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Merton Council

Joint Regulatory Service Committee Agenda

Membership

Councillors:

Councillor Martin Elengorn - London Borough of Richmond Upon Thames
Councillor Helen Lee-Parsons - London Borough of Richmond Upon Thames
Councillor Tobin Byers - London Borough of Merton
Councillor Caroline Cooper-Marbiah - London Borough of Merton
Councillor Guy Senior – Wandsworth Council
Councillor Paula Walker - Wandsworth Council

Date: Tuesday 15 October 2019

Time: 10.00 am

Venue: Committee Rooms CDE, Merton Civic Centre, London Road, Morden, SM4 5DX

This is a public meeting and attendance by the public is encouraged and welcomed. For more information about the agenda please contact democratic.services@merton.gov.uk or telephone 0208 545 3357.

All Press contacts: communications@merton.gov.uk, 020 8545 3181

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Joint Regulatory Service Committee Agenda

15 October 2019

- 1 Apologies for Absence
- 2 Declarations of Pecuniary Interest
- 3 Minutes of the Previous Meeting 1 - 4
- 4 Joint working approach to air quality across the Regulatory Services Partnership (Sharing Best Practice) 5 - 18
Members to note and comment on the report.
- 5 Discretionary Fees and Charges 19 - 26
Members to note and comment on the framework for the setting of discretionary fees within the Regulatory Services Partnership and the timetable for a fundamental review of the fee structure.
- 6 Date of the Next Meeting
To formally agree and note the re-scheduled date for the February 2020 meeting of the Joint Regulatory Service Committee, which is to take place on Tuesday 11 February 2020 at 10am at the Merton Civic Offices.

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.

JOINT REGULATORY SERVICE COMMITTEE 25 JUNE 2019

(10.03 am - 11.04 am)

PRESENT Councillors Tobin Byers (in the Chair), Martin Elengorn, Helen Lee-Parsons and Paula Walker

ALSO PRESENT Councillor Nick Draper

Nick Steevens (Head of Regulatory Services Partnership), Cathryn James (Interim Assistant Director, Public Protection), Jacqui Hurd (Interim Business Development Manager), Ed Shaylor (Private Sector Housing Team Manager), Helen Clark (Commercial Services Manager), Paul Chadwick (Director of Environment and Community Services) and Amy Dumitrescu (Democratic Services Officer)

1 APPOINTMENT OF CHAIR FOR THE MUNICIPAL YEAR 2019/20 (Agenda Item 1)

Councillor Tobin Byers motioned that Councillor Caroline Cooper-Marbiah be nominated as Chair of the Committee for 2019/20.

The motion was seconded by Councillor Martin Elengorn.

RESOLVED: That Councillor Caroline Cooper-Marbiah be elected as Chair of the Joint Regulatory Service Committee for 2019/20.

In the absence of the Chair, Councillor Martin Elengorn motioned that Councillor Tobin Byers be nominated as vice-chair.

The motion was seconded by Councillor Paula Walker.

RESOLVED: That Councillor Tobin Byers be elected as Vice-Chair of the Joint Regulatory Service Committee for 2019/20.

The meeting was therefore chaired by the Vice-Chair, Councillor Tobin Byers.

2 APOLOGIES FOR ABSENCE (Agenda Item 2)

Apologies for absence were received from Councillors Caroline Cooper-Marbiah (Merton) and Paul Ellis (Wandsworth).

3 DECLARATIONS OF INTEREST (Agenda Item 3)

There were no declarations of interest.

4 MINUTES OF THE PREVIOUS MEETING (Agenda Item 4)

RESOLVED: That the minutes of the meeting of the Joint Regulatory Service Committee held on 9 October 2018 were agreed as a correct record.

5 PARTNERSHIP ANNUAL PERFORMANCE REVIEW (Agenda Item 5)

The Head of the Regulatory Services Partnership presented the report, commending officers for their hard work during the recent period of transition.

In response to member questions, the Head of the Regulatory Services Partnership advised that the intention would be to standardise KPIs (Key Performance Indicators) across the partnership and that the Management team would be looking at possible options for acceptable KPIs which should be similar across the board.

The Head of the Regulatory Services Partnership advised that the key challenges had been from the reactive work undertaken by the partnership, but noted that future plans for a single IT system and enhancement of the current systems would assist in improving this.

Members asked questions on Air Quality and noted that short-term funding had been provided for air quality initiatives which had enabled the partnership to hire a number of additional officers who would be visiting air quality monitoring sites as well as visiting construction sites to ensure that the most efficient equipment was being used where possible. The Chair advised that Merton currently had 200 anti-idling signs in hotspots across the Borough and would be providing anti-idling training to Councillors. Members expressed concern that this and other work by the Partnership was not being publicised and that whilst some activities were borough-specific, the partnership should be providing further information to the public regarding the work of both the committee and the partnership. It was noted that a further report on Air Quality would be brought to the October meeting and this would be an opportunity for the Committee to discuss what each of the boroughs was doing individually and what scope there was to learn from each other.

