

Merton Council

Cabinet Agenda

Membership

Councillors:

Ross Garrod (Chair)
Eleanor Stringer
Stephen Alambritis MBE
Billy Christie
Caroline Cooper-Marbiah
Brenda Fraser
Natasha Irons
Andrew Judge
Sally Kenny
Peter McCabe

Date: Monday 20 March 2023

Time: 7.15 pm

**Venue: Committee Rooms DE, 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 [020 8545 3357](tel:02085453357).

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

Cabinet Agenda

20 March 2023

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To RESOLVE that the public are excluded from the meeting during consideration of the following report(s) on the grounds that it is (they are) exempt from disclosure for the reasons stated in the report(s). | |
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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. For further advice please speak with the Managing Director, South London Legal Partnership.

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Agenda Item 3

All minutes are draft until agreed at the next meeting of the committee/panel. To find out the date of the next meeting please check the calendar of events at your local library or online at www.merton.gov.uk/committee.

CABINET

20 FEBRUARY 2023

(7.15 pm - 8.12 pm)

PRESENT Councillors Councillor Ross Garrod (in the Chair), Councillor Eleanor Stringer, Councillor Stephen Alambritis, Councillor Billy Christie, Councillor Caroline Cooper-Marbiah, Councillor Natasha Irons, Councillor Andrew Judge, Councillor Sally Kenny and Councillor Peter McCabe

ALSO PRESENT Hannah Doody (Chief Executive), Roger Kershaw (Interim Executive Director of Finance and Digital), Jane McSherry (Executive Director of Children, Lifelong Learning and Families), John Morgan (Executive Director, Adult Social Care, Integrated Care and Public Health), Louise Round (Interim Executive Director of Innovation and Change), Charles Baker (Waste Strategy and Commissioning Manager), John Bosley (Assistant Director Public Space Contracts and Commissioning), Keith Burns (Assistant Director, Commissioning), Matt Burrows (Head of Communications and Customer Experience), Robert Cayzer (Interim Head of Cabinet Office), Sara Murtaugh (Senior Systems Officer) and Amy Dumitrescu (Democracy Services Manager)

1 APOLOGIES FOR ABSENCE (Agenda Item 1)

The Leader of the Council opened the meeting and spoke on Ukraine and the earthquakes in Turkey/Syria.

Apologies were received from Councillor Fraser.

2 DECLARATIONS OF PECUNIARY INTEREST (Agenda Item 2)

There were no declarations of interest.

3 MINUTES OF THE PREVIOUS MEETING (Agenda Item 3)

RESOLVED: That the minutes of the meeting held on 16 January 2023 are agreed as an accurate record.

4 REFERENCE FROM THE SUSTAINABLE COMMUNITIES OVERVIEW AND SCRUTINY PANEL – CLARION HOUSING (Agenda Item 4)

At the request of the Chair, Councillor Neaverson, Chair of the Sustainable Communities Overview and Scrutiny Panel introduced the report and spoke to give an overview of the recommendations which been put forward unanimously by the scrutiny panel. Councillor Neaverson urged the Cabinet to adopt the recommendation

however noted that many of the recommendations would be for Clarion Housing, noting that progress had been seen on some of these.

The Cabinet Member for Housing and Sustainable Development spoke to welcome the recommendations and thanked Councillor Neaverson and the Scrutiny Panel for their reference.

The Chair added his thanks to the panel and to Councillor Neaverson and the Cabinet expressed their support for the reference.

RESOLVED:

That Cabinet noted the reference set out in paragraph 2.5 to 2.12 of the report

5 WASTE & STREET CLEANSING CONTRACT (Agenda Item 5)

The Cabinet Member for Local Environment, Greenspaces and Climate Change presented the report, thanking colleagues for their time and noting the process of consultation which had taken place. The Cabinet Member noted that the survey had highlighted lower levels of satisfaction with the street cleansing service which had not improved. The Cabinet Member further reported that all options had been considered and the best value analysis had been looked at, forming the final recommendation to bring Street cleansing services in-house and to outsource the refuse collection services to the wider market. The Phase 2 specification would be brought to Cabinet in due course.

Councillor Neaverson, at the invitation of the Chair, spoke to note that there had been no major challenges at Scrutiny and thanked Councillor Irons for her work. Councillor Neaverson gave an overview of the recommendations from the scrutiny panel which had been agreed unanimously by that panel.

The Cabinet Member expressed that the recommendations were practical and useful and would help to shape how the service was scrutinised in the future.

Cabinet Members thanked officers and Councillors for their work and asked questions in relation to the management and control of refuse services and how skills and capacity would be built into an in-house service. The Cabinet Member for Local Environment Greenspaces and Climate Change responded that governance and monitoring was built into all contract and that there was a robust exit plan from the current provision alongside a strong mobilisation plan.

RESOLVED:

- That Cabinet noted the reference of the Sustainable Communities Overview and Scrutiny Panel set out in paragraph 2.5 to 2.12 of the report

A. That Cabinet noted the Best Value Assessment of the four identified service delivery models for both waste and recycling collection, and the street cleansing service.

B. That Cabinet noted the findings from the Resident Engagement survey undertaken by the service which identifies high satisfaction with waste and recycling collection along with identifying areas of required improvement within the street cleansing service.

C. That Cabinet agreed, based on the Best Value Assessment and Resident Engagement findings, to a model of securing service delivery that disaggregates the street cleansing service from the waste and recycling service.

D. That Cabinet agreed that a competitive procurement offers the Best Value approach to securing a waste and recycling service; authorise the publication of a Prior Information Notice to notify the market of the intention to tender for a waste and recycling service; and confirm that officers can proceed to prepare all necessary tender documentation.

E. That Cabinet agreed with regards to the waste and recycling service that the tender opportunity is advertised on the basis that the successful bidder will be required to ensure all employees who are wholly or substantially engaged in delivering the contract have terms and conditions of employment that are equivalent to the Council's.

F That Cabinet noted the implications for the Medium-Term Financial Strategy, from 2025/26, of agreeing to tender on the basis of equivalency of employment terms and conditions and the rationale for making this recommendation.

G. That Cabinet noted the Greater London Authority's (GLA) role, under the Greater London Authority Act 1999, to issue directions to London boroughs in relation to waste management procurement and note the impact this has on the procurement timeline.

H. That Cabinet agreed that the setting up of a Direct Service Operation offers the Best Value approach to securing a street cleansing service and authorise the Waste and Street Cleansing Project Board to undertake further detailed work on a service specification that responds to residents' concerns about the current service.

I. That Cabinet noted that further Cabinet decisions will be sought as necessary with regards to the various components of the proposed service specifications for the waste and recycling, and street cleansing services.

J. That Cabinet noted that the recommended model, and underpinning rationale, for securing service delivery of waste and recycling, and street cleansing services, has been subject to pre-decision scrutiny by the Sustainable Communities Overview and Scrutiny Panel on 13 February 2023, and that any comment or recommendation from the Panel will be referred to Cabinet by the Panel Chair.

K. That Cabinet noted that in accordance with the Council's Contract Standing Orders the proposed procurement strategy for the waste and recycling service will be considered by the Council's Procurement Board, chaired by the Chief Executive, prior to final approval to proceed to tender

6 AWARD OF ENVIRONMENTAL ENFORCEMENT AND ANIMAL WELFARE SERVICES (Agenda Item 6)

The Cabinet Member for Local Environment, Green Spaces and Climate Change presented the report noting the contract was recommended for award to a company which had been active in the Borough for some time and were working well and also noted the social value within the contract including providing work placements to residents.

The Cabinet Member responded to questions from the Cabinet.

RESOLVED:

- A. That Cabinet agreed to award a new contract for the provision of Environmental Enforcement and Animal Welfare Services across the Council's administrative area for a period of approximately four (4) years with potential extensions of up to 24 months (2 years) to 'Bidder A' as referred to in the exempt appendix within the report.
- B. That Cabinet delegated the decision to award an extension of the awarded contract to the Executive Director of Environment, Civic Pride & Climate in consultation with the Cabinet Member, for any period up to 24 months (2 years) in accordance with CSO 27.

7 CLIMATE DELIVERY PLAN - YEAR 3 (Agenda Item 7)

The Cabinet Member for Local Environment, Green Spaces and Climate Change presented the report.

In response to questions from the Cabinet, the Cabinet Member advised that additional officers and a Climate Engagement Officer had been brought on and that every project would have a different set of measurements and KPIs.

RESOLVED:

- A. That Cabinet adopted the Climate Delivery Plan – Year 3.
- B. That delegated authority was given to the Executive Director for Environment, Civic Pride & Climate in consultation with Cllr Natasha Irons, the Cabinet Member for Local Environment, Green Spaces and Climate to make minor amendments to the Climate Delivery Plan – Year 3.
- C. That Cabinet noted the proposed allocation of Merton's latest round of Climate Funding allocated by Cabinet in June 2022.
- D. That Cabinet considers and provides feedback on the Draft Climate Engagement Strategy.
- E. That delegated authority is given to the Executive Director for Environment, Civic Pride & Climate in consultation with Cllr Natasha Irons, the Cabinet Member for Local Environment, Green Spaces and Climate to make amendments to the Draft Climate Engagement Strategy and for its adoption.

8 NEIGHBOURHOOD CIL AND MERTON'S CIVIC PRIDE FUND - INVESTING IN NEIGHBOURHOODS BID APPROVALS (Agenda Item 8)

Councillor Judge withdrew from the room for the consideration of this item as he had declared an interest.

The Cabinet Member for Civic Pride presented the report noting that 15% of CIL monies were set aside for neighbourhood projects. The Cabinet Member thanked officers who had reviewed a large number of applications and Cabinet Members who had reviewed and prioritised them. The Cabinet Member thanked everyone who had

applied, noting that £1.3m was to be distributed across 22 projects. The Cabinet Member explained the recommendations and gave an overview of the projects being awarded funding.

RESOLVED:

1. That Cabinet agreed to allocate £1,324,209 Neighbourhood Community Infrastructure Levy money to 22 individual projects received through the 2022 Civic Pride Fund - Investing in Neighbourhoods bidding round as set out in Appendix A in line with Merton Council's approved criteria;
2. That Cabinet approved the award of funding is subject to: (a) any conditions shown against each bid recommended for approval in Appendix B and the (b) due diligence being carried out to ascertain if grants do fall under the UK Subsidy Control Regime which came into effect on the 4th January 2023 and where necessary to comply with the regime and the Subsidy Control Act 2022;
3. To delegate authority to the Interim Executive Director of Environment, Civic Pride & Climate in consultation with the Cabinet Member for Civic Pride to make any amendments to funding bid amounts recommended for approval, in line with Merton Council's approved criteria;
4. That Cabinet noted the review of the implementation of the Ward Allocation Scheme from 2019 to 2022 included at Appendix C;
5. That Cabinet endorsed the implementation of a further Ward Allocation Scheme from April 2023 to March 2026 in accordance with paragraph 2.28 of the report.
6. To delegate authority to the Interim Executive Director of Environment, Civic Pride & Climate in consultation with the Cabinet Member for Civic Pride to allocate Neighbourhood Community Infrastructure Levy Funding to support the implementation of a further Ward Allocation Scheme to March 2026 in accordance with paragraph 2.29 of the report.

9 SCRUTINY OF THE BUSINESS PLAN; COMMENTS AND RECOMMENDATIONS FROM THE OVERVIEW AND SCRUTINY PANELS (Agenda Item 9)

The Cabinet Member for Finance and Corporate Services thanked officers and members for their work and contributions and noted that there had been no referrals back to Cabinet from the Scrutiny Process.

RESOLVED:

That Cabinet, in taking decisions relating to the Business Plan 2023-27, consider the recommendations made to the Overview and Scrutiny Commission (set out in paragraphs 2.4 to 2.5 below) by the other Overview and Scrutiny Panels.

10 BUSINESS PLAN 2023-27 (Agenda Item 10)

The Cabinet Member for Finance and Corporate Services presented the report noting that the budget was balanced for the upcoming year and a balanced budget was also projected for the following year.

RESOLVED:

1. That Cabinet considers and agrees the response to the Overview and Scrutiny Commission;
2. That the Cabinet resolves that, having considered all of the information in this report and noted the positive assurance statement given by the Interim Executive Director, Finance and Digital based on the proposed Council Tax strategy, the maximum Council Tax in 2023/24, equating to a Band D Council Tax of £1,449.68, which is an increase of below 5% be approved and recommended to Council for approval.
3. That the Cabinet considers all of the latest information and the comments from the scrutiny process, and makes recommendations to Council as appropriate
4. That Cabinet resolves that the Budget and Medium Term Financial Strategy 2023-27 including the General Fund Budget and Council Tax Strategy for 2023/24, and the Medium Term Financial Strategy (MTFS) for 2023-27 as submitted, along with the draft Equality Assessments (EAs), be approved and recommended to Council for approval subject to any proposed amendments agreed at this meeting;
5. That the Cabinet resolves that, having considered all of the latest information and the comments from the scrutiny process, the Capital Investment Programme (as detailed in Annex 1 to the Capital Strategy); the Treasury Management Strategy, including the detailed recommendations in that Section, incorporating the Prudential Indicators and the Capital Strategy as submitted and reported upon be approved and recommended to Council for approval, subject to any proposed amendments agreed at this meeting;
6. That Cabinet notes that the GLA precept will not be agreed by the London Assembly until the 23 February 2023, but the provisional figure has been incorporated into the draft MTFS
7. That Cabinet request officers to review the savings proposals agreed and where possible bring them forward to the earliest possible implementation date
8. That Cabinet note that there may be minor amendments to figures and words in this report as a result of new information being received after the deadline for dispatch and that this will be amended for the report to Council in March.
9. That Cabinet consider and approve the Risk Management Strategy

11 DECEMBER FINANCIAL MONITORING REPORT (Agenda Item 11)

The Cabinet Member for Finance and Corporate Services presented the report noting that the net position had moved favourable alongside a reduction in departmental variances.

The Interim Executive Director Finance and Digital advised that an update was attached to the report on the debt arrears position which would be considered by the Financial Monitoring Task Group and also noted that the expenditure incurred on emergency incidents over the previous year had been included within the main report.

RESOLVED:

- A. That Cabinet noted the financial reporting data for month 9, December 2022, relating to revenue budgetary control, showing a forecast net favourable variance at

31st December on service expenditure of £0.875m when corporate and funding items are included.

B. That Cabinet noted the contents of Section 5 and Appendix 5b of the report and approve the adjustments to the Capital Programme in the Table below:

	Budget 2022-23	Budget 2023-24	Budget 2024-25	Budget 2025-26	Narrative
	£	£	£	£	
<u>Corporate Services</u>					
Customer Contact- Customer Contact Programme	(144,190)	(516,910)			Virement in accordance with Projected Spend- Capitalised Salaries
Customer Contact- Active Directory	235,700				Virement in accordance with Projected Spend- Capitalised Salaries
Customer Contact- Data Security and Control	289,700				Virement in accordance with Projected Spend- Capitalised Salaries
Customer Contact- End Use Device	53,100				Virement in accordance with Projected Spend- Capitalised Salaries
Customer Contact- Virtual Desktop	82,600				Virement in accordance with Projected Spend- Capitalised Salaries
Invest to Save- De-Carbonisation Scheme	12,110				Funding from grant to include retention payments
<u>Children, Schools and Families</u>					
CSF Safeguarding - Children's Safeguarding	165,000				Contrib to House Purchase to stop child going into SEN Residential Placement
<u>Environment and Regeneration</u>					
Street Trees - Harris Academy & High Path Street Trees	50,000				New S106 Project
Highways and Footways - Accessibility Schemes	(5,000)	5,000			TfL Approved Slippage for TfL Funded Scheme
Highways and Footways - Casualty Reduction	(47,000)	34,000			TfL Approved Slippage for TfL Funded Scheme - £13k moved to Revenue
Cycle Route Improvements - Cycle access/parking	(114,000)	114,000			TfL Approved Slippage for TfL Funded Scheme
Cycle Route Improvements - Cycle Improve Residential Stre	(123,000)	116,000			TfL Approved Slippage for TfL Funded Scheme - £7k moved to Revenue
Mitcham Regeneration - SMCA Springboard		87,000			Successful Bid for Civic Pride - Investing in Neighbourhoods in 2023-24
Mitcham Regeneration - Mitcham Cricket Green		54,000			Successful Bid for Civic Pride - Investing in Neighbourhoods in 2023-24
Mitcham Regeneration - The Small Quarter Phase 2		22,000			Successful Bid for Civic Pride - Investing in Neighbourhoods in 2023-24
Mitcham Regeneration - Chapter House		33,000			Successful Bid for Civic Pride - Investing in Neighbourhoods in 2023-24
Wimbledon RegenerationParks Investment - Kenilworth Green Pocket Park		65,000			Successful Bid for Civic Pride - Investing in Neighbourhoods in 2023-24

C. That Cabinet approved the 8 Revenue Civic Pride – Investing in Neighbourhoods Bids below as contained in Appendix 5d – these are summarised below:

**Proposed 8 Civic Pride – Investing in Neighbourhoods Revenue Allocations
2023-24**

Bid ID	Project name	2023-24 Revenue £
2&3	Repairs to Grade II Listed Tudor Wall St. Mary’s Merton Park Churchyard	20,000
4	Community Champions, more sustainable Merton	51,836
5	Merton Garden Streets 2023	35,373
6	Merton Sports Coaching Academy	144,275
8	Towards Employment	74,960
32	Uptown Youth Services	15,000
40	Vestry Hall - Mitcham Arts Collective	12,000
45	Ready Steady Cook CR4 Community Cooking Classes	42,750
46	The Wheel	63,615
Total		459,809

12 FUTURE HOMECARE ARRANGEMENTS FOR MERTON (NEW FRAMEWORK AND PROCUREMENT PROCESS) (Agenda Item 12)

The Cabinet Member for Health and Social Care presented the report, thanking officers for their work and giving an overview of the recommendations, which he commended to Cabinet.

In response to questions, the Cabinet Member advised that this was a statutory duty and the Council wanted to improve outcomes to allow residents to stay at home as well as improving carer support across the Borough.

The Chair thanked officers and the Cabinet Member for their work.

RESOLVED:

A. That Cabinet approves the commissioning of Future Homecare Arrangements for a term of five (5) years without the option to extend.

B. That Cabinet approves the inclusion in the terms and conditions of the contract a requirement to pay London Living Wage for all staff engaged in delivering services under the contract.

C. That Cabinet delegates authority to the Executive Director for Adult Social Care, Integrated Care and Public Health, in consultation with the Cabinet Member for Social Care and Health, the award of contracts to the successful bidders at the conclusion of the tender process.

D. That Cabinet notes the Fair Cost of Care Annex B: Merton domiciliary care report and Annex C Market Sustainability Plan which are being published on the Council’s

website and will be submitted to the Department of Health and Social Care by the 31 March 2023 in order to comply with the Government's requirements.

13 SUPPLY OF ELECTRICITY TO LONDON BOROUGH OF MERTON (Agenda Item 13)

The Cabinet Member for Finance and Corporate Services presented the report noting that following the cancellation of the Gazprom contracts in 2022, all energy providers had been re-procured and following the recent award for the supply of gas, a bid had now been submitted for the electricity contract. The Contract had gone through procurement board and the report recommended the award of contract to the new supplier.

RESOLVED:

- A. That Cabinet agreed to award a 2+2+2-year contract to bidder A for the supply of electricity to sites covered by the corporate utility contract, starting from 1st April 2023.
- B. That authority to take up the 2 optional 2-year extensions on the contract be delegated to the Executive Director of Innovation and Change in consultation with the Cabinet Member for Finance and Corporate Services.

14 EXCLUSION OF THE PUBLIC (Agenda Item 14)

This item was not required as all items were discussed in public session.

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Committee: Cabinet

Date: 20 March 2023

Wards: All

Subject:

Lead Director: Louise Round, Executive Director of Innovation and Change

Lead member: Councillor Ross Garrod, Leader of the Council

Contact officer: Catherine Dunn x4161

Recommendations:

That Cabinet

- A. Review and approve the draft Council Plan – Building A Better Merton Together for submission to Council for adoption at its meeting on the 19th of April 2023
 - B. Note the proposed approach to internal and external communications to launch and communicate the plan with staff, residents and partners
 - C. Review and approve the accompanying Corporate Performance Framework 2023/24
-

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. The proposed new Council Plan ‘Building a Better Merton Together’ sets out the overarching strategic objectives to guide the work of the administration and council over the coming years to 2026. It sets out a vision for how we can build a better Merton together with our partners, residents and wider communities, informed by feedback from residents through recent borough engagement.
- 1.2. ‘Building a Better Merton’ outlines the ambition of the administration and what residents can expect from the Council. Our priorities for delivery are set out across the three core strategic objectives. Cabinet is asked to review and approve the draft Plan included in Appendix A for submission to Council for adoption at its meeting on the 19th of April 2023.
- 1.3. A coordinated internal and external communications plan will accompany the launch of Building a Better Merton Together which is outlined in section 3 alongside the timetable.
- 1.4. The Corporate Performance Framework has been reviewed and redesigned to align closely with the Council Plan and support effective delivery. The proposed new list of corporate indicators is included in Appendix B as an accompanying document to the Council Plan for review and approval by Cabinet

2 BUILDING A BETTER MERTON – OVERVIEW

- 2.1. The overarching ambition of the administration is to ‘Build a Better Merton Together’ with a focus on three strategic objectives:
 - **Nurturing Civic Pride;**

- **Building a Sustainable Future;**
- **Creating a Borough of Sport.**

- 2.2. 'Building a Better Merton Together' puts forward our plan for delivering against these three strategic objectives - what they mean to Merton and what we will be doing to deliver alongside our partners. It sets out our ambition for the borough and situates it within a wider context of the current challenges facing our communities, like the cost-of-living emergency, and the aspirations of our residents.
- 2.3. We have heard from residents that they are ambitious for the borough and want to feel proud about their local area, communities and town centres. The delivery outlined in Building a Better Merton Together has been informed by this feedback and shaped through detailed work carried out between the Leader, Cabinet Members, Chief Executive and Directors across each Cabinet Portfolio.
- 2.4. The delivery plan in Building a Better Merton Together focuses on what the council and partners will be doing in the coming financial year to achieve this ambition, with a longer-term view to what we hope to achieve by 2026. Some deliverables will be achieved within the coming financial year, others might be at an earlier stage in year one, such as scoping or consultation. The full plan is set out in Appendix B.
- 2.5. Sitting alongside the Business Plan 2023-26, the Council Plan 'Building a Better Merton Together' will inform the future workplan, resource allocation and performance management for the council, providing a clear and simple framework to focus delivery and communicate priorities across the organisation and with our partners and communities.
- 2.6. We will review and refresh the Council Plan on an annual basis to allow for emerging new priorities and deliverables and to keep the council accountable for progress. To monitor progress and impact, we will produce an annual State of the Borough report to give a snapshot of where Merton stands in key areas, drawing on a set of key indicators for each strategic objective as set out in the draft plan. We have also reviewed our corporate performance framework to align with the new strategic objectives and ensure the Council is delivering effectively.

3 COMMUNICATING TO STAFF, RESIDENTS AND PARTNERS

- 3.1. Following adoption by the Council, Building a Better Merton Together will be launched and made available to staff, residents and partners with content, design and communication channels adjusted to reflect the different audiences. A dedicated section of the website and intranet will be set up to make the details of the plan widely available to the wider public, partners and Merton Council staff.
- 3.2. A coordinated internal and external communications plan will support the publication of the plan so that residents, partners and Merton Council staff are engaged on our new strategic priorities and how we will deliver for the borough. It is anticipated that Executive Directors for the new directorates will

be key to driving the communication and delivery of the new plan internally into their respective service areas across the council.

3.3. Timetable for approval and publication:

Approval at Cabinet	March 20th 2023
Adoption at Full Council	April 19th 2023
Formal launch to staff, partners and the public	From April 20th 2023

4 CORPORATE PERFORMANCE FRAMEWORK 2023-24

- 4.1. With the introduction of the Council Plan, the Corporate Performance Framework has been reviewed and redesigned to support the delivery of the Building a Better Merton Together. The proposed new corporate indicator list is included in Appendix B and, following approval, would come into effect from Q1 2023-24.
- 4.2. A more streamlined set of metrics has been selected and structured to align with the new strategic objectives, enabling the council to track progress against the Council Plan priorities. We will also continue to monitor our performance on areas critical to our core statutory duties, financial sustainability, and organisational health ('Core Service Areas').
- 4.3. As noted above in 2.6, the Council Plan itself sets out a wider basket of indicators which will be used to track our progress through an annual State of the Borough report. The Corporate Performance Framework, however, contains only those key performance indicators where the council is in direct control of performance.
- 4.4. Further work is underway to improve our approach to our corporate performance monitoring and reporting, including how we can make better use of technology and analytical tools to improve our insights.

5 ALTERNATIVE OPTIONS

- 5.1. Cabinet could choose to require that further work be undertaken on priorities and / or Plan content. Given the extensive evidence base underpinning the Plan, and the breadth of engagement through the development of the Plan this is not a recommended option.

6 CONSULTATION UNDERTAKEN OR PROPOSED

- 6.1. Extensive internal consultation has been undertaken through Directorate Management Teams, the Corporate Management Team and Cabinet Member briefings. The development of the plan has also been informed by a resident engagement programme carried out over 2021 and collaborative engagement work with our voluntary sector and community groups.

7 TIMETABLE

7.1. The proposed timetable is set out above.

8 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

8.1. The Medium-Term Financial Strategy and Business Plan agreed at Cabinet on the 1st of March 2023 includes the financial and other resources necessary for delivery of the Plan

9 LEGAL AND STATUTORY IMPLICATIONS

9.1. None directly arising from this report

10 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

10.1. The priorities set out in the Council Plan and the new approach to community engagement mentioned in the plan should have a positive impact on these considerations. Many of the priorities should reduce inequalities in particular building new affordable housing, improving housing conditions in the private sector, becoming a London Living Wage employer and encouraging others to do so, ensuring equal access to health services, improving air quality and increasing civic participation through volunteering.

11 CRIME AND DISORDER IMPLICATIONS

11.1. These are set out in the Nurturing Civic Pride section of the Council Plan.

12 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

12.1. None directly arising from this report.

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

12.2 Appendix A– Council Plan – ‘Building a Better Merton together’.

12.3 Appendix B – Corporate Performance Framework

14 BACKGROUND PAPERS

14.1. Report to LSG ‘Developing a Corporate Plan’ 21 November 2022.

DRAFT

Building a Better Merton Together

London Borough of Merton
Council Plan 2023-26

Purpose of this Document

This plan outlines our ambition to ‘Build a Better Merton Together’ and what we will do over the next four years to achieve this. It is based on extensive engagement with residents, voluntary groups and businesses and details key Council priorities, actions and how we will measure our progress. The Council Plan also sets out principles and values that describe how we will work to achieve our ambition, particularly the importance of developing and maintaining partnerships to achieve common goals. It describes a new relationship between the Council and our residents, where we will work with communities to identify what needs to change and work together to improve their neighbourhoods. The Council Plan will inform all strategic delivery plans and will explain how we will turn priorities into delivery on the ground so that residents will see and feel the difference.

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Merton Council 2023-26

Senior Officers

Borough Context

Community Ambition

Building a Better Merton Together – our Council Plan

 Nurturing Civic Pride

 Building a Sustainable Future

 Creating a Borough of Sport

Our Principles and Values

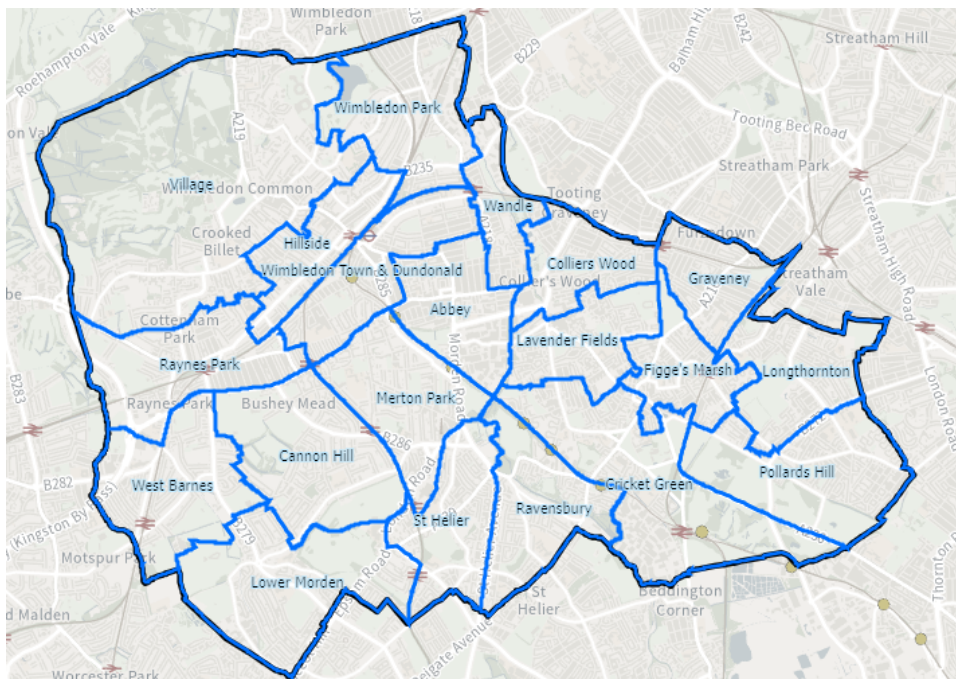
Next Steps

The Council and What We Do

Local authorities provide a comprehensive range of services to residents and businesses through a combination of direct delivery, partnerships and contracted services. Broadly, these services fall into two main categories.

- Firstly, there are services related to the physical environment – things you can see, feel, smell and touch. These include services such as parks, highways, street cleansing, waste collection and recycling, parking, libraries, leisure centres, community centres, affordable housing and private sector housing conditions, air quality and many others.
- Secondly, there are services that relate to people – supporting those who need help and protecting vulnerable residents from harm. These include services such as adult and children’s social care, schools, special educational needs provision, public health, early years provision, lifelong learning and welfare benefits.

The London Borough of Merton also has an important place-shaping role to play as a local authority given its vast array of services, relationships and democratic mandate. This means listening to communities about what they want from their borough, developing a vision with them, and then working with a range of different stakeholders to achieve this vision.



Quick Facts about Merton

Population and demographics

Residents: 215, 187 (Census 2021)

Population by age:

Age 0-15: 23%

Age 16-64: 65.3%

Age 65+: 11.8%

Born in the UK: 59% (Census 2021)

Main language other than English: 21.45% (Census 2021)

Ethnic group (Census 2021):

Asian, Asian British or Asian Welsh: 18.6%

Black, Black British, Black Welsh, Caribbean or African: 10.6%

Mixed or Multiple ethnic groups: 5.9%

White: 60.2%

Other ethnic group: 4.6%

Education and Qualifications

60.6% of adults with a degree or equivalent:

2.3% of adults with no qualification: (APS 2021)

24.2% of pupils eligible for free school meals (DFE, 2021/22 academic)

12.8% of Primary school pupils getting SEN support

14.8% of secondary school pupils getting SEN support (DfE 2022)

Economy and Environment

£6,299 million GDP in Merton at current market prices: in 2020 (ONS, 2022)

13,305 Businesses in Merton : (Inter-Departmental Business Register – IDBR, 2020)

80.9% Employment rate: (Annual Population Survey – APS, June 2022):

18,633 Universal Credit recipients (*DWP Claimant Count, December 2022*)

Built and Natural Environment

2.7 tonnes CO2 emissions per capita (Department for Business, Energy and Industrial Strategy – BEIS, 2020)

79,871 tonnes Total waste collected: (DEFRA, 2020-21)

10.5% Fuel poverty rate: (BEIS fuel poverty sub-regional statistics, 2020)

28% Canopy cover as of 2020: (Merton Climate Delivery Plan Year 2, 2022)

Health and Wellbeing

78.6 years Male 83.5 Female Life expectancy (Merton Story 2022)

7.7 years for males and **5 years** for females - gap in life expectancy between the 10 % most and least deprived (Merton Story 2022)

53.3% of adults getting five-a-day (Sport England, 2019/20)

67% of adults getting enough physical activity: (Merton Data, 2020/21)

10% of residents aged over 65 live with frailty (Merton Story 2022)

Social & Cultural Environment

86% People who feel a sense of community cohesion: (Merton Residents' Survey, 2021)

6.6 Crime rate per 1,000 people: (MPS data, 12 month rolling August 2022)

63% People who feel safe during the night: (Merton Residents' Survey, 2021)

204 Charities based in Merton: (Merton Connected, 2021)

17,945 Volunteers involved in local charities: (Merton Connected, 2021)

Merton Council 2023-26

The current Council was elected in May 2022 and will serve for four years. Merton has 57 councillors elected by 20 wards from the following political parties:

- 31 Labour
- 17 Liberal Democrats
- 7 Conservative
- 2 Merton Park Independent Residents

The Council is run by a Leader and Cabinet which is proposed by the majority group and confirmed at Full Council. The Cabinet take all major policy, service and financial decisions collectively and they are supported in delivering their goals and priorities by a senior executive team, led by the Chief Executive. The work of the Council is overseen and supported by an Overview and Scrutiny Process formed from all political groups.



From left to right:

- Cllr. Stephen Alambritis MBE, Cabinet Member for Transport
- Cllr. Brenda Fraser, Cabinet Member for Children's Services
- Cllr. Peter McCabe, Cabinet Member for Health and Social Care
- Cllr. Natasha Irons, Cabinet Member for Local Environment, Green Spaces and Climate Change
- Cllr. Ross Garrod, Leader of the Council
- Cllr. Eleanor Stringer, Deputy Leader and Cabinet Member for Civic Pride
- Cllr. Caroline Cooper-Marbiah, Cabinet Member for Sport and Heritage
- Cllr. Andrew Judge, Cabinet Member for Housing and Sustainable Development
- Cllr. Sally Kenny, Cabinet Member for Education and Lifelong Learning
- Cllr. Billy Christie, Cabinet Member for Finance and Corporate Services

Senior Officers (from April/May 2023)



Hannah Doody
Chief Executive



Jane McSherry
Executive Director
Children LifeLong
Learning and
Families

Responsible for:
Children Social
Care, Education,
Skills and Child
Protection



John Morgan
Executive Director
Adult Social Care,
Integrated Care
and Public Health

Responsible for:
Adult Social
Care, Public
health and Adult
Safeguarding



Dan Jones
Executive Director
Environment,
Civic Pride and
Climate

Responsible for:
Waste and street
cleansing, Parks,
Climate,
Libraries, Sport
and Heritage



Polly Cziok
Executive Director
Innovation and
Change

Responsible for:
Communications
and Media, Policy,
HR, Monitoring
officer durites and
Legal



Asad Mushtaq
Executive Director
Finance and
Digital

Responsible for:
Finance and
investment,
Section 151 and
digital services



Lucy Owen
Executive Director
Housing and
Sustainability

Responsible for:
Planning,
regeneration,
Housing delivery
and
homelessness

Borough Context

Merton as a borough has a huge amount to offer those who live, work or visit here. It is one of the greenest boroughs in London and has plenty of parks, green spaces and rivers offering easy access to nature. It is extremely well connected to central London, as well as neighbouring boroughs and the Surrey Hills. Each year, 500,000 visitors come to our borough to enjoy the Wimbledon Championships, which have been held since 1877 at the All-England Club. Merton is also proud to be the home once more of AFC Wimbledon in the Plough Lane stadium.

We are a growing and diverse borough – Merton is home to 215,187 people, an increase of 7% over the last 10 years, and the population is made up of a broad range of ethnicities. One third of residents were born outside the UK and the most common languages spoken after English are Polish, Gujarati and Urdu, which reflects the Polish, Eastern European and Asian communities across Merton.

We have always strived for Merton to be a great place to raise a family. There is excellent support for children and young people and all our secondary schools are rated either good or outstanding. We are the third-safest borough in London, and we have worked hard to prevent homelessness and maintain the lowest number of households in temporary accommodation of all London's boroughs. However, we know there is more to do to meet the expectations of our residents and make Merton a better place to live for everyone.

If we want to achieve the goal of building pride in Merton, this must be truly felt and experienced by all communities across the borough. Parts of Merton have higher levels of overcrowding, poorer health, deprivation and poverty and a greater proportion of lower-income households that are more affected by the cost-of-living emergency. We will target our delivery to address these disparities and to make sure that investment, support, and action goes to the right places and makes a difference.

Community Ambition

Our communities' aspirations

We carried out an extensive engagement programme across Merton during the Covid-19 pandemic to hear what mattered most to our residents, businesses, and wider communities¹. They told us what they enjoyed most about their local area, what they wanted to see improved, and their ambitions in the long term.

People said how much their local parks and green spaces helped with their physical and mental wellbeing. They wanted to see a borough that is cleaner, greener, and less congested, along with improved high streets that they could take pride in. Young people wanted more things to do in their local area and a greater say in decisions about the future.

Community spirit and connection also matter to residents in Merton. People valued the diverse communities, wanted to foster greater community spirit, and have more places in their local area where people can come together. Most importantly, the overall message is that residents want to be included in the decisions that affect their communities.

¹ <https://www.merton.gov.uk/council-and-local-democracy/get-involved/yourmerton>

We held extensive conversations with community groups and the voluntary sector to understand the impact of the pandemic and explore a new approach to working with communities. While there is a strong track record of collaboration and positive examples of engagement with communities, there are missed opportunities to help those who are vulnerable or disadvantaged.

Our community ambitions

Our ambition for Merton has been shaped by this feedback from our communities and their aspirations for the borough. In summary, this is how residents felt the borough should look and feel like in future:

- Residents across the borough feel proud of where they live – this means clean streets, vibrant high streets, good schools, and safe neighbourhoods.
- An excellent education and skills programme gives all residents opportunities to access well-paid jobs.
- Town centres are busier, visibly cleaner and destinations in their own right, with regular cultural events taking place. Local businesses, entrepreneurs and start-ups are supported so they can provide employment opportunities for local people.
- Residents enjoy a greener borough with less congestion and improved air quality. Everywhere is well connected by walking and cycling routes so that people can choose healthier and lower-carbon ways of getting around.
- Residents of all ages lead healthy, active lives and more people are involved in sport and exercise. Communities across the borough make the most of the parks and green spaces for leisure, play, sports and enjoying nature.
- Merton becomes a fairer, more equal and inclusive place.
- Residents feel like they have a say in decisions that affect their community and get more involved in local initiatives.

Building A Better Merton Together – Our Council Plan

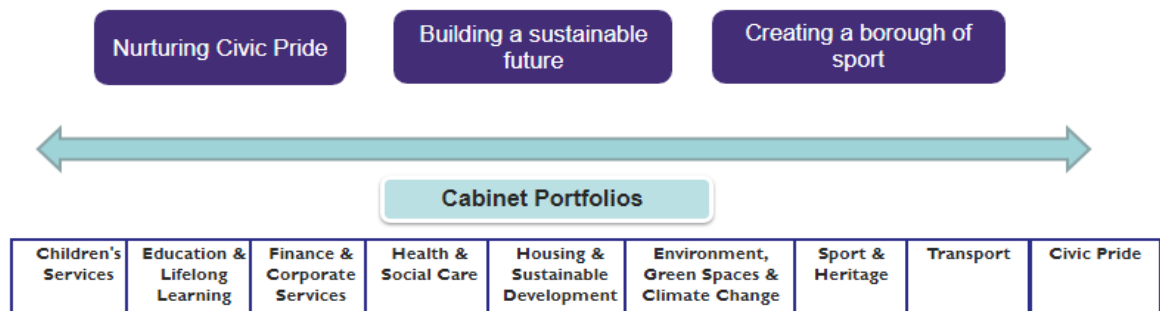
'Building a Better Merton Together' is our Council Plan for 2023-26. It sets out our ambition for rebuilding pride in Merton over the next four years and explains what we will be doing to achieve this over the coming years.

We want people to feel proud to live, work and visit Merton – rebuilding a sense of pride from the ground up through cleaner streets, more affordable housing, improved town centres and opportunities to be involved in this great sporting borough.

These three strategic objectives will guide our actions as a borough:

- Nurturing civic pride
- Building a sustainable future
- Creating a borough of sport

Our plan for each strategic objective is outlined in more detail below in terms of what you can expect in the coming year and what difference you will see. We have identified the major initiatives for each objective and the role of the Council and partners in delivering these. The work of all Cabinet Members will feed into delivery, spanning all parts of the Council and our work with partners (Fig 1).



How we will measure progress

We will closely monitor delivery over the course of each year and review progress through an Annual Review. As part of this review, we will measure our progress against key indicators for each strategic objective. An annual State of the Borough report will provide a snapshot of our position as a borough in key areas and allow us to see how we are progressing on our big priorities. A redesigned Corporate Performance Framework will align with these objectives to make sure that our services are supporting delivery of our priorities.



1. Nurturing Civic Pride

Civic pride is about the relationship that people and communities have with a place – not only their physical surroundings but also their feelings of identity and belonging. By nurturing civic pride, we want people to be proud of their local area, feel more connected to their community, and get more involved in making Merton a great place to live, work and visit. That means getting the basics right so that all residents across the borough can benefit from cleaner streets, vibrant high streets, good schools, and safe neighbourhoods. It is also about everyone taking pride in their borough, which means becoming a fairer, more equal and inclusive place.

What you can expect from us over the next four years:

We will put residents at the heart of everything we do, and be responsive and resident-centric in our approach to customer service, communication and engagement

Residents, businesses and visitors will enjoy clean, safe and welcoming places across the borough

Existing businesses will be supported, and new businesses, talent and investment will be attracted to the borough

More residents will be able to access secure and well-paid employment in a local economy that is fairer and more inclusive

Town centres will attract more footfall, events and investment, becoming better places to visit, do business and live

Merton is a thriving place for voluntary and community organisations where giving back is valued and encouraged

Fantastic educational provision and support gives children the best start and equips residents of all ages with the skills and qualifications to succeed

Residents across Merton will be supported through the cost-of-living emergency

We will continue to embrace diversity across the borough

How we will measure our progress

Indicator	Desired trend
Resident satisfaction with the council	Increase
Number of customer complaints	Decrease
Fly tips removed within 24 hours	Increase
Street cleanliness meeting expected standards	Increase
Footfall in our main town centres	Increase
Number of businesses	Increase

Percentage of economically active residents	Increase
Number of London-living wage accredited employers	Increase
Number of people volunteering in Merton	Increase
Crime rate and volume	Decrease
Number of schools rated Good or Outstanding	Increase
Number of residents requiring hardship payments and emergency food provision	Decrease

Nurturing Civic Pride: Major initiatives

Priorities	Initiatives	Council's role
We will put residents at the heart of everything we do, and be responsive and resident-centric in our approach to customer service, communication, and engagement	Develop a new Customer Strategy with a focus on the customer experience	Deliver
	Launch a new Communications and Engagement Strategy to reshape our approach to how we engage with our communities	Deliver
	Establish key libraries as community hubs on the high street	Deliver
Residents, businesses and visitors will enjoy clean, safe and welcoming places across the borough	Hold our commissioned providers Veolia to the delivery of their Service Improvement Plan so that they provide a better service to Merton residents	Deliver
	Develop and introduce a new waste and street cleansing service contract from 2025	Deliver
	Launch a new Violence Against Women and Girls (VAWG) Strategy – including street safety, White Ribbon Accreditation, awareness campaigns and a new initiative for young women	Deliver
	Roll out a £1 million upgrade to CCTV to further enhance our provision and keep streets safe and monitored	Deliver

	Look at implementing a borough-wide Public Space Protection Order to reduce antisocial behaviour and crime	Deliver
Existing businesses are supported, and new businesses, talent and investment will be attracted to the borough	Build closer relationships with local businesses working with Chamber of Commerce and our Business Improvement Districts	Partners
	Deliver placemaking measures for Morden Town Centre which make improvements to the physical surroundings	Deliver
	Undertake feasibility studies to facilitate the regeneration of Morden Town Centre and attract external funding to develop longer-term proposals	Deliver Partner
	Develop our support for Black businesses, including introducing a new Best Black Business Award in the Merton Business Awards	Deliver Advocate
More residents will be able to access secure and well-paid employment in a local economy that is fairer and more inclusive	Take steps to ensure that all our new contracts include a commitment to the London Living Wage	Deliver
	Seek accreditation as a Council for London Living Wage status and work with care homes and other employers towards becoming a London Living Wage borough	Deliver Partner
	Strengthen the application of the Social Value Measurement Charter in our procurement procedures	Deliver
	Introduce a Social Value portal to help monitor social value in contracts following mobilisation	Deliver
	Develop our apprenticeship scheme to increase opportunities with a focus on disadvantaged young people	Deliver Partner
Town centres will attract more footfall, events and investment, becoming better places to visit, do business and live	Engage with event companies to attract cultural events to the borough	Partner Advocate
	Deliver a programme of shopfront improvements across key high streets	Deliver

	Increase the retail, hospitality and entertainment outlets in Mitcham Town Centre by encouraging key stakeholders to redevelop sites in the town and surrounding area	Partner
Merton will be a thriving place for voluntary and community organisations where giving back is valued and encouraged	Establish and deliver a major new Civic Pride Fund to support neighbourhoods and local groups in Merton	Deliver Partner
	Deliver a new volunteering portal through Merton Connected and target key groups for recruitment	Deliver
	Increase the number of young volunteers working in community programmes through the Children's Trust Board	Deliver
	Introduce the Civic Pride Recognition Awards	Deliver
Fantastic educational provision and support gives children the best start and equips residents of all ages with the skills and qualifications to succeed	Enhance support for families through Children's Centres and Family Hubs	Deliver
	Maintain and build on the Council's 'outstanding' Children's Social Care rating, ensuring children and young people get help and protection at the right time and place.	Deliver
	Build a new special school in Merton and increase local special educational needs and disabilities places as part of the Dedicated Schools Grant Safety Valve Agreement	Deliver
	Continued school improvement to help all primary and secondary schools become 'good' or 'outstanding'	Deliver
	Develop our Adult Education commissioning offer to support learning and skills for the future with focus on the east of the borough.	Deliver
	Deliver new health and wellbeing zones to support digital skills and resident wellbeing	Deliver
	Improve pathways to employment through our Adult Education programme	Partner

	Deliver new courses in numeracy, literacy and English for Speakers of Other Languages through Adult Education	Deliver
Residents across Merton will be supported through the cost-of-living emergency	Develop a coordinated cross-council response to the cost-of-living emergency through the Merton Partnership	Deliver Partner
	Deliver a £2 million cost-of-living emergency fund to ensure support gets to those who need it most	Deliver
We will continue to embrace diversity across the borough	Launch and deliver on a new Equality, Diversity, and Inclusion Strategy	Deliver
	Work with our communities to relaunch the LGBTQ+ forum	Partner
	Celebrate the 75 th Windrush anniversary in partnership with local groups and communities.	Partner

2. Building a Sustainable Future

Working towards a greener, more sustainable, and resilient future for the borough means better housing, action on climate change, and support for the health and wellbeing of our communities. Accelerating the supply of affordable and sustainable homes is a top priority for the Council. Alongside this priority, we will push for better standards in private and social housing and work with Integrated Care partners to make sure that local health provision meets the needs of communities across Merton.

What you can expect from us over the next four years:

New developments deliver more affordable housing and exhibit design excellence

A borough where residents can live in good-quality housing

Our environment and parks will be protected, restored and well managed

Merton Council will aim to reach net zero by 2030

Increased take-up of alternative and sustainable modes of transport

Improved air quality across the borough

Equal access to local health services in Merton

How we will measure progress

Indicator	Desired trend
New starts of affordable homes	Increase
Empty homes brought back into use	Increase
Private rented homes brought up to standard	Increase
Number of housing enforcement or improvement notices	Decrease
Energy efficiency improvements of private sector homes	Increase
Number of trees on public land	Increase
Number of parks with Green Flag status	Increase
Number of EV (electric vehicles) charging points	Increase
Number of vehicles registered in the borough	Decrease
Proportion of active travel journeys being made	Increase
CO2 emissions across Merton Council's operational buildings	Decrease
Number of monitoring stations meeting nitrogen dioxide air-quality objectives	Increase

Building a Sustainable Future: Major initiatives

Priorities	Initiatives	Council's role
New developments deliver more affordable housing and exhibit design excellence	Work in partnership with registered providers to encourage greater provision of affordable housing and work with private developers on large sites to meet the Council's affordable housing target.	Partner
	Deliver 400 new affordable homes on Council land over the next four years	Deliver
	Establish a new Registered Provider/Developer Forum to strengthen working relationships with key partners in the housing sector	Deliver Partner
	Implement ambitious climate policies in a new Local Plan following approval by the Secretary of State	Deliver
A borough where residents can live in good quality housing	Introduce Article 4 and a Selective Licensing Scheme to improve standards in multiple-occupancy homes in key wards	Deliver
	Introduce an Empty Homes Strategy to make empty properties suitable for accommodation	Deliver
	Strengthen housing enforcement with an emphasis on standards and safety in privately rented accommodation	Deliver
	Develop a Registered Provider Charter and make the Tenants Champion a permanent position	Deliver
	Develop a borough-wide retrofit strategy and energy masterplan to improve energy efficiency for homeowners and the private sector	Deliver
	Provide strong oversight of Clarion in their delivery of the Merton Estate Regeneration Plan	Partner

Our environment and parks will be protected, restored, and well managed	Development and delivery of phase two of our Tree Strategy	Deliver
	Target tree-planting opportunities at wards with low canopy cover	Deliver
	Work with 'Friends of' parks groups to increase the number of Green Flag Award sites in Merton from six to nine	Partner
	Develop a Parks and Open Spaces Strategy and deliver a programme of improvement to our parks	Deliver
The Council will aim to reach net zero by 2030	Develop and deliver Year 3 of the Climate Delivery Plan for 2023, building on the success of Year 1 and Year 2	Deliver
	Increase the involvement of young people in climate action and green spaces as part of delivering the Youth Survey's recommendations	Deliver
Take-up of alternative and sustainable modes of transport increases	Develop a new electric vehicle charging strategy to support increased use of electric vehicles across the borough	Deliver
	Deliver 200 new electric vehicle lamp column charging points to improve the borough's charging infrastructure.	Deliver
	Work towards establishing three electric vehicle forecourt hubs and having 100% electric vehicle car clubs in the borough	Partner
	Roll out a borough-wide bike-hire scheme to increase cycling as a mode of transport	Deliver
	Develop a walking and cycling strategy to encourage active travel, focusing on areas with high car ownership and low Public Transport Accessibility Levels (PTAL)	Deliver
	Introduce e-scooters in areas with high car ownership and low Public Transport Accessibility Levels (PTAL) in line with the introduction of the Ultra-Low Emission Zone	Deliver

	Deliver a programme of segregated cycleways in areas with high car ownership and low Public Transport Accessibility Levels (PTAL)	Deliver
	Support greater public transport connectivity to and within Merton, such as the ongoing development of Crossrail 2	Partner
Air quality across the borough will improve	Develop and deliver a new air-quality action plan to reduce emissions and air pollution in the borough	Delivery
	Introduce additional school streets schemes to reduce car usage near schools and build on Merton's success of having the highest proportion in London	Deliver
Equal access to local health services in Merton	Move forward with the NHS on the development of East Merton Health Centre with GP provision and Colliers Wood GP Practice	Partner
	Develop a strategy to support the borough's ambition to retain all services at St Helier Hospital and lobby the government for refurbishment funding	Deliver Partner
	Work with the NHS to ensure that residents of Mitcham and Morden have access to a Nelson-equivalent health facility	Partner
	Develop our approach to the One Public Estate with the NHS to ensure that any proposed services on the NHS estate meet the needs of residents	Partner

3. Creating a Borough of Sport

As the home of the Wimbledon Tennis Championships, AFC Wimbledon, the oldest cricket club in the world, and a rugby club that was one of the founding members of the RFU, our borough has a great sporting heritage on which to build. Today, we have an array of parks, tennis courts, sports pitches, leisure centres and a wealth of grassroots clubs and sporting organisations.

We are perfectly placed to establish Merton as a borough of sport and promote healthy, active lives for all our residents. Increasing participation in sport and exercise not only supports better health and wellbeing but can also bring wider social benefits such as greater connectedness and engage young people. By supporting residents of all ages to be active and incorporate more movement into their lives, we can help people to lead more healthier lives and become more independent, particularly those who are older or disabled.

