and sustainable transport - a strategic approach to parking charges*.
- Support the work of the cross-party Sustainable Communities Overview and Scrutiny Panel in its work looking at effective solutions to addressing public health concerns and air quality across Merton.

11 NOTICES OF MOTION: LIBERAL DEMOCRAT MOTION (Agenda Item 11)

The motion was moved by Councillor Kohler and seconded by Councillor McGrath.

The Labour amendment as set out in agenda item 23 was moved by Councillor Allison and seconded by Councillor Butler.

The Labour amendment was put to a vote and was carried – votes in favour: 39, votes against: 0, abstentions: 18.

The substantive motion (as amended) was then put to a vote and was carried – votes in favour: 39, votes against: 0, abstentions: 18.

RESOLVED:

Council Notes:

- That both candidates for the leadership of the Conservative Party have said they would in certain circumstances agree to a 'No Deal' Brexit;
- Warnings from the Governor of the Bank of England, the OECD, the OBR and many other bodies that a 'No deal' Brexit would have severe effects on the economy
- Warnings from the British Medical Association, the Chief Medical Officer and the NHS Confederation about the effects of a 'No deal' Brexit on the supply of medicines and on the NHS more generally;
- That a no deal Brexit would leave British citizens in other EU countries and EU citizens in the UK in a very unclear situation;

Council believes that a 'No Deal' Brexit would have severe adverse effects on the people of Merton Council resolves:

- To ask the Leader of the Council to write to Merton's MPs telling them of our concern about the effects of a 'No Deal' Brexit on the residents of Merton and

asking them to use any necessary Parliamentary means to stop it from happening.

- To ask the Cabinet to ensure it has robust plans to, as far as possible, mitigate the effects of a 'No Deal' Brexit on its operations; to report on these to the September full Council meeting; welcomes the work of the Brexit task group and the advice that it gives, which it provides with due impartiality, integrity and professionalism; and recognises that it needs to be free to carry this work out without its advice being leaked or misconstrued, in the best traditions of Britain's public servants.

## 12 NOTICES OF MOTION: CROSS PARTY MOTION (Agenda Item 12)

The cross-party motion was moved by Councillor Byers and seconded by Councillor Gould.

Councillors McLean, Southgate and Quilliam also spoke on this item.

The guillotine fell at 10.15pm.

The cross-party motion was then agreed.

RESOLVED:

Merton Council believes that the world is in the midst of a climate emergency and that action is required at all levels of Government – local, national and international – in order to protect our planet for future generations.

This Council notes that:

- on 8<sup>th</sup> October 2018, the UN Intergovernmental Panel on Climate Change (IPCC) published a report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emissions;
- the report warned that the risk of catastrophic climate change including extreme heat, drought, flooding and climate-related poverty would significantly increase unless global warming could be kept to a maximum of 1.5°C;
- the report authors found that global warming is likely to reach 1.5°C between 2030 and 2052 if it continues to increase at the current rate and say that urgent and unprecedented action is required to meet the target.

Council recognises that the scale of the challenge is unprecedented. Approximately 97.5% of emissions within the borough are beyond the Council's direct control, so everyone within the borough has a role to play if we are to successfully reduce emissions. Tackling climate change can only be a common endeavour and will require residents, businesses and other organisations to play their part.

This Council resolves to:

- declare a climate emergency;
- work towards ensuring that the borough is carbon neutral by 2050, in line with the Mayor and the Government’s targets. Achieving this will require significant investment and policy initiatives from the Government, and Council hopes it would be achieved earlier than 2050;
- work towards ensuring that the Council is carbon neutral by 2030, recognising the leadership role it has in the borough;
- develop a working group to support the Council move from declaration to delivery drawing in cross sector expertise, capacity and capability. The working group should draw on existing expertise within the borough as well as including residents who are representative of the borough as a whole;
- set in place a process of engagement and collaborative action that enables an action plan to be considered by Cabinet and Council in early 2020, based on achieving the aforementioned targets.

**The guillotine fell at 10.15pm and the following items were disposed of in turn with no debate.**

13 REVIEW OF PROPORTIONALITY AND CHANGES TO MEMBERSHIP OF COMMITTEES (Agenda Item 13)

RESOLVED:

1. That the allocation of seats to political groups as set out in Appendix A to the Council report be approved.
2. That the appointment of nominations to those seats as set out in Appendix B to the Council report be approved.
3. That the changes to the membership of committees that were approved under delegated authority since the last meeting of the Council be noted.

14 OVERVIEW AND SCRUTINY ANNUAL REPORT 2018-19 (Agenda Item 14)

RESOLVED that the Council receives the Overview and Scrutiny Annual Report.

15 PETITIONS (Agenda Item 15)

RESOLVED that Council accepts receipt of the following petitions:

- presented by Councillor Byers entitled “We call on Merton Council to declare a Climate Emergency”; and
- presented by Councillor Gretton entitled “Ban barbeques from Wimbledon Park”

17 URGENT ITEM: RECRUITMENT FOR ASSISTANT DIRECTOR  
CORPORATE GOVERNANCE (Agenda Item 17)

RESOLVED that the recruitment to the post of Assistant Director of Corporate Governance and Monitoring Officer at a salary exceeding £100,000 be approved.

16 BUSINESS FOR THE NEXT ORDINARY MEETING OF THE COUNCIL  
(Agenda Item 16)

That the Strategic Theme for the next ordinary meeting of the Council, being held on 18 September 2019, shall be Sustainable Communities with a focus on Enforcement.



## Committee: Council

Date: 18 September 2019

Wards: All

## Subject: Strategic Theme – Sustainable Communities (Enforcement)

Lead officer: Director for Environment and Regeneration, Chris Lee

Lead members: Councillor Tobin Byers, [Cabinet Member for Adult Social Care and Health and the Environment](#). Councillor Martin Whelton, [Cabinet Member for Regeneration, Housing and Transport](#). Councillor Caroline Cooper-Marbiah, [Cabinet Member for Commerce, Leisure and Culture](#). Councillor Edith Macauley MBE, [Cabinet Member for Voluntary Sector, Partnerships and Community Safety](#).

Contact officer: John Bosley, Assistant Director of Public Space

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### Recommendations:

1. That Council review and consider the content of the report.
  2. A review of enforcement areas that improve and underpin Sustainable Communities is undertaken with a view of establishing an internal departmental steering group to better coordinate activities and improve outcomes. Including a review of the regular publication of successful prosecutions on the Council's website.
  3. As part of the above recommendation and as outlined within 13.2, enforcement business areas assess the current use of information technology utilised for case management with a view to transitioning to the ECIN intelligence lead case management system if an evaluated benefit for the service is demonstrable.
- 

### 1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 The following report provides an overview of the current policy, practices and performance in the area of enforcement to support Sustainable Communities within the Environment and Regeneration Directorate.
- 1.2 The portfolio holders are [Councillor Tobin Byers](#) for Adult Social Care. Health and the Environment; [Councillor Martin Whelton](#) for Regeneration, Housing and Transport; [Councillor Caroline Cooper-Marbiah](#) for Commerce, Leisure and Culture; and [Councillor Edith Macauley MBE](#), Cabinet Member for Voluntary Sector, Partnerships and Community Safety. The Sustainable Communities Overview and Scrutiny Panel continues to exercise its statutory function in relation to environmental sustainability (including energy, waste management, parks and open spaces, air quality and the built environment), enterprise and skills (including regeneration, employment, adult education and libraries), housing and transport.
- 1.3 It should be noted that the following report follows from the noteworthy reports about this subject matter;
  - a) Report and recommendations arising from a scrutiny review of Council enforcement policies – Overview and Scrutiny Commission November 2006 ([report](#))
  - b) Scrutiny Review of Council Enforcement Policies: Update on Action Plan 2009 ([report](#))

- c) Update on work of E&R Enforcement Review Task Group - Sustainable Communities Overview & Scrutiny Panel; March 2011, April 2012 ([2011 report](#) & [2012 report](#))
- d) Overview and Scrutiny Commission – Enforcement September 2015 ([report](#))

1.4 The above reports have provided the basis of the policy and principles the department applies to its current enforcement approach within respective service areas, including the principle that there is a presumption to enforce (in accordance with the principles of fairness, proportionality and the public interest test) for all breaches of council policy and that any enforcement action be undertaken in a timely way. This is supported by one overarching enforcement policy to enable consistency and transparency across enforcement activities carried out by the council ([Council Wide Enforcement Policy](#)).

## 2. BACKGROUND

2.1 The use of enforcement is fundamental to enable and support the delivery of improvements in our local environment in order to deliver safe, clean and green local communities. However, the use of enforcement should be measured and delivered proportionately, often not being the first course of action. The principles of providing assistance, information and engagement with service users and stakeholders prior to formal engagement is undertaken is outlined in the Enforcement Concordat which was adopted in April 2005 and follows best practice advice issued nationally.

2.2 Following these principles, enforcement is undertaken when the offence is serious in context of the legislation being enforced and / or the offence or contravention has occurred or continues to occur following advice, warnings or formal notice by the council. This approach is further detailed in the Council's Overarching Enforcement Policy, stating 'in most circumstances the council will enforce against or prosecute those who neglect or wilfully fail to comply with their legal obligations such as where there is a risk to individuals or the public, or where action is required to minimise adverse environmental impacts or against individuals who engage in benefit fraud.'

2.3 The management of Officer authorities to enforce on behalf of the council is managed through the department's scheme of management which allows a chief officer to clearly define the decision-making rights of those who exercise and have enforcement responsibilities for the council.

2.4 The coordinated management of enforcement has had a dynamic history with the Joint Tasking Group (JTG) having been introduced in 2005 to enable a strategic focus on solving borough-wide issues. This approach was reviewed and was transformed into the Local Multi-Agency Problem Solving (LMAPS) group, which engaged local agencies such as the Police and was community focused by covering three (3) distinct areas in the borough. LMAPS has since evolved to Location Boards, which are now co-chaired between the Police, London Fire Brigade (LFB) and the Head of Community Safety, while also including attendance by a range of internal and external partners. The current work being tabled at this board includes serious violence with a knife crime focus, ASB enforcement, thefts of motor vehicles, burglary and issues in Mitcham Town Centre involving drugs and alcohol.

2.5 During this period, the Enforcement Review Task Group (ERTG) was formed in 2013 and ran alongside the LMAPS group, but consisted of internal officers and focused solely on enforcement issues. The ERTG was eventually disbanded and its remit

merged into Location Boards due to the structural changes with the teams and the changing priorities of the services and associated resources.

2.6 The concentration of work areas that have applicable enforcement powers conferred through legislation enables the service areas to protect the public, ensure the safe and fair use within the public realm, protects our environment and addresses ASB within our communities. The enforcement powers within the council also facilitate improved coordination with key stakeholders such as the Police and the LFB.

2.7 However, a primary focus for service areas is to work toward obsolescence as prevention is a key component of success and the advice and support provided to service users is a vital ingredient in achieving compliance. The Legislative and Regulatory Reform Act 2006 requires the council to have regard to the five Principles of Good Regulation when undertaking regulatory functions.

These include:

- Proportionate – the level of enforcement should reflect the level of risk to the public and enforcement should reflect the seriousness of the offence.
- Accountable – enforcement activities should be open to scrutiny and supported by agreed policies and procedures
- Consistent – in both the information we provide and the support that is given, the council will use best endeavours to act in similar ways to other neighbouring authorities and under the guidance of best practice advice.
- Transparent – the council shall ensure that those subject to regulation are able to understand what is expected to achieve compliance.
- Targeted – our enforcement resources will be focussed on higher risk activities, reflecting both local need and our agreed priorities.

### **3. THE LEGAL FRAMEWORK APPROACH TO ENFORCEMENT**

3.1 The legal frameworks that support the regulatory and enforcement functions undertaken by the council are extensive, nuanced and often complex. In appendix 1, there are 140 examples of Acts of Parliament and regulations that both place a duty on and empower the council to enforce.

3.2 It is by the sheer number and multi-faceted nature of these powers that council enforcement functions can become strained. In many service areas the enforcement function is not the primary business, but a tool which can be used to achieve compliance and minimise risks to our community and service users.

3.3 Following the principles as outlined in the Council's Overarching Enforcement Policy; actions that are delivered by enforcement need to have sufficient supporting evidence to prove that there was a breach of legislation upon which enforcement action can be taken.

3.4 All investigations undertaken are required in accordance with the requirements set out in the following legislation, as amended, and any associated guidance or codes of practice applicable to the service area.

- Police and Criminal Evidence Act 1984 (PACE)
- Criminal Procedure and Investigations Act 1996
- Criminal Justice and Police Act 2001
- Human Rights Act 1998

3.5 In gathering evidence, the Council may undertake recorded interviews under caution. These are carried out in accordance with PACE and associated Codes of Practice

providing an alleged individual or business with the opportunity to explain the alleged offence and/or put their version of events as part of an ongoing investigation.

3.6 Where an investigation involves gathering information covertly, this must be undertaken complying with the procedures and protocols laid down within the Regulatory Investigation Powers Act 2000 (RIPA), as applicable.

3.7 During an investigation the type of evidence or intelligence gathered can be wide ranging and may include one or more of the following:

- Computer Records and open source investigations including information from:
- Photographs
- Social media websites
- Communications data
- CCTV images including body camera footage
- Paper Records
- Samples (food, water, environmental, counterfeit goods)
- Equipment
- Plans or sketches made at the scene
- Noise recording records
- Invoices
- Witness Statements
- Expert reports
- Forensics (including forensic examination of electronic devices)
- Information from other agencies
- Interviews from residents and businesses

3.8 Where non-compliance is identified and in line with the Council's Overarching Enforcement Policy, we will seek compliance through a combination of approaches as outlined below.

3.9 Communication and promotion. This is typically service specific information and involves the dissemination of information to residents and businesses about particular legislative requirements/obligations through targeted campaigns, via our website or through direct communications to specific groups or residents.

3.10 The objective of such communication is to raise awareness of the compliance advice, guidance and support that is available and provide an opportunity for/encourage compliance to avoid more formal enforcement action. In some instances, the advice can be in the form of a warning letter, which is meant to assist individuals and businesses in rectifying breaches as quickly and efficiently as possible, avoiding the need for further action. The recording of these interactions ensures that if a similar failure is identified in the future, the appropriate follow up enforcement action can be deployed to secure compliance.

3.11 The types of possible enforcement actions, including warnings and formal actions, that maybe utilised by service areas dependant on the legislation involved are:

- Informal warning or advice
- Community Protection Warning or Community Protection Notice
- Service of a Fixed Penalty Notice for some contraventions where permitted by the legislation
- Formal Statutory Notice
- Works in Default

- Revocation / variation of a licence or authorisation
  - Prohibition of a premises, process or equipment
  - Civil penalties
  - Formal Caution
  - Prosecution in the Magistrates' Court, or Crown Court for more serious offences
  - Civil Injunctions
  - Enforcement Orders
  - Premise closure powers
- 3.12 Formal enforcement actions include a wide variety of sanctions including statutory (legal) notices, written undertakings, the refusal to grant or the revocation of an existing licence or registration, fixed penalty notices, powers of seizure and detention, cautions and prosecution.
- 3.13 Where formal enforcement action constitutes a criminal offence, the Council may, where the legislation permits, issue Fixed Penalty Notices (FPNs) as a means of dealing with an offending instead prosecuting. For example, certain environmental offences such as littering, dog fouling and small-scale fly-tipping (i.e. black refuse sack) are subject to FPNs. The offender may discharge their liability for the offence and avoid prosecution and a criminal record by paying the fixed penalty.
- 3.14 The Council will comply with any current relevant guidance on the use of FPNs whilst ensuring that sufficient evidence to give a realistic prospect of conviction in lieu of payment of the FPN is secured. The services will also consider the seriousness and frequency/prevalence of the offence in ascertaining the appropriateness of the serving of a FPN as compared to pursuing a prosecution.
- 3.15 Statutory (legal) notices are also utilised by services to ensure that offenders achieve compliance with legal requirements. A statutory notice will require a person, business or organisation to comply with specific requirements within a specified time period. The notice will identify the legislation contravened, the steps or action required to remedy the contravention to comply with the notice and the consequences of non-compliance. The notice will ordinarily also set out any statutory rights of appeal. In general, non-compliance is a criminal offence rendering the person served liable to prosecution. The Council may also be empowered to undertake works in default to secure compliance and the necessary remedial action. Where the Council exercises its default work powers its reasonable expenses are recoverable from the person in default.
- 3.16 As an alternative to prosecution, and in appropriate circumstances, a simple caution may be considered as a means of formal enforcement action. A caution is not a criminal conviction but it will form part of an offenders' criminal record and may be referred to in any subsequent proceedings.
- 3.17 Proceeds of Crime- There are some cases where an application under the provisions of the Proceeds of Crime Act 2002 is considered appropriate. This seeks to confiscate assets from an offender in order to recover the financial benefit they have gained during the course of their criminal activities. Where this is considered appropriate to avoid the dissipation of the criminal benefit from the offending was the investigation/prosecution runs its course the Council may seek restraint order effectively freezing the alleged offender's assets.
- 3.18 The Council utilises a range of powers, which are civil in nature. Civil enforcement has a lower evidential test to prove the case – on the balance of probability as opposed higher criminal standard of beyond reasonable doubt. Breaches of these

civil orders can become criminal offences or a contempt of court empowering the court to impose a custodial sentence and/or a fine and/or the sequestration (seizure) of assets

## AREAS OF SERVICE WITH AN ENFORCEMENT FOCUS IN MERTON

### 4. Waste and Street Environment

- 4.1 Waste within the public realm and, in a limited way, on private land is managed the Waste Enforcement Team. The Council acts as both the Waste Collection Authority and the Waste Disposal Authority, which allows the control of how waste is managed, from containment, collection and even disposal to limit the impact on the local environment.
- 4.2 These powers are useful in tackling blighted areas within our communities that suffer from the improper storage of or a lack of a professional waste management service to dispose of waste generated from businesses and residential properties.
- 4.3 The two primary focus areas within enforcement that relate to the waste service involve fly-tipping and littering.
- 4.4 Fly-tipping is the common term used to describe waste illegally deposited on land without an environmental permit. The offence of fly-tipping and the additional offences of 'knowingly causing' or 'knowingly permitting' fly-tipping are set out in Section 33(1)(a) of the Environmental Protection Act 1990. Fly-tipping is a criminal offence that is punishable by up to 12 month's imprisonment and/or an unlimited fine if convicted in a Magistrates' Court. On conviction on indictment before the Crown Court a term of up to five year's imprisonment may be imposed, or an unlimited fine, or both. There are also additional sentencing powers enabling the Court to forfeit vehicles used in to commission of such offences.

Locally, the prevalence of fly-tipping incidents has been on the increase and is comparable to the national increase that has occurred over the last few years.

Fig. 1

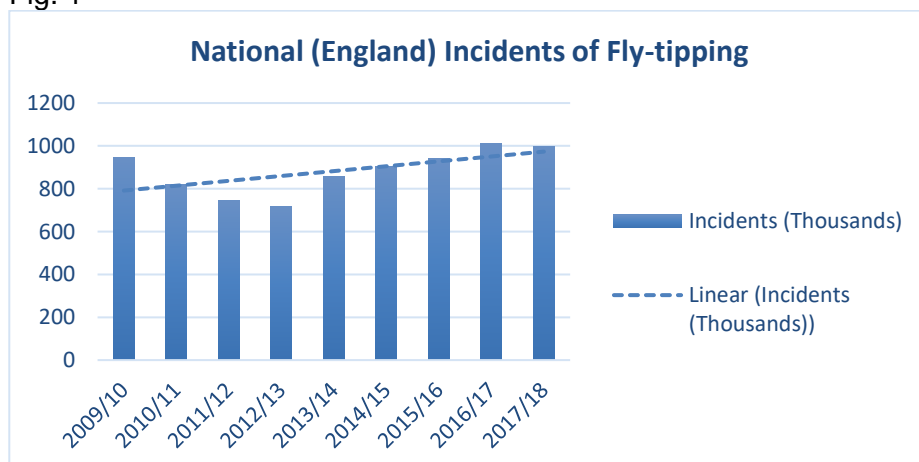
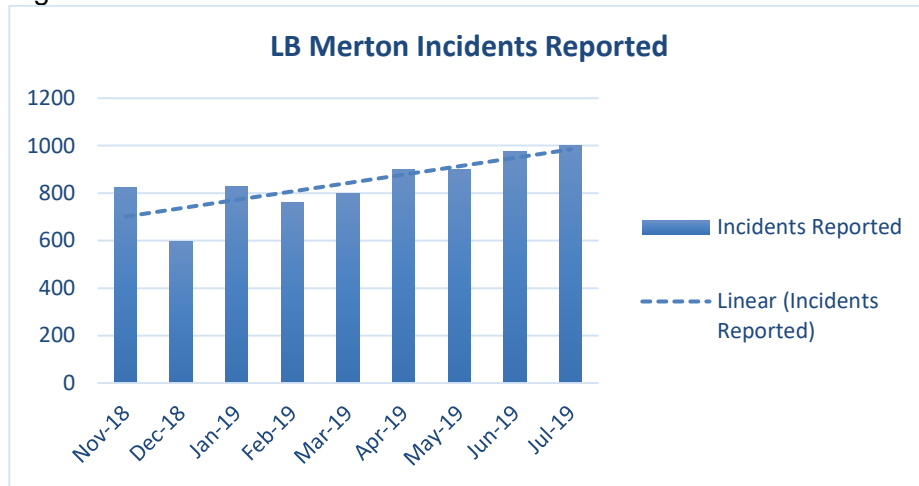


Fig 2.



4.5 The service has recently prepared a *draft Fly-tipping Strategy* (the Strategy) with the primary aim of the aligning our approach in tackling fly-tipping, not just through efficient and targeted enforcement but through wider engagement with service partners, community groups and stakeholders. The goal of the Strategy is to provide an overall reduction in fly-tipping incidents and an improved satisfaction of our residents regarding the cleanliness of the streets within their communities. The main strands of focus within the Strategy to enable the delivery of improvements are: -

- Early intervention – *education, communication and engagement*
- Preventing reoccurrence – *operational service and target hardening*
- Targeted enforcement – *FPNs, prosecutions & vehicle stops*

4.6 Littering is one of the most prevalent and significant environmental crimes that is affecting our community. There is no statutory definition of *littering*, but it is considered to include the improper discarding of waste materials, with the four most littered items being smoking items, confectionery packaging, drinks containers and fast food packaging. The effects of litter impact on people’s perceptions of safety and wellbeing as well as contributing negatively to the cleanliness of the public realm.

4.7 In Merton, the direct enforcement of these issues is delivered through a mixed solution of an ‘in house’ enforcement team and through the use of a service provider (Kingdom Security). This integrated approach allows the service the capacity and focus to both support a broad litter enforcement presence whilst retaining the knowledge and expertise to support waste engagement advice and support, formal investigations into fly-tipping incidents with a focus on prosecutions and allows for the delivery of multi-agency operations (e.g. vehicle stop and searches) to combat illegal transporting of waste. In a support capacity and being developed through the emerging *Strategy*, the service is working with our partner service providers (i.e. Veolia) to assist in intelligence gathering, both in terms of the locations and modified operational methods, that secure evidence that further supports potential prosecutions.

4.8 The Council’s waste enforcement team’s duties include not only the enforcement of littering and dog fouling, but the illegal deposit of controlled waste (fly-tipping), graffiti removal, waste 'Duty of Care' checks on commercial and domestic waste producers, investigation of inappropriate black bag placement, 'stop and search' waste carriers checks with police and trading standards, Waste and Dog Fouling awareness and education campaigns and the investigation of all other reported environmental crimes and projects.

4.9 The role of the Council's enforcement service provider is to provide Environmental Enforcement Services through delegated authority under the Environmental Protection Act 1990, Anti-Social Behaviour Crime and Policing Act 2014 and Clean Neighbourhood and Environment Act 2005. The overall core business of this contract is the patrolling and issuing of FPNs for related environmental offences. The primary purpose of this developing procurement strategy for these services will be to change behaviour towards environmental crime and in particular littering, public urinating and dog fouling. In addition, it is proposed that scope of enforceable functions be increased to include other offences such as, graffiti, fly-posting, dog control offences, alarm noise (no nominated key-holder), Noise Act offences, nuisance parking, abandoning a vehicle, unauthorised distribution of free literature on designated land along with evidence gathering from domestic fly-tipping (abandoned waste)

As part of an increased service offer and to ensure that we maximise the benefits of an external resource it is proposed that we also include areas of work which can be delivered through a schedule of rates. This will include but not limited to:

- Enforcement of Merton's PSPOs with and without police/wider LBM support
- Issuing of Community Protection Warnings and Community Protection Notices for PSPO and some ASB related matters where a FPN cannot be used
- The collation and provision of intelligence to the Safer Merton and wider Community Safety Partnership including the provision of photos, Section 9 witness statements and other evidential requirements
- Working with Safer Merton officer and representatives of the Police force in tackling knife crime and inspecting known locations for the storage of illegal weapons.
- Provided enforcement and security resource for medium to large scale events held in the borough such as music festivals and sporting events

4.10 Below are graphs of our performance within London as reported to the Department for Environment Food and Rural Affairs (DEFRA).

