

LEWISHAM FUTURE PROGRAMME – SAVINGS REPORT APPENDICES – SEPTEMBER 2015

APPENDIX 5 – SAVINGS PROPOSALS FOR SCRUTINY, SECTION H

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1. Savings proposal	
Proposal title:	Enforcement and Regulatory services Food safety, Environmental protection
Reference:	H2
LFP work strand:	Enforcement and Regulation
Directorate:	Community Services
Head of Service:	Geeta Subramaniam-Mooney
Service/Team area:	Crime Reduction and Supporting People
Cabinet portfolio:	Community Safety and Public Realm
Scrutiny Ctte(s):	Safer and Stronger Communities

2. Decision Route			
Saving proposed:	Key Decision Yes/No	Public Consultation Yes/No	Staff Consultation Yes/No
Further reductions in Crime, Enforcement and Regulation and Environmental Health will be identified via a 3 month and 6 month review post implementation of the new structure (which began in Aug 15). Proposals will be brought in April 16.	Yes	No	Yes

3. Description of service area and proposal
Description of the service area (functions and activities) being reviewed:
<p>a) A number of service areas were brought together in 2015, including Licensing, Anti Social Behaviour, Public Health and Nuisance and Trading standards. These services were remodelled with a single multi faceted staff team delivering across all of these areas. To manage the service a risk matrix model has been adopted and staff deployed to tackle persistent and significant issues.</p> <p>b) A number of services were brought together in 2015 including Food safety, Environmental Protection, Special treatment licensing and Commercial health and Safety. This service will also work on a risk based model.</p> <p>In 2015 there was a reduction of £800K across both areas met in 2015. This resulted in approximately 33% reduction in the services collectively. The new service model was implemented in Aug 15.</p>
Saving proposal
<p>The New Service structure was implemented in Aug 15. The service will be reviewed 3 and 6 months post implementation to assess impact, deliverability and demand. Based on the findings of this review, a detailed demand management assessment and further exploration of alternative models, including shared services, proposals for further reductions will be made in April 16.</p>

4. Impact and risks of proposal

Outline impact to service users, partners, other Council services and staff:

Without first implementing the new structure in 2015 there is no way of knowing the deliverability and risks associated with the changes. Some areas for consideration include:

- Significant risks in achieving this cut based on safety to residents in relation to food safety.
- Reduced resources to tackle issues such as Anti Social Behaviour on a preventative way may result in increased demand on police, and demand on the Youth Offending Service.
- Ability to deliver the Statutory functions of the Council such as licensing and public health and nuisance.

Outline risks associated with proposal and mitigating actions:

It is too early to satisfactorily consider further reductions and impact – there will be a detailed review in Nov 15 and Feb 16 to understand implications and risks. Proposals will be brought in April 16.

5. Financial information

Controllable budget:	Spend £'000	Income £'000	Net Budget £'000
	3,046	(885)	2,161
Saving proposed:	2016/17 £'000	2017/18 £'000	Total £'000
Not stated at this time	0	1,200	1,200
Total	0	1,200	1,200
% of Net Budget	0%	56%	56%
Does proposal impact on: Yes / No	General Fund	DSG	HRA
	Yes		
If impact on DSG or HRA describe:			

6. Impact on Corporate priorities

Main priority	Second priority	Corporate priorities
4	3	<ol style="list-style-type: none"> 1. Community leadership and empowerment 2. Young people's achievement and involvement 3. Clean, green and liveable 4. Safety, security and a visible presence 5. Strengthening the local economy 6. Decent homes for all 7. Protection of children 8. Caring for adults and the older people 9. Active, healthy citizens 10. Inspiring efficiency, effectiveness and equity
Impact on main priority – Positive / Neutral / Negative	Impact on second priority – Positive / Neutral / Negative	
N	N	
Level of impact on main priority – High / Medium / Low	Level of impact on second priority – High / Medium / Low	
High	High	

7. Ward impact	
Geographical impact by ward:	No specific impact / Specific impact in one or more
	No specific Impact
	If impacting one or more wards specifically – which?

8. Service equalities impact			
Expected impact on service equalities for users – High / Medium / Low or N/A			
Ethnicity:	H	Pregnancy / Maternity:	
Gender:	H	Marriage & Civil Partnerships:	
Age:	H	Sexual orientation:	
Disability:		Gender reassignment:	
Religion / Belief:		Overall:	H
For any High impact service equality areas please explain why and what mitigations are proposed:			
Any further reductions will impact on the whole community. Specific victims of crime feature greatest within females.			
Is a full service equalities impact assessment required: Yes / No			No

9. Human Resources impact					
Will this saving proposal have an impact on employees: Yes / No					Yes
Workforce profile:					
Posts	Headcount in post	FTE in post	Establishment posts	Vacant	
				Agency / Interim cover	Not covered
Scale 1 – 2					
Scale 3 – 5					
Sc 6 – SO2					
PO1 – PO5	33	33	37		4
PO6 – PO8	1	1	1		
SMG 1 – 3	1	1	1		
JNC					
Total					
Gender	Female	Male			
	15	20			
Ethnicity	BME	White	Other	Not Known	
	13	22		4	
Disability	Yes	No			
	2	33			
Sexual orientation	Straight / Heterosex.	Gay / Lesbian	Bisexual	Not disclosed	

10. Legal implications
State any specific legal implications relating to this proposal:
Staff consultation will be required for changes to the current structure.