In response to members concerns particularly in relation to the public perception and understanding of the working of and purpose of the partnership, the Interim Assistant Director of Public Protection acknowledged there had been some teething issues and that the branding and communication of the partnership could be improved and would be assessed but the first priority had been to ensure that services were delivering their statutory requirements.

6 PARTNERSHIP INCOME GENERATION (Agenda Item 6)

The Head of Regulatory Services Partnership presented the report, giving an overview of initial possibilities for income generation. These focused on increasing income through current workstreams and commercial opportunities, such as offering pre application advice to businesses. It was noted that a number of the fees for

services are set nationally and therefore could not be changed and others were only able to be recharged on a cost-recovery basis only. Options would be assessed in further detail and another report would be brought to the Committee to discuss in October 2019.

Members expressed concern that given the recent transformation work, stability was required before the service ventured into new areas. The Head of the Regulatory Services Partnership assured members that the statutory services would continue to be closely monitored alongside any opportunities for improvement.

Post Meeting Note: Councillors requested for the terms of reference to be circulated with each agenda. The Terms of reference were subsequently circulated to all members of the committee and will be provided to members with each agenda.

7 MEETING DATES 2019/20 (Agenda Item 7)

RESOLVED: That the next meeting date of 15 October 2019 was agreed.

RESOLVED: That the meeting date of 9 July 2019 was cancelled.

Members noted that the proposed meeting date of 18 February 2020 was within the Half Term week and therefore alternatives would be sought and agreed with the Committee.

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THE REGULATORY SERVICES PARTNERSHIP

REPORT TO: Joint Regulatory Services Committee

DATE: 15th October 2019

REPORT OF: Jason Andrews

TITLE OF REPORT Delivering services across the partnership

WARDS: All Wards/Boroughs

KEY DECISION? No

IF YES, IN FORWARD PLAN?

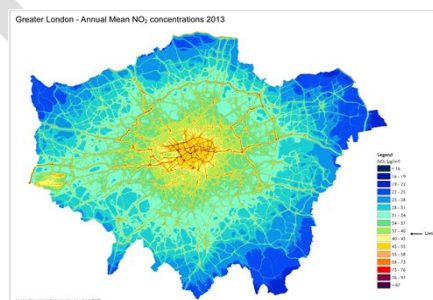
For general release Yes

1. MATTER FOR REVIEW & CONSIDERATION

Joint working approach to air quality across the Regulatory Services Partnership (Sharing Best Practice)

2. AIR QUALITY IN LONDON

2.1 We now know that each year, thousands of Londoners die prematurely as a result of result of air pollution across the capital, and millions more face health threats every day. London has breached legal limits for air quality every year since implementing them in 2010, and all of London's boroughs fail both National Annual Air Quality Objectives and World Health Organisation standards.



2.2 Emerging evidence suggests that air pollution may also cause dementia and cognitive decline. Emerging evidence also exists associating air pollution with early life effects such as low birth weight.

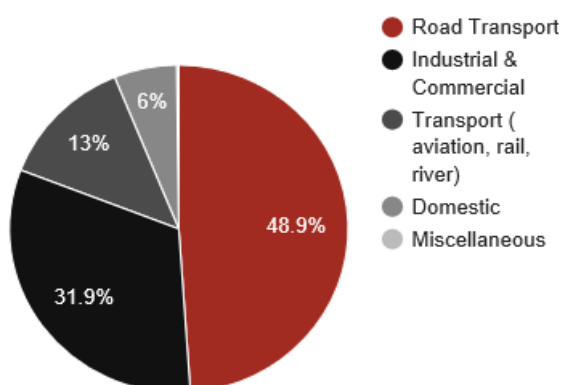
2.3 The three main conditions associated with air pollution are respiratory conditions (such as asthma), cardiovascular disease (CVD), and lung cancer. Emerging evidence exists for associations with dementia, low birthweight and Type 2 diabetes. The Committee on the Medical Effects of Air Pollutants (COMEAP) has highlighted that exposure to air pollution contributes to many thousands of deaths in the UK, through increasing the risk of CVD, respiratory disease and cancers.

2.4 In London, over 9,000 premature deaths can be attributed to poor air quality. The Environmental Audit Committee has estimated that the national health cost as a result of air pollution range between £8.5 billion and £20.2 billion a year.