What you can expect from us over the next four years:

National recognition of Merton's sporting heritage

All 4- to 16-year-olds and over 65s will have access to weekly sporting and wellbeing activities

More residents take part in sport and physical activities

Investment in sporting infrastructure and promoting healthy activities

How we will monitor progress

Indicator	Desired trend
Participation in sport and exercise	Increase
Improvements to sporting infrastructure	Increase
Number of leisure centre users	Increase
Proportion of children aged 4 to 5 and 10 to 11 classified as overweight or obese	Decrease
Fitness participation at leisure centres for those aged 14 to 25	Increase
Number of children and young people who agree that participation in a culture or sports project, activity or event has helped them feel healthier, stronger, fitter, or happier	Increase

Creating a Borough of Sport - Major Initiatives

Priorities	Initiatives	Council's role
Merton's sporting heritage will receive national recognition	Set up a Merton Sports partnership to promote sport in our borough	Partner
	We will market and promote Merton as the Borough of Sport following the outcome of the Sport London Strategy	Deliver
All 4- to 16-year-olds and over 65s will have access to weekly sporting and wellbeing activities	Extend delivery of the Kids Swim for a Quid initiative	Deliver
	Work in partnership with Merton's sporting organisations to increase the provision of activities for these age groups	Deliver Partner
More residents will take part in sport and physical activities	Establish a Sports Fund to support grassroots sport and activity in the borough	Deliver
	Develop an Actively Merton Programme through the Health and Wellbeing Board	Deliver Partner
	Produce an annual events planner to increase awareness of sport and leisure opportunities and events across the borough	Deliver
	Develop a blueprint with London Sport to increase participation and leverage external funding	Deliver Partner
Investment in sporting infrastructure and promoting healthy activities	Deliver improvements to key Multi-Use Sports Areas to encourage sports and exercise in our parks and recreation grounds	Deliver
	Deliver a programme of sports-pitch improvements to increase the quality of our facilities	Deliver
	Refurbish tennis courts across the borough	Deliver

Our Principles and Values

Our principles and values will guide how we work across the Council and the borough to build a better Merton together. We are committed to delivering the best for our communities and putting the needs of residents at the heart of everything we do.

You can expect us to be:

- Responsive to the needs of our residents
- Embedded in our local communities
- Innovative in our approach to tackling the challenges we face as a borough
- Striving to deliver excellent services for all

We are working on a new People and Culture Plan will set out our values as an organisation and how we will support our workforce so that they can work to their best:

My Health & Wellbeing - We will support the health and wellbeing of our workforce by expanding employee benefits, new health and wellbeing training and increasing staff engagement and communication.

Equality, Diversity & Inclusion - We will embed equality and inclusion in our culture through new training priorities, external relationships with partners, and listening to the needs of our staff.

Smarter Working - We will enable more flexible and agile working practices through smart working and remote-working technologies

Leadership & Management – We will improve leadership and management at all levels of the Council with new training, more development opportunities for upcoming and existing leaders, and collaboration between leaders to help deliver our priorities.

Next Steps

Delivering the ambition in this plan will require collaborative working, not only with our residents and businesses but also with a range of partners at local and regional level. This section sets out how we will work together with residents, community groups and partners to achieve our goals.

How we will engage residents

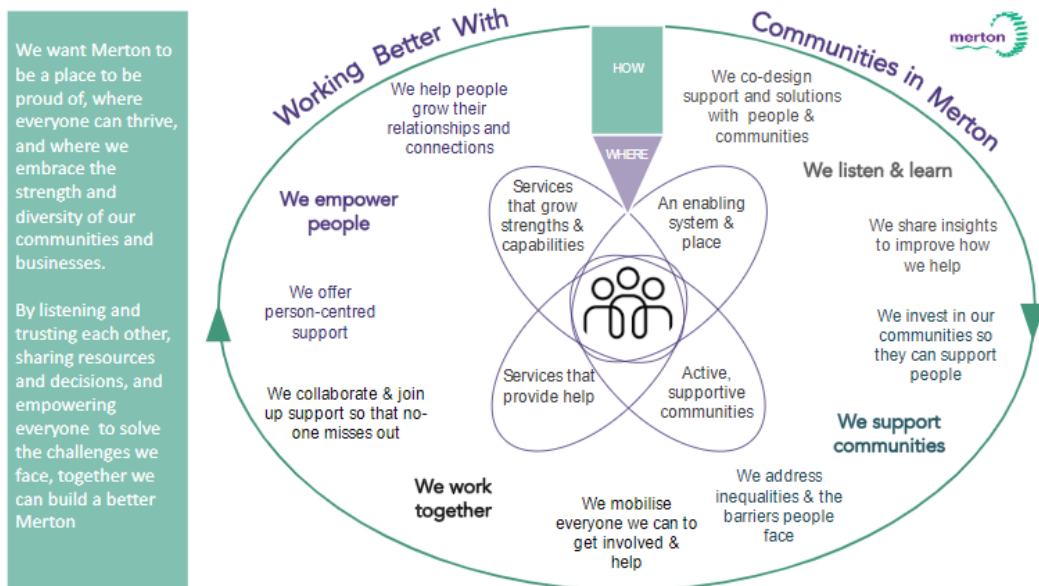
Residents have told us they want to be involved in decisions that affect the things that matter most to them, such as their high streets, parks and local services. They want to maintain and build on the community spirit that saw us through the pandemic where thousands of residents, businesses and local organisations helped support some of our most vulnerable residents. We want to harness this collaborative spirit to work with residents, businesses and local organisations and build a better Merton together.

Our new Community Engagement strategy will change our approach to engaging with residents and enable us to engage more directly. We will be expanding the use of new and existing digital channels to engage with residents on a regular basis and seek their views on a range of topics. We will also bring in new ways for residents to talk with us and each other, including an annual Question Time for the Leader and Cabinet in each town centre and more support for community groups that hold consultations with residents.

How we will work collaboratively with communities

We have co-designed a methodology with our partners to improve how we work with our local communities and use local, Council and partner assets and resources. This work was undertaken with Collaborate CIC, one of the leaders in the field of collaboratively designed public services and produced 'Working Better with Communities' framework. This model takes what we learned from how we worked differently with partners during the pandemic, feedback from community groups and best practice from Merton and elsewhere to offer a guide to how we can work differently with communities.

The commissioning of our new multi-million-pound Civic Pride Fund: Supporting the Voluntary and Community Sector has provided a valuable opportunity to put this framework into practice. The fund invests in social infrastructure at a neighbourhood level and supports our voluntary groups.



How we will work in partnership

We cannot deliver this plan on our own. We will work with a range of partners to find common purpose and combine our efforts. This means working with the Mayor of London on structural issues like transport and regeneration where the interests of London as a whole and Merton as a borough intersect.

We will be an active member of the South London Partnership so that we can achieve better outcomes for Merton's residents and businesses where activity is best coordinated at a sub-regional level such as economic growth and training.

We will continue to build on our successful track record of working through the Merton Partnership. The Merton Partnership brings together community leaders, business leaders and leaders from public services such as the Council, NHS, police, fire brigade and educational settings.

How we will pay for it

'Building a Better Merton Together' will inform how we allocate our resources to deliver our priorities while balancing our duty to keep our finances on a sustainable footing. Local governments face a difficult financial situation with high inflation, rising costs and a worsening national economic context. Reductions in funding from central government will result in some tough decisions at local level but we will prioritise those who are most vulnerable and focus our delivery on what matters most to residents.

The Business Plan 2023-26 sets out the resources and financial details behind this plan and gives further context on how we will fund our strategic priorities through our Medium-Term Financial Strategy. Developing a new investment strategy, we will explore new avenues for external investment while working with our partners to maximise the funds at our disposal.

Other key strategies and plans

This Council Plan is our overarching strategic plan. However, the Council has more key strategies and plans that will guide how we deliver specific priorities, including how we are governed and our finances. The main strategies and plans are:

- Business Plan
- Community Plan
- Equality and Community Cohesion Strategy
- Housing Strategy
- Homelessness and Rough Sleeping Strategy
- Health and Wellbeing Strategy
- Local Plan
- Children and Young People's Plan
- Climate Change Strategy

These are available to view online [here](#).

These strategies are informed by Merton Data, a council-run website that acts as a directory for a wide range of data in Merton. This includes population profiles, health and wellbeing statistics, house prices, employment statistics and more. It holds data for the whole borough, as well as for the individual wards, and can generate data profiles for each.

You can find Merton Data [here](#).

Appendix C – Corporate Performance Framework 2023/24 – DRAFT

The Corporate Performance Framework is how the Corporate Management Team manages and monitors the performance and effectiveness of the Council as a whole. The Corporate Performance Framework for 2023/24 has been reviewed and redesigned to support delivery of our ambitions in the Council Plan.

The revised indicator set has been selected and structured to align with the new strategic objectives. This will enable the Council to track its own progress on priority areas of delivery - such as keeping our streets clean, building new housing and increasing participation in sports and leisure – but also flag any emerging issues in key service areas.

We will continue to monitor performance in those areas which are critical to our core statutory duties and functions, as well as our financial sustainability and organisational health ('Core Service Areas'). Further work will be carried out with departments to refine indicators, profile targets, and develop an improved approach to corporate performance reporting.

Core Service Areas (13 indicators)				
<i>- Core metrics covering critical areas for the Council to monitor such as safeguarding, homelessness, financial sustainability and workforce.</i>				
	Indicator	Frequency	Council Plan deliverable	Directorate
	CRP 018/SP 154 % Council tax collected	Monthly	N/A - Core service area	Finance and Digital
	CRP 036/SP 155 % Business rates collected	Monthly	N/A - Core service area	Finance and Digital
	CRP 105/SP 469 Delivery against current year MTFS savings targets	Quarterly	N/A - Core service area	Finance and Digital
	CRP 098/SP 193 % complaints dealt with in time	Monthly	N/A - Core service area	Innovation and Change
	CRP 086/SP 411 Number of processing days for new housing benefit claims	Monthly	N/A - Core service area	Innovation and Change
	CRP 109/SP 477 Voluntary turnover rate (rate of resignations)	Quarterly	N/A - Core service area	Innovation and Change
	CRP 099/SP 226 First time fix rate for IT Service Desk	Monthly	N/A - Core service area	Finance and Digital
	CRP 080/SP 413 No. Of working days per FTE lost to sickness absence excluding schools	Quarterly	N/A - Core service area	Innovation and Change

CRP 044 Parking services estimated revenue	Monthly	N/A - Core service area	Environment, Civic Pride, & Climate
CRP 061/SP 036 No. Of households in temporary accommodation	Monthly	N/A - Core service area	Housing & Sustainable Development
CRP 062/SP 035 No. Of homelessness preventions	Monthly	N/A - Core service area	Housing & Sustainable Development
CRP 64/SP 075/MP 030 % children who become subject of a Child Protection Plan for a second or subsequent time... (Child Safeguarding)	Monthly	N/A - Core service area	Children, Lifelong Learning, and Families
CRP 057/SP 274 % people receiving "long-term" community services within their homes (Adult Social Care)	Monthly	N/A - Core service area	Adult Social Care, Integrated Care, and Public Health

Nurturing Civic Pride (17 indicators)

- *Priorities include waste services, customer services, high streets and community safety, support for children and education*

Indicator	Frequency	Council Plan deliverable	Directorate
CRP 097/SP 065 % Household waste recycled and composted	Monthly	Residents, businesses and visitors will enjoy clean, safe and welcoming places across the borough	Environment, Civic Pride, & Climate
CRP 103/SP 454 % fly-tips removed within 24 hours	Monthly	Residents, businesses and visitors will enjoy clean, safe and welcoming places across the borough	Environment, Civic Pride, & Climate
CRP 124/SP 568 % of street reports rectified within the contract standard time frame	Monthly	Residents, businesses and visitors will enjoy clean, safe and	Environment, Civic Pride, & Climate

		welcoming places across the borough	
CRP 126/SP 573 Number of refuse collections including recycling and kitchen waste (excluding garden waste) missed per 100,000	Monthly	Residents, businesses and visitors will enjoy clean, safe and welcoming places across the borough	Environment, Civic Pride, & Climate
Average no. Of stalls in Mitcham Market/no. Of events in Mitcham (<i>Not existing indicators</i>)	Quarterly	Town centres will attract more footfall, events and investment, becoming better places to visit, do business and live	Environment, Civic Pride, & Climate
CRP 101/SP 389 Carriageway condition – unclassified roads, % not defective	Annual	Town centres will attract more footfall, events and investment, becoming better places to visit, do business and live	Environment, Civic Pride, & Climate
CRP 107/SP 474/MP 003 No. Of volunteers recruited through MVSC	Quarterly	Merton will be a thriving place for voluntary and community organisations where giving back is valued and encouraged	Innovation and Change
CRP 041/SP 192 % FOI requests dealt with in time	Monthly	We will put residents at the heart of everything we do, and be responsive and resident-centric in our approach to customer service, communication and engagement	Innovation and Change

CRP 083/SP 428 % Ombudsman complaints partially or fully upheld	Quarterly	We will put residents at the heart of everything we do, and be responsive and resident-centric in our approach to customer service, communication and engagement	Innovation and Change
CRP 115/SP 535/MP 50 % of total 0-5 year population from areas of deprivation whose families have access to children's centres	Quarterly	1.6. Giving children in Merton the best start in life and a Good or Outstanding education for all, including lifelong learning	Children, Lifelong Learning, and Families
CRP 69/SP 078/MP 052 % outcome of Ofsted Inspection schools rated Good or Outstanding	Annual	Fantastic educational provision and support gives children the best start and equips residents of all ages with the skills and qualifications to succeed	Children, Lifelong Learning, and Families
CRP 113/SP 528 % of fostered children living in in-house provision	Monthly	Fantastic educational provision and support gives children the best start and equips residents of all ages with the skills and qualifications to succeed	Children, Lifelong Learning, and Families

CRP 114/SP 531 % of children in our care placed more than 20 miles away	Monthly	Fantastic educational provision and support gives children the best start and equips residents of all ages with the skills and qualifications to succeed	Children, Lifelong Learning, and Families
CRP 88/SP 404/MP 053 New EHCP requests completed within 20 weeks	Quarterly	Fantastic educational provision and support gives children the best start and equips residents of all ages with the skills and qualifications to succeed	Children, Lifelong Learning, and Families
SP 523 % of repeat MARAC cases (domestic abuse) by volume	Monthly	Residents, businesses and visitors will enjoy clean, safe and welcoming places across the borough	Environment, Civic Pride, & Climate
% of CCTV Cameras Upgraded (Not existing indicator)	Quarterly	Residents, businesses and visitors will enjoy clean, safe and welcoming places across the borough	Environment, Civic Pride, & Climate
CRP 111/SP 497 % of ASB cases acknowledged within service timescales	Quarterly	Residents, businesses and visitors will enjoy clean, safe and welcoming places across the borough	Environment, Civic Pride, & Climate

Building a Sustainable Future (13 indicators)

- *Priorities include housing supply and standards, climate change, air quality, libraries and health services*

Indicator	Frequency	Council Plan deliverable	Directorate
New homes completed/started (<i>to check against Local Plan Annual Monitoring</i>)	Annual	New developments deliver more affordable housing and exhibit design excellence	Housing & Sustainable Development
CRP 133/SP 360 Annual No. Of enforcement/improvement notices issued (Housing) (<i>Being reviewed by Housing Needs</i>)	Annual	A borough where residents can live in good quality housing	Housing & Sustainable Development
CRP 108/SP 475 Number of publicly available Electric Vehicles Charging Points available to Merton residents	Annual	Take-up of alternative and sustainable modes of transport increases	Housing & Sustainable Development
CRP 016/SP 401 to reduce CO2 emissions annually across the Council's operational portfolio of buildings	Annual	The Council will aim to reach net zero by 2030	Environment, Civic Pride, & Climate
CRP 122/SP 566 Number of monitoring stations measuring below the Nitrogen Dioxide air quality objectives	Annual	Air quality will improve across the borough	Environment, Civic Pride, & Climate
CRP 051/SP 114 % Major applications processed within 13 weeks or within agreed timescales	Monthly	New developments deliver more affordable housing and exhibit design excellence	Housing & Sustainable Development

CRP 052/SP 115 % of minor planning applications determined within 8 weeks or within agreed timescales	Monthly	New developments deliver more affordable housing and exhibit design excellence	Housing & Sustainable Development
CRP 131/SP 439 No. Of apprenticeship starts excluding schools	Quarterly	More residents will be able to access secure and well-paid employment in a local economy that is fairer and more inclusive	Innovation and Change
CRP 110/SP 484 % of care leavers (aged 19-21) in suitable accommodation	Monthly	A borough where residents can live in good quality housing	Children, Lifelong Learning, and Families
CRP 059/SP 008 No. Of people accessing the library by borrowing an item or using a peoples' network terminal	Tbc	We will put residents at the heart of everything we do, and be responsive and resident-centric in our approach to customer service, communication and engagement	Environment, Civic Pride, & Climate
NEW Number of trees on public land (<i>To be confirmed</i>)	Tbc	Our environment and parks will be protected, restored, and well managed	Environment, Civic Pride, & Climate
CRP 130/SP 504 % young people (under 19) leaving treatment where substance misuse has reduced or client has become drug free	Quarterly	Equal access to local health services in Merton	Children, Lifelong Learning, and Families

	SP 503 Proportion of all in treatment, who successfully completed treatment and did not represent within 6 months	Quarterly	Equal access to local health services in Merton	
Creating a Borough of Sport (4 indicators)				
<i>- Priorities include participation in sport and activity, healthy active lives and improvements to sporting and leisure infrastructure</i>				
	Indicators	Frequency	Council Plan Deliverable	Department
	SP 405 No. Of Leisure Centre users	Monthly	More residents will take part in sport and physical activities	Environment, Civic Pride, & Climate
	SP 349 14 to 25 year old fitness participation at leisure centres	Monthly	All 4- to 16-year-olds and over 65s will have access to weekly sporting and wellbeing activities	Environment, Civic Pride, & Climate
	CRP 119 / SP 558 Average Performance Quality Score (Litter and Cleansing Standards - Parks)	Quarterly	Investment in sporting infrastructure and promoting healthy activities	Environment, Civic Pride, & Climate
	NEW Public Health Activity Indicator via Actively Merton (<i>TBC, expected to take 6 months to design</i>)	TBC	More residents will take part in sport and physical activities	Adult Social Care, Integrated Care, and Public Health

Committee: Cabinet

Date: 20 March 2023

Agenda item:

Wards: All

Subject: Cost of Living Strategy and Action Plan and Cost of Living Emergency Support Fund

Lead Director: Louise Round, Interim Executive Director, Innovation and Change

Lead Member: Councillor Billy Christie, Cabinet Member for Finance and Corporate Services

Contact officer: Keith Burns, Interim Assistant Director, Customer, Policy and Improvement, Octavia Lamb, Policy and Scrutiny Manager, ext: 4721.

Recommendations:

- A. To agree the Merton Council Cost-of-Living Strategy and Action Plan 2023-25, attached at Appendix I.
 - B. To agree the indicative proposals for the second tranche of the Cost-of-Living Emergency Support Fund, as set out in Table 1 and at paragraphs 3.10-3.31, including further development of proposals around the CroydonPlus, the Credit Union for Merton, Sutton and Croydon, set out at 3.20.
 - C. Cabinet to agree to delegate authority to the Interim Executive Director for Innovation and Change, in consultation with the Cabinet member for Finance and Corporate Services to make the final decisions relating to this second tranche of funding.
 - D. Following receipt of the Household Support Fund guidelines on 20 February, to delegate authority to the Interim Executive Director for Innovation and Change, in consultation with the Cabinet member for Finance and Corporate Services to make allocations of this fund.
 - E. To note further work to support residents since the last update report to Cabinet in January.
-

- 1.1. Nurturing Civic Pride is one of our key strategic objectives as part of our borough wide ambition to 'Build a Better Merton Together'. A key element of this is about us becoming a fairer, more equal and inclusive place, which is of particular relevance during the current cost-of-living crisis.
- 1.2. As part of our wider package of support, the majority of Merton residents are set to receive a 1% discount on their council tax bills this year, as the authority seeks to offset the impact of the cost-of-living emergency. The council is also helping to deliver the Government's Council Tax Support Fund reductions of £55 on all bills for those on Council Tax Support.
- 1.3. In this context, this report presents the proposed Merton Council Cost-of-Living Strategy and Action Plan 2023-25 – a cross-council boroughwide approach to supporting residents in Merton.

- 1.4. The council is uniquely placed to work with partners to identify needs and deliver services and support to protect people against higher costs, targeting help at those facing the most complex challenges. By maximising partnership working and establishing systems to provide targeted support, we can implement a targeted approach.
- 1.5. Also outlined in this report are the proposals for the second £1million tranche of the £2million Cost-of-Living Emergency Support Fund agreed by the Cabinet on 22nd September 2022. Cabinet is requested to agree to delegate authority to the Interim Executive Director for Innovation and Change, in consultation with the Cabinet member for Finance and Corporate Services to make the final decisions relating to this second tranche of funding.
- 1.6. In addition, the report includes an update on the fourth tranche of the Household Support Fund and proposals to delegate authority to the Cabinet Lead and the Lead Officer on allocations of this fund.
- 1.7. The report also provides further updates on key pieces of work undertaken by the Council and its partners to support residents affected by the cost-of-living crisis, since the last update report to Cabinet in January.

2 BACKGROUND

- 2.1. Since the council declared a cost-of-living emergency in July 2022, it is continuing to work with its partners to identify and support people in need.
- 2.2. A Cost-of-Living Emergency Support Fund of £2million was agreed by Cabinet in September 2022. Cabinet agreed allocations for the first £1 million, focusing on crisis support and addressing immediate challenges and an update on this first tranche of funding was presented to January Cabinet.
- 2.3. As part of tranche one Cost of Living Fund allocations, £200k was apportioned to the £60 Post Office voucher scheme in 2022-23. Based on the number of post office vouchers redeemed to date, spending up to when the vouchers expire in March 2023 is estimated at £70,000. This leaves an estimated £130,000 underspend from the first tranche. Proposals for allocations of this underspend are: £68,000 for £160 payments to care leavers, special guardians and in-house foster carers; topping up Thinking Works fuel vouchers by £18,429; £40,000 towards the Discretionary Housing Payments fund.
- 2.4. Ongoing mechanisms are in place for engaging with voluntary sector and other key partners, including the Community Response Steering Group made up of the Council and partners, sharing ideas and best practice, determining volunteering and neighbourhood support and oversight of local demand and emerging themes and its Fuel Poverty Subgroup, plus the Food Response Network.
- 2.5. A cross-council Cost of Living Working Group was also established in November 2022 which draws together and builds on the various strands of work being undertaken to address the cost-of-living crisis by sharing knowledge on the changing scale and nature of residents' cost of living needs, both short and long term.
- 2.6. This working group has developed and overseen the implementation of the draft Cost-of-Living Strategy and Action Plan setting out activities, timescales and ownership. The group has also taken the lead on collating

and considering proposals for the second tranche of the £2million Cost-of-Living Support Fund. Further details are outlined in section three below.

3 DETAILS

Cost-of-Living Strategy and Action Plan

- 3.1. The *Cost-of-Living Strategy and Action Plan 2023-2025 – A cross-council boroughwide approach to supporting people living in Merton*, sets out a two-year plan to ensure the council is responding to the cost-of-living crisis in the most effective and collaborative way possible by identifying and fully utilising means of support and funding across different areas, and by identifying and responding to the real needs of our residents.
- 3.2. Through work already undertaken, including community outreach, the council and its partners have identified five priority themes within which to consider actions that will best tackle the cost-of-living crisis, how it is affecting residents and how best to equip people for future challenges. These priority themes will form the basis of the Council's cost-of-living work: Food Poverty, Energy Efficiency and Homes, Finance, Benefits and Debt, Jobs and Skills, The Next Generation.
- 3.3. These themes have two overarching aims: meeting immediate needs and building resilience for the future. They are also underpinned by three guiding principles: Reaching People, Understanding Changing Need, Joining Up Working.
- 3.4. The priorities and actions set out in this plan will be aligned going forward with those set out in the new Council Plan and Equality, Diversity and Inclusion Strategy.

Grant proposals by theme

- 3.5. Cabinet agreed at their meeting on 16 January 2023 that a set of proposals for the allocation of the second tranche of the £2million Cost-of-Living Support Fund would be considered at March Cabinet, alongside the draft strategy and action plan.
- 3.6. These proposals are set out at Table I below and at paragraphs 3.10-3.31. This funding is to help respond to the immediate and ongoing short-term needs of residents, including those most impacted by the cost-of-living crisis, but also to build longer term sustainability for Merton's residents. It should be noted however, that these proposals are indicative only and flexibility will need to be built into delivery to ensure we remain responsive to the changing national picture, the needs of our residents and pressure points for local services.
- 3.7. In addition, it is proposed that a portion of this second tranche of funding (just under £25,000) is set aside as contingency as different priorities emerge, such as additional winter pressures in 2023/4 and any potential gaps in other related funding streams e.g. at present we do not know whether the household support fund will continue beyond March 2024.
- 3.8. To support this, it is proposed that any further or final decisions regarding the second tranche of funding are delegated to the Executive Director for Innovation and Change, in consultation with the Cabinet Member for Finance and Corporate Services.

- 3.9. Alongside the £2million Cost of Living Support Funding, the Cost of Living Working Group is also keeping track of other pots of funding we can potentially draw upon, to maximise our available resources. A matrix of current funding identified to date is attached at Appendix II.

Table 1 - Cost of Living Support Fund – second tranche indicative spending proposals

The following table sets out the indicative second tranche spending proposals and below this is further narrative on each of these proposals.

COL strategy theme	Details	Timescale	Indicative costs
Food Insecurity/Poverty	Community Fridge Network funding extension	July 2023 to March 2025	£154,113.33
	Wimbledon Dons and the Trussell Trust - help to meet additional need over winter 2023.	Oct 2023 to March 2024	£42,000
	Emergency assistance funding – further funding round	Oct 2023 to March 2024	£100,000
Finance, Benefits and Debt	Discretionary Housing Payments fund top up	April 2023 to March 2024	£40,000
Jobs and Skills	Funding for Merton element of Towards Employment Team	July 2023 to June 2024	£94,544.20
Next Generation	CroydonPlus Credit Union – vouchers for Merton resident CroydonPlus Credit Union Junior Saver Accounts	October 2023 to March 2024	£50,000
	Extend Holiday Activities and Food programme provision to half term holidays	June 2023 to June 2024	£200,000
Cross cutting	Cost of Living Communications Campaign	First £24k – Jan to April 2023 Second £10k – Oct-Nov 2023	£35,000
	Cost of Living events	To cover event expenses	£10,000
	Merton Community Hub	1 June 2024 to end May 2025	£199,621

	Data analysis around cost of living	April 202203 to March 2024	£50,000
	Contingency funding to address emerging priorities		£24,721.47
Total			£1,000,000

Food Insecurity/Poverty

- 3.10. Sustainable Merton are commissioned by Public Health to lead the borough's response to food poverty which involves the coordination and monitoring of the Community Fridge Network (including food provision), coordination of the food poverty response group and refreshing of Merton's Food Poverty Action Plan.
- 3.11. It is proposed that £154,113.33 is allocated from the second tranche of the cost-of-living fund to extend funding to the end of March 2025 for Sustainable Merton and partners to support the Community Fridge Network, in order to grow capacity in accordance with increasing need. The breakdown of this funding will be reviewed with Sustainable Merton and partners.
- 3.12. It is also proposed that £42,000 is allocated to the Wimbledon Dons and the Trussell Trust to help them meet additional need over winter 2023/24.
- 3.13. Part of the initial tranche of funding an allocation of £100,000 was agreed to support arrangements in the voluntary and community sector for delivering emergency assistance to residents. It is proposed that an additional £100k is set aside for a further round of emergency assistance funding in 2023/24.

Energy efficiency and homes

- 3.14. It is proposed that funding is set aside as a contingency to fund fuel vouchers/grants should the council not be allocated Housing Support Funding beyond March 2024.

Finance, Benefits and Debt

- 3.15. Households may be eligible for Discretionary Housing Payment (DHP) if they already receive Housing Benefit or the housing element of Universal Credit, but still have to pay some rent. Discretionary Housing Payment is paid from a limited amount of money that central government gives to the Council each year. It is proposed that there is provision of £40k to top up the Discretionary Housing Payment fund to cover the April 2023 to March 2024 period. This figure is based on the current projected overspend of £40k against the 2022/23 budget.

Jobs and Skills

- 3.16. DWP funding for the Towards Employment Team (TET) is coming to an end in June and it is proposed that we sustain some of the capacity for Merton as this service has a good track record and model of working. The funding would help sustain existing employment pathways and provide a focus to exploit new opportunities and ideas, including green jobs, etc. The Towards Employment Team TET currently works across three boroughs, but in future would be entirely Merton focused. We will monitor the number of people supported into employment through this service, their protected characteristics and by the most deprived wards.
- 3.17. It is proposed that £94,544.20 is allocated to retain one project manager and one project officer plus a small project development and engagement budget.

Next Generation

- 3.18. As outlined in the strategy, we want to identify ways to help minimise the fear around finances and money for young people, so that the cost-of-living does not define their futures. There is an urgency to ensure our young people are being made financially aware, given the skills to budget, and are encouraged to save from a young age.
- 3.19. In January, Cabinet considered options for developing the council's relationship with the Croydon, Merton and Sutton Credit Union (trading as CroydonPlus), including a voucher scheme similar to the supermarket vouchers that have been issued at the cost-of-living events
- 3.20. It is proposed that £50k is allocated to working with the Croydon, Merton and Sutton Credit Union (trading as CroydonPlus) to devise a scheme for helping Merton children starting Year 7 in September 2023 to open Merton resident CroydonPlus Credit Union Junior Saver Accounts by providing £20 start-up vouchers. The key aim of this proposed scheme is to encourage a positive savings habit among children.
- 3.21. A Junior Saver Account (0-16 years old) requires a Trustee who lives at the same address as the child and is a CroydonPlus member themselves. To address this, a £10 voucher would also be available for an adult household member where they are not already a Credit Union member. The adult is then the Trustee until the child turns 16. The child cannot access any money saved until then, so this scheme is very much about investing in the future.
- 3.22. Additional funding of £150,000 is proposed to extend to half terms the Holiday Activities and Food Programme which provides food and activities across school holidays for children on free school meals.
- 3.23. The scheme is running through longer holidays, and we have providers to extend the scheme to half terms. At a cost of £50,000 per half term, it is proposed the scheme be extended to cover the three half term holidays between and including June 2023 and February 2024.

Cross-cutting

- 3.24. The Council's Communications team is working with partners to develop a new combined Cost of Living Communications Campaign to promote cost of living advice and support to residents, particularly reaching those who are digitally excluded. The campaign, called 'Cost-Of-Living Action', features a refreshed [cost-of-living webpage](#) with signposted support organised by topic and community groups, plus a range of campaign resources. A localised and highly targeted advertising campaign will also begin on Monday 27 February and run for approximately four weeks in the borough, predominantly in outdoor locations including interior bus panels, tram stops, phone kiosks and on our JCDecaux printed and digital streetside boards. A printed directory listing organisations and programmes will signpost targeted households to cost of living support.
- 3.25. It is proposed that £35,000 of the second tranche of funding is allocated to the cost-of-living communications campaign. This funding will be allocated across the two phases of the campaign, to November 2023.

- 3.26. Following a series of well-attended cost of living events for residents in Merton's libraries and the Civic Centre during the latter half of 2022 a further event is currently planned for the end of March 2023 in Colliers Wood library, following a similar format. After this event is delivered, the working group will then review whether there is an ongoing need and demand for a continued schedule of events in Merton libraries in 2023.
- 3.27. It is proposed that £10,000 is allocated towards the cost of running this future programme of events.
- 3.28. The Merton Community Hub, set up during the Covid-19 pandemic by the Council working in partnership with Merton Age UK, Wimbledon Guild and Merton Connected, has pivoted to providing assistance and support to residents in response to the cost-of-living crisis. It is proposed that this service is to be funded for one year to end of May 2024 via Better Care funding. It is proposed that £199,621 of the tranche two funding is then used to fund this service from 1 June 2024 to end May 2025, so funding is extended for two years in total from June 2023.
- 3.29. One of the key challenges in responding as effectively as possible to the cost-of-living crisis and to ensuring that funding is targeted in ways that maximises benefit for our residents and communities, is our capacity to analyse complex data from multiple sources. There is also a need to ensure that any analysis that includes personally identifiable data is compliant with the Council's obligations under the Data Protection Act 2018 and UK General Data Purpose Regulation (UK GDPR). In order to provide the capacity to undertake the complex analyses required it is proposed that a 12-month fixed term Data Analyst be recruited at a cost of £50,000. The Data Analyst will focus on using existing data from multiple sources to develop tools that allow the Council to increasingly tailor its responses for maximum benefit. There are examples from other Councils of where this has worked successfully.
- 3.30. The Department for Innovation and Change will undertake a project to scope the development of a cost-of-living data set that enables household and population analysis. This will be linked to the Insight to Intervention project.
- 3.31. It is also proposed that consideration is given whether additional officer capacity is required as a project resource for some of the initiatives outlined here.

Household Support Fund 2023-24

- 3.32. The Government has announced a fourth tranche of the Household Support Fund for the period April 2023 to March 2024. The guidance received on 20 February states that part of the fund must be used for an application-based process for residents to access. Taken together with the Cost-of-Living Support Fund the council has £3.373m available in 2023/24 to support residents.
- 3.33. The conditions for the Household Support Grant are broadly similar to the third tranche. As before, the purpose is to transfer the value to households to offset increased household bills and it cannot be used to support information and advice services. The guidance stipulates that part of the

fund has to be used for some form of application process that residents can access. One of the new elements of this scheme is that authorities are encouraged to explore ways in which people with caring responsibilities in their area may be supported.

- 3.34. Officers are in the early stages of developing plans for allocating funding from the fourth tranche of the Household Support Fund, which will further complement the cost-of-living funding. Cabinet is therefore asked to agree to delegate authority to the Cabinet Lead and the Lead Officer on allocations of the Household Support Fund.
- 3.35. As part of the plans being developed, it is proposed that we will continue to support of holiday Free School Meal vouchers from April 2023 to March 2024 (including Easter 2024) through this fund.
- 3.36. Work is also underway liaising with schools to ascertain the scope for extending breakfast club provision across the borough.
- 3.37. Any potential funding for any of these options would need to be sought outside of the Cost-of-Living fund.

4 ALTERNATIVE OPTIONS

- 4.1. There are other approaches, but the above is recommended by the Cost of Living Working Group as the clearest way forward.

5 CONSULTATION UNDERTAKEN OR PROPOSED

- 5.1. There has been ongoing engagement with a range of partners at the Summit and Merton Partnership Exec Board around the medium to longer term planning.
- 5.2. Proposals for the spending of the second million were developed in collaboration with the Cost of Living Working Group.

6 TIMETABLE

- 6.1. Some elements of the funding will be used into the next financial year.
- 6.2. Household Support Grant is for use April 2023 and March 2023.

7 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 7.1. The proposals outlined in this paper in Table 1 are linked to the second £1million tranche of the £2million Cost of Living Support Fund agreed at September 2022 Cabinet.
- 7.2. The first tranche of £1million from this Cost-of-living Support Fund has been allocated as detailed in the January 2023 Cabinet report, now running with a current underspend of £25,000.

8 LEGAL AND STATUTORY IMPLICATIONS

- 8.1. The Council has the power to make the payments proposed in this report by virtue of section 1 of the Localism Act 2011.

9 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 9.1. None specific to this report

10 CRIME AND DISORDER IMPLICATIONS

10.1. None specific to this report.

11 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

11.1. None specific to this report

12 APPENDICES

- **Appendix I - Draft Merton Council Cost of Living Strategy and Action Plan 2023-25**
- **Appendix II- Funding Matrix**

13 BACKGROUND PAPERS

13.1. None

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Merton Council Cost of Living Strategy & Action Plan 2023-2025

A cross-council boroughwide
approach
to supporting people living in
Merton

Foreword

As costs and bills continue to soar along with inflation, many of our residents face difficult choices in affording life's essentials such as food, housing, and energy. More people are struggling to make ends meet as the cost-of-living goes up, while others are being pushed into debt and crisis.

As an urgent priority, the London Borough of Merton was one of the first councils in the country to declare a cost-of-living emergency, and we remain committed to doing what we can to support residents now, and in the future as this situation deepens.

Our specially created £2 million Cost-of-Living Fund is already making a difference in our community through measures including food banks and parcels; direct payments to those on the lowest incomes; free activities and holiday food vouchers for pupils who receive free school meals; an expanded debt advice service; and energy efficiency audits for eligible residents.

This work is complemented by other programs such as Warm Spaces in Merton venues including all seven libraries, which provide a place of warmth and peace during cold weather, as well as a series of cost-of-living events providing free in-person advice and support on a range of topics.

This action plan builds on our support to date and sets out further measures to assist those most impacted by the cost-of-living emergency. We are doing this both directly and through our network of trusted local partners with advice and practical support. By funding organisations in the community and voluntary sectors, residents can access specialist support more readily.

This action plan focuses on five themes to meet short to long-term needs. From food insecurity, energy efficiency and homes, and finance, benefits and debt to jobs and skills, and the next generation, its approach aims to have currency as long as the cost-of-living emergency continues.

Activities outlined in this plan will be guided by principles to ensure that we're providing the most appropriate support to people, we can be flexible in our approach based on community needs and we are working in a joined-up across the Council and with our partners to provide the right advice and support to residents in need.

Councillor Billy Christie, Cabinet Member for Finance and Corporate Services

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Introduction

The cost of living has become a national crisis affecting millions, with low-income families some of the hardest hit as food and energy bills rise.

The rise in the cost of living is combining with existing disadvantage and vulnerability in our communities, inequalities which already existed and had recently been exacerbated by the pandemic. Many households are now at greater risk of immediate hardship and of reduced opportunity and wellbeing.

The council is uniquely placed to work with partners to identify needs and deliver services and support to protect people against higher costs, targeting help at those facing the most complex challenges. By maximising partnership working and establishing systems to provide targeted support, we can implement a targeted approach. In addition to measures that prevent crisis, the council must co-ordinate government support to ensure it reaches those people who need it. Recent engagement work has been carried out to inform a transformation in the approach to how we work with communities. This new approach is embedded in this strategy and action plan.

In providing support for residents out in Merton's communities, due consideration is given to the council's policies as laid out in the Equality, Diversity and Inclusion Strategy. Equality and inclusion are at the heart of everything the council does, and an equity of support across the borough based on evidence of need informs the actions below.

The council's work in supporting residents through this crisis cuts across all departments. It is only with joined up working that the council can most effectively and efficiently address the many elements impacted in the rise in the cost of living. There are areas in which joined-up working can be improved to maximise the impact of this work, notably in data collection and analysis. It is hoped that the scope and intentions of this Action Plan will lay the groundwork for implementing further cross-council working.

As the cost-of-living crisis progresses, the number of people affected grow, the patterns shift and priorities change. It has become clear, however, that there is a need to plan and build for the next two years, so while this Strategy and Action Plan sets out the landscape and actions as far as we can see, it is a fluid document with actions to be added that respond to the crisis as different priorities emerge.

The Strategy sets out the work so far carried out by the council and its partners in tackling the cost-of-living crisis. It is through the work carried out to date that we have been able to build an informed picture of the areas of need and the work still to be done.

The Council Plan, Building a Better Merton Together,

Council Plan Priorities

The new Council Plan sets out our key priorities, actions and how we will measure progress. It is based on extensive engagement with residents, voluntary groups and businesses, and explains the principles and values that describe how we will work to achieve our ambition, in particular the importance of developing partnerships and alliances to achieve our common goals.

It describes a new relationship with our residents, where we work better with communities to identify what needs to change and how we can work collaboratively with them to improve their neighbourhoods. The Council Plan informs all of our strategic delivery plans and explains how we will turn priorities into delivery on the ground and the differences residents will see.

- **Merton will be a thriving place of voluntary and community organisations where giving back is valued and encourages**
 - Delivery of a major Civic Pride Fund to support neighbourhoods and local groups in Merton
 - Deliver a new volunteering portal through Merton Connected and target key groups for recruitment
 - Increase the number of young volunteers working in community programmes through the Children's Trust Board

- **Fantastic Educational provision and support will give children the best start and equip residents of all ages with the skills and qualifications to succeed**
 - Enhance support for families through Children's centres and family hubs
 - Deliver new health and wellbeing zones to support digital skills and resident wellbeing
 - Develop our Adult Education commissioning offer to support learning and skills for the future, targeting the east of the borough.
 - Improve pathways to employment through our Adult Education programme
 - Deliver new courses in numeracy, literacy and English for Speakers of Other Languages-through Adult Education

- **New developments with design excellence will deliver more affordable housing**
 - Work in partnership with registered providers to encourage greater provision of affordable housing and work with private developers on large sites to meet the Council's affordable housing target
 - Deliver 400 new affordable homes on Council land over the next four years

- **Residents will live in good quality housing in the borough**
 - Introduce an Empty Home Strategy to make empty properties suitable for accommodation
 - Develop a Registered Provider Charter and make the Tenants Champion a permanent position
 - Introduce Art 4 and a Selective Licensing Scheme to improve standards in multiple-occupancy home in key wards

- Strengthen housing enforcement with an emphasis on standards and safety in privately rented accommodation.
- Establish a new Registered Provider/Developer Forum to strengthen working relationships with key partners in the housing sector
- **More residents will be able to access secure and well-paid employment in a local economy that is fairer and more inclusive**
 - Taking steps to ensure that all our new contracts include a commitment to the London Living Wage
 - Seek accreditation as a Council for London Living Wage status and work with care homes and other employers on the journey towards becoming a London Living Wage borough
 - Develop our apprenticeship scheme to increase opportunities with a focus on disadvantaged young people
- **Residents across Merton will be supported through the cost-of-living emergency**
 - Develop a coordinated cross-council response to the cost-of-living crisis through the Merton Partnership
 - Deliver a £2 million cost-of-living emergency fund to ensure support gets to those who need it most

The Cost of Living for Merton's Residents: Principles and Themes

Through work already undertaken, including community outreach, the Council and its partners have identified five priority themes in which to consider actions that will best tackle the cost-of-living crisis, how it is affecting residents and how best to equip people for future challenges.

- Food Insecurity
- Energy Efficiency and Homes
- Finance, Benefits and Debt
- Jobs and Skills
- The Next Generation

These themes have two overarching aims:

- Meeting immediate needs
- Building resilience for the future

And are underpinned by three guiding principles:

- Reaching People

Striving to ensure the appropriate support and advice is getting to the right people in Merton underpins all the actions in this strategy. As well as making sure actions and policies cover all parts of the borough and throughout its communities, this also includes recognising the stigma attached to experiencing financial difficulties, considering people who may fall through the gaps between different levels of need, and the need for greater digital inclusion.

- Understanding Changing Need

The demand for an up-to-date picture of how the cost of living and any countermeasures introduced are impacting our residents, requires a co-ordinated approach to the collection and analysis of data. It also means having a clear understanding that the cost-of-living crisis is affecting residents and communities across the borough, and any work carried out must be with a boroughwide frame of mind with the ability to refine it around varying levels of need. This also includes finding ways of empowering people to help themselves.

- Joining Up Working

The cross-cutting nature of the impact on residents by the rise in the cost of living necessitates a joined-up cross-council way of working to ensure that people's wide range of needs are being met and all resources being fully harnessed. We will look at ways of ensuring all possible related funding is being accessed without being duplicated, and that communication between directorates and with partners is flowing and clear.

Groups involved in the Cost-of-Living Support

Cost-of-Living Working Group

Council - Setting the strategic direction on Cost-of-Living Work

Community Response Steering Group	Merton Partnership Communications Group	Economy and Business Sub Group
<p data-bbox="98 699 136 863" style="writing-mode: vertical-rl; transform: rotate(180deg);">Page 68</p> <p data-bbox="129 603 716 735">Council and partners; sharing ideas and best practice, determining volunteering and neighbourhood support, oversight of local demand and emerging themes</p> <ul data-bbox="129 778 716 1417" style="list-style-type: none"> Merton Connected Wimbledon Guild Age UK Merton Commonside Community Development Trust Friends in St Helier Merton and Morden Guild Citizens Advice Merton and Lambeth Springfield Law Centre South West London Law Centres Polish Family Association BAME Voice Carers Support Merton Merton Mencap MertonVision Merton Community Transport Merton Centre for Independent Living 	<p data-bbox="920 603 1196 635">Council and partners</p> <ul data-bbox="763 667 1323 1230" style="list-style-type: none"> Wimbledon Guild Age UK Merton Sustainable Merton Merton Community Hub Citizens Advice Merton and Lambeth Polish Family Association CroydonPlus Credit Union Merton Connected Merton Chamber of Commerce Home-Start Merton NHS SW London Thinking Works Commonside Community Development Trust South West London Law Centres Springfield Advice and Law Centre 	<p data-bbox="1442 603 1966 699">Council partners, skills and employment opportunities, reporting to Sustainable Communities and Transport Partnership:</p> <ul data-bbox="1384 746 2011 1417" style="list-style-type: none"> Commonside Community Development Trust Love Wimbledon BID Merton Chamber of Commerce Sustainable Merton South Thames College Orchard Hill College Merton Connected Clarion Housing Group Evolve Housing Moat Housing Wandle Housing DWP South London Partnership Tooting and Mitcham Football Club Polish Family Association Merton Centre for Independent Living Wandsworth Training Hub Global Solutions Services MI Skills Development Centre

<ul style="list-style-type: none"> • Wimbledon Foodbank • Merton Mutual Aid • Sustainable Merton • Dons Local Action Group • Officers from Merton Health and Care Together, Adult Social Care, Policy, Strategy and Partnerships Team, Public Health team 		<ul style="list-style-type: none"> • Reed in Partnership • Need to Succeed • London Learning Consortium • Off The Record (Merton) Youth Counselling • Officers from Merton Public Health, Adult Education, Children Schools and Families, Housing Strategy, HR Apprenticeships
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<p>Fuel Poverty Sub Group</p> <p>Council and partners - reports to Community Response Steering Group</p> <p>Page 69</p>	<p>Food Response Network (FRN)</p> <p>Council and partners - reports to Community Response Steering Group.</p> <p>The FRN has 24 member organisations from across the borough including the Community Fridge Network (CFN). The CFN members are: Sustainable Merton, Commonsense Community Development Trust, Polish Family Association and Merton Community Transport</p>
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The Cost of Living – A Look Back

With evidence of the growing hardship faced by many of its residents, Merton Council was one of the first local authorities in London to declare a Cost-of-Living Emergency at a meeting of its Full Council on 6th July 2022.

A Merton Council Cost of Living Support Fund of £2million was pledged in September 2022, with allocations for the first £1 million focusing on crisis support and addressing immediate challenges. Details of this funding are shown in the table below.

1 st tranche allocations				
Item/project	Funding Allocation	Spend 22/23 (P1 - P9)	Project Forecast Spend	Budget Remaining
£60 Post Office vouchers for Council Tax Support claimants	200,000	29,900	70,000	170,100
Funding Thinking Works to provide fuel vouchers and to help people reduce their heating costs	400,000	0	400,000	400,000
Emergency Assistance Fund to support arrangements in the voluntary and community sector	100,000	75,686	75,686	24,314
Funding for Citizens Advice to extend their debt advice provision for two years	200,000	50,000	200,000	150,000
Funding for Community Fridge (Sustainable Merton) to coordinate food provision	100,000	103,500	100,000	-3,500
£160 payments to care leavers, special guardians and in-house foster carers			68,000	
Topping up the initial funding of £400,000 to Thinking Works with a further 300 vouchers			18,429	
Topping up Discretionary Housing Payments fund			40,000	
Miscellaneous Spend (Cost of Living events)	0	4,584	0	-4,584

The council has so far run six Cost-of-Living events in the borough's libraries in conjunction with its voluntary partners. Open to all residents, in total approximately 1200 people attended the six events. A range of voluntary partners were present, offering advice on a range of issues from reducing fuel costs to ensuring all available financial support is being accessed.

The 2022 Merton Partnership Summit was themed on *The Cost of Living – Meeting Needs and Building Resilience* and brought together more than 80 delegates from across the council and the voluntary and community sector. In a keynote speech from the CEO of Citizens Advice Merton and Lambeth, it was noted that the Cost-of-Living emergency is not just “a winter issue” and that “Merton is one of the most proactive and collaborative boroughs”. Workshops were held on each of the five emerging priorities, and the findings form the basis of this Strategy.

All of Merton's libraries have been set up as warm spaces and are available to all residents. They are continuing to increase their events offer and linking in with partners to deliver cost of living themed events. Libraries have also recently expanded their Health & Wellbeing offer with new Health and Wellbeing Zones set up and more health-related activities being delivered including exercise classes, yoga and medical checks delivered by partners.

A cost-of-living webpage has been set up at www.merton.gov.uk/costofliving, providing up to date information and advice for residents, including details of forthcoming events. It is widely shared by partners and regularly updated. In addition to this, the council's communications team has worked with partners to develop a new combined Merton 2023 cost-of-living campaign called 'Cost-of-Living Action'.

The campaign brings together information about the advice and support available in one creative brand identity, with key messages and images to help residents navigate to trusted sources via the council and its partners.

The campaign is focused on promoting support under the priority themes of this plan. In line with the guiding principles, it is focused on reaching people with targeted information, adapting it as required to best meet the needs of residents, and working with our partners in a joined-up way to share practical and current information.

The elements of the campaign include regular promotion on Merton Council's channels including our e-newsletter, social media, printed magazine and signage as well as in mail outs to residents for example, the Council Tax letters.

By sharing campaign resources and information through the Merton Partnership, whose members provide direct support, the campaign aims to amplify the campaign through local friends and networks. As part of the campaign, the work and faces in our partner organisations are being spotlighted, and they are encouraged to share content from campaign on their channels.

The campaign aims to engage communities impacted by barriers to communications for example, those who are not online, don't speak English as second language, or don't engage with existing council communications channels.

A component of the campaign includes advertising in out of home (streetside and public transport) locations including tram stops, phone kiosks and interiors of bus panels and on digital radio, to reach residents who are not online and digitally excluded or those who don't subscribe to council communications. The first phase of advertising is underway in 2023, with further phases planned.

The Merton Community Hub, set up during the COVID-19 pandemic by the council working in partnership with Age UK Merton, Wimbledon Guild and Merton Connected, has pivoted to providing assistance and support to residents in response to the cost-of-living emergency. Residents can get in touch either online, or, crucially, by phone.

All printed information or advertising includes the Merton Hub phone number as well as the website address to reach those who are not online and digitally excluded, or those who might require a translation service.

The council is also looking at more targeted communications to these communities, including in-language videos to support residents from diverse cultural or linguistic backgrounds.

Phasing of the campaign means that Merton can be responsive to the changing needs to best support residents with the right information as we move through the cost-of-living emergency, and to consider seasonal changes and shifting priorities around fuel and energy use. We are also working with our partners to understand priority issues and adapt the communications focus as needed.

The communications team will carry out ongoing evaluation of the campaign by looking at visits to the webpage, including customised website campaign links from different sources, visitor numbers to events, and calls into the Hub number about the cost of living.

Updates on the cost-of-living work being undertaken by the council and its partners have been given to the Faith and Belief Forum, the Community Champions, and the Joint Consultative Committee with Ethnic Minority Organisations. These also proved invaluable in terms of hearing first-hand how the crisis is affecting the communities they represent.

Merton Council has become a Living Wage accredited employer. This means that as well as paying all our employees and agency workers at least the London Living Wage (LLW) – something we've been doing since 2013 – we've put a plan in place to ensure all our contractors are also paid at least the LLW or the Real Living Wage (RLW) if the work is carried out outside of London.

The LLW, which currently stands at £11.95 per hour, is independently set by the Resolution Foundation, who have their work overseen by the Living Wage Commission. To ensure our contractors are paying the LLW, or the RLW where appropriate, we've set aside £7.2 million over the next five years to update our contracts when they come up for renewal.