Fig. 3

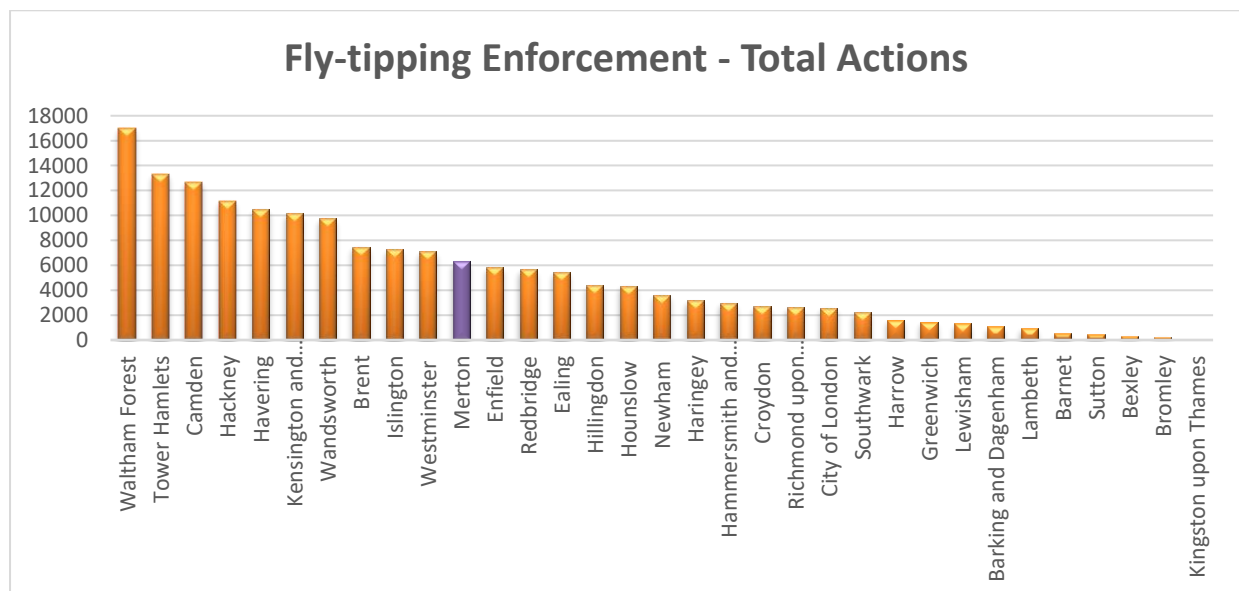




Fig. 4

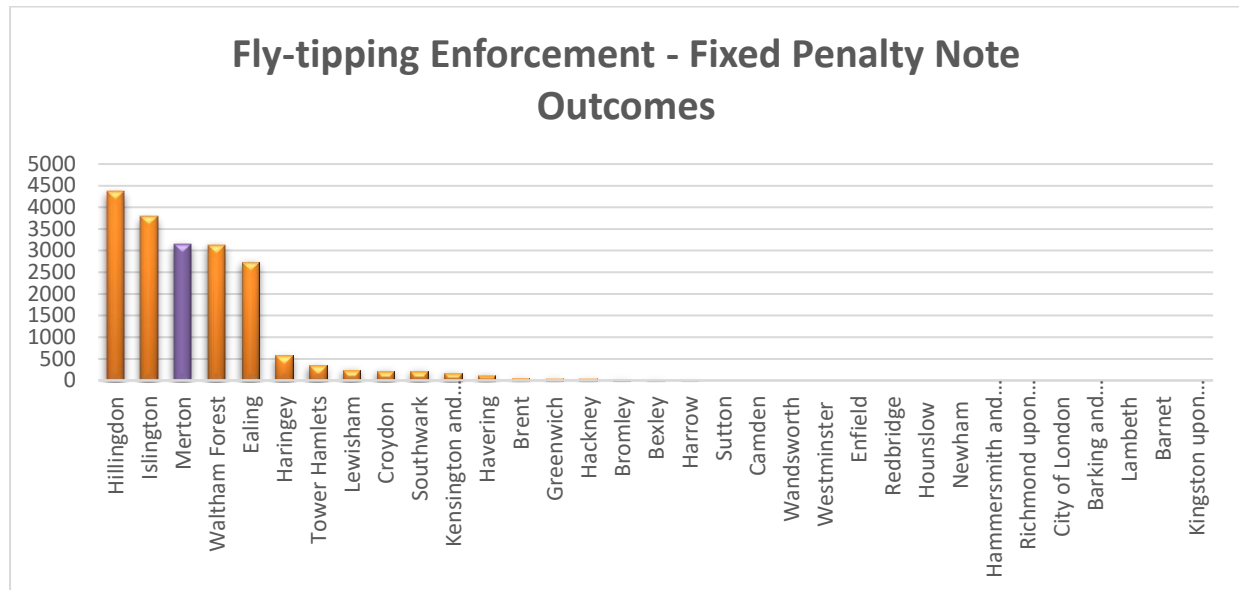
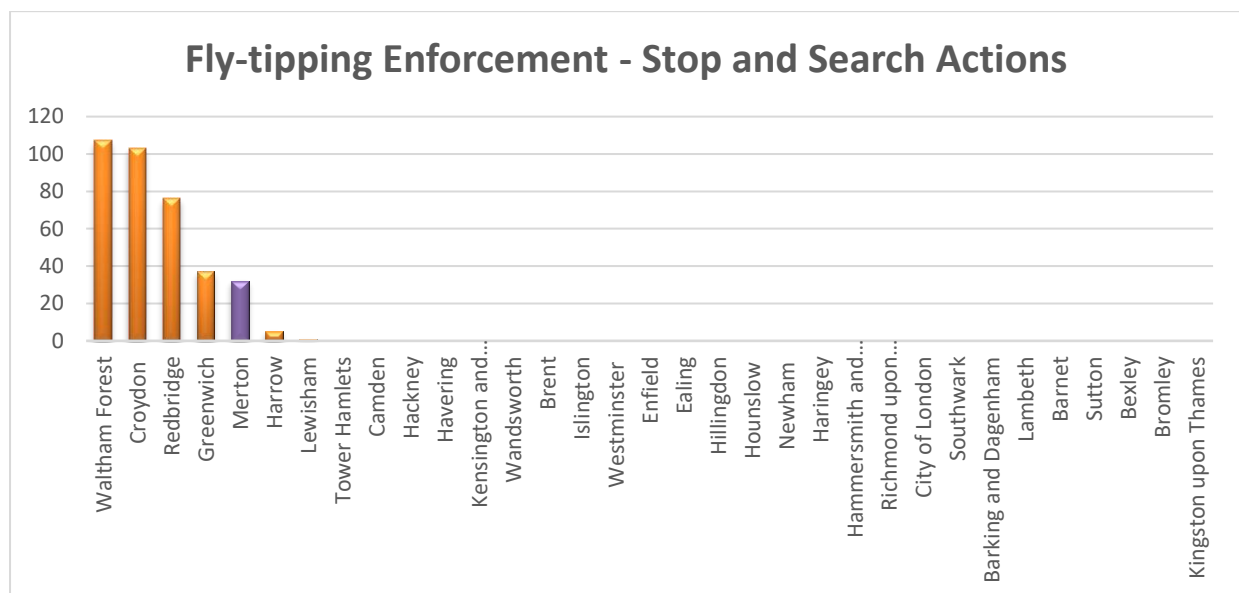


Fig 5.



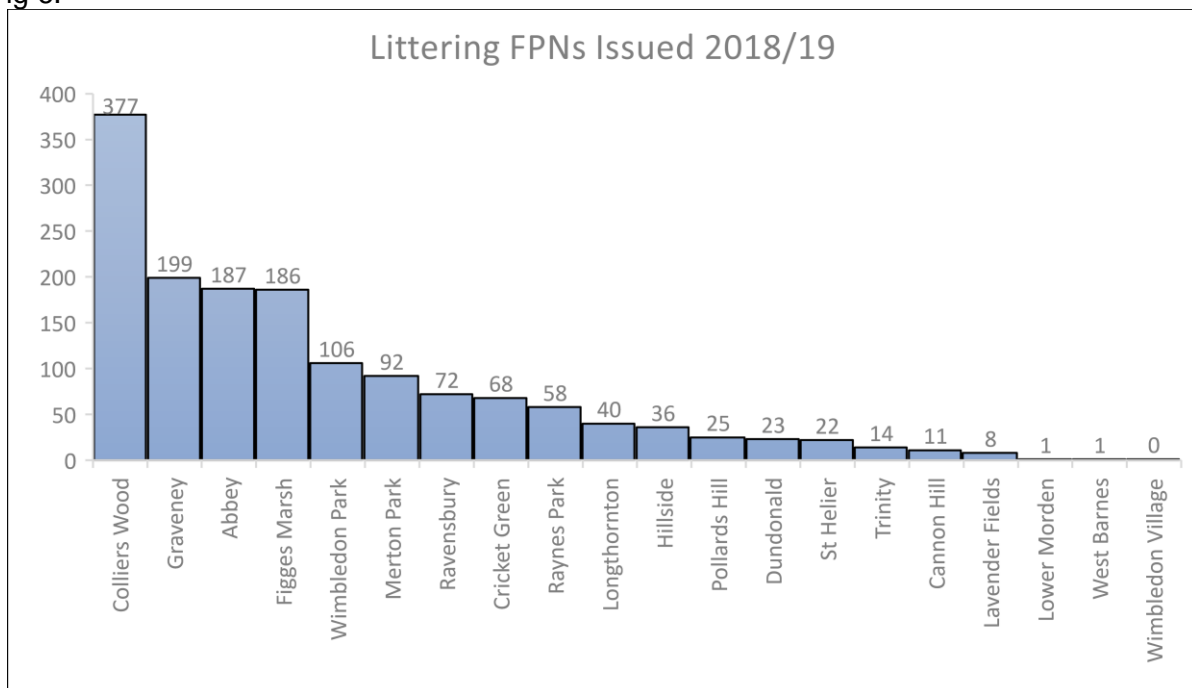
4.11

As outlined in Fig. 3 and Fig. 4, the Council's performs well within London in actively enforcing environmental crimes. It should be noted that use of CCTV in waste enforcement is often limited. The success of our enforcement is primarily driven through evidence gathering which is not reliant on CCTV. However, CCTV is helpful in cases where a motor vehicle is involved and its use can often act as a strong deterrent when used correctly. The covert use of CCTV is strongly regulated through the Regulation of Investigatory Powers Act 2000 (RIPA) imposing strict procedural controls on its use.. It is also important to note that past experience, directly and as informed by neighbouring authorities, shows the use of covert CCTV to combat the majority of the lower volume fly-tips which plague our neighbourhoods is ineffectual. CCTV is often better suited for larger scale issues and to gain evidence on location based enforcement, such as the illegal movement or transfer of waste.

4.12 In Fig. 3, Merton's lower position (top 10 within London) is due to our lower reliance on the sending of warning letters pertaining to partial evidence being secured following 'in-field' investigations. The success rate of in-field investigations is notoriously low as the type of waste often deposited is consistently one material or bulky in nature (i.e. garden waste or furniture). Within an average operational month, the waste enforcement team may inspect in excess of 400 deposited waste sacks and issue, on the basis of evidence found, no more than 20-25 FPNs. The *Fly-tipping Action Plan*, being developed with Councillor input, will review internal systems to determine what sustained improvements can be made.

4.13 In March 2020 the environment enforcement contract with the current service provider ceases. We are currently preparing a revised specification for the new service contract as part of the procurement process. In order to drive further improvements and flexibility within the service we will be working within the department and at further business opportunities to provide further services within the borough that are focused on enforcement outcomes. One potential area that we are keen to develop is to have the service provider tackle the smaller fly-tipping incidents that are a scourge to our local environment. Utilising the receipts of any FPNs that may be issued, it may be possible to operate this as a concession contract element which is self-funding. This would provide the borough with further resource to tackle this issue.

Fig 6.



## 5. TRADING STANDARDS

5.1 The Trading Standards Service operates an intelligence led approach to service delivery that focusses the team's work and limited resources efficiently to deal with key priorities for stakeholders.

5.2 This approach facilitates effective targeting of frontline services so that we can tackle the rogues and criminals that prey on vulnerable people within our community, and other traders who trade in an irresponsible or unlawful manner that adversely affect

our stakeholders. This saves time, reduces costs and ensures that resources are allocated to the most significant areas of work that affect residents, businesses and the community as a whole.

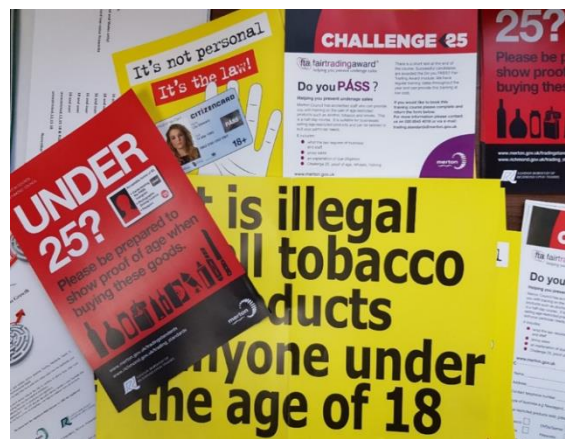
5.3 We operate to a core service specification and our current priorities are:

- Rogue Traders and Doorstep Crime e.g. rogue builders
- Age Restricted Sales e.g. the sale of alcohol, knives, tobacco etc. to young people
- Financial Scams e.g. fraudulent mass marketing schemes to obtain money
- Intellectual Property e.g. counterfeit goods
- Product Safety e.g. chargers, cosmetics, toys
- Fair Trading e.g. e-commerce, misleading prices and descriptions
- Metrology (Weights and Measures)
- Business support and advice, 'better regulation'

5.4 Appendix 2 provides an example of a successful rogue trading prosecution case.

### Age Restricted Sales

5.5 Statutory age restrictions apply to the sale of certain products including alcohol, tobacco, knives, films, video games and fireworks. Illegal sales can result in ASB that adversely affect our community. Young people who start smoking or drinking at an early age find it harder to give up and are more likely to suffer long term ill health. Activity in this priority area directly affects the future health and wellbeing of residents.



5.6 Trading Standards regulation safeguards young people and contributes to better outcomes for local communities, residents and businesses through protecting young people from harm, keeping communities safe and supporting local business growth.

5.7 We work in partnership with local businesses to prevent illegal sales by providing support and practical guidance to assist businesses with their legal obligations. Officers visit businesses and discuss best practice, provide practical advice, point of sale materials and refusal registers to facilitate effective compliance. This support is followed by targeted test purchasing of retailers where advice has previously been provided to test compliance. Advance notice is provided to the business with a window of three months in which the test purchase will take place.

5.8 Businesses are encouraged to operate a Challenge 25 policy and request age verification identification from all customers who they believe to be Under 25.

5.9 In 2018/19, 95 test purchases were carried out by young people under the age of 18 closely supervised by Trading Standards staff and 17 retailers attended 'Do You Pass' accredited training provided by us to promote compliance. The tables below provide further details including work undertaken to date in 2019/20.

5.10 Test purchases and training

	Alcohol	Tobacco	Knives	DVD	Fireworks	DYP	Total
2018/19	37	33	23	0	2	17	112
2019/20*	8	9	24	0	0	3	44

5.11 Sales to young people

	Alcohol	Tobacco	Knives	Fireworks	Total	Failure rate
2018/19	1	1	1	0	3	3%
2019/20*	0	0	2	0	2	5%*

*\*Year to date*

5.12 Test purchasing is conducted in accordance with the Regulation of Investigatory Powers Act and the Department for Business Innovation and Skills Code of Practice on Age Restricted Products and Services. Sales to young people are investigated in accordance with PACE and product specific legislation.

5.13 Knife sales to young people remain a particular concern with an alarming increase in knife crime in London with around 40 offences committed daily across the Capital. There were 30 fatal stabbings on London's streets in the first 4½ months of 2019, with a significant number of suspects being under 18.



5.14 It has been a criminal offence to sell a bladed item (except a folding pocket-knife with a blade not exceeding 7.62 cm) to a person under 18 years old since 1988 (The Criminal Justice Act 1988).

5.15 Contribution to Safer Merton's Knife Crime Action plan in 2018/19

- ✓ 100% inspection of all knife retailers in the borough providing practical advice, support and guidance on the sale of knives including placement advice, precautions and reasonable steps that can be taken to secure compliance and prevent the sale of knives to young people.
- ✓ Free practical training sessions to all knife retailers, precautions and reasonable steps to secure compliance and prevent the sale of knives to young people.
- ✓ Follow up test purchasing to a minimum of 25 retailers who have received advice and/or free training to assess compliance.
- ✓ Participation in the multiagency Safer Merton knife crime event 'Communities and knife crime - working together to keep Merton safe' to highlight our work.

## Knives - recent developments

- 5.16 A Responsible Retailers Agreement (RRA), backed by the Mayor of London, the Police and London Trading Standards, will be launched across London. All knife retailers will be invited to sign-up to the RRA. Signatories will have to comply with requirements including staff training and good practice.
- 5.17 The Offensive Weapons Act 2019 (2019 Act) received Royal Assent on 16th May 2019 and introduces mandatory age verification at the point of delivery for knives sold online, and bans the delivery of knives to lockers.
- 5.18 Enforcing these new requirements will present a significant challenge to the service, particularly given uncertainty about the timings of deliveries and the need for officers to witness the delivery to assess compliance.
- 5.19 To date there has been no announcement of new burdens funding to support Trading Standards implementation of the 2019 Act.
- 5.20 Ongoing work for 2019/20
- ✓ 100 advisory visits to businesses to promote age restricted sale compliance.
  - ✓ Training courses for business.
  - ✓ 100 test purchases/interventions.

## **6. PLANNING ENFORCEMENT**

- 6.1 Planning control is a key area of priority for the Council and its stakeholders as the laws within this area of work are designed to control and manage the development and use of land, buildings and space in the public interest. Planning Enforcement is a vital part of the planning function, being required to ensure that the decisions and policies of the Council are complied with as the Local Planning Authority (LPA).
- 6.2 It is important to note that the Government has vested the primary responsibility for initiating enforcement action at the local level, including determining what action is deemed appropriate and necessary. The Council has a general discretion to take enforcement action, when they regard it as within the public interest.
- 6.3 From a Sustainable Communities perspective, when the enforcement team consider any action, the decisive issue is whether the breach of control would unacceptably affect the public amenity or the existing use of land and buildings meriting protection through appropriate enforcement action, which should be commensurate with the breach that has occurred.
- 6.4 The general current aim of the service is to ensure that:
- All enforcement complaints will be treated in confidence, and anonymous complaints are not accepted. Residents, who are reluctant or concerned about submitting their details, may channel their concerns through the Ward Councillor.
  - All enquiries will be logged and will include a reference number pertaining to the particular enquiry.
  - An initial investigation, including a site visit, will be undertaken between three (3) to twenty (20) working days, depending on the nature and severity of the alleged breach.
  - The enquirer will be updated within 5 working days after the initial site visit and notified of the outcome of the investigation. If no further action is to be

taken, this will be communicated to the customer and the reason for this will be explained.

- Some breaches of planning control will not be pursued beyond an initial investigation where subsequent action is found not to be expedient within the public's interest.
- Where enforcement action is necessary, the appropriate notice will be served and action taken.

6.5 Breaches of planning control are generally not criminal offences, with the exception of:

- unauthorised works to a listed building displaying unauthorised advertisements
- carrying out unauthorised works to protected trees or trees in conservation areas.

Fig. 6

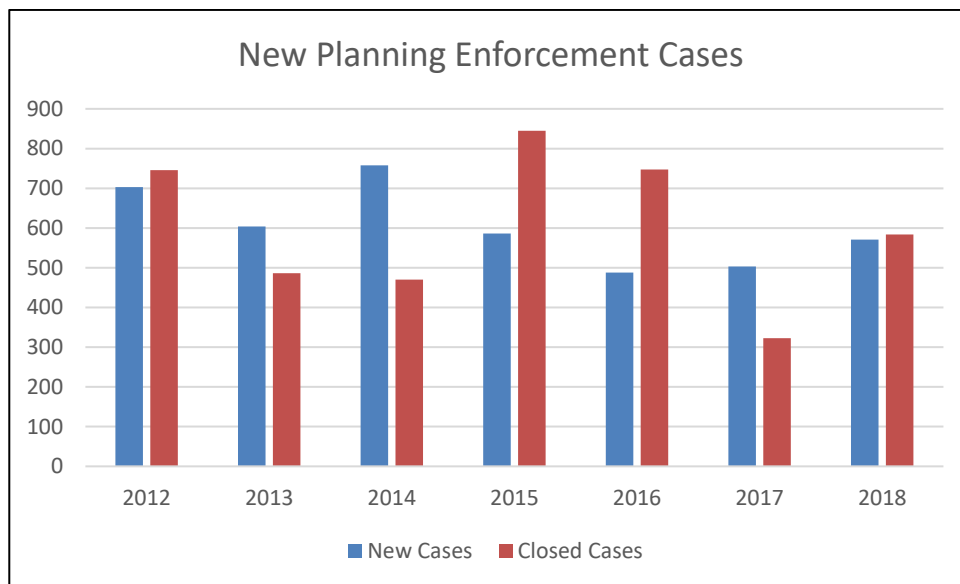


Fig. 7



- 6.6 Around 30% of all complaints result in the closure of the enforcement case in the 'no breach' classification. The enforcement team continues to investigate breaches of planning control including unauthorised building works, hours of operation, adverts, works to listed buildings and uses. Outcomes of investigations include enforcement notices being served, prosecutions taken and direct action in default of compliance with a statutory notice to secure compliance.
- 6.7 There have been a number of significant successes and we continue to look for ways to communicate the no tolerance approach taken regarding planning enforcement.
- 6.8 The team have utilised enforcement days whereby the entire Development Control team 'Blitz' the Borough with visits to properties. The last one yielded 30 case closures following over 120 site visits in one single day.
- 6.9 Currently the enforcement team is undertaking a significant improvement programme. Following a number of years of difficulties in recruitment and retention of suitably qualified staff and an overall reduction in the team size, enforcement investigations were not being undertaken in a timely manner, resulting in a significant backlog developing:
- In order to combat this, the service is reviewing the deliverability of several service enhancements;
  - Implement mobile working solutions by moving cloud based solution that will allow appropriate equipment to deliver on full mobile working.
  - Development of e-forms to enable improved customer accessibility to reporting directly onto the back office systems. The business logic can also be used to 'filter' complaints to ensure efficient operation.
  - Improved education of our residents through improving the content and quality of the information available. This will be coupled with a formal enforcement policy to better define for residents the intervention criteria used.
  - Potential benefits of reviewing Shared Service opportunities with neighbouring authorities. Previously, work in this area identified relevant improvements in the functioning of the website and also common recruitment collaboration.
- 6.10 In the immediacy, additional resources have been allocated to the team and an additional 2 staff recruited with the ambition of eliminating the backlog of cases within the financial year. The enforcement team have set an ambitious target to reduce the outstanding number of cases from nearly 1000 to 450 before the end of the financial year. This will reduce the 'backlog' (defined as cases over 1-year-old) from 550 to less than 100. Significant progress is being made with the challenging target of 130 total closures per month, with projections for September on track. Monitoring of closed cases targets is being undertaken on a weekly basis to ensure any slippage is identified early in the process. In order to achieve the target, one temporary member of staff has been employed and Capita is being utilised to provide the equivalent of 2 additional staff. Staff have been provided with individual targets and team meetings have been arranged to monitor progress. It is anticipated that once the project is complete the existing team will have been left with around 450 live enforcement cases (i.e. those less than one (1) year old).

## **7. Housing Enforcement**

- 7.1 The Housing Enforcement Team forms part of the Housing Service under the Community and Housing Directorate. The team deals with environmental health housing functions in relation to residential properties. Within the team there are a variety of separate but interrelated functional areas. These include:

- Improvements of housing standards in the private rented sector
- Operating the Mandatory Licensing of Houses in Multiple Occupation
- Managing the Disabled Facilities Grant Funding
- Investigation and resolution of Public Health /Drainage related matters
- Statutory nuisance (excluding Pollution related complaints)
- Pest Control as determined by statutory duties

7.2 In June 2019 Cabinet approved a refreshed Housing Enforcement Policy (the Policy). The aim of the Policy is to promote efficient and effective approaches to inspection and enforcement. Moreover, it aims to ensure that enforcement action is:

- **Targeted on risk-** at properties and people that pose the greatest risk, including owners and landlords who evade licensing and regulation, and those whose properties cause a nuisance or put people's health and safety at risk.
- **Proportionate** - reflecting the nature, scale and seriousness of any breach or non-compliance.
- **Fair and objective** - based on the individual circumstances of the case, taking all factors into account.
- **Transparent** – Officer's actions will be explained in plain language, with clear reasons given for any enforcement action taken and compliance. A clear distinction will be made between legal requirements and advice or guidance.
- **Consistent** - taking a similar approach in similar circumstances to achieve similar ends. All factors such as the level of risk, the history of compliance and the attitude and actions of those involved will be considered
- **Accountable** - undertaken in a responsible manner that has a clear purpose. Where enforcement action is taken, the Officer will ensure that information about their rights of appeal are provided. Furthermore, service complaint details can be provided on request.

7.3 There are a range of enforcement options available to the Housing Team which are set out below:

#### 7.3.1 Informal Action (Preliminary Notices)

Formal action under the Housing Act 2004 may be preceded by the service of preliminary notices by which the Council sets out a proposed schedule of works and time scales for completion of the work. These notices invite landlords to make representation if they disagree with the requirements of the notice, or if they wish to suggest an alternative course of action.

7.3.2 The preliminary notice invites landlords to complete an undertaking stating that they agree to the required works and the proposed timescales. If an undertaking is received, no further action will be taken provided the undertaking is not breached. The preliminary notice advises the landlord that a statutory notice will be served in 21 days if an undertaking is not received or if they do not make a representation. The statutory notice will detail the same works as outlined in the preliminary notice. With statutory nuisance and public health issues there is no provision for preliminary notices. In cases where action is required immediately the Council serves a notice in the first instance (e.g. blocked drains and statutory nuisance).

7.3.3 Statutory Action; the Housing Act 2004, the Housing Act 1985 (as amended) and the Environmental Protection Act 1990 are the principal Acts covering statutory action taken.



## **8. Privately Rented Property**

- 8.1 Properties are inspected using the housing health and safety rating system which links defects in properties with hazards to the health or safety of the occupants or visitors. Where properties have been assessed as having a high hazard rating, or there has been a failure to comply with legislation covering houses in multiple occupations, an assessment of risk will be undertaken to determine the appropriate course of action and to inform the decision on whether immediate enforcement action is necessary.
- 8.2 The main statutory notices/orders used are as follows in these areas are included in Appendix 1.
- 8.3 The Council takes a proactive approach to housing enforcement and officers target those landlords who deliberately or persistently break the law. Where poor conditions are identified in a privately rented property, action is taken to identify and inspect other properties owned or managed by the same individual or company. Officers seek to identify HMOs that require a mandatory licence and properties where Category 1 hazards exist.
- 8.4 Where there is a breach of a legal requirement and the Council considers that formal action is required officers may seek to prosecute the offender. Although each case (and our response) is considered on its merits, prosecution will generally be reserved for the most serious cases. These include failures to provide documentation on information requested to determine interested parties and the occupancy of premises. Any decision to prosecute will be taken in accordance with the Regulators 'Code, the Council's Housing Enforcement Policy and the Code for Crown Prosecutors.
- 8.5 The Council may as an alternative to prosecution, serve notices imposing civil penalties of up to a maximum of £30,000. Cabinet approved a Civil Penalties Policy and Rent Repayment Order policy in June 2019
- 8.6 A rent repayment order is an order made by the First-tier Tribunal requiring a landlord to repay a specified amount of rent. The Housing Act 2004 introduced rent repayment orders to cover situations where the landlord of a property had failed to obtain a HMO licence for a property that was required to be licensed as such. The Housing and Planning Act 2016 extended this power to now cover a much wider range of offences.
- 8.7 Where a statutory nuisance is found to be prejudicial to health, less than 21 days (the standard appeal period) may be given for completion of the works to abate the nuisance. Examples of situations which are regarded as being prejudicial to health, and for which a notice under section 80 of the Environmental Protection Act 1990 will be served, include:
- extensive water penetration;
  - defective boilers leaving the property without any means of providing either hot water and/or heating (dependent on the time of year and whether or not there are vulnerable occupants).
  - dampness or condensation resulting in mould growth where there are occupants with respiratory problems.

## **9. Licensing of Houses in Multiple Occupation (HMOs)**

9.1 All decisions in respect of HMO licensing are taken in accordance with the provisions of the Housing Act 2004 and regulations made under that Act. Since October 2018 the scope of mandatory licensing has been extended

9.2 The new definition for Mandatory Licensing removes the 3-storey requirement which means that a HMO will fall within the mandatory licensing regime if it:

1. Is occupied by 5 or more persons;
2. Is occupied by persons living in two or more separate households; and
3. Meets:
  - a) The standard test;
  - b) The self-contained test but is not a purpose-built flat situated in a block comprising 3 or more self-contained flats; or
  - c) The converted buildings test.

9.3 The included properties are:

9.3.1 Houses in Multiple Occupation being five (5) or more occupiers living in two (2) or more households, regardless of the number of storeys, will need to be licensed. Note that there is no requirement for the building to be converted in any way, so a conventional house could fall within scope if it meets the occupancy requirements.

9.3.2 Flats in Multiple Occupation are rather more complex. Mandatory licensing will not apply to a purpose-built flat in a block with 3 or more self-contained flats. A purpose built flat is a flat that was constructed as a flat as opposed to a flat located in a converted house.

9.3.3 Most flats within large purpose-built blocks will therefore fall outside of the scope of mandatory licensing provided there are 3 or more flats in the block. However, purpose-built flats in smaller blocks with up to 2 self-contained flats will fall within mandatory licensing if the occupancy and household requirements are satisfied. This applies regardless of whether the flat is above or below commercial premises.

9.4 Each individual HMO is required to be licensed and not the building within which the HMO is situated. The Council continues to explore the introduction of a selective licensing scheme for Merton. Such a scheme, if introduced would be likely to make Merton a “better place to rent” and have benefits for the wider community including:

- Significantly improving property conditions and the management of privately rented properties
- Helping thousands of tenants to live in safer, more secure and better quality homes
- Providing residents with a more desirable place to live in and enjoy
- Ensuring our communities have stronger and safer neighbourhoods
- Encouraging more professional landlords
- Protecting and encouraging new investment across the borough

9.5 Good news stories have been a renewed focus on housing enforcement in the private rented sector, with a particular emphasis upon HMOs. This has led to Council achieving a successful landlord prosecution.