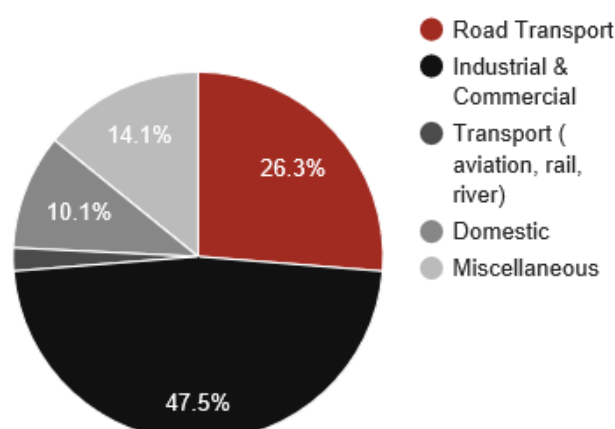
- 2.5 The quality of local air has been identified as a priority both nationally and within London, where pollution levels continue to exceed both EU limit values and UK air quality standards.
- 2.6 A significant portion of London's emissions comes from transport – or how we travel around the city. This includes aviation, river, rail and especially on-road transportation. Construction and industrial processes, as well as heating and powering our homes, businesses, also produce substantial pollution. Some miscellaneous sources – such as accidental fires, agriculture, and forestry – account for a small proportion of emissions in the city.

London Emission Sources:

NOx emissions sources



PM10 emission sources





3. Legal Framework

- 3.1 The UK Government and the devolved administrations are required under the Environment Act 1995 to produce a national air quality strategy. This strategy sets out the UK's air quality objectives and recognises that action at national, regional and local level is needed, depending on the scale and nature of the air quality problem. A summary of the UK's air quality standards and objectives are shown in Appendix 1.
- 3.2 Part IV of the Environment Act 1995 and Part II of the Environment (Northern Ireland) Order 2002 requires local authorities in the UK to review air quality in their area and designate Air Quality Management Areas (AQMA) if improvements are necessary. Where an air quality management area is designated, local authorities are also required to work towards the Strategy's objectives prescribed in regulations for that purpose. An Air Quality Action Plan (AQAP) describing the pollution reduction measures must then be enacted. These plans contribute to the achievement of air quality limit values at local level.
- 3.3 In the past ten-years the UK government has been challenged successfully by environmental lawyers from ClientEarth. These challenges have been predominantly around the measures within the governments Clean Air Strategy and the implementation process and its timeframe. The government has since recently revised its Clean Air Strategy. The revised Strategy refers to the strengthening of existing powers and the introduction of new powers for Local Authorities to further reduce air pollution from key areas such as transport, the home, farming and industry. Details of amended Local Authority powers will follow in the new Environment Bill and associated clean air legislation.
- 3.4 Although legal challenges on air quality have been levelled at central government, the same challenge and recommendations can equally be applied to any Local Authorities air quality responsibilities. These challenges, along with the emerging health impact of poor air quality have given the agenda added impetus over the past few years.
- 3.5 In addition to the legal responsibility, Local Authorities have a duty to ensure the health and wellbeing of its residents, visitors and businesses.

4. THE POLLUTION TEAM (AIR QUALITY AND CONTAMINATED LAND)

- 4.1 Air Quality is recognised as a priority service for Local Authorities include all members of the Partnership. In recognition and through the second phase of the Tri-borough merger to incorporate Wandsworth services, steps were taken to create a team specifically to deliver the air quality agenda across the three boroughs.



- 4.2 The benefits of a merged Air Quality Team unite good practice, shared expertise and knowledge and provides a degree of resilience to the service as a whole.
- 4.3 Air Quality is a unique Local Government function in that the function can access various funding streams as well as external grant funding. The mass of a Tri-borough service also attracts significant funding from several sources and the centralising of procurement can bring further value for money.
- 4.4 The Pollution Team consists of two-types of employee; revenue funded or permanent staff exist as paid for by the three authorities, and grant funded staff or temporary staff, paid for through various external funding streams.

Revenue Staff include:

- | | |
|----------------------|--|
| • Jason Andrews | Team Manager |
| • Miar Crutchley | Practitioner (Merton diesel levy funded) |
| • Carol Lee | Practitioner |
| • Davide Pascarella | Practitioner |
| • Mark Collins | Practitioner |
| • Gavin Day | Contaminated Land Officer |
| • Nicoletta Vianello | Practitioner |

Grant and externally funded staff:

- | | |
|--------------------------|------------------------------------|
| • Andrew Gordon | NRMM Lead |
| • Luis Bassett | Practitioner |
| • Althea Gabellini | NRMM Officer |
| • Elizabeth Gunner | NRMM Officer |
| • Tania Watts | NRMM Officer |
| • Guillermo Perez Molina | NRMM Officer |
| • Jay Polley | NRMM Officer |
| • Maria Vaz | Practitioner (Nine Elms) |
| • Vacant | Practitioner (Nine Elms) |
| • Vacant | Practitioner (Richmond LIP Funded) |