In the coming months, we will reach out to local businesses to encourage them to join us in becoming a Living Wage accredited employer. The current cost-of-living emergency has made it clearer than ever that employees in Merton – especially the lowest paid – need their wages to keep up with the rising costs in their lives. That's why we are working on some incentives to help local companies to do the right thing.

A cross-council Cost-of-Living Working Group was set up in November to draw together and build on the various strands of work being undertaken to address the cost-of-living crisis by sharing knowledge on the changing scale and nature of residents' cost of living needs, both short and long term. There are strong mechanisms in place for engaging with voluntary sector and other key partners, including the Community Response Steering Group and its Fuel Poverty Subgroup, plus the Food Response Network. These provide an opportunity for discussions on key issues affecting residents (see table on p8).

Emerging Priorities and Future Focus:

The work that the Council has already undertaken to help support people with the cost of living has helped to build a picture of where action can now be applied to help not only meet immediate and ongoing short-term needs, but also to build longer term sustainability for Merton's residents.

Below, each priority theme is set out along with an explanation of the areas of work that have been identified. There then follows a set of actions for each theme. These actions will be monitored by the council's Cost-of-Living Working Group, which sets the strategic direction for the borough's cost-of living-work.

1. Food Insecurity

Food insecurity (sometimes referred to as food poverty) describes the situation in which an individual or household has difficulties accessing sufficient, safe, culturally appropriate and nutritious food to meet dietary requirements and preferences for a healthy life due to both the affordability of food and its accessibility within local communities.

Household food insecurity has been significantly affected by the cost-of-living crisis. The Food Foundation's national September survey showed that 26% of households with children had experienced food insecurity within the last month which is the highest level since measurements began at the start of the COVID-19 pandemic. Foodbanks and Community Fridges have continued to become an important resource for many residents in Merton.

Merton Council's Public Health team undertook workshops to develop the Food Poverty Action Plan 2018-2020. This was refreshed in 2021 to help streamline the plan and focus on key areas following the pressures of the COVID-19 pandemic. The plan is currently under refreshment which we anticipate will take us to 2025. The Food Insecurity theme of the Cost-of-Living Action Plan looks to support the development and progression of this plan.

The pre-existing Food Poverty Action Plan themes identified in the 2018-2020 remain relevant to this most recent refreshment of the food poverty action plan and form the basis for the activities under the food insecurity of the cost-of-living action plan:

- 1. A consistent, joined-up and co-ordinated strategic approach across partners to tackling food poverty;
- 2. Make better use of surplus food across Merton and tackle the causes of food waste;
- 3. Strengthen, support and raise awareness of initiatives and volunteering opportunities in Merton working to tackle food poverty).

The actions corresponding to these themes have been developed in light of feedback from the Food Response Network and the Merton Partnership Cost of Living Summit. Details of this actions can be found in the upcoming Food Poverty Action Plan refresh.

2. Energy Efficiency and Homes

A household is said to be fuel poor if it has above-average energy costs, and if paying those costs would push it below the poverty line as far as its remaining income was concerned. The poverty

fuel gap is the difference between a fuel-poor household's energy bill and the size of bill it would need to have in order not to be classified as fuel poor.

Homes need to be retrofitted to reduce energy demand and make homes more energy efficient. This is also linked to tackling the Climate emergency, decarbonising heat and maximising renewable energy generation. As set out in [Merton's Climate Strategy & Action Plan](#) (2020) and Merton's [Climate Delivery Plan for Year 3](#) (Cabinet 20th February), this requires joined-up working across the Council, including the Public Health, Housing Enforcement and Climate Change teams, , and Housing Associations, as well as engagement with the private rental sector and owner occupiers as part of the wider retrofitting conversation. Merton recently recruited two new Community Retrofit Officers who will be leading on Merton's strategy for borough-wide retrofit, which includes engagement on retrofit, and maximising access to national retrofit funding in Merton.

In order to help tackle fuel poverty and minimise Merton's future retrofit burden, there is also a need for any new homes to be energy-efficient as set out in [Merton's Draft Local Plan](#).

Residents in the private rental sector are struggling to meet rising rents in Merton. Local authorities have no power to impose caps on rental increases, however they can introduce measures to ensure people have safe and secure private rental accommodation. Climate change funding has been secured for the recruitment of additional capacity within the Housing Enforcement team to lead on the enforcement of the Minimum Energy Efficiency Standards in the private rental sector; recruitment is due to commence in early 2023. There has been a marked increase in the number of people seeking advice on how to manage being in rent arrears.

Home visits made for fixing repairs should be combined with advice on energy-saving measures. Buildings and Energy Subgroup in January.

Working with Health Partners for those with additional health needs as well as the effects on physical and mental health from inadequate heating.

3. Finance, Benefits and Debt

Increasing numbers of people in rising levels of debt or are going into debt for the first time. Figures on new numbers of benefits claimants. People using pay day lenders and loan sharks.

20% of Londoners are currently unable to afford energy bills, even if they cut back/fall behind on other essentials; this jumps to 33% after the energy price cap 1st April, and only 8% think that the energy rebate will help them (ICM survey for Citizens Advice)

From April, nearly half (47%) of people on low incomes predict that they will either have to fall behind on essential bills, or have to cut back on essential spending. (ICM survey for Citizens Advice) 24% of Londoners reported that their household could not afford an unexpected expense. (ONS Opinions and Lifestyle Survey)

Inflation 10.1% in Sept 22. BOE forecast to peak at 13% in 23Q1. Other forecasts significantly higher, including Resolution Foundation at over 18%. Inflation not expected to return to target before 2025.

Communications can ensure we are encouraging residents to seek help, and crucially for the longer-term, to seek help at an earlier stage thereby avoiding more complex problems. Improve residents' awareness of what is available to them or what they are entitled to is key, as is ensuring that people who work directly with residents are fully informed about what is available so that they are equipped to advise.

- Webinars and digital assets available to residents and advisors
- Engage with low wage employers to target their work force – budgeting advice
- Improve younger generation financial skills & budgeting
- Merton Partners could look at contributing to the wider lobbying voice via associations we are member of to raise the local HB threshold.

4. Jobs and Skills

Any resilience for the future in facing the Cost-of-Living must include a strategic approach to improving people's employment and training prospects. This stretches from furnishing people with IT and money management skills through to growing apprenticeship opportunities, having recruiting practices that ensure Merton residents are aware of the jobs that are on their doorstep, and putting an emphasis on meaningful long-term employment. It also means enabling business and voluntary organisations to become accredited London Living Wage employers by the council acting as a London Living Wage Champion.

December 2022 NOMIS report states that 83.4% of Merton residents are economically active. Unemployment is currently at 3.5% compared to London's unemployment rate of 4.5%. Whilst encouraging, it should also be noted that 5580 residents (4.1%) are claiming benefits which is higher than the national rate of 3.7% (4.7% for London). It is crucial to longer term financial good health for the Council and its partners find ways to improve people's access to good jobs and meaningful employment.

Merton has an exceptional volunteering network. How can we ensure that as many people in Merton as possible are taking up volunteering opportunities thereby not only helping their local communities, but diversifying and enriching their own work experience?

Merton also has a high-quality Adult Learning offer. It is vital that the courses are seen as opportunities for everyone, and to have an ambition of making sure all courses run are fully subscribed. Cabinet recently approved the new Merton Adult Learning Strategy that will increase investment in priority areas of the borough and focus on moving more residents into 'good work', developing a new green skills offer and ensuring that provision is available for all residents to help them improve their social, health and economic outcomes.

5. Next Generation

What children and young people have told us about their concerns before the cost-of-living crisis. This is what we learned: They were worried about being behind in education; how children from poorer families struggled to access online learning; their mental health had got worse; access to things to do (young people with a disability in particular) and Stop and Search leading to a decline in trust in the police.

1 in 3 children in the UK were already living in poverty prior to the crisis. Poverty impacts significantly on children's health and well-being. Poverty is a major factor towards child abuse and

neglect. Six in ten teachers responding to an NASUWT survey of more than 6,500 teachers said that by the end of the last academic year more pupils were coming to school hungry and nearly seven in ten said more of their pupils were lacking in energy and concentration. 58% of teachers said they had given food or clothing to their pupils and 60% said they had made referrals to outside agencies, with 35% saying they had helped a pupil's family get access to a foodbank

We want to identify ways to help minimise the fear around finances and money for young people, so that the cost-of-living does not define their futures. There is an urgency to ensure our young people are being made financially aware, given the skills to budget, and are encouraged to save from a young age.

Draft Action Plan

Key activity	Performance Measure	Key strategy/Plan	Department/Division	Activity End Date
OBJECTIVE 1: Continuing cross-cutting work				
Undertake a project to scope the development of a Cost-of-Living data set that enables household and population analysis (linked to Insight to Intervention)	Ensuring funding is targeted to maximise benefit for our residents by growing our capacity to analyse complex data from multiple sources	Cost-of-Living Action Plan	Innovation and Change	2023/2024
Schedule a series of Cost-of-Living events for residents of Merton	Improved signposting for residents via information-giving embedded in communities	Cost-of-Living Action Plan	Communications, Innovation and Change	2023/2024
Reaching into communities to guide residents to support and services available	Tailored communications for different levels of need	Cost-of-living Communications Plan	Communications	November 2023
Supporting the Community Hub and maximising its use by people accessing all available financial support	Maximising the Hub's use as a first point of contact for people accessing services and support	Cost-of-Living Action Plan	Community and Housing, Policy and Partnerships	May 2025

Key activity	Performance Measure	Key strategy/Plan	Department/Division	Activity End Date
OBJECTIVE 2: Tackling Food Insecurity and Food Poverty				
A consistent, joined-up and coordinated strategic approach across partners to tackling food poverty.	6 corresponding actions in the Food Poverty Action Plan with individual measures	Food Poverty Action Plan (2022-25) (link will be included when available)	LBM Public Health	March 2025
Make better use of surplus food across Merton and tackle the causes of food waste.	2 corresponding actions in the Food Poverty Action Plan with individual measures	Food Poverty Action Plan (2022-25) (link will be included when available)	LBM Public Health	March 2025
Strengthening support and raising awareness of initiatives and volunteering opportunities in Merton working to tackle food poverty.	2 corresponding actions in the Food Poverty Action Plan with individual measures	Food Poverty Action Plan (2022-25) (link will be included when available)	LBM Public Health	March 2025

Key activity	Performance Measure	Key strategy/Plan	Department/Division	Activity End Date
OBJECTIVE 3: Improving Energy Efficiency and Homes				
Lobby central Government to address the gap in funding and skills for retrofit	Existing action in Merton's Climate Delivery Plan Year 3	Climate Delivery Plan Year 3	LBM Future Merton	December 2023

Key activity	Performance Measure	Key strategy/Plan	Department/Division	Activity End Date
Develop and deliver a retrofit engagement plan to encourage home and business owners, landlords and tenants to retrofit their properties	Existing action in Merton's Climate Delivery Plan Year 3	Climate Delivery Plan Year 3	LBM Future Merton	December 2023
Explore options to overcome high up-front costs of low carbon measures on homes	Existing action in Merton's Climate Delivery Plan Year 3	Climate Delivery Plan Year 3	LBM Future Merton	December 2023
Support community action looking to drive retrofit	Existing action in Merton's Climate Delivery Plan Year 3	Climate Delivery Plan Year 3	LBM Future Merton	December 2023
Support fuel poor households in accessing national funding	Existing action in Merton's Climate Delivery Plan Year 3	Climate Delivery Plan Year 3	LBM Future Merton LBM Public Health LBM Adult Social Care	December 2023
Engage with social housing providers to drive domestic retrofit	Existing action in Merton's Climate Delivery Plan Year 3	Climate Delivery Plan Year 3	LBM Future Merton	December 2023
Recruit additional capacity to lead on the enforcement of Minimum Energy Efficiency Standards in Merton's Private Rental Sector	Existing action in Merton's Climate Delivery Plan Year 3	Climate Delivery Plan Year 3	LBM Housing Strategy	December 2023
Develop a strategy to retrofit housing and non-domestic buildings in Merton	Existing action in Merton's Climate Delivery Plan Year 3	Climate Delivery Plan Year 3	LBM Future Merton	December 2023

Key activity	Performance Measure	Key strategy/Plan	Department/Division	Activity End Date
Warm and Well Programme	400 Energy Efficiency Assessments completed	To increase capacity with Thinking Works and other partners to promote energy efficiency assessments	Adult Social Care, Integrated Care and Public Health	March 2024
Warm and Well Programme	700 fuel vouchers distributed for residents on pre-payment meters	To develop efficiencies in current processes to ensure more people can access fuel vouchers to the value of £49	Adult Social Care, Integrated Care and Public Health	Sept 2023
Warm and Well Programme	400 residents to benefit from minor installations to support stay warm and well	Using increased capacity within handy person service to install minor products (such as radiator deflectors) to promote energy efficiency	Adult Social Care, Integrated Care and Public Health	March 2024
Warm and Well Programme	50 awareness sessions with Community groups	Develop programme of awareness raising events (such as faith groups, family hubs, community groups) to promote Warm and Well programme	Adult Social Care, Integrated Care and Public Health	March 2024
Warm and Well Programme	Recruit and train 10 community champions to promote Warm and Well	To increase capacity, develop training and mentoring programme with community champions supported by Thinking Works	Adult Social Care, Integrated Care and Public Health	Oct 2023

Key activity	Performance Measure	Key strategy/Plan	Department/Division	Activity End Date
Warm and Well Programme	100 residents to receive support with heating checks	To provide a new function within Thinking Works and partners to support with heating checks and repairs	Adult Social Care, Integrated Care and Public Health	March 2024

Key activity	Performance Measure	Key strategy/Plan	Department/Division	Activity End Date
OBJECTIVE 4: Helping people to manage their finances				
Supporting and maximising take up of Money Management Training courses run by Adult Learning	Increased take up of courses, and scope for growing the number available	Cost-of-Living Action Plan	Merton Adult Learning, Communications	2025
Increase financial Inclusion <ul style="list-style-type: none"> - Continue to offer a wide selection of payment methods including - cash - Direct debit - Credit/debit card - BACS 	Continue to provide the Council Tax Support scheme Take up of Local Welfare Support scheme and Discretionary Housing Payments	Cost-of-Living Action Plan	Finance and Digital/Revenue and Benefits	2025

Key activity	Performance Measure	Key strategy/Plan	Department/Division	Activity End Date
<ul style="list-style-type: none"> - Post office - Cash or Pay point - Cheque 				
<p>Ensure clear signposting and accessibility of our offer a range of schemes to assist those in need: Council tax support scheme; Local Welfare Support Scheme – cash support for financial hardship and also purchase kitchen appliances and other household items; Discretionary Housing Payment – where housing benefit of universal credit doesn't cover housing costs for exceptional circumstances</p>	<p>Data showing increased numbers of people accessing services via council website and Community Hub, also linked to Cost-of-Living Events</p>	<p>Cost-of-Living Action Plan</p>	<p>Finance, Revenue and Benefits, Communications</p>	<p>2025</p>
<p>Offer extended payment arrangements for council tax or other payments due to the council –</p>	<p>Referrals made from the above</p>	<p>Cost-of-Living Action Plan</p>	<p>Finance, Revenue and Benefits</p>	<p>2025</p>

Key activity	Performance Measure	Key strategy/Plan	Department/Division	Activity End Date
important to make sure not just deferring				

Key activity	Performance Measure	Key strategy/Plan	Department/Division	Activity End Date
OBJECTIVE 5: Improving people's access to good jobs and skills				
Implement the Action Plan developed as part of the new Merton Adult Learning Strategy.	Various measures included within the action plan.	Merton Adult Learning Strategy 2022 – 2026	Community & Housing/Merton Adult Learning	Summer 2026
Further develop partnership and collaboration agreements with key partners	Improved pathways into employment and better signposting/referrals onto other services	Merton Adult Learning Strategy 2022 – 2026	Merton Adult Learning	Summer 2026
Improve relationships with further and higher education organisations to improve progression routes	Improved pathways into employment and better signposting/referrals onto other services	Merton Adult Learning Strategy 2022 – 2026	Merton Adult Learning	Summer 2026
Commission new contracts to focus on key	Improved pathways into employment and better	Merton Adult Learning Strategy 2022 – 2026	Merton Adult Learning	Summer 2026

Key activity	Performance Measure	Key strategy/Plan	Department/Division	Activity End Date
skills delivery in the east of the borough.	signposting/referrals onto other services			
<p>Employment Support Initiatives:</p> <p>The delivery of these programmes is across 5 South London boroughs including Merton by the South London Partnership:</p> <ol style="list-style-type: none"> 1. Work & Health Programme 2. SLP Integration Hub 3. SLP Careers Hub 4. SLP Constructing Careers Programme 5. Restart 6. South London Green Skills Academy 7. JETS Programme 8. Business, Innovation & Growth (BIG) Programme 9. 	<p>Various measures including resident engagement, business/school engagement and job outcome targets.</p>	<p>South London Partnership Skills Action Plan</p> <p>GLA's No Wrong Door Initiative</p> <p>Local Skills Improvement Plan (LSIP)</p>	<p>Environment & Regeneration & South London Partnership</p>	<p>Programmes end at various times between March 2023 – March 2025.</p>

Key activity	Performance Measure	Key strategy/Plan	Department/Division	Activity End Date
Refresh the Voluntary Sector and Volunteering Strategy with an emphasis on skills	Work with partners to look at ways of increasing volunteering opportunities	Voluntary Sector and Volunteering Strategy	Policy and Partnerships, and Merton Partnership	January 2024
Seek accreditation as a Council for London Living Wage status and work with care homes and other employers towards becoming a London Living Wage borough	In line with procuring contractors that pay London Living Wage	London Living Wage Accreditation	Policy and Partnership, Future Merton	2025

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Key activity	Performance Measure	Key strategy/Plan	Department/Division	Activity End Date
OBJECTIVE 6: Empowering the next generation				
Working with the CroydonPlus Credit Union to encourage saving for young people	Increased numbers of young people actively saving in the borough	Cost of Living Strategy	Policy and Partnerships	2023-2024
Working in collaboration with the Local Maths Hubs, develop support for teachers regarding	Take up of training	School Improvement Strategy	Children Lifelong Learning and Families/Education & Early Help	2024

Key activity	Performance Measure	Key strategy/Plan	Department/Division	Activity End Date
financial literacy curriculum				
Work with Young Inspectors/young people to inform cost of living work in the future	Feedback received and informing delivery plans	CLLF Service Plan	Children Lifelong Learning and Families/Education & Early Help	2024
Increase the take-up of 2-year-old funding for childcare	To achieve pre-Covid take-up levels by 2024	Childcare Sufficiency Assessment Early Help Strategy/Family Hub Development Programme	Children Lifelong Learning and Families/Education & Early Help	2024
Targeted work to support four care experienced young people with cost of living	Care experienced young people in receipt of cost-of-living payments Access to the food pantry & support hub	Corporate Parenting Strategy	Children Lifelong Learning and Families/Children Social Care & Youth Inclusion	2024
Deliver the Holiday Activity and Food (HAF) programme	Increased Volume of children on Free School Meals accessing the programme over time	HAF delivery steering group plan	Children Lifelong Learning and Families/Education & Early Help	2024
Explore funding an additional HAF programme over half terms	Increased Volume of children on Free School Meals accessing the programme over time	HAF delivery steering group plan	Children Lifelong Learning and Families/Education & Early Help	2024

Key activity	Performance Measure	Key strategy/Plan	Department/Division	Activity End Date
Promotion of government grants and financial support available for families through Family Hubs	Information available in all Family Hubs about FSMs, childcare choices (tax-free childcare), Health Start, vitamins and vouchers	Early Help Strategy/Family Hub Development Programme	Children Lifelong Learning and Families/Education & Early Help	2024
Improve access to early help services so families are supported to take these up as appropriate	Improved co-location and access to early help services for families through Family Hubs	Early Help Strategy/Family Hub Development Programme	Children Lifelong Learning and Families/Education & Early Help	2024
Supporting Families programme focus on employability	More families supported into employment	Early Help Strategy	Children Lifelong Learning and Families/Education & Early Help	2024

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Appendix II - Cost of Living Funding Matrix

Name of Fund	Short description	Target beneficiaries	Funding available for residents/ households	Allocated Budget 2022 - 2023	Remaining Budget	Allocated Budget 2023 - 2024	Remaining Budget	Time Frame	Source of Funding	Further Comments	Links to further information
Household Support Fund	Funding to support residents of Merton during the cost of living crisis (includes funding for free school holiday food vouchers)	Residents who receive Council Tax Support or free school meals, or are struggling with the cost of living. General objective to support all low-income households plus additional focus on specific target groups to ensure the widest range of help has been available to residents at different times.	CTS recipients - automatic £60 Post Office Payout voucher. Automatic Discretionary fund administered by Wimbledon Guild - application based on self-referral. Variable amounts.	CTS - £654k; Discretionary Fund WG = £100k	CTS - £80k (estimated underspend figure. Vouchers able to be redeemed up to 8th March); FSM £0; WG - £20k	Info to follow	Info to follow	Current grant (tranche 3) is for 1 October 2022 to 31 March 2023.	Government Initiative		Link to Gov Website
Council Tax Support Fund	Up to £25 reduction on annual CTax bill for all recipients of CTS as at 1st April 2023. Remaining funds to be used for discretionary scheme to assist residents to pay their Council Tax	Residents on Council Tax Support	Up to £25 from Government main scheme plus £30 from the discretionary scheme	None - starts 1st April 23	Not applicable	£266684. Estimated -£80k on mandatory main scheme. £186k for discretionary scheme	Not applicable	Main scheme awarded at main billing on 1st April 2023	Government Initiative		
Energy Bill Support Scheme	£400 reduction on gas/electricity bills delivered by utility providers over a period of 6months	All households with a domestic electricity connection in England, Scotland and Wales are eligible for the discount.	£400 in total	None - Paid by Government via reduction on fuel bills	Not applicable	Not applicable	Not applicable	Winter 2022 - 2023	Government Initiative		

<p>Energy Bills Support Scheme Alternative Funding (EBSS AF)</p>	<p>Fund targeted at households that missed out on the £400 energy bills discount scheme</p>	<p>Households England, Scotland and Wales that do not have a direct contractual relationship to a domestic energy supplier.</p>	<p>£400 in total</p>	<p>None - Paid by Government but scheme details not by Government yet</p>	<p>Not applicable</p>	<p>Not applicable</p>	<p>Not applicable</p>	<p>Info to follow</p>	<p>Government Initiative</p>	<p>Online applications will open in January for households in England, Scotland and Wales who are eligible for the £400 EBSS Alternative Funding to submit their details, alongside a helpline for those without online access. Payments to households that meet the eligibility criteria – including people who get their energy through a commercial contract or who are off-grid – will be made by local authorities in Great Britain.</p>	<p>Link to press release</p>
<p>Alternative Fuel Payment (AFP) scheme</p>	<p>Fund directed to those households that heat their homes using alternative energy sources, such as oil, coal, liquefied petroleum gas (LPG) or biomass rather than gas or electricity. Also directed to businesses not using alternative energy sources.</p>	<p>Available to homes and businesses who aren't using use mains gas for heating.</p>	<p>£200 in total for homes and £150 in total for businesses</p>	<p>None - paid by Government</p>	<p>Not applicable</p>	<p>Not applicable</p>	<p>Not applicable</p>	<p>Not applicable</p>	<p>Government Initiative</p>	<p>Most households eligible for the AFP support in Great Britain, will receive payment automatically via their electricity supplier in February, with no need to take any action. Those households who will need to apply for the AFP, for example because they do not have a relationship with an electricity supplier, will be able to do so in February, through the same GOV.UK portal as the one that will be used to apply for support under the EBSS Alternative Funding scheme.</p>	<p>Link to press release</p>

Cost of Living Payment	Paid as a top up to certain DWP benefits.		Up to £900 for people on an eligible low income benefit £300 for pensioner households £150 for people on an eligible disability benefit	None - paid by Government	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Government Initiative		Link to Gov Website
Winter Fuel Payment	Paid in addition to SRP	Born before 26 September 1956	between £250 and £600	None - paid by Government	Not applicable	Not applicable	Not applicable	Both winter 2022 to 2023 and winter 2023 to 2024	Government Initiative			Link to Gov Website
Discretionary Housing Payment (DHP)	Paid to resident who apply for help to top up the HB or UC housing cost element	Residents who currently get either housing benefit or the housing element of Universal Credit and need more financial support with housing costs	Dependent on circumstances. Cannot pay more than eligible rent costs.	£421,909 provided by DWP. Option to top this up by 2.5 x this amount from Merton's own funds	DWP funded spent. Overspend by £26k. Projected overspend £40k for 22-23	Not known - DWP funding not announced yet	N/A	Re-applications every April. New awards throughout the year	DWP funded but option to top up from Council Funds	Never over spent on this fund before. £40k overspend need to be funded from other sources		Link to Gov website
Local Welfare Support Scheme (LWSS)	The LWSS exists to support Merton residents with short term severe financial difficulties or require essential household items when resettled into permanent accommodation by Merton.	Local Welfare Support Scheme (LWSS) may be able to help vulnerable households in the London Borough of Merton if they are at risk to their health or safety or need help to re-settle or remain in the borough.	Dependent on circumstances.	£40K	<£1k	£40k	Info to follow	Annual budget applied	Government plus local funding	Offer is similar to Wimbledon Guild but staff have access to DWP databases to verify claims and provide wider support with DWP benefit claims etc.		Local Welfare Support Scheme Merton Council
Holiday activities and food clubs (HAF) programme	Provision of fun activities and nutritious meals for Merton primary and secondary school children	Free of charge for children eligible for benefits-related free school meals. Some also offer paid-for places for other children and young people.	Info to follow	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Government Initiative		Holiday activities and food clubs Merton Council

<p>Community Fridge Network (Local)</p>	<p>Public Health have provided short-term funding to the organisations in the Community Fridge Network to support food provision in the borough.</p>	<p>Residents of the London Borough of Merton who are in need of food provision support</p>	<p>None - funding goes to organisations</p>	<p>November 2022 - June 2023 = £50k</p>	<p>None</p>	<p>None</p>	<p>None</p>	<p>November 2022 - June 2023</p>	<p>Contain Outbreak Management Fund (COMF)</p>	<p>Public Health used the COMF (national COVID-19 funding) to help support the community fridge network. However, COMF funding is no longer continuing</p>	
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Committee: Cabinet

Date: 20th March 2023

Wards: All

Subject: Confirmation of the Immediate Article 4 Direction in 7 Wards – Results of Consultation; and Update on Proposed Introduction of Landlord Licensing and Empty Homes Project

Lead Directors: Adrian Ash, Interim Executive Director Environment, Civic Pride, and Climate
John Morgan, Executive Director Adult Social Care, Integrated Care & Public Health

Lead member: Councillor Andrew Judge, Cabinet Member for Housing and Sustainable Development

Contact officer: Lesley Barakchizadeh, Lead Programme Consultant – Corporate Projects Ext: 3099

Recommendations:

- A. Following review of the consultation responses as well as consideration of legal advice from an external barrister, that Cabinet recommend to Council that the Immediate Article 4 Direction for small HMOs be Confirmed for the following wards: Figge’s Marsh; Graveney; Longthornton; Pollards Hill; Colliers Wood; Cricket Green and Lavender Fields.
- B. Note that there is an ongoing risk of compensation claims being submitted for any small HMOs (6 person and under) that relied on the permitted development rights that have been removed in the 7 wards, and note that claims are only valid if a planning application is submitted within 12 months from the introduction of the Immediate Article 4 (17th November 2022) and then subsequently refused; or if additional Planning Conditions are applied that reduce the development’s value
- C. Note the update on Landlord Licensing and Empty Homes, including the proposed charges and conditions appended, and note that once the full consultation report has been provided to the Council by ORS, a further report will be brought back to Cabinet in June to agree the way forward for Landlord Licensing, following consideration of representations received.
- D. Agree that the additional cost of £75,000 for project management, housing staffing; and external legal fees up to Oct 23 (date of implementation) be funded by a transfer from the corporate contingency fund.
- E. Delegate Authority to the Executive Director for Housing and Sustainable Development in consultation with the Cabinet Member for Housing and Sustainable Development to Approve the draft Supplementary Planning Document on HMOs for at least 6 weeks of public consultation and to approve any amendments required by proposed changes to the National Planning Policy Framework.

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

1.1 This report provides an update on three key projects which were reported to Cabinet in October 2022.

- The introduction of an Immediate Article 4 Direction, which requires new small house and flat shares (small HMOs) to seek planning permission instead of being covered by Permitted Development (PD). HMOs of 7 or more people, from more than one household, already require planning permission.
- Proposals for Selective Licensing and Additional Licensing schemes, which would require a licence for private rented sector (PRS) properties, and for houses in multiple occupation (HMOs) not covered by the mandatory HMO regulations which cover 5 people and above.
- Empty Homes – An update was provided on this project at the October meeting

1.2 At Cabinet in October 2022, it was resolved to:

1. Approve Consultation on the proposed introduction of Selective Licensing to Figge's Marsh; Graveney; Longthornton; and Pollards Hill Wards
2. Approve Consultation on the proposed introduction of Additional Licensing to Figge's Marsh; Graveney; Longthornton; Pollards Hill; Colliers Wood; Cricket Green and Lavender Fields Wards
3. Approve an Immediate Article 4, noting the possible financial risk to the Council
4. Approve Consultation on the introduction of an Immediate Article 4 Direction for small HMOs in Figge's Marsh; Graveney; Longthornton; Pollards Hill; Colliers Wood; Cricket Green and Lavender Fields Wards
5. Note that following the consultation exercise, which is scheduled to run from November 2022 to January 2023, a further report will be brought back to Cabinet to agree the way forward following consideration of representations received
6. Note the report on Empty Homes which is for information only
7. Agree that the additional cost of £134k be funded by a transfer from the corporate contingency fund.

1.3 A large scale consultation exercise, led by the Council's consultants, Opinion Research Services (ORS), commenced on 14th November 2022.

1.4 A consultation webpage - www.merton.gov.uk/prsconsultation – was set up which enabled people to:

- Complete a questionnaire designed by ORS
- Book attendance at a Landlord or Stakeholder Forum
- Read the proposals for both landlord licensing and the Immediate Article 4 Direction

- View a wide range of background documents including the October 2022 Cabinet report and the Metastreet report.
- 1.5 The webpage is still up and running and updated to enable people to continue to review the proposals and background information.
 - 1.6 An Immediate Article 4 Direction for Small HMOs was introduced and came into effect on 17th November, as agreed by Cabinet in October 2022.. The Consultation Webpage was updated on the 17th November with the Article 4 Direction and Notice. All statutory notification procedures were followed and exceeded including: notification to the Secretary of State; notification to statutory bodies; posting of Notices on lampposts; and publication in the press. Plus, a 10 week Consultation Exercise took place – the statutory consultation period for an Article 4 Direction is 6 weeks.
 - 1.7 During, and following the closure of the consultation on 22nd January, 2023, a range of responses were received, including 487 Completed questionnaires; some direct email representations on licensing to ORS; direct email representations to the Council as the Local Planning Authority; 2 solicitors' letters; comments made during 2 Landlords Forums; comments made during a Landlords Forum specifically on Article 4 (requested by landlords); comments made during a Stakeholders Forum.
 - 1.8 At the time of writing, the full consultation results and the final report from ORS, is not available, and due to the consultation having only recently finished, will not be available for some time. However, as it will be necessary to 'Confirm' the Article 4 Direction within a period of 6 months, should it be deemed that it stays in place after consideration of the consultation responses, it was agreed that ORS would provide the consultation results relating to the Immediate Article 4 Direction only (in full), so that these, along with the results received direct to the Local Planning Authority, can be considered by March Cabinet, and subsequently reported to Council in April. These results are fully included in this report.
 - 1.9 Once the final consultation report is received from ORS, expected to be late March, early April, a further report discussing the responses for landlord licensing will be taken to June Cabinet – it should be noted there is no Cabinet in April or May.
 - 1.10 This report therefore updates briefly on the Empty Homes project and proposals for Landlord Licensing but focuses primarily on the introduction of the Immediate Article 4 Direction.
 - 1.11 Funding was agreed for the Consultation at £30,000 and it was possible to secure an agency for this amount. Additional housing and project management staffing costs were also agreed to take the project up to May 2023. To continue to October 2023, when it is proposed that Landlord Licensing will have been introduced, a further amount of £70,000 will be required.
 - 1.12 Additionally, as we have been required to engage an external Barrister to provide legal advice and respond to a legal challenge we received, a sum of up to £5k is needed.

1.13 This cost, and the £70,000 identified above, (a total of £75,000) will be funded by a transfer from the Corporate Contingency Fund.

2 BACKGROUND AND CURRENT SITUATION

2.1 It is important to reiterate that the Council is committed to improving housing conditions in the Private Rented Sector (PRS); and to tackling the many instances of anti-social behaviour and other issues that arise from poorly managed rented properties and in particular HMOs.

2.2 The PRS is an important part of our housing stock and has grown rapidly in Merton. Whilst many landlords operate within guidelines, there are also others who do not, often taking advantage of some of the most vulnerable members of our community. This leads to issues affecting health and safety, the wider community, as well as the environment.

2.3 The Council strongly believes that it is necessary to pursue every action it can take to address the many issues and complaints that it receives resulting from the growth of the PRS in Merton and unscrupulous landlords.

2.4 To this end, the Council is working on a strategy which will include a raft of measures and actions to be taken to improve the wellbeing of our communities, including proposals for the introduction of Selective and Additional Licensing; the introduction of the Immediate Article 4 Direction in November 2022; as well as targeted and effective enforcement.

2.5 A Supplementary Planning Document (SPD) is also being produced (see Para 10.5) to ensure that guidance is in place against which planning applications for change of use to HMOs can be assessed. Once approved for consultation, the SPD Consultation Draft would be a material consideration in the consideration of these applications and will provide guidance to inform when HMOs are likely to be considered acceptable and unacceptable.

2.6 Additionally, the overarching ambition of the Administration is to rebuild pride in Merton with three strategic themes as follows:

- Nurturing Civic Pride;
- Building a Sustainable Future;
- Creating a Borough of Sport.

2.7 The proposals for selective and additional licensing, as well as the introduction of the Immediate Article 4 Direction for small HMOs, supports both the theme of Building a Sustainable Future, and Nurturing Civic Pride.

2.8 The Council commissioned Metastreet to gather data to assist in assessing which wards would be most appropriate for the introduction of Selective Licensing; Additional Licensing; and the Immediate Article 4 Direction.

2.9 The recently published census 2021 tenure data has been reviewed and compared with the data from the Council's commissioned tenure analysis. Whilst data on the numbers and percentages of PRS dwellings in some wards shows comparable alignment, there are some wards where there is a significant difference between the figures.

- 2.10 The census provides a figure of 29.5% PRS households in Merton, compared with the Council's commissioned analysis projecting the % PRS to be 34%. The government guidance requires an authority to have regard to census and other sources of data in assessing the levels of PRS in areas being considered for licensing.
- 2.11 Having reviewed the census data it is considered that the Council's commissioned data analysis provides a more realistic projection of the level of PRS dwellings in the relevant wards. This is based on a number of considerations. The census reported 81,726 households in Merton, which, whilst allowing for empty homes, is much lower than the government Valuations Office Agency record of 86,740 residential dwellings.
- 2.12 It is known that not all landlords declare that their properties are let, including multiple let dwellings. The census data would be unlikely to identify situations where tenants are sub-letting to other households, or where dwellings conceal informal accommodation such as outbuildings or garden structures.
- 2.13 The census data is considered likely to indicate a lower figure for PRS households in the borough than is actually the case. The census data does not adversely affect the proposals relating to the Article 4 Direction and landlord licensing.

3 OVERVIEW OF INITIAL CONSULTATION RESULTS

- 3.1 The consultation commenced on 14th November 2023 and closed on 22nd January 2023.
- 3.2 A consultation webpage was set up which hosted a questionnaire designed and administered by the Council's retained consultants, ORS, as well as enabling interested parties to book attendance on:
- A virtual Landlords Forum held in the daytime
 - An in-person Landlords Forum held in the evening
 - A virtual Landlords Forum purely to discuss the Immediate Article 4 Direction held in the daytime in response to Landlords' requests
 - A Stakeholders Forum – for organisations such as the Fire Services; Public Health and the National Residential Landlord Association (NRLA)
- 3.3 The forums were hosted by ORS but attended by council officers who responded to numerous questions including clarifying the proposals. The Forums (other than the stakeholders forum) were very well attended with 20/25 individuals at each. However, it was notable that some individuals attended all 3 landlord forums and in particular, several of the attendees held a portfolio of properties, so larger developers/landlords, rather than individual small landlords. In general, the forums were well-natured, and attendees expressed their thanks for the officers listening to their views.
- 3.4 In addition to the channels above, a dedicated telephone helpline was provided by ORS to enable stakeholders who needed assistance completing the questionnaire to be given suitable support, and an email address was

available to request versions of the questionnaire in alternative formats or languages.

3.5 With regard to the questionnaire, a total of 478 were received, with respondents primarily identifying with the following groups:

Stakeholder type	Number of respondents	% of respondents
Letting or managing agent with properties in Merton	25	5
Private landlord in Merton	190	40
Represent an organisation based in or covering Merton	4	1
Live in Merton	251	53
Other respondents	8	2
Total	478	100

3.6 As some respondents identified with more than one category, whilst the above table is what ORS used primarily for reporting the results, the table below also provides a bit more detail on some of the groups. Note that as some respondents identified with more than one group, the total number exceeds the number of questionnaires received:

	Count	Total %
Live in Merton - rent my home from a private landlord	62	13
Live in Merton - rent my home from the council or housing association	4	1
Live in Merton - own my home	239	50
Live in Merton - other type of occupier	9	2
Private landlord in Merton	197	41
Letting or managing agent with properties in Merton	24	5
Represent an organisation based in or covering Merton	7	1
Own or manage a business in Merton	5	1
Work in Merton	13	3
Have another connection with Merton	6	1
No connection with Merton	3	1

3.7 As well as completion of the questionnaire and/or attendance at a forum, it was possible to send a more detailed email representation to ORS about landlord licensing, or a specific representation on the Immediate Article 4 Direction direct to the Local Planning Authority via a Council email address.

- 3.8 The consultation webpage also contained an extensive amount of information on the proposals such as fees and conditions for landlord licensing; the Metastreet report showing the data that ward selection was based upon; the Article 4 Direction, Notice and map; a consultation document with further information produced by ORS, and other background material.
- 3.9 The webpage has been updated and is being kept live due to the usefulness of the information whilst proposals are still being considered.
- 3.10 As could be predicted, from those who responded to the questionnaire, there is a clear split between residents (including tenants) being in favour of the Article 4 Direction and Landlord Licensing and landlords opposing it.

Headline results show:

- Many larger landlords/developers are against introducing an Immediate Article 4 Direction (as opposed to a non-immediate)
 - 32% of landlords support an Article 4 Direction
 - 54% of landlords disagree with an Article 4 Direction
 - 81% of residents and tenants agree with an Article 4 Direction
- 3.11 However, greater numbers of landlords appear to oppose Landlord Licensing rather than the Immediate Article 4 Direction:
- 89% of landlords disagree with Selective Licensing
 - 78% of landlords disagree with Additional Licensing
 - 78% of residents and tenants agree with Selective Licensing
 - 81% of residents and tenants agree with Additional Licensing
- 3.12 The full consultation results for the introduction of the Immediate Article 4 Direction only, are reported in Section 11.

4 UPDATE ON THE EMPTY HOMES PROJECT

- 4.1 At the October Cabinet 2022 Meeting an update was provided on the proposal to introduce an Empty Homes Scheme. This would bring into use some of the estimated 2,000 long-term empty homes in the borough, by providing incentives such as grant funding; loans; and advice for owners to bring qualifying properties up to a required standard for letting. The Council may require leasing of properties back to the Council for the provision of accommodation for households owed a housing duty.
- 4.2 It was decided that the scheme would be established under the Regulatory Shared Services Partnership (RSSP). This was based on the financial efficiencies achievable and the fact that the RSSP was already operating the Wandsworth and Richmond schemes, and had the organisational infrastructure; system; and processes in place to enable swifter implementation.
- 4.3 A joint Housing and RSSP project team was established last year and has been progressing the project transition to the RSSP and delivery of Project Delivery Plan requirements. Key elements within the plan are the

establishment of the required Finance and IT requirements, and policy and processes, for scheme implementation. The scheme is expected to go live in July 2023.

5 UPDATE ON THE INTRODUCTION OF LANDLORD LICENSING

- 5.1 As stated in Para 1.8, due to timings and the unavailability of the final consultation report until late March, this report primarily deals with the introduction of the Immediate Article 4 Direction. It does not provide the results of the consultation exercise on landlord licensing, other than basic headline figures reported in Section 3. A full report will be submitted to June Cabinet.
- 5.2 However, meanwhile preparations for the introduction of Landlord Licensing continue and are on target, with proposals being to introduce Selective Licensing to Figge's Marsh; Graveney; Longthornton; and Pollards Hill Wards and Additional Licensing to Figge's Marsh; Graveney; Longthornton; Pollards Hill; Colliers Wood; Cricket Green and Lavender Fields Wards. All proposals will be subject to consideration of the consultation responses.
- 5.3 Joint working with the IT team to develop the online systems for licensing processing and administration continue, with a focus on current online processing and payment systems utilised across the Council as opposed to procurement of a new software system.
- 5.4 The current financial projections are that the selective and additional licensing scheme will require £3.3m expenditure over the five-year scheme period, including £2.5m staffing expenditure, based on a staff resource of 9.5 staff. These figures are provisional and are subject to further financial modelling, to be informed by consideration of the final consultation feedback.
- 5.5 Scheme operating costs will be required to be covered by the licence fee income. The Council is not legally able to generate a profit on the scheme, and income is ring-fenced to the scheme. Proposed licence fees, as set out in the Appendix B, have been consulted on and will be reviewed when the final consultation responses have been received and considered. The financial modelling will be updated based on the final fee structure and the projected operating model, which will depend on the level of online digital and automated processing established for the scheme.
- 5.6 Each type of license places a list of Conditions on a landlord as well as requiring a one-off license fee which will cover either 5 years or the proportion of time left of the 5 years.
- 5.7 The list of Conditions is appended as Appendix B and the schedule of fees is appended as Appendix A.

6 INTRODUCTION OF AN IMMEDIATE ARTICLE 4 DIRECTION

- 6.1 At its meeting in October 2022, Cabinet approved the introduction of an Immediate Article 4 Direction for small HMOs in 7 wards, as well as approval for a joint consultation exercise on both the Immediate Article 4 Direction for small HMOs and proposed Landlord Licensing.

- 6.2 The Council commenced the consultation process on 14th November and on 17th November 2022, an Immediate Article 4 Direction was introduced into the following 7 wards (the same ones proposed for Additional Licensing).
- Figge's Marsh
 - Graveney
 - Longthornton
 - Pollards Hill
 - Colliers Wood
 - Cricket Green
 - Lavender Fields
- 6.3 The Immediate Article 4 Direction came into force immediately on 17th November, and subject to consideration of the consultation responses and representations, will be Confirmed at Council in April 2023.
- 6.4 It is necessary to Confirm an Article 4 Direction within 6 months of commencement or it lapses.
- 6.5 There is a clear legal process to be followed for the introduction of an Article 4 Direction which is as follows:
- The Council has to give notice of a Direction to be made by site notices and press notice, for a period of not less than six weeks. The General Permitted Development Order 2015 requires notice to be served on the owner and occupier of every part of the land within the area or site to which the Direction relates unless the local planning authority considers that individual service is impracticable
 - A copy of the Direction and the relevant maps must be sent to the Secretary of State on the same day that the notice is first published. Any statutory undertakers and the Crown will also need to be sent individual letters with a copy of the Direction. A copy of the Direction including its associated maps to which it applies should also be placed on the Council's website
 - A period of at least 21 days will need to be specified in the Direction, stating the date on which that period begins and within which any representations concerning the Direction may be made to the Local Planning Authority. Any representations received must be duly considered by the Council before a decision is made whether or not to confirm the Direction.
 - The Article 4 must be Confirmed within 6 months, or it will lapse, and a second notification made to the Secretary of State at the time of Confirmation
 - The Secretary of State has the power to pause or stop the Article 4 at any time.
- 6.6 The above process was followed and exceeded with a wider number of individuals and bodies notified and consulted than was required under the statutory process. The actual consultation took place over ten weeks as opposed to six.

7 EVIDENCE FOR AN IMMEDIATE ARTICLE 4 DIRECTION

- 7.1 It is necessary to produce robust evidence in support of the introduction of an Article 4 Direction. It is also necessary to limit the Article 4 Direction to the smallest geographical area possible as opposed to following a blanket approach across the borough.
- 7.2 Failure to do this can lead to intervention by the Secretary of State who has the power to request that the Council either pause or stop the Article 4 Direction. The Secretary of State is notified at two points in the process – at the initial stage of introducing the Article 4 Direction and at the Confirmation stage.
- 7.3 A response was received from the Secretary of State on 23rd December 2022. It stated that “...We are grateful to the council for the material already provided to support its decision to make this Direction. We or the policy team will be in contact if we require any additional evidence to assist with our assessment of the Article 4 direction and will inform you in writing of the Secretary of State’s decision in due course. Please do not assume that the Article 4 Direction has met the policy tests until you are notified by the Department.”
- 7.4 The National Planning Policy Framework advises that all Article 4 Directions should be applied in a measured and targeted way. They should be based on robust evidence and apply to the smallest geographical area possible.
- 7.5 It further states, that other than for those where it relates to a change from non-residential use to residential use, Article 4 Directions should be limited to situations where it is necessary to protect local amenity or the well-being of the area.
- 7.6 This is further explained in Government Planning Guidance which states that the potential harm that the Article 4 Direction is intended to address will need to be clearly identified, and there will need to be a particularly strong justification for the withdrawal of permitted development rights relating to a wide area (e.g. those covering a large proportion of or the entire area of a local planning authority, national park or area of outstanding national beauty).
- 7.7 For an Immediate Article 4 Direction, additional evidence is required in that the circumstances in which an immediate direction can restrict development are limited. Immediate directions can be where the development presents an immediate threat to local amenity or prejudices the proper planning of an area.
- 7.8 Merton has used data from a number of sources to inform its decision on whether a non-immediate or immediate Article 4 should be introduced, as well as to determine the geographic area – in effect wards – that should be selected.

- 7.9 To ensure that the Council has robust data as required by the National Planning Policy Framework, the Council has analysed its existing planning and licensing records on the PRS and specifically HMOs including anti-social behaviour complaints and other complaints made to the Council. The Council's Housing Needs team procured a data management company, Metastreet, to provide information on the private rented sector in Merton. The analysis uses data on council tax records, turnover of council tax names, complaints received by the Council on Anti-Social Behaviour, levels of serious hazards, particularly the most serious hazards, receipt of benefits and other statistics and overlays the data to predict the likely numbers and locations of HMOs and whether there is a link between HMOs and immediate threats to local amenity and the proper planning of any areas in Merton.
- 7.10 As the data demonstrates, HMOs are accessible to many of Merton's residents who are in receipt of housing benefit and who cannot afford to access other forms of private rent. The data demonstrates that this is more prevalent in the east of the borough, which is less affluent than western wards.
- 7.11 Although this is extensive data analysis, it is far less likely to pick up shared houses and flats (HMOs) where tenants have no anti-social behaviour complaints, don't have Category 1 hazard records against the property, are in a stable tenancy, and are not in receipt of benefits.
- 7.12 This helps to identify the poorest performing HMOs but not all HMOs; for example, people renting property on a long-term tenancy that aren't in receipt of housing benefit or don't have anti-social behaviour will not be identified by this data.
- 7.13 The data tells us that Graveney, Longthornton, Pollards Hill, Figge's Marsh, Cricket Green, and Colliers Wood wards are likely to have more HMOs that are causing harm to the wellbeing of the area and are an immediate threat to local amenity. This is detailed in the Metastreet report (available on the webpage www.merton.gov.uk/prsconsultation) and is based on the extensive analysis they carried out. Some of the relevant maps/charts illustrating this are shown below.
- 7.14 While Lavender Fields ward is ninth in the list of wards with the poorest performing HMOs, it is included in the Immediate Article 4 Direction as it is surrounded to the north, east and south by wards with the worst performing HMOs (with the western side bordering a non-residential area. It is the sixth highest ward for numbers of complaints the Council receives on the private rented sector, and numbers of reports of anti-social behaviour, and it is characterised by housing stock that is typically used as Houses in Multiple Occupation. The Council considers that this provides robust evidence to require an Article 4 Direction to protect local amenity and the wellbeing of the area.