- 9.6 A Landlord from Streatham pleaded guilty to failing to register a house in multiple occupancy, known as an HMO, at Lavender Hill Magistrates Court on 6 August 2019. The Court imposed a fine of £1,960 for the breach of the Housing Act 2004 (2004 Act) and ordered him to pay prosecution costs of £1,750, in addition to a victim surcharge of £197.
- 9.7 Other cases are being progressed through the courts and a further case will be heard in the Magistrates Court on 10<sup>th</sup> September 2019 for breaches of the requirements of the 2004 Act relating to the condition of an HMO. Both these prosecutions were brought by the South London Legal Partnership, the Council's Shared Legal Service (the SLLP).
- 9.8 In addition to its role of enforcing standards in the private rented sector, officers provide advice and assistance on homelessness and its prevention. Many people are concerned about a risk of homelessness they approach the Council and seek practical advice and assistance to help them remain in their accommodation or secure alternative accommodation. Officers provide Housing Advice on the issues which may help to prevent people from becoming threatened with homelessness, such as tenants' rights and rights of occupation; illegal eviction; rights to benefits; how to protect and retrieve rent deposits; rent and mortgage arrears; help available to people at risk of violence and abuse; and grants.

## 10. Environmental Health

- 10.1 Environmental Health covers a wide range of enforcement responsibilities including:

<b>Air Pollution Control</b>	<b>Occupational health &amp; safety</b>
<b>Smoke Free enforcement</b>	<b>Food hygiene, safety and standards</b>
<b>Noise control</b>	<b>Private water supplies</b>
<b>Environmental nuisance</b>	<b>Infectious disease investigations</b>
<b>Contaminated land</b>	<b>Control of rodent infestations</b>
<b>Industrial pollution control</b>	

- 10.2 Environmental Health services operate on an intelligence led approach to service delivery that seeks to protect the general public, the environment and groups such as consumers, residents and tenants, workers and businesses.
- 10.3 The enforcement activities of Merton's Environmental Health Officers are carried out in a proportionate and consistent manner through routine risk-based inspections and reactive intelligence led interventions. Where breaches of legislation are identified, a graduated approach to enforcement is taken which is intended to:
- ensure that we enforce the law in a fair, equitable and consistent manner
  - assist businesses and others in meeting legal obligations without unnecessary expense or time
  - focus on prevention rather than cure
  - take firm action against those who flout the law or act irresponsibly
- 10.4 The legislation under which Environmental Health works is extensive with some statutes dating as far back as 1949. The powers available to Environmental Health Officers include:

- **Informal Warnings**  
Where breaches are relatively minor, advice will be given in writing and specify the nature of the breach or offence, and the actions required to remedy the issue. Failure to comply with an informal warning may result in further action being taken
- **Statutory Notices**  
These are formal notices which specify a significant breach of legislation, what action must be taken to rectify it and a clear timescale for compliance. Failure to comply with a statutory notice is a criminal offence which may lead to prosecution.
- **Prohibition Notices**  
There may be circumstances where an imminent risk of injury exists which warrants the prohibition of a premises, activity or piece of equipment. The most common notices of this type are used for unsafe equipment or unhygienic food premises.
- **Simple Cautions**  
The issue of a Simple Caution by an authorised officer may be undertaken as an alternative to prosecution where it is considered unnecessary to involve the courts, and the offender's response to the problem makes repeat offending unlikely, or the offender's age or health make it appropriate. Cautions may only be issued where the offender makes a clear and reliable admission of guilt and understands the significance of acceptance.
- **Prosecution**  
A prosecution is appropriate where there is a breach of a legal requirement, such that public safety, health, economic or physical well-being or the environment or environmental amenity is adversely affected.
- **Injunctions**  
Injunctive action is a means of preventing an activity or course of action likely to result in significant risk to public or community safety or economic wellbeing of consumers and businesses.

10.5 **Food hygiene, safety and standards** and the informing legislation is predominantly based on EU Regulations such as Regulation 178/2002. These Regulations provide the general principles of food safety and food law which food businesses must comply. These Regulations have been transposed into the Food Safety and Hygiene (England) Regulations 2013. These require:

- The manufacture and sale of safe food
- Suitable traceability, labelling and presentation of food
- Mechanisms for the withdrawal or recall of unsafe food
- Food and feed imported into, and exported from, the EU shall comply with food law.

10.6 In July and December 2017 a number of investigations took place following complaints received from members of the public, who had purchased food from the Mitcham and Morden outlets of the same supermarket chain, which had been gnawed by mice. These investigations were followed up with the premises being closed by officers until extensive pest control measures were put in place. A prosecution was brought before the Court in November 2018. The company pleaded guilty to six offences, which included the sale of unfit food, and hygiene offences. The Judge took a serious view of the matter imposed a fine of £70,000 for each of the six offences, totalling of £420,000.

The Company was also ordered to pay the Council's costs of £10,100. This prosecution was brought by the SLLP.

10.7 The **Noise and Nuisance** team respond to over 3,000 noise complaints across Merton ranging from construction site noise, domestic noise, barking dogs, plant and equipment noise to noise from Pubs and clubs. The team acts as a Statutory Consultee under the Town and Country Planning Act 1990 and is a Responsible Authority under the Licensing Act 2003, ensuring that due consideration is given to reducing the impact of noise. An "out of hours" noise service is also provided to residents who wish to complain about noise issues outside of normal office hours.

10.8 The powers for officers enforcing noise and nuisance complaints are provided by the Environmental Protection Act 1990 and the Anti-Social Behaviour, Crime and Policing Act 2014. In relation to noise, officers must consider if a complaint about noise can be considered be a Statutory Nuisance as defined by the 1990 Act and subsequent case law.

In general terms, for a noise issue to count as a statutory nuisance it must do one of the following:

- unreasonably and substantially interfere with the use or enjoyment of a home or other premises
- injure health or be likely to injure health

If the officers determine that the criteria above are met, officers must serve an Abatement Notice. This requires the "person responsible", also defined to stop or restrict the noise. The "person responsible" may include the owner or occupier of the premises.

10.9 The main **Health & Safety** legislation covering health and safety in all workplaces is the Health and Safety at Work etc. Act 1974 (the 1974 Act) and regulations made under it.

10.10 Officers within the Regulatory Services Partnership are responsible for promoting and enforcing health and safety standards within certain types of workplace premises and public venues such as:

<b>Shops</b>	<b>Offices (except government offices)</b>
<b>Hotels</b>	<b>Restaurants</b>
<b>Leisure premises</b>	<b>Nurseries and playgroups</b>
<b>Pubs and clubs</b>	<b>Museums (privately owned)</b>
<b>Places of worship</b>	<b>Sheltered accommodation and care homes</b>

10.11 Other typically higher-risk activities and premises are enforced by the Health & Safety Executive (HSE). The service also investigates notifications of accidents and dangerous occurrences under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR). Officers provide advice for workers, businesses or members of the public regarding the following matters and will investigate if applicable:

- Asbestos removal advice
- Cooling towers and evaporative condensers
- Legionnaires disease investigations

- Health and safety at work legislation
- Public safety in licensed pubs and clubs
- Skin piercing
- Smoke-free compliance
- Unsafe working conditions
- Tanning salons & sun bed safety

10.12 The enforcement powers available to officers under health and safety legislation allow them to, amongst other things:

- Enter a premises or workplace at any reasonable time without the requirement to obtain a warrant
- Serving Improvement or Prohibition Notices on duty holders
- issuing simple cautions
- prosecution

10.13 **Case report:** A routine visit to this very busy Japanese takeaway in Wimbledon by an Environmental Health Officer found mice activity in the kitchen, poor standards of cleanliness and due to the cramped arrangements, a substantial risk of cross-contamination from raw chicken to the ready to eat sushi.

A voluntary agreement to stop the production of sushi at the premises was entered into. The owner called a consultant in to redesign the flow of food production, the kitchen was deep cleaned and the staff retrained in the new food safety management system. During the initial visit, it was found that a ladder was being used in an unsafe manner to gain access to the first floor kitchen roof and a Prohibition Notice was served under the 1974 Act prohibiting its use.

## 11. Licensing

11.1 The Council's Licensing Service sits within the Regulatory Services Partnership and is responsible for the Council's statutory licensing obligations including:

- Animal Welfare including home boarding, kennels, catteries, dangerous wild animals and riding establishments
- The sale of alcohol and regulated entertainment
- Gambling establishments
- Scrap metal dealers
- Street trading and markets
- Massage and special treatments
- Sexual entertainment venues

11.2 The enforcement options available to licensing officers include:

- Oral advice and written warnings
- Simple Caution for admitted offences and where action has been taken to by the licensee prevent a recurrence
- Prosecution

- 11.3 The Licensing authority and the Police can prosecute for breaches of license conditions and other statutory offences. Where appropriate officers also have the powers to:
- Issue a licensed premises closure notice (for premises under the Licensing Act 2003)
  - Require a minor variation application to be made (for premises under the Licensing Act 2003)
  - Apply for the license to be renewed (for premises under the Licensing Act 2003 or Gambling Act 2005)
  - Impose additional license conditions
  - Refuse to renew a license
  - Revoke a license
- 11.4 The service works in close partnership with the local Metropolitan Police licensing team and when necessary joint Police/Licensing Authority inspections of licensed premises are carried out.
- 11.5 The service is heavily involved in the regulation of large-scale events and the investigation of complaints regarding unlicensed activities and breaches of licensing conditions including at the recent Eastern Electrics event held at Morden Park.
- 12. Safer Merton**
- 12.1 Demand placed on Anti-Social Behaviour (ASB) services is increasing across the administrative areas of both the Council and the Metropolitan Police Service.
- 12.2 Safer Merton’s ASB service has dealt with, and resolved, some 1237 cases in the last 12 months (July 2018 – June 2019). This is an increase of some 363 cases compared with 874 in the previous 12 months, representing a 34.4% increase.

Fig. 8 – **Anti-social Behaviour Enforcement**



12.3 **Results** - Over the last 12 months the Safer Merton has undertaken significant enforcement with partners around a range of ASB issues resulting in:

- ☑ Four (4) brothel closures
- ☑ One (1) premise closure for disorder – Loud partying, congregation, intimidation, littering and illicit drug activity –  
*The above were closed under the ASB Crime and Policing Act 2014*
- ☑ Four (4) Criminal Behaviour Orders,
- ☑ Seven (7) injunctions
- ☑ Four (4) restraining orders
- ☑ Six (6) community protection notices
- ☑ Twenty-three (23) community protection warnings
- ☑ Twenty-four (24) non-molestation orders

### 13. **Parking Enforcement & Blue Badge Enforcement**

13.1 The Council's Parking Strategy aims to reduce congestion on the road and public transport networks, improve air quality, improve safety for road users and provide affordable parking spaces in appropriate locations to promote and enhance the local economy. The structured use of car parking controls and associated enforcement thereof is essential in helping to balance competing demands for road space, restraining nonessential traffic, and encouraging a shift towards more sustainable modes of travel.

Our Parking enforcement policies are published on our web pages and provide additional information:

<https://www.merton.gov.uk/streets-parking-transport/parking/enforcement>

13.2 Our Civil Enforcement Officers (CEOs) enforce throughout the day and into the evening when most parking restrictions apply. There are 4 teams of 8 operational on street and work on a shift/rota basis and 4 x CEO Team leaders who manage operational matters on a day to day basis. Up to date technology is used to issue Penalty Charge Notices (PCNs) and record photographic images of contraventions. CEOs use body worn video (BWV) devices overtly to record the details of parking contraventions. The footage is invaluable in establishing training requirements for CEOs, which in turn, will improve communication with motorists and the general public. Parking enforcement by CEOs is carried out under the Traffic Management Act 2004 and the associated guidance

The enforcement of traffic regulations by CCTV cameras is regulated under the following legislation, as amended:

- Road Traffic Regulation Act 1984 (the 1984 Act)
- Road Traffic Offenders Act 1988
- Road Traffic Act 1991
- London Local Authorities Act 1996 (the 1996 Act)
- The Road Traffic Offenders (Additional Offences and Prescribed Devices) Order 1997
- London Local Authorities Act 2000
- London Local Authorities and Transport for London Act 2003
- Traffic Management Act 2004
- The Civil Enforcement of Parking Contraventions (England) General Regulations 2007.



- 13.3 Fixed CCTV cameras were introduced in February 2019 to enforce the yellow zig zag lines outside school entrances. This technology discourages drivers from parking dangerously and compromising the safety of children and pedestrians. The fixed cameras are deployed at each school for a short period during the first year of operation, but will then be used where high non-compliance is known to occur. A qualified officer reviews each recording and where it is determined that a contravention has occurred, a PCN is issued and sent by post to the registered keeper of the vehicle.
- 13.4 CCTV Automatic Number Plate Recognition (ANPR) has been used to enforce bus lane (the 1984 Act and the 1996 Act) and moving traffic contraventions such as box junction and no left/right hand turn restrictions throughout Merton for a number of years. This enforcement forms part of a wide range of measures aimed at improving reliability and punctuality of public transport, reducing congestion and pollution and allowing access for the delivery of goods. As with all fixed camera enforcement, a qualified officer reviews each recording and where it is determined that a contravention has occurred, a PCN is issued and sent by post to the registered keeper of the vehicle.
- 13.5 Merton has two CCTV cars which are also to capture parking contraventions. These are often used for school “zig-zag” enforcement. They are also now being used to assist with enforcement of Controlled Parking Zone enforcement areas through the use of ANPR technology linked to the geo data of zones through to the permit system.
- 13.6 A recent addition is the use of Mopeds for the speedy dispatch and delivery of service particular for enforcement requests from customers/residents, such as cars parked over an individual’s drive or in a dangerous place.
- 13.7 Charging levels for parking, bus lane and moving traffic contraventions in London Boroughs are set by London Councils’ Transport and Environment Committee, subject to approval by the Mayor for London and Secretary of State. Higher penalties are imposed for bus lane contraventions and parking where it is generally not permitted, for example; yellow lines, school 'Keep Clear' markings, permit holders' bays and disabled bays without displaying the appropriate permit or badge. Lower penalties are imposed for contraventions such as; overstaying time paid for in a pay and display bay, or parking outside bay markings.

**Number of enforcement actions:**

PCN Type	2018/19
PCN - On street CEO	55,142
PCN - Off street CEO	12,988
PCN - MTC	63,124
PCN – Bus Lane	21,011
PCN – School (Attended)	372

- 13.8 Members of the public who are inconvenienced by incorrectly parked vehicles can request parking enforcement through our established online service. Using a web-based tracking system, the position of the nearest CEO is identified for redirection to the location of the enforcement request. We endeavour to respond to all requests as quickly as possible and in circumstances where it is established that there is a continuing problem, the provision of more regular enforcement may be investigated. Residents who are often inconvenienced by vehicles parked in front of the dropped

kerb outside their property (mainly around schools) can use our well-established online service to register their address which will better inform where CEOs patrol and enforce.

### **Blue Badge Enforcement**

- 13.9 A Blue Badge is a parking permit for individuals who have severe mobility-impacted health conditions. Blue Badges will only be issued to individuals who have a permanent and substantial disability, or to an organisation which is involved in the care of physically disabled people. A Blue Badge enables the holder to access convenient on and off-street parking spaces either as a driver or passenger. A recent change to the Blue Badge eligibility is the inclusion of hidden disabilities and the impact is being considered and closely monitored.
- 13.10 Blue Badge misuse is a criminal offence and unfortunately it still lingers nationally and within Merton. A Department for Transport publication on Blue Badge misuse estimated that across England misuse costs local authorities around £45 million every year, placing considerable strain on the public purse. Some common examples of misuse include using a badge without the holder being a part of the journey, or using a lost, stolen or cancelled badge.
- 13.11 From the moment a CEO first sees a badge on display on a dashboard, they must ensure their BWV device is switched on. They must also ask relevant investigative questions at the scene, noting their surroundings, including the vehicle registration mark and who is in the vehicle.
- 13.12 In order to uphold the integrity of the Blue Badge scheme, Merton will increase the number of inspections are carried out by CEOs, who approach all vehicles with a Blue Badge on display and ask drivers specific questions in order to determine whether or not misuse is taking place. Where misuse is suspected, CEOs and authorised Council Officers are legally permitted to confiscate a Blue Badge and return it to the issuing Local Authority. We are able to confiscate the badge under the Disabled Person's Parking Badges Act 2013
- 13.13 Once a badge has been confiscated, council officers carry out a thorough investigation. This may include checking CCTV, watching the confiscation footage or examining a challenge received in response to the PCN. As part of an investigation, Parking Services may also contact other council departments, such as Registrars and Council Tax, as well as other local authorities, schools and private organisations/businesses. Any request for information is made under the Data Protection Act 1998, section 29(3) (prevention and detection of crime). After the evidence has been compiled by Parking Services the case is passed on to the SLLP for assessment and possible prosecution where appropriate.

## **14 FUTURE STEPS AND PRIORITIES**

- 14.1 Within waste enforcement, the future review and potential investment in a more up-to-date enforcement IT solution will enable the current resource team to increase the level of formal written warning letters issued. The data gathered through this will enable better, intelligent led enforcement, while also improving our ability to spot trends of potential serial offenders. As per 14.2, it is intended that the service will be review the potential benefit to utilise the new case management system.
- 14.2 The Safer Merton service has recently procured and introduced a new intelligence lead case management system ECINs. ECINS draws together intelligence on people, place, vehicles, phone numbers and associations allowing mapping to occur. The use of intelligence lead enforcement, with partners, could be channelled via Safer Merton as multi-agency tasking and working is synonymous with this team.

The ICT solution does not have limits on user numbers and as such can be rolled out quickly and effectively over the Council

**15. ADVICE/RECOMMENDATIONS OF RELEVANT OVERVIEW AND SCRUTINY PANEL**

15.1 During the last municipal year and so far during the current, the Sustainable Communities Overview and Scrutiny Panel has undertaken the following activity related to its sustainable communities' remit:

15.2 Cabinet Member priorities: The Cabinet Members for Regeneration, Housing and Transport along with Adult Social Care, Health and the Environment updated the panel on their priorities and responsibilities. Areas that were highlighted included Air Quality, Housing Strategy, improving recycling and the need to focus on street cleaning, abandoned waste and fly tipping in the borough.

15.3 Performance monitoring: reviewing progress against the set priorities for the Environment and Regeneration Department (and Community and Housing where appropriate) is an essential part of the Panel's remit. Items highlighted include the enforcement of blue badges, the decline in street cleanliness standards and the backlog of building control enforcement cases.

15.4 Waste, recycling and street cleaning  
Monitoring the performance of the waste, recycling and street cleaning contract has formed another significant part of the Panel's work. This topic featured on four agendas in the last municipal year. There has been increased input from residents and the involvement of Veolia representatives allowing the Panel to highlight key concerns and look in depth at how these are being addressed.

15.5 Planning enforcement: Members received detailed updates on the performance of planning enforcement and although there is still a backlog of cases, Panel members noted that the dip in performance was formally addressed and targets are now being accomplished. The team has been stabilized with permanent staff and greater efficiencies in I.T continue to be explored. Panel Members resolved to continue receiving trend data on the number of planning enforcement cases that are more than six months old.

15.6 Strategic approach to parking charges: The Sustainable Communities Overview and Scrutiny Panel took an active role in examining the strategic approach to parking charges. The Panel made multiple recommendations on this subject and raised issues for consideration by Cabinet such as how public transport accessibility issues will be addressed and whether additional evidence was required to demonstrate that increasing parking charges results in a decrease in traffic. The Panel conducted pre-decision scrutiny of the results of the parking charges consultation and subsequently recommended they be given an opportunity to carry out pre-decision scrutiny of the findings of the 6-12 month review that will be carried out if Cabinet approve the implementation of the new charges.

15.7 The Overview and Scrutiny Commission has continued to hold the Police and Safer Merton to account in relation to crime, policing and anti-social behaviour over the last year. The BCU Commander has attended scrutiny twice in the past year to provide the latest crime data and answer questions on a wide range of issues including stop and search, anti-social behaviour, gangs and knife crime, street drinking (including the use of public space protection orders) as well as preventative work including the work of police officers in local schools.

**16. CONSULTATION UNDERTAKEN OR PROPOSED**

16.1 None for the purposes of this report.

**17. TIMETABLE**

17.1 None for the purposes of this report.

**18. FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

18.1 None for the purposes of this report.

**19. LEGAL AND STATUTORY IMPLICATIONS**

19.1 None for the purposes of this report. The report details a number of statutory provisions which imposed statutory controls governing various areas and which impose enforcement duties and obligations on the Council.

**20. HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

20.1 The Council's Overarching Enforcement Policy as per section 5.2 states '*Regard shall be given to the relevant legislation, codes and policies which protect the rights of the individual and guide enforcement action, (These include the Human Rights Act 1998, Code for Crown Prosecutors, Corporate Customer Services Strategy and the Council's Equality and Diversity Policy).*

**21. Crime and Disorder implications**

21.1 The policies and approaches to enforcement across the Council are outlined within the report.

**22. RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

22.1 None for the purposes of this report.

**23. BACKGROUND PAPERS**

- **COUNCIL WIDE ENFORCEMENT POLICY - [LINK TO DOCUMENT](#)**
- **THE REGULATORY SERVICES PARTNERSHIP POLICY ON ENFORCEMENT - [LINK TO DOCUMENT](#)**
- **SAFER MERTON AND ENFORCEMENT PRIVACY NOTICE - [LINK TO DOCUMENT](#)**
- **PLANNING ENFORCEMENT REGISTER - [TO WEB PAGE](#)**
- **PARKING SERVICES ENFORCEMENT POLICY - [LINK TO DOCUMENT](#)**
- **TRADING STANDARDS ENFORCEMENT POLICY - [LINK TO DOCUMENT](#)**
- **HOUSING ENFORCEMENT POLICY 2019 – 2024 (DRAFT) - [LINK TO DOCUMENT](#)**
- **FLY-TIPPING STRATEGY (DRAFT) - [LINK TO DOCUMENT](#)**

**24. APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**

**APPENDIX 1. LIST OF RELEVANT LEGISLATION**

**APPENDIX 2. ROGUE TRADER PRESS RELEASE**

**APPENDIX 3. PUBLIC PROTECTION, PUBLIC SPACES AND SUSTAINABLE COMMUNITIES PERFORMANCE INFORMATION (JULY 2019 AND YTD)**

## **APPENDIX 1.**

List of legislative instruments to either enable and/or place a duty on the Council to enforce.

Supporting the delivery of Sustainable Communities, key legislation is as follows:

- Environmental Protection Act 1990
- Clean Neighbourhoods and Environment Act 2005
- Control of Pollution Amendment Act 1989
- The Environmental Permitting (England and Wales) Regulations 2007
- Environment Protection Act 1995
- Anti-Social Behaviour Act 2003
- London Local Authorities Acts
- Town and Country Planning Act 1990
- Town and Country Planning (Control of Advertisements) (England) Regulations 2007
- Highways Act 1980
- Licensing Act 2003
- Human Rights Act 1998
- Police and Criminal Evidence Act 1984
- Criminal Procedures and Investigations Act 1996
- Regulation of Investigatory Powers Act 2000
- Data Protection Act 1998
- Local Byelaws

Other statutory duties (with specific powers only):

- Accommodation Agencies Act 1953
- Anti-Social Behaviour Act 2003
- Agriculture Act 1970
- Cancer Act 1939
- Children and Families Act 2014
- Children and Young Persons Act 1933
- Children and Young Persons (Protection from Tobacco) Act 1991
- Companies Act 1985 and 2006
- Consumer Credit Act 1974
- Consumer Protection Act 1987
  - Including but not exclusively,
    - Aerosol Dispenser Regulations 2009
    - Cigarette Lighter Refill (Safety) Regulations 1999
    - Food Imitations (Safety) Regulations 1989
    - Furniture and Furnishings (Fire)(Safety) Regulations 1988
    - Motor Vehicle Tyres (Safety) Regulations 1994
    - Oil Heaters (Safety) Regulations 1977
    - Pedal Bicycles (Safety) Regulations 2010
    - Road Vehicles (Brake Linings Safety) Regulations 1999
- Consumer Rights Act 2015
- Copyright Designs and Patents Act 1988
- Criminal Justice Act 1988 (section 141A)

- Courts and Legal Services Act 1990 (sections 104 to 107)
- Education Reform Act 1988
- Energy Act 1976
- Energy Conservation Act 1981
- Enterprise Act 2002 and 2016
- Estate Agents Act 1979
- European Communities Act 1972
- Biofuel (Labelling) Regulations 2004
- Business Protection from Misleading Marketing Regulations 2008
- Cat and Dog Fur (Control of Import etc.) Regulations 2008
- Construction Products Regulations 2013
- Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013
- Consumer Protection from Unfair Trading Regulations 2008
- Cosmetic Products Enforcement Regulations 2013
- Ecodesign for Energy-Using Products Regulations 2007
- Electromagnetic Compatibility Regulations 2016
- Electrical Equipment (Safety) Regulations 2016
- Energy Information Regulations 2011
- Energy Performance of Buildings (England & Wales) Regulations 2012
- Financial Services (Distance Marketing) Regulations 2004
- Footwear (Indication of Composition) Labelling Regulations 1995
- Gas Appliances (Enforcement) and Miscellaneous Amendments Regulations 2018
- General Product Safety Regulations 2005
- Measuring Instruments Regulations 2016\*
- Measuring Instruments (EEC Requirements) 1988\*
- Medical Devices Regulations 2002
- Non-automatic Weighing Instruments Regulations 2016\*
- Packaging (Essential Requirements) Regulations 2015
- Package Travel and Linked Travel Arrangements Regulations 2018
- Passenger Car (Fuel Consumption and CO2 Emissions Information) Regulations 2001
- Personal Protective Equipment (Enforcement) Regulations 2018
- Pressure Equipment (Safety) Regulations 2016
- Pyrotechnic Articles (Safety) Regulations 2015
- Radio Equipment Regulations 2017
- REACH Enforcement Regulations 2008
- Recreational Craft Regulations 2017
- Simple Pressure Vessels (Safety) Regulations 2016
- Standardised Packaging of Tobacco Products Regulations 2015
- Supply of Machinery (Safety) Regulations 2008
- Textile Products (Labelling and Fibre Composition) Regulations 2012
- Timeshare, Holiday Products, Resale and Exchange Contracts Regulations 2010
- Tobacco and Related Products Regulations 2016
- Toys (Safety) Regulations 2011
- Explosives Act 1875
- Fireworks Act 2003
- Forgery and Counterfeiting Act 1981

- Greater London Council (General Powers) Act 1984
  - Fraud Act 2006
  - Gambling Act 2005
  - Hallmarking Act 1973
  - Health Act 2006
  - Health & Safety at Work etc. Act 1974
  - Knives Act 1997
  - Licensing Act 2003
  - Local Government (Miscellaneous Provisions) Act 1982
  - London Local Authorities Act 1991
  - London Local Authorities Act 2007
  - Motor Cycle Noise Act 1987
  - Medicines Act 1968
  - National Lottery etc. Act 1993
  - Olympic Symbol etc. (Protection) Act 1995
  - Poisons Act 1972
  - Prices Act 1974 and 1975
  - Proceeds of Crime Act 2002
  - Psychoactive Substances Act 2016
  - Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.)(England) Order 2014
  - Regulatory Enforcement and Sanctions Act 2008
  - Road Traffic Act 1988 and 1991
  - Road Traffic (Foreign Vehicles) Act 1972
  - Sunbeds (Regulation) Act 2010
  - Tobacco Advertising and Promotion Act 2002
  - Trade Descriptions Act 1968
  - Trade Marks Act 1994
  - Unsolicited Goods and Services Act 1971 and 1975
  - Video Recordings Act 1984 and 2010
  - Weights and Measures Act 1976\*
  - Weights and Measures Act 1985\*
    - Including but not exclusively,
      - Weights and Measures (Packaged Goods) Regulations 2006\*
  - London Local Authorities and Transport for London Act (2003)
    - Moving Traffic contraventions - ANPR
    - Box Junctions/Prohibited Turns/One Way Streets – ANPR
  - London Local Authorities Act (1996) as amended by the 2000 Act
    - Bus Lanes – ANPR
  - Traffic Management Act (2004)
  - The Civil Enforcement of Parking Contraventions (England) General Regulations (2007)
  - The Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations (2007)
- 
- Greater London (General powers) Act 1974 (amended by the London Local Authorities and Transport for London Act 2008)

- Secretary of States statutory guidance to local authorities on the civil enforcement of parking contraventions
- Traffic signs Regulations and General Directions 2016 ('TSRGD')
  - School keep clear markings and school super zones – ANPR
  - On street parking contraventions - Parking on yellow lines/ parking in disabled bay and loading bays/ Permits
  - Footway parking
  - Off street parking contraventions - Overstays/non-payment/parking in disabled bays/improper parking
  - Anti-Idling
- London Local Authorities and Transport for London Act (2008)
  - Persistent evaders
- The Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000
  - Blue badge abuse
- Road Traffic Regulations Act (1984) (section 99 – 106)
  - Vehicle removals
  - Vehicle immobilisation

#### Housing Enforcement & Private Rented Property

- Housing Act 2004, sections 11 and 12, Improvement Notices relating to properties with category 1 or category 2 hazards.
- Housing Act 2004, sections 20 and 21, Prohibition Orders relating properties with category 1 or category 2 hazards.
- Housing Act 2004, sections 28 and 29, Hazard Awareness Notices relating to properties with category 1 or category 2 hazards.
- Housing Act 2004, section 40, Notice of Emergency Remedial Action.
- Housing Act 2004, section 43, Emergency Prohibition Order.
- Housing Act 2004, section 102, Interim Management Order.
- Housing Act 2004, section 103, Special Interim Management Order.
- Housing Act 2004, section 113, Final Management Order.
- Housing Act 2004, section 133, Interim Empty Dwelling Management Order.
- Housing Act 2004, section 136, Final Empty Dwelling Management Order.
- Housing Act 2004, section 139, Overcrowding Notice in respect of a HMO.
- Housing Act 1985 (as amended), section 17, Compulsory Purchase Order.
- Housing Act 1985 (as amended), section 265, Demolition Order.
- The Management of HMOs (England) Regulations 2006, notice requiring works to remedy deficient management issues within HMOs.
- Environmental Protection Act 1990, section 80, Abatement Notice in respect of statutory nuisance.
- Building Act 1984, section 59, Notice requiring execution of works of drainage, etc., in existing buildings.
- Public Health Act 1936, section 45, Notice requiring works to defective water closets capable of repair.
- Public Health Act 1961, section 17(1), Notice to remedy insufficiently maintained drains, etc.
- Public Health Act 1961, section 17(3), Notice to remedy stopped-up drains, etc.
- Public Health Act 1961, section 83
- Prevention of Damage by Pest Act 1949, section 4.