5. THE AIR QUALITY AGENDA IN LOCAL AUTHORITY

- 5.1 The Air Quality Agenda in Local Authority is not the sole responsibility of the Regulatory Services Partnership, but a wider agenda expanding nearly all services within the Authority.
- 5.2 Partnering services across the council and pooling ideas and resources is vital to delivering a comprehensive clean air agenda. The Pollution Team work in partnership with other services within the three boroughs including Parking, Planning, Transportation, Communication, Public Health, Education and Highways. These internal partners significantly contribute to delivering the air quality agenda. Each cannot be seen as a silo but must coordinate to deliver actions which is highlighted in the borough's respective Air Quality Action Plans.



- 5.3 The Regulatory Service can add expertise, advice, coordinate actions and deliver key initiatives, but cannot resolve the issue alone. Working with these key partners is essential.

6. FUNCTIONS & RESPONSIBILITIES OF THE TEAM

6.1 Air quality monitoring and feedback

We have a statutory duty to monitor and report on air quality in the boroughs. This is a legal process which culminates in an annual report called an Annual Status Report on air quality (ASR). The boroughs operate a number of monitoring locations including diffusion tube networks as well as automated and calibrated air quality monitors. These automated monitors form a part of a London-wide network. This monitoring shows the boroughs current status with regards to air quality and helps assess the impact of any action taken to reduce pollution.

6.2 Legal responsibilities

Where a borough fails legal air quality limits it must declare an Air Quality Management Area (AQMA) and as such must implement an Air Quality Action Plan (AQAP) to tackle air quality. The Pollution Team is responsible for that Plan and its implementation. The actions that fall outside the pollution team such as Traffic/Transport are still coordinated and feedback through the AQAP and the measures coordinated through that Plan.

6.3 Deliver the respective boroughs initiatives

As well as monitoring and feedback the pollution team is responsible for some key measures in the AQAP including campaigns and schools work as well as project work and local initiatives, these can vary between the boroughs.

6.4 Communicating

The Pollution Team are responsible for communicating the air quality agenda, including messages and dealing with questions and attending public meetings, planning committees and other key forums.

6.5 Goods & Services Contracts and Procurement

The Pollution Team deals with contracts and procurement of goods and services across the three boroughs relating to air quality including the managing, servicing and maintaining of air quality monitoring stations and diffusion tube networks.

6.6 Determining and defining Local Policy

The Pollution Team provide advice and steer on current policy to council decision makers to help shape the actions that the boroughs can take to tackle poor air quality whilst fulfilling the respective local political priorities.

6.7 Construction/Demolition

The Pollution Team regulate emissions from the construction industry including dust, noise and machinery emissions. This is done through the use of regulatory powers as well as the Planning Agenda. We are currently seeing



some major projects throughout the boroughs that will have a significant impact upon resourcing of the service over the next few years. In Merton we have the estate regenerations, Wandsworth has Nine Elms and Tideway and Richmond the Mortlake Brewery development.

6.8 **Contaminated Land Conditioning**

The Pollution Team are responsible for delivering the contaminated land agenda across the three boroughs, this involves ensuring that contaminated land is identified and mitigated where necessary. This is now ostensibly delivered through the planning agenda. Therefore planning applications need to be assessed against historical records and conditions made where necessary.

6.9 **Part B Licensing processes**

Some pollution industries such as dry cleaners, car re-sprayers and petrol stations are regulated by the Local Authority. The Pollution Team regulate and permit these processes across the three boroughs.

6.10 **Emergency Environmental response**

The Pollution Team plays a significant role in managing and responding to environmental emergencies. This can include contamination, natural disaster and emergency planning, contaminated water etc.

6.11 **Complaints and Service requests**

The Pollution Team deals with service requests or complaints about a number of air quality and regulatory matters. These include but are not limited to; air quality, bonfires, dust, smoke and traffic. The team deals with around 1000 service requests per year in addition to its statutory and regulatory functions.

6.12 **Consultancy and conditioning**

The Pollution Team provides a consultancy service for a number of departments including Planning, Transport and Parks. This consultancy service covers all areas of Environmental Impact. We review all planning applications that will have a potential impact to ensure these are conditioned to minimise and mitigate impact.

7. **WORKING BEYOND THE PARTNERSHIP**

7.1 The service also covers wider initiatives beyond the Partnership, including playing a vital role in steering National Policy and lobbying for legislative changes.

7.2 The Team also deliver significant and innovative initiatives such as the London wide Non-Road Mobile Machinery (NRMM) Scheme this is delivering the World's first Low Emissions Zone for Construction. This work is so significant it is shaping future policy, and the team want to expand this to an air quality accreditation scheme for Cleaner Construction and expand to other Cities in the UK and beyond.