Figure 1 – map of predicted geographic location of the worst performing HMOs by ward (source: [Metastreet](#); same data as Figure 2 graph)

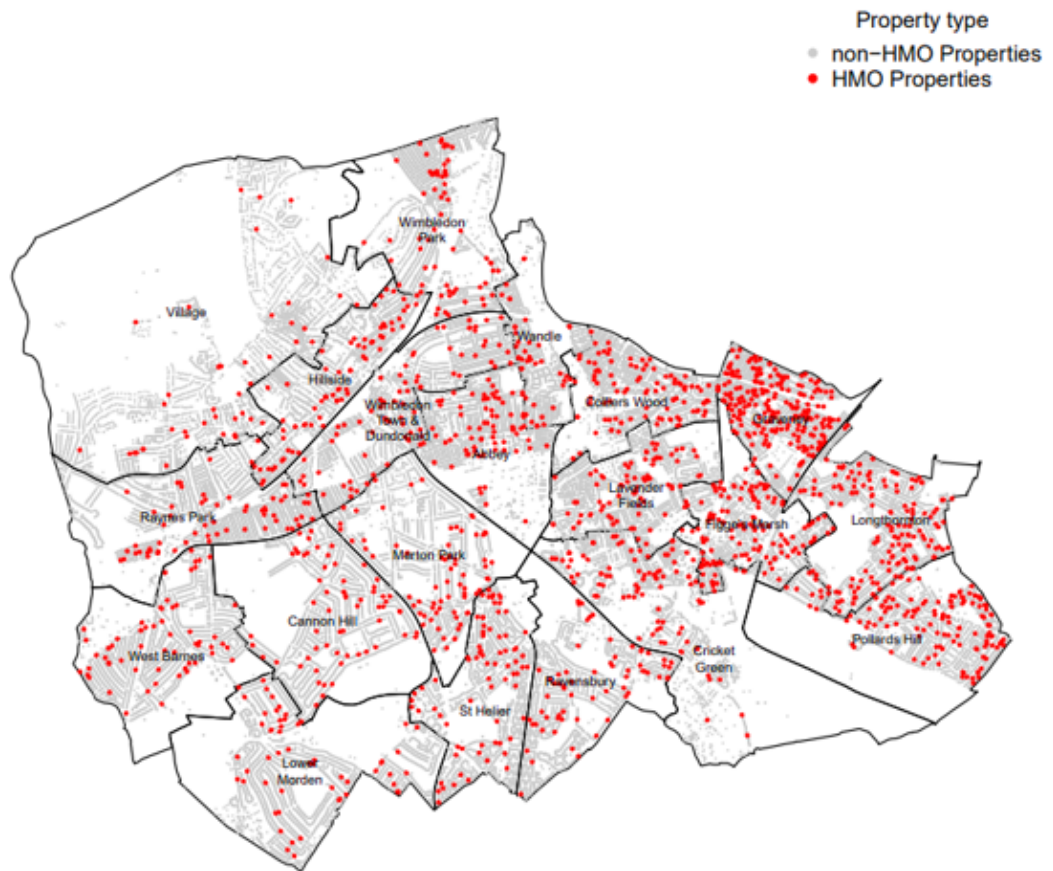


Figure 2: graph of predicted geographic location of the worst performing HMOs by ward (source: Metastreet; same data as Figure 1 graph)

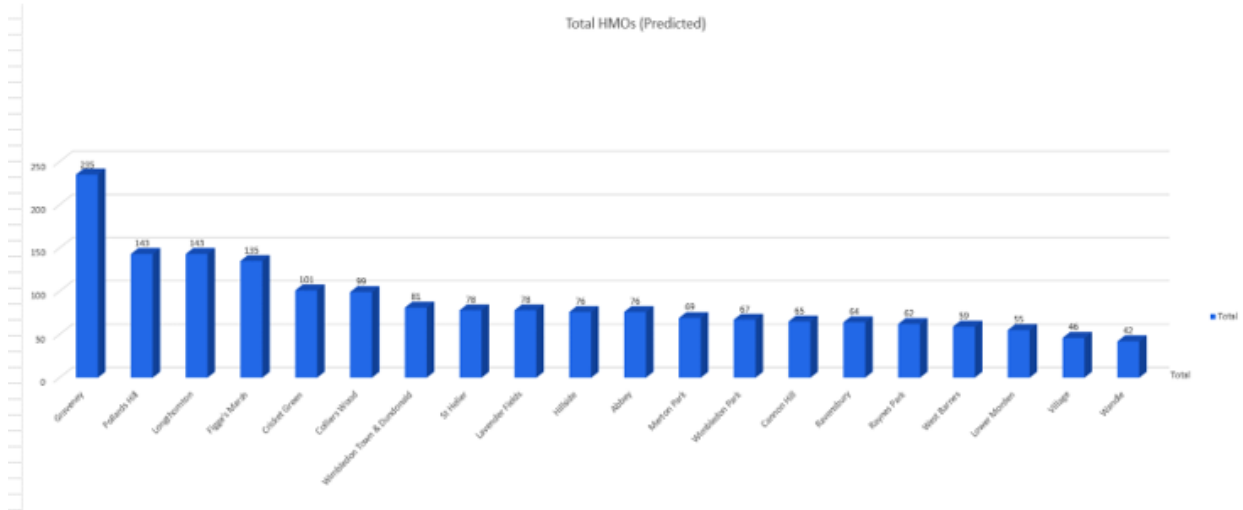


Figure 3: total number of complaints received by the council relating to the private rented sector and on anti-social behaviour

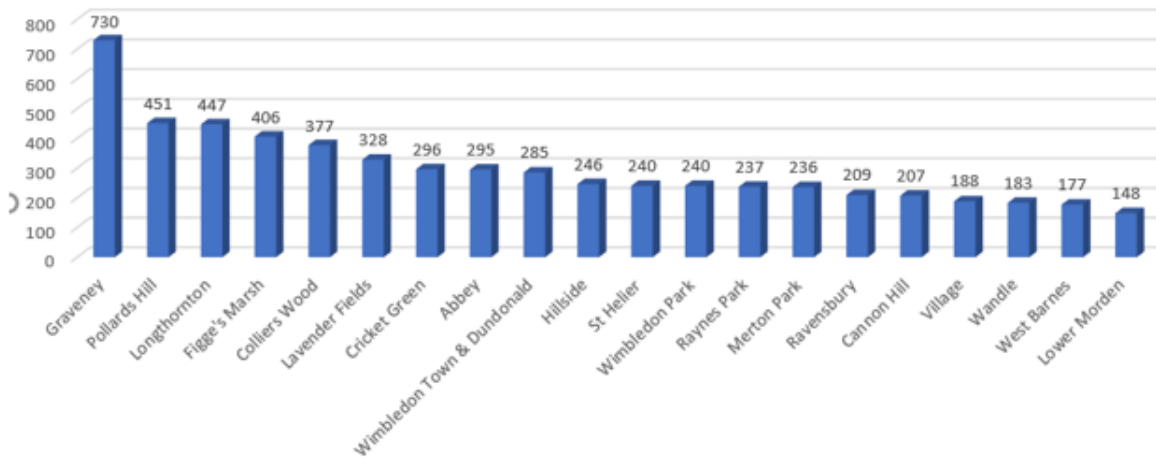
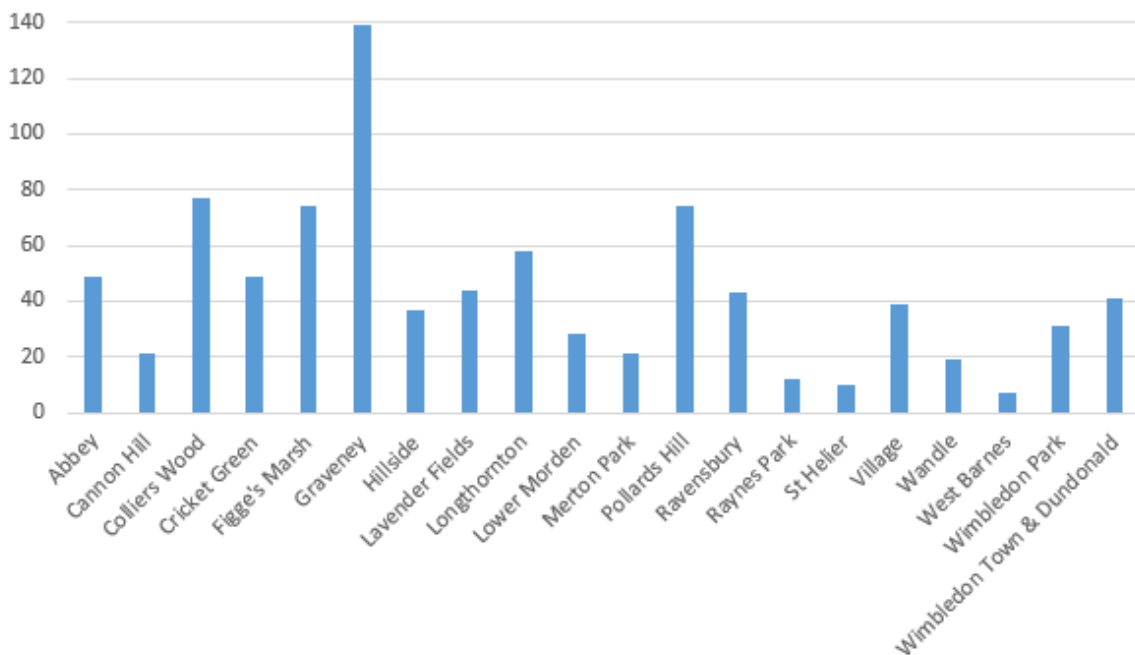


Figure 4: ASB linked to HMOs. Graveney (139) has the highest recorded ASB incidents linked to HMOs



- 7.15 In addition to the extensive Metastreet data, consideration was given to the frequent complaints being received by several different service areas, including Environmental Health and Planning Enforcement amongst others. Numerous complaints were being received in the year preceding the introduction of the Immediate Article 4 Direction, from MPs; Councillors; and residents, on a regular basis.
- 7.16 Many of these outlined the harm being caused to local areas and the wellbeing of residents through the many small and badly managed HMOs which were springing up and not being controlled due to being allowed under Permitted Development Rights and in many cases being either too small to be covered by mandatory licensing or avoiding licensing.
- 7.17 Whilst many issues such as anti-social behaviour and fly-tipping can be dealt with once they have occurred by services and controls such as Environmental Health, it was felt that it was imperative to tackle the problems at source, proactively rather than reactively. Requiring small HMOs to apply for Planning Consent ensures that consideration is given at the time of development to adequate waste facilities; outside amenity space; appropriate internal layout and design; consideration of parking impacts; and proposed external changes which may be out of keeping with the neighbourhood.
- 7.18 It was agreed that due to the immediate threat posed to the amenity of the area by the many instances of complaints being reported relating to HMOs without planning permission, an Immediate Article 4 Direction was the only option for the Council to prevent further threats to local amenity not only to the areas selected but to local residents, many of whom were distraught by the issues, as well as to protect the wellbeing of tenants who were at risk due to inadequate facilities.

8 IMPACT UPON HOUSING NUMBERS

- 8.1 HMO's are undoubtedly an important source of housing within London as a whole and specifically within Merton. This is recognised in the London Plan 2021 and Merton's own Local Plan.
- 8.2 HMO's provide housing for some of the most vulnerable in our society and flexible accommodation for many people who need to change home due to education requirements; work; family break-ups; or other personal circumstances.
- 8.3 Undoubtedly, HMO's provide a valuable contribution to Merton's overall housing capacity. However, it is really important to ensure that the quality of HMO's is adequate to meet the needs of tenants, without affecting their health and safety and also, that badly managed HMO's, or HMO's that are badly designed with inadequate facilities, do not lead to unacceptable impacts upon the amenity of areas and the wellbeing of residents.
- 8.4 For this reason, where Merton has identified that there is harm being caused to both residents and tenants by poorly designed and managed HMO's, the Council has brought in an Immediate Article 4 Direction – as well as considering proposals to extend mandatory licensing to smaller HMO's in the form of Additional Licensing.
- 8.5 There are concerns from landlords and from the NRLA that the introduction of the Article 4 Direction will result in a reduction or stagnation in housing numbers. However, there is no evidence that this is the case. Additionally, it should be noted that the Article 4 Direction cannot be applied retrospectively so will not affect small HMOs already in operation, although evidence such as a tenancy agreement will need to be provided, if the landlord has not already obtained a Lawful Development Certificate. The additional cost of applying for planning is also relatively low when compared to the potential rental income – for instance, Merton has above average rents for London, with 45.9% of median earnings used to pay rent (source TFL 2020). Therefore it is unlikely to result in a significant number of landlords choosing not to enter the HMO market.
- 8.6 The introduction of an Article 4 Direction will not mean that it is impossible to convert a single-family dwellinghouse into a small HMO. It will mean, however, that the Council will be able to manage the impact of such conversions and will be able to ensure that they are of an appropriate standard and that they do not give rise to a harmful impact on amenity or wellbeing of the area.
- 8.7 It is considered that, combined with the Council's proposed additional licensing scheme which aims to improve housing conditions and standards of management in the private rented sector and to reduce ASB associated with poorly managed HMO's, the Article 4 Direction will be an effective measure to ensure an increase in the standards of HMOs in the borough and to manage their impacts on wider amenity.

9 RISK OF COMPENSATION CLAIMS

9.1 As stated in the October Cabinet report, whilst a non-immediate Article 4 Direction, gives 12 months' notice of its introduction, an Immediate Article 4 Direction leaves the Council open to the risk of compensation claims.

9.2 A property owner who wishes to change the use of a property from a C3 dwelling to an HMO following the introduction of the Immediate Article 4 Direction and loss of permitted development (PD) rights becomes eligible to claim compensation from the Council provided:

- They submit a planning application within 12 months of the commencement of the Immediate Article 4 Direction; and;
- Either Planning Consent is refused; or;
- Planning Conditions are applied to the approval that would reduce the value of the development.

9.3 In this instance, the cut-off date for submitting a valid planning application is 16th November 2023 – although the refusal can be at any time after this.

9.4 The measure of compensation in a compensation claim follows the rules for compulsory purchase compensation in Section 5 of the Land Compensation Act 1961 and is essentially the difference in the value of the subject property with and without the right to change to an HMO.

9.5 Claims could include such matters as:

- Expenditure in carrying out work which has been rendered abortive. It should be noted that this work should have been undertaken prior to the introduction of the Immediate Article 4
- Loss/damage attributable to removal of Permitted Development (PD) rights i.e., difference between price paid for building with existing use compared with open market value of building with prior approval
- Reduction in profit in carrying out 'lesser' development where permission refused
- Cost of complying with Conditions

9.6 Claims would be made to the Council and if not agreed, would be determined by the Upper Tribunal of the Land Chamber

9.7 In the October Cabinet report, whilst it stated that it was not possible to quantify the cost of compensation claims, 2 statements were made:

- the typical cost of converting a family home to a small (6 bed and under) HMO could be between £10,000 to £30,000
- It has not been possible to identify the difference in value between a small 6 person HMO as opposed to a family home. London property agents have advised that there may well be no difference in value due to a potentially reduced market for an HMO; how well a property has been converted; whether the buyer would need to convert it back to a family home etc. Having said this, as rents are increasing in London, it could be that some purchasers would be willing to pay more for a property with good rental yield.

- 9.8 At the Landlords' Forums, there was criticism of both statements. In particular, the Forums were attended by several larger developers/landlords who develop many HMOs and who are at the upper end of the market as opposed to the many one-off, smaller, landlords. These bigger developers produce schemes which not only meet, but in many cases, far exceed the minimum standards required for an HMO with en-suite bedrooms; extensions; high quality renovations and furnishings.
- 9.9 Such conversions could cost between £100,000 to £300,000 (using their stated costs) so far above the £10,000 to £30,000 quoted. However, these are not typical small HMO conversions, they are at the top end of the market and aiming to attract high rents from professionals. Due to the nature and cost of these conversions any difference in sales value between an HMO and a family home, could also be significantly different.
- 9.10 It is very important to note that whilst the amounts spent on these conversions and property values could run into hundreds of thousands of pounds, the standards required of an HMO are not only met but exceeded, so in general there should be no reason for planning consent to be refused, or Planning Conditions applied that reduce the value, and therefore, no compensation claim could be submitted. An exception to this might be if parking restrictions are Conditioned.
- 9.11 It needs to be born in mind that the amount of compensation, if any, that might be recovered is dependent on the circumstances of a particular property. For example a house that is less suitable for a family, e.g. because of location, lack of amenity space or the number of floors might have a higher value as an HMO compared with a C3 use. Equally, the converse might be true.
- 9.12 Following a Legal Challenge to the Immediate Article 4 Direction, advice from an external Barrister been sought on a number of issues including whether the correct process has been followed, and what could be considered under a compensation claim.
- 9.13 The advice received confirmed that the Council had followed the correct procedure for implementing and consulting on the Immediate Article 4 Direction.
- 9.14 The advice further confirmed what could be claimed for should a compensation claim be submitted, and that these would have to be assessed on a claim-by-claim basis.

10 ASSESSING PLANNING APPLICATIONS CAUGHT BY THE ARTICLE 4

- 10.1 It is very important to note that:
- Small HMOs that were already operating or ready for occupation prior to the introduction of the Immediate Article 4 on 17th November 2022 are not affected – although evidence of being completed will be required.

- Compensation Claims are only applicable to planning applications submitted within 12 months of the start of the Immediate Article 4 Direction, so by 16th November 2023, which have subsequently either been refused or had Planning Conditions applied that reduces the value of a development.
- 10.2 A planning application is either dealt with by an officer under Delegated Authority or called into Planning Application Committee (PAC) by a Member, or referred to PAC due to the number of objections received. As well as policies in the Council's Local Plan and the London Plan 2021, there are very clear standards against which HMOs are assessed by planning officers which consider such issues as Licensing space standards; design/layout; amenity space; waste provision; parking. They also seek the view of relevant officers in other teams such as the HMO Officer; Waste Officer; and Parking Officer.
- 10.3 A number of these are set out in a Housing document called HMO's – Requirements which is available on Merton's website: [Microsoft Word - HMO Requirements \(July 2021\) \(merton.gov.uk\)](https://www.merton.gov.uk/microsoft-word-hmo-requirements-july-2021)
- 10.4 The Council's [new Local Plan](#) is being examined by independent planning inspectors who have undertaken two public enquiries in 2022 and have stated that their final report is likely in spring 2023.
- 10.5 The Planning Policy Team is drafting a supplementary planning document (SPD) to provide planning guidance on assessing future planning applications for HMOs across the whole borough, to supplement the existing planning policies that already apply to HMOs in Merton. Topics that will be covered will include space standards, travel and parking, noise, bins and bike storage, and other local amenity issues. The SPD will also signpost to the Council's licensing regime for HMOs and clarify what is dealt with under planning rules and what is considered under licensing to ensure that applicants, decision-makers, tenants, landlords and neighbours are clear how the Council is promoting higher standards in the private rented sector.
- 10.6 All councils are required to carry out at least six weeks' public consultation on Supplementary Planning Documents. Recommendation E (for Cabinet) of this report proposes delegating approval to start the public consultation to the Executive Director of Housing and Sustainable Development in consultation with the Cabinet Member for Housing and Sustainable Development to accelerate the timetable for starting the consultation on the SPD, once drafted.
- 10.7 The SPD will be drafted based on the new policies in the Council's emerging Local Plan as these contain more up-to-date policies on design, pollution, travel and parking and other amenity issues that are relevant to guide HMOs. Developing the HMO guidance base on the newest planning policies will also prevent the SPD being out of date as soon as the new Local Plan is adopted.
- 10.8 The timetable for producing the new SPD will be confirmed with the Cabinet Member and is likely to be published for consultation in Spring 2023, linked to the Council's Local Plan.

- 10.9 Planning Applications Committee (PAC) Members have received a briefing session on the introduction of the Immediate Article 4 Direction and the assessment of HMO applications to ensure that they are fully up to date on issues that are relevant when considering planning applications for HMOs.
- 10.10 Consideration is also being given to a PAC site visit to an example of a high standard HMO with the developer providing information on how house shares of today are:
- Purchased
 - Converted
 - Run
 - Professionally and compliantly managed

11. CONSULTATION RESULTS FOR ARTICLE 4 DIRECTION

11.1 Results from the Forums

As stated in Section 3, three Landlord Forums (one purely on Article 4) and one Stakeholder Forum were held, both virtually and in person, during both the day and evening to maximise attendance. Overall, landlords who attended the events and expressed views, were cautious of the Council's Immediate Article 4 Direction. They mostly questioned its immediacy and the impact that it could have on landlords/developers already in the process of converting properties into small HMOs. The potential to reduce antisocial behaviour and availability of affordable housing was also questioned, amongst other issues.

11.2 Some key themes were noticeable, including:

(Note: a full summary provided by ORS is attached as **Appendix D**)

- **Evidence used for the Immediate Article 4 Direction**

Was there adequate evidence to justify it and how did this compare across other London Boroughs

- **Ability to reduce issues**

Are planning controls the right method to reduce ASB and couldn't licensing tackle problems more effectively

- **Potential impact on availability of HMOs and affordable housing**

Some seemed to feel affordable housing could be impacted and in any case the amount of HMO accommodation would be reduced

- **Immediacy of the Article 4 Direction and potential for planning decisions to be delayed or denied**

Considerable concern over this point from landlords who were already in the process of developing properties and were concerned about the cost of delays and whether they would even be granted planning permission

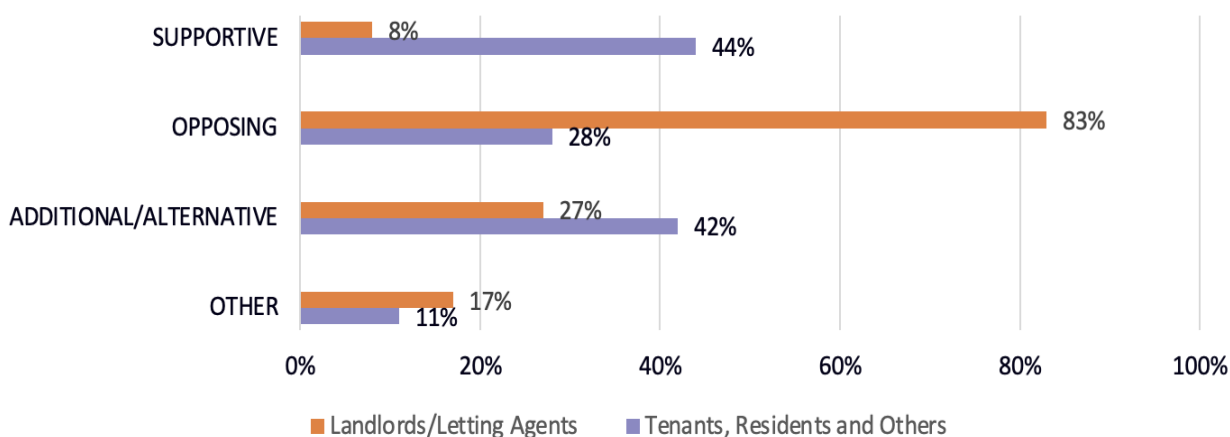
11.3 Article 4 Representations Direct to the Council

As well as responding to the questionnaire or attending a Forum, there was the opportunity to make a direct representation to the Local Planning Authority (the Council) by emailing Future Merton.

- 11.4 In total 15 different individuals or organisations made direct representations to the Council, including 9 landlords, a for-profit housing association operating in the borough, a legal representative, an MP, and one other who did not categorise themselves.
- 11.5 The full responses received are available (without personal information) on our webpage: www.merton.gov.uk/prsconsultation.
- 11.6 2 respondents were supportive of the initiative, with one respondent stating it should be extended to other parts of the borough.
- 11.7 In addition to the written responses, several phone calls were received by the Future Merton and Development Management teams. Those who called in were asked to also submit their representations in writing.
- 11.8 All telephone representations were calling to object to the proposals, particularly the immediate introduction of the Article 4 Direction. A summary is provided below:
- Most related circumstances where they have purchased an existing shared house in poor condition
 - Their objections are that if they'd known about the Article 4 Direction in advance, they'd either have already applied for planning permission or considered their investment differently.
 - Frustration around the lack of notice. Callers say they'd never have bothered improving the property had they known; they'd have carried on renting it in the original condition.
- 11.9 **Responses to Questionnaire**
As stated in Section 3 – Consultation Overview – a total of 487 questionnaires were received. These were categorised into different types of respondents, with some classing themselves as in more than one category – for instance a landlord could also be an owner occupier. ORS analysed the results based on the key category an individual identified with.
- 11.10 The 2 major groups – Landlords/Letting agents and Residents/Tenants made up the vast majority of respondents with these being quite similar in number. For instance, there were 215 Landlords/Letting Agents and 251 Residents/Tenants.
- 11.11 ORS were able to gather some information on the number of properties a landlord held. Whilst this information was only available for around half of landlords responding, results indicate that levels of disagreement with the Article 4 increase for landlords/letting agents with 2+ properties: 62% disagree with the general introduction, 66% disagree with the introduction in those seven wards.

11.12 There was a specific open-ended question: **‘If you have any comments about the proposed policy to require planning permission to convert a single property into an HMO (Article 4 Direction) in some parts of Merton, or the areas that it should cover, please explain in the space below’**. The responses have been summarised in chart form. Fig 1 shows the proportions making comments split by high level theme (support, oppose etc) and Figs 2 to 5 indicate the proportions making detailed points within each of the overall themes. Not all respondents provided detailed comments, as can be seen from the limited base sizes shown.

Figure 1: High level summary



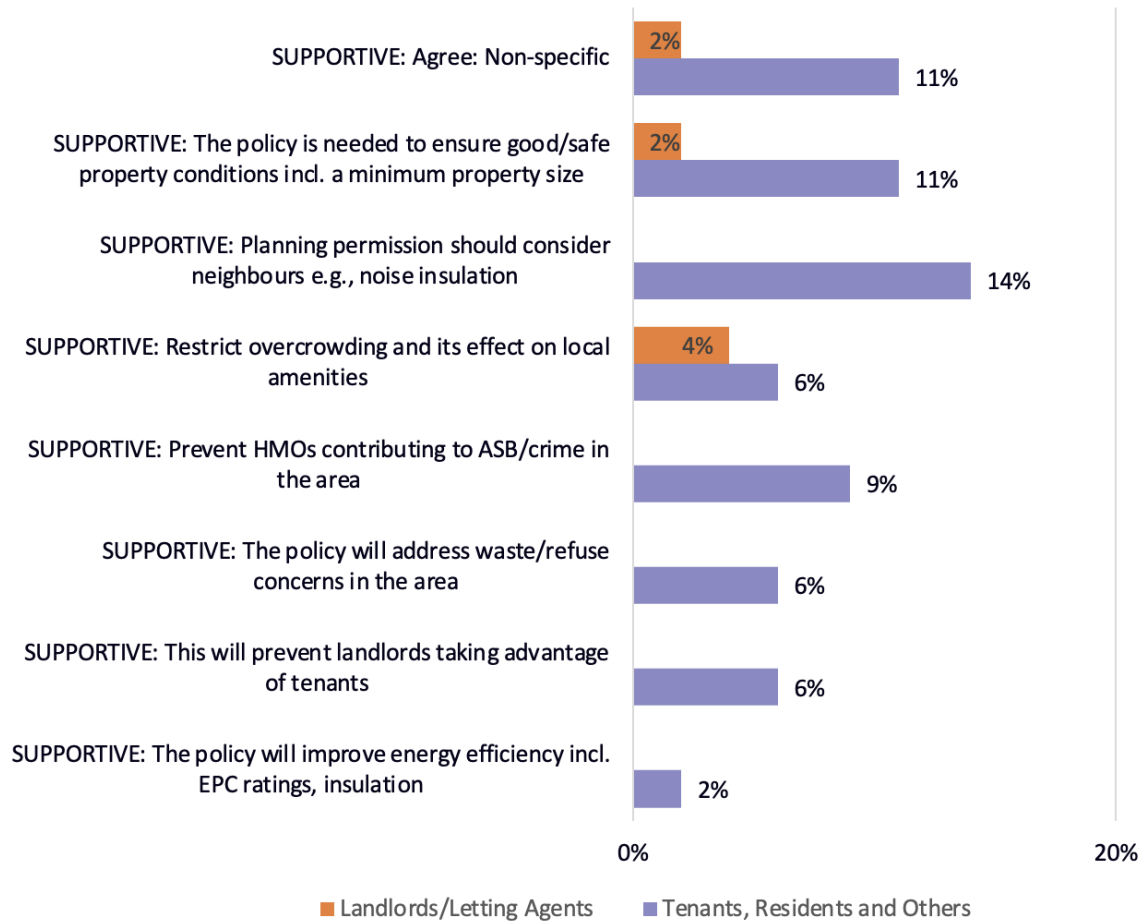
Base: Landlords/Letting agents (52 respondents, 70 comments), Tenants, Residents etc (64 respondents, 80 comments)

11.13 83% of landlords/letting agents providing a comment said something in their response which opposed the Immediate Article 4 Direction with only 8% saying something in support. Tenants/Residents/Others were more likely to say something in support with over 44% doing so.

11.14 Tenants/Residents/Others were more likely to mention an additional/alternative proposal with 42% who provided a comment mentioning one in their response. This compares with 27% of Landlords/Letting Agents mentioning an additional/alternative proposal.

11.15 There were only 3 responses from organisations to this question, with an even split of supportive/opposing comments and additional/alternative proposals provided.

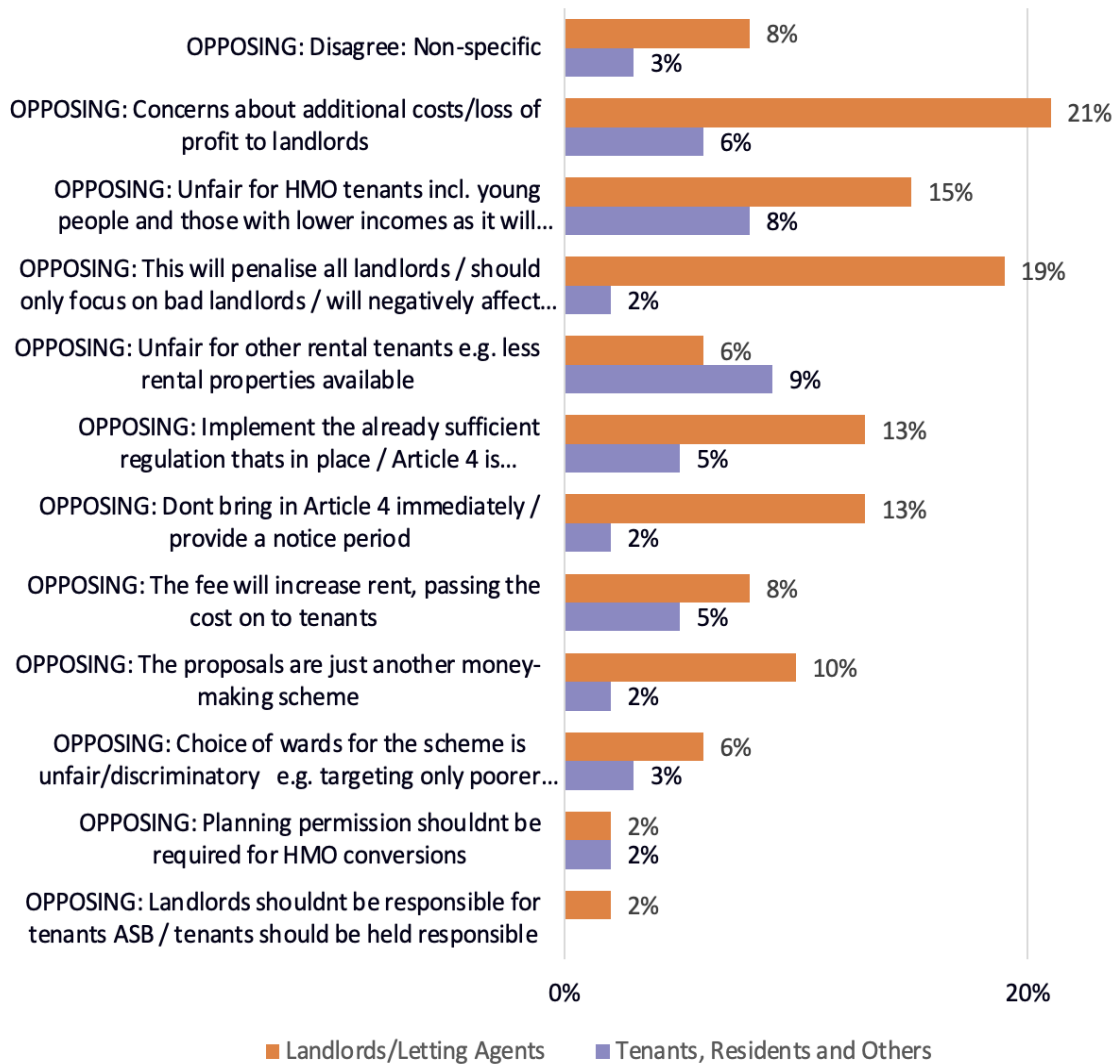
Figure 2: Supportive responses



Base: Landlords/Letting agents (52 respondents), Tenants, Residents and others (64 respondents)

- 11.16 14% of Tenants/Residents/Others providing a comment thought the planning permission should consider neighbours e.g. noise insulation, with a slightly smaller proportion (11%) saying the policy is needed to ensure good/safe property conditions including a minimum property size.
- 11.17 4% of Landlords/Letting Agents who gave a response said it would restrict overcrowding and its effect on local amenities.

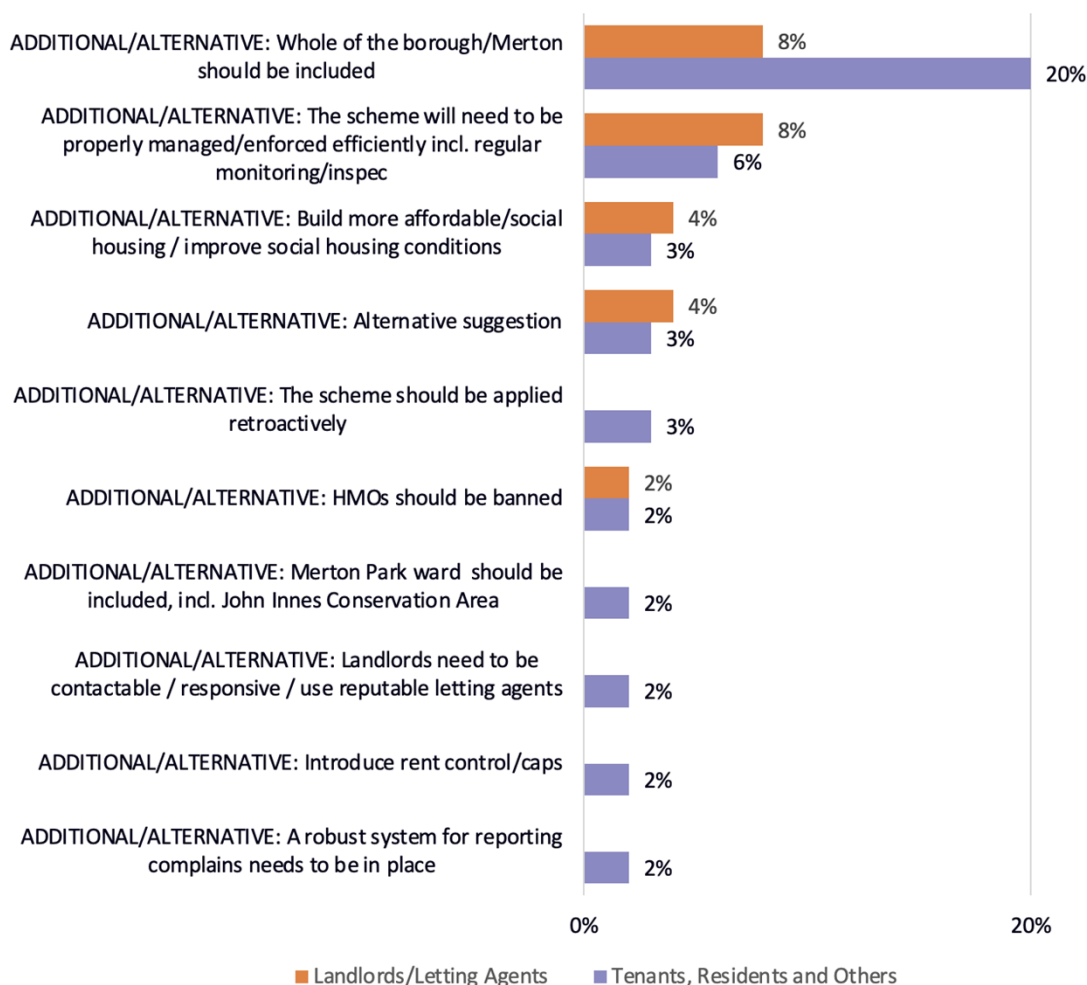
Figure 3: Opposing responses



Base: Landlords/Letting agents (52 respondents), Tenants, Residents and others (64 respondents)

- 11.18 21% of Landlords/Letting Agents who gave a response had concerns about additional costs/loss of profit to landlords, with 19% saying it will penalise all landlords/should only focus on bad landlords/will negatively affect good landlords.
- 11.19 Just under a tenth of Tenants/Residents/Others who provided a comment thought it would be unfair for HMO tenants including young people and those with lower incomes, and also other rental tenants, as it will reduce the amount of available properties often sought out by these groups.

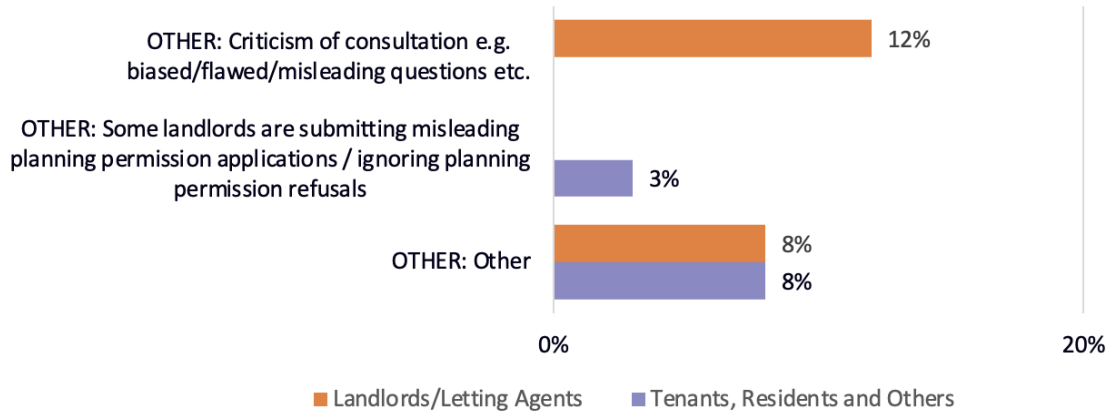
Figure 4: Additional/alternative responses



Base: Landlords/Letting agents (52 respondents), Tenants, Residents and others (64 respondents)

- 11.20 A fifth of Tenants/Residents/Others who gave a response suggested that the whole of the borough/Merton should be included and 6% highlighted the scheme will need to be properly managed and enforced efficiently.
- 11.21 8% of Landlords/Letting Agents providing a comment mentioned that the scheme will need to be properly managed and enforced efficiently with the same proportion suggesting the who whole of the borough/Merton should be included.

Figure 5: Other responses



Base: Landlords/Letting agents (52 respondents), Tenants, Residents and others (64 respondents)

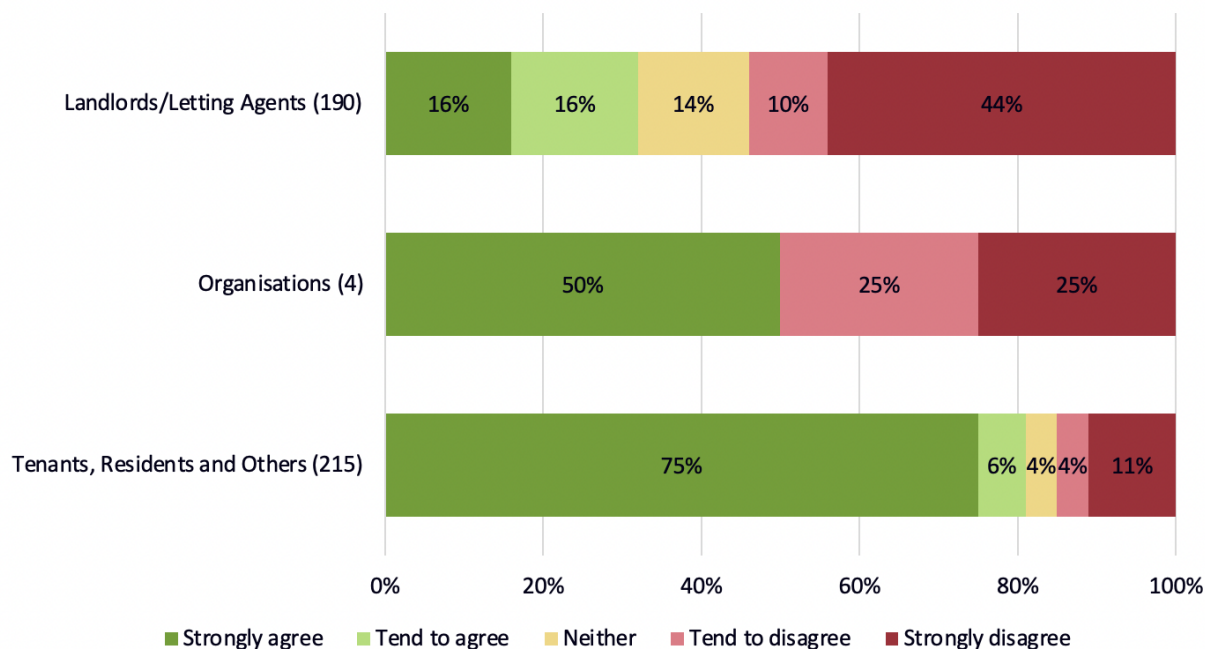
11.22 Fig 5 summaries the other type of comments provided not falling into any of the previous categories of response.

11.23 In addition to the expected concerns expressed by landlords around the immediate introduction of the Article 4 Direction, and the resulting risk to developers and potential compensation claims to the Council, the following points were made via the questionnaire:

- I understand that the Article 4 Direction relates only to the change from Class C3 (dwelling house) to Class C4 (small HMO), and not to changes from C4 to C3. If the latter was also contemplated, that would affect the flexibility with which landlords could use their premises and encourage / risk them leaving the sector.
- The rules outlined would treat the rental of a property to parents who are not married with a child from a previous relationship as an HMO (with only 3 people living in the house). Are un-married couples considered 1 or 2 households? When plans are submitted it may not be known who will be renting the property and the dynamics of the family.
- We think what the council should do is to introduce selective/additional licensing schemes to improve HMO standards then it's a win-win situation for the tenants and council. I am in favour of private landlord registration so that the tenants can check the properties meet all the standard on the website. The key thing is to help landlords increase rental property supplies and improve the standards. HMO article 4 works exactly the opposite.

11.24 The charts below (fig 6 to 9) represent the numerical responses to questions contained within the questionnaire. These are grouped by primary respondent.

Figure 6: Agreement with the proposal to introduce a policy requiring planning permission to convert a single home into a small HMO (Article 4 Direction), in some parts of Merton

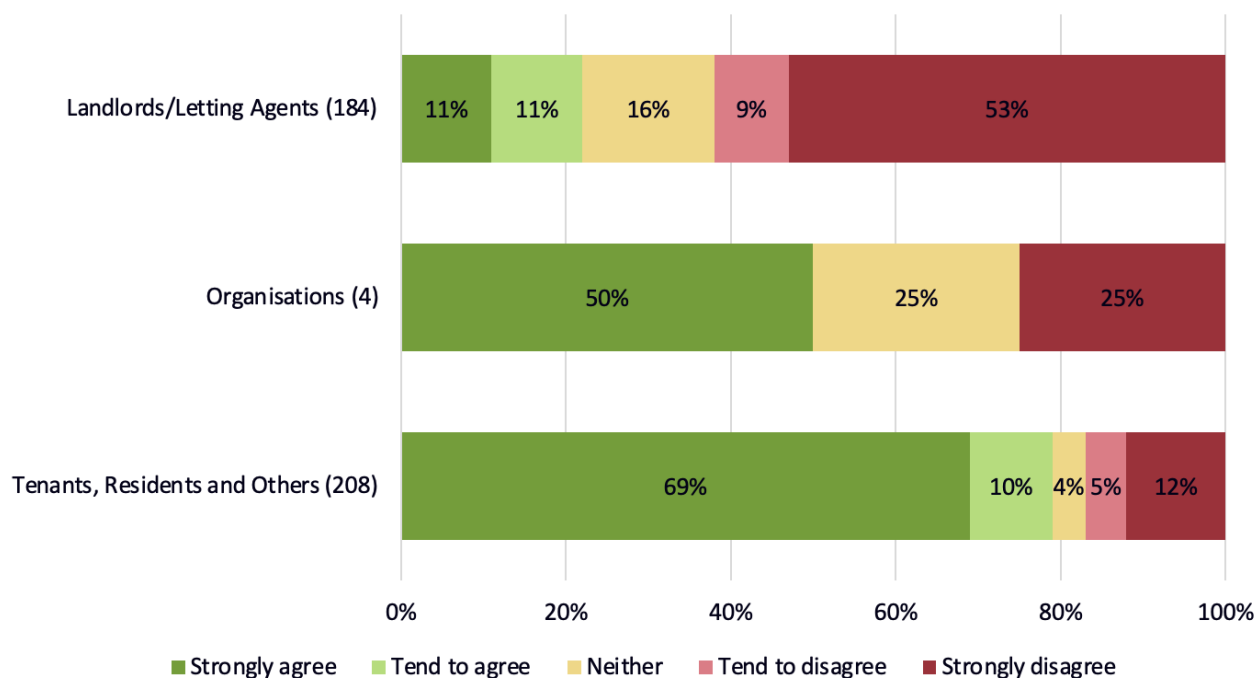


Base: Numbers in brackets show the number of respondents giving a valid answer within each sub-group

11.25 Almost a third (32%) of landlords/letting agents were in agreement with the proposal to introduce a policy requiring planning permission to convert a single home into a small HMO (Article 4 Direction) in some parts of Merton, but more than half (54%) disagreed. There was an even split in agreement and disagreement between organisations. It should be noted that the results for organisations are only based on 4 cases.

11.26 Tenants/residents/others, however, were far more supportive with 81% in agreement, and only 15% in disagreement.

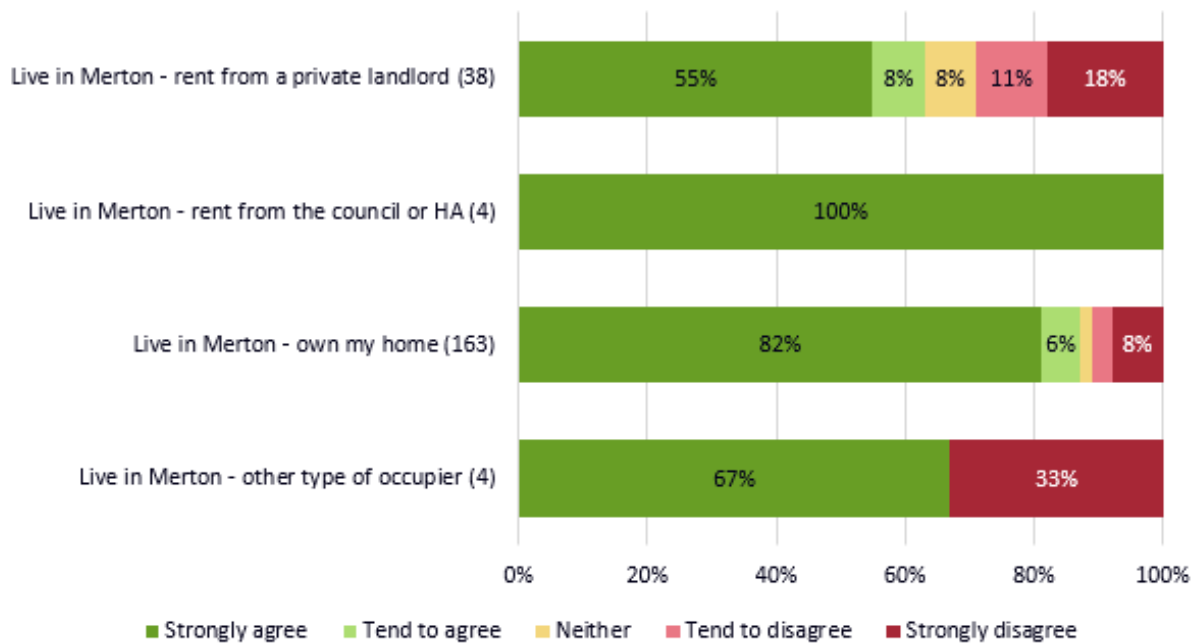
Figure 7: Agreement with the Council’s proposal to introduce this policy (Article 4 Direction) covering seven particular wards



Base: Numbers in brackets show the number of respondents giving a valid answer within each sub-group

11.27 Just over a fifth (22%) of landlords/letting agents were in agreement with the Council’s proposal to introduce this policy (Article 4 Direction) covering seven particular wards, but nearly two-thirds (63%) disagreed. Tenants/residents/others were far more supportive, with nearly four-fifths (79%) in agreement and only 17% in disagreement. It should be noted that the results for organisations are only based on 4 cases.

Figure 8: Agreement with the proposal to introduce a policy requiring planning permission to convert a single home into a small HMO (Article 4 Direction), in some parts of Merton (only respondents who live in Merton and are not landlords)

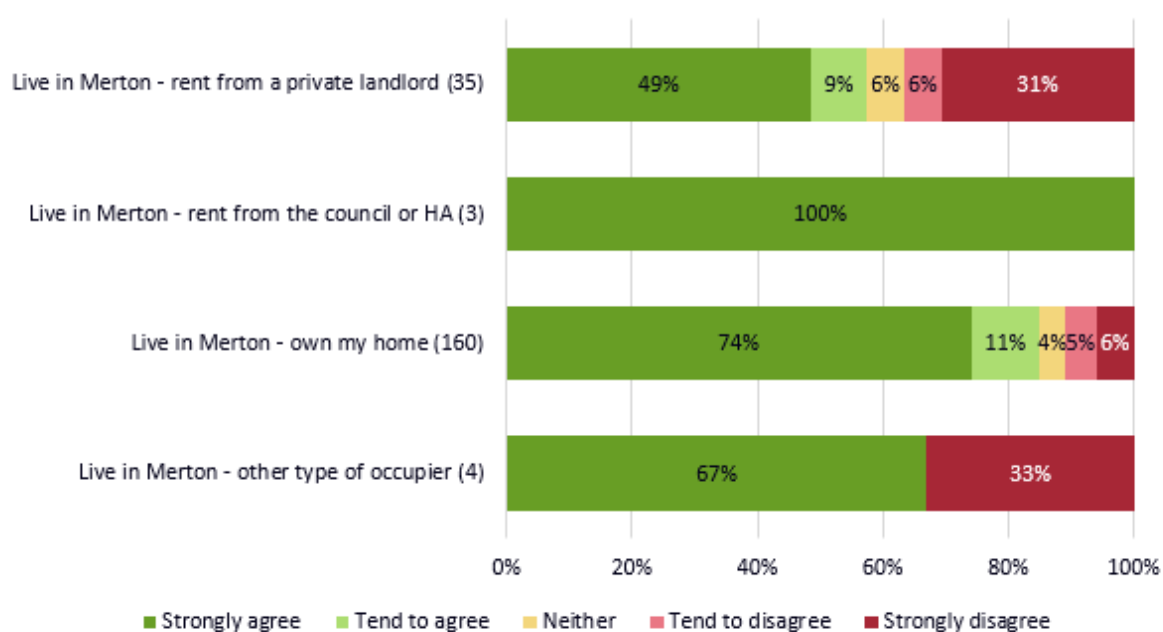


Base: Numbers in brackets show the number of respondents giving a valid answer within each sub-group

11.28 87% who live in Merton and own their home agreed with the proposal to introduce a policy requiring planning permission to convert a single home into a small HMO (Article 4 Direction), in some parts of Merton. In contrast, the proportion of those living in Merton and renting from a private landlord who agreed was somewhat lower at 63%

11.29 It should be noted that the results for those who live in Merton and rent their home from the Council or housing association or live in Merton as another type of occupier are both based only on 4 cases.

Figure 9: Agreement with the Council's proposal to introduce this policy (Article 4 Direction) covering seven particular wards (only respondents who live in Merton and are not landlords)



11.30 85% of those who live in Merton and own their home agreed with the proposal to introduce a policy requiring planning permission to convert a single home into a small HMO (Article 4 Direction), covering seven particular wards in Merton. In contrast, the proportion of those living in Merton and renting from a private landlord who agreed was somewhat smaller, although still more than half (57%).

11.31 It is worth noting that the results for those who live in Merton and rent their home from the council or housing association or live in Merton as another type of occupier are only based on 3 and 6 cases respectively.

Summary of Consultation Outcome

11.32 The results, from questionnaires; forums; and direct representations to the Local Planning Authority, clearly indicate that whilst there is considerable concern from landlords, there is overwhelming support from residents and tenants for the introduction of a policy requiring planning permission to convert a single home into a small HMO (Article 4 Direction) in some parts of Merton, with 87% of those who own their own home, and 63% of those renting from private landlords agreeing with the introduction.

11.33 Additionally, whilst a large number of landlords/letting agents (54%) disagreed with the introduction of a policy requiring planning permission to convert a single home into a small HMO (Article 4 Direction) in some parts of Merton, it is important to note that almost a third were in agreement with its introduction.

11.34 With regard to the specific 7 wards selected by the Council for the introduction of the Immediate Article 4 Direction, 79% of residents/tenants/others were in agreement with the Council's proposal

whilst tenants renting from a private landlord were somewhat lower at 57%. However, whilst 22% of landlords/letting agents responding to the questionnaire agreed with the Council's proposal to introduce the policy (Article 4 Direction) *in the seven particular wards*, nearly two-thirds (63%) disagreed.

- 11.35 When asked for comments about the proposed policy, or the areas that it should cover, one-fifth of tenants/residents/others providing a comment in the questionnaire suggested that the whole of the borough/Merton should be included and 14% thought the planning permission should consider neighbours, e.g. noise insulation.
- 11.36 Feedback concerning Article 4 indicated that landlords greatest concern related to the *immediacy* of the introduction, suggesting that a notice period should be provided to allow landlords to consider whether or not to go ahead with planned HMO conversions, and to avoid negatively affected landlords from making compensation claims against the Council. Many participants were broadly supportive of the introduction and aims of the Article 4; but felt that the introduction of an immediate directive was unfair, and that its introduction was insufficiently publicised at the time.
- 11.37 There was some concern that the guidance for HMO conversion under the Article 4 is not clear enough, creating risk and therefore stress for those wanting to convert their properties, along with the fear that planning permission would not be granted even if the stipulations of the guidance were exceeded. Related to this sentiment was the notion expressed that 'It's just more loopholes to jump through' and that the process is 'already a headache'.
- 11.38 The length of time required to get planning permission was a further concern, particularly in the case of those needing to utilise bridging finance. It was expressed that there were insufficient resources in the Council to deal with the resultant increase in applications in a timely fashion.
- 11.39 Several participants expressed the view that the Article 4 would lead to a reduction in new units of the only form of housing many residents can afford becoming available (evidence was cited that currently demand for HMOs significantly outstrips supply), and that this would be to Merton's detriment. Furthermore, there was concern that this will lead to the rents of existing HMOs increasing as supply reduces and planning costs are added to mortgages.
- 11.40 Some participants felt that the introduction of the directive was indicative of a generalised "anti-HMO" sentiment amongst members, and that that high quality HMOs were being assumed to be of detriment to the area by default simply by virtue of being a HMO, whilst conceding that there are issues with low quality HMOs.
- 11.41 The NRLA suggested that the immediate article 4 direction would lead to stagnation within the HMO sector in Merton, increasing rents and decreasing the availability of affordable housing. Public Health Merton, on the other hand, argued that the article 4 direction would likely be effective in

preventing illegal development or overdevelopment of rented properties whilst only having minimal impact on housing affordability.