## **Appendix 2.**

### **Rogue trader who conned the elderly finally behind bars**

A rogue builder who sought to evade justice by leaving the country has been jailed for more than four years, following a successful prosecution led by Merton Council's trading standards officers.

Cold-calling Joseph Horner conned homeowners, on their own doorsteps, into paying hundreds of pounds for "shoddy" building works, many of which were unnecessary or carried out to an inadequate standard. The fraudster led a group who targeted elderly and vulnerable residents across Merton, Wandsworth and Slough over a five-month period in 2012. The victims, some of whom have now died, were pressured into handing over their cash for the over-priced building works.

One resident was told a parapet wall and chimney stack were in a dangerous condition and Horner commenced work without her agreement. An inspection by Merton Council's trading standards officers found the unnecessary works had actually caused damage to the property. Another resident cold-called by Horner was told a roof tile was missing from his home. Offering to undertake works for £300 cash and provide a 20 year guarantee, the conman also claimed the roof had multiple problems which could lead to its collapse.

Trading standards and Met Police officers arrested Horner in Mount Road, Wimbledon Park in August 2012. He was bailed to attend a Crown Court but as he failed to appear an arrest warrant was issued. Horner left the country, however, he was arrested when he returned in May this year and appeared at Kingston Crown Court, where he was remanded in custody to face trial.

Horner pleaded guilty to Fraud Act offences at the same court on Friday 23 August and was sentenced to three years and nine months in prison. The 51-year-old, from Slough was also sentenced to the maximum six month sentence for a Bail Act offence that is to be served consecutively. Although the total financial loss by victims was £6,650, a compensation order was not made, as the defendant has no money.

Cabinet Member for Commerce, Leisure and Culture, Councillor Caroline Cooper-Marbiah, said: "I hope this case sends out strong warning that rogue traders who con residents into paying for shoddy or unnecessary works in Merton will be brought to justice.

"Many residents don't come forward, or even tell family and friends that they've been victims of doorstep fraudsters due to fear, embarrassment, or because they don't realise they've been conned.

Callous rogue traders ruin lives and so I'd urge anyone who is suspicious of work being carried out in their neighbourhood to contact their local trading standards department or the Citizens Advice consumer helpline."

"Our advice is never to do business on the doorstep, no matter how good the deal sounds."

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## E&R Public Protection performance report
















PI Code & Description	Jul 2019					YTD Status				
	Value	Target	Status	Short Trend	Long Trend	Value	Target	Short Trend	Long Trend	Status
<b>Parking</b>										
CRP 044 Parking services estimated revenue (Monthly)	1,624,307	1,583,557.5				6,235,514	6,334,230			
SP 258 Sickness- No of days per FTE from snapshot report (parking)	1.26	0.66				4.32	2.64			
SP 509 NEW FOR 2019/20 % of Permits applied/processed online	76%	55%				72.5%	55%			
SP 510 NEW FOR 2019/20 % of PCN Appeals received online	56%	55%				58.75%	55%			
SP 511 NEW FOR 2019/20 Blue Badge Inspections (Monthly)	0	27				0	27			
SP 512 NEW FOR 2019/20 Total cashless usage against cash payments at machines (Monthly)	57%	60%				55.25%	60%			
SP 513 NEW FOR 2019/20 Percentage of cases 'heard' and won at ETA	Measured quarterly					79%	73%			
<b>Regulatory Services</b>										
SP 111 No. of underage sales test purchases (Quarterly)	Measured quarterly					11	22			
SP 255 % licensing applications determined within 28 days (Quarterly)	Measured quarterly					89%	98%			
SP 316 % Inspection category A,B & C food premises (Annual)	Not measured for Months						100			
SP 418 Annual average amount of Nitrogen Dioxide per m3 (Annual)	Annual measure						40			
SP 420 Annual average amount of Particulates per m3 (Annual)	Annual measure						40			
SP 496 Number of premise closure orders used (Quarterly)	Measured quarterly					0	2			
SP 494 Nitrogen Dioxide Diffusion Tube Monitoring Sites in the Borough exceeding National Levels (Quarterly)	Measured quarterly					36	0			
SP 519 NEW FOR 2019/20 Total % of broadly compliant food	Annual measure						95%			

PI Code & Description	Jul 2019					YTD Status				
	Value	Target	Status	Short Trend	Long Trend	Value	Target	Short Trend	Long Trend	Status
establishments rated A-E (Annual)										
SP 520 NEW FOR 2019/20 Schedule B Prescribed Premises due for inspection completed (Annual)			Annual measure				100%	?	?	?
SP 521 NEW FOR 2019/20 Total % compliance of non-road mobile machinery on major construction sites with GLA emissions standards			Annual measure				85%	?	?	?
SP 522 NEW FOR 2019/20 % of noise and nuisance complaints received from residents receiving a frontline response (visit/advice) within one week of receipt (Quarterly)			Measured quarterly			90.5%	90%	?	?	✓
<b>Safer Merton</b>										
SP 145 No. of cases discussed at Multi Agency Risk Assessment (domestic abuse) (Monthly)	49	29	✓	↑	↑	132	118	↓	↓	✓
SP 417 % Public Spaces CCTV cameras working (Monthly)	95.49%	98%	⚠	↓	↓	97.58%	98%	↑	↑	⊘
SP 449 Number of Community Protection Warnings issued (Quarterly)			Measured quarterly			11	6	↑	↑	⊘
SP 450 Number of Community Protection Notices issued (Quarterly)			Measured quarterly			2	0	-	↑	⊘
SP 495 Total number of Neighbourhood Watches (Annual)			Annual measure				535	?	?	⊘
SP 497 % ASB cases acknowledged within service timescales (Quarterly)			Annual measure			97%	95%	↑	↑	✓
SP 523 NEW FOR 2019/20 % of repeat MARAC cases (domestic abuse) by volume (Monthly)	41%	30%	✓	-	↑	37.5%	30%	?	?	✓
SP 524 NEW FOR 2019/20 Number of external contracts managed by CCTV (Annual)			Annual measure				2	?	?	?
SP 525 NEW FOR 2019/20 Knife crime - awareness sessions/briefings provided (Quarterly)			Measured quarterly			1	3	?	?	⊘

## E&R Public Spaces

PI Code & Description	Jul 2019					YTD Status				
	Value	Target	Status	Short Trend	Long Trend	Value	Target	Short Trend	Long Trend	Status
<b>Street Cleansing</b>										
CRP 048 / SP 455 % of sites surveyed on local street inspections for litter that are below standard (Monthly)	20.78%	8%				15.81%	8%			
LER 058 % Sites surveyed on street inspections for litter (using NI195 system) that are below standard (KBT) (Quarterly)	Quarterly measure					16.63%	8%			
SP 062 % Sites surveyed below standard for graffiti (Quarterly)	Quarterly measure					5.46%	5%			
SP 063 % Sites surveyed below standard for flyposting (Quarterly)	Quarterly measure					0.87%	1%			
SP 139 % Sites surveyed below standard for weeds (Quarterly)	Quarterly measure					16.63%	11%			
SP 140 % Sites surveyed below standard for Detritus (Quarterly)	Quarterly measure					23.33%	9%			
SP 269 % Residents satisfied with street cleanliness (Annual) (ARS)	Annual measure					N/A	N/A	N/A	N/A	N/A
<b>Waste Services</b>										
CRP 093 / SP 478 No. of refuse collections including recycling and kitchen waste missed per 100,000 (Monthly)	95.00	40.00				75.50	50.00			
CRP 094 / SP 485 No. of fly-tips in streets and parks recorded by Contractor	1,525	700				4,466	2,800			
SP 064 % Residents satisfied with refuse collection (Annual) (ARS)	Annual measure					N/A	N/A	N/A	N/A	N/A
SP 065 % Household waste recycled and composted (Monthly in arrears)	43.18%	48%				44.94%	48%			
SP 066 Residual waste kg per household (Monthly in arrears)	40.76	39.5				124.06	158.5			
SP 067 % Municipal solid waste sent to landfill (waste management & commercial waste) (Monthly in arrears)	4%	10%				9%	10%			
SP 262 % Residents satisfied with recycling facilities (Annual) (ARS)	Annual measure					N/A	N/A	N/A	N/A	N/A
SP 354 Total waste arising per households (KGs) (Monthly in arrears)	71.73	75				225.24	300			

PI Code & Description	Jul 2019					YTD Status				
	Value	Target	Status	Short Trend	Long Trend	Value	Target	Short Trend	Long Trend	Status
SP 407 % FPN's issued that have been paid (Monthly)	72%	75%				65.25%	75%			
SP 454 % of fly-tips removed within 24 hours (Monthly)	99%	95%				49.33%	95%			
<b>Parks</b>										
LER OS 01 Parks Quality Management Score (PQMS)	5.28	5				5.08	5			
SP 026 % of residents who rate parks & green spaces as good or very good	Annual measure					N/A	N/A	N/A	N/A	N/A
SP 027 Young peoples % satisfaction with parks & green spaces (Annual)	Annual measure					N/A	N/A	N/A	N/A	N/A
SP 032 No. of Green Flags (Annual)	Annual measure					N/A	6	N/A	N/A	N/A
SP 318 No. of outdoor events in parks (Monthly)	39	40				83	90			
SP 514 NEW FOR 2019/20 Income from outdoor events in parks (Annual)	Annual measure					N/A	£531,230.00	N/A	N/A	N/A
SP 515 NEW FOR 2019/20 Average Performance Quality Score (Grounds Maintenance Standards) (Annual)	Annual measure					N/A	5	N/A	N/A	N/A
SP 516 NEW FOR 2019/20 Annual basal & epicormic growth programme completion by 31 Aug each year) (Annual)	Annual measure					N/A	100%	N/A	N/A	N/A
SP 517 NEW FOR 2019/20 Number of street trees planted (Annual)	Annual measure					N/A	235	N/A	N/A	N/A
<b>Transport</b>										
SP 136 Average % time passenger vehicles in use (transport passenger fleet)	Annual measure					N/A	85%	N/A	N/A	N/A
SP 137 % User satisfaction survey (transport passenger fleet) (Annual)	Annual measure					N/A	97%	N/A	N/A	N/A
SP 271 In-house journey that meet timescales (transport passenger fleet)	Annual measure					N/A	85%	N/A	N/A	N/A
SP 526 NEW FOR 2019/20 % of Council fleet using diesel fuel (Annual)	Annual measure					N/A	80%	N/A	N/A	N/A
<b>Leisure</b>										
SP 251 Income from Watersports Centre (Monthly)	£141,074	£125,000				£232,743	£211,500			
SP 325 % Residents rating Leisure & Sports facilities Good to Excellent	Annual measure					N/A	N/A	N/A	N/A	N/A

PI Code & Description	Jul 2019					YTD Status				
	Value	Target	Status	Short Trend	Long Trend	Value	Target	Short Trend	Long Trend	Status
SP 349 14 to 25 year old fitness centre participation at leisure centres	10,021	9,200				37,133	35,500			
SP 405 No. of Leisure Centre users (Monthly)	95,269	94,000				381,390	378,000			
SP 406 No. of Polka Theatre users (Quarterly)	<b>Quarterly measure</b>					2,537	2,600			

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## E&R Sustainable Communities

PI Code & Description	Jul 2019					YTD				
	Value	Target	Status	Short Trend	Long Trend	Value	Target	Short Trend	Long Trend	Status
<b>Development and Building Control</b>										
CRP 045 / SP 118 Income (Development and Building Control) (Monthly)	158,489	157,166	✓	?	?	805,782	628,664	↓	↓	✓
CRP 051 / SP 114 % Major applications processed within 13 weeks (Monthly)	100%	68%	✓	-	↑	90.91%	68%	↑	↑	✓
CRP 052 / SP 115 % of minor planning applications determined within 8 week	85.71%	71%	✓	↑	↑	84.21%	71%	↓	↑	✓
CRP 053 / SP 116 % of 'other' planning applications determined within 8 weeks (Development Control) (Monthly)	87.04%	82%	✓	↑	↓	88.56%	82%	↓	↑	✓
SP 040 % Market share retained by LA (Building Control) (Monthly)	60.14%	54%	✓	↑	↑	55.09%	54%	↑	↑	✓
SP 113 No. of planning enforcement cases closed (Monthly)	25	43	✗	↓	↓	118	173	↓	↓	✗
SP 117 % appeals lost (Development & Building Control) (Quarterly)	Quarter measure					41.37%	35%	↓	↓	✗
SP 380 No. of backlog planning enforcement cases (Monthly)	950	849	✗	↓	↓	950	849	↓	↓	✗
SP 414 Volume of planning applications (Monthly)	350	365	⚠	↓	↓	1,463	1,460	↓	↓	✓
<b>Future Merton</b>										
SP 020 New Homes (Annual)	Annual measure					N/A	430	N/A	N/A	N/A
SP 260 % Streetworks inspections completed (Quarterly)	Quarter measure					42.61%	37%	↑	↑	✓
SP 327 % Emergency callouts attended within 2 hours (traffic & highways)	100%	98%	✓	-	↑	99.46%	98%	↓	↓	✓
SP 328 % Streetworks permitting determined (Monthly)	100%	98%	✓	-	-	100%	98%	-	↑	✓
SP 389 Carriageway condition - unclassified roads defectiveness condition indicator (annual)	Annual measure					N/A	N/A	N/A	N/A	N/A
SP 391 Average number of days taken to repair an out of light street li	Quarter measure					1.26	3	↑	↑	✓

PI Code & Description	Jul 2019					YTD				
	Value	Target	Status	Short Trend	Long Trend	Value	Target	Short Trend	Long Trend	Status
SP 475 Number of publically available Electric Vehicles Charging Points available to Merton Residents (Annual)	Annual measure					N/A	49	N/A	N/A	N/A
SP 476 Number of business premises improved (Annual)	Annual measure					N/A	10	N/A	N/A	N/A
SP 508 NEW FOR 2019/20 Footway condition - (% not defective, unclassified road) (Annual)	Annual measure					N/A	75%	N/A	N/A	N/A
<b>Property</b>										
SP 024 % Vacancy rate of property owned by the council (Quarterly)	Quarter measure					1%	3%	↓	↓	✓
SP 025 % Debt owed to LBM by tenants inc businesses (Quarterly)	Quarter measure					3.14%	7.5%	↑	↑	✓
SP 386 Property asset valuations (Annual)	Annual measure					N/A	150	N/A	N/A	N/A
SP 518 NEW FOR 2019/20 Number of completed Rent Reviews (Quarterly)	Quarter measure					1	35	?	?	✓

RAYNES PARK COMMUNITY FORUM  
13 JUNE 2019

(7.15 pm - 9.00 pm)

PRESENT Councillors (in the Chair), Councillor Anthony Fairclough

## 1 WELCOME AND INTRODUCTIONS (Agenda Item 1)

The meeting was held in Raynes Park Library Hall, and chaired by Councillor Anthony Fairclough with Chris Edge from the Raynes Park Association (RPA). More than 30 residents attended, as well as three other Merton Councillors, and officers from the council and its partners.

## 2 OPEN FORUM (Agenda Item 2)

There were no additional items

## 3 WIDE REACHING GENERAL DISCUSSION ON IDEAS IN THE RAYNES PARK AREA (Agenda Item 3)

### **Rubbish and recycling collections**

Claire Walsh, Client Officer from Merton Council's Waste team provided an update on waste collection services. The recycling centre at Wyke Road has been removed, as it was the focus of so much fly tipping. Hopefully this will result in improvements in the area. The team is auditing flats above shops across the borough, including on Approach Road. They are trying to resolve collection issues and ensure residents are putting out waste for collection at the correct time. The website has been improved so it is now possible to renew garden waste collections online and report fly-tips without needing to provide personal information.

Residents asked about charging for garden waste and bulky waste collections, Claire said she would pass on these concerns. Concerns were raised about bins not being returned to properties and lids being left up. Claire said crews are constantly reminded about this but would reiterate the message again. An issue with collections from communal bins on Kingston Road will also be raised with the crew. Claire also said she would monitor the collection from the clothing bank in Waitrose. In response to questions about weeds, Claire said there are four sprays each year, the first in April and the second beginning shortly. In addition, difficult weeds will be dug out. A resident asked what happens to recycling materials once collected. Claire said the relevant data would be made available.

## **Environmental issues**

Councillor David Dean said that in addition to Government action residents could also take action to reduce the impact of climate change. This includes switching to renewable electricity, planting more trees and switching to electric vehicles. A resident asked what plans the Council had to become carbon neutral, Cllr Fairclough said there was a 40% reduction target for 2012-2020 but this is under review. When asked about Planning being used to green the area Cllr Dean said the Council has to work within planning laws and guidelines, and Cllr Fairclough said residents can seek to ensure the new Local Plan does include new environmental commitments.

## **Planning matters**

Kris Witherington, Merton Council provided an update on behalf of Neil Milligan and the Development Control Team.

557 Kingston Road – Dundonald Church 17/P0763: New church with flats above. The decision letter issued and S106 signed but no progress on site.

559-589 Kingston Road – Manuplastics and land to the west. 16/P1208 S106 signed and planning permission for 99 flats plus commercial floor space issued. 18/P3927 Pre-app for redevelopment of same site but with more flats. This essentially reverts to the first iteration of the earlier application.

South side of Wyke Road. 17/P0609: Construction of three apartment blocks (two three-storey blocks and one four-storey block containing 10 x 1 bedroom flats. Issues have arisen regarding kerbside parking, footway access and accuracy of plans. Further amendments have been tabled deleting one of the blocks to try to provide more parking. Report drafted for review with likely reasons linked to impact on parking, pedestrian and highway safety.

Rainbow Industrial Estate: non-material amendment applications to add/amend conditions so as to enable phased development – 18/P0258 and 18/P0259. Various conditions partly signed off relating to phase 1 (commercial part of development). Recent application submitted for Certificate of Lawfulness pertaining to implementation – may be linked to on-going Crossrail 2 discussions and need or otherwise for land to be safeguarded.

Vacant office block 2 Amity Grove 18/P4363: External alterations to façade including cladding, balconies, reconstruction of plant room on roof, landscaping and associated works in connection with application 17/P4083 for the approval for change of use from office space to residential units. Permission granted.

Land rear of 2A Amity Grove 18/P4148: Development of open land by erecting 3 x 2 storey dwellings. Application has been subject of a pre-application advice. Ongoing

negotiation leading to a scheme that officers feel able to support. Likely to be a Committee case given objections – could be June PAC.

27-35 West Barnes Lane 18/P1058: Alterations and extensions to shop units and an extra floor above to create 9 flats in remodelled and extended block. Permission granted 19th October 2018.

80-86 Bushey Road 16/P1317: Major retail/food and drink development. Unoccupied buildings demolished – Pets at Home retained. No obvious building activity. Unclear as to how the approved scheme might progress but new pre application submitted: 19/P1390 for approx. 700 dwellings in blocks with 3,600 commercial floorspace.

32-34 Bushey Road 18/P2619: Scheme amended from 34 to 32 flats. Approved by Planning Committee in Nov, subject to a S106 for affordable housing.

Southey Bowls Club, Kingston Road 19/P1903: Application submitted for minor amendments to approved scheme for 9 houses and new club building. (Tim Lipscomb case officer).

641 Kingston Road – (former Railway Pub south of railway embankment in Raynes Park) 18/P2207: Change of use from public house to ground floor retail with 9 flats above, including demolition of existing taxi hire business within curtilage. Completion of S106 pending.

### **Review on number of Councillors and Ward boundaries**

Chris Edge explained that the Local Government Boundary Commission for England is reviewing the political boundaries in Merton as it does every twenty years. The Commission has already recommended reducing the number of councillors to 57 and is now consulting on where ward boundaries should be. To find out more and have your say please see <https://consultation.lgbce.org.uk/node/16844>

### **Town Centre Developments & events**

Tony Edwards provided an update on developments in Raynes Park town centre.

- Astro turf and benches on South Side – thanks to Alan Lavender of PAG there is now enough material to construct seating cubes to be covered in artificial grass. A prototype should be available soon, with four seats installed by the end of June. If anyone would like to volunteer to help please contact the RPA.
- Removal of bins on north side – following lots of discussion at this Forum agreement was reached to remove these bins and Charlie Baker from Merton Council has now removed them. Hopefully this will see a reduction in fly tipping. Recycling bins remain available in Waitrose in car park.

- Bulb planting – volunteers from the RPA had planted bulbs in West Barnes Lane that have now been destroyed by the gas works. More planting maybe needed in the autumn.
- Railway – After the RPA met with Network Rail they agree to improve the embankment on the north side of the railway. Further maintenance is planned for this autumn but NR still will not agree to allow the RPA on to the area.
- Improvements and funding available – the RPA will meet with Merton Council to discuss the spending of Community Infrastructure Levy and section 106 funds. The RPA would like much clearer guidance on what money is available and what it can be spent on.

### **Ward allocation scheme suggestions from residents**

Councillor Anthony Fairclough explained the process for the Community Infrastructure Levy ward allocations. £15,000 has been allocated to each ward to spend projects that need to be agreed by the councillors for that ward. Projects must be one of the following bulb planting; highway and public right of way vegetation full cut-back & de-weed/spray; supporting volunteer clean ups; footway & street structures; painting street light columns; park bins; park fence railings; seating in parks; installing playground equipment; deep cleaning pavements; grants to community groups; and alley-gate schemes.

Councillors can coordinate across wards, spend the funding in one go or spread it over a number of project. Cllr Fairclough encourage residents to get in touch with their councillors with ideas about projects that can be supported, whilst Cllr Dean said that councillors in the area should communicate with the RPA. Details on the scheme are at <https://www.merton.gov.uk/planning-and-buildings/planning/community-infrastructure-levy/spending-the-levy#allocation>

### **Farmers Market**

Simon Greig organises farmers markets and is keen to bring one to Raynes Park. The markets involve fresh produce usually from local farmers or producers and are usually popular with local communities. The thinking is to have a weekly market on Saturday mornings from September but a final venue has not yet been agreed due to the complicated ownership situation. Merton Council have been keen to support the market but are currently reviewing their policy on markets, which has delayed things.

### **My Raynes Park Festival**

Nick Coke shared the programme for the summer festival. The festival will run from 28 June to 7 July and will include comedy, poetry, art, music and films, culminating with the Lark in the Park picnic on 7 July in Holland Gardens. Details are available from <http://www.myraynespark.co.uk/>

### **Business issues**

- Local Business group – Tony Edwards says the RPA represents residents and business but is lacking at the moment. Business are encouraged to attend an event on 9 July in the Babylon Café.
- Business rates and LBM Discretion – Chris Edge said that Merton Council now has some discretion over business rates and the RPA would be lobbying for support to protect the high street.

### **Business and residential parking**

Chris Edge provided an update on local parking issues

- Residential permits – Merton’s review of parking charges consultation received 3000 responses and as a result, the final decision has been deferred until July. The RPA submitted objections to the plan and Stephen Hammond MP also set out his objections.
- Business Permits – are currently prohibitive for small businesses and should be reviewed.

#### 4 DATE OF NEXT MEETING (Agenda Item 4)

Councillor Fairclough thanked everyone for attending and closed the meeting

Dates of future meetings: All at 7.15pm in the Library Hall  
 Thursday 19 September 2019 Cllr Eloise Bailey  
 Thursday 5 December 2019 Cllr Pauline Cowper  
 Tuesday 31 March 2020 Cllr Adam Bush.

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WIMBLEDON COMMUNITY FORUM  
19 JUNE 2019

(7.15 pm - 9.00 pm)

PRESENT Councillors Councillor James Holmes (in the Chair),

## 1 WELCOME AND INTRODUCTIONS (Agenda Item 1)

The meeting was held at the Wimbledon Arts Space, and chaired by Councillor James Holmes. More than 20 residents attended, as well as two other Merton Councillors. The Chair welcomed everyone to the meeting, introducing the councillors present at the meeting.

## 2 OPEN FORUM (Agenda Item 2)

A Community Meeting to learn more about what 5G is, why it is being rolled out, and how it will affect you, young children and our environment. The meeting will be held on Monday, 24 June from 7 - 9:30 pm In St Mark's Church, St Mark's Place, Wimbledon SW19 7ND. Residents can also find out more by going to <https://www.5ginmerton.com/>. Residents also asked if consent would be required to use Merton Council lampposts, if planning permission would be needed or if it would have permitted development rights.

POST meeting update: the Government announced that it would be reviewing the planning framework for 5G rollout as well as running a public competition for the next round of trial sites: <https://www.gov.uk/government/news/government-to-boost-5g-and-simplify-planning-to-support-mobile-deployment>

Residents asked about the seating and bollards installed outside Centre Court with some disappointed about the design and layout. Helen Clark Bell from Love Wimbledon said that Network Rail had decided on the features with the aim of protecting the station, and there may be further works to protect the bus stop. Love Wimbledon has not been involved in the design.

A resident asked about the proposed parking charges discussed at the last meeting. Cabinet will consider the consultation results and updated proposals on 15 July.

A resident asked about the bins in Wandle Park. Claire Walsh, Merton Council, explained that following the pilot removal of all bins, four have been reinstated.

## 3 WASTE COLLECTION AND STREET CLEANING (Agenda Item 3)

Claire Walsh, Neighbourhood Client Officer for Merton Council provided an update on the changes to refuse collection. Claire thanked residents for their patience during challenges that resulted from the change over to the new system. The system is now in place and operating mainly as business as usual. The next step is to look at properties along shop fronts to audit the collection from those sites. The Council is also reviewing the use of Neighbourhood Recycling Centres. Changes have been made to the Council website, you can now renew garden waste collection online, and you can report fly-tips anonymously.