10. Legal implications

The statutory nature of many of the activities delivered by the services outlined in this report is recognised. At the heart of the proposed new delivery model is the need to ensure that the Council's statutory obligations are addressed but that we are realistic about what is really needed, about what we can deliver and that enforcement action is targeted and proportionate to the circumstances. In most cases the level of statutory activity required is not explicitly set out which implies that it is for the Council to exercise their discretion on levels of local provision.

Pursuant to s.17 of the Crime & Disorder Act 1988, every local authority has a statutory "duty to ...exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area."

It is understood that as a consequence of the proposals within this report, there will be no loss of any specific statutory function; accordingly, the broad statutory obligations pursuant to the provisions of the said Crime & Disorder Act 1998 will continue to be complied with. So too, will the other relevant statutory enforcement obligations continue to be complied with by the Council consequent upon the specific proposals specified within this report.

Namely, section 6 Food Safety Act 1990, to carry out all necessary food enforcement inspections as a statutory 'food authority', (this is carried out and will continue to be carried out with the assistance of external qualified support,) the provisions of the Health and Safety at Work etc Act 1974, in particular, Ss. 18 & 19, so as to enforce the necessary health and safety provisions as a statutory 'enforcement authority', with a necessary authorized Inspector, S. 69 and Part VI of the Weights and Measures Act 1985, S. 3 Licensing Act 2003, as a Licensing Authority for the purposes of all the Licensing Act functions and S. 2 Gambling Act 2005 when acting as a Licensing Authority for the purposes of all Gambling Act functions.

Since the meeting of the Mayor and Cabinet held on Wednesday 11th February 2015, there has been a need to expand the legal implications following a consultation response .

As a direct consequence of that said meeting and representations made thereat, an attempt is made below to address a number of further relevant statutory provisions. To be noted however, is that the following supplementary list of relevant statutory functions covered by the service areas affected, is by no means intended to be exhaustive given that the range of services covered by this proposal are so broad in nature. (By way of example only, in addition to the specific noted functions within this report both set out above and below, there are numerous others; including but not limited to, non- food consumer product safety and unfair trading practices, which the Council also has a duty to enforce'.)

All relevant functions pursuant to the Public Health (Control of Disease) Act 1984, including powers of necessary entry to premises (s. 61) as a 'relevant health protection authority' (and for the Council to be able to serve all relevant documents and notices, s. 60) also in particular, Part III of the said Act.

All relevant functions pursuant to the Health Protection (Part 2A Orders) Regulations 2010 (in the context of the said 1984 Act) and this includes the obligation to provide a written report to the national 'Public Health [England]' Office, each time a Part 2A Order is made.

10. Legal implications

All relevant functions pursuant to the Public Health Act 1961 including filthy or verminous premises.

All relevant functions pursuant to the Control of Pollution Act 1974, which are not dealt with elsewhere within the Council's enforcement services; namely, including but not limited to, the service of statutory notices and related enforcement action concerning controlling 'noise' emanating from construction sites (Ss. 60 & 61), and exercising lawful rights of entry and inspection (s. 91).

All relevant functions pursuant to the Environmental Protection Act 1990, including those within Part IIA of the Act, where necessary. For this Part of the 1990 Act, the Council is the 'enforcing authority'. This enables the authority to serve appropriate notices, so as to require and subsequently enforce remediation of contaminated land – and deal with alleged significant pollution of controlled waters. The Council must maintain a register containing prescribed particulars relating to 'remediation notices' served and action taken.

All relevant functions pursuant to the Environmental Protection Act 1990, Part III, where necessary. Here the Council's authorized officers seek to counter alleged statutory nuisances when witnessed by them, pursuant in particular sections, 79 and 80.

All relevant functions pursuant to the Clean Air Act 1993, to control in particular, smoke. Part III of the said Act is relevant to the discretionary power available to a local authority; namely the declaration of a smoke control area. Local Authorities within the provisions of this Act, have the power to obtain information about the emission of pollutants and other substances into the air, and the undertaking of relevant enforcement action if deemed necessary. This works in tandem with the Government published National Air Quality Strategy which contains policies with respect to the assessment or management of the quality of air, pursuant to s. 80 of Part IV Environment Act 1995. The functions here are linked closely with those pursuant to the Pollution Prevention and Control Act 1999, s. 1 which seeks to prevent polluting activities.

All relevant functions pursuant to the said 1999 Act require Local Authorities to regulate certain types of industries so as to reduce pollution and in particular improve air quality. Certain industrial activities require Permits to be issued so as to set controls and emission standards to minimize pollution.

All relevant functions pursuant to the Safety of Sports Grounds Act 1975, and 1987, including in particular the inspecting and issuing of safety certificates for stands at sports grounds.

In addition to the above, it is important to note the Council's "Equalities" obligations when considering the exercise of its functions. The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

In summary, the Council must, in the exercise of its functions, have due regard to the need to:

10. Legal implications

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

The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.

The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at: <http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/>

The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

1. The essential guide to the public sector equality duty
2. Meeting the equality duty in policy and decision-making
3. Engagement and the equality duty
4. Equality objectives and the equality duty
5. Equality information and the equality duty

The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at: <http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>

11. Summary timetable

Outline timetable for main steps to be completed re decision and implementation of proposal – e.g. proposal, scrutiny, consultation (public/staff), decision, transition work (contracts, re-organisation etc..), implementation:

Month	Activity
August 2015	Outline intention for further review prior to putting up options
November 2015	3 month review of the new service
February 2016	6 month review of the new service
April 2016	Options identified for consideration.