- 11.42 Other comments were around using the licensing scheme and environmental health enforcement as a more appropriate mechanism for dealing with issues, rather than the planning system.
- 11.43 Additionally, some landlords felt that the true costs of compensation claims could run into hundreds of thousands of pounds and that this had been misrepresented in the Cabinet report in October 2022.
- 11.44 It was also felt that there was insufficient evidence to introduce an Immediate Article 4 Direction.

12. RESPONSE TO COMMENTS/REPRESENTATIONS RECEIVED

- 12.1 All of the comments and representations received, either direct to the Council or via ORS, have been carefully considered and analysed. Responses to the key themes are detailed below.
- 12.2 Whilst a number of landlords complained about the lack of consultation over the introduction of the Immediate Article 4 Direction (not the immediacy but being made aware at all), it is quite clear that the consultation went well over and above what was required under the legal framework with regard to contacting affected bodies and individuals.
- 12.3 As stated earlier in the report, a comprehensive consultation exercise was undertaken with regard to the introduction of the Immediate Article 4 Direction.
- 12.4 Commencing with the public Cabinet report in October, 2022, which approved the Immediate Article 4 Direction in 7 wards; the questionnaire launch on the 14th November, 2022 was followed by on 17th November – the date the Immediate Article 4 Direction came into effect - the Article 4 Direction and Notice being posted on our consultation webpage; notification to the Secretary of State; notification to statutory bodies; posting of Notices on lampposts; and publication in the press.
- 12.5 The consultation period for return of questionnaires and comments to the Local Planning Authority was open for 10 weeks as opposed to the 6 weeks required under the statutory framework. Additionally, during this time, 2 public landlord forums were held, as well as an additional landlord forum purely on the Article 4 Direction at the request of some landlords. There was also a stakeholder forum. These were held both virtually and in person, during the day and the evening, to give as many landlords and property agents as possible, the opportunity to attend.
- 12.6 Additionally, further publicity on both the proposed Landlord Licensing and the Immediate Article 4 Direction took place as follows:

During November

- Press releases from the Council's Communications Team
- Article in the printed Council newsletter for Nov 2022 distributed to households across the borough
- Email sent to statutory undertakers and those who have registered to be updated with changes to planning regulations/ policy in Merton (Approximately 1600+ individuals and organisations).
- Associations directly contacted by the Council's retained consultation agency, Opinion Research Services (ORS) included: NRLA, LLAS , Propertymark , The BLA, The Guild of Residential Landlords, SafeAgent, London Property Licensing, UKALA (UK Association of Lettings Agents) and RICS (Royal Institution of Chartered Surveyors)
- Letters sent to HMO licence Holders via post (royal mail first class). (Approx. 370 Landlords).
- Contacted Leaders & Chief Executives of the following Local Authorities; Wandsworth & Richmond upon Thames, Croydon, Sutton, Kingston and Lambeth to assist in raising awareness.
- MPs and Ward Councillors notified

During December

- Email to London Landlord Accreditation Scheme (LLAS). LLAS confirmed they sent the notice of the consultation to approx. 1100 Landlords.
- Email to London Property Licensing informing them of the consultation.
- Email sent to Public Health, Fire brigade, Police service inviting them to a stakeholder engagement meeting.
- Email sent to Local Landlords who are in receipt of housing Benefit informing them of the consultation
- Consultation and forums details passed to the attendees of the regular Merton landlord forum.

During January

- Reminder email sent to statutory undertakers and those who have registered to be updated with changes to planning regulations/ policy in Merton (approx. 1600 individuals and organisations)
- Reminder email sent to Landlords in receipt of Housing Benefit
- Consultation and forums details passed to the attendees of the regular Merton landlord forum.

12.7 The planning process is a concern for a number of respondents with the time taken; adequate staffing; member bias; and cost being cited by many. However, to enable the improvements required in certain wards, and to tackle the many issues identified pro-actively rather than reactively (see Paras 7.15 to 7.17) it was felt that it was necessary to require planning consent for small HMO's in the 7 wards most seriously affected. It is accepted that it will be more time consuming and expensive for landlords to do this rather than just developing under permitted development but it is believed that Merton had no other option if it wished to improve the situation for residents and tenants.

- 12.8 Planning Committee Members have received a briefing on HMOs to ensure that they are fully conversant with the latest guidance; a Supplementary Planning Document is being developed to enhance the information currently available (see Section 10) and planning case officers are actively assessing planning applications submitted that were previously allowed under PD Rights.
- 12.9 With regard to misrepresenting the potential costs of compensation claims that might be submitted, the October 2022 Cabinet report set out ‘typical’ costs of converting a small HMO. It is recognised that there are some developments that are at the top end of the market where the work undertaken far exceeds the standards required, by adding extensions and en-suite bedrooms and expensive renovations. These are by no means ‘typical’ small HMO conversions and whilst the cost of these can undoubtedly run into several hundred thousand pounds, it is considered that they should meet and exceed the standards required and therefore would be unlikely to be refused planning consent, so no compensation would be payable.
- 12.10 Many landlords were concerned about the ‘immediacy’ of the Article 4 Direction, but the Council felt it had no option but to introduce an Immediate Article 4 Direction into the 7 most affected wards, due to the immediate threat posed to the amenity of the area evidenced by the many instances of complaints being reported relating to HMOs without planning permission (see Para 7.18).
- 12.11 In line with the point above, several landlords raised the issue of whether there was evidence to justify an Article 4 Direction and whether or not the planning process was the correct system to tackle issues such as anti-social behaviour and others as opposed to using licensing and environmental health enforcement. This is addressed in Section 7 and also Para 7.17.
- 12.12 Another issue raised was the potential impact upon housing numbers with the view being that the introduction of an Article 4 Direction for small HMOs would reduce or stagnate the number of HMOs. As detailed in Section 8, there is no evidence of this, and it is important to note that the Article 4 cannot be applied retrospectively, so those HMOs already in operation will not be affected. Additionally, rents in Merton tend to be higher than average and compared with the relatively low cost of applying for planning consent, it is not felt that this would be a barrier to setting up a small HMO.

13 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 13.1 Funding was agreed for the Consultation at £30,000 and it was possible to secure an agency for this amount. Additional housing and project management staffing costs were also agreed to take the project up to May 2023. To continue to October 23, by which time it is proposed that Landlord Licensing will have been introduced, a further amount of £70,000 will be required.

- 13.2 Additionally, as we have been required to engage an external Barrister to provide legal advice and respond to a legal challenge we received, a sum of up to £5k is needed. These additional costs of £75,000 will be funded by a transfer from the Corporate Contingency Fund..
- 13.3 The current financial projections are that the selective and additional licensing scheme will require £3.3m expenditure over the five-year scheme period, including £2.5m staffing expenditure, based on a staff resource of 9.5 staff. These figures are provisional and are subject to further financial modelling, to be informed by consideration of the final consultation feedback.
- 13.4 There will be an increase in the number of planning applications received following the introduction of an Article 4 Direction. It is difficult to quantify how many at this stage but there will additionally be an increase in planning application fees.
- 13.5 Any compensation claims that may be submitted as a result of introducing an Immediate Article 4 Direction are deemed to be capital expenditure and no provision exists in the capital programme for these.

14 LEGAL AND STATUTORY IMPLICATIONS.

- 14.1 This report sets out the statutory and regulatory requirements relevant for the Immediate Article 4. It also highlights the need for robust data in support of both the Article 4 Direction and Landlord Licensing to apply to the smallest, clearly defined, geographical areas based upon the evidence to avoid challenge.
- 14.2 The Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2010 makes a change of use from a use falling within Class C3 (dwelling houses) to a use falling within Class C4 (houses in multiple occupation) 'permitted development' – i.e., planning permission is no longer needed to do this. Under Article 4 of the General Development Order (as amended) ("GDO") local planning authorities can make directions withdrawing permitted development rights from development across a defined area listed in Schedule 2 of the same order. For all article 4 directions the legal requirement set out in paragraph (1) of article 4 of the GDO is that the local planning authority is satisfied that it is expedient that development that would normally benefit from permitted development rights should not be carried out unless permission is granted for it on an application.
- 14.3 Under section 108 of the Town and Country Planning Act 1990 there is an entitlement to compensation where planning permission is refused for development that would have been permitted development but for an Article 4 Direction or granted subject to conditions, which were not also imposed under the permitted development, if that has resulted in the property having a lesser open market value than it would have had but for the Article 4 Direction and subject to such planning refusal or conditional planning

- permission being in respect of a planning application made within a year of the date of the Article 4 Direction.
- 14.4 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 states that approval to make an Article 4 Direction is not a Cabinet function and therefore should be made by resolution of full Council.
 - 14.5 New PD rules that came in force in July 2021, are set out in the National Planning Policy Framework (NPPF)
 - 14.6 The Government are currently proposing changes to the NPPF. Under the proposals, In the reformed planning system, authorities will no longer be able to prepare supplementary planning documents (SPDs). Instead, they will be able to prepare Supplementary Plans, which will be afforded the same weight as a local plan or minerals and waste plan.
 - 14.7 It is proposed that when the new system comes into force (expected late 2024), existing SPDs will remain in force for a time-bound period; until the local planning authority is required to adopt a new-style plan. Current SPDs will automatically cease to have effect at the point at which authorities are required to have a new-style plan in place. For example, if a planning authority's plan is more than 5 years old when the new system comes into force and that planning authority is required to begin new-style plan-making straight away, their SPDs will expire on the date at which they are required to adopt a new-style plan i.e. 30 months after they commence plan preparation . Where an authority is working towards the 30 June 2025 deadline and they miss it, their SPDs will expire 30 months after that date i.e. at the end of December 2027.
 - 14.8 As well as the possibility of being paused or stopped by the Secretary of State at any time, there is the possibility of Legal Challenge to the introduction of the Article 4. One legal challenge has already been received but advice from external counsel found it to be without merit.
 - 14.9 For Landlord Licensing, as the wards selected are under the 20% threshold, the Secretary of State does not have to give consent. However, there is still the risk of Legal Challenge.
 - 14.10 The data will need to constantly be reviewed during the term of the Selective Licensing scheme should it proceed, and Members should be aware of the enforcement powers available to the Council under the Housing Act 2004 to ensure compliance with the scheme.

15 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 15.1 The Council has carried out an equalities assessment at each stage of developing the Article 4 Direction, considering the impact of the proposal on each of the protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race,

religion/belief, sex, sexual orientation, and socio-economic status). The outcome is that Equalities Assessment has not identified any potential for discrimination or negative impact and all opportunities to promote equality are being addressed. The Council is also considering the “in-combination” effects of the Article 4 Direction and the proposed new licensing regime and will keep this under review while the new selective and additional licensing proposals are being developed further and reported to councillors prior to their introduction in September 2023.

16 CRIME AND DISORDER IMPLICATIONS

16.1 The selective licensing proposals are intended to reduce incidents of crime and anti-social behaviour related to poorly managed properties in the private rented sector. KPI measures will be set and monitored in relation to these indices if a scheme were progressed.

16.2 There are no direct crime and disorder implications in relation to the introduction of an Article 4 Direction although the requirement to seek planning consent could lead to an improvement through greater awareness and controls.

17 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

17.1 No risks for the Council have been identified at this time relating to Selective Licensing.

17.2 Following the introduction in November 2022 of an Immediate Article 4 Direction, there is a risk of compensation claims being submitted as outlined in the report.

17.3 There is a risk of the Secretary of State intervening and stopping the Immediate Article 4 Direction if it believes there is not adequate robust evidence to support the areas selected or if it believes too large an area has been selected.

17.4 There is a risk of a Judicial Review being brought against the Council

17.5 A legal challenge to the Immediate Article 4 has been received which we are taking external legal advice on.

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

A. Schedule of Proposed Charges for Licensing

B. List of Conditions for Licensing

C. Summary of Representations Received for the Immediate Article 4

D. Key Points from the Landlord and Stakeholder Forums from ORS

19 BACKGROUND PAPERS

LSG Report 22 November 2021 – Selective Licensing Options and report on Article 4 Directions

LSG Report 7 March 2022 – Selective Licensing Update and Empty Homes

LSG Report 13 June 2022 - Update on Selective Licensing & Article 4 Directions

LSG Report 22 September 2022 - Update on Selective Licensing & Article 4 Directions

Cabinet Report 10 October 2022

Metastreet Report

ORS Article 4 Results

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Cabinet

Date: 20th March 2023

Wards: All Wards

Subject: London Borough of Merton Public Spaces Protection Order (PSPO)

Lead officer: Calvin McLean, Interim Assistant Director Public Protection

Lead member: Councillor Eleanor Stringer, Cabinet Member for Civic Pride

Contact officers: Megan Hatton, Head of Community Safety, Katy Saunders, Community Safety Team Manager, Anthony Cole, ASB Team Manager, Kelly Marshall, Strategic Development Lead.

Recommendations:

- A. For Cabinet to note the contents of the Evidence Report, the Public Consultation Findings, and the Equalities Impact Assessment (Appendices 1-3).
 - B. For Cabinet to agree the proposal to make a borough wide PSPO for alcohol related ASB and make Merton a responsible drinking borough.
-

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

Public Spaces Protection Orders (PSPOs) are one of a range of measures introduced by the Anti-Social Behaviour (ASB), Crime and Policing Act 2014 (the Act) to combat ASB.

- 1.1. A PSPO identifies a public space (the Restricted Area) and prohibits certain activities within that area and/ or requires certain things to be done by persons engaging in certain activities within that area. PSPOs should focus on identified problem behaviour(s), rather than targeting specific individuals or properties. A breach of a PSPO is a criminal offence.
- 1.2. In 2013, the Council made the *Alcohol Consumption in Designated Public Places London Borough Merton Order 2013*, which created a borough wide 'Controlled Drinking Zone'. In 2017, the Order transitioned into a PSPO under the provisions of the Act. This Order expired in October 2020.
- 1.3. On 7 September 2020, Cabinet resolved to make a new more localised PSPO related to alcohol consumption covering five wards (*Lavender Fields, Graveney, Ravensbury, Figge's Marsh and Cricket Green*) where issues ASB related to alcohol were prevalent.
- 1.4. On 13 October 2020 the Council made the *London Borough of Merton (Alcohol Consumption in Public Places) Order 2020* which came into force on 21 October 2020. That order lasted two years but its duration was extended in October 2022 for a period of 3 years. The Current Order, as extended, will remain in force until October 2025, subject to renewal or discharge before that date.

- 1.5. This report outlines a recommendation to discharge the current PSPO and simultaneously make a new PSPO having effect borough wide. A copy of the proposed Order is attached as Appendix 5.
- 1.6. It is important to note that the Current PSPO only applies to ASB related alcohol consumption. Officers will continue to only enforce the controls where a person or persons are consuming alcohol *so as to cause or be likely to cause nuisance or annoyance to any other person*.
- 1.7. An Equalities Impact Assessment (EIA), attached as Appendix 3, conducted in March 2023, concluded that creating a borough wide PSPO will not have a detrimental effect on any person with protected characteristics living, working, or visiting the area.
- 1.8. A multi-agency engagement, intervention and enforcement approach to support a borough wide PSPO is being agreed with partners, subject to the decision on making a borough wide PSPO by Cabinet. The engagement and enforcement activity will be monitored through the monthly Partnership Tasking Meeting coordinated by Safer Merton.
- 1.9. If Cabinet resolves to discharge the Current Order and make a new borough wide PSPO as proposed in this report, the required publicity will be given in accordance with the Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014 (the Regulations). The Council will publish the new order on its website and erect notices across the Borough advising of the new Order and its effect. The new Order includes provision for the discharge the Current Order and the required publicity of the discharge will also be given. If Cabinet decides not to make a borough wide order then the Current Order will continue in force until October 2025 subject to any further order in the meantime.
- 1.10. The notices which are displayed to bring the Current PSPO to the attention of the public are shown at Appendix 4. The form of these notices will be revised to reflect the borough wide application of the new order if Cabinet resolves to make it.
- 1.11. In considering whether to make a borough wide PSPO, and if so for how long, the Council must follow the requirements of the Act, the Regulations, and the Statutory Guidance – *Anti-social Behaviour, Crime and Policing Act 2014: ASB Powers Statutory guidance for frontline professionals (Revised June 22)*. The validity of a PSPO can be subject to a statutory challenge in accordance with the Act, or by way of an application for Judicial Review.
- 1.12. On 19 December 2022, a 10 week public consultation on the proposed borough wide PSPO was launched. In total the Council received 303 responses via the online survey. In summary, 79% of respondents agreed with the proposal to discharge the Current Order and make a new PSPO controlling the public consumption of alcohol borough wide. The full results of the consultation are attached as Appendix 1.
- 1.13. After considering evidence from our partners and reviewing the results of the public consultation, it is considered the two pre-conditions to making a PSPO under Section 59 of the Act are satisfied and the proposed borough wide PSPO should be made to control the public consumption of alcohol given its detrimental effect on the quality of life for those in the borough.

- 1.14. If approved by Cabinet, work will begin to make a borough wide alcohol consumption PSPO and providing the required publicity with a view to it coming into force in the Spring of 2023 when there is likely to be an increase in street drinking with warmer weather conditions. This will aim to make Merton a responsible drinking borough *that does not prohibit* the drinking of alcohol in public but reflects a decision to control anti-social behaviour (ASB) linked to the public consumption of alcohol
- 1.15. **Proposal for a borough wide PSPO**
- 1.16. Tackling ASB and the detrimental effect it has on quality of life is a strategic priority of the Community Safety Partnership. The recommendation to make Merton a responsible drinking borough under a borough wide PSPO will give the Police and Council enforcement officers additional powers to target those consuming alcohol in public in a way which causes or is likely to cause nuisance or annoyance to any other person and to offer them additional support.
- 1.17. It will provide reassurance to residents that action is being taken to tackle these issues, which can have a detrimental effect on communities.
- 1.18. This work links with Merton's corporate priorities in terms of creating Civic Pride and a borough where residents feel safe to enjoy our high streets and town centres. It links to clean streets and the environment, ensuring that our parks and open spaces are a place where residents can enjoy a safe public space free from anti-social behaviour.
- 1.19. In addition, a responsible drinking borough will aid the development of a safe and prosperous Night Time Economy and assist in preventing displacement of problematic drinkers from one area of the borough to another.
- 1.20. It also links with the Government's 10-year drugs strategy '*From Harm to Hope*¹' which focuses on tackling drug supply, reducing drug demand and improving drug and alcohol treatment and recovery services. The Strategy states '*local partnerships should ensure that their plans sufficiently address alcohol dependence and wider alcohol-related harms.*' Under this provision the Combatting Substance Misuse Partnership has been established, which focuses on a multi-agency approach to co-ordinating action to prevent and reduce drug and alcohol related harm in Merton.
- 1.21. We have briefed the boroughs whose borders neighbour Merton on the borough wide PSPO proposal. A borough wide PSPO is already in place in Wandsworth. Kingston and Sutton also have PSPOs in place for tackling alcohol related ASB. For Kingston this is very localised but for Sutton, 17 public consumption of alcohol PSPOs have been made covering all parks and open spaces.
- 1.22. Should Cabinet agree the proposal to make a borough wide PSPO, a plan will be developed with partners to support engagement, intervention, and enforcement of the PSPO.
- 1.23. This work is already underway with regards to the current PSPO and includes monitoring at the monthly Partnership Tasking Meeting, coordinated

¹ [Guidance for local delivery partners \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

by Safer Merton, increased patrols by Kingdom Officers (Merton Council's Environmental Protection Service) and the formation of a Street Drinking Task and Finish Group.

- 1.24. The Task and Finish Group has membership from Safer Merton, Public Health, Homelessness Team, the commissioned alcohol treatment service WDP (the commissioned adult substance misuse treatment service), Police and NHS. Key outcomes thus far include work focusing on the area around St Mark's Primary School in Mitcham town centre and the area around Tesco's in Wimbledon town centre. A specific working group was also established in February 2023 to look at the top 20 most prolific street drinkers across the Borough, through management of risk via collaborative working around the support of these vulnerable people, and enforcement if required.
- 1.25. Via Public Health, 'Blue Light' and 'Alcohol Identification and Brief Advice' training has been offered to Kingdom Officers, Police, and front-line staff. This aims to improve quality of conversations when engaging with street drinkers, raising knowledge of alcohol, and developing confidence in responding to alcohol related needs.
- 1.26. The Council recognises that due to their complex needs, it may be difficult for street drinkers to refer themselves into treatment services, therefore Assertive Outreach is being explored; a post assigned to this via WDP and the Homelessness Team is currently being recruited to. This will ensure that proactive support can be offered to street drinkers in their own environment and when they require it most.
- 1.27. There is also an aim to improve information sharing between the Council's ASB Team, Homelessness Team and WDP via use of the E-Cins information sharing system, a pilot for which is currently underway.
- 1.28. Advisory leaflets offered to street drinkers by Kingdom Officers, detailing information on the current PSPO and routes to refer in for treatment and support have been produced in English and Polish languages. If a borough wide Order is made the Council will look at what additional alternative languages are required and a redesign of the leaflets in an effort to make them more accessible.
- 1.29. A comprehensive communications plan will be in place to reinforce the message to residents that Officers will continue to only enforce the prohibition where people consuming alcohol in public *so as to cause or be likely to cause nuisance or annoyance to any other person*. Those wishing to enjoy alcohol in a public place sensibly without causing ASB can continue to do so.

2 DETAILS

2.1. Background

- 2.2. The Act introduced a set of streamlined tools to address ASB and the impact that such behaviour can have on individuals and communities. PSPOs are one of these tools. Through the provisions of the Act, local authorities are empowered to make PSPOs, providing certain criteria and legal tests are

met. PSPOs differ from other tools as they are council-led and may prohibit certain activities and/ or require specified things to be done by persons carrying on specified activities within a defined public area. They should focus on an identified problem behaviour rather than targeting specific individuals or properties. A breach of a PSPO is an offence, although as an alternative a Fixed Penalty Notice (FPN) may be issued.

- 2.3. In 2013, Merton made the *Alcohol Consumption in Designated Public Places London Borough Merton Order 2013*, which created a borough wide Controlled Drinking Zone' (CDZ). The CDZ was designed to target alcohol related ASB across Merton. In 2017, the Order transitioned into a PSPO under the transitional arrangements in the Act and the restrictions on the public consumption of alcohol became subject to the PSPO regime. This transitioned order lapsed on 20 October 2020. The Council replaced it with *the London Borough of Merton (Alcohol Consumption in Public Places) Order 2020* (the Current Order). This is more localised PSPO came into force on 21 October 2022 and has effect across the five wards of *Lavender Fields, Graveney, Ravensbury, Figges Marsh and Cricket Green*.
- 2.4. The Current Order was extended for a further 3 years by the *London Borough of Merton (Alcohol Consumption in Public Places) Order 2020 (Extension) Order 2022*. It will therefore continue in force until October 2025 unless further extended or discharged.
- 2.5. In considering whether to extend controls on the public consumption of alcohol borough wide by making a new PSPO, we have considered the statutory criteria for making a PSPO, and the appropriate scope of any order to ensure that it is proportionate to the problem and that the restrictions apply to the appropriate geographical area. We have considered the impact that any PSPO may have. We have gathered this information by consulting with the Police, other partners, and public consultation and through the completion of an Equalities Impact Assessment. Finally, we have considered whether the proposed restrictions will meet the legal test in consultation with our legal advisers the SLLP.
- 2.6. Under Section 59 of the Act, to make a PSPO a local authority must be satisfied that, on reasonable grounds, that two conditions are met: -
 1. That the activities carried on in a public place within the authority's area have had, or is likely to have, a detrimental effect on the quality of life of those in the locality; and
 2. That the effect, or likely effect of the activities -
 - a) is, or is likely to be, of a persistent or continuing nature,
 - b) is, or is likely to be, such as to make the activities unreasonable; and
 - c) justifies the restrictions imposed by the order.
- 2.7. **Evidence led approach and proportionality**
- 2.8. Robust evidence is essential when considering whether a borough wide Order is appropriate. The Council needs to be satisfied that the evidence

demonstrates that the conditions in paragraph 2.6 have been met. A detailed review of the available alcohol related data has taken place and the results of the public consultations have been considered. The Evidence paper can be found in Appendix 2.

- 2.9. However, the effectiveness of the PSPO should not solely be judged on the number of enforcements, as its benefits are broader, and the preventative effect of the controls should be noted. Officers using the PSPO powers to intervene at an early stage by asking individuals in the first instance to desist from drinking alcohol is a good way to prevent unreasonable behaviour escalating. For example, occasions where Officers worked positively with individuals, asking them to stop drinking and encouraging them to access support, before it was necessary to escalate to the level of issuing a Fixed Penalty Notice (FPN), where the Order has been contravened.
- 2.10. There is difficulty in recording these encounters however in Mitcham town centre, where the Current Order operates, between August – December 2022 there were 244 engagements between Kingdom Officers and street drinkers and members of the public, where advice, signposting and support was offered.
- 2.11. There has been a longstanding issue with ASB linked to street drinking in the Mitcham town centre area. It should be taken into consideration that without the Current Order, the situation in this location could have escalated. Officers patrolling the area and enforcing the Current Order enhances feelings of safety and acts a deterrent, reinforcing that this behaviour is not acceptable.
- 2.12. The current number of street drinking reports to either the Council’s ASB Team or Police are low. Enforcement figures for the Current Order are also low, with 6 FPNs issued by Council Officers in the FY 2021-2022. Furthermore, conversations with the Police have highlighted the fact they do not have the facility to record action taken by Officers to support the PSPO, which unfortunately is a common feature across London.
- 2.13. Due to the recording system, Police data on calls from the public is available for the past 12 months. From February 2022 – January 2023 there were 43 complaints relating to ASB involving alcohol and 9 specific calls regarding street drinking.
- 2.14. The Police and Safer Transport are supportive of the proposal for a borough PSPO governing the public consumption of alcohol.
- 2.15. Table 1.1 summary of other data

Data Source	Year 1	Year 2
	Nov 2020 – Oct 2021	Nov 2021 – Oct 2022
ASB Complaints	57	81
CCTV Logs	129	150
Ambulance Callouts (Sep 17 – Aug 18 and Sep18 – Aug 19)	732	648

- 2.16. In addition to the quantitative data, it is also important to consider the views of the public; we therefore considered the perception information from the surveys that have been conducted recently on the Borough. When looking at the results of the borough's surveys:
- 2.17. The Annual Resident's Survey (2021)² indicated that concern about drunk and rowdy behaviour has increased compared to the previous survey in 2019. Concerns regarding drunk and rowdy behaviour are more concentrated in East Merton, Mitcham, South Merton and Morden.
- 2.18. The Safer Merton Strategic Assessment Survey (2021) showed that residents thought alcohol disorder and street drinking were the biggest problem in their area, followed by drug paraphernalia (canisters) and drug use.
- 2.19. The Your Merton consultation showed that ASB and safety in public spaces were concerns for East Merton and Mitcham residents, with alcohol consumption often cited as an issue.
- 2.20. **Location**
- 2.21. The Current Order covering five wards was extended in duration in October 2022 and will remain in force until October 2025 unless further extended or discharged.

Since the Current Order was made, the London Borough of Merton Electoral Changes Order 2020³, has come into force. This Order makes changes to electoral arrangements for the Borough following recommendations made by the Local Government Boundary Commission for England. Whilst the area of the Borough remains unchanged, the Order abolishes all the existing electoral wards and replaces them with 20 new ones. It also establishes the names and areas of the new electoral wards. The 5 Wards identified in the Current Order as the restrict areas to which the controls apply have not been renamed but there have been slight adjustments of the former Ward boundaries. The Current Order identified the Restricted Areas by reference to the name of the Wards but also a plan so the extent of the areas subject to the alcohol related ASB controls remains clear and certain. In the event Cabinet decides to make a borough wide order its will remove this anomaly.

See Appendix 6 for a map of the borough wide PSPO area.

Engagement and enforcement

- 2.22. If Cabinet agrees with the proposal to make a borough wide PSPO, its duration, up to 3 years, and when it will come into force. Public signage will be updated a week before the go live date and the Order will be publicised in accordance with the Act and the Regulations. If the proposed order is made, during the first three weeks of its operation, it is intended to focus on engagement and raising awareness of the controls, following which the enforcement will begin.

² [Performance : Residents' surveys | Merton Council](#)

³ <https://www.legislation.gov.uk/ukxi/2020/1382/contents/made>

- 2.23. Enforcement is a key element of the PSPO and as such, ensuring the right controls is vital. The following restrictions are proposed for the new PSPO and mirror those in the Current Order:
- (i) Constables, police community support officers and persons authorised by the Council (Kingdom Officers) will be authorised to require a person consuming alcohol in the restricted area so as to cause or be likely to cause a nuisance or annoyance: -
 - a) To stop drinking and/or
 - b) To surrender any alcohol, or container for alcohol, and dispose of anything surrendered.
- 2.24. There are a number of enforcement options ranging from a Warning, and/or issuing an FPN, to prosecution where the FPN is not paid or it is not considered appropriate to issue an FPN. For more persistent breaches of the Proposed Order, consideration will be given to issuing Community Protection Warnings (CPNW), followed by Community Protection Notices (CPN) and seeking Criminal Behaviour Orders (CBO), where appropriate⁴.
- 2.25. A copy of the signage displayed for the Current Order can be found in Appendix 4. The signage outlines the area and controls which apply within the restricted area identified by the PSPO. It explains how any ASB can be reported and where people can go to find more information. Note a revised sign will be produced if the proposed Order is made given the required publicity under the Act and Regulations.
- 2.26. It is important to add that whilst the Council may issue a FPN offering the opportunity to extinguish liability to prosecution on payment of £150, reduced to £100 on early payment, the maximum fine to prosecution for breaching the PSPO is a level 2 fine on the standard scale, currently £500. The Council may prosecute if the fixed penalty is not paid or instead of issuing an FPN. Where a person believes to have breached the PSPO refuses to give his/her name and address they may be prosecuted and on conviction fined up to level 3 fine on the standard scale, currently £1,000.
- 2.27. We are working with partners to deliver a co-ordinated engagement, intervention and enforcement plan. The plan not only covers the direct enforcement of the PSPO, via the Police and Kingdom Security, but will outline pathways for accessing support, which might be needed to help those where alcohol has become a challenge, through our partnership with Public Health and WDP.

⁴ A CPN is a Community Protection Notice. The Council can issue a CPN to anyone who is 16 or over, or business, or organisation if satisfied, on reasonable grounds, that a person's conduct is having a detrimental effect, of a persistent or continuing nature, on the quality of life of those in the locality, and the conduct is unreasonable. Before issuing a CPN the Council must give a community protection warning (CPW) advising that a CPN may be issued unless the conduct having the detrimental effect does not cease within such period as is sufficient for him/her to address it.

For more information, see the government advice here:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/823316/2019-08-05_ASB_Revised_Statutory_Guidance_V2.2.pdf

- 2.28. As part of the Equalities Impact Assessment, we will ensure that the PSPO signage is clear, and there is good engagement and publicity. Moreover, we will consider making the information available in different languages.

3 ALTERNATIVE OPTIONS

- 3.1. *Do not make a borough wide alcohol related PSPO and allow the Current Order to continue, targeted on the five wards until its expiration in October 2025 or earlier discharge.* This would not take into consideration evidence gathered, and the views expressed by the consultees that the public consumption of alcohol in other areas of the Borough is causing and is likely to cause nuisance or annoyance to others which needs to be addressed and the benefits of making Merton a responsible drinking borough.
- 3.2. *To implement a new targeted PSPO in other specified areas of the Borough, based on the evidence of ASB related to alcohol consumption.* A new PSPO could be made in addition to the Current Order, or a new PSPO could be made discharging the Current Order and bringing the controls into effect over a wider area, but less than borough wide. It is however considered undesirable to have multiple PSPOs given the potential for confusion in relation to operational areas, making enforcement more problematic.

4 CONSULTATION UNDERTAKEN

- 4.1. Before making the proposed Order and discharging the Current Order a local authority is required to carry out *necessary consultation* and *necessary publicity* as specified by the Act.
- 4.2. A 10 week public consultation was launched on the 19 December 2022 and in total we received 303 responses to our online survey. To publicise the consultation, it was circulated on multiple occasions to members of Merton Neighbourhood Watch, Merton Safer Neighbourhood Board, members of the Council's Equality Forums, Merton Connected, Merton Chamber of Commerce, the Borough's Drug and Alcohol Service, Catch 22, the Borough's Homelessness Service, all Members, via the Council's email newsletter to residents. It was also publicised via the Council's social media channels on Facebook and Twitter.
- 4.3. The public consultation asked respondents whether they supported a borough wide PSPO, of which 79% did. The full results can be found in Appendix 1.
- 4.4. We have also taken on board resident feedback provided through other Council surveys including the Annual Residents Survey and the Your Merton consultation.
- 4.5. In addition, we consulted with our partners including the Police, MOPAC, Public Health, WDP and Kingdom Security.

5 TIMETABLE

- 5.1. The next steps should Cabinet resolve to make the proposed borough wide PSPO and set out in the table below: -

Milestone	Date to be completed
Report submitted to Overview and Scrutiny Committee	15 th March 2023
Final report submitted to Cabinet	20 th March 2023
If Cabinet agrees the proposal to make a borough wide Order, make the Order and specify a commencement date	(Date to agreed once required publicity organised)
Publish the borough wide Order	(Date to be confirmed in advance of the date the Order comes into force)
Borough wide PSPO comes into force	(Date to be confirmed)
Regular Monitoring of the PSPO	Via the monthly Partnership Tasking Meeting

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1. The preparation of proposal to make the proposed Order is being completed within existing officer resources. There will be legal costs to finalise the Order and ensure all due statutory processes are followed, and costs associated with the production and installation of updated signage across the whole borough, should they be agreed by Cabinet. There will also be costs associated to redesigning and printing the leaflets offered to signpost street drinkers to support.
- 6.2. It is expected that the costs outlined above can be funded from existing resources.

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1. The power and requirements for making, extending, varying and discharging a PSPO are set out in Part 4 of Chapter 2 of the Act and is supplemented by the Regulations and Statutory Guidance issued by the Secretary of State referred to at para 1.11 above. The basic requirements for the making a new borough wide PSPO are set out in the body of this report.
- 7.2. In deciding whether to make the proposed order which provides for the discharge the Current Order and if so, for how long, the Council must, by Section 72 of the Act, have particular regard to the rights of freedom of expression and freedom of assembly set out in Articles 10 and 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms 1950 (“the Convention”).
- 7.3. Under Section 66 of the Act any challenge to the validity of a PSPO must be made in the High Court by an interested person within six weeks of it being made. An interested person is an individual who lives in, or regularly works in, or visits the restricted area (the Borough). This means that only those who are directly affected by the restrictions have the power to challenge. The validity of a PSPO can be challenged on two grounds only:
- (a) that the Council did not have power to make the order or vary, or to include particular prohibitions or requirements imposed, or

(b) that the procedural requirements for making, or varying, the PSPO (for instance, consultation) were not complied with.

- 7.4. On any application to the High Court challenging the validity of an Order the Court may suspend its operation or any of the prohibitions or requirements imposed by it until the final determination of the proceedings. If the Court is satisfied the Council did not have the power to make the PSPO, or it did but the Council failed to comply with the procedural requirements and, the applicant has been substantially prejudiced by that failure, it may quash the Order or any of the prohibitions or requirements imposed by it.
- 7.5. The decision to make the proposed order would be susceptible to challenge by way of an application for judicial review which must be brought promptly and in any event, not later than 3 months after the grounds to make the claim first arose.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 8.1. We consider the proposed PSPO is proportionate to the needs of the area, as identified through the analysis and consultation and we have considered the rights of individuals who live, work and visit the area,.
- 8.2. As detailed in section 7 above, in deciding whether to make the proposed PSPO and, if so for how long, the Council is required to have regard to the Convention and Articles 10 and 11 in particular.

Members must also consider the Public Sector Equality Duty under section 149 of the Equality Act 2010 (2010 Act). This requires the Council when exercising its functions, have due regard to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited by the 2010 Act 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 in the 2010 Act 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.

Members must consider how the decision will contribute to meeting these duties in light of other relevant circumstances such as economic and practical considerations.

In order to have proper regard to the Public Sector Equality Duty (PSED) a full Equalities Impact Assessment (EQIA) (Appendix 3) has been carried out and should be considered alongside this Report.

- 8.3. Having carefully considered the EQIA it is considered the impact of the proposed PSPO is consistent with the Council's PSED and does not disproportionately affect any part of the community. The EQIA will be monitored to ensure that future intelligence and information which better informs our understanding and impact of the PSPO is considered.

9 CRIME AND DISORDER IMPLICATIONS

9.1 Section 17 of the Crime and Disorder Act 1998 places a duty on all local authorities to have due regard to the likely effect its exercising of functions will have on crime and disorder in its area, including anti-social behaviour and other behaviour adversely affecting the local environment. Although the current PSPO covering five wards is proving effective, there is evidence it is displacing alcohol-related anti-social behaviour into other areas. Moreover, the evidence shows that the public consumption of alcohol in other parts of the Borough is or is likely to cause nuisance and annoyance. An extension of the existing controls borough wide will allow officers and practitioners to apply a consistent approach and improve community safety across the Borough.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 10.1. A focus of the proposed borough wide Order is around enforcement, but it is acknowledged that this may identify individuals for whom alcohol is particularly problematic. If the proposed borough wide Order is approved, we will continue to work closely with support services to ensure that such individuals can be offered the support they need, should they want it.
- 10.2. Officers enforcing the borough wide PSPO will, if it is approved, take into consideration existing organisational policies and procedures for personal safety and risk management.

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

- Appendix 1 - Public Consultation Results
- Appendix 2 - Evidence Paper
- Appendix 3 - Equalities Impact Assessment
- Appendix 4 – Current PSPO sign
- Appendix 5 – Draft Borough Wide PSPO Order 2023
- Appendix 6 - Map of the PSPO area

12 BACKGROUND PAPERS

- 12.1. *The London Borough of Merton (Alcohol Consumption in Public Places) Order 2020*
- 12.2. *The London Borough of Merton (Alcohol Consumption in Public Places) Order 2020 (Extension) Order 2022*
- 12.3. *ASB Crime and Policing Act 2014 ASB Powers Statutory guidance for frontline professionals (Rev's 06.22).*
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1088750/2022_Updated_ASB_Statutory_Guidance_FINAL.pdf

Overview & Scrutiny Committee

Date: 15th March 2023

Wards: All Wards

Subject: London Borough of Merton Public Spaces Protection Order (PSPO)

Lead officer: Calvin McLean, Interim Assistant Director Public Protection

Lead member: Councillor Eleanor Stringer, Cabinet Member for Civic Pride

Contact officers: Megan Hatton, Head of Community Safety, Katy Saunders, Community Safety Team Manager, Anthony Cole, ASB Team Manager, Kelly Marshall, Strategic Development Lead.

Recommendations:

- A. Overview & Scrutiny Committee to note the contents of the report and comment on proposals for a borough wide alcohol consumption Public Spaces Protection Order, in order to make Merton a responsible drinking borough, before the matter is considered by Cabinet.
-

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

Public Spaces Protection Orders (PSPOs) are one of a range of measures introduced by the Anti-Social Behaviour (ASB), Crime and Policing Act 2014 (the Act) to combat ASB.

- 1.1. A PSPO identifies a public space (the Restricted Area) and prohibits certain activities within that area and/ or requires certain things to be done by persons engaging in certain activities within that area. PSPOs should focus on identified problem behaviour(s), rather than targeting specific individuals or properties. A breach of a PSPO is a criminal offence.
- 1.2. In 2013, the Council made the *Alcohol Consumption in Designated Public Places London Borough Merton Order 2013*, which created a borough wide 'Controlled Drinking Zone'. In 2017, the Order transitioned into a PSPO under the provisions of the Act. This Order expired in October 2020.
- 1.3. On 7 September 2020, Cabinet resolved to make a new more localised PSPO related to alcohol consumption covering five wards (*Lavender Fields, Graveney, Ravensbury, Figge's Marsh and Cricket Green*) where issues ASB related to alcohol were prevalent.
- 1.4. On 13 October 2020 the Council made the *London Borough of Merton (Alcohol Consumption in Public Places) Order 2020* which came into force on 21 October 2020. That order lasted two years but its duration was extended in October 2022 for a period of 3 years. The Current Order, as extended, will remain in force until October 2025, subject to renewal or discharge before that date.

- 1.5. This report outlines a recommendation to discharge the current PSPO and simultaneously make a new PSPO having effect borough wide. A copy of the proposed Order is attached as Appendix 5.
- 1.6. It is important to note that the Current PSPO only applies to ASB related alcohol consumption. Officers will continue to only enforce the controls where a person or persons are consuming alcohol *so as to cause or be likely to cause nuisance or annoyance to any other person*.
- 1.7. An Equalities Impact Assessment (EIA), attached as Appendix 3, conducted in March 2023, concluded that creating a borough wide PSPO will not have a detrimental effect on any person with protected characteristics living, working, or visiting the area.
- 1.8. A multi-agency engagement, intervention and enforcement approach to support a borough wide PSPO is being agreed with partners, subject to the decision on making a borough wide PSPO by Cabinet. The engagement and enforcement activity will be monitored through the monthly Partnership Tasking Meeting coordinated by Safer Merton.
- 1.9. If Cabinet resolves to discharge the Current Order and make a new borough wide PSPO as proposed in this report, the required publicity will be given in accordance with the Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014 (the Regulations). The Council will publish the new order on its website and erect notices across the Borough advising of the new Order and its effect. The new Order includes provision for the discharge the Current Order and the required publicity of the discharge will also be given. If Cabinet decides not to make a borough wide order then the Current Order will continue in force until October 2025 subject to any further order in the meantime.
- 1.10. The notices which are displayed to bring the Current PSPO to the attention of the public are shown at Appendix 4. The form of these notices will be revised to reflect the borough wide application of the new order if Cabinet resolves to make it.
- 1.11. In considering whether to make a borough wide PSPO, and if so for how long, the Council must follow the requirements of the Act, the Regulations, and the Statutory Guidance – *Anti-social Behaviour, Crime and Policing Act 2014: ASB Powers Statutory guidance for frontline professionals (Revised June 22)*. The validity of a PSPO can be subject to a statutory challenge in accordance with the Act, or by way of an application for Judicial Review.
- 1.12. On 19 December 2022, a 10 week public consultation on the proposed borough wide PSPO was launched. In total the Council received 303 responses via the online survey. In summary, 79% of respondents agreed with the proposal to discharge the Current Order and make a new PSPO controlling the public consumption of alcohol borough wide. The full results of the consultation are attached as Appendix 1.
- 1.13. After considering evidence from our partners and reviewing the results of the public consultation, it is considered the two pre-conditions to making a PSPO under Section 59 of the Act are satisfied and the proposed borough wide PSPO should be made to control the public consumption of alcohol given its detrimental effect on the quality of life for those in the borough.

- 1.14. If approved by Cabinet, work will begin to make a borough wide alcohol consumption PSPO and providing the required publicity with a view to it coming into force in the Spring of 2023 when there is likely to be an increase in street drinking with warmer weather conditions. This will aim to make Merton a responsible drinking borough *that does not prohibit* the drinking of alcohol in public but reflects a decision to control anti-social behaviour (ASB) linked to the public consumption of alcohol
- 1.15. **Proposal for a borough wide PSPO**
- 1.16. Tackling ASB and the detrimental effect it has on quality of life is a strategic priority of the Community Safety Partnership. The recommendation to make Merton a responsible drinking borough under a borough wide PSPO will give the Police and Council enforcement officers additional powers to target those consuming alcohol in public in a way which causes or is likely to cause nuisance or annoyance to any other person and to offer them additional support.
- 1.17. It will provide reassurance to residents that action is being taken to tackle these issues, which can have a detrimental effect on communities.
- 1.18. This work links with Merton's corporate priorities in terms of creating Civic Pride and a borough where residents feel safe to enjoy our high streets and town centres. It links to clean streets and the environment, ensuring that our parks and open spaces are a place where residents can enjoy a safe public space free from anti-social behaviour.
- 1.19. In addition, a responsible drinking borough will aid the development of a safe and prosperous Night Time Economy and assist in preventing displacement of problematic drinkers from one area of the borough to another.
- 1.20. It also links with the Government's 10-year drugs strategy '*From Harm to Hope*¹' which focuses on tackling drug supply, reducing drug demand and improving drug and alcohol treatment and recovery services. The Strategy states '*local partnerships should ensure that their plans sufficiently address alcohol dependence and wider alcohol-related harms.*' Under this provision the Combatting Substance Misuse Partnership has been established, which focuses on a multi-agency approach to co-ordinating action to prevent and reduce drug and alcohol related harm in Merton.
- 1.21. We have briefed the boroughs whose borders neighbour Merton on the borough wide PSPO proposal. A borough wide PSPO is already in place in Wandsworth. Kingston and Sutton also have PSPOs in place for tackling alcohol related ASB. For Kingston this is very localised but for Sutton, 17 public consumption of alcohol PSPOs have been made covering all parks and open spaces.
- 1.22. Should Cabinet agree the proposal to make a borough wide PSPO, a plan will be developed with partners to support engagement, intervention, and enforcement of the PSPO.
- 1.23. This work is already underway with regards to the current PSPO and includes monitoring at the monthly Partnership Tasking Meeting, coordinated

¹ [Guidance for local delivery partners \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

by Safer Merton, increased patrols by Kingdom Officers (Merton Council's Environmental Protection Service) and the formation of a Street Drinking Task and Finish Group.

- 1.24. The Task and Finish Group has membership from Safer Merton, Public Health, Homelessness Team, the commissioned alcohol treatment service WDP (the commissioned adult substance misuse treatment service), Police and NHS. Key outcomes thus far include work focusing on the area around St Mark's Primary School in Mitcham town centre and the area around Tesco's in Wimbledon town centre. A specific working group was also established in February 2023 to look at the top 20 most prolific street drinkers across the Borough, through management of risk via collaborative working around the support of these vulnerable people, and enforcement if required.
- 1.25. Via Public Health, 'Blue Light' and 'Alcohol Identification and Brief Advice' training has been offered to Kingdom Officers, Police, and front-line staff. This aims to improve quality of conversations when engaging with street drinkers, raising knowledge of alcohol, and developing confidence in responding to alcohol related needs.
- 1.26. The Council recognises that due to their complex needs, it may be difficult for street drinkers to refer themselves into treatment services, therefore Assertive Outreach is being explored; a post assigned to this via WDP and the Homelessness Team is currently being recruited to. This will ensure that proactive support can be offered to street drinkers in their own environment and when they require it most.
- 1.27. There is also an aim to improve information sharing between the Council's ASB Team, Homelessness Team and WDP via use of the E-Cins information sharing system, a pilot for which is currently underway.
- 1.28. Advisory leaflets offered to street drinkers by Kingdom Officers, detailing information on the current PSPO and routes to refer in for treatment and support have been produced in English and Polish languages. If a borough wide Order is made the Council will look at what additional alternative languages are required and a redesign of the leaflets in an effort to make them more accessible.
- 1.29. A comprehensive communications plan will be in place to reinforce the message to residents that Officers will continue to only enforce the prohibition where people consuming alcohol in public *so as to cause or be likely to cause nuisance or annoyance to any other person*. Those wishing to enjoy alcohol in a public place sensibly without causing ASB can continue to do so.

2 DETAILS

2.1. Background

- 2.2. The Act introduced a set of streamlined tools to address ASB and the impact that such behaviour can have on individuals and communities. PSPOs are one of these tools. Through the provisions of the Act, local authorities are empowered to make PSPOs, providing certain criteria and legal tests are

met. PSPOs differ from other tools as they are council-led and may prohibit certain activities and/ or require specified things to be done by persons carrying on specified activities within a defined public area. They should focus on an identified problem behaviour rather than targeting specific individuals or properties. A breach of a PSPO is an offence, although as an alternative a Fixed Penalty Notice (FPN) may be issued.

- 2.3. In 2013, Merton made the *Alcohol Consumption in Designated Public Places London Borough Merton Order 2013*, which created a borough wide Controlled Drinking Zone' (CDZ). The CDZ was designed to target alcohol related ASB across Merton. In 2017, the Order transitioned into a PSPO under the transitional arrangements in the Act and the restrictions on the public consumption of alcohol became subject to the PSPO regime. This transitioned order lapsed on 20 October 2020. The Council replaced it with *the London Borough of Merton (Alcohol Consumption in Public Places) Order 2020* (the Current Order). This is more localised PSPO came into force on 21 October 2022 and has effect across the five wards of *Lavender Fields, Graveney, Ravensbury, Figges Marsh and Cricket Green*.
- 2.4. The Current Order was extended for a further 3 years by the *London Borough of Merton (Alcohol Consumption in Public Places) Order 2020 (Extension) Order 2022*. It will therefore continue in force until October 2025 unless further extended or discharged.
- 2.5. In considering whether to extend controls on the public consumption of alcohol borough wide by making a new PSPO, we have considered the statutory criteria for making a PSPO, and the appropriate scope of any order to ensure that it is proportionate to the problem and that the restrictions apply to the appropriate geographical area. We have considered the impact that any PSPO may have. We have gathered this information by consulting with the Police, other partners, and public consultation and through the completion of an Equalities Impact Assessment. Finally, we have considered whether the proposed restrictions will meet the legal test in consultation with our legal advisers the SLLP.
- 2.6. Under Section 59 of the Act, to make a PSPO a local authority must be satisfied that, on reasonable grounds, that two conditions are met: -
 1. That the activities carried on in a public place within the authority's area have had, or is likely to have, a detrimental effect on the quality of life of those in the locality; and
 2. That the effect, or likely effect of the activities -
 - a) is, or is likely to be, of a persistent or continuing nature,
 - b) is, or is likely to be, such as to make the activities unreasonable; and
 - c) justifies the restrictions imposed by the order.
- 2.7. **Evidence led approach and proportionality**
- 2.8. Robust evidence is essential when considering whether a borough wide Order is appropriate. The Council needs to be satisfied that the evidence

demonstrates that the conditions in paragraph 2.6 have been met. A detailed review of the available alcohol related data has taken place and the results of the public consultations have been considered. The Evidence paper can be found in Appendix 2.

- 2.9. However, the effectiveness of the PSPO should not solely be judged on the number of enforcements, as its benefits are broader, and the preventative effect of the controls should be noted. Officers using the PSPO powers to intervene at an early stage by asking individuals in the first instance to desist from drinking alcohol is a good way to prevent unreasonable behaviour escalating. For example, occasions where Officers worked positively with individuals, asking them to stop drinking and encouraging them to access support, before it was necessary to escalate to the level of issuing a Fixed Penalty Notice (FPN), where the Order has been contravened.
- 2.10. There is difficulty in recording these encounters however in Mitcham town centre, where the Current Order operates, between August – December 2022 there were 244 engagements between Kingdom Officers and street drinkers and members of the public, where advice, signposting and support was offered.
- 2.11. There has been a longstanding issue with ASB linked to street drinking in the Mitcham town centre area. It should be taken into consideration that without the Current Order, the situation in this location could have escalated. Officers patrolling the area and enforcing the Current Order enhances feelings of safety and acts a deterrent, reinforcing that this behaviour is not acceptable.
- 2.12. The current number of street drinking reports to either the Council’s ASB Team or Police are low. Enforcement figures for the Current Order are also low, with 6 FPNs issued by Council Officers in the FY 2021-2022. Furthermore, conversations with the Police have highlighted the fact they do not have the facility to record action taken by Officers to support the PSPO, which unfortunately is a common feature across London.
- 2.13. Due to the recording system, Police data on calls from the public is available for the past 12 months. From February 2022 – January 2023 there were 43 complaints relating to ASB involving alcohol and 9 specific calls regarding street drinking.
- 2.14. The Police and Safer Transport are supportive of the proposal for a borough PSPO governing the public consumption of alcohol.
- 2.15. Table 1.1 summary of other data

Data Source	Year 1	Year 2
	Nov 2020 – Oct 2021	Nov 2021 – Oct 2022
ASB Complaints	57	81
CCTV Logs	129	150
Ambulance Callouts (Sep 17 – Aug 18 and Sep18 – Aug 19)	732	648

- 2.16. In addition to the quantitative data, it is also important to consider the views of the public; we therefore considered the perception information from the surveys that have been conducted recently on the Borough. When looking at the results of the borough's surveys:
- 2.17. The Annual Resident's Survey (2021)² indicated that concern about drunk and rowdy behaviour has increased compared to the previous survey in 2019. Concerns regarding drunk and rowdy behaviour are more concentrated in East Merton, Mitcham, South Merton and Morden.
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2.20. **Location**

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See Appendix 6 for a map of the Borough wide PSPO area.