- 7.3 The Team are also responsible for delivering and updating the London Code of Practice for Construction and Demolition, to which many boroughs subscribe.
- 7.4 Many of our Practitioners are considered industry leaders who are happy to regionally and nationally, share knowledge, expertise and experience.

8. ATTRACTING EXTERNAL FUNDING

- 8.1 The air quality agenda has a unique opportunity to apply for funding through a number of internal and external funding streams, much of our project work and borough specific initiatives are funded from monies outside of the Partnership.
- 8.2 These funding streams include, but are not limited to; Section 106, Local Implementation Plan, Community Infrastructure Levy, Public Health and external grant schemes such as the Mayors Air Quality Fund and Horizon 2020.
- 8.3 As an indication of external funding provided to the Team have secured around £2m over the next three-years. It is important to note that this is earmarked for certain boroughs and specific initiative. That said it does show the team's ability to tap into resourcing.
- 8.4 The Team continue to seek funding opportunities and build team and borough service resilience through funding such as grants, commercialisation of its expertise and Section 106.

9. BOROUGH PRIORITIES 2019

9.1 Priorities for Merton in 2019

- Continue to implement the 2018 Air Quality Action Plan
- Work with parking colleagues to link parking policy to Public Health & Air Quality
- Review of the Diesel Levy
- Anti-Idling
- Local Plan update to include Air Quality
- Deliver the London wide NRMM Project
- Monitoring air quality around all schools
- Schools Safety Zones
- School Neighbourhood Approach Project (SNAP) pilot

9.2 Priorities for Richmond 2019

- Draft and deliver a new Air Quality Action Plan that reflects the aspirations of the borough.
- Scoping and consultation of a diesel Levy
- Exploring Clean Air Zones around the Town Centres
- Enhanced air quality monitoring arrangement.
- Anti-Idling
- Internal air filtration in schools project



- A new and innovative Planning Policy Guidance for Air Quality for developments in the borough
- School Safety Zones (Pilot)

9.3 Priorities for Richmond 2019

- Deliver the existing Air Quality Action Plan and new matrix reporting scheme
- Manage the Nine Elms Development Environmental Impacts
- Manage the Thames Tideway Environmental Impacts
- Anti-Idling
- Clean Air Village project for Tooting
- Schools audits
- Schools internal air filtration project competition
- Putney High Street

10. JOINT AND SHARED INITIATIVES, EXAMPLES AND PRACTICE

10.1 A number of joint projects exist that extend across the borough, these overall activities are addressing, however resourcing differs across the boroughs. It is important to note that borough activity is often linked to the individual boroughs financial commitment to providing these activities.

As an example: LIP Funding differs considerably across the boroughs and some are restricted certain activities.

For The **Pollution Team** LIP Funding as followed:

Wandsworth:	£85K per year
Richmond:	£100K per year
Merton:	£30K per year.

Note. Some funding for AQ initiatives sits in other teams and this figure does not represent the overall Council financing of AQ.

Core Service Objectives	Borough	Examples of Best Practice
Air Quality monitoring and feedback	Wandsworth	<ul style="list-style-type: none"> • Large number of automated stations with some funded through major schemes • Matrix Report produced of monitoring in the borough • Site specific monitoring for the Nine Elms Development



	Merton	<ul style="list-style-type: none"> Diffusion Tube Network refreshed and comprehensively covers the borough All schools now incorporated in the monitoring network Requested section 106 funding for a new continuous monitoring station at Wimbledon Stadium
	Richmond	<ul style="list-style-type: none"> Good number of monitoring stations that also cover Ozone Excellent Diffusion tube work with good trend data Piloting Personal Monitors for Civil Enforcement Officers (CEO) 20MPH zone monitoring
Consultation Service and Planning	Wandsworth	<ul style="list-style-type: none"> Refresh of guidance and conditions for AQ Closer engagement with planners Dust monitoring requested for construction sites Funding for staffing and monitoring on large construction sites through Section 106
	Merton	<ul style="list-style-type: none"> Close partnership working with Planners/Training Guidance Starting to tap into Section 106 funding for AQ Active role in the Committee process Local Plan out for consultation and includes AQ
	Richmond	<ul style="list-style-type: none"> Local Plan updated to include AQ A new and comprehensive Supplementary Planning Guidance for AQ (SPD), (model for all boroughs) SPD includes funding of AQ and Regulation
Anti-Idling	Wandsworth	<ul style="list-style-type: none"> CEO have had delegated powers since 2017 and report back interventions Coordinated activities between AQ Team and CEO Signage expanding to all schools in the borough Part of the pan-London Idling Project
	Merton	<ul style="list-style-type: none"> Signage throughout the borough Cllrs involved in campaign days New materials created for all boroughs Training programme for all CEOs New webpage for anti-idling. Communication Plan for Anti idling Part of the pan-London Idling Project