Residents raised specific issues around missed collections, bin lids, wheelie bins on pavements, a bike chained to a railing and fly-tipping. Claire said she would raise the specific issues with the relevant crews. In response to a question about weeds Claire explained that an inspection last week had highlighted weeds as an issue, and street cleaners would be reminded to use the tools they have. A second spray is currently taking place so further inspections would take place afterwards. They will also soon be reviewing plans for leaf clearance next autumn. Claire also explained that drains are cleared at least annually with more frequent clearance where needed or in high-risk areas. When asked about shop fronts Claire said that the Council can attach conditions to licenses for premises that sell food so she will ask for this to be looked at. Claire also explained that there was no smaller sized wheelie bin available for residents and apologised for any miscommunication.

#### 4 WIMBLEDON TOWN NEIGHBOURHOOD PLAN (Agenda Item 4)

Rob Cowan introduced the work being done to create a Neighbourhood Plan for Wimbledon Town. The presentation given at the meeting is attached to this report. There are 2500 Neighbourhood Plans nationally, 120 in London. The aim is to create a plan for a 'Complete Neighbourhood' sustainable, environmentally friendly, healthy and economically, prosperous urban living. Wimbledon has a huge range of styles that vary with the fashions. The issue of height is controversial as it has a huge impact on neighbouring streets. The Civic Forum is hosting a meeting on 20 June in the Arts Space.

In response to questions from residents, Rob said that the Forum would be working with the Wimbledon Society to find common ground that could form the Neighbourhood Plan and they would be happy to work with any local groups or residents. So far 50 people are participating but in order to apply to be recognised as an official forum they need to demonstrate that the group is representative. They will also need to define the area, and then prepare the plan for a final referendum. This is likely to take at least two years.

#### 5 LOVE WIMBLEDON UPDATE (Agenda Item 5)

Helen Clark Bell provided an update on behalf of Love Wimbledon. The new Love Wimbledon guide has been circulated to 65,000 residents. Upcoming events include:

- Monthly market on 29/30 June – this is now single use plastic free
- Tennis 1-14 July – a big screen and seats will be set up at the Piazza
- Picnic space – tables and chairs will be available 15 July – 2 August
- Monthly market on 3-4 August
- Ride London – road closures and festival on 4 August.

Love Wimbledon has successfully applied to the Mayor of London for a water refill station and is now looking for an appropriate location for it.

Occupancy level is constantly monitored. They are still waiting for final news on Debenhams but a new Yori (Korean BBQ) and Gelato shop have opened. Elys have extended their shop to include their new brand Elys Urban beauty. Love Wimbledon is working with Merton Council to install a Rainbow Crossing outside the new LGBTQ bar to mark Pride Month in July.

There is an ongoing issue with Deliveroo drivers, Love Wimbledon is working with them to find a better location for the riders to stop.

The Love Wimbledon website (<https://lovewimbledon.org/>) contains the latest news and events, as well as their social media accounts.

In response to a question about town centre clocks Helen said that following pressure on Greene King the clock on the Prince of Wales is now working, but discussions still ongoing in relation to centre court. 100 Broadway has been empty since before 2012 and whilst Love Wimbledon will keep chasing the owner there is no sign of anything happening. Helen also said that Love Wimbledon will lobby TfL and Merton Council to better manage the taxi rank at Wimbledon Station. Helen also agreed to look at updating the information map of the area as St Marks was not featured on the old one.

## 6 DATE OF NEXT MEETING (Agenda Item 6)

Councillor Holmes thanked everyone for attending and closed the meeting.

Date of next meeting:

Future meetings: all 7.15pm in Wimbledon Arts Space

Wednesday 25 September 2019; Tuesday 3 December 2019; Thursday 26 March 2020

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## COUNCIL MEETING – 18 SEPTEMBER 2019

### NOTICE OF MOTION – EXTRA POLICE OFFICERS ON MERTON'S STREETS

#### *Council notes:*

According to evidence considered by the Overview and Scrutiny Commission, the merger of the Merton Borough Command Unit with those in Wandsworth, Kingston and Richmond, to create London's largest "Basic Command Unit" (BCU), resulted in a 19% decrease in police numbers across the 4 boroughs.

#### *Council believes:*

1. The likelihood is that, due to high crime rates in other parts of the enlarged BCU, the decrease in overall police numbers will have a disproportionate effect on police numbers across Merton.
2. That Cabinet should seek to mitigate the impact of reduced police number in Merton and ensure our community police presence is maintained despite the changes referred to above and ongoing cuts in central Government funding to the Met.

#### *Council resolves:*

To request that Cabinet bring forward proposals to take advantage of MOPAC's PartnershipPlus Scheme.

Cllr Paul Kohler

Cllr Hina Bokhari

Cllr Jenifer Gould

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## COUNCIL MEETING - 18<sup>th</sup> September 2019 NOTICE OF MOTION

### **This Council notes:**

- That analysis of the 2018 Local Election results by the Fawcett Society found that only 34% of councillors in England are women, up 1% since 2017. Of the seats that were up for election in 2018, 38% went to women, up just 3 percentage points on 2014 when these seats were last contested;
- That across England, Labour has improved its representation since seats were last up for grabs, with 45% women compared with 40% in 2014, Liberal Democrat representation up from 34% to 36% whilst the Conservative Party saw a fall from 31% to 29% in the share of its councillors who are female;
- That the role of a councillor should be open to all, regardless of their background, and that having a parental leave policy is a step towards encouraging a wider range of people to become councillors, and is also a step to encourage existing councillors who may want to start a family to remain as councillors;
- That parental leave must apply to parents regardless of their gender, and that it should also cover adoption leave to support those parents who choose to adopt.
- As of summer 2017, only 4% of councils in England and Wales have parental leave policies, according to research by the Fawcett Society;

### **Council further notes:**

- That Merton Council does offer full parental leave rights for councillors that mirrors those of council employees, but that this can be made much more explicit in the Constitution by adopting the LGA Labour Group's Women's taskforce parental leave policy
- That in order for councillors to be able to carry out their duties often they must claim for reimbursement of the dependent carers' allowance.

### **This Council resolves:**

- To adopt the parental leave policy drafted by the LGA Labour Group's Women's Taskforce to give all councillors an entitlement to parental leave after giving birth or adopting, and to have the full range of rights in the policy reflected in the constitution when the members' allowances scheme is renewed in February 2020;

- To ensure that councillors with children and other caring commitments are supported as appropriate, and therefore raise the dependent carers allowance entitlement to the London Living Wage;
- To notify the LGA Labour Group that this council has passed a motion at full council to adopt the parental leave policy.

Cllr Laxmi Attawar

Cllr Joan Henry

Cllr Brenda Fraser



## **Committee: Council**

**Date: 18 September 2019**

Wards: all

## **Subject: Merton's Local Development Scheme 2019-2022**

Lead officer: Director for Environment and Regeneration, Chris Lee

Lead member: Councillor Martin Whelton, Cabinet Member for Regeneration, Environment and Housing

Contact officer: Deputy future Merton manager, Tara Butler

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### **Recommendations:**

- A. That, following advice from the Borough Plan Advisory Committee on 6<sup>th</sup> June 2019, Cabinet (15<sup>th</sup> July) resolved to recommend that council (18<sup>th</sup> September) approve the high level project plan for creating planning policy documents, known as Merton's Local Development Scheme (LDS).
  - B. For the project plan and timetable (Local Development Scheme) to take effect on 19 September 2019, replacing the council's LDS 2016-19.
  - C. That council delegates any amendments to the Local Development Scheme the Director of Environment and Regeneration in consultation with the Cabinet Member for Regeneration, Environment and Housing, the chair and the vice chair of the Borough Plan Advisory Committee.
- 

### **1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1. The Planning and Compulsory Purchase Act 2004 introduced the requirement for local planning authorities to prepare and maintain a Local Development Scheme (LDS).
- 1.2. The LDS is a short, high level project plan that sets out what Development Plans the council is going to produce and the timetable for producing them.
- 1.3. The council prepared its first LDS in 2005, and issued updates, most recently for the period 2016-2019. It is now time to update the LDS.
- 1.4. This report recommends that the current LDS be updated and full council resolve that it should take effect on 19 September 2019. Appendix A sets out the LDS to reflect the current timetable for the preparation and adoption of:
  - Merton's Local Plan
  - The South London Waste Plan
- 1.5. Merton's Borough Plan Advisory Committee (6<sup>th</sup> June 2019) and Merton's Cabinet (15<sup>th</sup> July 2019) have both resolved to recommend that Council approve Merton's LDS 2019-2022.
- 1.6. Delegation is sought to the Director for Environment and Regeneration in consultation with the Cabinet Member and the chair and vice chair of the Borough Plan Advisory Committee to make any amendments to the Local Development Scheme.

## **2 DETAILS**

- 2.1. Merton's statutory development plan containing the planning policies used to assess planning applications is made up of:
- Merton's Estates Local Plan (adopted February 2018)
  - The London Plan (published by the Mayor of London in 2016 and revision expected later in 2019)
  - Merton's Sites and Policies Plan (adopted July 2014)
  - The South London Waste Plan (adopted March 2012)
  - Merton's Core Planning Strategy (adopted July 2011)
- 2.2. As these documents are already adopted, they do not appear in the LDS.

### **New Local Plan**

- 2.3. As set out in the LDS 2016-2019, the council has already started producing its new Local Plan. Once adopted, it will replace the Sites and Policies Plan 2014 and Merton's Core Planning Strategy 2011.
- 2.4. Stage 1 consultation took place in 2017-2018 and Stage 2 in 2018-19.
- 2.5. Appendix A to this report sets out a new timetable within the Local Development Scheme for the production of Merton's next Local Plan. The timetable is recommended to be extended for the following reasons:
- 2.6. The Mayor of London is revising the London Plan, the spatial development strategy that sets the planning framework for the whole of London. It is part of each London borough's statutory development plan and therefore the basis for planning decisions across London.
- 2.7. The Mayor's London Plan sets the direction for key planning issues across London including each borough's share of London's housing needs, opportunity areas for development, environmental targets and strategic infrastructural matters such as new transport links (e.g. Sutton Link, Crossrail2).
- 2.8. Between January and the end of May 2019, a panel of independent planning inspectors examined the Mayor's draft London Plan in public hearing sessions. The Mayor will finalise the London Plan in early 2020 subject to agreement with the Secretary of State.
- 2.9. The Local Plans of all London boroughs must be in general conformity with the policies in the Mayor's London Plan. It is therefore a good idea to follow the timetable of the London Plan (rather than be ahead of it) in order for boroughs to be able to use the Mayor's up-to-date evidence, to avoid each borough's plan being either out-of-date or failing at examination as it does not generally align with the London Plan.
- 2.10. This is particularly important for outer London boroughs, including Merton, given the increase our share of London's housing needs and the associated

infrastructure considerations that we will be expected to deliver in the new London Plan. Merton Council's response to the draft London Plan supported many aspects of the Mayor's Plan but raised concerns about the deliverability of a new housing target for Merton that is +200% higher than previously. Officers recommend that it is extremely high risk to try and finalise Merton's Local Plan until the Mayor's London Plan is completed and published and Merton can develop the evidence (including further consultation) on housing and associated infrastructure relevant to its Local Plan.

- 2.11. Merton's 2016 LDS was originally based on the Mayor's London Plan being revised by 2018. As the Mayor's London Plan timetable has extended until 2020, officers are recommending that Merton's Local Plan timetable is adjusted to reflect this.
- 2.12. Revising the Local Plan timetable will also better support Morden regeneration. Since the 2019 consultation on specific sites in Morden closed, Merton Council has been working closely with Transport for London and the Greater London Authority to deliver Morden regeneration. A development partner will be appointed in 2020 and will therefore be in place at the time of the Local Plan's proposed submission to the Secretary of State in 2021. This will help to demonstrate the deliverability of Morden regeneration and of the whole Local Plan.

### **South London Waste Plan**

- 2.13. Waste treatment is a strategic planning issue across London and a challenge for all successful urban areas. There is a significant need for new homes in south London which generates the requirement for essential waste treatment infrastructure to support this growth.
- 2.14. In 2012 the four boroughs of Merton, Kingston, Sutton and Croydon adopted the 10-year South London Waste Plan which allocated sites, created planning policies and designated areas for waste management development. This existing South London Waste Plan will finish in 2022.
- 2.15. The four boroughs proposed to work together again and produce a new South London Waste Plan in line with government policy and guidance. The new South London Waste Plan will also cover the geographical area of the London boroughs of Croydon, Kingston, Merton and Sutton.
- 2.16. The London Plan sets the boroughs the target of managing 100% of London's waste within Greater London by 2026 and having zero biodegradable and recyclable waste going to landfill by 2026. It also sets targets for local authority-collected waste, commercial and industrial waste and construction, demolition and excavation waste.
- 2.17. With significant need for new homes and consequent commercial activity planned across London, the need to provide essential infrastructure such as waste facilities to meet this growth is therefore a regional strategic priority.
- 2.18. The new South London Waste Plan will give the opportunity for the four south London boroughs to ensure the South London conforms to waste-related policies in the London Plan, the National Planning Policy Framework and the National Planning Policy for Waste. It will also help the four boroughs to work together to review the long-term vision and objectives to consider waste as a resource in South London, supporting the circular economy.

- 2.19. Since the current South London Waste Plan was adopted in 2012, the four boroughs have been working closely together on:
- Monitoring the South London Waste Plan annually
  - Fulfilling the legal Duty to Co-operate with other councils on waste management issues, responding to other Local Plans for waste management.
  - Preparing and submitting a successful bid for government funding to support a new South London Waste Plan 2021-2036 on the basis of joint working.
- 2.20. In 2018 the four boroughs successfully bid for government funding (Planning Delivery Fund – Joint Working) for £136,594 to support the project.
- 2.21. The proposed timetable for the South London Waste Plan 2022 is set out in Appendix A

#### *Relationship with the South London Waste Partnership*

- 2.22. Although the South London Boroughs already work together as the South London Waste Partnership and have with a shared contract for the municipal collection and disposal of waste, this project and associated MOU relates to the waste planning functions and responsibilities of the South London Boroughs as Local Planning Authorities. The South London Waste Plan considers the municipal waste arising in each borough but it will also considered other forms of waste collected by private contractors.

### **3 ALTERNATIVE OPTIONS**

- 3.1. **South London Waste Plan:** the alternative is for each borough to produce a Waste Plan independently, which would be far more resource intensive for each borough. In any case, it is recognised that the production of a ‘sound’ Development Plan Document would require neighbouring boroughs to collaborate in order to develop consistent policies and proposals in line with the legal requirement of “duty to co-operate”.
- 3.2. **Local Plan:** Alternative options considered and rejected are to only extend Merton’s Local Plan timetable by six months. This was rejected as officers consider that this would not give enough time to account for possible scenarios at a London level (such as further amendments to the London Plan timetable) or for Merton to develop robust evidence on housing and infrastructure delivery and deliver the Local Plan within the LDS
- Delegated authority is sought to deal with amendments to the LDS.

### **4 CONSULTATION UNDERTAKEN OR PROPOSED**

- 4.1. Consultation on Local Plan-making is a statutory requirement and takes place for each Local Plan, including the South London Waste Plan.
- 4.2. Two stages of borough-wide consultation have taken place on the Local Plan which has generated responses on a very broad range of policy matters. However there has been more limited feedback on site-specific matters. Extending the timetable will allow the time to undertake further engagement on site-specific matters with community groups and landowners, engagement with young people and further engagement on

housing matters. Officers have already started this targeted engagement and will report back to councillors at Borough Plan Advisory meetings towards the end of 2019

## **5 TIMETABLE**

- 5.1. As set out in this report, including Appendix A

## **6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

- 6.1. Funding to support this work will mainly come from existing resources and officers will seek opportunities for funding bids and match funding wherever possible.
- 6.2. Successful external funding bids that will help to resource Local Plan or South London Waste Plan include:
  - 6.2.1 Cabinet Office One Public Estate programme (relevant to Local Plan, including Morden regeneration)
  - 6.2.2 Ministry of Housing Communities and Local Government Planning Delivery Fund - joint working (for the South London Waste Plan)
  - 6.2.3 Mayor of London's Housing Capacity Fund (for small housing sites)

## **7 LEGAL AND STATUTORY IMPLICATIONS**

- 7.1. A Local Development Scheme is required under Section 15 of the Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act 2011). This must specify (among other matters) the documents which, when prepared, will comprise the Local Plan for the area. It must be made available publically on the council's website.
- 7.2. The provisions in section 15(8) of the Act 2004 state that the Council should revise the LDS as and when they consider it appropriate to do so.
- 7.3. The provisions of section 15(7) of the 2004 Act which states that the Council must resolve for the LDS to take effect and specify from what date it shall take effect..
- 7.4. With the aim of encouraging more local authorities to have a local plan in place, the Housing and Planning Act 2016, the Act gives the Secretary of State greater powers to intervene in the local plan making process. Specifically it would allow the Secretary of State to intervene if a local authority was failing or omitting to do anything it is necessary for them to do in connection with the preparation, revision or adoption of a local plan.
- 7.5. The Government's Implementation of planning changes: technical consultation proposes to prioritise Government intervention where:
  - there is under delivery of housing in areas of high housing pressure;
  - the least progress in plan-making has been made;
  - plans have not been kept up-to-date.

**8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

- 8.1. Local Plans contain planning policies to improve community cohesion and are subject to Sustainability Appraisal / Strategic Environmental Assessments and Equalities Impact Assessments.

**9 CRIME AND DISORDER IMPLICATIONS**

- 9.1. Local Plans contain planning policies to improve community cohesion and are subject to Sustainability Appraisal / Strategic Environmental Assessments which also consider matters of crime and disorder.

**10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

- 10.1. As set out in the body of this report.

**11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**

- Appendix A: Merton’s Local Development Scheme.

## APPENDIX A – MERTON’S LOCAL DEVELOPMENT SCHEME 2019-2022

<b>Document and status</b>	<b>Role and content</b>	<b>Geographic coverage</b>	<b>Reg 18 consultation</b>	<b>Publication pre submission</b>	<b>Submission (followed by 6 month examination)</b>	<b>Adoption</b>
Local Plan– Development Plan Document	<p>Setting out spatial vision, objectives, strategic and detailed planning policies and site allocations.</p> <p>Replacing Merton’s Sites and Policies Plan 2014; Merton’s Core Planning Strategy 2011 and Merton’s Policies Map (where relevant) 2014</p>	Borough wide – London Borough of Merton	<p>Stage 1: October 2017-Janaury 2018</p> <p>Stage 2: October 2018-January 2019</p> <p>Stage 2a start: Sept-Oct 2020</p>	Spring / Quarter 2 2021	Summer / Quarter 3 2021	Winter 2021 / Quarter 4 2021
South London Waste Plan – Development Plan Document	<p>Replacing South London Waste Plan 2012. Setting out spatial vision, objectives, strategic and detailed planning policies and site allocations all relating to waste management. Ensuring that waste facilities have the least impact on the environment, supporting waste as a resource and the circular economy.</p> <p>Covering the London boroughs of Merton, Croydon and Sutton and the Royal Borough of Kingston upon Thames</p>	The extent of the four boroughs of London borough of Merton, Sutton and Croydon and the Royal Borough of Kingston upon Thames	Start: October 2019	Start: May 2020	Winter / Quarter 4 2020	Summer / Quarter 3 2021

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## **Committee: Full Council**

**Date: 18<sup>th</sup> September 2019**

Wards: All Wards

## **Subject: Children and Young People's Plan 2019-23**

Lead officer: Rachael Wardell, Director of Children, Schools and Families

Lead member: Kelly Braund, Cabinet Member for Children's Services

Eleanor Stringer, Cabinet Member for Education and Adult Services

Contact officer: Karl Mittelstadt, Head of Policy, Planning and Partnerships

### **Recommendations:**

- 
1. To adopt Merton's Children and Young People's Plan for 2019-23.
- 

## **1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1. Following Cabinet sign-off in June 2019, this report seeks full Council approval of Merton's Children and Young People's Plan (CYPP) for 2019-23. This plan will replace the previous CYPP which spanned 2016-19.

## **2 DETAILS**

- 2.1. The CYPP is the key strategic plan for partners responsible for delivering services for children, young people and families in Merton and for the wider community. It is overseen by the multi-agency Children's Trust Board, chaired by the Director of Children's Services, which is the vehicle for bringing together partner agencies to secure improvements for children, young people and their families in Merton.
- 2.2. The refresh of the plan has been led by the Children, Schools and Families (CSF) Department and has been informed by an understanding of need drawn from various surveys of children and young people, performance management information and profiles, strategic mapping and evidence from delivery of the previous plan.
- 2.3. The voice of Merton's young residents has been a vital foundation of the new set of priorities. Over 1,287 respondents participated in a large-scale survey to ascertain opinions and perspectives on a range of areas including local community, public spaces, health, safety and personal well-being. Focus groups were also held at Cricket Green School, children's centres and as part of a Student Council Day of Action. Merton Council's Young Inspectors have been involved with the consultation and development of the new strategy at all stages
- 2.4. During the refresh process, a new vision for the Board was developed (*'My Family, My Future, My Merton: A place where children and young people feel they belong, stay safe and can thrive'*), which captures aspirations for all children and young people to have fair access to a range of opportunities, fulfil their potential, make positive choices for their future and highlights the importance of family, friends, and community in the borough.

- 2.5. The new CYPP for 2019-23 sets out six priorities that cover improvements that are broad-ranging, holistic and inclusive of all children and all levels of need across the Merton Well-Being Model and which respond to the issues and concerns raised through consultation. These are: 1. Being Healthy, 2. Staying Safe, 3. Enjoying and Achieving, 4. Getting Involved, Having a Say, 5. Becoming Independent and 6. My Merton (connections with family, friends and the local community).
- 2.6. The CYPP links to Merton's Sustainable Communities Plan (currently being refreshed) and supports the delivery of Merton's mission to 'enhance the lives of vulnerable, younger (...) residents through improving health and social opportunities' as well as 'to improve education, from nursery level to adult provision, to develop local cultural and leisure offers for all, and to increase participation in local decision making'. The refreshed plan also complements the borough's Health and Wellbeing Strategy via its connectedness theme (*My Merton*) linked to healthy place in terms of social and physical environment.
- 2.7. Council officers are working with partners on an implementation plan and performance monitoring framework that will be presented at the next Children's Trust Board meeting in October. These documents are being developed collaboratively with Young Inspectors who continue to apply scrutiny and provide recommendations to ensure that key activity is focused on progressing priority needs and key issues.

### **3 ALTERNATIVE OPTIONS**

- 3.1. None.

### **4 CONSULTATION UNDERTAKEN OR PROPOSED**

- 4.1. The CYPP for 2019-23 has been developed with extensive input from children, young people and families in Merton, and partners through the Children's Trust Board.

### **5 TIMETABLE**

- 5.1. Following adoption by Full Council, the underpinning draft implementation plan will be formally adopted by the Children's Trust Board in October. At this point, the strategy will be published on council websites, and promoted by partner agencies using existing communication channels.

### **6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

- 6.1. There are no financial costs arising from the publication and dissemination of the plan.
- 6.2. The actions committed to in the plan are part of the council's planned business and any costs will be met within existing budgets.

### **7 LEGAL AND STATUTORY IMPLICATIONS**

- 7.1. There is no longer a statutory requirement to produce a Merton CYPP and the document is not governed by a specific legislative framework.

### **8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

- 8.1. The CYPP 2019-23 includes a focus on improving the life chances of vulnerable groups and children and young people with special educational

needs or disabilities in its outcomes. In addition, the Council is in the process of developing its new SEND Strategy. We consulted with a wide variety of children during the consultation process.

- 8.2. Outcomes for vulnerable groups will be able to be tracked via the performance framework.

## **9 CRIME AND DISORDER IMPLICATIONS**

- 9.1. The ambition that all children and young people are safe is one of the plan's six outcomes (*'Staying Safe'*). It aligns with existing strategic plans including the Youth Justice Plan and the 'Safer Merton' plan.

## **10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

- 10.1. Risks to delivery will be reviewed and acted on as part of the Children's Trust arrangements for progress monitoring.
- 10.2. Any risks to the council will be managed via the existing corporate risk management process.

## **11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**

- 2019-23 Children and Young People's Plan

## **12 BACKGROUND PAPERS**

- 12.1. None.

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# My Family, My Future, My Merton

"A place where children and young people feel they belong,  
stay safe and can thrive"

Merton Children and Young People's Plan 2019 - 23

Welcome

Did You Know?

Being Healthy

Staying Safe

Enjoying and Achieving

Page 78

Getting Involved, Having a Say

Becoming Independent

My Merton

Appendix

Speak to Us



# WELCOME

## From Martin and Toby - Young Inspectors

We are a team of young people from Merton who are passionate about improving the lives of children and young people in the borough. The plan you are about to read is different to every plan that has been written before this, as it was directed and co-produced by us - for the young people of Merton, by the young people of Merton.

Obviously, a plan of this size required more than just two of us in an office – that’s where you come in. The contents of this plan have been shaped as a result of multiple borough wide consultations, allowing us to input feedback from over 1,287 Merton young people. We have worked closely with Merton Youth Parliament to ensure that we are putting the most focus in to the things that matter the most to you.

Ultimately, our fundamental aim was to ensure that this plan enables Merton to be a place where children and young people feel they belong, stay safe, and can thrive.

## Councillor Kelly Braund - Cabinet Member for Children's Services

For many years, Merton’s Children’s Trust has bought together key partners to set joint priorities for Merton’s children and young people, but when creating our plan for 2019 – 2023, we took a different approach.

As a demonstration of our commitment to the children and young people across Merton, we handed the consultation and construction of the plan over to the children and young people themselves, led by our Young Inspectors, Toby and Martin.

The Children’s Trust is ambitious for all the children and young people in our borough, and by listening to what those young residents care about, this plan focuses in on their priorities and demonstrates how we as a Trust can help achieve their aims.

This plan will be monitored by the Children’s Trust Board and our progress will be scrutinised by our young residents, so that we can all make sure that every child in Merton matters.

# Merton's Children's Trust

The strategic priorities of Merton's Children's Trust are supported by an understanding of need informed by data and the outcomes of consultation.

## Our Values

We keep children and young people at the heart of our work.

We are committed to doing what we say we will do.

We work together to achieve the best for children, young people and families.

We learn from what we do to improve the experiences of children, young people and families.

We Think Family.

We celebrate difference.



**Children,  
Young People  
and Families**



**Health**



**Voluntary/  
Community  
Sector**



**Police**



**Early Years,  
Schools and  
Colleges**



**Merton  
Council**



# Did you know?



**75%\***

fall in teenage pregnancy rate since 1998



**105\***

children and young people taking part in Police Cadets

**Top 10%\***

Pupils in Merton schools are in the top 10% nationally for Progress 8 and Key Stage 2



**33\***

first-time entrants to the Youth Justice System



**3,000\***

children and young people engaged in having a voice



**86%\***

of young people received a secondary school offer from their top 3 preferences.

## Young People\*



are part of the Merton Council's Scrutiny Panels, working with and challenging LBM staff and elected members



**No\*\***

Permanent exclusions in primary or special schools



**88%\***

of 2-2.5 year olds are at or above their expected level of development in all five areas



**98.2%\***

of young people are in education, employment or training



**94%\***

of families identified improved outcomes from interventions provided by the Merton early years service.

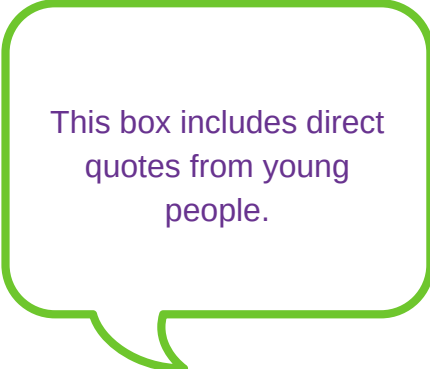


**88%\***

of all Reception children seen by School Nursing for National Child Measurement Programme ahead of schedule

# Understanding the Plan ....

This strategy has been written to be accessible for all. This page will help children, young people and adults alike to understand how the plan has been written.