Engagement and enforcement

- 2.22. If the Committee agrees with the proposal to make a borough wide PSPO Cabinet will have to decide whether to do and if so, its duration, up to 3 years, and when it will come into force. Public signage will be updated a week before the go live date and the Order will be publicised in accordance with the Act and the Regulations. If the proposed order is made, during the first three weeks of its operation, it is intended to focus on engagement and raising awareness of the controls, following which the enforcement will begin.

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 - a) To stop drinking and/or
 - b) To surrender any alcohol, or container for alcohol, and dispose of anything surrendered.
- 2.24. There are a number of enforcement options ranging from a Warning, and/or issuing an FPN, to prosecution where the FPN is not paid or it is not considered appropriate to issue an FPN. For more persistent breaches of the Proposed Order, consideration will be given to issuing Community Protection Warnings (CPNW), followed by Community Protection Notices (CPN) and seeking Criminal Behaviour Orders (CBO), where appropriate⁴.
- 2.25. A copy of the signage displayed for the Current Order can be found in Appendix 4. The signage outlines the area and controls which apply within the restricted area identified by the PSPO. It explains how any ASB can be reported and where people can go to find more information. Note a revised sign will be produced if the proposed Order is made given the required publicity under the Act and Regulations.
- 2.26. It is important to add that whilst the Council may issue a FPN offering the opportunity to extinguish liability to prosecution on payment of £150, reduced to £100 on early payment, the maximum fine to prosecution for breaching the PSPO is a level 2 fine on the standard scale, currently £500. The Council may prosecute if the fixed penalty is not paid or instead of issuing an FPN. Where a person believes to have breached the PSPO refuses to give his/her name and address they may be prosecuted and on conviction fined up to level 3 fine on the standard scale, currently £1,000.
- 2.27. We are working with partners to deliver a co-ordinated engagement, intervention and enforcement plan. The plan not only covers the direct enforcement of the PSPO, via the Police and Kingdom Security, but will outline pathways for accessing support, which might be needed to help those where alcohol has become a challenge, through our partnership with Public Health and WDP.

⁴ A CPN is a Community Protection Notice. The Council can issue a CPN to anyone who is 16 or over, or business, or organisation if satisfied, on reasonable grounds, that a person's conduct is having a detrimental effect, of a persistent or continuing nature, on the quality of life of those in the locality, and the conduct is unreasonable. Before issuing a CPN the Council must give a community protection warning (CPW) advising that a CPN may be issued unless the conduct having the detrimental effect does not cease within such period as is sufficient for him/her to address it.

For more information, see the government advice here:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/823316/2019-08-05_ASB_Revised_Statutory_Guidance_V2.2.pdf

- 2.28. As part of the Equalities Impact Assessment, we will ensure that the PSPO signage is clear, and there is good engagement and publicity. Moreover, we will consider making the information available in different languages.

3 ALTERNATIVE OPTIONS

- 3.1. *Do not make a borough wide alcohol related PSPO and allow the Current Order to continue, targeted on the five wards until its expiration in October 2025 or earlier discharge.* This would not take into consideration evidence gathered, and the views expressed by the consultees that the public consumption of alcohol in other areas of the Borough is causing and is likely to cause nuisance or annoyance to others which needs to be addressed and the benefits of making Merton a responsible drinking borough.
- 3.2. *To implement a new targeted PSPO in other specified areas of the Borough, based on the evidence of ASB related to alcohol consumption.* A new PSPO could be made in addition to the Current Order, or a new PSPO could be made discharging the Current Order and bringing the controls into effect over a wider area, but less than borough wide. It is however considered undesirable to have multiple PSPOs given the potential for confusion in relation to operational areas, making enforcement more problematic.

4 CONSULTATION UNDERTAKEN

- 4.1. Before making the proposed Order and discharging the Current Order a local authority is required to carry out *necessary consultation* and *necessary publicity* as specified by the Act.
- 4.2. A 10 week public consultation was launched on the 19 December 2022 and in total we received 303 responses to our online survey. To publicise the consultation, it was circulated on multiple occasions to members of Merton Neighbourhood Watch, Merton Safer Neighbourhood Board, members of the Council's Equality Forums, Merton Connected, Merton Chamber of Commerce, the Borough's Drug and Alcohol Service, Catch 22, the Borough's Homelessness Service, all Members, via the Council's email newsletter to residents. It was also publicised via the Council's social media channels on Facebook and Twitter.
- 4.3. The public consultation asked respondents whether they supported a borough wide PSPO, of which 79% did. The full results can be found in Appendix 1.
- 4.4. We have also taken on board resident feedback provided through other Council surveys including the Annual Residents Survey and the Your Merton consultation.
- 4.5. In addition, we consulted with our partners including the Police, MOPAC, Public Health, WDP and Kingdom Security.

5 TIMETABLE

- 5.1. The next steps should Cabinet resolve to make the proposed borough wide PSPO and set out in the table below: -

Milestone	Date to be completed
Report submitted to Overview and Scrutiny Committee	15 th March 2023
Final report submitted to Cabinet	20 th March 2023
If Cabinet agrees the proposal to make a borough wide Order, make the Order and specify a commencement date	(Date to agreed once required publicity organised)
Publish the borough wide Order	(Date to be confirmed in advance of the date the Order comes into force)
Borough wide PSPO comes into force	(Date to be confirmed)
Regular Monitoring of the PSPO	Via the monthly Partnership Tasking Meeting

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1. The preparation of proposal to make the proposed Order is being completed within existing officer resources. There will be legal costs to finalise the Order and ensure all due statutory processes are followed, and costs associated with the production and installation of updated signage across the whole borough, should they be agreed by Cabinet. There will also be costs associated to redesigning and printing the leaflets offered to signpost street drinkers to support.
- 6.2. It is expected that the costs outlined above can be funded from existing resources.

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1. The power and requirements for making, extending, varying and discharging a PSPO are set out in Part 4 of Chapter 2 of the Act and is supplemented by the Regulations and Statutory Guidance issued by the Secretary of State referred to at para 1.11 above. The basic requirements for the making a new borough wide PSPO are set out in the body of this report.
- 7.2. In deciding whether to make the proposed order which provides for the discharge the Current Order and if so, for how long, the Council must, by Section 72 of the Act, have particular regard to the rights of freedom of expression and freedom of assembly set out in Articles 10 and 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms 1950 (“the Convention”).
- 7.3. Under Section 66 of the Act any challenge to the validity of a PSPO must be made in the High Court by an interested person within six weeks of it being made. An interested person is an individual who lives in, or regularly works in, or visits the restricted area (the Borough). This means that only those who are directly affected by the restrictions have the power to challenge. The validity of a PSPO can be challenged on two grounds only:
- (a) that the Council did not have power to make the order or vary, or to include particular prohibitions or requirements imposed, or

(b) that the procedural requirements for making, or varying, the PSPO (for instance, consultation) were not complied with.

- 7.4. On any application to the High Court challenging the validity of an Order the Court may suspend its operation or any of the prohibitions or requirements imposed by it until the final determination of the proceedings. If the Court is satisfied the Council did not have the power to make the PSPO, or it did but the Council failed to comply with the procedural requirements and, the applicant has been substantially prejudiced by that failure, it may quash the Order or any of the prohibitions or requirements imposed by it.
- 7.5. The decision to make the proposed order would be susceptible to challenge by way of an application for judicial review which must be brought promptly and in any event, not later than 3 months after the grounds to make the claim first arose.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 8.1. We consider the proposed PSPO is proportionate to the needs of the area, as identified through the analysis and consultation and we have considered the rights of individuals who live, work and visit the area,.
- 8.2. As detailed in section 7 above, in deciding whether to make the proposed PSPO and, if so for how long, the Council is required to have regard to the Convention and Articles 10 and 11 in particular.

Members must also consider the Public Sector Equality Duty under section 149 of the Equality Act 2010 (2010 Act). This requires the Council when exercising its functions, have due regard to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited by the 2010 Act 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 in the 2010 Act 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.

Members must consider how the decision will contribute to meeting these duties in light of other relevant circumstances such as economic and practical considerations.

In order to have proper regard to the Public Sector Equality Duty (PSED) a full Equalities Impact Assessment (EQIA) (Appendix 3) has been carried out and should be considered alongside this Report.

- 8.3. Having carefully considered the EQIA it is considered the impact of the proposed PSPO is consistent with the Council's PSED and does not disproportionately affect any part of the community. The EQIA will be monitored to ensure that future intelligence and information which better informs our understanding and impact of the PSPO is considered.

9 CRIME AND DISORDER IMPLICATIONS

- 9.1.1.1 Section 17 of the Crime and Disorder Act 1998 places a duty on all local authorities to have due regard to the likely effect its exercising of functions will have on crime and disorder in its area, including anti-social behaviour and other behaviour adversely affecting the local environment. Although the current PSPO covering five wards is proving effective, there is evidence it is displacing alcohol-related anti-social behaviour into other areas. Moreover, the evidence shows that the public consumption of alcohol in other parts of the Borough is or is likely to cause nuisance and annoyance. An extension of the existing controls borough wide will allow officers and practitioners to apply a consistent approach and improve community safety across the Borough.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 10.1. A focus of the proposed borough wide Order is around enforcement, but it is acknowledged that this may identify individuals for whom alcohol is particularly problematic. If the proposed borough wide Order is approved, we will continue to work closely with support services to ensure that such individuals can be offered the support they need, should they want it.
- 10.2. Officers enforcing the borough wide PSPO will, if it is approved, take into consideration existing organisational policies and procedures for personal safety and risk management.

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

- Appendix 1 - Public Consultation Results
- Appendix 2 - Evidence Paper
- Appendix 3 - Equalities Impact Assessment
- Appendix 4 – Current PSPO sign
- Appendix 5 – Draft Borough Wide PSPO Order 2023
- Appendix 6 – Map of the PSPO area

12 BACKGROUND PAPERS

- 12.1. *The London Borough of Merton (Alcohol Consumption in Public Places) Order 2020*
- 12.2. *The London Borough of Merton (Alcohol Consumption in Public Places) Order 2020 (Extension) Order 2022*
- 12.3. *ASB Crime and Policing Act 2014 ASB Powers Statutory guidance for frontline professionals (Rev's 06.22).*
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1088750/2022_Updated_ASB_Statutory_Guidance_FINAL.pdf

March 2023

Public Space Protection Order
Consultation Results

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Methodology

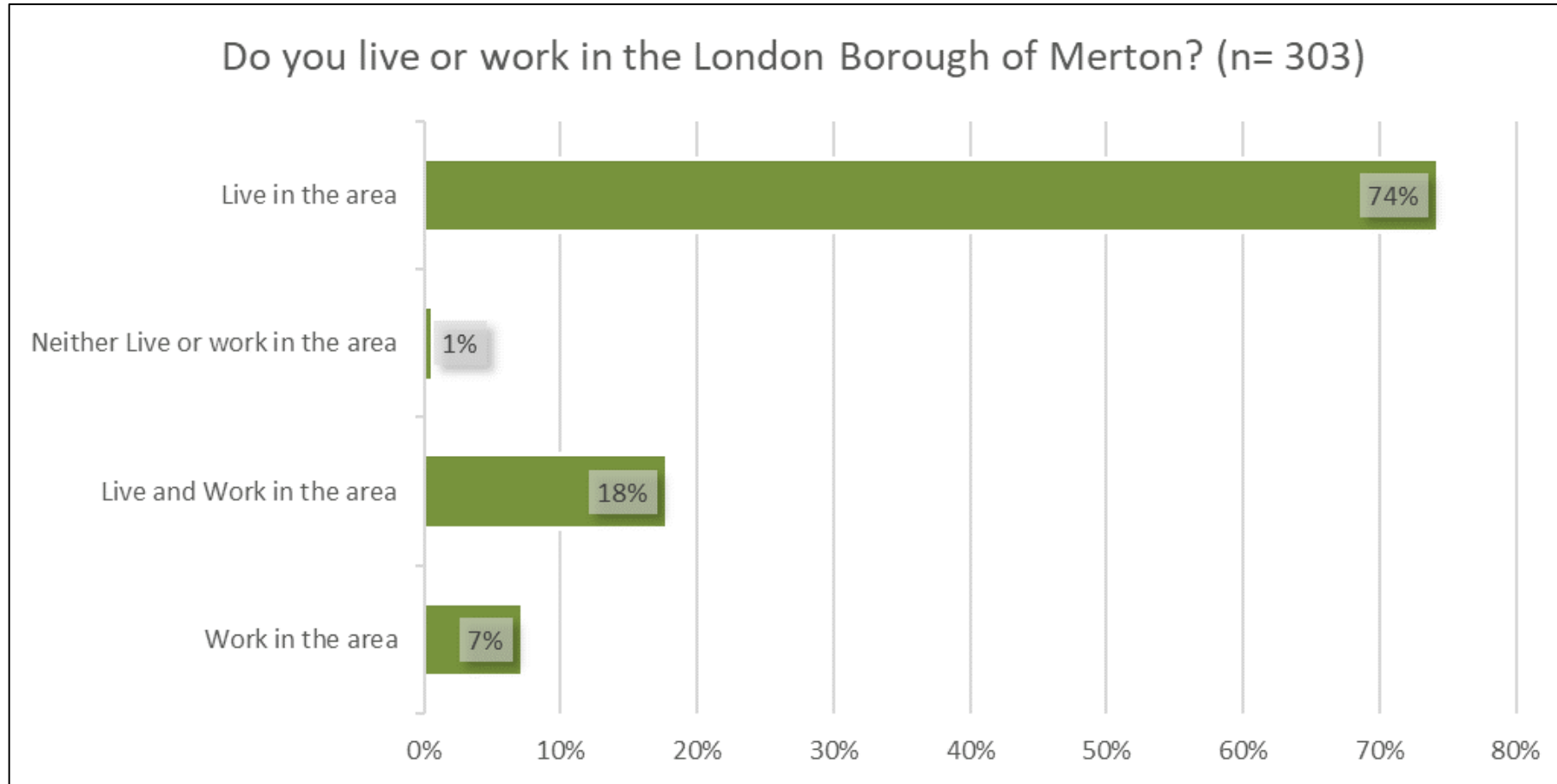
- Public Space Protection Order (PSPO) Consultation launched 19th December 2022, closed on 27th February 2023 to consider the proposal of a boroughwide PSPO in Merton.
- The survey was widely circulated to many partner organisations, community groups It was also publicised widely via social media and newsletters. It was discussed regularly at the Safer and Stronger Executive Board, Locations Board, Merton Taking Group and Safer Neighbourhood Board.
- Partners were also consulted on the PSPO.
- We received 303 responses via the online survey, which was live for ten weeks.
- We would like to thank everyone who participated in the consultation and to Councillors and partners for their comments and input.

Summary of consultation results

- 92% of respondents live in Merton
- People feel less safe in Merton at night
- 47% of respondents felt that street drinking was a fairly or very big problem. 75% felt litter was a problem.
- 76% had witnessed ASB related to street drinking in Merton in the last year. 18% stated that they had witnessed ASB related to street drinking more than 10 times in the last year.
- Many respondents said that alcohol related ASB affected their quality of life.
- 79% support the PSPO proposed

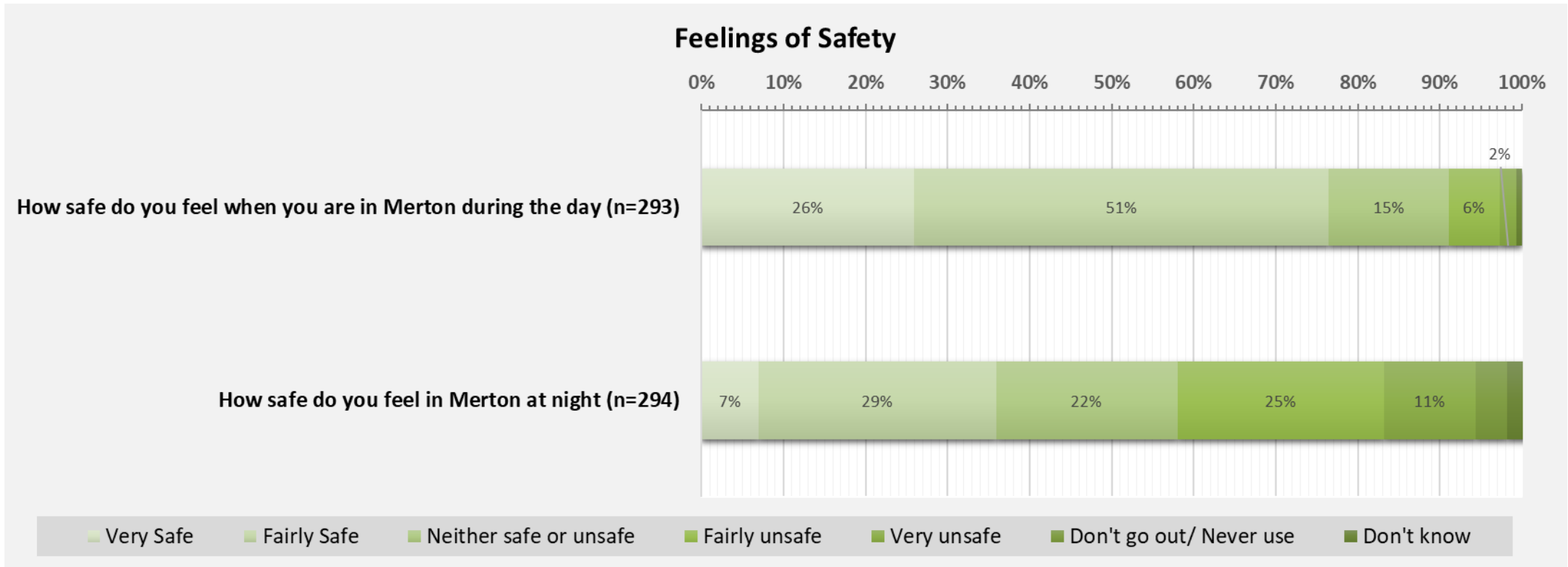
Consultation Results

Do you live in Merton?



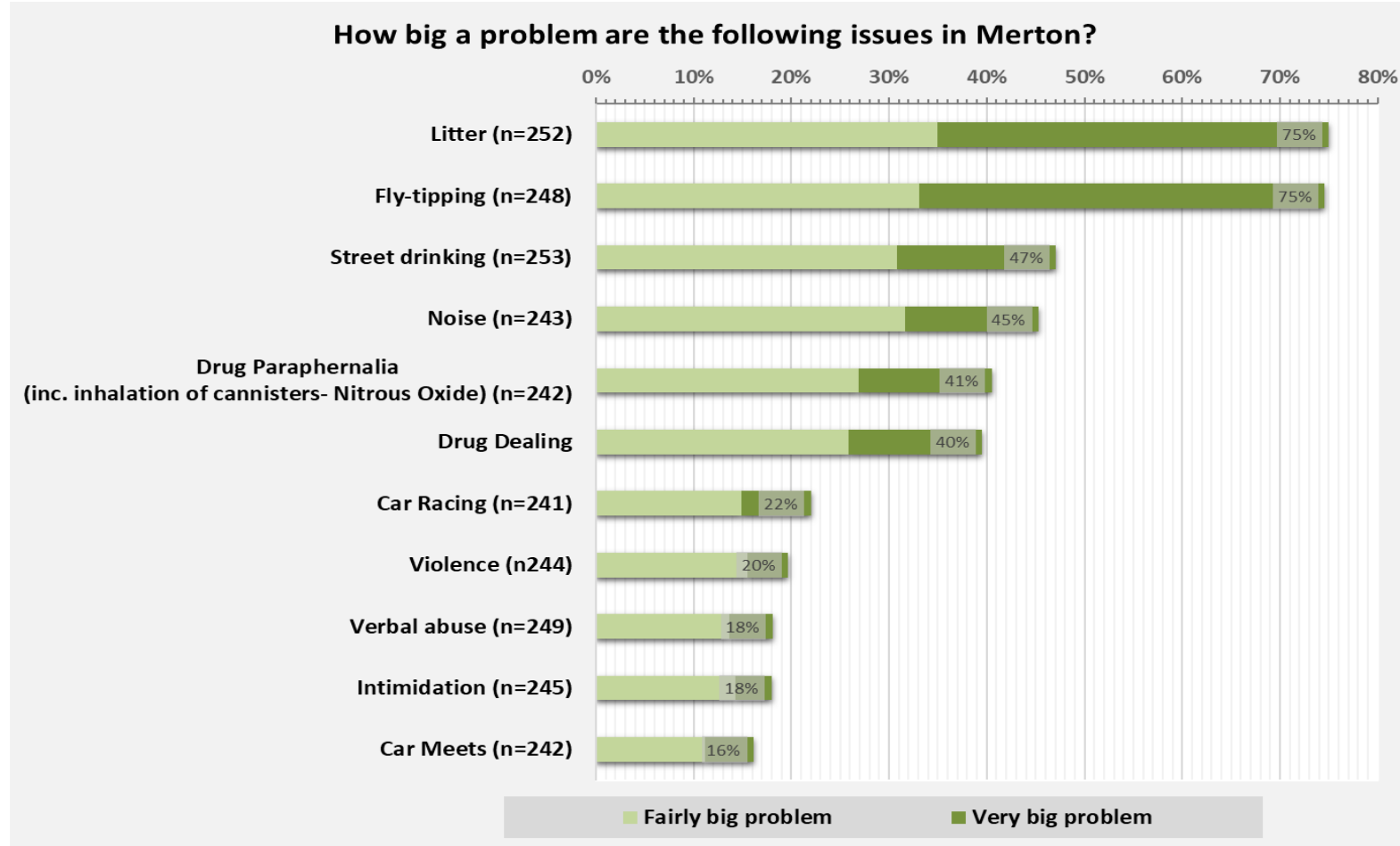
92% of respondents live in the proposed PSPO area. **1%** of people neither live or work in the area.

How safe do you feel in Merton?



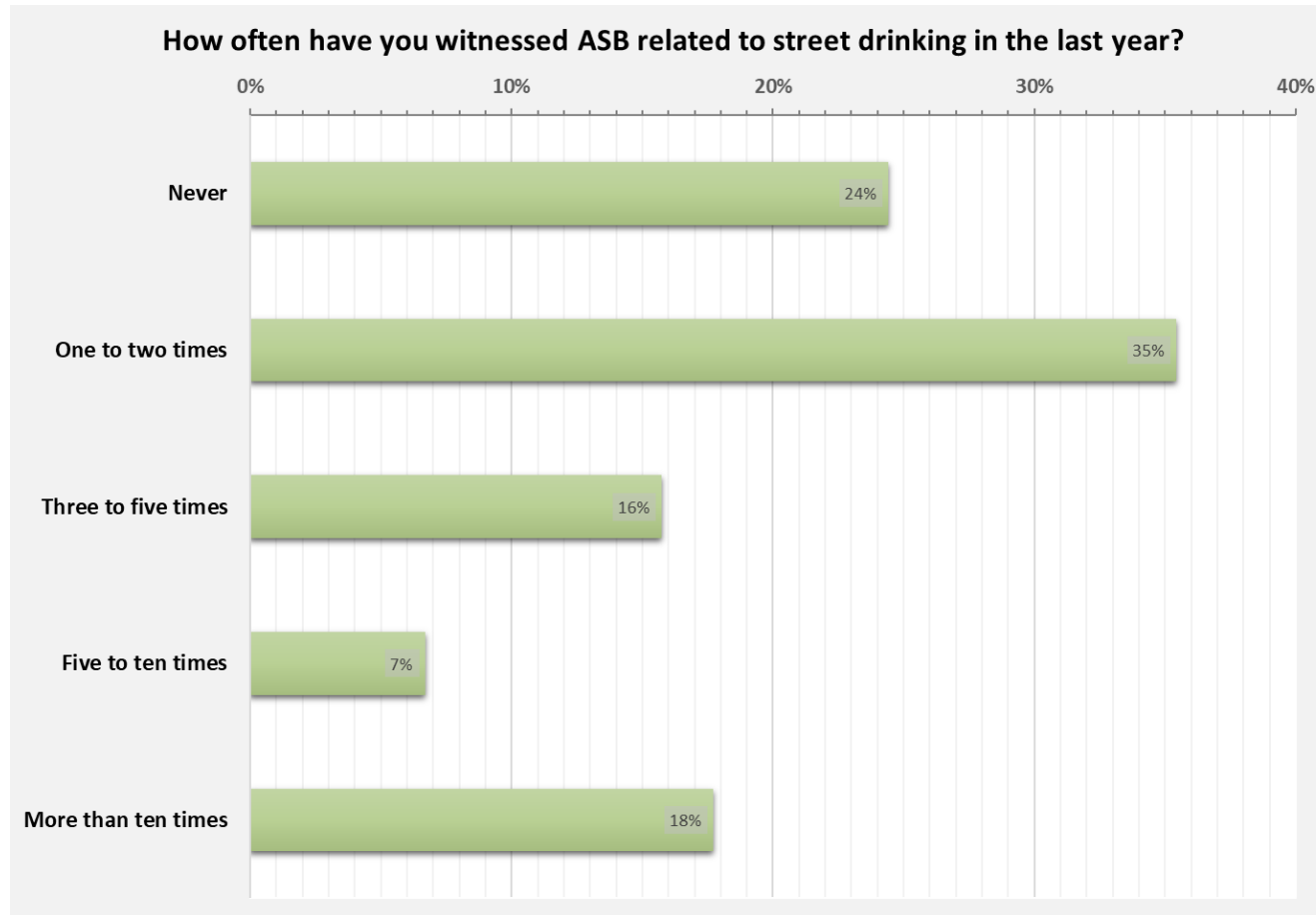
People feel less safe in the area at night. **36%** feel very or fairly unsafe during the night compared to **8%** during the day.

How big a problem are the following issues?



The top issues identified from the list provided to respondents was litter (**75%**) and fly-tipping (**75%**) followed by street drinking (**47%**).

How often have you witnessed ASB related to street drinking?



76% of respondents had witnessed antisocial behaviour related to street drinking.

Are there specific locations where street drinking is a problem?

Throughout the qualitative responses, we noted the key areas referred to by residents specifically mentioned in relation to alcohol.

- Mitcham Town Centre
- Morden Hall Park
- Wimbledon Town Centre and the Broadway
- Wandle Trail
- Morden Town Centre and underground station
- Parks and open spaces in Longthornton ward
- Wimbledon Park ward near Plough Lane.
- Outside shops where alcohol is sold.
- Raynes Park
- Parks in the borough
- Lavender Fields ward
- Collierswood Station
- Lower Morden
- Abbey ward
- Mitcham Eastfield's
- West Barnes
- Cemetery Gap Road
- Dundonald Park
- Pollards Hill
- Motspur Park
- Phipps Bridge
- Figges Marsh
- Graveney
- Wimbledon Common

How does street drinking affect your quality of life?

Respondents were asked how street drinking affects their quality of life. 180 responses were noted to this question and below are the key themes and emotions. (n=180)

- Causes anxiety when out in the borough
- Upset
- Feel threatened and intimidated
- Fearful and worried for children or elderly relatives
- Fearful of own safety as a female
- Avoid going out or seek alternative routes
- Feel unsafe
- Cautious
- Careful about where go out alone
- Avoid parks and open spaces at night
- Unpredictable behaviour of people drinking
- Stressful
- Angry and annoyed
- It doesn't

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Alcohol specific issues identified

- Late alcohol sales and underage sales
- Alcohol on trains and at stations
- Drunk teenagers
- Groups in flat stairwells drinking
- Children witnessing excessive drinking and drug taking
- Drunk people being loud
- Drinking during Wimbledon Tennis
- Alcohol related litter
- Urination

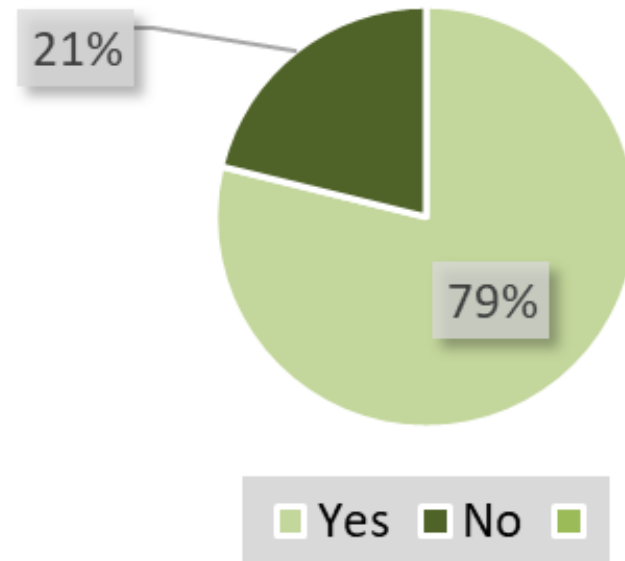
Are there any other issues in the area?

We assessed the responses to all of the open text questions and the following themes were mentioned:

- Litter, rubbish and fly-tipping
- Dog Fouling and dogs not on leads
- Speeding and car meets
- Drug dealing and use
- Noise
- Dangerous driving, including Mopeds
- Violent crime including robbery
- Public urination
- Illegal fishing
- Rough Sleepers
- Pollution
- Late alcohol sales
- Congestion at bus stops poses crime risk
- Fireworks
- Green spaces lost
- HMO's
- Safety of Women and Girls at night
- Bicycles on pavements
- Overgrown hedges and maintaining verges.
- Quality of street lighting – too dim
- Lack of public facilities
- Increase visibility of Police

Do you support the PSPO proposed?

Are you in favour of extending the area covered by a PSPO to borough wide? This will prohibit the public consumption of alcohol which causes, or is likely to cause, nuisance and annoyance to others (n=241)



79% of respondents support the extension of the geographical area of the PSPO

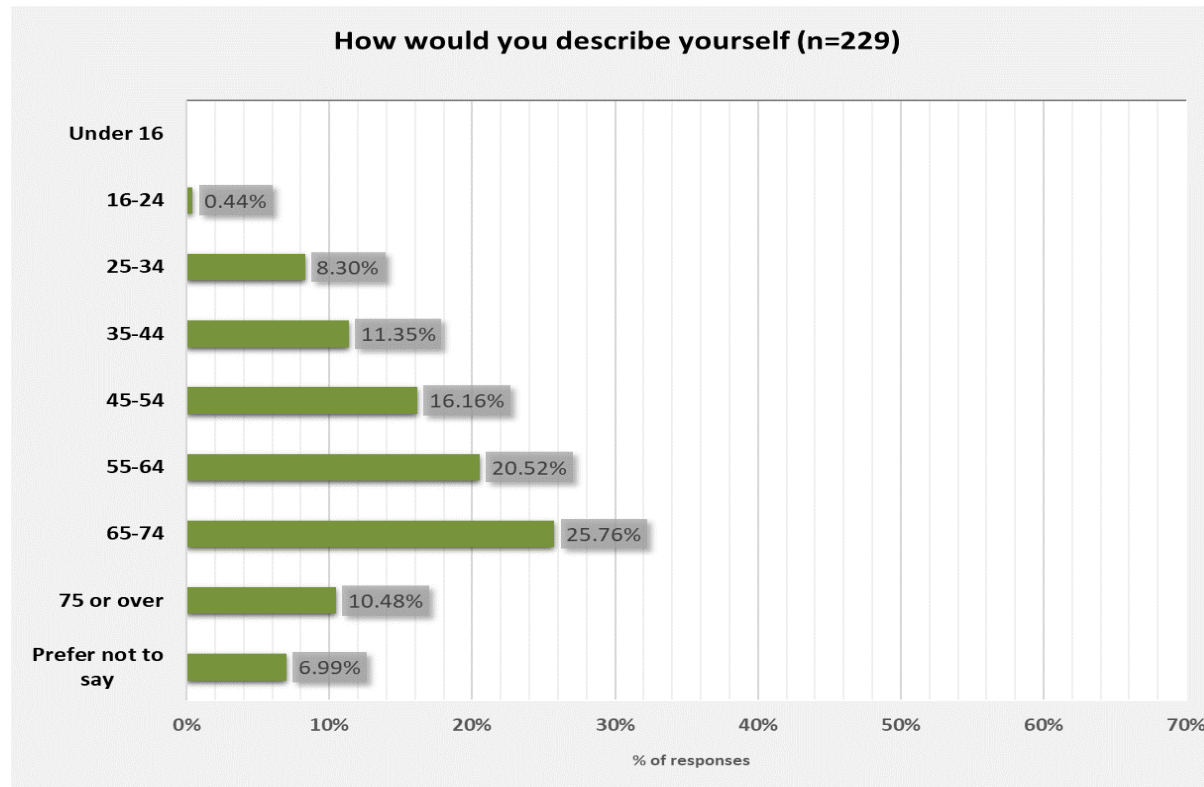
Key questions from the consultation

- Will the PSPO prohibit those having a picnic in the local parks and open spaces, from consuming alcohol?
- How it will be policed and enforced?
- Will it dilute the impact of the work in the 5 wards where the PSPO currently is?
- What impact will expanding the PSPO have on both Police and Council resources?
- Is a boroughwide PSPO proportionate?

How would you describe yourself?

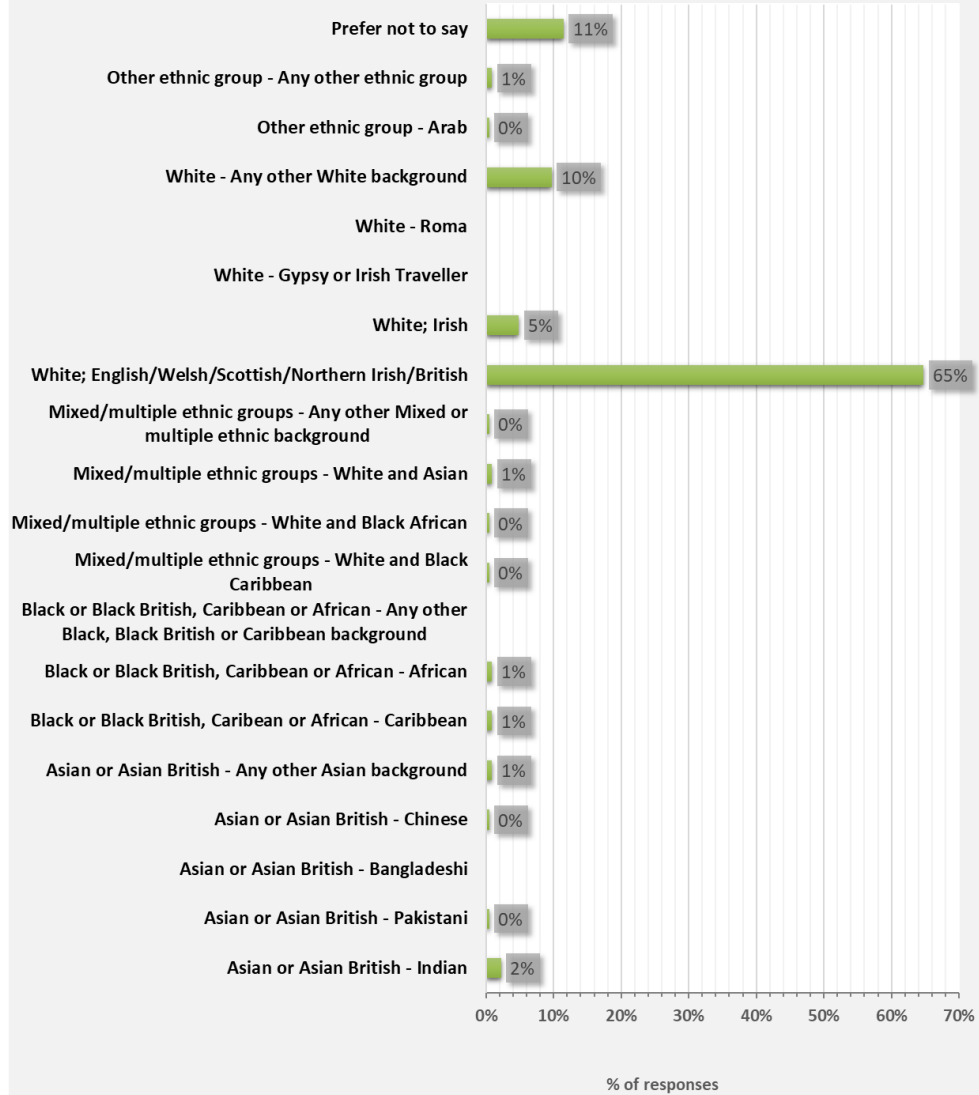
Gender Identity... The largest proportion of respondents described themselves female 50%, followed by 45% as male. The remainder either preferred not to say, or self identified (N=233).

94.4% identified with the gender the same as their sex identified at birth. The remainder preferred not to say

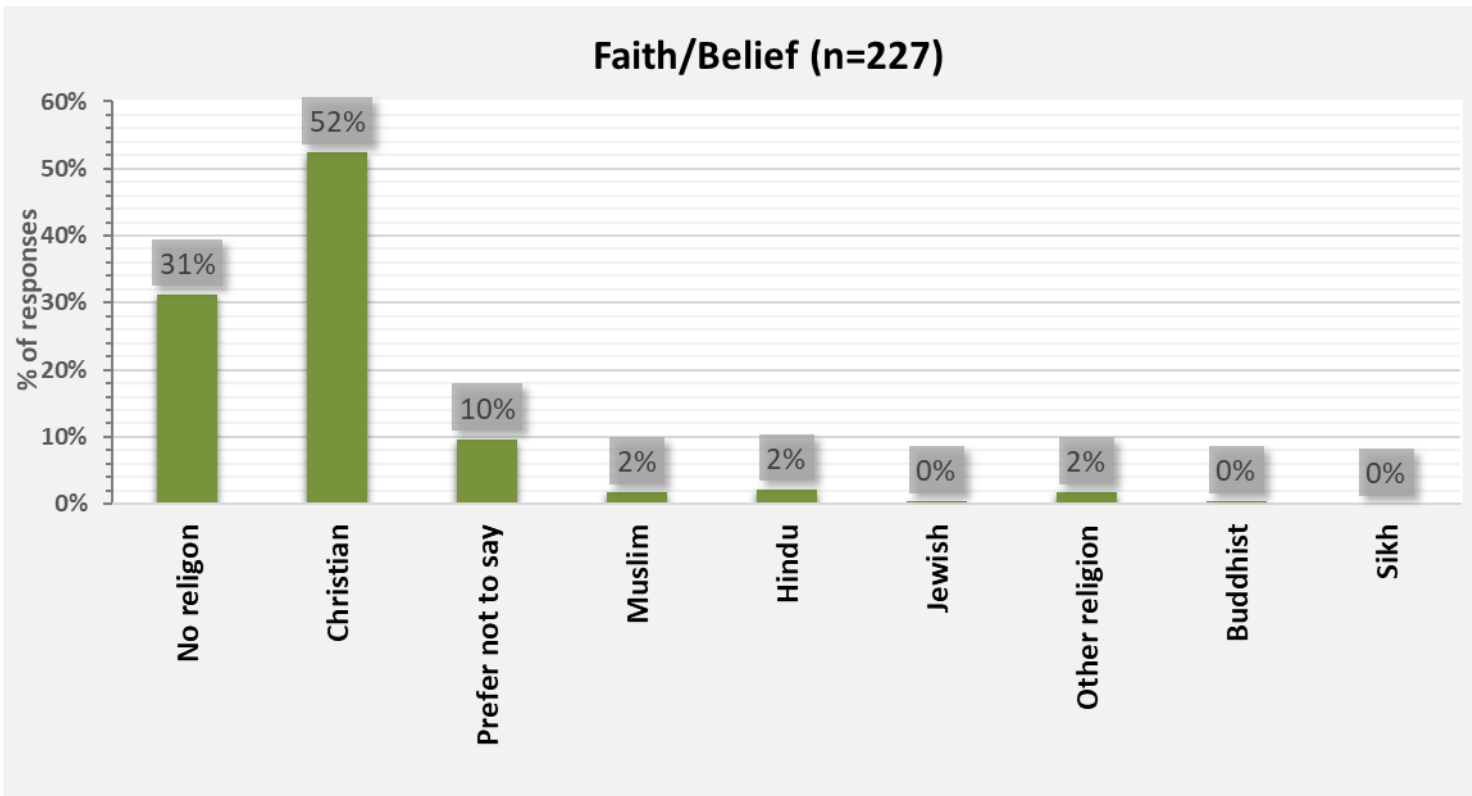


Age... The largest proportion of respondents were in the 65-74 age group, followed by those in the 55-64 age group.

How would you describe yourself (n=227)



Ethnicity... The sample size was fairly small so difficult to make comparisons to national data on the ethnic makeup of the borough. The highest proportion of responses was from those of a white background at 65%



Faith/ Belief... Responses were the highest for Christian religion at 52%.

Sexuality... 81% of respondents described themselves as heterosexual/straight, 13% preferred not to say, 3% described themselves as Gay or Lesbian, 2% Bisexual and 2% other. (N= 229)

Disability... 11% of respondents described themselves as having a disability, 82% stated that they didn't and the remainder chose not to answer the question. (N= 230)

- The results will help provide some evidence of the problem, which will be presented to Cabinet.
- We will ensure tasking and engagement in the areas highlighted by the consultation
- We will ensure that communication messages go out around the outcome from Cabinet and if approved, will ensure that implications of the PSPO are communicated back to residents.
- We have noted the broader issues raised about crime and ASB and these will be shared with our ASB team and where applicable taken forward to the Borough Tasking Group (a location based problem solving group).

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March 2023

PSPO Evidence

Background

Robust evidence is essential when considering the implementation of a PSPO. The council need to be satisfied that the evidence demonstrates that the conditions for the application of a PSPO have been met.

Following the recent renewal of the current PSPO on the borough in the 5 wards of Cricket Green, Figges Marsh, Graveney, Lavender Fields and Ravensbury wards, it was requested at Cabinet that the Community Safety Partnership consider the evidence to see if a borough wide PSPO would help support the ambition to be a responsible drinking borough.

Quantitative Evidence

Available intelligence has been examined to see what the potential requirement for the borough will be going forward. The evidence is not comprehensive; however, the information below seeks to provide some context as to how big the **reported** problem of alcohol related ASB is in the borough. The time periods we will look at, where possible, is the period of the last PSPO November 2020 to October 2021 (Year 1) and November 2021 to October 2022 (Year 2).

Safer Merton Alcohol Related ASB Complaints

The Safer Merton ASB Team log all complaints that come into their service. They log the type of incident and the location. Looking at the data supplied by the team for the period identified, there were 57 cases that had an alcohol element in year 1. In comparison in year 2 there were 81 cases that had an alcohol element.

The top locations in year 1 were Graveney (25%) and Figges Marsh (23%). There was at least one complaint of alcohol related ASB in 15 of the borough's wards over the year.

In year 2, the top wards were Figges Marsh (18.5%), and Graveney and Longthornton each with 12%. There was at least 1 alcohol related complaint in 16 of the borough's wards.

It's important to flag the relatively small numbers, however as the Strategic Assessment points out, the proportion of cases where alcohol is a contributory factor are thought to be much higher than the figures indicate.

In addition, the team have received 14 direct complaints and MP enquiries with an alcohol element since July 2022.

FPN's issued for Street Drinking

In the financial year 2021-22 there were 6 FPN's issued by Council Officers for Street Drinking.

CCTV Alcohol Related Logs

The CCTV team log any alcohol related concerns on their system as well as a brief description of events and associated behaviours where applicable. The location, time and date of logs are also captured.

In year 1, there were 129 alcohol related logs, and the top locations were Mitcham (40.3%), Wimbledon (21.7%) and Morden (10.9%). In year 1 there were 12 different locations mentioned from across the borough, but these were based on where there is CCTV coverage.

In year 2 there were 150 alcohol related logs, and the top location was Mitcham (39.3%), Wimbledon (27.3%) and Morden (11.1%). In year 2 there were 13 different locations mentioned from across the borough however again these were based on where there is CCTV coverage.

	CCTV Year 1		CCTV Year 2	
	Fig	%	Fig	%
Mitcham	52	40.3	59	39.3
Wimbledon	28	21.7	41	27.3
Morden	14	10.9	17	11.3
Colliers Wood	9	7.0	7	4.7
Wimbledon Village	5	3.9	2	1.3
All Areas	2	1.6	0	0.0
Phipps Bridge	2	1.6	2	1.3
Raynes Park	1	0.8	3	2.0
St Helier	1	0.8	0	0.0
Pollards Hill	1	0.8	3	2.0
High Path	1	0.8	0	0.0
Weir Road	1	0.8	1	0.7
Missing Location	12	9.3	8	5.3
South Wimbledon	0	0.0	4	2.7
Civic Centre	0	0.0	1	0.7
Morden Park House	0	0.0	1	0.7
Sadlers Close	0	0.0	1	0.7
TOTAL	129		150	

Police calls related to street drinking

Due to the Police reporting system, data was only available for the 12-month period February 2022 to January 2023. In this period there were 43 complaints of ASB with an alcohol flag and 9 calls in relation to street drinking.

London Ambulance Callouts for Alcohol

As the Strategic Assessment identified through data supplied by SafeStats, the London Ambulance Service data is normally the most reliable dataset to use in relation to alcohol related issues on the borough

For the two years under review, there were at least 10 callouts per year in every ward (based on the old wards) of the borough. In year 1 there were 732 alcohol related callouts and the top wards were

Figges Marsh (13%), Abbey (10%) and Colliers Wood (8%). In year 2 there 648 alcohol related callouts (an 11.5% decrease from year 1) and the top wards were Colliers Wood (9%), Abbey (9% and Figges Marsh (9%).

Summary of figures

Data Source	Year 1	Year 2
ASB Complaints	57	81
CCTV Logs	129	150
Ambulance Callouts (Sep 17 – Aug 18 and Sep18 – Aug 19)	732	648

Summary

The current information available to us around street drinking and associated behaviour is not comprehensive. We have therefore gone on to look at perception based information and have sought statements from key partner organisations to let us know about their experience.

Survey Information

In addition to the quantitative data, we felt it was important to consider the views of the public we have therefore look at perception information from the surveys conducted recently on the borough.

London Borough of Merton Annual Residents Survey 2021

Adults Survey

The 2021 survey provides a representative sample of 1005 residents living in the borough of Merton. There has been an increase in those feeling that people being drunk or rowdy is a problem (13% in 2019 to 23% in 2021). East Merton and Mitcham cluster had the highest percentage of residents who saw being drunk or rowdy (42%) as a problem. This was followed North East Merton (27%).

Young People’s Survey

As part of the Annual Residents Survey, the council included young residents aged 11-17. The sample size was 110 young people. In the 2019 survey 13% of the young people surveyed stated that they were personally concerned about substance misuse. This was an increase on the 10% in the 2019 survey.

Young people were also asked to state the top ten things that they were locally concerned about in their local area. 16% of young people stated that Anti-Social Behaviour and bad behaviour in public was a concern.

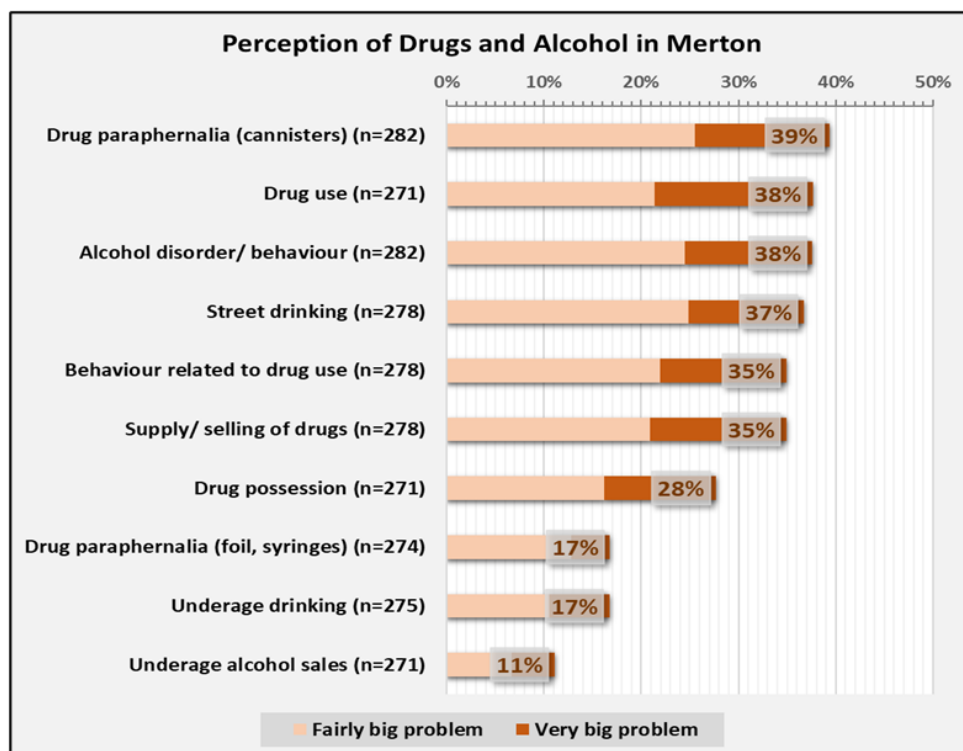
Safer Merton Survey

In 2021, a Community Safety Survey was undertaken. The survey opened in July and closed in mid-October. There were 328 responses. The survey aimed to ask residents about all aspects of community safety and as such there was a section around Anti-Social Behaviour and another around drugs and alcohol.

Whilst not the top concern, residents thought alcohol disorder and street drinking were a problem. 80% of people explained their score by saying they had experienced or seen it.

Residents were given the option to provide a qualitative response to specific ASB issues that they were concerned about. There were 169 free text responses provided. Of these, 5 contained the word “alcohol” and 9 specifically mentioned “drinking”. Most locations were open spaces such as parks.

Residents were then asked if there were any general comments they would like to feedback to the partnership. In total, there were 141 comments provided. Of these, 18 were specifically for “drinking” and 3 were for “alcohol”.



Stakeholders Survey (February 2022)

Safer Merton put together a short survey to assess perceptions of the PSPO amongst partners and the local Police Teams. In total we received 14 responses.

In general, the partners felt that the PSPO was a useful tool to have, particularly for those working the current PSPO area.

It was felt that fines for persistent drinkers may be an issue and it was felt that it would be good if there was an easier way to report breaches of the PSPO, for example through an app.

Generally, partners felt that the prohibition was the right one, however other geographical areas that were suggested for consideration were:

- Wimbledon Town Centre

- Colliers Wood
- Longthornton
- Pollards Hill
- Willow Lane Estate
- Merton Park and Morden Town Centre by Tube

Stakeholder Survey (November 2022)

Safer Merton put together a short survey to gather views of partners around the possible expansion of the PSPO to being borough wide. 8 responses were received. Locations identified were

- Town Centres
- Wimbledon Town Centre
- Colliers Wood - Wandle Park
- Lyvedon Road footbridge

There was a sense that engagement was important alongside enforcement. One respondent stating that enforcement alone will not solve the problem. Often those who are street drinking have complex, multiple issues.

The types of ASB that were identified was intimidating behaviour, littering, defecation, aggression, and escalation to other crimes.

Other points raised were the need to consider the perceptions if a boroughwide PSPO is implemented and are there other tools that could be used to address the problem.

Some of the benefits of having a PSPO included additional legislation, will make Merton safer, be a deterrent, allow issues to be dealt with quickly and help to tackle ASB.