	Richmond	<ul style="list-style-type: none"> • CEO's trained and delivering throughout the borough • Website and communications Plan in place • Excellent Community Support • Banners provided to Schools and educational package • Councillor support for the agenda
Our Schools	Wandsworth	<ul style="list-style-type: none"> • Commitment to auditing and funding of mitigation measures • Access to funding for schools • Internal monitoring of AQ • Theatre Groups in schools • Anti-idling signage and campaigns
	Merton	<ul style="list-style-type: none"> • Monitoring in all schools • Anti-idling signage at some schools and campaigns. • SNAP Public Health Initiative • School Safety Zones • Councillors working with Schools
	Richmond	<ul style="list-style-type: none"> • Commitment to auditing and funding of mitigation measures • Internal monitoring of AQ • School's banners for anti-idling • Commitment to STARS across the borough • Anti-idling signage and campaigns
Air Quality Action Plans	Wandsworth	<ul style="list-style-type: none"> • Well established AQAP • Incorporates the relevant departments • Reporting Matrix • Open to amendment
	Merton	<ul style="list-style-type: none"> • New and innovative in a simple to understand format • Warmly welcomed by the consultation Brave in those contentious areas such as Parking • Linked closely to the Partner Services
	Richmond	<ul style="list-style-type: none"> • AQAP new and innovative and includes up to date actions undergoing consultation • Has an open and transparent innovative public reporting process • Clear simple format that speaks to the borough

11. BOROUGH BEST PRACTICE

11.1 Many borough air quality initiatives are very similar in their scope and ambition, with many themes occurring across the boroughs irrespective of the



Political Administration. Air Quality seems to transcend any political differences but they will still need to remain sovereign to each borough as these are represented at a local-level and what may be required in one borough does not necessarily mean it applies or is palatable to all. All boroughs however need to take firm action to tackle what is considered a Public Health Crisis.

Borough	Examples of Leading
Wandsworth	<ul style="list-style-type: none"> Putney High Street model of best practice for tackling Town Centre Pollution Nine Elms Development monitoring and funding regime Clean Air Villages Theatre Groups for Schools
Merton	<ul style="list-style-type: none"> New Innovative AQAP Diesel Levy and Parking charges linked to the Air Quality agenda Schools activities, SNAP, Safer Streets Monitoring Cleaner Construction for London Project (NRMM) Citizen Partnership
Richmond	<ul style="list-style-type: none"> Communication Plan Committee Dedicated to Transport and Air Quality Partnership approach to problem solving Peer partnership approach Supplementary Planning Guidance for air quality Ambition for a change of transport in the borough

12. FINANCIAL IMPLICATIONS

None report for information only

13. PROCUREMENT IMPLICATIONS

None, information only

14. LEGAL IMPLICATIONS

None

15. CONSULTATION AND ENGAGEMENT

None

16. POLICY IMPLICATION

None

17. BACKGROUND INFORMATION:



None

18. BACKGROUND PAPERS

None

19. APPENDICES

Appendix 1 - Summary of National Air-quality standards and objectives

20. CONTACTS

Jason Andrews MCIEH, MIOL, MInstLM | EH Pollution Manager
Regulatory Services Partnership
London Boroughs of Merton, Wandsworth and Richmond upon
Thames
Civic Centre, London Road, Morden SM4 5DX
Tel. 0208 5453859

Appendix 1

Summary of National Air-quality standards and objectives

Pollutant	Objective (UK)	Averaging period	Date (by which to be achieved by and maintained thereafter)
Nitrogen dioxide – NO ₂	200 µg m ⁻³ not to be exceeded more than 18 times per year	One-hour mean	31 Dec 2005
	40 µg m ⁻³	Annual mean	31 Dec 2005
Particles – PM ₁₀	50 µg m ⁻³ not to be exceeded more than 35 times per year	24-hour mean	31 Dec 2004
	40 µg m ⁻³	Annual mean	31 Dec 2004
Particles – PM _{2.5}	25 µg m ⁻³	Annual mean	2020
	Target of 15% reduction in concentration at urban background locations	Three-year mean	Between 2010 and 2020
Sulphur dioxide (SO ₂)	266 µg m ⁻³ not to be exceeded more than 35 times per year	Fifteen-minute mean	31 Dec 2005
	350 µg m ⁻³ not to be exceeded more than 24 times per year	One-hour mean	31 Dec 2004
	125 µg m ⁻³ not to be exceeded more than three times per year	24-hour mean	31 Dec 2004

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Committee: Joint Regulatory Service Partnership Committee