This box includes direct quotes from young people.

## What Our Young People Said

On each page, this section includes key things that children and young people have told us is important to them.

## We Know

This section includes key things that we know from data about children, young people and families in Merton.

Professionals can use this information to help design and deliver important services in the borough.

## We Will

This section includes the next steps that the Children's Trust will take in response to the needs of children, young people and families in Merton.

## How Will We Do This?

This Children and Young People's Plan is a five-year document delivered by Merton's Children's Trust. This means partners will build an annual action plan with specific and measurable activities to deliver the priorities over the next five years.

If you would like to see a copy of these action plans, please contact us using the details above.

We will undertake regular consultation, with feedback, with children, young people and their families to check if this plan makes a difference, this will involve representatives monitoring the delivery of the actions.

(You will not see this section on each page).

# Being Healthy

## What Our Young People Said



Healthy activities are too expensive



Childhood obesity is important to us



50%+ say healthy food is too expensive



23% of Merton Care Leavers were identified as having low well-being.

## We Know

- 1 in 5 children in Reception are overweight or obese.\*
- Over a third of children leaving primary school are overweight or obese.\*
- 54% of children aged 2 do not access free childcare places.\*
- 2,380 children and young people aged 5-16 are estimated to have a mental health disorder.\*
- 50% of young people accessing A&E departments are already known to CAMHS.\*
- 60% of young people with Special Educational Needs and/or Disabilities are on the autistic spectrum.\*
- 129 young people accessed specialised substance misuse treatment in 2017/18. 99 were aged under 18.\*\*



*Give us more fruit (especially raspberries) cheaper as we need to be healthy.  
Age 12*



The majority felt that they could talk to someone when feeling low. Almost 1 in 10 could not.

## We Will

The Children's Trust will:



Help children and young people to access diverse and regular physical activities.



Work with business partners to support families to access affordable and healthy food.



Provide good-quality support and guidance during pregnancy and the first 1,001 days of a child's life.



Make sure young people have easy and timely access to local health services including mental health, sexual health and substance misuse.



Deliver better, consistent services for those with Autism Spectrum Disorder.

# Staying Safe

## What Our Young People Said



33% are most worried about the amount of crime



Almost a quarter feel there is too much drug dealing and use



There needs to be better relationships with police and more on the streets

## We Know

- On average there are 175 children on a Child Protection (CP) Plan.\*
- There are currently 160 children with care experience.\*<sup>1</sup>
- Over the past 3 years, there has been an average of 33 young people per year access help as they are considered at risk of Child Sexual Exploitation (CSE).\*\*
- Between 2006 and 2018, 23 county lines cases were mapped.\* (to be amended)
- There were 11 young people referred to Prevent services as they were at risk of radicalisation.\*\*
- Merton's Stonewall rating for tackling bullying has improved to 11th out of 39 and first in London.\*



*That you could feel protected and walk around without being worried.  
Age 15*

## We Will

The Children's Trust will:



Work with partners to reduce crime and violence in the community



Help build skills and resilience for children, young people and families to feel safe and stay safe



Help children and young people to appropriately deal with bullying and stay safe on-line



Work together pro-actively to support vulnerable children, young people and families



Make sure the partnership have up-to-date skills, knowledge and understanding to work with children, young people and families in Merton.

<sup>1</sup> (children aged up to 18)

# Enjoying and Achieving

## What Our Young People Said



Almost half feel school work and future opportunities cause the most worry



21% say more places to go and things to do needs the most improvement

## We Know

- 79% of children achieved a 'Good Level of Development'.\*\*
- 69% of all pupils and 56% of disadvantaged pupils reached the expected standard at Key Stage 2.\*\*
- The gap between disadvantaged pupils and their peers has reduced in the Progress 8 indicator at Key Stage 4.\*\*
- The number of Children Missing Education (CME) has increased.\*
- There has been a significant rise in pupils with an Education, Health and Care (EHC) Plan to 1,790 in 2019.\*
- 91% of all Merton schools are rated 'Good' or better by Ofsted for Overall Effectiveness.\*
- *Sports and activities data to be added*



*'If you don't have any friends, there isn't anything to do'*  
Age 15  
*"There needs to be more youth clubs"*  
Ages 14-15

## We Will

The Children's Trust will:



Continue to provide good or outstanding nursery provision and actively promote access to 2 year-old funding



Improve careers information, advice and guidance and offer young people a variety of learning opportunities including vocational paths



Stay focused on vulnerable groups to help them to achieve



Continue to develop and improve local SEND provision



Develop and improve access to after-school and youth club activities.

# Getting Involved, Having a say

## What Our Young People Said



Children and young people want to be included more on decisions affecting them.



Over 67% would like to volunteer in their local community.



*I want to help in the library, charity helping.*  
Age 11

## We Know

- Around 3,500 children and young people have taken part in football events run by Fulham Football Club each year over the last 3 years.
- The number of Duke of Edinburgh awards achieved has grown from 350 in 2016-17 to 450 in 2018-19.
- There is active representation from Merton children and young people to influence and inform decision-making including under-represented groups.
- Merton Youth Parliament impacts on improvements for youth development in the borough.
- Membership of Kids First - Merton's forum for parents and carers of children and young people with Special Educational Needs and/or Disabilities - is growing across all strategic partnerships.
- Over 3,000 young voices have been heard through consultation, focus groups and youth-led activity to inform service delivery.\*

## We Will

The Children's Trust will:



Promote the voice of children, young people and families using the Participation Promise and 'The Merton Pledge'



Engage young people in decisions affecting them through regular consultation and feedback



Recognise children and young people's voices as active contributors to services



Improve access to volunteering and other opportunities



Ensure user voice feedback is heard and shapes service improvement.

# Becoming Independent

## What Our Young People Said



Access to part-time work and work experience is important



69% feel hopeful about their future and 74% feel supported to make decisions.



22% of young people are concerned about the lack of affordable housing.

## We Know

- Overall, Merton's under 5 population living in areas of deprivation has decreased.\*
- In 2019, 1.8% of 16-17 year-olds in Merton were Not in Education, Employment or Training (NEET). Over-representation of certain cohorts within this group continues.\*
- Just after 2019, 52% of young people with care experience were engaged in education, training or employment.\*<sup>1</sup>
- Only 77% of young people with care experience are living in suitable accommodation.\*<sup>1</sup>
- London Borough of Merton pay for the council tax of Merton young people with care experience who live in Merton.
- 11,124 households in receipt of housing benefit.\*
- 5,423 residents in receipt of universal credit.\*

<sup>1</sup> (young people aged 18-25)



*I now understand what UCAS is and definitely want to go to university.  
Age 16*

## We Will

The Children's Trust will:



Improve housing security for Merton families and young people, especially care leavers



Education, employment and training (EET) opportunities will be available to young people and their families to develop skills and experience



Offer targeted support for vulnerable pupils to access and engage in EET



Strengthen support for young people with Special Educational Needs and/or Disabilities as they prepare for adulthood including access to services, learning and job opportunities and independent living



Work with business partners to support young people to access part-time work and work experience.



Undertake research to better understand the impact of universal credit and housing costs on our families in Merton.

# My Merton

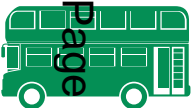
## What Our Young People Said



Children and young people are mostly positive about their social and community experiences.



Air quality and litter need improving - Traffic (31%) was a main issue of concern.



Access to public transport is a challenge for young people



*I suggest building cleaner parks or making the space safer to talk or socialise.*  
Age 11

## We Know

- 62.7% feel there were enough spaces to socialise with friends.\*
- 92% of young people aged 11-17 would go to their family if worried about health and safety. 29% would go to a teacher and 24% would go to the police.\*
- Increasing social capital is a key priority in Merton's Sustainable Communities Plan to strengthen community connections.
- Merton's Health and Wellbeing Strategy supports focus on creating a healthy social and physical environment in the borough.

## We Will

The Children's Trust will:



Work to support partners to make Merton a place where children and young people feel they belong, stay safe and thrive



Work with partners to encourage the involvement of young people in environmental design including the development of youth friendly spaces



Work with partners to challenge poor air quality surrounding youth friendly spaces and schools.



Improve access to the Local Offer and broaden the awareness of the range of opportunities available in Merton for Children and Young People.



# Next Steps

## Develop an action plan

Agencies and services who work with children, young people and families across the borough, are now working together to develop an action plan to implement the activities listed in the 'we will' sections.

## Feedback on our work

You will hear all about the progress we make on this and be able to feedback on our work via the council and partner social media platforms across children's centres, schools, leisure and youth services.

## Maintaining engagement

Continue to involve children, young people and families via participation forums in the borough so everyone knows about this plan and can tell us how we are doing to make Merton 'A place where children and young people feel they belong, stay safe and can thrive'.

**In the meantime, if you would like to find out about any aspect of this plan or our approach to communication and engagement, please email: [cypp@merton.gov.uk](mailto:cypp@merton.gov.uk)**

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**Committee: Council**

**Date: 18<sup>th</sup> September 2019**

Agenda item:

Wards: Borough wide

**Subject: Dock-less Bikes Bye-Law**

Lead officer: Chris Lee Director of Environment and Regeneration

Lead member: Martin Whelton Cabinet Member for Regeneration, Housing and Transport

Contact officer: Chris Chowns

**Recommendations:**

That the Council considers the issues in this report and

- A. Supports the making of a Greater London Dockless Vehicle Hire Byelaws.
- B. Grants authority to the London Councils' Transport and Environment Committee to exercise certain functions in connection with the making of byelaws under section 235 of the Local Government Act 1972 for the purpose of regulating dockless vehicles on the highway and/or public places as set out in the Appendix 1.
- C. Authorises the Director of Environment and Regeneration to sign the form of *Delegation* set out in Appendix 1, on behalf of the Council.

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**1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1 This report details the concept of the dockless cycle schemes and seeks support for a pan London byelaw for dockless bikes.
- 1.2 It seeks authority to delegate to London Councils' Transport and Environment Committee the exercise certain functions of the Council in connection with the making of byelaws under section 235 of the Local Government Act 1972 for the purpose of regulating dockless vehicles on the highway and/or public places. It further seeks authority for the Director of Environment and Regeneration to sign an authority, in the form set out in Appendix 1, on behalf of the Council, to evidence the delegation.

**2. DETAILS**

- 2.1 The operation of dockless cycle schemes is essentially unregulated. The early experience of schemes in London highlighted the limitations of existing borough powers to effectively manage operators.
- 2.2 Following all borough discussions with TfL and London Councils it was felt that the direction of dockless bike schemes should shift away from a disconnected approach of individually negotiated agreements and trials with specific operators and move toward a borderless (in terms of borough boundaries) operation. This approach would better accommodate cross borough journeys and hence provide a consistent approach making the facility effective and attractive.

- 2.3 The most effective means of delivering suitable controls for London is considered to be via a London-wide byelaw rather than each borough pursuing their own borough byelaw.
- 2.4 To evidence the delegation from the Council it is proposed that the Director of Environment and Regeneration be authorised to sign the form of authority set out in Appendix 1 allowing the TEC (Transport and Environment Committee) Agreement to be amended to empower the TEC to make the pan-London byelaws.

### **3. BACKGROUND**

- 3.1 In recent years there have been a number of dockless cycle schemes launched in London with mixed results. Although boroughs were supportive of the idea and noted the potential for modal shift towards cycling, it quickly became clear that boroughs had limited regulatory means available to them to manage schemes effectively.
- 3.2 Although many of the early operators have since withdrawn, new operators have started up or are planning to launch. These include:
- Mobike (grey/orange) continue to provide pedal bikes predominately in Inner and Central London
  - Lime (Green) operate electrically assisted bikes. They have launched via agreements with a number of boroughs including Croydon and are looking to launch in Merton.
  - Jump (Red) launched ebikes in Islington and are expected to expand in the coming months and have already contacted Merton.
  - Freebike (neon yellow) recently launched in Richmond.
  - Youon – Yet to launch, but are in contact with a number of boroughs.
- 3.3 Given previous issues concerning inconsiderate and obstructive parking and renewed interest in dockless bike schemes, plus new operators to the market, it is likely that an ongoing need to manage dockless bike scheme will continue and boroughs would require the legal power to effectively manage the scheme.
- 3.4 All borough discussions with TfL and London Councils concluded that the future of dockless bike schemes should move away from the current ad hoc practice where boroughs negotiate individual agreements with operators in a piecemeal fashion, in favour of a more joined up borderless approach, which would allow operators to operate freely across London.
- 3.5 Bike fleets would be controlled by boroughs using existing powers to designate dockless parking places but would require a pan London byelaw to prohibit bike operators from parking dockless bikes in locations other than approved parking places.

- 3.6 The draft byelaws have been discussed in detail with borough officers and are set out in full in Appendix 2. The headline terms contained in the draft text include:
- Definitions of certain several terms used in the draft Byelaws currently undefined in the legislation (e.g. a dockless operator);
  - States that the byelaw applies throughout Greater London;
  - Sets out minimum safety standards for bikes;
  - Requires all bikes to be chipped to ensure their whereabouts can always be tracked;
  - Requires all bikes to be left (whether by dockless operators or their customers) only in places agreed by the relevant local authority, and makes it an offence for dockless operators to place or allow their bikes to be parked anywhere other than at a location agreed by the local authority;
  - Sets a penalty for a dockless operator committing the above offence.
- 3.7 The definition of “Dockless Vehicle” includes a dockless pedal cycle, an electrically assisted pedal cycle or and similar class of transport device which may lawfully be used on the highway. It could also therefore include electric kick scooters or other micromobility vehicles, should the government legalise their use on the public highway. Local issues, such as the location and number of designated dockless parking places would be for individual councils to determine.
- 3.8 It is envisaged that approved spaces would not be exclusive to any specific operators, but would be open to any dockless company. The final wording of the byelaws and several additional areas of work are being developed by TfL/London Councils, with input from the Boroughs. The byelaws will provide a viable operational framework for dockless bike sharing in London.

## **4 CONSULTATION**

- 4.1 The proposals have been discussed with London Boroughs and dockless bike operators. Stakeholder engagement will follow once the draft byelaw and other relevant pieces of work have been concluded.

## **5. ALTERNATIVE OPTIONS**

- 5.1 Do-nothing - London Council’s TEC requires all of 33 London Boroughs to resolve to delegate the powers set out in Appendix 1 in order to make the byelaw. Should the Council resolve not to authorise the delegation the proposed byelaws cannot be made.

## **6. TIMETABLE**

- 6.1 London Council’s TEC are asking all London authorities resolve to delegate the necessary authority to the TEC and to evidence this by completing and signing the form of authority in Appendix 1 by 5 December 2019.
- 6.2 It is understood that the LC TEC Committee will be asked to approve the wording of the byelaws at its meeting on 10/10/19. This will enable other essential procedural parts of the process for making the byelaws to be taken

forward while the process of securing delegated powers from each London local authority continues in parallel.

## **7. Financial, resource and property implications**

7.1 None for the purpose of this report.

## **8. LEGAL AND STATUTORY IMPLICATIONS**

8.1 The proposal is to delegate the Council's functions relating to making and promoting the pan-London dockless vehicles byelaws to the London Councils' Transport and Environment Committee (LC TEC), by way of an amendment to LC TEC Agreement (the Agreement). The Agreement requires amendment since none of the Council's functions relating to the making of such byelaws are currently delegated to the TEC under the Agreement. As a result, LC TEC does not currently have any authority to undertake this function on behalf of the London local authorities.

The proposed delegation very specific and does not constitute a transfer of the Council's powers in respect of dockless vehicle parking to LC TEC. It allows for LC TEC to make and establish pan-London byelaws. This power was not included when the Agreement was created.

8.2 The extent of any dockless vehicle parking and the enforcement of the byelaws would be a matter for each borough's decision-making process and control i.e. at the discretion of the Council.

8.2 Section 235 of the Local Government Act 1972 (1972 Act) enables local authorities to make byelaws for the good rule and government of the whole, or any part of the borough, as the case may be, and for the prevention and suppression of nuisances in it. Before coming into force the procedural requirements set out in Section 236 of the 1972 Act must be satisfied, including publicity, depositing copies for inspection etc. and giving notice of intention to apply to the Secretary of State to confirm the byelaws. Unless and until confirmed the byelaws cannot take effect.

8.3 Under Section 149 of the Equality Act 2010 (the 2010 Act) the Council must, when exercising its functions, have due regard to the need to eliminate discrimination, harassment and victimisation and other prohibited conduct and to advance equality of opportunity and foster good relations between those who share a 'protected characteristic' under the 2010 Act and those who do not share a protected characteristic. A 'protected characteristic' is defined as age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Marriage and civil partnership are also protected characteristics for the purposes of the duty to eliminate discrimination.

## **9. HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

9.1 A London-wide dockless vehicle scheme would facilitate improved access to a bikes through a mix of cycle hire facilities.

- 9.2 By reducing the inconvenience or disruption to highway users posed by unregulated cycle parking, it would help meet the needs of all highway users, particularly those who are blind or partially sighted and those who require wider available footways such as wheelchair users and those with buggies.

## **10. CRIME AND DISORDER IMPLICATIONS**

- 10.1 A number of dockless cycle schemes in other cities have previously closed in part due to sustained high levels of vandalism and bike theft making schemes unviable. This behaviour has also affected operators in London to some degree. Designating parking places for dockless bikes will enable better management of the facility and will improve security and access to bikes.

## **11. RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

- 11.1 The adoption of the draft Greater London Dockless Vehicle Hire Byelaws will enable the Council to take the appropriate action to limit cycles being abandoned on the highway or public place in an un-safe manner likely to cause obstruction to pedestrians and other road users. Moreover, it will ensure dockless vehicles are not offered for hire unless they are safe
- 11.2 Dockless cycle schemes and other emerging vehicle hire operating models are currently un-regulated. Experience from early operators has demonstrated a need to bring operations under an appropriate and legal operating framework. This will safeguard the Council and road users by reducing the risk of obstruction and potential dangers.

## **APPENDICES –**

Appendix 1 – Form of Authority to London Council’s Transport and Environment Committee

Appendix 2 - Draft - Greater London Dockless Vehicle Hire Byelaws.

## **BACKGROUND PAPERS**

None for the purpose of this report.

FAO: xxxxxxxxxxxx

I .....[name and position of authorised person]

on behalf of ..... [name of authority]

hereby confirm that my authority has resolved to delegate authority to London Councils' Transport and Environment Committee to exercise the following functions by way of an addition to the Part 3(D) Functions, inserting a new paragraph 2(c) as follows:

*“(c)(i) the making of byelaws under section 235 of the Local Government Act 1972 (and, in respect of the City of London Corporation, under section 39 of the City of London (Various Powers) Act 1961) for the purpose of regulating dockless vehicles on the highway and/or public places (including by making it an offence for a dockless vehicle operator to cause or permit their dockless vehicle to be left on the highway or public place other than in an approved location), including taking all related steps to promote, make, amend and revoke any such byelaw.*

*(c)(ii) The exercise of powers under Section 1 of the Localism Act 2011 for the purposes of giving effect to (i) above, including but not limited to oversight and management of the arrangements (but excluding prosecution or other enforcement)*

Signed



**The Greater London Dockless Vehicle Hire Byelaws**  
**Draft Bye Law - 29 July 2019**

**1. General Interpretation**

In these byelaws:

“Docking Station” shall exclude any Sheffield Stand unless it has been designated or approved as a Dockless Parking Space

“Dockless Parking Space” shall mean a parking place for Dockless Vehicles designated by a Local Authority or Transport for London or any Public Place where a parking area for Dockless Vehicles has been approved in writing by the Local Authority or Transport for London as an area where Dockless Vehicles may be placed and made available for hire.

“Dockless Vehicle” means any transport device (whether mechanically propelled or not) which is made available to hire through a Dockless Hire Scheme and which is a pedal cycle, electrically assisted pedal cycle, or any similar class of transport device which may be lawfully used on the highway.

“Dockless Hire Scheme” means a scheme offering Dockless Vehicles for hire from a highway or other Public Place (other than a scheme offering Dockless Vehicles wholly or partly from a Docking Station constructed and installed for their use) where the contract for hire is entered into without the simultaneous physical presence of the Dockless Operator and the hirer. “Dockless Operator” means any person offering Dockless Vehicles for hire through a Dockless Hire Scheme.

“Public Place” means an area of highway or other open land (whether or not it is fenced) under the ownership or control of a Local Authority or Transport for London.

“Local Authority” means a London Borough Council or the Common Council of the City of London.

(2) A reference to:

- (a) legislation (whether primary or secondary) includes a reference to the legislation as amended, consolidated or re-enacted from time to time and, in the case of regulations, includes a reference to any regulations which replace the regulations referred to;
- (b) a “person” includes a natural person and a corporate or unincorporated body;
- (c) words in the singular include the plural and vice versa.

**2. Application**

These byelaws apply throughout Greater London.

### **3. Safe condition of Dockless Vehicles.**

- (1) No Dockless Operator shall offer for hire a Dockless Vehicle unless it is safe.
- (2) In determining whether a Dockless Vehicle is safe regard shall be had to whether the Dockless Vehicle complies with, or the Dockless Operator has complied with, applicable provisions of:
  - (a) in the case of a pedal cycle, the Pedal Cycles (Construction and Use) Regulations 1983 and the Road Vehicles Lighting Regulations 1989;
  - (b) in the case of an electrically assisted pedal cycle, the Pedal Cycles (Construction and Use) Regulations 1983, the Road Vehicles Lighting Regulations 1989 and the Electrically Assisted Pedal Cycle Regulations 2015; or
  - (c) in all cases, any statutory requirements applicable to a Dockless Vehicle of that class.

### **4. Identification and management of Dockless Vehicles**

- (1) No Dockless Operator shall offer a Dockless Vehicle for hire unless:
  - (a) it has an individually identifiable asset number visibly displayed;
  - (b) it is fitted with a device which ensures the location of the Dockless Vehicle can be identified at all times by the Dockless Operator, the local authority in whose area the Dockless vehicle is situated and Transport for London and the device is retained in operation.
- (2) No Dockless Operator shall offer a Dockless Vehicle for hire unless the hirer is prohibited from leaving the Dockless Vehicle on any highway or other Public Place other than at a Dockless Parking Space.
- (3) For the purposes of complying with paragraph 4(1)(b) and 4(2), the Dockless Operator shall make available real time location data via a publicly available application programming interface for each Dockless Vehicle that is available for hire or has been hired through its Dockless Hire Scheme.

### **5. Parking of Dockless Vehicles**

No Dockless Operator shall cause or permit a Dockless Vehicle to be placed on any highway or Public Place other than at a Dockless Parking Space where the Dockless Operator is permitted to park or to cause or permit a Dockless Vehicle to be parked.

### **6. Penalty**

Any person offending against these byelaws shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Date

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## **Committee: Council**

**Date: 18 September 2019**

Wards: All

## **Subject: Preparing the Council for the United Kingdom's exit from the European Union**

Lead officer: Caroline Holland, Director of Corporate Services

Lead member: Councillor Mark Allison, Deputy Leader & Cabinet Member for Finance

Contact officer: John Dimmer, Head of Policy, Strategy and Partnerships  
(020 8545 3477 / [john.dimmer@merton.go.uk](mailto:john.dimmer@merton.go.uk))

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### **Recommendations: That Council:**

A. Notes the possible impact on the council, residents and businesses of the United Kingdom's departure from the European Union and the work that the council and its partners is doing to prepare for potential scenarios post departure.

#### **1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1. The purpose of this report is to highlight the ways in which the council and the services it provides could be affected by the United Kingdom's (UK) departure from the European Union (EU). It also highlights the implications of Brexit for residents of the borough and the local community.
- 1.2. The report provides an update on policy developments at a national level and actions undertaken locally by the council since the previous report on preparing the council for the UK's exit from the EU that Cabinet received on 12 November 2018.
- 1.3. There remains continued uncertainty about whether the UK's withdrawal will be with or without an exit agreement in place. Until the terms of withdrawal are fully known it will be hard to determine its exact impact, however the council will need to be prepared for all eventualities, including the UK leaving without a deal.
- 1.4. The council's Brexit Task Group continues to keep up-to-date with developments, regularly reviewing the areas of highest potential impact. This will enable the council to strengthen its resilience and develop contingency plans in key areas such as workforce, regeneration, funding, legislation and community cohesion. The council is also working closely with London Councils, other London boroughs at a regional level and MHCLG to identify and plan for issues arising from the UK's departure from the EU.

#### **2 ACTIONS TAKEN BY THE COUNCIL TO PREPARE FOR BREXIT**

- 2.1. In 2018, the Leader of the Council created a Cabinet role to assess the impact of Brexit and ensure that actions are being taken as appropriate.
- 2.2. Following this a Brexit Task Group, chaired by the Director of Corporate Services, was established to look at the implications of Brexit in more detail

and direct actions being taken. The Task Group has met monthly since November 2018 and includes standing members representing HR, Finance, Legal Services, Communications, Procurement, Safer Merton, Emergency Planning and departmental representatives from Children, Schools and Families, Community and Housing and Environment and Regeneration.

- 2.3. As the council's Brexit lead, the Director of Corporate Services will be attending a Brexit Summit on 16 September arranged by the London Resilience Group on behalf of the London Resilience Forum. The event will focus on planning to date, regionally and by and individual agencies, including local authorities, police and health. The Director of Community and Housing is the Brexit lead on behalf of London Association of Directors of Adult Social Services and is leading the co-ordination of contingency planning around the impact of Brexit for social care services.
- 2.4. At a meeting on 12 September 2018, Council welcomed the news that the Council's strategic risk register was being updated with regards to Brexit. It called on Cabinet to ensure the register maintains a robust and up to date account of the risks of the UK leaving the EU with no deal, and to implement any recommended measures as soon as possible.
- 2.5. Council also expressed its support for residents of the borough that are EU nationals and agreed to support the call for a People's Vote on any final Brexit deal. Council requested that the Leader of the Council write Wimbledon's MP, Stephen Hammond MP, to ask him to support a People's Vote.
- 2.6. The council has been committed to supporting EU nationals in the borough to achieve settled status, recognising that local authorities are a key and trusted provider of information and often the first point of contact for people locally. Merton is one of the local authorities that is providing an ID document scanning service, that can be accessed at Merton Registry Office.
- 2.7. A full-page spread appeared in the March edition of My Merton, highlighting whom the Settled Status Scheme affects and the information that EU national residents will need to register, with a further advert set to be published in the September edition. The council's communications team also continues to regularly put out information via social media relating to the scheme and linking to government guidance. Discussions have taken place with the Faith and Belief Forum about the scheme and further outreach to promote the Settlement Scheme is planned with local community organisations who have regular contact with EU nationals living in the borough.
- 2.8. Officers in CSF have attended a Home Office briefing relating to Looked after Children that are EU nationals and are developing an action plan to ensure the local authority fulfils its statutory obligations as corporate parent to children on full care orders.
- 2.9. With the risk that a significant proportion of people could fail to take up their right to settled status or struggle to get their application approved, £51,300 of the Brexit funding from government was allocated to Citizens Advice

Merton and Lambeth (CAML) in April 2019 to deliver a Merton-wide EU Settlement Scheme Service with a dedicated paid specialist Adviser.