Partner Statements of Support

As part of the consultation process in December 2022, we approached the wider partnership to gather views on the proposed boroughwide PSPO. In total we received 11 statements of support from organisations and teams. Partners raised the following points:

- A boroughwide PSPO will reduce the issue of displacement
- Consider impact of policing a boroughwide PSPO
- A boroughwide PSPO will provide more opportunity for engagement to support to those identified with alcohol problems.
- The powers will not affect those going about their activities but will help to prevent ASB.
- Surveys have shown that alcohol issues are a problem for residents.
- PSPO will support patrols in problem locations.
- Alcohol related harm can affect all areas of the borough.
- PSPO can promote reasonable drinking.
- Opportunity for education.

- Create a cohesive approach to promoting the responsible sale of alcohol and potentially minimising the effect on anti-social behaviour, crime and disorder associated with street drinking

(Note: Partner statements were received from The Police, London Fire Brigade, Merton Council Children's Services, Public Health, Merton Council Environment Enforcement, Merton Council Parks, Clarion Housing, Westminster Drugs Project, Merton Council Licensing, Safer Transport, Merton Council Homelessness Team).

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Equality Analysis



Please refer to the guidance for carrying out Equality Analysis (available on the intranet).
Text in blue is intended to provide guidance – you can delete this from your final version.

What are the proposals being assessed?	Merton Public Space Protection Order
Which Department/ Division has the responsibility for this?	Environment and Regeneration – Public Protection (Safer Merton)

Stage 1: Overview

Name and job title of lead officer	Calvin McLean (Interim AD Public Protection) and Megan Hatton (Head of Community Safety)
1. What are the aims, objectives and desired outcomes of your proposal? (Also explain proposals e.g. reduction/removal of service, deletion of posts, changing criteria etc)	<p>We are proposing a new Public Space Protection Order (PSPO) for the borough. PSPO's are a tool set out in the Anti-Social Behaviour (ASB), Crime and Policing Act 2014. A PSPO is a local authority tool that is designed to prohibit certain activities or can require that people do certain things when engaging in certain activities within a defined public area. PSPO's should focus on an identified problem behaviour rather than targeting specific individuals or properties. A breach of a PSPO is an offence.</p> <p>In 2017 Merton's borough wide Controlled Drinking Zone transitioned into a borough wide PSPO, due to a change in legislation. In 2020 a new more localised PSPO was approved covering five wards. This current PSPO was renewed on the 20th October 2022.</p> <p>Our proposal is to establish a new borough wide PSPO to tackle street drinking and the associated ASB. Street drinking and the associated ASB can have a significant impact upon the quality of life for those who experience it, we therefore need to ensure that the appropriate tools are in place to proactively address the community impact. There will be one prohibition set as part of the order, which will give authorised officers the power to take and dispose of alcohol if they feel an individual is acting or is likely to act in an anti-social manner. If the individual does not comply, an FPN can be issued.</p> <p>As mentioned, we would like the proposed PSPO to cover the whole borough. This will ensure Merton can be promoted as a responsible drinking borough, which offers clear pathways of support to those whose drinking is problematic. It will also help to prevent the displacement of those causing alcohol related ASB from one area of the borough to another.</p>
2. How does this contribute to the council's corporate priorities?	The purpose of the PSPO is to help tackle alcohol related ASB and to help improve the quality of life for those who live, work and visit the area, with the aim of having a positive impact on the levels of crime and

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	<p>ASB. This therefore contributes to the Council’s corporate priorities of ensuring that the borough is a safe place to live, work and visit.</p> <p>Our intention is to use the tool to address street drinking and associated ASB which we have been told by residents, has a detrimental impact upon their quality of life. If the PSPO is agreed, we will work closely with our partners and monitor the impact closely.</p>
<p>3. Who will be affected by this proposal? For example who are the external/internal customers, communities, partners, stakeholders, the workforce etc.</p>	<p>As mentioned, the PSPO will provide the Local Authority the powers to address certain behaviours on the borough. The prohibition set out in our draft order is that those with delegated authority will be able to ask people to stop drinking if they are or it is deemed likely they will cause ASB. If this request is not adhered to, the officer can confiscate the alcohol and a fixed penalty notice may be issued. The PSPO is designed in such a way so as to address the behaviour of those causing ASB as a result of alcohol and not prohibit people from drinking responsibly in the area.</p> <p>The PSPO will therefore impact upon anyone who lives, works, or visits the area, but we believe in a positive way. The PSPO may impact upon those who have a more problematic relationship with alcohol – but only when their behaviour begins to impact upon others. We are therefore working with WDP drug and alcohol service who are commissioned by Merton Public Health to ensure that support and access to treatment is available and offered to those who need it. People who consistently breach the order will also be considered by the borough’s Community MARAC; a multi-agency group set up to work in partnership to address persistent perpetrators of ASB.</p> <p>Internally and externally, there will be some impact in terms of capacity upon the teams who will need to enforce the order, this will be Kingdom Security and the Police. We are working with partners to develop an engagement and enforcement plan to ensure that the work is co-ordinated and that there is a fair balance between enforcement, engagement and support.</p> <p>We hope that the order will have a positive impact on the area and that this will benefit the local community.</p>
<p>4. Is the responsibility shared with another department, authority or organisation? If so, who are the partners and who has overall responsibility?</p>	<p>The Local Authority via Safer Merton has the overall responsibility, but the enforcement of the order will also fall to other teams such as Kingdom Security and other organisations such as the Police.</p>

Stage 2: Collecting evidence/ data

5. What evidence have you considered as part of this assessment?

Provide details of the information you have reviewed to determine the impact your proposal would have on the protected characteristics (equality groups).

The evidence for a PSPO

The purpose of a PSPO is to address an area-based issue and not to target individuals or communities based upon protected characteristics. The intended aim is to ensure that the PSPO will help to ensure that the quality of life for all residents is improved, particularly for those who are suffering from the detrimental effect of street drinking and the associated ASB. We have looked at available data to better understand the area as well as considering a range of datasets from ASB complaints, Police data for calls in relation Street Drinking, alcohol related ambulance callouts, CCTV evidence and survey information to help inform our decision-making process.

The survey-based information included the corporate Annual Residents Survey (ARS). The ARS provides a representative sample of approximately 1000 residents, so concerns around alcohol and anti-social behavior as well as locations provided, were considered.

The 2021 survey provides a representative sample of 1005 residents living in the borough of Merton. There has been an increase in those feeling that people being drunk or rowdy is a problem (13% in 2019 to 23% in 2021). East Merton and Mitcham cluster had the highest percentage of residents who saw being drunk or rowdy (42%) as a problem. This was followed North East Merton (27%).

As part of the Annual Residents Survey, the council included young residents aged 11-17. The sample size was 110 young people. In the 2019 survey 13% of the young people surveyed stated that they were personally concerned about substance misuse. This was an increase on the 10% in the 2019 survey. Young people were also asked to state the top ten things that they were locally concerned about in their local area. 16% of young people stated that Anti-Social Behaviour and bad behaviour in public was a concern.

The PSPO Locality

The PSPO we are proposing will cover the whole borough. By ensuring the PSPO applies to all areas, this will ensure that across the borough, the Police and Council enforcement officers will have the relevant powers to target the minority of people who cause alcohol related ASB. It will ensure all those who require additional support around their alcohol usage can be offered it. This will provide reassurance to our residents that we are tackling these issues which can have a negative impact on communities and quality of life. It will also help to prevent displacement of problematic drinkers from one area of the borough to another.

Individuals

We have considered the population that may be most affected by the order, and this is the population that are most likely to consume alcohol. According to the Merton Substance Misuse Profile 2018, the highest proportion drinking over the recommended amount of alcohol units are males in the 65-74 age group and females aged 55-64 years. Almost 1 in 6 adults in Merton binge drink, 1 in 20 adults are consuming alcohol at

higher risk levels in Merton, 1 in 5 adults are consuming alcohol at increasing risk levels in Merton. Local profiles do not provide information around ethnicity however national data suggests that Asian ethnic groups have the highest proportion of abstaining individuals - with over 70% of females compared to 55% of males. Approximately 40% of people in black ethnic groups are likely to be abstinent. The lowest proportion of abstinence was found in people in white ethnic groups - less than 10% of men and 15% of women.

We have also had discussions with the local drug and alcohol services and we have consulted with Public Health and feedback we have received is that street drinkers are a complex and vulnerable group. There is no current detailed profile of street drinkers in Merton, however it is our intention to develop the intelligence around this cohort as the work progresses and work with Public Health and our local drug and alcohol services to ensure the appropriate support interventions are in place.

Impact of the evidence

The Merton Story suggests that the east of the borough is a more ethnically mixed population, so we will ensure that literature and information around the prohibition is available in other languages in this area.

We will also engage with youth services to ensure we provide young people with accessible information about the order to ensure they are informed.

We are keen to ensure that all literature and signage is clear and easy to understand, so that individuals do not feel that their rights and freedom to enjoy an alcoholic drink are not impinged. They will only be challenged when the behavior is such to impact upon others.

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Stage 3: Assessing impact and analysis

6. From the evidence you have considered, what areas of concern have you identified regarding the potential negative and positive impact on one or more protected characteristics (equality groups)?

Protected characteristic (equality group)	Tick which applies		Tick which applies		Reason Briefly explain what positive or negative impact has been identified
	Positive impact		Potential negative impact		
	Yes	No	Yes	No	
Age	√			√	The PSPO is designed to improve the quality of life for all who live, work and visit the area.
Disability	√			√	The PSPO is designed to improve the quality of life for all who live, work and visit the area.
Gender Reassignment	√			√	The PSPO is designed to improve the quality of life for all who live, work and visit the area.

Marriage and Civil Partnership	√			√	The PSPO is designed to improve the quality of life for all who live, work and visit the area.
Pregnancy and Maternity	√			√	The PSPO is designed to improve the quality of life for all who live, work and visit the area.
Race	√			√	The PSPO is designed to improve the quality of life for all who live, work and visit the area.
Religion/ belief	√			√	The PSPO is designed to improve the quality of life for all who live, work and visit the area.
Sex (Gender)	√			√	The PSPO is designed to improve the quality of life for all who live, work and visit the area.
Sexual orientation	√			√	The PSPO is designed to improve the quality of life for all who live, work and visit the area.
Socio-economic status	√			√	The PSPO is designed to improve the quality of life for all who live, work and visit the area.

7. If you have identified a negative impact, how do you plan to mitigate it?

N/A

Stage 4: Conclusion of the Equality Analysis

8. Which of the following statements best describe the outcome of the EA (Tick one box only)

Please refer to the guidance for carrying out Equality Impact Assessments is available on the intranet for further information about these outcomes and what they mean for your proposal

✓

Outcome 1 – The EA has not identified any potential for discrimination or negative impact and all opportunities to promote equality are being addressed. **No changes are required.**

Outcome 2 – The EA has identified adjustments to remove negative impact or to better promote equality. **Actions you propose to take to do this should be included in the Action Plan.**

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Outcome 3 – The EA has identified some potential for negative impact or some missed opportunities to promote equality and it may not be possible to mitigate this fully. **If you propose to continue with proposals you must include the justification for this in Section 10 below, and include actions you propose to take to remove negative impact or to better promote equality in the Action Plan. You must ensure that your proposed action is in line with the PSED to have 'due regard' and you are advised to seek Legal Advice.**

Outcome 4 – The EA shows actual or potential unlawful discrimination. **Stop and rethink your proposals.**

Stage 5: Improvement Action Plan

9. Equality Analysis Improvement Action Plan template – Making adjustments for negative impact

This action plan should be completed after the analysis and should outline action(s) to be taken to mitigate the potential negative impact identified (expanding on information provided in Section 7 above).

Negative impact/ gap in information identified in the Equality Analysis	Action required to mitigate	How will you know this is achieved? e.g. performance measure/ target)	By when	Existing or additional resources?	Lead Officer	Action added to divisional/ team plan?

Note that the full impact of the decision may only be known after the proposals have been implemented; therefore it is important the effective monitoring is in place to assess the impact.

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Stage 6: Reporting outcomes

10. Summary of the equality analysis

This section can also be used in your decision making reports (CMT/Cabinet/etc) but you must also attach the assessment to the report, or provide a hyperlink

This Equality Analysis has resulted in an Outcome [1](#) Assessment

Overall we don't feel that the PSPO will have a negative effect upon anyone with protective characteristics. The PSPO is designed to help improve the quality of life for all that work, live and visit the area. We have made reference to individuals who street drink, however the order will only affect individuals if they are acting in an anti-social manner, refusing to understand the impact on the local community and accessing services to address the behaviour. It is our intention to monitor the PSPO and to develop our understanding of those who street drink in the borough.

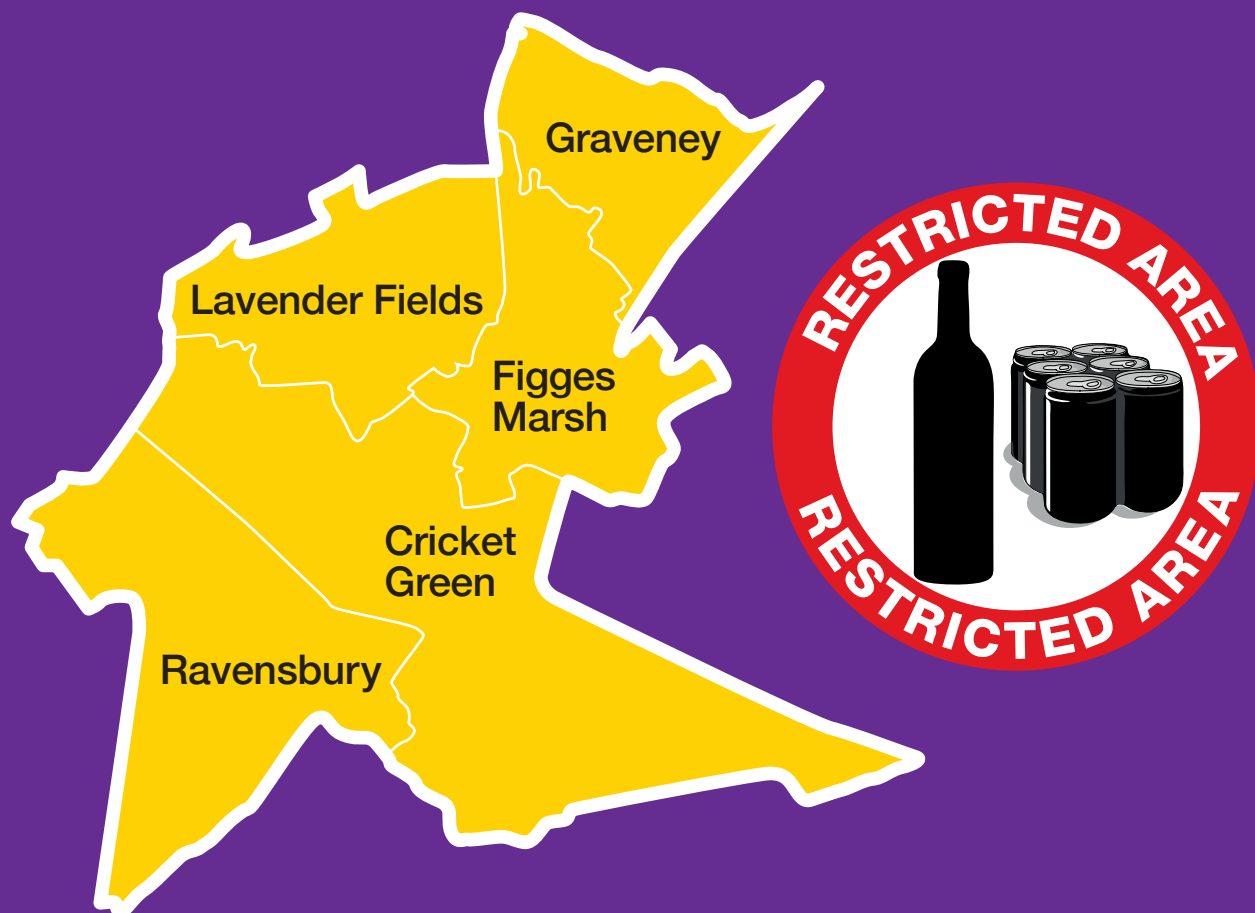
Stage 7: Sign off by Director/ Head of Service			
Assessment completed by	Katy Saunders, Community Safety Team Manager Kelly Marshall. Strategic Development Lead	Signature:	Date: 03/03/2023
Improvement action plan signed off by Director/ Head of Service	Megan Hatton, Head of Community Safety	Signature:	Date: 03/03/2023

Anti-Social Behaviour, Crime and Policing Act 2014

Public Space Protection Order

The London Borough of Merton (Alcohol Consumption in Public Places) Order 2020 has been extended to 21 October 2025.

Merton Council made the above Order to tackle alcohol-related anti-social behaviour. The Order imposes restrictions on the public consumption of alcohol in the wards of:



It is a criminal offence if you fail to stop drinking alcohol, refuse to surrender alcohol or anything that is reasonably believed to be alcohol or a container for alcohol, when asked to do so by the police or a person authorised by the council. **Maximum penalty £500 fine.**

It is a criminal offence if you refuse to give the police or a person authorised by the council your name and address or if you give a false or inaccurate name or address. **Maximum penalty £1,000 fine.**

**To report anti-social behaviour, please call the police on 101.
In an emergency, call 999.**

For further information and to view the PSPO, including plans showing the restricted area, or the Order extending the duration of the PSPO, go to: merton.gov.uk/pspo

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LONDON BOROUGH OF MERTON

ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014

LONDON BOROUGH OF MERTON (ALCOHOL CONSUMPTION IN PUBLIC PLACES) ORDER 2023

RECITALS

- A. The London Borough of Merton (“the Council”) is satisfied that the requirements set out in Chapter 2 of Part 4 of the Anti-social Behaviour, Crime and Policing Act 2014 (“the Act”) have been satisfied and that it is, in all the circumstances, appropriate to make this Order.
- B. The Council is satisfied that activities have been and will continue to be carried on in the public places within the Restricted Area which have had and will continue to have a detrimental effect on the quality of life of those in the locality, such activities being the consumption of alcohol in public places other than premises excluded from this Order, leading to anti-social behaviour.
- C. The Council, in making this Order, is satisfied on reasonable grounds that activities have been carried out in the Restricted Area, and have had a detrimental effect on the quality of life of those in the locality and it is likely that those activities will be carried in the Restricted Area and will have that effect.
- D. The Council is further satisfied that the effect, or likely effect, of the activities-
- a. is, or is likely to be of a persistent or continuing nature;
 - b. is, or is likely to be such as to make the activities unreasonable; and
 - c. justifies the restrictions imposed by this Order.
- E. The Council is satisfied that the prohibitions and requirements imposed by this Order are ones that it is reasonable to impose in order to prevent the detrimental effect

from continuing, occurring, or recurring or to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.

- F. The Council has had regard to the rights and freedoms set out in the Convention for the Protection of Human Rights and Fundamental Freedoms 1950 (“the Convention”). In particular, the Council has had regard to the rights and freedoms set out in Article 10 (right of freedom of expression) and Article 11 (right of freedom of assembly) of the Convention and has concluded that, in so far as this Order imposes restrictions on such rights and freedoms, those restrictions are lawful, necessary and proportionate.

The Council of the London Borough of Merton (the Council) in exercise of its powers under Sections 59 and 61 of the Anti-social Behaviour, Crime and Policing Act 2014 hereby makes the following Order:-

Citation

1. This Order may be cited as the London Borough of Merton (Alcohol Consumption in Public Places) Order 2023.

Commencement and Duration

2. This Order shall come into force at 0001 hours on *[date to be fixed]* 2023 and will remain in force for 3 years thereafter, unless discharged before that date.

Interpretation

3. In this Order –
“the Act” means Anti-social Behaviour, Crime and Policing Act 2014;

“alcohol” means spirits, wine, beer, cider or any other fermented, distilled or spirituous liquor (in any state), but does not include alcohol which is of a strength not exceeding 0.5% at the time of the sale or supply;

“Authorised Person” means a constable, police community support officer, or other person authorised for the purposes of this Order by the Council;

“the Council” means the London Borough of Merton;

“public place” means any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission;

“Restricted Area” means the area identified in Article 4.

Public Space effected by this Order

4. This Order applies in any public place within the administrative area of the Council (the Restricted Area).

Prohibition on consumption of alcohol

5. (1) Subject to paragraph (2) no person shall consume alcohol within the Restricted Area so as to cause, or be likely to cause nuisance or annoyance to any other person.
(2) The prohibition in paragraph (1) does not apply to the premises etc. within the Restricted Area set out in Schedule 1 to this Order.

Imposition of Requirements

6. (1) Paragraph (2) applies where an authorised person reasonably believes that a person (P) —
 - (a) is or has been consuming alcohol in breach of in Article 5(1), or
 - (b) intends to consume alcohol in circumstances in which doing so would be a breach of that Article.
- (2) An authorised person may require P—

- (a) not to consume, in breach of Article 5(1), alcohol or anything which the authorised person reasonably believes to be alcohol;
 - (b) to surrender anything in P's possession which is, or which the authorised person reasonably believes to be, alcohol or a container for alcohol.
- (3) An authorised person who imposes a requirement under paragraph (2) must tell P that failing without reasonable excuse to comply with the requirement is an offence.
- (4) If an authorised person reasonably believes that a person (P) has breached a requirement imposed under paragraph (2) he or she may require P to give his or her name and address to the authorised person.
- (5) An authorised person who imposes a requirement under paragraph (4) must tell P that—
- (a) failing to give his or her name and address when required to do so under paragraph (4), or
 - (b) giving a false or inaccurate name or address in response to a requirement under that paragraph is an offence.
- (6) A requirement imposed under paragraphs (2) or (4), by an authorised person who is not a constable or police community support officer, is not valid if the person—
- (a) is asked by P to show evidence of his or her authorisation, and
 - (b) fails to do so.
- (7) An authorised person may dispose of anything surrendered under paragraph (2)(b) in whatever way he or she thinks appropriate.

Failure to comply with the Order

Offence of failing to comply with the Order

7. By Section 67(4) of the Act it is not an offence to consume alcohol in breach of Article 5(1) but, by Section 63(6) of the Act, a person who fails without reasonable excuse to comply with a requirement imposed on him or her under Article 6(2) of this Order commits an offence and is liable on summary conviction in the magistrates' court to a fine not exceeding level 2 on the standard scale.

8. By Section 67 of the Act, a person who fails without reasonable excuse to comply with a requirement imposed on him or her under Article 6(4) of this Order commits an offence and is liable on summary conviction in the magistrates' court to a fine not exceeding level 3 on the standard scale.

Fixed Penalty Notices

9. An authorised person may issue a fixed penalty notice (FPN) to anyone he or she has reason to believe has committed an offence under Sections 63(6) or 67 of the Act. A person issued with a FPN must pay the fixed penalty of £100 within 14 days to discharge any liability to conviction for the offence.

Discharge and Saving

10. (1) The London Borough of Merton (Alcohol Consumption in Public Places) Order 2020 (Extension) Order 2022 is discharged from the date this order comes into force, subject to paragraph (2).

(2) The discharge by paragraph (1) does not —

- (a) affect the previous operation of the Order or anything duly done or suffered under it;
- (b) affect any right, obligation or liability acquired, or incurred under it;
- (c) affect any penalty, or punishment incurred in respect of any offence committed under it;
- (d) affect any investigation, legal proceeding or remedy in respect of any such right, obligation, liability, penalty, or punishment;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, or punishment may be imposed, as if the Order had not been discharged.

Premises etc. to which Article 5(1) does not apply

- (1) The prohibition in Article 5(1) to this Order does not apply to—
 - (a) premises (other than council-operated licensed premises) authorised by a premises licence to be used for the supply of alcohol;
 - (b) premises authorised by a club premises certificate to be used by the club for the supply of alcohol;
 - (c) a place within the curtilage of premises within paragraph (a) or (b);
 - (d) premises which by virtue of Part 5 of the Licensing Act 2003 (Permitted temporary activities) may at the relevant time be used for the supply of alcohol or which, by virtue of that Part, could have been so used within the 30 minutes before that time;
 - (e) a place where facilities or activities relating to the sale or consumption of alcohol are at the relevant time permitted by virtue of a permission granted under Section 115E of the Highways Act 1980 (highway-related uses).
- (2) prohibition in Article 5(1) to this Order does not apply to licensed premises operated by the Council—
 - (a) when the premises are being used for the supply of alcohol, or
 - (b) within 30 minutes after the end of a period during which the premises have been used for the supply of alcohol.
- (3) In this paragraph—
 - “club premises certificate” has the meaning given by Section 60 of the Licensing Act 2003;
 - “premises licence” has the meaning given by Section 11 of that Act;
 - “supply of alcohol” has the meaning given by Section 14 of that Act.
- (4) For the purposes of this Article 5, licensed premises are operated by the Council if they are authorised by a premises licence to be used for the supply of alcohol and—
 - (a) the licence is held by the Council, or

(b) the licence is held by another person but the premises are occupied by the Council or are managed by or on behalf of the Council.

Dated day of 2023

THE COMMON SEAL of THE MAYOR AND)
BURGESSES OF THE LONDON BOROUGH)
OF MERTON was hereunto affixed as a deed)
in the presence of :-)

Signature _____

Name _____
Authorised Signatory

Seal Register No. _____

Notes for Information

Challenging the validity of the Order

Any challenge to this order must be made in the High Court by an interested person within six weeks of it being made. An interested person is someone who lives in the restricted area, or who regularly works in or visits that area. This means that only those who are directly affected by the restrictions have the power to challenge it.

Interested persons can challenge the validity of this Order on two grounds: -

- (a) that the Council did not have power to make the order, or to include particular prohibitions or requirements; or
- (b) that a requirement of the Act has not been complied with.

Where such an application is made, the High Court can decide to suspend the operation of the order pending the Court's decision, in part or in totality pending the final determination of the proceedings. The High Court may uphold the order, quash it, or vary it.

ANTI-SOCIAL BEHAVIOUR CRIME AND POLICING ACT 2014

Section 59 – Power to make orders

- (1) A local authority may make a public spaces protection order if satisfied on reasonable grounds that two conditions are met.
- (2) The first condition is that—
 - (a) activities carried on in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality, or
 - (b) it is likely that activities will be carried on in a public place within that area and that they will have such an effect.
- (3) The second condition is that the effect, or likely effect, of the activities—
 - (a) is, or is likely to be, of a persistent or continuing nature,
 - (b) is, or is likely to be, such as to make the activities unreasonable, and
 - (c) justifies the restrictions imposed by the notice.
- (4) A public spaces protection order is an order that identifies the public place referred to in subsection (2) ("the restricted area") and—
 - (a) prohibits specified things being done in the restricted area,
 - (b) requires specified things to be done by persons carrying on specified activities in that area, or

- (c) does both of those things.
- (5) The only prohibitions or requirements that may be imposed are ones that are reasonable to impose in order—
 - (a) to prevent the detrimental effect referred to in subsection (2) from continuing, occurring or recurring, or
 - (b) to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.
- (6) A prohibition or requirement may be framed—
 - (a) so as to apply to all persons, or only to persons in specified categories, or to all persons except those in specified categories;
 - (b) so as to apply at all times, or only at specified times, or at all times except those specified;
 - (c) so as to apply in all circumstances, or only in specified circumstances, or in all circumstances except those specified.
- (7) A public spaces protection order must—
 - (a) identify the activities referred to in subsection (2);
 - (b) explain the effect of section 63 (where it applies) and section 67;
 - (c) specify the period for which the order has effect.
- (8) A public spaces protection order must be published in accordance with regulations made by the Secretary of State.

Section 66 - Challenging the validity of orders

- (1) An interested person may apply to the High Court to question the validity of—
 - (a) a public spaces protection order, or
 - (b) a variation of a public spaces protection order.

“Interested person” means an individual who lives in the restricted area or who regularly works in or visits that area.
- (2) The grounds on which an application under this section may be made are—
 - (a) that the local authority did not have power to make the order or variation, or to include particular prohibitions or requirements imposed by the order (or by the order as varied);
 - (b) that a requirement under this Chapter was not complied with in relation to the order or variation.
- (3) An application under this section must be made within the period of 6 weeks beginning with the date on which the order or variation is made.

- (4) On an application under this section the High Court may by order suspend the operation of the order or variation, or any of the prohibitions or requirements imposed by the order (or by the order as varied), until the final determination of the proceedings.
- (5) If on an application under this section the High Court is satisfied that—
(a) the local authority did not have power to make the order or variation, or to include particular prohibitions or requirements imposed by the order (or by the order as varied), or
(b) the interests of the applicant have been substantially prejudiced by a failure to comply with a requirement under this Chapter,
the Court may quash the order or variation, or any of the prohibitions or requirements imposed by the order (or by the order as varied).
- (6) A public spaces protection order, or any of the prohibitions or requirements imposed by the order (or by the order as varied), may be suspended under subsection (4) or quashed under subsection (5)—
(a) generally, or
(b) so far as necessary for the protection of the interests of the applicant.
- (7) An interested person may not challenge the validity of a public spaces protection order, or of a variation of a public spaces protection order, in any legal proceedings (either before or after it is made) except—
(a) under this section, or
(b) under subsection (3) of section 67 (where the interested person is charged with an offence under that section).

Section 63 – Consumption of alcohol in breach of prohibition in order

- (1) This section applies where a constable or an authorised person reasonably believes that a person (P)—
(a) is or has been consuming alcohol in breach of a prohibition in a public spaces protection order, or
(b) intends to consume alcohol in circumstances in which doing so would be a breach of such a prohibition.

In this section “authorised person” means a person authorised for the purposes of this section by the local authority that made the public spaces protection order (or authorised by virtue of section 69(1)).

- (2) The constable or authorised person may require P—
(a) not to consume, in breach of the order, alcohol or anything which the constable or authorised person reasonably believes to be alcohol;
(b) to surrender anything in P's possession which is, or which the constable or authorised person reasonably believes to be, alcohol or a container for alcohol.

(3) A constable or an authorised person who imposes a requirement under subsection (2) must tell P that failing without reasonable excuse to comply with the requirement is an offence.

(4) requirement imposed by an authorised person under subsection (2) is not valid if the person—

- (a) is asked by P to show evidence of his or her authorisation, and
- (b) fails to do so.

(5) A constable or an authorised person may dispose of anything surrendered under subsection (2)(b) in whatever way he or she thinks appropriate.

(6) A person who fails without reasonable excuse to comply with a requirement imposed on him or her under subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Section 67 – Offence of Failing Comply with order

(1) It is an offence for a person without reasonable excuse-

(a) to do anything that the person is prohibited from doing by a public spaces protection order, or

(b) to fail to comply with a requirement to which a person is subject under a public spaces protection order.

(2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

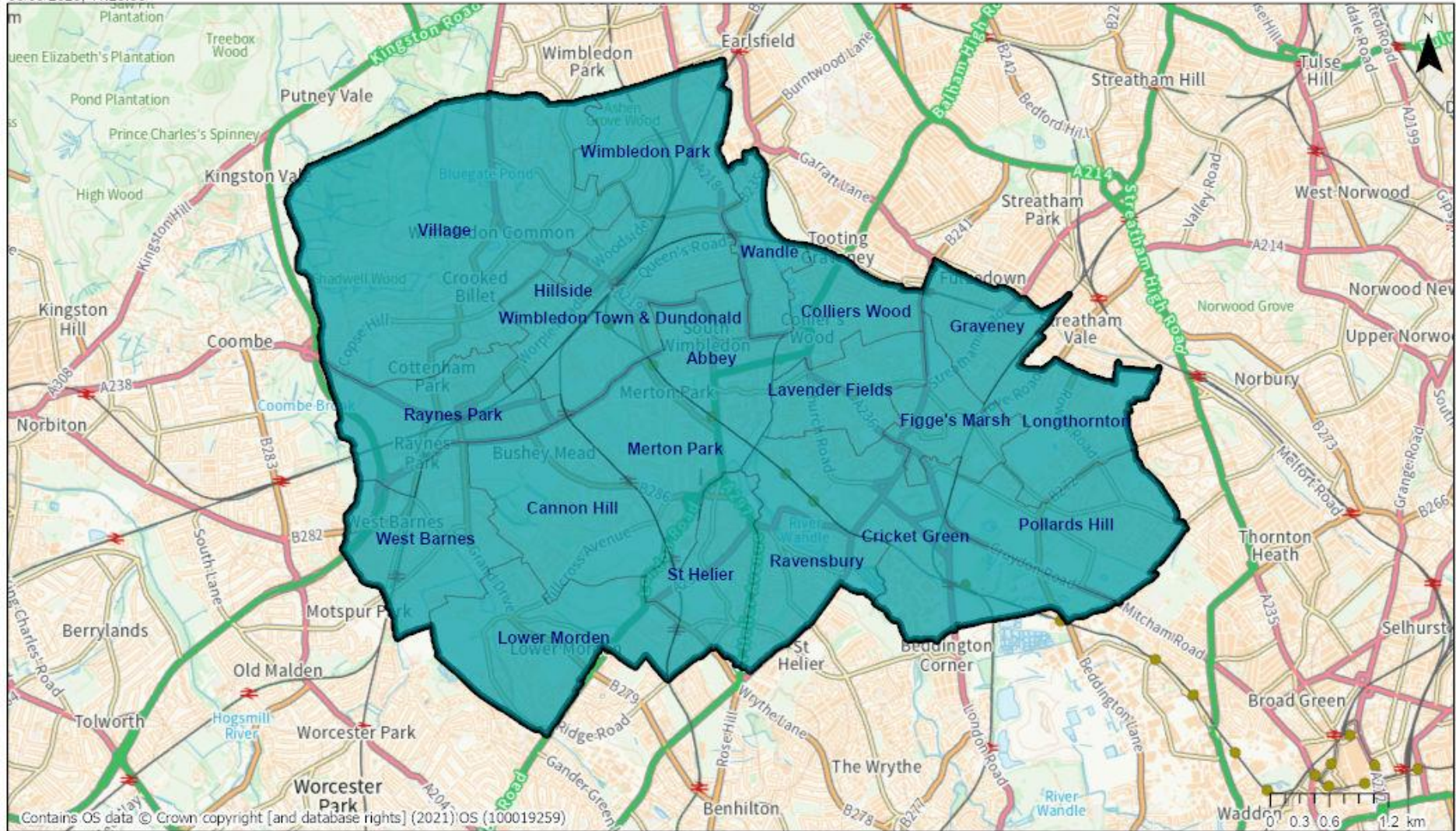
(3) A person does not commit an offence under this section by failing to comply with a prohibition or requirement that the local authority did not have power to include in the public spaces protection order.

(4) Consuming alcohol in breach of a public spaces protection order is not an offence under this section (but see section 63).

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Appendix 6 - London Borough of Merton

06/03/2023, 11:25:50



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Legend

-  Merton Ward Boundaries
-  Merton Borough Boundary

Scale: 1:52,913



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LONDON BOROUGH OF MERTON
ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014
LONDON BOROUGH OF MERTON (ALCOHOL CONSUMPTION
IN PUBLIC PLACES) ORDER 2020

RECITALS

- A. The London Borough of Merton (“the Council”) is satisfied that the requirements set out in Chapter 2 of Part 4 of the Anti-social Behaviour, Crime and Policing Act 2014 (“the Act”) have been satisfied and that it is, in all the circumstances, appropriate to make this Order.
- B. The Council is satisfied that activities have been and will continue to be carried on in the public places within the Restricted Areas which have had and will continue to have a detrimental effect on the quality of life of those in the locality, such activities being the consumption of alcohol in public places other than premises excluded from this Order, leading to anti-social behaviour.
- C. The Council, in making this Order, is satisfied on reasonable grounds that activities have been carried out in the Restricted Areas, and have had a detrimental effect on the quality of life of those in the locality and it is likely that those activities will be carried in the Restricted Areas and will have that effect.
- D. The Council is further satisfied that the effect, or likely effect, of the activities-
- a. is, or is likely to be of a persistent or continuing nature;
 - b. is, or is likely to be such as to make the activities unreasonable; and
 - c. justifies the restrictions imposed by this Order.
- E. The Council is satisfied that the prohibitions and requirements imposed by this Order are ones that it is reasonable to impose in order to prevent the detrimental effect from continuing, occurring, or recurring or to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.

- F. The Council has had regard to the rights and freedoms set out in the Convention for the Protection of Human Rights and Fundamental Freedoms 1950 (“the Convention”). In particular, the Council has had regard to the rights and freedoms set out in Article 10 (right of freedom of expression) and Article 11 (right of freedom of assembly) of the Convention and has concluded that, in so far as this Order imposes restrictions on such rights and freedoms, those restrictions are lawful, necessary and proportionate.
-

The Council of the London Borough of Merton (the Council) in exercise of its powers under Section 59 of the Anti-social Behaviour, Crime and Policing Act 2014 hereby makes the following Order:-

Citation

1. This Order may be cited as the London Borough of Merton (Alcohol Consumption in Public Places) Order 2020.

Commencement and Duration

2. This Order shall come into force at 0001 hours on 21st October 2020 and will remain in force for 2 years thereafter, unless extended, or discharged before that date.

Interpretation

3. In this Order –
“the Act” means Anti-social Behaviour, Crime and Policing Act 2014;
“alcohol” means spirits, wine, beer, cider or any other fermented, distilled or spirituous liquor (in any state), but does not include alcohol which is of a strength not exceeding 0.5% at the time of the sale or supply;
“Authorised Person” means a constable, police community support officer, or other person authorised for the purposes of this Order by the Council;
“the Council” means the London Borough of Merton;

“public place” means any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission;

“Restricted Areas” means the public places identified to in Article 4.

Public Space effected by this Order

4. This Order applies to the land described in Schedule 1 to this Order and shown edged red on the attached Plans (“the Restricted Areas”), being public places within the Council’s area where the public consumption of alcohol has been carried on which has had a detrimental effect on the quality of life of those in the locality, or it is likely that those activities will be carried on in those public places and that they will have such effect.

Prohibition on consumption of alcohol

5. (1) Subject to paragraph (2) no person shall consume alcohol within the Restricted Areas so as to cause, or be likely to cause nuisance or annoyance to any other person.

(2) The prohibition in paragraph (1) does not apply to the premises etc. within the Restricted Areas set out in Schedule 2 to this Order.

Imposition of Requirements

6. (1) Paragraph (2) applies where an authorised person reasonably believes that a person (P) —

(a) is or has been consuming alcohol in breach of in Article 5(1), or

(b) intends to consume alcohol in circumstances in which doing so would be a breach of that Article.

(2) An authorised person may require P—

(a) not to consume, in breach of Article 5(1), alcohol or anything which the authorised person reasonably believes to be alcohol;

(b) to surrender anything in P’s possession which is, or which the authorised person reasonably believes to be, alcohol or a container for alcohol.

(3) An authorised person who imposes a requirement under paragraph (2) must tell P that failing without reasonable excuse to comply with the requirement is an offence.

(4) If an authorised person reasonably believes that a person (P) has breached a requirement imposed under paragraph (2) he or she may require P to give his or her name and address to the authorised person.

(5) An authorised person who imposes a requirement under paragraph (4) must tell P that—

(a) failing to give his or her name and address when required to do so under paragraph (4), or

(b) giving a false or inaccurate name or address in response to a requirement under that paragraph is an offence.

(6) A requirement imposed under paragraphs (2) or (4), by an authorised person who is not a constable or police community support officer, is not valid if the person—

(a) is asked by P to show evidence of his or her authorisation, and

(b) fails to do so.

(7) An authorised person may dispose of anything surrendered under paragraph (2)(b) in whatever way he or she thinks appropriate.

Failure to comply with the Order

Offence of failing to comply with the Order

7. By Section 67(4) of the Act it is not an offence to consume alcohol in breach of Article 5(1) but, by Section 63(6) of the Act, a person who fails without reasonable excuse to comply with a requirement imposed on him or her under Article 6(2) of this Order commits an offence and is liable on summary conviction in the Magistrates' Court to a fine not exceeding level 2 on the standard scale.

8. By Section 67 of the Act, a person who fails without reasonable excuse to comply with a requirement imposed on him or her under Article 6(4) of this Order commits an offence and is liable on summary conviction in the Magistrates' Court to a fine not exceeding level 3 on the standard scale.

Fixed Penalty Notices

9. An authorised person may issue a fixed penalty notice (FPN) to anyone he or she has reason to believe has committed an offence under Sections 63(6) or 67 of the Act. A person issued with a FPN must pay the fixed penalty of £100 within 14 days to discharge any liability to conviction for the offence.

SCHEDULE 1

Article 4

Land identified by Description

All those areas of the London Borough of Merton, comprising the wards set out in column 1 below and shown edged red on the corresponding attached Plan number shown in column 2.

Ward	Plan No.
Cricket Green	1
Figges Marsh	2
Graveney	3
Lavender Fields	4
Ravensbury	5

SCHEDULE 2

Article 5

Premises etc. to which Article 5(1) does not apply

- (1) The prohibition in Article 5(1) to this Order does not apply to—
- (a) premises (other than council-operated licensed premises) authorised by a premises licence to be used for the supply of alcohol;
 - (b) premises authorised by a club premises certificate to be used by the club for the supply of alcohol;
 - (c) a place within the curtilage of premises within paragraph (a) or (b);

(d) premises which by virtue of Part 5 of the Licensing Act 2003 (Permitted temporary activities) may at the relevant time be used for the supply of alcohol or which, by virtue of that Part, could have been so used within the 30 minutes before that time;

(e) a place where facilities or activities relating to the sale or consumption of alcohol are at the relevant time permitted by virtue of a permission granted under Section 115E of the Highways Act 1980 (highway-related uses).

(2) prohibition in Article 5(1) to this Order does not apply to licensed premises operated by the Council—

(a) when the premises are being used for the supply of alcohol, or

(b) within 30 minutes after the end of a period during which the premises have been used for the supply of alcohol.

(3) In this paragraph—

“club premises certificate” has the meaning given by Section 60 of the Licensing Act 2003;

“premises licence” has the meaning given by Section 11 of that Act;

“supply of alcohol” has the meaning given by Section 14 of that Act.

(4) For the purposes of this Article 5, licensed premises are operated by the Council if they are authorised by a premises licence to be used for the supply of alcohol and—

(a) the licence is held by the Council, or

(b) the licence is held by another person but the premises are occupied by the Council or are managed by or on behalf of the Council.

Dated 13th day of October 2020

THE COMMON SEAL of THE MAYOR AND)
BURGESSES OF THE LONDON BOROUGH)
OF MERTON was hereunto affixed as a deed)
in the presence of :-)

Signature *Lucy Craig*

Name *LUCY CRAIG, Assistant Head of Law*
Authorised Signatory

Seal Register No. *34210*



Notes for Information

Challenging the validity of the Order

Any challenge to this order must be made in the High Court by an interested person within six weeks of it being made. An interested person is someone who lives in the restricted area, or who regularly works in or visits that area. This means that only those who are directly affected by the restrictions have the power to challenge it.

Interested persons can challenge the validity of this Order on two grounds: -

- (a) that the Council did not have power to make the order, or to include particular prohibitions or requirements; or
- (b) that a requirement of the Act has not been complied with.

Where such an application is made, the High Court can decide to suspend the operation of the order pending the Court's decision, in part or in totality pending the final determination of the proceedings. The High Court may uphold the order, quash it, or vary it.

ANTI-SOCIAL BEHAVIOUR CRIME AND POLICING ACT 2014

Section 59 – Power to make orders

- (1) A local authority may make a public spaces protection order if satisfied on reasonable grounds that two conditions are met.
- (2) The first condition is that—
 - (a) activities carried on in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality, or
 - (b) it is likely that activities will be carried on in a public place within that area and that they will have such an effect.
- (3) The second condition is that the effect, or likely effect, of the activities—
 - (a) is, or is likely to be, of a persistent or continuing nature,
 - (b) is, or is likely to be, such as to make the activities unreasonable, and
 - (c) justifies the restrictions imposed by the notice.
- (4) A public spaces protection order is an order that identifies the public place referred to in subsection (2) ("the restricted area") and—
 - (a) prohibits specified things being done in the restricted area,
 - (b) requires specified things to be done by persons carrying on specified activities in that area, or
 - (c) does both of those things.

- (5) The only prohibitions or requirements that may be imposed are ones that are reasonable to impose in order—
- (a) to prevent the detrimental effect referred to in subsection (2) from continuing, occurring or recurring, or
 - (b) to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.
- (6) A prohibition or requirement may be framed—
- (a) so as to apply to all persons, or only to persons in specified categories, or to all persons except those in specified categories;
 - (b) so as to apply at all times, or only at specified times, or at all times except those specified;
 - (c) so as to apply in all circumstances, or only in specified circumstances, or in all circumstances except those specified.
- (7) A public spaces protection order must—
- (a) identify the activities referred to in subsection (2);
 - (b) explain the effect of section 63 (where it applies) and section 67;
 - (c) specify the period for which the order has effect.
- (8) A public spaces protection order must be published in accordance with regulations made by the Secretary of State.

Section 66 - Challenging the validity of orders

- (1) An interested person may apply to the High Court to question the validity of—
- (a) a public spaces protection order, or
 - (b) a variation of a public spaces protection order.
- “Interested person” means an individual who lives in the restricted area or who regularly works in or visits that area.
- (2) The grounds on which an application under this section may be made are—
- (a) that the local authority did not have power to make the order or variation, or to include particular prohibitions or requirements imposed by the order (or by the order as varied);
 - (b) that a requirement under this Chapter was not complied with in relation to the order or variation.
- (3) An application under this section must be made within the period of 6 weeks beginning with the date on which the order or variation is made.
- (4) On an application under this section the High Court may by order suspend the operation of the order or variation, or any of the prohibitions or requirements imposed by the order (or by the order as varied), until the final determination of the proceedings.
- (5) If on an application under this section the High Court is satisfied that—
- (a) the local authority did not have power to make the order or variation, or to include particular prohibitions or requirements imposed by the order (or by the order as varied), or
 - (b) the interests of the applicant have been substantially prejudiced by a failure to comply with a requirement under this Chapter,

the Court may quash the order or variation, or any of the prohibitions or requirements imposed by the order (or by the order as varied).

(6) A public spaces protection order, or any of the prohibitions or requirements imposed by the order (or by the order as varied), may be suspended under subsection (4) or quashed under subsection (5)—

(a) generally, or

(b) so far as necessary for the protection of the interests of the applicant.

(7) An interested person may not challenge the validity of a public spaces protection order, or of a variation of a public spaces protection order, in any legal proceedings (either before or after it is made) except—

(a) under this section, or

(b) under subsection (3) of section 67 (where the interested person is charged with an offence under that section).

Section 63 – Consumption of alcohol in breach of prohibition in order

(1) This section applies where a constable or an authorised person reasonably believes that a person (P)—

(a) is or has been consuming alcohol in breach of a prohibition in a public spaces protection order, or

(b) intends to consume alcohol in circumstances in which doing so would be a breach of such a prohibition.

In this section “authorised person” means a person authorised for the purposes of this section by the local authority that made the public spaces protection order (or authorised by virtue of section 69(1)).

(2) The constable or authorised person may require P—

(a) not to consume, in breach of the order, alcohol or anything which the constable or authorised person reasonably believes to be alcohol;

(b) to surrender anything in P's possession which is, or which the constable or authorised person reasonably believes to be, alcohol or a container for alcohol.

(3) A constable or an authorised person who imposes a requirement under subsection (2) must tell P that failing without reasonable excuse to comply with the requirement is an offence.

(4) requirement imposed by an authorised person under subsection (2) is not valid if the person—

(a) is asked by P to show evidence of his or her authorisation, and

(b) fails to do so.

(5) A constable or an authorised person may dispose of anything surrendered under subsection (2)(b) in whatever way he or she thinks appropriate.

(6) A person who fails without reasonable excuse to comply with a requirement imposed on him or her under subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Section 67 – Offence of Failing Comply with order

(1) It is an offence for a person without reasonable excuse-

(a) to do anything that the person is prohibited from doing by a public spaces protection order, or

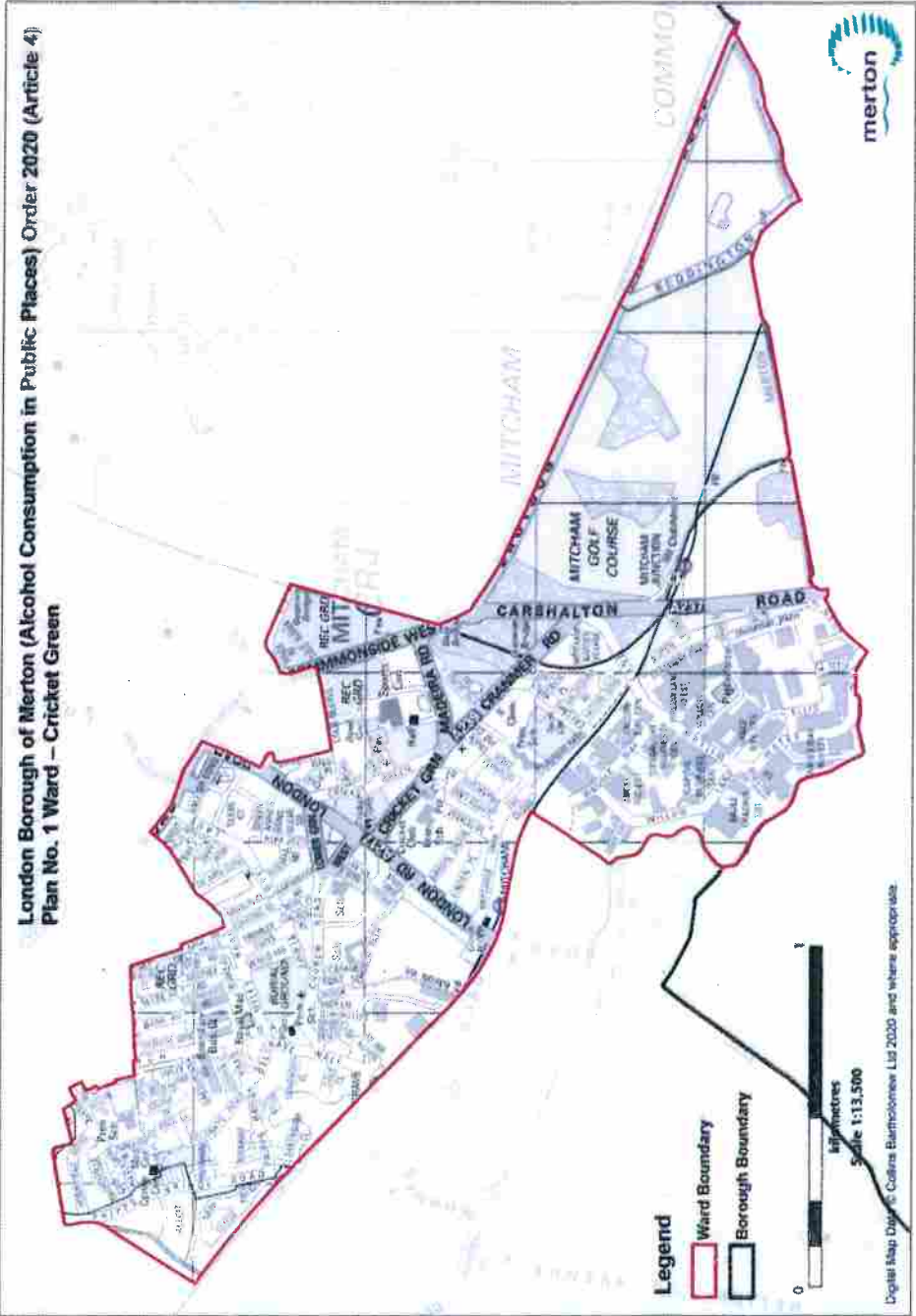
(b) to fail to comply with a requirement to which a person is subject under a public spaces protection order.