Date: 15 October 2019

Wards: All

Subject: Discretionary Fees and Charges

Lead officer: Chris Lee, Director for Environment & Regeneration

Lead member: Councillor Caroline Cooper-Marbiah, Cabinet Member for Commerce, Leisure and Culture

Contact officer: Cathryn James, Interim Assistant Director, Public Protection
Nick Steevens, Head of the Regulatory Services Partnership

Recommendations:

-
1. Members note and comment on the framework for the setting of discretionary fees within the Regulatory Services Partnership and the timetable for a fundamental review of the fee structure.
-

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. This report seeks to outline the framework for the setting of discretionary fees and charges within the Regulatory Services Partnership.
- 1.2. The Regulatory Services Partnership (RSP) delivers Licensing functions on behalf of Merton, Richmond and Wandsworth Councils. The partnership is responsible for a broad array of licences and permits ranging from riding establishments to scrap metal dealers. The purpose of these licensing regimes is specific to the regulations that govern them, but in general, licensing regimes exist to protect the public, protect and support businesses practices and ensure fair trading; and ensure the welfare of animals.
- 1.3. The fees applicable for the issue of licences and permits by the RSP fall under three fee types which can be categorised as statutory, capped or discretionary. Discretionary licences and permits are set with regard to the relevant case law and guidance.
- 1.4. With the recent changes to the RSP which have brought the services under the same roof a review of the fee structure is required to ensure that the issue of discretionary licences and permits is consistent across the three authorities.

2 DETAILS

- 2.1. The RSP is responsible for the issue and oversight of approximately 6,000 licences and permits across the Boroughs of Merton, Richmond Upon Thames and Wandsworth. A breakdown of these licences by authority and type can be found in Appendix 1.
- 2.2. The fee applicable for each licence or permit can be classified as either statutory, capped or discretionary. The types of licence issued by the RSP within each category is shown below.

Statutory:

- Licensing of pubs, clubs, restaurants and bars for the sale of alcohol, the provision of regulated entertainment and the provision of late night

refreshment, including transfers, change of DPS, change of premises licence holders etc..

- Issuing of Temporary Event Notices

Capped:

- Licensing of premises that provide gambling e.g. betting shops, bingo halls and amusement with prizes machines, where the maximum fees levels are set by Regulations.

Discretionary:

- Licensing of animal welfare activities e.g. pet shops, dog breeding and boarding establishments, catteries, horse riding establishments, dangerous wild animals
- Licensing of street trading including tables and chairs on the highway
- Licensing of special treatments e.g. tattooing, skin piercing, beauty therapies, sauna and massage establishments
- Licensing of scrap metal dealers
- Licensing of Houses in Multiple Occupation
- Licensing of Explosives including fireworks
- Licensing of Auction Houses
- Licensing of Hypnotism

3 DISCRETIONARY FEE STRUCTURES

- 3.1 For discretionary licensing, the fee structure and cost of issuing the licence or permit is set at a local level, typically by a Licensing or other Committee in accordance with each Council's Constitution. Whilst this ensures that there is local control and oversight of fee structures and fee setting, this also results in significant differences in the way in which these fee structures are constructed. Appendix 2 provides a comparison of the current differences between the discretionary fee structures of the three partner authorities within the RSP.
- 3.2 Since the RSP has moved to a single location the need to review the fee structures has become increasingly important in order to provide clarity for applicants and officers within the RSP who now administer the same licenses across the three boroughs but with notably different categorisation.

4 DISCRETIONARY FEE SETTING

- 4.1 When setting licence fees regard must be had to the European Union (EU) Services Directive. In 2015 the Supreme Court (Hemmings v Westminster) clarified the matters that a local authority can take into account when setting a locally determined fee on the basis of the Services Directive. The judgment makes it clear that fees must be proportionate, but can be set at a level enabling the authorities to recover from licenced operators the full costs of managing and enforcing the licensing scheme, including the costs of investigating and prosecuting those operating without the necessary licence.

4.2 Guidance from the Local Government Association also assists Councils in establishing discretionary fees which can include costs associated with:

- a) Initial visit(s)
- b) Third party costs (vets fees)
- c) Liaison with interested parties (stakeholders)
- d) Management costs
- e) Local democracy costs
- f) On costs
- g) Development, determination and production of licensing policies
- h) Web material
- i) Advice & Guidance
- j) Setting & reviewing fees

4.3 When calculating the ongoing enforcement element the following can be included:

- a) The cost of risk based visits to premises in between licensing inspections and responding to complaints. These figures can be based on average officer time, travel and on costs
- b) Expenditure associated with arranging committee meetings to respond to problems
- c) Management of licensing registers and national reporting
- d) The cost of enforcing against unlicensed businesses excluding any court costs as may be recovered through the courts

4.4 In accordance with the Supreme Court judgement, any fee or charge for a discretionary licence should be split into two parts, whereby the applicant must pay:

- a) An initial payment on making the application, to cover the costs of the application process and,
- b) A second payment upon the application being successful, to cover the costs of the running and enforcement of the licensing regime

The applicant will only receive the licence or permit once the licensing authority receives the second payment.