- 2.10. The service, which has been open since July 2019 will support Merton residents prepare and apply for the Settlement Scheme. This is also a proactive step to try and reduce the number of people that might become No Recourse to Public Funds (NRPF) should they fail to achieve settled status and meets the Council's priority objective to support community cohesion and assist residents in taking up their rights. In addition, the Brexit Task Group agreed that the offer of support should be extended to Merton staff that are EU national but not residents of the borough, which has been highlighted in staff bulletins. It is proposed to initially fund the post for one year, reviewing its impact and caseload before agreeing to the funding of the post for a second year.
- 2.11. Safer Merton, in partnership with the police continue to monitor developments within the community as there may be an increase related to rising anxieties the closer we get to the 31 October. An objective is in place in the Hate Crime Strategy Action Plan to reassure the public before, during, and after the process of the UK exiting the EU. The Safer Merton Hate Crime Steering Group has developed a communications and engagement strategy to put out messaging to reassure the community and about how to access support, reinforcing that Merton is a diverse and tolerant borough that has a zero tolerance approach to hate crime.
- 2.12. Brexit could have wide-ranging implications for the future public sector workforce, particularly within social care. Officers from Community and Housing have visited and/or surveyed all home care agencies and providers. Council staff attending a Brexit Masterclass earlier in the year suggested that few other councils have gone as far as Merton in contacting all providers. In the context of increased risk levels around the UK leaving without a deal, however, adult social care commissioners will be renewing visits to providers in September to assess the latest position and additional support that may be required. Officers in C&H will also be carrying out financial modelling to look at what the worst-case scenarios could look like of a rise in provider costs.
- 2.13. In March 2019, £10,000 of the Brexit funding from government was allocated to Adult Social Care, to support work with primary home care providers on a local recruitment campaign to offset the potential impact of Brexit on EU staffing and immigration policy on EU and Rest of World staffing.
- 2.14. More widely in terms of the council's workforce, the 2018 Staff Survey included a question about whether staff were an EU National to try to get a better understanding of the current position. Managers have been asked to refer any staff that may have concerns around their status to HR for help and support, as well as highlighting the Settlement Scheme Service delivered by CAML which Merton staff are eligible for even if not being a resident of the borough.
- 2.15. FutureMerton are engaging with our Business Improvement Districts, the Merton Chamber of Commerce and other key business groups to

understand the impact to date of uncertainty amongst local businesses. Businesses will be asked if there has been any noticeable changes, any difficulties around recruitment, meeting demand and from this, establish if there are any sector trends that have occurred.

### **3 BACKGROUND**

- 3.1. On 23 June 2016, The UK voted to leave the EU (52 per cent voting to leave). London was the only region within England to vote with a majority to remain in the EU, with 59.9% of the vote (2.26 million votes). In Merton 62.9% of those, voting (63,003) voted to remain against 37.1 per cent (37,097) that voted to leave.
- 3.2. The government formally triggered the process of the UK's withdrawal from the EU on 29 March 2017. Since that time, Parliament has had the opportunity to vote on the government's proposed withdrawal agreement three times and voted it down each time. Parliament also voted to reject leaving the EU without a withdrawal agreement. Following this, at a meeting of the European Council on 10 April, the Government agreed an extension to the Article 50 process until 31 October 2019.
- 3.3. At time of writing leaving, the EU without a deal on 31 October is the legal default, and there is an increasing possibility that the UK will be leaving without a withdrawal agreement in place. Recent reports note that the Prime Minister has instructed the civil service to make preparations for leaving the EU without a deal its "top priority" for the immediate future, and urged all officials to work "urgently and rapidly" to ensure their departments are ready. Commentators continue to speculate as to whether a no deal exit could actually be stopped by Parliament, despite the vote earlier in the year, and whether there could be a General Election in the autumn.
- 3.4. Whatever the terms of withdrawal, whether it is via a deal or not, there will be a range of significant effects on local government and the communities they serve. MHCLG have stated that local government is 'critical to delivering a successful Brexit' and that their objective is to 'champion local government and help them to influence, prepare, adapt and innovate in response to Brexit and ensure a successful transition phase with minimal impact on council services and local people'. Local authorities have a unique and important perspective to bring to the negotiations as community leaders, service providers, employers and shapers of place.

### **4 DETAILS**

- 4.1. On 12 July 2018, the Government published its White Paper on the [Future Relationship between the United Kingdom and the European Union](#). The proposals in the White Paper helped to inform discussions between Government officials and EU negotiators and provided the framework for the proposed withdrawal agreement that Parliament voted against earlier in the year.
- 4.2. The Government has always stated its intention to negotiate a deal, however, the current impasse in negotiations between the EU and UK, and



the new Prime Ministers insistence that the UK will definitely leave the EU on 31 October means that no deal preparations both at a national and local level are increasingly important.

- 4.3. A letter from the Secretary of State for Housing, Communities and Local Government went to all Leaders of English local authorities on 31 January 2019 outlining a step up in no deal preparations and additional Brexit funding for local authorities. Whilst not ring-fenced, it was the expectation from MHCLG that local authorities use this to fund preparatory work for Brexit-related activities. Merton will receive £210,000 over the two years of the planned transition period. So far, this funding has been used to support work with primary home care providers on a local recruitment campaign to offset the potential impact of Brexit on staffing; and the funding of a dedicated specialist adviser at Citizens Advice Merton and Lambeth to deliver a Merton-wide EU Settlement Scheme Advice Service.
- 4.4. On 31 July 2019, the Chancellor Sajid Javid [announced £2.1 billion for no-deal Brexit preparation](#); £1.1 billion being provided to departments and the devolved administrations immediately, and a further £1 billion to be made available, should it be needed. This has been described as funding that will ensure government department's step up vital operational preparations across the country as the UK leaves the EU on 31 October. Funding announced will be used for border and customs operations, critical medical supplies, support for UK nationals abroad and an awareness campaign to ensure the public and businesses are ready to leave the EU.
- 4.5. £434 million is to be made available to help ensure continuity of vital medicines and medical products, including through freight capacity, warehousing and stockpiling. £108 million is to be made available to promote and support businesses to ensure they are ready for Brexit, including a national programme of business readiness and helping exporters. £138 million will be made available for public communications.
- 4.6. On 5 August 2019, Robert Jenrick, the new Secretary of State for Housing, Communities and Local Government, announced that all councils would be required to have a 'Brexit lead' to work with central government and increase their Brexit preparations. The Brexit lead should ensure the council has taken all reasonable steps, in line with relevant guidance and messaging coming from Government and its agencies, to prepare for exit from the EU on 31 October. This should include clear communication to local residents and businesses to support their own preparations for Brexit and a plan for how the council communicates important messages to stakeholders. As Chair of the Brexit Task Group, Caroline Holland, Director of Corporate Services is the council's lead officer for Brexit.
- 4.7. Following this announcement, on 10 August 2019 the Secretary of State announced £20 million of funding for all local authorities in England to aid Brexit preparations and support the work of Brexit Lead Officers - £10 million of new funding from the Treasury, while £10 million is money held over from the Brexit funding announced earlier this year. Under this second round of funding, Merton has received an additional £105,000 as part of Brexit

preparations. The Government has highlighted that certain areas may face pressures that are more acute and continues to consider how to allocate this funding.

- 4.8. A focus on Brexit has meant a delay in the 2019 Spending Review that has caused uncertainty for local authorities in understanding the level of funding allocated from government departments. It is highly likely that the formula funding review for how local government is funded will be delayed together with the Adult Social care green paper that is already late. This has consequences for financial planning and setting council budgets. The council is assuming for planning purposes that Government funding will remain at the same level with a potential for a downturn in business rate income, together with a contingency reserve to act as a buffer to any financial turbulence.
- 4.9. It should be noted that any actions that the council has taken, or will take with its partners to mitigate the risks of the impact of Brexit, in particular a no deal exit, are not being taken in isolation. As a sector, Local Government continues to press its case to MHCLG for more clarity to enable it to support a successful transition. Councils across the country are collating relevant information to identify key risks to residents, businesses and their communities posed by the UK leaving the EU in order to report this to government.
- 4.10. At a citywide level, London has well developed resilience arrangements under the auspices of the London Resilience Partnership. These have been geared up in preparation to address a range of scenarios that London may need to respond as the UK leaves the EU. In terms of borough relations with central government, Pan-London arrangements have been established to ensure an effective and efficient two-way flow of information between MHCLG and boroughs.
- 4.11. At the beginning of the year, MHCLG and London Councils began requesting that all boroughs complete two Brexit Impact Trackers; a Baseline Assessment and weekly Impact Monitoring. The Impact Assessment tracker was designed to support pan-London assessments of both immediate and longer-term impacts of the UK's exit from the EU on London local authorities. Findings feed into the Resilience and Emergencies Division of MHCLG and their Local Government Policy Directorate and enables the identification of emerging pan-London issues and escalation of concerns, and provides assurance that boroughs are proactively engaged in preparations and impact assessments.
- 4.12. The weekly Impact Monitoring covers key current concerns, across areas such as recruitment, hate crime, planning applications and a number of other metrics, designed to try to track the impact of Brexit locally. This is also designed to enable the identification of priority issues that can be escalated through weekly reports to Government. The council has been submitting the returns as required.
- 4.13. Following the extension to Article 50 the London Strategic Co-ordination of responses to central government was temporarily stood down, alongside the

formal weekly and monthly reporting of information that boroughs had been completing since January. Boroughs were still encouraged to continue to report, by exception, any new items and emerging local intelligence. The Chief Executive of London Councils continued to be engaged in weekly conference calls with the other eight Regional Hub Chief Executives, the LGA and MHCLG.

- 4.14. It has now been confirmed that by the end of the summer there will be a return to a form of more regular reporting. Single Points of Contact in each borough have been re-engaged and work and activity that individual boroughs have been progressing since April will be collected. Weekly briefings will re-commence for the London region from the start of September 2019.
- 4.15. MHCLG continue to publish guidance from government to assist local authority preparedness for exiting the EU. The LGA have also put together a Brexit advice hub for local government that compiles policy advice from a wide variety of sources and analyses them against their headline concerns for local government.

### **No Deal – the consequences for local government**

- 4.16. There is currently daily speculation and warnings about what the implications are of a no deal exit from the EU, so it is important to try to take a measured approach to reviewing the different pieces of information being released. The Office for Budget Responsibility (OBR) has warned that a no deal Brexit would be “very serious” for the UK’s public finances. The OBR have said leaving the EU without a deal would put Britain into a recession that would shrink the economy by two per cent and push unemployment above five per cent. Current forecasts for spending and tax receipts are based on Britain leaving the EU with an agreement in place.
- 4.17. In the LGiU’s view, local government now has to plan for a possible no deal with greater urgency than before the last deadline, although it recognises the challenges of having to plan for something unknown in both its impact and the uncertainty of it happening. Jonathan Carr-West, CEO of the LGiU, has set out what he sees as the potential immediate impact (Public Finance 7 August):
- 4.18. *“After the 31st, there are a set of initial consequences that could unfurl very quickly. For councils on the frontline such as those in Kent the effects could be immediate. In the run up to the March Brexit deadline, they were putting in place traffic management plans, drafting in extra police and working on the assumption, that gridlock from the ports would have a knock on effect on schools, hospitals and other public services. Those plans will need to be reactivated for October.*

*Elsewhere in the country, there will be less immediate impact but councils will still be bracing themselves: whatever happens after 31 October there will be large numbers of people unhappy about it. Local authorities will be reviewing their plans for public disorder and civil unrest. In the very worst-case scenarios, if we do see shortages of food or medicines councils will be*

*thinking about how they protect vulnerable groups such as children and the elderly. The sheer range of local authority responsibilities means that pretty much what ever goes wrong they will have a role in dealing with it.”*

- 4.19. In the medium and longer term, the impact of no deal on local government is equally hard to predict. In the LGiU’s view, priorities for post brexit funding could cause major conflict about competing priorities – across nations, localities and sectors. The short, medium and long term effects on the economy can be guessed at but not fully known – the consensus (even within government) is that a no deal exit would have negative consequences, but it is not clear which regions or sectors will be impacted the most. Even after withdrawal, the repatriation of powers and laws will not be complete, so the impact of such a huge change will not be clear for many years.
- 4.20. It is speculated that a no deal withdrawal will have a negative impact on border controls and flow into and out of the country for people and goods. Disruption at ports could affect roads into London and elsewhere and there could be a possible knock-on impact of reducing commuter capacity into London, either on roads or on rail as more people turn to rail for their transport. Delays of goods into the country may also have an impact on equipment, food and medication.
- 4.21. Communications coming from across government are that preparations for a no deal exit are being increased nationally, and as such the council now needs to be prepared at a local level to mitigate against the impacts that the UK leaving the EU without a deal will have. The Brexit Task Group will continue to assess the latest developments and work with departments to ensure that contingency plans are in place as required.

### **Seasonal issues**

- 4.22. The extension to Article 50 and the change of the planned date of withdrawal from 31 March to 31 October 2019 means that there is the potential for Brexit to have an impact on seasonal issues that may not previously have been considered. Some key issues that have been identified both nationally and locally that should be considered:
- October is a busy period as traders prepare for Christmas. It is the busiest time of the year for freight handling at Heathrow. Warehouses will be fuller than in March as they are stocked for Christmas
  - By the winter the UK growing season will have ended and a higher proportion of food is imported over the winter period
  - The start of winter is often a period of a higher demand for power. Typically, the Government issues alerts to the market to increase the supply of power so it is possible that there could be an impact depending on agreements around fuel. Electricity trading may be disrupted as Britain leaves the internal energy market

- NHS winter reporting will start as the organisation prepares for winter pressures. After enquiries locally, NHS England have said that they have taken precautions to secure stock of all flu vaccines
- A severe winter could result in a greater demand for salt and grit for the roads. It should be noted that the council's supply of salt comes from UK based suppliers.

### **Citizenship and migration**

- 4.23. The EU Settlement Scheme allows EU citizens and their family members to gain the immigration status they need to continue to live, work and study in the UK. This status means they will continue to be eligible for public services, such as healthcare and schools, as well as public funds and pensions. The scheme has been open since March 2019.
- 4.24. Under the scheme EU citizens living in the UK can apply for 'settled status' if they want to continue living in the country after June 2021. Under the settlement scheme, it will be mandatory for EU citizens to have 'settled' or 'pre-settled' status from 1 July 2021. Applications for settled status can be made once the individual has lived in the UK for five years (unless they were not resident in the UK by 31 December 2020).
- 4.25. The deadline for applying is 30 June 2021 if there is a deal and transitional period. However, if the UK leaves the EU without a deal, then potential applicants will need to be living in the UK on or before the date the UK leaves the UK to be eligible for settled status.. The deadline for applying under a no deal scenario will be 31 December 2020. The Government has indicated that a person who fails to apply by the end of June 2021 (or December 2020) may have no lawful basis to remain in the UK, but it is currently unclear what the consequences of this will be.
- 4.26. Deportation of EU citizens is something the EU has extremely high protection against, but in the case of a no deal scenario, the high standard of protection against deportation currently governed by EU law would apply in the UK only until the date of withdrawal. After this, UK law will apply to EU nationals as well as non-EU nationals. It allows anyone considered a "foreign criminal" to be deported automatically. If 'EU citizens who fail to secure settled status before the deadline' becomes a category under UK law for someone that is living in the country illegally then there is a chance they could be liable to deportation.
- 4.27. If the UK leaves, the EU without a deal, the government has stated intention to end free movement on 31 October 2019. This position differs from the withdrawal agreement rejected by Parliament earlier in the year, where free movement would continue during a "transitional period" after which the UK would set its own rules on immigration. In the event of no-deal, only EU citizens and their family members currently in the UK or who arrive before the Brexit deadline of 31 October 2019 would be able to apply to settle under the Settlement Scheme. Those arriving in the UK from 1 November 2019 would not.

- 4.28. On 4 September Government announced immigration plans in the event of a no deal Brexit that will introduce a 'tougher UK criminality threshold for EEA citizens'. The changes will be introduced alongside a new European Temporary Leave to Remain scheme (Euro TLR) for EEA and Swiss citizens and their close family members. Citizens of those states moving to the UK after we have left the EU and up until the end of 2020 will be able to obtain a temporary immigration status lasting 3 years.
- 4.29. Local authorities are a key provider of information affecting people's everyday lives and often the first point of contact for people locally. MHCLG have highlighted that councils can help assist those EU citizens who need support to apply to the EU Settlement Scheme – particularly EU citizens that are vulnerable or in hard-to-reach groups. MHCLG have noted the value of the strong networks councils have and have asked them to work in collaboration with government agencies to ensure EU citizens in a local area are informed about the EU Settlement Scheme and how to apply. Merton is one of the local authorities signed up host an ID document scanning service that can be accessed at Merton Registry Office.
- 4.30. As leaders of place, local authorities can also play a key role in reducing the possible negative impacts on communities that may arise when people are applying for, or in some cases may fail to secure their status.
- 4.31. According to the Census data from the Office of National Statistics, as at 2011 there were 18,690 EU nationals in the borough. This was 9.3% of the borough's population. Of this total number, 7,649 were from EU member states as of 2001, while 11,041 were from the EU Accession countries that became member states between April 2001 and March 2011. Since the last Census, Information from the council's electoral roll as at 1 August 2019 shows that the total number of EU residents in the borough has increased to 24,794.
- 4.32. A nationally funded campaign around Settled Status, targeted specifically at EU nationals through Facebook and adverts in different languages was launched earlier in the year. Locally a full-page spread appeared in the March edition of My Merton, highlighting whom the Settled Status Scheme affects and the information that EU national residents will need to register, with a further advert set to be published in the September edition. The council's communications team also continues to regularly put out information via social media relating to the scheme and linking to government guidance. Discussions have taken place with the Faith and Belief Forum about the scheme. Further outreach to promote the Settlement Scheme is planned with local community organisations who have regular contact with EU nationals living in the borough. The Home Office has published guidance and has a contact centre giving advice to EU nationals. Further information for staff, councillors and residents is set out in Appendix 1.
- 4.33. Information picked up from other boroughs since the launch of the Settled Status Scheme has highlighted that in some instances an extensive level of support is required in enabling those in hard to reach and vulnerable groups

to be able to put together the information required to complete their applications. There may also be significant challenges in ensuring that all those that need to apply, will apply, which could have potential implications for a rise in 'No Recourse to Public Funds' presentations. Specifically there have been a number of issues with getting the required documentation from embassies for children that are looked after or that are care leavers.

- 4.34. Officers in CSF have attended a Home Office briefing relating to Looked after Children that are EU nationals and are developing an action plan to ensure local authority fulfils its statutory obligations as corporate parent to children on full care orders. If the UK leaves without a deal this has implications for bringing forward, the dates when people will need to apply for settled status, or may mean they are no longer eligible if not living in the country before 1 November. This is particularly important as it relates to Looked after Children where the process of applying on their behalf may take longer or be more complex.
- 4.35. With the risk that a significant proportion of people could fail to take up their right to settled status or struggle to get their application approved, £51,300 of the Brexit funding from government was allocated to Citizens Advice Merton and Lambeth in April 2019 to deliver a Merton-wide EU Settlement Scheme Service with a dedicated paid specialist Adviser.
- 4.36. The service, which has been open since July 2019 will support Merton residents prepare and apply for the Settlement Scheme. This is also a proactive step to try and reduce the number of people that might become No Recourse to Public Funds (NRPF) should they fail to achieve settled status and meets the Council's priority objective to support community cohesion and assist out residents in taking up their rights. In addition, the Task Group agreed that the offer of support should be extended to Merton staff that are EU national but not residents of the borough, which has been highlighted in staff bulletins. It is proposed to initially fund the post for one year, reviewing its impact and caseload before agreeing to the funding of the post for a second year.
- 4.37. Another organisation that receives funding from the council's strategic partner programme, South West London Law Centres is also publicising a European Union Settlement Scheme Complex Cases support offer for those with more complex case, or that require need additional help in applying.
- 4.38. In total nationally, as of 31 July 2019, 1,040,600 EU citizens have applied to the EU Settlement Scheme. The total number of applications that have been concluded, as of 31 July 2019, was 951,700. Of these, 64% were granted settled status and 36% were granted pre-settled status. The Home Office has recently published 'experimental statistics' on the number of applications to the settlement scheme by local authority [area](#). This indicates that around 8,400 Merton residents have applied to the scheme, about a third of the estimated EU nationals in the borough.
- 4.39. The fall in the value of the pound means that the cost of living abroad has increased, and there is the possibility that some UK citizens currently living in the EU may choose to return. In December 2017, the government reached

an agreement with the European Commission on citizens' rights. This aimed to provide a level of certainty to UK nationals in the EU and their families that they would continue to have the same access as they currently do to healthcare, pensions and other benefits and will be able to leave their Member State of residence for up to 5 years without losing their right to return. However, if the UK leaves without a deal then the EU cannot give such a guarantee for UK citizens because it would be up to individual member states.

- 4.40. The priority for most will be to register as residents of the country in which they have moved to, but the rules - including deadlines for paperwork - vary from country to country. The European Commission, in its contingency plan for no-deal Brexit has asked the EU27 to "take a generous approach to the rights of UK citizens in the EU, provided that this approach is reciprocated by the UK". Large numbers of UK citizens returning home could put pressure on the availability of housing, and with a proportion of those living abroad being older, that moved following retirement, there could be the added impact from those returning on healthcare and older peoples services. In terms of adult social care services, locally, this has been assessed as having a minimal impact as many will not likely meet the threshold for services, but it may need more agency social workers to process and assess returnees. More widely, however there would be an impact on local NHS and health services.

### **Community cohesion**

- 4.41. Councils have an important role to play in promoting integration and community cohesion, especially at a time of significant upheaval and uncertainty. Merton launched its [Hate Crime Strategy](#) shortly after the EU referendum vote. The strategy references that 74% of Londoners say they are concerned about hate crime and that recorded figures saw an increase after the referendum result, with more than 3000 allegations of hate crime made to UK police in the week before and after the vote on June 23rd. As a report by London Council's emphasises, 'a rise in reported hate crime alone is an imperfect measure of community cohesion and might indicate a positive increase in the rate at which such crimes are reported'. However, it is clear that councils have a key role to play in building and protecting social integration in their local area as emphasised by the Casey Review into integration.
- 4.42. Locally, there has not been a rise in reported instances of hate crime linked to Brexit. Community cohesion is formally monitored via the police, with them sharing incidents accordingly. Safer Merton, in partnership with the police will continue to monitor developments within the community as there may be an increase related to rising anxieties the closer we get to the 31 October. An objective is in place in the Hate Crime Strategy Action Plan to reassure the public before, during, and after the process of the UK exiting the EU. The Safer Merton Hate Crime Steering Group with clear messaging to reassure the community and how to access support and reinforcing that Merton is a diverse and tolerant borough that has a zero tolerance approach to hate crime has developed a communications and engagement strategy.



- 4.43. There is though the possibility that demonstrations could take place across the UK and a rise in public disorder and community tensions if food and supplies of other products into shops are affected. London, as the seat of the UK Government is likely to attract a higher proportion of protests and politically motivated demonstrations (evidenced in March and April). It is unlikely that these types of demonstrations will affect Merton; however, they may absorb significant amounts of police resource dealing with issues locally. Officers from the Safer Merton team are in contact with the BCU Brexit lead to ensure readiness of any possible disorder arising from the UK's departure.

## **Workforce**

- 4.44. Brexit could have wide-ranging implications for the future public sector workforce. It is estimated five per cent of the local government workforce and seven per cent of the social care workforce is from the EU-27 countries. [London Councils research from August 2017](#) shows that London is particularly reliant on migrant care workers, with nearly three in five of its social care workforce (59 per cent) born abroad. 10.6 per cent of London's social care workforce were born in the EEA and are without British citizenship. The last published Skills for Care data showed that 13% of the Merton social care workforce had an EU nationality, and 26% a non-EU nationality. The Association of Directors of Adult Social Services (ADASS) has said that it is likely that the sector will "struggle to cope" unless there is an "absolute guarantee" from the government that EU nationals can continue to work in the UK, without disruption.
- 4.45. The significant proportion of overseas workforce in social care is driven by low wages and challenging working conditions, which in turn are exacerbated by the squeeze on local authority budgets. This has historically been seen as a reason for care work being a less attractive proposition for British workers. If there are struggles around recruitment, with EU nationals no longer choosing to come to the UK to work then there may be wage increases and rising prices as providers look to attract people. In addition, there have been concerns that any inflationary increases because of Brexit could push up costs in an already difficult financial environment for home care providers.
- 4.46. Within Merton, all home care agencies and providers have now been surveyed and/or visited. It has not been found that there have been instances of large numbers of EU care staff leaving, however future recruitment remains a key issue. Council staff attending a Brexit Masterclass earlier in the year suggested that few other councils have gone as far as Merton in contacting all providers. In the context of increased risk levels around the UK, leaving without a deal, however, adult social care commissioners will be renewing visits to providers in September to assess the latest position and additional support that may be required. At time of writing no care providers had highlighted a significant risk of no longer being able to provide a service in the immediate short term, however rising costs and an increase in inflation following withdrawal would significantly impact providers due to increasing staff and supply costs, and could lead to provider

failure. Officers in C&H will be carrying out financial modelling to look at what the worst-case scenarios could look like of a rise in provider costs.

- 4.47. In March 2019, £10,000 of the Brexit funding from government was allocated to Adult Social Care, to support work with primary home care providers on a local recruitment campaign to offset the potential impact of Brexit on EU staffing and immigration policy on EU and Rest of World staffing.
- 4.48. Work has commenced with local providers, DWP and Skills for Care, and supported by a social media campaign, a recruitment fair in June was successful in helping attract 500 people to attend, however this has only translated to a small number of people actually taking up roles. Recruitment to the care sector will remain a key area of focus for actions.
- 4.49. The Migration Advisory Committee (September 2018) had recommended that existing minimum salary thresholds be kept in a post-Brexit immigration system and was also clear to not recommend that the public sector should receive special treatment in the migration system. A report by LGiU on the impacts of Brexit on local government argues that if a post-Brexit migration policy settles on high salary thresholds for skilled workers then the £30,000 threshold and required academic qualifications will be 'unrealistic' for most home care providers. However, the previous Home Secretary, Sajid Javid had signalled in June 2019 that the government was preparing to drop plans for a £30,000 minimum salary threshold, and consider the introduction of regional salary thresholds and exemptions for some sectors this has never been announced as government policy.. There is speculation that the government is looking at plans to exempt the social care sector from the proposed post-brexit migration policy but this is yet to be confirmed.
- 4.50. Within Children, Schools and Families, there is a low risk in terms of the council's directly employed workforce but there may be implications for other support staff, for example teaching assistants in schools that are mainly drawn from the local population. There could be a possible impact on the pool of available agency social workers in London with EU qualifications, although the size of this issue is unknown, and use of agency staff in CSF has reduced significantly. Schools have been written to and asked to feedback where the impact would be significant.
- 4.51. More widely in terms of the council's workforce, the 2018 Staff Survey asked staff whether they were an EU National. Of the 53% of staff that responded to the survey, 16% indicated that they are an EU national. It is unknown about how many EU nationals are amongst the 47% of staff who did not respond to the survey. However, these figures show that a significant number of the council's workforce could be impacted and may have to apply for settled status. Managers have been asked to refer any staff that may have concerns around their status to HR for help and support, as well as highlighting the Settlement Scheme Service delivered by CAML which Merton staff are eligible for even if not being a resident of the borough.
- 4.52. In the event of a no deal withdrawal, and those arriving in the UK from 1 November 2019 not being eligible for settled status, there is now

considerable uncertainty about the circumstances of any offers of employment being made.

- 4.53. Looking at agency staff and interims, Comensura, the council's provider of agency staff have said they are unable to hold information on whether someone is an EU national unless the candidate has previously provided their ethnicity, which they are at liberty to withhold. Veolia as a company have a national approach to tackling the impacts of Brexit and have been identifying staff that are EU nationals and funding and supporting them to apply for Settled Status including providing advice and translation for documents/evidence required for the process. Departments continue to work with other contractors to make sure that they are taking the necessary steps to continue to deliver contracted services following 31 October.

### **Supplies and equipment**

- 4.54. There has been no indication at this stage from the council's specialist suppliers that obtaining spares and equipment will be an issue; however, this will need to be kept under much closer review and regular monitoring with an increasing likelihood of no deal. Options have been explored for storage in the borough if it may be required.
- 4.55. It is considered unlikely that there will be an overall shortage of food in the UK; however, there may be a reduction in some areas, including some types of fresh food and this could lead to price rises, which will affect the most vulnerable. While local authorities do not manage or control food supplies, DEFRA have highlighted that they are well placed to provide intelligence on any developing issues that could assist relevant departments to support communities and have an important role in the UK's food system through the enforcement of food safety and standards regulation. Locally Community and Housing and Public Health are collecting information on food banks and voluntary groups that serve food and looking at actions to support them.
- 4.56. It is possible that the supply of medicines and medical products could be impacted by a reduced flow of goods into the country and local stockpiling by organisations or individuals might cause further shortages. Nationally the NHS is putting place-mitigating actions to ensure additional stocks in the UK. Medicines and medical products will also be able to utilise priority ferry routes, which by-pass the short straits ports, to bring products into the country. The NHS will however continue to monitor stock movement levels and act if it detects abnormalities that might indicate local stockpiling, so that action can be taken.