5 REVIEW OF DISCRETIONARY FEE STRUCTURES

5.1. Appendix 2 indicates that the fee structures between the three authorities differ notably. As cited above, the need for a single fee structure across the RSP is desirable for both officers and customers.

5.2. In order to develop a single fee structure the following actions are due to commence within the RSP:

- a) Starting Autumn 2019, project teams will be set up to review the current fee structures
- b) The project teams will propose a single fee structure taking into account the current arrangements and best practice from other authorities

- c) The proposed single fee structures will be reviewed by the RSP Board
- d) Subject to agreement by the RSP Board the fee structures will be put to the relevant Committees for each authority for agreement
- e) The changes to the fee structures will take effect from 2021/22

6 CONSULTATION UNDERTAKEN OR PROPOSED

- 6.1. As indicated in 5.2, the proposed single fee structure will be placed onto the forward plan for each authority for consideration at the relevant Committees.

7 TIMETABLE

- 7.1. It is proposed to bring a revised fee structure into effect ready for the 2021/22 financial year.

8 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 8.1. There are no resource implications resulting from this report

9 LEGAL AND STATUTORY IMPLICATIONS

- 9.1. The Legal Implications are addressed in the body of the Report. The Local Government Association Guidance, "Open for business LGA guidance on locally set licence fees" (2017) helpfully addresses the legal position on such fees.

10 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 10.1. None

11 CRIME AND DISORDER IMPLICATIONS

- 11.1. None

12 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 12.1. None

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

- Appendix 1 – Licences by authority and type
- Appendix 2 – Fee Structure Comparison

14 BACKGROUND PAPERS

Open for business: LGA guidance on locally set licence fees:

<https://local.gov.uk/open-business-lga-guidance-locally-set-licence-fees>

Appendix 1
Licence Types 2018/19

Licence Type	Wandsworth	Merton	Richmond
Massage & Special treatment Premises			
New Special Treatment licence applications	14	10	12
Renewal Special Treatment licence applications	180	93	165
Licensing Act 2003			
New Premises Licence/Club Premises Certificate applications	88	34	26
Variation applications	32	14	16
Minor variations	25	17	20
Personal Licence applications	341	480	176
Transfer applications	103	51	49
Designated Premises Supervisor applications	281	133	9
Temporary Event Notices (TEN's)	1035	422	918
Gambling Act 2005			
New premises licence, variation applications and transfer applications	0	33	0
New and renewal lottery applications	75	84	15
Street Trading			
New street trading licenses (LB of Merton and LB Richmond upon Thames only)	NA	33	42

Renewal applications for street trading licenses.	NA	123	216
One Day Street Trading Licenses		60 (markets only)	735
Animal Welfare Licenses			
New applications	19	12	20
Renewals/Conversions	16	10	15
Zoos	1	0	1
Scrap Metal Dealers			
New site licence and collectors licence applications	20	26	7

Massage & Special Treatment Establishments:

Merton:
Premises Charge: Smaller premises licensed to treat up to 3 persons at the same time
Premises Charge: Larger premises licensed to treat between 4 and 10 persons at the same time
Premises treating 11 or more persons at the same time
Category One Treatment Skin Piercing: including cosmetic piercing, acupuncture, thread vein treatment, moxibustion (with skin piercing). Light Treatments: including UV (sunbeds) lasers, light therapy. Electric Treatments: including faradism, ultra high frequency, galvanism, electrolysis and electro-acupuncture.
Category Two Treatment Tattooing and body piercing.

Richmond:
1 to 5 therapists
6 to 10 therapists
11 to 15 therapists
16 to 20 therapists
More than 21 therapists
Additional fee if laser treatment offered
Additional fee if tattoo treatment offered

Wandsworth:
High risk: body piercing, tattooing, laser/intense pulse light treatment
Medium risk: massage, beauty, certain invasive treatments, sauna, steam rooms, sunbeds
Low risk: ear piecing (lobes only)

Animal Welfare Licences:

Merton & Richmond:
Animal boarding establishment (Kennel/Cattery)
Home boarder/day crèche (6 animals and below)
Home boarder/day crèche (over 6 animals)

Wandsworth:
Animal boarding establishment: Low risk - boarding of a maximum of 2 dogs at any one time whether during the day, at night or day and night
Animal boarding establishment: Medium risk - boarding of more than 2 dogs during the day (no overnight boarding)
Animal boarding establishment: High risk - business that does not fall into either of the categories below
Dangerous wild animals licence