### **EU Funding**

- 4.57. One of the biggest concerns from councils nationally has been addressing the potential funding gap from no longer having access to EU funding, estimated by the LGA to be up to €10.5 billion UK-wide, unless a viable domestic successor to EU regional aid is put in place. In its 2017 General Election manifesto, the Government pledged to create a UK Shared Prosperity Fund that would replace the money that local areas are currently in receipt of from the EU. Despite the uncertainty over the replacement of

EU funding, the LGA argued that there was the opportunity to give local areas a greater say over how to target regional aid funding for local projects of benefit for local people that can support infrastructure, environment, enterprise and social cohesion.

- 4.58. An internal review was carried out which found that Merton is not currently in receipt of any EU funding that will need to be replaced, however it will no longer have access to put in any bids to European funds for projects such as the regeneration of Morden Town Centre where there may previously have been the opportunity. Therefore, the Task Group have noted the importance of monitoring the development of any replacement funds.
- 4.59. In March 2019, the government announced the launch of a new £1.6 billion fund to support 'less well-off towns in England' after Brexit. The pot will be split into a £1 billion fund to be distributed according to a needs based formula and £600 million which communities will be able to bid for. Towns in London will not be eligible for the £1 billion share of the fund, but towns within the GLA may be able to bid for a share of the £600 million. Further details on the fund have yet to be announced but the Brexit Task Group continues to monitor the details and criteria for the funding to see whether areas in London will be eligible for submitting bids.

#### **Laws, legislation and devolution**

- 4.60. EU law and regulation underpins many council services (such as waste and environmental standards). The Withdrawal Act 2018 provided for all EU law to be brought into UK law to ensure that there was legal certainty for businesses and residents. The Withdrawal Act is now law and this legal certainty remains in place under 'no deal'. However, many UK laws refer to EU regulations or to EU agencies. The Withdrawal Act gives ministers the ability to amend such laws where EU institutions or processes are mentioned. The Government has previously moved to assure people of continuity (at least in short-medium term) and that it will name UK successor agencies to EU regulators. DEFRA has published a Draft Environment Bill, setting out how they will maintain environmental standards as the UK leaves the EU.
- 4.61. Local government leaders as a part of the negotiations for leaving continue to push the case for further devolution and public service reform and have highlighted the opportunity that EU-origin laws could be improved through amendment.
- 4.62. As EU law is incorporated into the domestic statute, local government has a central role to play in deciding which should be kept, amended or discarded. For example, there are many EU-origin laws that commentators highlight could be improved through amendment; including public procurement, state aid rules and new approaches to waste, recycling and landfill. Equally, there are areas where it is beneficial for EU-origin laws to remain, including air quality, transport, consumer rights laws, the provision of service regulations and the TUPE regulations.

- 4.63. So far, there have not been major changes to The Public Contracts Regulations 2015 for procurement, but thresholds may be changed. The Cabinet Office issued a Procurement Policy Note in March 2019, which stated:
- The European Union (Withdrawal) Act 2018 contains powers to fix deficiencies that arise as a result of the UK's withdrawal from the EU. For public procurement, the amendments to the current regulatory framework were made in March. The Public Procurement (Amendment etc.) (EU Exit) Regulations 2019 were made on 13th March. Those Regulations were subsequently amended by the Public Procurement (Amendment etc.) (EU Exit) (No. 2) Regulations 2019 that were made on the 20th March. In the event of no deal, the Public Procurement (Amendment etc.) (EU Exit) Regulations 2019 will come into force, in their amended form, on exit day.
  - In the event of a no deal Brexit, contracting authorities will need to publish public procurement notices to a new UK e-notification service that will replace the EU publications office.
- 4.64. Flexibility may need to be built into our future procurement and where we buy goods and services. Commercial Services have written to contract managers to ask them to review all contracts and identify any that:
- Rely on EU grant funding
  - Rely on staff that are EU Nationals to deliver the service
  - Have the potential to be impacted by currency volatility
- 4.65. In the event of a 'no-deal' Brexit, with no agreed arrangements covering data protection, the Government is advising organisations to prepare appropriate contracts to ensure any transfer of European Union citizens' personal data to the UK is compliant with privacy laws. The UK could be regarded as a third country when it exits the EU. As a result, the transfer of personal data from organisations within the EU to other organisations in the UK will be subject to strict data transfer rules, as set out by the EU General Data Protection Regulation (GDPR). EU organisations will have to ensure their transfers to UK are lawful, which will no longer be as straightforward as it is now.
- 4.66. The government has stipulated that following Brexit it does not intend to apply restrictions on transfers of personal data from the UK to the EEA, however The EU has not yet granted similar modification in respect of transfers to the UK. Following Brexit, transfers of personal data from the EEA to the UK will be restricted. This will have a major impact on any organisation that routinely transfers personal data from the EU to the UK. This could have an impact for the legal frameworks covering the work of local authority children's services in areas of family law (where families cross borders), child protection, and supporting children suffering abuse, exploitation or abduction and could result in significant data protection issues where institutions and services work across national boundaries.

- 4.67. Departmental Management Teams continue to reviewing legislation and technical guidance updates as it relates to the specific service areas within their departments and report this information to the task group as required.

### **Regeneration, house building, skills and the high street**

- 4.68. The construction industry is significantly dependent on EU migrant workers, both for skilled and non-skilled roles. A shortage of workers could therefore lead to higher project costs or consequently building schemes having to either be reduced in scale or scrapped altogether. This could have a significant impact for the council's regeneration schemes such as that for Morden Town Centre and on the council's local Housing Company and the program of construction outlined in its establishment. A report is being commissioned by MDL to provide an update on the construction industry; pricing, availability of labour and availability of materials.
- 4.69. Alongside the workforce issues, research suggests that approximately two-thirds of construction materials for house building and other schemes are imported directly from the EU. This could have two issues; a weaker pound will lead to rising costs for imported materials, while at the same time the UK risks losing its tariff-free access to the single market, as well as facing the imposition of duties and limits on quantities, exacerbated in a no deal withdrawal.
- 4.70. Locally, FutureMerton have assessed that the immediate impact of Brexit on the council's existing regeneration and building schemes will be negligible, however if there is no deal, and a protracted exit then there will start to be an impact from exchange rates. If there is, still an economic downturn a year later then there could be an impact for the council's Local Housing Company in terms of construction costs, tender prices and availability and costs of labour. The value of the council's portfolio could also be impacted as the property market goes up or down. The council continues to analyse industry indicators for data relating to gaps and shortages in the construction sector. FutureMerton also intend to engage with our Business Improvement Districts, the Merton Chamber of Commerce and other key business groups to understand the impact to date of the uncertainty. To ask businesses if there has been any noticeable changes, any difficulties around recruitment, meeting demand and from this, establish if there are any sector trends that have occurred.
- 4.71. It is widely accepted that the UK has a significant skills gap. If bridging the gap in the skills that public services need can no longer be met through migration (EU or non-EU) then there will have to be a drive to improving the skills of UK workers. In the LGA's view, the workforce challenges of Brexit needs to be a catalyst for a fundamental rethink of skills development in the UK. A London Councils briefing on the impact Brexit could have on London's skills challenge notes that London's economic success has been driven by being a leader in financial, professional and technical services, creating a strong demand for highly skilled, highly productive labour. In the briefing, it is argued that to meet the challenges in London of high levels of youth

unemployment, a rapidly growing population and a number of key sectors that are heavily reliant on migrant labour, London needs an efficient skills system that is responsive to business need and supports learner progression.

- 4.72. Merton has contributed to the Mayor's Skills Strategy and emerging Industrial Strategy. The Skills for South Londoner's Skills Strategy (February 2018) set out actions to meet challenges for businesses and recognised current skills gaps. The strategy sets out three priorities to support residents towards and into work, increase employer participation and investment in skills and to align the skills offer to our growth and strategic sectors.
- 4.73. Since Brexit, the fall in the pound has made imported goods more expensive, with the additional potential for costly tariffs to be added in the case of a no deal withdrawal. This comes at the same time as wages rising at a slower pace than inflation, meaning people with less disposable income. There are a number of wider reasons behind the continued decline in high streets, such as the rise of online shopping, but Brexit is predicted to increase the pressures on many businesses and retailers and could lead to a further downturn. This will have a direct impact on the council in terms of the level of business rates it collects, but also more widely, there is the negative impact for the community if high streets and town centres in the borough are struggling. The council continues to regularly liaise with business organisations via the Chamber of Commerce and monitor any changes to business rate income.

## **5 ALTERNATIVE OPTIONS**

- 5.1. The council could choose not to do any preparatory work or analysis on the potential impacts of Brexit, choosing to wait until there is more clarity or certainty from the government on the terms of the 'deal' to exit or future relationship between the UK and the EU. However, this will leave the council ill-prepared to deal with any changes to the way it delivers its services that will come about as a result of exiting the EU and a likely growing uncertainty amongst members of the community and the workforce that are EU residents.

## **6 CONSULTATION UNDERTAKEN OR PROPOSED**

- 6.1. None.

## **7 TIMETABLE**

- 7.1. The UK will leave the EU on the 31 October 2019.
- 7.2. After 31 October 2019: Trade talks can begin between the UK and the EU. While Britain remained a member state, such talks were not permitted under EU law. Under the deal reached in principle in 2018, this is when the 21-month transition period begins. During this time, most aspects of UK membership of the EU will remain in place, including free movement across borders and membership of the customs union and single market. However, Britain will no longer have a vote.

- 7.3. The closing deadline for applications to be submitted for settled status will be 30 June 2021 or in the event of a no deal withdrawal 31 December 2020.
- 7.4. Although Britain's departure from the EU has been delayed, the December 31, 2020 date for the end of the transition period has not been changed (assuming there is a deal with the EU).

## **8 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

- 8.1. A focus on Brexit has meant a delay in the 2019 Spending Review. A delay to the Spending Review causes uncertainty for local authorities in what level of funding is allocated from government departments. It is highly likely that the formula funding review will be delayed together with the Adult Social care green paper that is already late. This has consequences for financial planning and setting council budgets.
- 8.2. There is considerable potential for inflationary pressures in the short term, in terms of wages, goods and services, to increase future costs to the council. At this stage it is impossible to plan for what this might be and will therefore need to be met from within the current inflation budgets in the MTFS, but will be kept under constant review to mitigate impact of delivering new savings to offset these costs.
- 8.3. The council has been allocated £210k in funding for 2019/20 and 2020/21 for costs associated with the departure from the EU. Additional funding of £105k has recently been announced.
- 8.4. At this point, £51,300 of Brexit funding from government has been allocated to Citizens Advice Merton and Lambeth to deliver a Merton-wide EU Settlement Scheme Service with a dedicated paid specialist Adviser and £10,000 to Adult Social Care to support work with primary home care providers on a local recruitment campaign.
- 8.5. There could be financial implications related to the council having to bring in specialist advice to understand the potential changes to regulations and legislation.
- 8.6. There could be financial implications for the council in having to administer a snap General Election, which may not be fully offset by government funding, should the decision be made to call one because of a continued deadlock in negotiations between the UK and the EU on the terms of the exit or on being called as a result of the UK's withdrawal.

## **9 LEGAL AND STATUTORY IMPLICATIONS**

- 9.1. Over the period of membership, a number of EU laws have been incorporated as part of domestic statute and there is not yet a definitive position on which laws will be kept, amended or repealed. There are a number of pieces of EU legislation that currently affect the way the council delivers its services, including those linked to procurement, waste, recycling, air quality, transport, consumer rights laws and the provision of service regulations.



- 9.2. There are a number of areas where it is likely to be decided that it is essential or helpful for EU-origin laws to remain and that the council will need to continue to adhere to.
- 9.3. The far-reaching implications of Brexit have been addressed in this report and as well potential amendments and repeals of legislation; there is the practical impact with regards the fall out of a no deal (or a hard Brexit). There is the effect this will have on the economy and in particular exchange rates and the impact on the contractors/suppliers that the Council is in contract with. In the short term, it is prudent for the council to continue to carry out due diligence exercises on the financial viability of suppliers/contractors with regards contracts which are high risk or high value; staffing issues, whether the company's insurance policies are still in force or void; potential increases in prices of contracts, etc. The council should also continue to consider its contingency plans with regards this area of concern, as well as those areas where EU nationals are directly and indirectly employed, and the other areas identified in this report.

## **10 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

- 10.1. The Human Rights Act was passed into UK law in 1998. The human rights contained within this law are based on the articles of the European Convention on Human Rights. The Act 'gives further effect' to rights and freedoms guaranteed under the European Convention. As outlined under the legal and statutory implications section, it remains unclear which EU-origin laws and regulation that the UK will continue to adhere to or seek to repeal.
- 10.2. Many areas saw a rise in reported hate crime immediately following the referendum result and there is evidence, collected both locally as well as regionally and nationally that shows different European communities expressing concern about the future. In the lead up to, and following the date of the exit of the UK from the EU there could be implications for community cohesion within the borough and the potential for instances of hate crime.

## **11 CRIME AND DISORDER IMPLICATIONS**

- 11.1. As set out under the community cohesion implications, there is the potential for the UK's exit from the EU to lead to a rise in community tensions and a rise in the number of instances of Hate Crime. Figures showed 3000 allegations of hate crime made to UK police in the week before and after the referendum vote on June 23<sup>rd</sup>.
- 11.2. There is the possibility that demonstrations could take place across the UK that may absorb significant amounts of police resource. There may also be a rise in public disorder and community tensions if food and supplies of other products into shops are affected. London, as the seat of the UK Government is likely to attract a higher proportion of protests and politically motivated demonstrations (evidenced in March and April). The impact of demonstration is likely to be higher in London than other parts of the UK.

## **12 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

- 12.1. The impact of the UK's exit from the EU has been identified as a key corporate risk in the Key Strategic Risk Register. A no deal Brexit could have significant negative effects on a wide range of council services and businesses as a result of uncertainty and the failure to secure a smooth transition from EU membership. The council's Brexit Task Group will continue to monitor the situation closely.

**13 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**

Guidance available to Merton Residents about the EU Settlement Scheme

**14 BACKGROUND PAPERS**

- 14.1. Cabinet Report 12 November 2018.
- 14.2. There are a number of articles, briefings and reports that have been used to put together this report, which are hyperlinked to in the document where relevant

## **Appendix 1: Guidance available to Merton Residents about the EU Settlement Scheme.**

Guides (English) for the EU Settlement Scheme:

<https://www.gov.uk/settled-status-eu-citizens-families>

<https://www.gov.uk/government/collections/eu-settlement-scheme-applicant-information#guidance>

Guides for caseworkers published by the Home Office:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/791153/Main-EUSS-guidance-29-March-v1.0.pdf?\\_ga=2.149285938.546651607.1566399069-1626216763.1566310628](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/791153/Main-EUSS-guidance-29-March-v1.0.pdf?_ga=2.149285938.546651607.1566399069-1626216763.1566310628)

EU Settlement Scheme: translated information materials (26 European languages, including Welsh and Irish):

<https://www.gov.uk/guidance/settled-status-for-eu-citizens-and-their-families-translations#history>

<https://www.gov.uk/government/collections/eu-settlement-scheme-translated-information-materials>

Information on how to use the EU Exit: ID Document Check App.

<https://www.gov.uk/guidance/using-the-eu-exit-id-document-check-app>

There is an EU Settlement Resolution Centre that can be contacted to get help:

<https://www.gov.uk/contact-ukvi-inside-outside-uk/y/inside-the-uk/eu-settlement-scheme-settled-and-pre-settled-status>

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## **Committee: Council**

**Date: 18 September 2019**

Wards: All

## **Subject: Appointment of Monitoring Officer**

Lead officer: Caroline Holland, Director of Corporate Services

Lead member: Councillor Mark Allison, Deputy Leader and Cabinet Member for Finance

Contact officer: Julia Regan, Head of Democracy Services

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### **Recommendations:**

- A. That the Head of Shared Legal Services, Fiona Thomsen, be designated as Monitoring Officer from 7<sup>th</sup> October 2019 until a permanent appointment of the Assistant Director of Corporate Governance is made and the appointment of the new Monitoring Officer is confirmed by Council.
- 

### **1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1. The report seeks Council's approval that the Head of Shared Legal Services, Fiona Thomsen, be designated, to the role of Monitoring Officer as of 7<sup>th</sup> October 2019 on an interim basis, pending the permanent recruitment to the post of Assistant Director of Corporate Governance, which includes the statutory role of Monitoring Officer.
- 1.2. The Council is required under section 5 of the Local Government and Housing Act 1989 to appoint an officer to act as Monitoring Officer.

### **2 DETAILS**

- 2.1. Part 3(F) of the Constitution states that the Monitoring Officer is the Assistant Director of Corporate Governance. Paul Evans, the current Assistant Director of Corporate Governance and Monitoring Officer leaves the employment of the Council on 4 October 2019.
- 2.2. Upon Mr Evans departure, Fiona Thomsen will be acting as interim Assistant Director of Corporate Governance whilst a permanent recruitment to the post is made.
- 2.3. Ms Thomsen is an experienced Local Government solicitor and has been Deputy Monitoring Officer for Merton for 10 years. She was also Interim Monitoring Officer in 2008. It is considered that she is the most suitably qualified and experienced officer to undertake the role of Monitoring Officer.

### **3 ALTERNATIVE OPTIONS**

- 3.1. There is no legal requirement that the Monitoring officer should be a qualified lawyer. Any suitable employee of the Council may be appointed to this role subject to the provision of that appropriate legislation (See section 7)

### **4 CONSULTATION UNDERTAKEN OR PROPOSED**

4.1. None for the purpose of this report

## **5 TIMETABLE**

5.1. Subject to the approval of Council, the role of the Monitoring Officer will pass to the new Assistant Director of Corporate Governance upon the appointment of the Council.

## **6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

6.1. None for the purpose of this report

## **7 LEGAL AND STATUTORY IMPLICATIONS**

7.1. The Council is required by the Local Government and Housing Act 1989 to appoint a Monitoring Officer. The Monitoring Officer may not be the Head of Paid Service (the Chief Executive) or the Section 151 Officer ( the Director of Corporate Services)

## **8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

8.1. None for the purpose of this report

## **9 CRIME AND DISORDER IMPLICATIONS**

9.1. None for the purpose of this report

## **10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

10.1. None for the purpose of this report

## **11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**

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## **12 BACKGROUND PAPERS**

12.1. None

## **Committee: Council**

**Date: 18 September 2019**

**Subject: Changes to Membership of Committees and related matters**

Lead officer: Ged Curran, Chief Executive

Contact officer: Louise Fleming, Senior Democratic Services Officer

Democratic Services 020 8545 3616 - [democratic.services@merton.gov.uk](mailto:democratic.services@merton.gov.uk)

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### **Recommendations:**

1. That the Council approves the appointment of Councillor Najeeb Latif as Vice-Chair of the Borough Plan Advisory Committee.
  2. That the Council approves the appointment of Councillor Thomas Barlow as Vice-Chair of the Healthier Communities and Older People Overview and Scrutiny Panel; and a member of the South West London Joint Health Overview and Scrutiny Committee, following the resignation of Councillor Stephen Crowe.
  3. That the Council notes the changes to the membership of Committees that were approved under delegated authority since the last meeting of the Council.
- 

## **1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1. This report seeks Council's approval for appointments to committee places and asks Council to note the changes made to committee membership under delegated authority since the publication of the agenda for the last ordinary Council meeting on 10 July 2019.

## **2 DETAILS**

- 2.1. The appointments to Committees and other bodies, including the appointment of Chairs and Vice-Chairs of those committees and other bodies, were agreed at the annual Council meeting on 15 May 2019. All the places available on the Borough Plan Advisory Committee were appointed to, however due to an omission in the report only the Chair was appointed at that meeting. Therefore this report seeks to formalise the appointment of Councillor Najeeb Latif to the position of Vice-Chair.
- 2.2. Following the resignation of Councillor Stephen Crowe from both the Healthier Communities and Older People Overview and Scrutiny Panel; and the South West London Joint Health Overview and Scrutiny Committee, Council is asked to approve the appointment of Councillor Thomas Barlow to both; and his appointment as Vice-Chair of the Scrutiny Panel.
- 2.3. The following membership changes have been made by the Chief Executive under his delegated authority in accordance with section 1.4 of part 3F of the Constitution:

<b>Committee</b>	<b>Member resigning</b>	<b>Replaced by</b>	<b>Date</b>
Planning Applications Committee	Dennis Pearce	Dave Ward	10 July 2019
Standards and General Purposes Committee	Thomas Barlow	Nigel Benbow	22 July 2019
Standards and General Purposes Committee	Pauline Cowper	Russell Makin	25 July 2019
Standards and General Purposes Committee	Nigel Benbow	Thomas Barlow	29 July 2019
SW London and Surrey Joint Health Overview and Scrutiny Committee	Stephen Crowe	Nigel Benbow	29 July 2019
Standards and General Purposes Committee	Russell Makin	Pauline Cowper	20 August 2019
NE Surrey Crematorium Board	Nick McLean	Nigel Benbow	3 September 2019
Planning Applications Committee	David Dean	Stephen Crowe	6 September 2019
Merton Community Panel	Stephen Crowe	Edward Gretton	9 September 2019
Merton Community Panel	Edward Gretton	Nigel Benbow	9 September 2019

### **3 CONSULTATION UNDERTAKEN OR PROPOSED**

3.1 None for the purposes of this report.

### **4 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

4.1. None for the purposes of this report.

### **5 LEGAL AND STATUTORY IMPLICATIONS**

- 5.1. The information regarding membership changes in this report complies with legal and statutory requirements. Council is required to accept nominations made by political groups.
- 5.2. The Housing and Local Government Act 1989 contains provisions relating to the political balance on committees, the duty to allocate seats to political groups and the duty to give effect to allocations.
- 5.3. The Council has a statutory duty to review the representations of different political groups on the Council in order to ensure that a political balance is secured on council committees so as to reflect the overall political composition of the council.
- 5.4. The requirement to allocate seats must be made in accordance with the following statutory principles:
  - a) All of the seats are not to be allocated to the same political group.



b) The majority of the seats must be allocated to the political group with a majority on the Council.

c) Subject to the two principles listed above, the number of seats on the total of all the ordinary committees of the Council allocated to each political group must bear the same proportion to that on full Council.

## **6 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

6.1. None for the purposes of this report.

## **7 CRIME AND DISORDER IMPLICATIONS**

7.1. None for the purposes of this report.

## **8 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

8.1. N/A

## **9 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**

9.1 None.

## **10 BACKGROUND PAPERS**

Documents from the authorised officer confirming approval of the membership changes agreed under delegated authority.

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## Committee: Council

Date: 18 September 2019

## Subject: Petitions

Lead officer: Paul Evans, Assistant Director, Corporate Governance.

Lead member: Leader of the Council, Councillor Stephen Alambritis.

Contact officer: Democratic Services, [democratic.services@merton.gov.uk](mailto:democratic.services@merton.gov.uk)

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### Recommendation:

1. That Council receive petitions (if any) in accordance with Part 4A, paragraph 18.1 of the Council's Constitution.
  2. That Council notes the responses provided to the petitions submitted at the meeting held on 10 July 2019.
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## 1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. This report invites Council to receive petitions in accordance with Part 4A, paragraph 18.1 of the Council's Constitution.

## 2 DETAILS

- 2.1. At the meeting held on 10 July 2019, the petitions listed below were submitted and the responses are set out below. Any petitions received by Council are referred to respective departments with responsible officers asked to advise the presenting member in each case of the way in which the petition is to be progressed.
- 2.2. A petition was submitted by Councillor Tobin Byers on the declaration of a climate emergency.

### Officer Response

- 2.3 "We agree with the new evidence and the wave of public feeling that we need to act more rapidly. We are delighted to announce that, on 10th July, Merton Council declared a Climate Emergency with cross-party support. The Council has set ambitious carbon reduction targets to decarbonise the borough of Merton by 2050, and to decarbonise Merton Council's own buildings and services by 2030. Over the coming months, Merton Council will be developing a Climate Action Plan to set out, at a high level, what actions will be required from National and Regional Government, Merton Council, and local residents and businesses in order to achieve these targets. We will be forming a Climate Emergency Working Group comprised of community and business leaders to inform the Climate Action Plan.

We encourage members of the Merton community to engage in the Climate Action Plan process by applying to be part of the Climate Emergency Working Group by 9th August and by contacting Merton Council's Climate Change officers with any relevant proposals. We will also be launching an online questionnaire in September and attending all Community Forums to ensure as many people as

possible have an opportunity to contribute their ideas. We invite you to visit our Climate Emergency web [page](#) for more information and links to the application form for the working group.”

- 2.4 A petition was submitted by Councillor Edward Gretton on the banning of barbeques in Wimbledon Park.

Officer Response

- 2.5 “The issue of BBQs at Wimbledon Park (and more widely) has been monitored and considered by the Council during the past several years. Without overtly promoting Wimbledon Park as a venue for BBQs, there has unquestionably been an increase in this park’s usage for this purpose but the demands are very much less in other parts of the borough, including those where there is no enforcement of any BBQ restrictions. Overall, the Council does not consider that there is a significant BBQ “problem” in Merton.

The Council believes that its recent approach is pragmatic and sensible. Whilst BBQs are not trouble-free, most especially in relation to waste and littering, this needs to be balanced against the leisure-time and social benefits that BBQs bring at a time when recreational pursuits and trends are evolving, in part driven by changes in the cultural and demographic landscape of the borough and by factors in the economy within London which mean that there are an ever-increasing number of residents who do not enjoy their own private gardens in which to enjoy an outdoor BBQ with friends and family at home. It may be no coincidence that the demand for BBQs is much more marked in the more heavily urbanised parts of the borough, around Wimbledon Park for example, than it is in its more suburban neighbourhoods.

The local authority has always considered Wimbledon Park to be its premier open space. The park features a range of facilities and services, some of which are of regional importance and understandably, therefore, it enjoys a high annual footfall. It is evidently not a park that is designed to serve local needs alone. It attracts visitors from many parts of London and from around the globe too and not only at times of the Wimbledon Championships.

As a whole, Merton enjoys many fine parks, gardens and Commons that cater for all manner of recreational pursuits and interests. These open spaces are appreciated by tourists and local people alike and generally enjoyed in an environment of tolerance and mutual respect. The local authority welcomes this and the social and economic benefits that visitors bring.

The Council’s policy position on BBQs was considered by members during the second half of last year and the outcome was that the Council does not plan to adopt a policy that comprises a permanent, year-round ban on BBQs in any of its own parks and open spaces at this time. This is consistent with the view of the current Cabinet Member for Commerce, Leisure & Culture.

The Council will, however, continue to review the issue of BBQs in its parks and when, on balance, it is sensible to do so it may enforce a temporary ban on BBQs as it did during the peak of the summer heatwave of 2018. It will also listen to and

consider the advice and recommendations of the London Fire Brigade as it did last year.”

- 2.6 Members are invited to present petitions at this meeting, and a response will be provided to the next ordinary Council meeting in April 2019.

### **3 ALTERNATIVE OPTIONS**

- 3.1. None for the purposes of this report.

### **4 CONSULTATION UNDERTAKEN OR PROPOSED**

- 4.1. None for the purpose of this report.

### **5 TIMETABLE**

- 5.1. None for the purpose of this report.

### **6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

- 6.1. None for the purpose of this report.

### **7 LEGAL AND STATUTORY IMPLICATIONS**

- 7.1. None for the purpose of this report.

### **8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

- 8.1. None for the purpose of this report.

### **9 CRIME AND DISORDER IMPLICATIONS**

- 9.1. None for the purpose of this report.

### **10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

### **11 APPENDICES**

- 11.1. None

### **12 BACKGROUND PAPERS**

- 12.1. None.

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