(2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

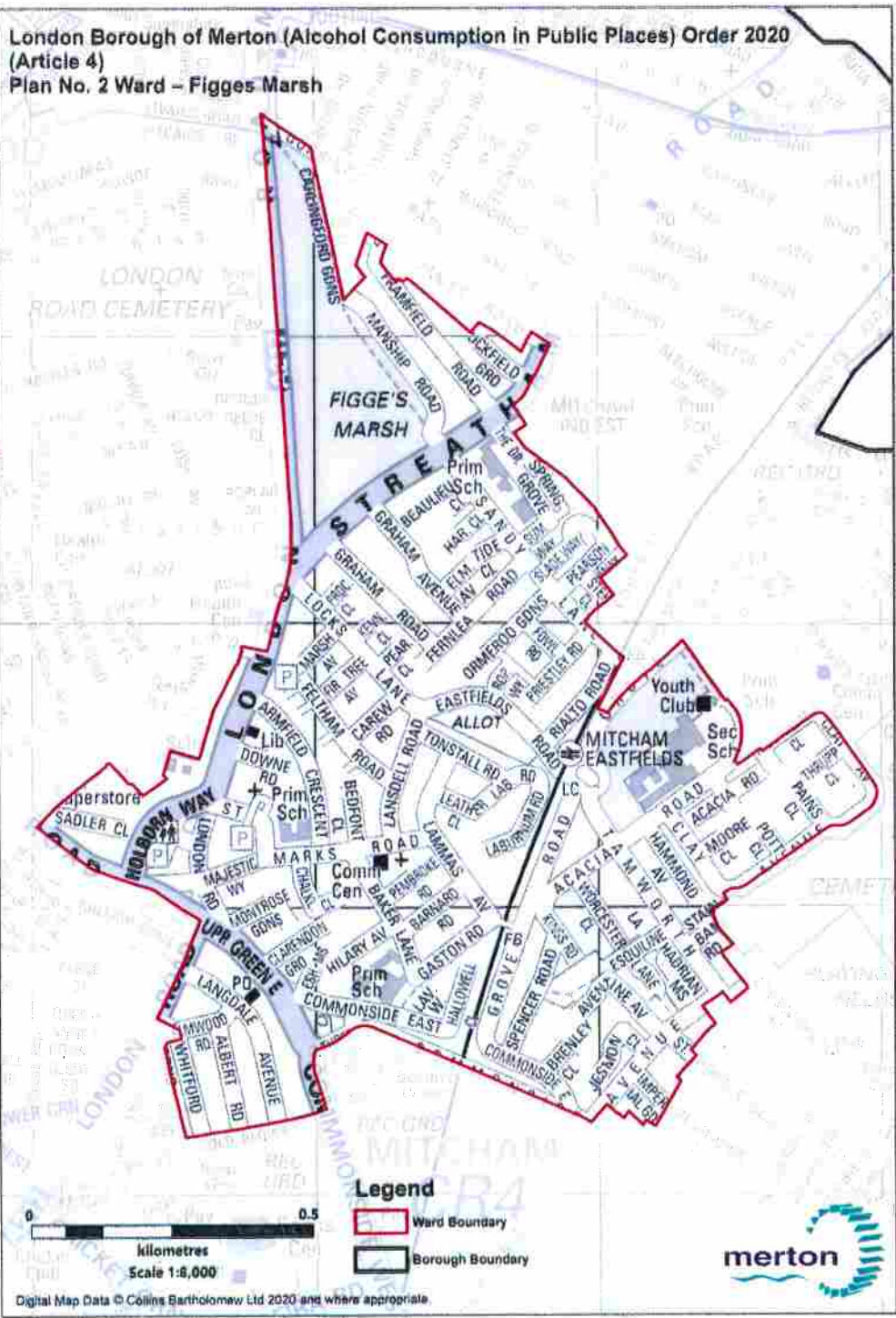
(3) A person does not commit an offence under this section by failing to comply with a prohibition or requirement that the local authority did not have power to include in the public spaces protection order.

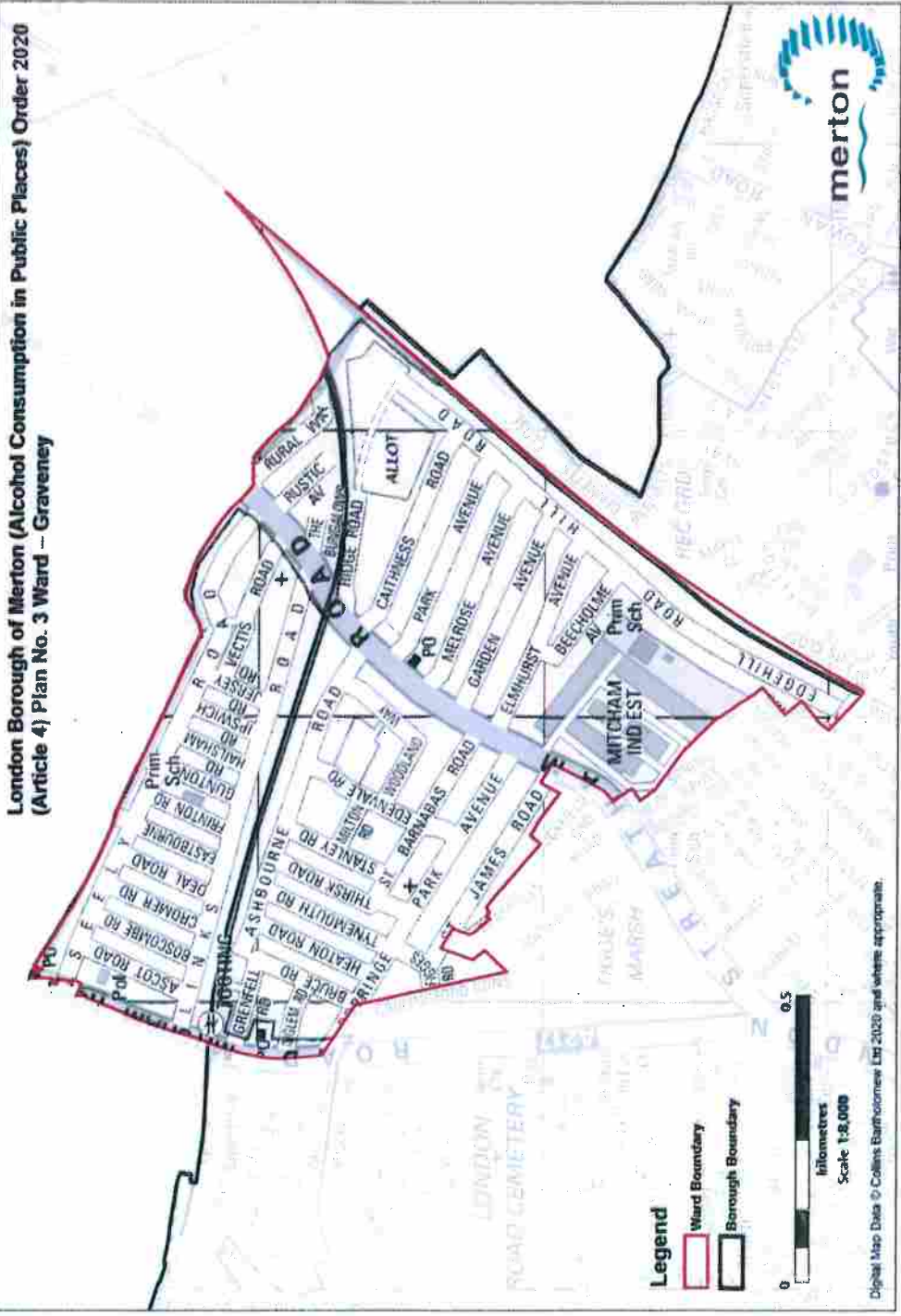
(4) Consuming alcohol in breach of a public spaces protection order is not an offence under this section (but see section 63).

London Borough of Merton (Alcohol Consumption in Public Places) Order 2020 (Article 4)
 Plan No. 1 Ward – Cricket Green

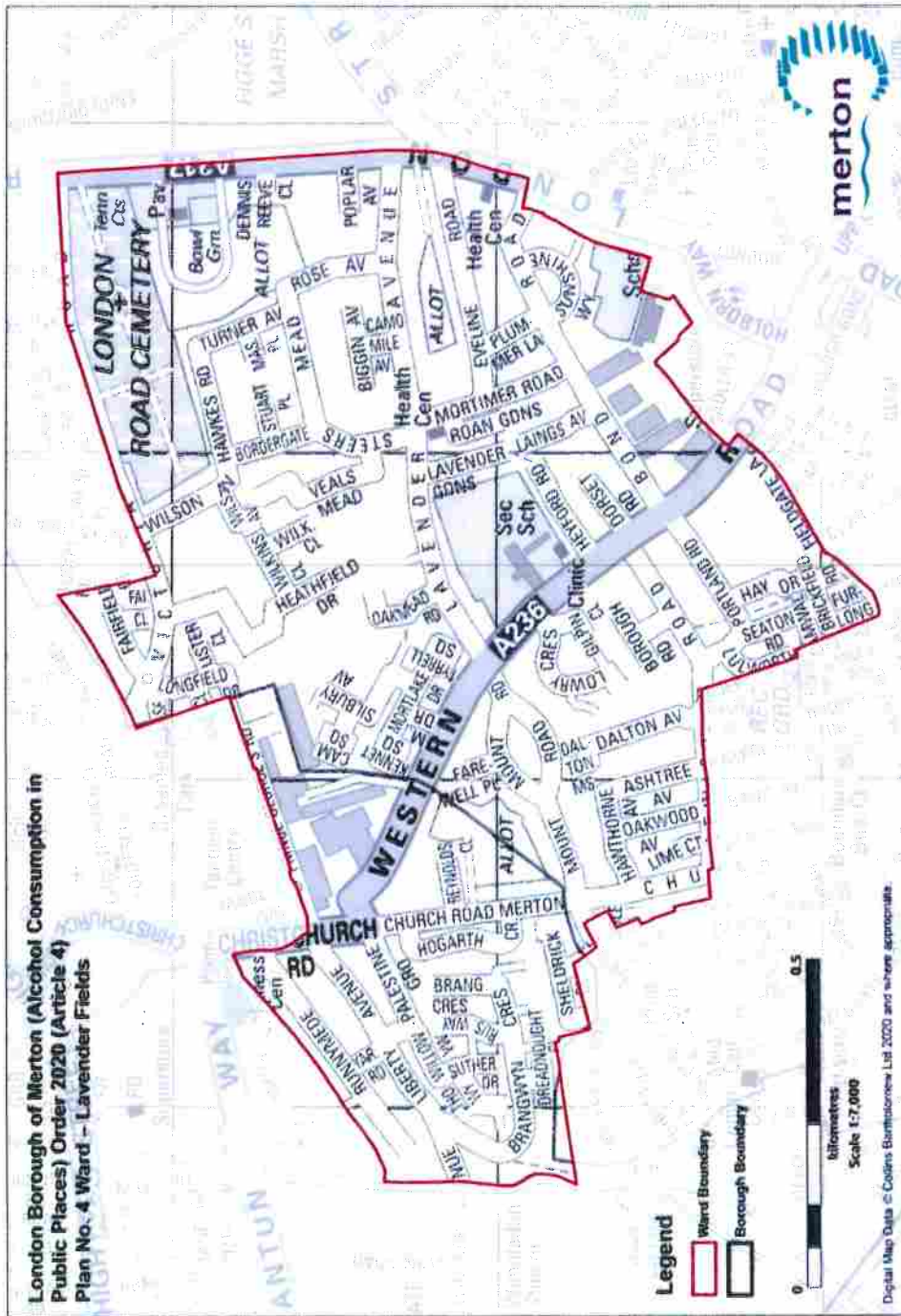


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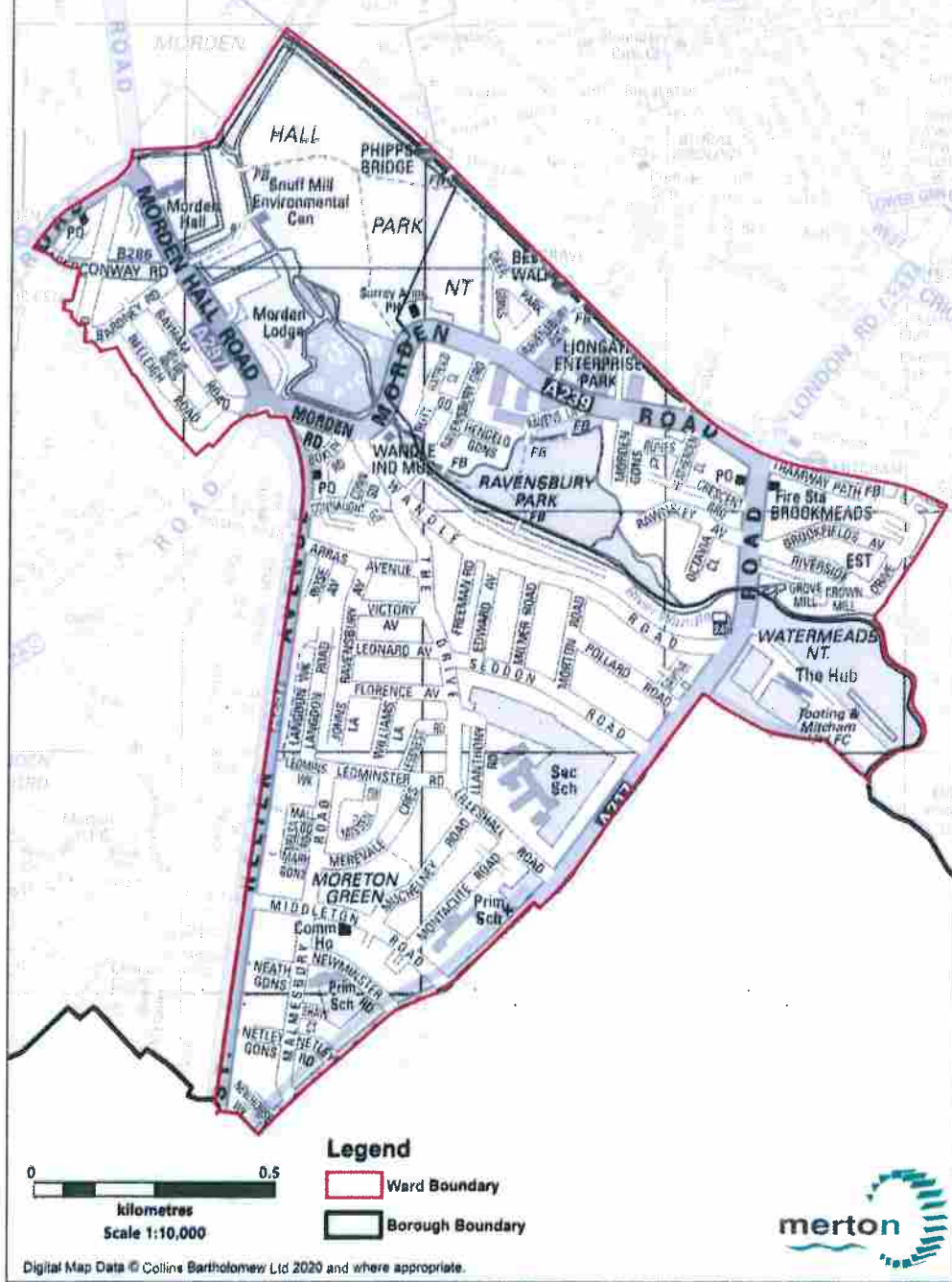




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**London Borough of Merton (Alcohol Consumption in Public Places) Order 2020
(Article 4)
Plan No. 5 Ward – Ravensbury**



Scrag

LONDON BOROUGH OF MERTON

LONDON BOROUGH OF MERTON (ALCOHOL CONSUMPTION IN PUBLIC PLACES) ORDER 2020 (EXTENSION) ORDER 2020

The Council of the London Borough of Merton in exercise of the powers conferred on it by Section 60 of the Anti-social Behaviour, Crime and Policing Act 2014 hereby makes the following Order-

Citation

1. This Order may be cited as the London Borough of Merton (Alcohol Consumption in Public Places) Order 2020 (Extension) Order 2022.

Extension of period of the London Borough of Merton (Alcohol Consumption in Public Places) Order 2020 has effect and duration

2. The London Borough of Merton (Alcohol Consumption in Public Places) Order 2020 shall be extended from 0001 hours on 22nd October 2022 and shall remain in force and have effect for the period of 3 years thereafter, unless further extended, or discharged before expiry.

Dated 27th day of September 2022

THE COMMON SEAL OF THE MAYOR AND)
BURGESSES OF THE LONDON BOROUGH)
OF MERTON was hereunto affixed as a deed)
in the presence of :-)



Signature Lucy Craig

Name LUCY CRAIG

Authorised Signatory

Seal Register No. 524583

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Committee: Cabinet

Date: 20 March 2023

Wards: All

Subject: Extension of Community Dementia Services

Lead Director: John Morgan, Executive Director, Adult Social Care, Integrated Care and Public Health

Lead member: Councillor Peter McCabe, Cabinet member for Health and Social Care

Contact officer: Heather Begg, Commissioning Officer, Adult Social Care

Daniel Butler, Senior Principal, Public Health

Recommendation:

- A. That Cabinet approve the modification of the contract to allow extension of Community Dementia Services provided by Alzheimer's Society for a further 2 1/2 years (From 1 October 2023-31 March 2026).
-

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 With Nurturing Civic Pride being one of the new administration's key priorities for Merton, the proposal to extend this contract has involved and will continue to involve extensive engagement and partnership working alongside all key partners, including health, social care and Alzheimer's Society including people with Dementia and their carers.
- 1.2 Highlighted as a model of best practice, Merton's community-based approach to providing support to people with Dementia and their carers throughout their Dementia Journey has been underpinned by previous benchmarking and research into the national, regional and local context. Understanding how and where our residents with Dementia and their families need support reflects our commitment to restoring Civic Pride in our borough. We want people to feel proud to live, work and visit in Merton.
- 1.3 Alongside Civic Pride, building a sustainable future and working towards being a borough of sport involves supporting the health and wellbeing of our communities and this service promotes the independence and active lives of our older residents.
- 1.4 To create a sustainable model for the future, Alzheimer's Society have successfully adapted their model of support through a revised specification for Community Dementia Services in Merton, meaning that services are now provided across the borough, both in people's homes, in the community and at the Dementia Hub Building in Mitcham. Activities are also be facilitated by other organisations within the hub building (such as Adult Learning and the Attic Theatre Company). The Council has developed strong working relationships with Alzheimer's Society over the past years. Quarterly contract monitoring meetings with Alzheimer's Society

demonstrate that the service is performing well and meeting all required performance measures.

- 1.5 The Community Dementia Services provided by Alzheimer's Society are at the heart of the partnership with health and other voluntary and community organisations and is therefore able to facilitate access to the range of specialist dementia services to support people to 'live well' with Dementia and reduce the impact through timely information, advice, activities, support and education. The service also provides essential Carers and Relatives Information Support Programmes (**CRISP**) and the Strategies for Relatives 1-1 support programme (**START**) in the persons home in addition to their peer support groups for carers.
- 1.6 This report recommends modifying the current contract with Alzheimer's Society to allow for a further extension in order to vary the term from 5 years to 7 ½ years (from 1 October 2023-31 March 2026).
- 1.7 The proposed extension of a further 2 ½ years on the existing contract would allow enough time to implement and review the new enhanced service in order to recommission prior to expiry of the 7 1/2-year term. The value of the proposed extension will not exceed the permitted 50% of the original contract value and Regulation 72(1) (b) and/or 72(1) (c) may be relied upon to lawfully extend the current contract. In both instances a notice of contract modification will be published on the Find-a-Tender service.
- 1.8 Offering the extension to the current service model, further embedding and developing the community focus of the model allows commissioners across the health & care place partnership to undertake a joint review and remodelling of dementia services across Merton with the overall aim that future services are integrated and accessible, providing a high quality service to all people with dementia and their families across the borough.

2. DETAILS

- 2.1 The Community Dementia service was commissioned with Alzheimer's Society from the 1 October 2018-30 September 2021 and then extended for a further 2 years (October 2021-September 2023) to support individuals with Dementia and their families/carers who are resident in the London Borough of Merton or are registered with a Merton GP, that require preventative support and community opportunities as their dementia journey progresses.
- 2.2 The staff and volunteers work to support people with dementia and their carers to live independently for as long as possible and encourage connectivity within wider Dementia Friendly community, faith and voluntary sector groups.
- 2.3 There are 6 key service elements that are expected to be delivered as part of the Community Dementia Services Model:
 - Community based support and Dementia Hub based activities
 - Information, Advice and Education
 - Wellbeing Assessment and Support planning
 - Peer Support
 - Dementia Friendly Communities
 - Volunteer Support

- 2.4 The recommended extension to the existing contract will potentially be supported by 3 existing Eastway staff who will be given the option to second across to work with Alzheimer's Society. Going forward, this service will be expanded from a purely preventative service to be offered to new customers who have Dementia with additional support needs that require community opportunities.
- 2.5 The current services work very closely with all health partners and this period of extension, provides the Council an opportunity, in further developing the model in Merton, to benchmark the level of funding, joint working and integration in other SWL boroughs. Our aim is to achieve equality of service provision across South West London and work in a more integrated way with the ICB to expand the current offer to support more people with Dementia and their families and carers.
- 2.6 The proposed new model will make use of the existing Dementia Hub building alongside other venues and seek to work closely with health partners such as CLCH and the Primary Care Networks in Merton, in particular adhering to the East Merton Model of Care. The Hub has a member of staff at St Georges Hospital who is well placed to support with effective discharge of patients with Dementia and are linking with the new Discharge multiagency in-reach team. The Hub hosts one of the memory assessment clinics and we would be keen to further develop this service and strengthen links to specialist dementia services with the Community Based model. Alzheimer's Society would like to have an active role with the Wilson Wellbeing Hub development, which could lead to some Dementia Services being delivered from this location and other health hubs across the Borough.
- 2.7 Public Health and ASC representatives are in conversations with the SWLICB who are reviewing all their contracts with the Alzheimer's Society for Community Dementia Services to see if they can adopt a standardised approach across the region. There is also extensive work happening with all partners (led by the ICB) to review and revise the Dementia Pathway in Merton to better support people with Dementia and their carers. Both pieces of work are at an early stage but aims to shape and inform the future model for enhanced Community Dementia Services.

3. ALTERNATIVE OPTIONS

- 3.1 **Do not extend or vary the contract:** this would provide short term continuity until expiry of current contract at the end of September 2023, however the service would diminish at a time when people living with dementia and their carers needs have increased due to the impact of covid-19 and the cost of living and the number of people being diagnosed with dementia is set to increase. **Not recommended**
- 3.2 **Carry out a separate procurement for the goods, services or works:** a separate procurement would enable a comprehensive assessment of community dementia services provision. However, there is insufficient time to recommission and reprocur. With the changing landscape of the dementia pathway and community dementia services to a more enhanced offer with health and wider partners, it is not ideal to recommission the service amidst anticipated changes. There is also a very limited market for this type of service. **Not recommended**

4. CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1 The current service specification was reviewed in 2021 to ensure it met best practice and allowed for the development of a community dementia model, where services were available throughout the borough, nearer peoples homes whilst retaining the services, expertise and support available at the Dementia Hub. The aim of the community-based dementia services model remains to support people living with dementia and their carers, throughout their dementia journey and to help them to live independently for longer. As part of developing the new service a full review of legislation, policy guidance and best practice was carried out.
- 4.2 Consultation was carried out during 2021 with people living with dementia, their families and carers as well as staff working on dementia, to inform the service model. This included focus groups and interviews.
- 4.3 An online engagement survey was also developed and published via the council’s consultation database, where stakeholders had the opportunity to input their views on the proposed approach to community-based services. The survey ran from 26th of July until the 24th of August 2021.
- 4.4 The results of the engagement sessions and the online survey found that respondents were in favour of dementia services proposed in the community dementia services model, with all six service elements (highlighted in 2.3) proposed receiving positive feedback. The full survey results can be found [here](#).
- 4.5 Further consultation on new revisions to the service model that will now support people more advanced in their dementia journey will take place during spring 2023 to ensure people living with dementia, carers and families and staff are heard.

5. TIMETABLE

Approval of recommendations at LSG	6 March 2023
Approval of recommendations at Cabinet	20 March 2023
Inform provider of decision	27 March 2023
Engage with key stakeholders on development of new model for enhanced community dementia services	April 2023
Extension for new service start date	1 October 2023

6. FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1 The Community Dementia Services Contract is currently funded mainly by the Core Budget (£163,308pa) with a Better Care Fund contribution of £74,436pa and a £60,000 contribution from the SWL ICB to the total of £297,744pa.
- 6.2 For 2 ½ years the extension of the contract would cost £744,360, which is 50% of the overall contract value of £1,488,720 for 5 years. There are sufficient funds within the core budget, with the BCF contribution to fund this. The Council will

discuss additional funding opportunities to expand the enhanced model of support with the ICB.

6.3 The Council will discuss any changes that may be required to the building environment and any additional resources that are required with Alzheimer's Society to support the initiation and implementation of this new enhanced model.

7. LEGAL AND STATUTORY IMPLICATIONS

7.1 The Council's CSOs (Contract Standing Orders) 27.2 provide that a contract may be modified/varied or extended, if any such changes are provided for within the terms of the contract and /or allowed within the Public Contracts Regulations 2015 (PCRs).

7.2 Regulation 72 (1) (b) and/or (c) PCRs would allow the recommended variation for the reasons cited in this report and on the basis that the increase in the contract price would not exceed 50% of the initial contract value.

7.3 In addition, Responsible Officers must be able to demonstrate that the variation will offer Value for Money to the Council and that the contract will continue to meet the Council's requirements.

7.4 A notice of contract modification must be published on the Find-A-Tender e-procurement service and a written record of the reasons and justification for the use of this Regulation must be retained so that there is an audit trail to rely on in the event of a challenge.

7.5 Once completed, the contract variation must be recorded on the Council's Contracts register.

8. HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

8.1 When looking to extend the contract and model of support to more people with Dementia and their carers, regard will need to be had to the public sector equality duties and decisions-making will be informed by equality analysis.

8.2 The specification for Enhanced Community Dementia Services will ensure equal access to all members of the community and can be targeted at those people and areas with the highest levels of need.

8.3 An equality analysis has been completed as part of the savings proposal relating to Eastway Day Centre. Any recommendations or mitigating actions will be considered as part of the new service implementation.

9. CRIME AND DISORDER IMPLICATIONS

9.1 None specific to this report. The proposals in this report do not have a direct crime and disorder impact, however, they will contribute to an inclusive and cohesive

society and improve the resilience of vulnerable residents with Dementia and their carers. Overall, this should have a positive impact on the factors that contribute to crime and disorder and reduce the likelihood of vulnerable residents becoming victims of criminal behaviour.

10. RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

10.1 Two of the council's key risks relate to equalities and to partnership working. The proposals set out in this report will mitigate risks in relation to this.

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

N/A

12. BACKGROUND PAPERS

N/A

Department Approval	Name of Officer	Date of Comments
Legal	Sanura Lambert	14/02/23
Finance	Lana Hamilton	13/02/23

Committee: Cabinet

Date: 20th March 2023

Wards: All Wards

Subject: Public Health commissioned services contract extensions report

Lead Director: John Morgan – Executive Director of Adult Social Care, Integrated Care and Public Health

Dr Dagmar Zeuner –Director of Public Health

Lead member: Cllr Peter McCabe –Cabinet Member for Health and Social Care

Contact officers: Hilina Asrress–Head of Public Health Services (CYP & Sexual Health)

hilina.asrress@merton.gov.uk

Recommendations:

- A. That Cabinet agree to extend the children and young people's 0-19 health services contract for 12 months (from April 2024 to March 2025) where we have already used the extension options contained within the original contract (see D below).
- B. That Cabinet agree to extend the Adult Substance Misuse contract for a period of 12 months (from April 2024 to March 2025) which builds on the previously agreed 12 month extension which has not been enacted so will require to extend as a single 24 month extension. We have already used the extension options contained within the original contract.
- C. That Cabinet agree to extend the Integrated Sexual Health (ISH) service contract by 6 months (April 2024 to September 2024) allowable within the existing contract and a further period of up to 6 months (October 2024 to March 2025) where the extension options within the existing contract have been used (see D below)
- D. That Cabinet approve for these contract extensions to be made under Regulation 72 of the Public Contract Regulations (PCR 2015) without substantial changes to these named contracts as there are no remaining options for extending the existing contracts.
- E. That Cabinet note that the purpose of the three service contract extensions is to align to a large South West London primary and community health services model and pathways being developed in partnership with NHS SWL Integrated Commissioning Board (ICB), to allow the opportunity to explore an integrated system with the potential for integrated service models, pathways and joint commissioning options.
- F. That Cabinet delegate authority to the Executive Director Adult Social Care, Integrated Care and Public Health to finalise and approve terms and conditions for the contract extensions, within existing public health grant budget and compliant with public health duties.

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 This paper seeks Cabinet approval to extend three existing Public Health contracts under regulations 72 of the Public Contract Regulations (PCR) 2015 for a period of 12 months. The Council has exhausted its option to extend each of the contracts under their original contract terms (except for Integrated Sexual Health service which has further 6 months remaining). The Council will in this instance rely on Regulation 72 (1) (e) of PCR 2015 to extend the terms of the contracts because the modifications, irrespective of value, are not substantial. That is to say, the modifications do not change the substance of the services to be delivered or extend their scope or change the economic balance of the contracts in favour of the contractors in a manner which was not provided for in the initial contracts, nor fall under any of the other provisions set out in Regulation 72 (1) (8).
- 1.2 In line with regulation 72, although no substantial changes are allowed during the 12-month extension period, commissioners will continue to drive any improvements within the existing services as required, ensuring maintenance and continuity of services for residents.
- 1.3 The extension of these three contracts will enable Merton Public Health to achieve closer integration of services and models with NHS South West London Integrated Commissioning Board's (SWL ICB) primary and community health services re-modelling. This will allow the opportunity to explore an integrated system with the potential for integrated service models, pathways and joint commissioning options, building on current arrangements. There may be the potential for economies of scale by working with services across a wider SWL footprint and based on service models.
- 1.4 These extensions are a prerequisite to achieving the council's corporate ambition to have holistic, responsive and integrated services focussed on the needs and views of residents, users and communities, strengthening prevention, ensuring focus on inequalities and achieving value for money. The council will maintain control and responsibilities for the service models and outcomes for service users/residents and ensuring involvement as an equal partner to any joint procurement processes.
- 1.5 These contracts had previously been granted extensions to March 2024 (for Integrated Sexual Health, the extension was granted under the existing terms of the original contract), with work initiated to re-procure services within those timescales. However, NHS SWL ICB plans to develop more integrated community and primary care model/strategy in 2023/24, which presents new opportunities for our services and requires extension of our contracts to March 2025. Alignment of our procurement timelines to this planned work is important as our Public Health services interface and work jointly with these wider health services.
- 1.6 In partnership with NHS SWL ICB, working closely with primary and community health services during the planned SWL re-modelling work, will ensure services and pathways are more streamlined, easier to access, effective, efficient, and

value for money. The ultimate aim being to improve the health and well-being of residents with better and greater health impact across organisational boundaries that better meet the needs of service users.

- 1.7 The extension will allow for better engagement with primary care and community health services and stakeholders such as Primary Care Networks (PCNs), GP Practices, GP Federations, Local Medical Committee (LMC), Local Pharmaceutical Committee (LPC), Pharmacies, mainstream community health services e.g. therapies, mental health services as well the community and voluntary sector.
- 1.8 The expiry date of three Public Health community-based contracts is March 2024 and it is our intention to extend these contracts for a further period of up to 12 months to March 2025. This will enable current service continuity for residents whilst the new models are developed, allowing commissioning of new services from April 2025 in-line with the new model and ways of working.
- 1.9 As part of the bundle of Public Health services to be extended and procured by April 2025, we are also seeking an extension of the One You Merton (OYM) and NHS Health Checks contracts, however these fall under the threshold for Cabinet approval. Requests to extend these contracts will follow LBM Contract Standing Orders and will be considered by the Adult Social Care, Integrated Care and Public Health Departmental Procurement Group (DPG) and the Executive Director for Corporate Services in March. The rationale for these two extensions are the same as the extension requested in this paper and this is for Cabinet to note.
- 1.10 The three Public Health contracts included in this suite are:
 - i. CYP 0-19 Community Health Services contract, which provides Health Visiting, School Nursing and the Young Parents Support services. This is a joint contract with NHS SWL ICB. The ICB is the lead commissioner which will extend the contract on behalf of LBM as part of their main contract for community health services in Merton, following cabinet approval and using the NHS standard contract (extension for 12 months). The two years extension provision contained within the contract was utilised. The contract was awarded for 3 years from 1st April 2016 with the option of an additional 2-year extension. After the 2-year extension, an additional 2-year exemption was sought through Cabinet and agreed from 1st April 2021-31st March 2023, with a further extension to March 2024.
 - ii. Adult Substance Misuse contract to be extended for a period of 12 months (from April 2024 to March 2025) which builds on the previously agreed 12-month extension, to be enacted as a single 24 month extension. The two years extension provision contained within the contract was utilised and the current agreement does not allow for any further extension. The current contract expires in March 2023 and so the 12 months extension previously approved is yet to commence. As the extension has not yet been enacted, a single contract extension for 24 months is now sought.

- iii. Integrated Sexual Health (ISH) service. This is a joint contract with Wandsworth and Richmond councils and Wandsworth are lead commissioner who will extend the contract on behalf of LBM following Cabinet approval (extension for 6 months allowable within the existing contract and further period of up to 6 months to March 2025 which is outside of current contract).
- 1.9 As part of the bundle of Public Health services to be extended and procured, contracts such as One You Merton (OYM) and NHS Health Checks fall under the threshold for Cabinet approval. Requests to extend these contracts will follow LBM Contract Standing Orders and will be considered by the Adult Social Care, Integrated Care and Public Health Departmental Procurement Group (DPG) and the Executive Director of Corporate Services in March in line with rational for extending the three Public Health contract in this paper. This is for Cabinet to note.
- 1.10 All providers are financially viable, shown by organisational credit checks, and services are delivering broadly in line with service specifications. Care Quality Commission (CQC) rating for the providers of these services is 'Good'.
- 1.11 No substantial changes are proposed to service models, during the 12-month extension period and opportunities for service development and improvement will be explored and the extension will continue to deliver service continuity for residents.

2 DETAILS

Background Information

- 2.1 Closer integration between services in the community is a fundamental part of both national health and social care policy and local strategy with the aim of promoting health and wellbeing, reducing inequality and ensuring sustainability of the local system.
- 2.2 There are three Public Health contracts that do not have options for extension (with the exception of the ISH contract, which has a 6 months allowable extension) and we are now seeking approval for the extension of these contracts, under Regulation 72 (1) (e) of the Public Contracts Regulations (PCR 2015) to extend them for up to 12 months until 31st March 2025.
- 2.1 These contracts had previously been granted extensions to March 2024 (for Integrated Sexual Health service, the extension was granted under the existing terms of the original contract), with work initiated to re-procure services within those timescales. However, NHS SWL ICB plans to develop more integrated community and primary care model/strategy in 2023/24, which presents new opportunities for our services and requires extension of our contracts to March 2025. Alignment of our procurement timelines to this planned work is important as our Public Health services interface and work jointly with these wider health services. This will allow the opportunity to explore an integrated system with the

potential for integrated service models, pathways and joint commissioning options, building on current arrangements.

- 2.2 In partnership with NHS SWL ICB, working closely with primary and community health services during the planned joint re-modelling work will ensure services and pathways are more streamlined, easier to access, effective, efficient, and value for money. The ultimate aim being to improve the health and well-being of residents with greater health impact across organisational boundaries that better meet the needs of service users.
- 2.3 The extension of these three contracts will enable Merton Public Health to achieve closer integration of services and models with NHS South West London Integrated Commissioning Board's (SWL ICB) primary and community health services re-modelling. This will allow the opportunity to explore an integrated system with the potential for integrated service models, pathways and joint commissioning options, building on current arrangements. There may be the potential for economies of scale by working with services across a wider SWL footprint and based on service models. The council will maintain control and responsibilities for the service models and outcomes for service users/residents and ensuring involvement as an equal partner to any joint procurement processes.
- 2.4 The extension of Public Health contracts, will allow for better engagement with primary care services and stakeholders such as Primary Care Networks (PCNs), GP Practices, GP Federations, Local Medical Committee (LMC), Local Pharmaceutical Committee (LPC), Pharmacies, mainstream community health services e.g. therapies, mental health services as well the community and voluntary sector.
- 2.5 The ICB have recruited additional staff to provide capacity and resources to effectively manage and take forward the primary and community health services re-modelling work with strategic agreement to work collaboratively with LBM as an equal partner to this work. A detailed timetable for this work will be agreed amongst key stakeholders and taken via LBM governance processes, including Directorate Management Teams (DMTs) and other forums such as the CYP Integrated Commissioning Group, to guide this work. This will be completed in 2023/24 to inform 2024/25 re-procurement timelines for new contracts to be in place from April 2025 onwards.
- 2.6 LBM will ensure there are robust timelines, processes and milestones agreed to provide assurance and meet planned procurement timelines with ICB.
- 2.7 The procurement process for these services are large, complex, presents risks and requires time and due process to be delivered effectively and safely.
- 2.8 No substantial changes are proposed to service delivery during the 12-month extension period and services will be maintained and continue to deliver allowing service continuity for residents.
- 2.9 All Public Health services are managed with regular contract monitoring meeting and review of performance and activity by LBM commissioners.

- 2.10 As part of the bundle of Public Health services to be extended and procured, contracts such as One You Merton (OYM) and NHS Health Checks fall under the threshold for Cabinet approval. These contracts will be considered for extension and re-procurement by DPG and Executive Director of Corporate services in March in line with rationale for extending the three Public Health contract in this paper.
- 2.11 Please refer to '*Appendix 1 Feb 2023 PH commissioned services Finances*' (Exempt from Publication) for further details including contract providers and contract values.

3 Service specific details

Children and Young People's (CYP) 0-19 Community Health Services

Service Overview

- 3.1 The contract is for the delivery of Health Visiting, School Nursing, and the Young Parents' Service providing mandated visits and assessments and critical safeguarding services.
- 3.2 The contract was awarded for 3 years from 1st April 2016 with the option of an additional 2-year extension. After the 2-year extension, an additional 2-year exemption was sought and agreed from 31 March 2021-1st April 2023, and a further extension to March 2024.
- 3.3 The contract sits in a wider contract for Community Health Services led by NHS SWL ICB.
- 3.4 **Health Visiting Service** support families from the antenatal period up to school entry (0-5 years). They deliver 5 nationally mandated universal visits to the child and their family but also further support/visits based on needs. Each visit includes an assessment of critical developmental milestones. Trusted and expert advice is provided. If a family is assessed as vulnerable due to physical, mental, or social stressors, more support is available. The service includes a specialist outreach team which proactively engages with families in temporary housing and in refuges, a perinatal mental health and breastfeeding specialists to support families.
- 3.5 **The Young Parents Support Service** provides more frequent support for young, vulnerable mothers whose babies are particularly at risk of poor outcomes. These families are also encouraged to access peer support sessions facilitated by the service in Children's Centres as well as wider support from other professionals and services.
- 3.6 **School Nursing Service** support children aged 5-19, working with CYP and their families and supporting schools. They assess the health of children in Reception Year. Those at greater risk are provided with additional support. School nurses receive referrals from schools and children and young people and offer assessment, advice, information and make onward referrals to any specialist assessment and support, including those identified with safeguarding needs. School nurses also deliver the National Child Measurement Programme (NCMP) which is a nationally mandated assessment of the Body Mass Index

(BMI) of children in Reception (4-5 year olds) and Year 6 (10-11 year olds). This generates intelligence about children who are underweight and overweight/obese and the service offers further support to those identified as obese.

Performance

- 3.7 In 2020/21, the service has performed significantly better than its statistical neighbours with the exception of the 2.5-year review. In 2021/22 performance has been variable where some indicators are better than London, England and some neighbouring/statistical borough whilst others have been lower. A new IT system introduced last year has also had an impact on the quality of the data. This is being managed with specific meetings with provider to understand and resolve.
- 3.8 The provider of this service has a Care Quality Commission (CQC) 'Good' rating.

Adult Substance Misuse

Service overview

- 3.9 This contract was awarded for 3 + 2 years from 1st April 2018. After the 2-year extension, an additional 12 months extension was agreed to March 2024.
- 3.10 Initially commissioned in 2018, Westminster Drugs Project (WDP) delivers an integrated substance misuse service that meets the complex needs of adults presenting with drug and alcohol misuse, including:
- A range of evidence led interventions designed to reduce physical and psychological harms associated with drug and alcohol misuse. This includes health screening including HIV, hepatitis, and alcohol related liver disease and provision of needle exchange services and overdose training and response kits.
 - Care planning, including liaison with partners e.g. health, social care and housing to address unmet needs and assessment and referral for inpatient detoxification and residential rehabilitation if required.
 - Work with children and families to address parental substance misuse.
 - Partnership working with criminal justice partners by supporting court-mandated treatment orders for drug and alcohol related offenders.
 - Targeted support for rough sleepers and street drinkers in addressing drug and alcohol use.
 - Joint working with mental health services to support adults with comorbid serious mental illness and substance misuse.
 - The provision of training to provider partners and community groups to support community capacity and resilience in response to drug and alcohol misuse.

Performance

- 3.11 The service consistently performs in the top quartile of treatment providers in England in terms of all performance and outcome indicators, including treatment completion and representation rates.
- 3.12 The quality of the service was reflected by the findings of the Care Quality Commission (CQC) review in 2019 which gave the service an overall rating of Good, whilst rating its 'responsiveness' as Outstanding. A service review, carried out by commissioners in 2021, prior to extending the contract reiterated the CQC findings whilst also noting the quality, effectiveness of the service and its recognition as a co-productive partner.

Integrated Sexual Health (ISH)

Service Overview

- 3.13 The ISH contract includes provision of STI testing and treatment (also referred to as Genitourinary Medicine – GUM), provision of all methods of contraception, pre and post exposure prophylaxis for HIV, information and advice and now also includes Monkey Pox (MPox) identification and vaccinations.
- 3.14 The service is organised around a hub in Clapham Junction. There are spoke clinics at the Patrick Doody Clinic in Wimbledon and 'Off the Record' in Richmond.
- 3.15 The contract is jointly commissioned with Wandsworth and Richmond Councils with Wandsworth as lead commissioner, hence alignment between the Councils is key to continuing our co-commissioning arrangements.
- 3.16 The current contract started in October 2017. The initial 5-year contract term for the ISH service ended on 30 September 2022. Clause A34 of the contract enables the Councils to extend the contract by two further periods of one year. An 18 month extension was agreed by Cabinet in July 2022 from 1st October 2022 to 31st March 2024.
- 3.17 An additional 6 month extension to 30th Sept 2024 allowable within the current contract is now proposed (to September 2024) would exercise the remaining extension period allowable under the original contract, with a further period of up to 6 months extension (to March 2025) proposed which is outside of the original contract term. Wandsworth as lead commissioners have requested along with Richmond the additional 6 month extension from their Board. To allow continued joint commissioning and collaborative working arrangements, the proposed extensions would ensure our timelines align and allow flexibility for this to take place.
- 3.18 There is also a London wide deep dive (6 months in 2023) into the sustainability of sexual health services to be progressed which would allow our procurement to align with findings from this piece of work.

Performance

- 13.18 During the pandemic walk in services were closed and the emergence of MPox delayed re-opening of walk-in services further. Walk in services re-opened in December 2022.
- 13.19 This change to the model has impacted on the number of people which were able to be seen, with the activity recovering but only currently at 65-70% of pre-pandemic levels. Patient behaviour has also changed as a result of the pandemic with many choosing to access STI testing and treatment online, meaning activity in the service may never return to pre-COVID levels.
- 13.20 The ISH service is well regarded, and patient satisfaction is high. The provider of this service has a Care Quality Commission (CQC) 'Good' rating.

3 ALTERNATIVE OPTIONS

	Options	Advantages	Disadvantages
1	Do not extend the three Public Health contracts withdraw service	<ul style="list-style-type: none"> • Make financial saving 	<ul style="list-style-type: none"> • Public Health mandatory and statutory duties not fulfilled under Health and Social Care Act responsibilities of LAs • No service provision for children 0-19 and their families, people with substance misuse issues and those with sexual health needs. • Residents health needs not met and escalation of health needs • Increased cost and strain on other service areas such as health services, education and social care system, unidentified needs may escalate, requiring more intense intervention • Vulnerable people not being supported in a timely way • Reputational risk of cutting valued and well used services with a negative impact on LBM
2	Extend the current contracts for a further period of up to 12 months if required to allow flexibility to align timelines to NHS SWL ICB primary and community health services remodelling	<ul style="list-style-type: none"> • Service stability and continuity whilst developing new model to support re-procurement • Delivery of mandatory and statutory Public Health duties • Model of re-procurement is aligned to primary and community health services model, which presents opportunities for our services to deliver effective and efficient services that are value for money. This requires alignment of 	<ul style="list-style-type: none"> • Current contract from LA perspective has no option to extend without Cabinet approval • Difficult to demonstrate value for money given that no competition for this provision has been carried out for a number of years • Requires ICB / LBM decision making and alignment of timelines

		<p>remodelling and procurement timelines</p> <ul style="list-style-type: none"> • Improved health and well-being outcomes for residents/service users • Drive competition within the provider market by having a more robust model developed aligned to local primary and community health services • Continued collaborative working arrangements and economies of scale with ICB and Wandsworth and Richmond local authorities also with shared cost of procurement and contract management (0-19 and Sexual Health) • Potential for further economies of scale from integration across a wider SWL footprint and based on service models 	<ul style="list-style-type: none"> • Provider of CYP 0-19 and Sexual Health services have previously indicated some financial pressures in delivering services. Therefore, need to negotiate the value for the contract extension but to be managed within Public Health Grant.
3	Procure the three Public Health services through competitive tender without extending and current procurement timelines	<ul style="list-style-type: none"> • Can work to LA timelines without aligning to ICB remodelling work in 2023/24 • This would enable the Council to test the market to evidence value for money. 	<ul style="list-style-type: none"> • Re-procuring services before the SWL primary and community health services re-modelling may mean LBM works in silo, not aligned and not working closely with our partners and key stakeholders • With the absence of collaborative working on models LBM services may not be fit for purpose, sustainable and less efficient and effective in the longer term • Unintended consequences for residents/service users of unaligned models e.g. those whose health needs may not be met across any organisations through poor planning • CYP 0-19 community health services and ISH service are jointly commissioned services with other partners (see above). To continue joint collaborative arrangements, require extending contract and aligning timelines. Procuring services without extending could mean the following: <ul style="list-style-type: none"> ○ LBM would need to disaggregate contracts and procure on our own.

			<ul style="list-style-type: none"> ○ Disrupts collaboration / integration ○ Market testing required to test viability to deliver Merton only service e.g. 0-19 commissioners feedback, very few providers bidding to deliver these services, if any ○ With smaller Merton only services to be procured, higher risk of failed procurement. Initial market engagement on ISH services shows market appetite for larger contracts and future SWL commissioning ○ Contract disaggregation required with ICB and Wandsworth and Richmond including some staff ○ Lose economies of scale. May require more investment to delivery similar service ○ For ISH services, returns to previous model pre-2017 which was not effective & gave little control over level 3 services. There are also no level 3 service in Merton so could only commission level 1-2 services independently, investment/arrangement with provider of level 3 service for Merton required
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4 CONSULTATION UNDERTAKEN OR PROPOSED

4.1 As part of the ICB primary and community health services re-modelling as well as LBM commissioner led work, there will be robust engagement with key stakeholders including residents/service users. Each service will undertake a service review to inform models and service provision. The CYP 0-19 services review has been completed and the ISH and Substance misuse service reviews are underway to support procurement.

5 TIMETABLE

- 5.1. Contracts are to be extended for a period of up to 12 months from 1st April 2024 to 31st March 2025.
- 5.2. Table 1 below shows indicative high level procurement timelines for new contracts to be in place by April 2025 if contract extension are exercised for a further year as per the above.

Table 1: Indicative procurement timelines

Current Procurement schedule	Indicative timeline for new contract start date April 2025 (if contract variation and extension is exercised)*
Publish tender notice (ITT)	End March/begin Apr 2024
Evaluation of tender	Between May - June 2024
Gateway 2 Award report approval (Finance, legal & procurement)	End June 2024
Gateway 2 report to Procurement Board	Mid July 2024
LSG	Beginning Sept 2024
Cabinet	Mid Sept 2024
Intention to award letter to bidder	End Sept 2024
Mobilisation	Oct 2024 – March 2025 (6 months)
Contract start date	April 2025

*For CYP 0-19 and ISH services, timelines will be dependent on ICB and Wandsworth and Richmond procurement processes as lead commissioners but these are provided as indicative timelines.

7 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

7.1. Financial information related to the value of the contracts are provided in Appendix 1. These are commissioned from the Public Health Grant.

8 LEGAL AND STATUTORY IMPLICATIONS

8.1 The Council is subject to legal requirements to ensure fair competition for all contracts irrespective of value and is subject to obligations under Law to ensure contracts are awarded having regard to the need to avoid any action that is discriminatory, improper or which distorts competition.

- 8.2 Public Health Merton is seeking approval to extend three (3) current contracts. As per the main body of this report, the Council has exhausted its option to extend each of the contracts under its terms.
- 8.3 The Council's Contract Standing Orders (CSO 27.2) provides that contracts may be modified/varied or extended, if any such changes are provided for within the terms of the contract and /or allowed within the Public Contracts Regulations 2015.
- 8.4 Under the current Procurement Regulations (PCR 2015), modifications/variations of contracts such as the ones proposed in this report may unless provided for under PCR 2015 trigger a new procurement process.
- 8.5 PCR 2015 sets out instances where the modification of a contract does not trigger a new procurement activity. The Council may in this instance rely on Regulation 72 (1) (e) of PCR 2015 to extend the terms of the contracts because the modifications, irrespective of value, are not substantial. That is to say, the modifications do not change the substance of the services to be delivered or extend their scope or change the economic balance of the contracts in favour of the contractors in a manner which was not provided for in the initial contracts nor fall under any of the other provisions set out in Regulation 72 (1) (8).
- 8.6 The Council must take note that in spite of the safe haven provided under Regulation 72(1)(e), it is imperative that the Council maintains a clear audit trail of the justification for the extensions and the decision-making process and follows a robust timetable for the procurement of replacement services to ensure that new contracts are awarded before the end of the extension periods.
- 8.7 In accordance with CSO 27.7, the extensions must be recorded in writing and signed/sealed (as appropriate) by both the Council and the Providers.
- 8.8 The extension must be noted on the Council's Contract Register.
- 8.9 Cabinet has authority under S9E of the Local Government Act 2000 to approve delegation of authority therefore the delegation which is being recommended is permissible.

9 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 9.1 The services have been designed as part of approaches to tackle health inequalities in the borough and the inequities in terms of access. These services provide early identification of needs with appropriate support and referral for children and young people as well as supporting residents to lead healthy lifestyles, prevent ill health and reduce social isolation. These are important components of the approach to integrated community health services.
- 9.2 There are not expected to be any human rights issues from the programmes.

10 CRIME AND DISORDER IMPLICATIONS

- 10.1. N/A

11 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

11.1 Emerging risk will be identified and managed/mitigated through Task and Finish groups

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

- APPENDIX 1 – EXEMPT FROM PUBLICATION - Public Health commissioned services contract details

13 BACKGROUND PAPERS

N/A

Committee: Cabinet

Date: 20 March 2023

Agenda item:

Wards: All Wards

Subject: Contract Award - Non-Maintained and Independent Special Schools Placement

Lead Director: Jane McSherry - Director of Children, Schools & families

Lead member: Sally Kenny, Cabinet Member for Education and Lifelong Learning

Contact Officer: Wendy Edward, wendy.edwards@merton.gov.uk

Recommendations:

- A. To award a new contract for the placement provision of Non-Maintained and Independent Special Schools for Merton's vulnerable children and young people with an Education Health and Care Plan (EHCP) for a period of five (5) years (until 31 March 2028) with no potential of an extension. The contract value is set out in Appendix A.
- B. The providers as listed in Confidential Annex A of this report are awarded a place on the new 'Pseudo DPS' as they have passed the accreditation and enrolment evaluation process, whilst recognising that further organisations will be able to join throughout the duration of the 'Pseudo DPS' if they pass both the accreditation and enrolment stages.
- C. Cabinet delegates its authority to the Director of Children, Schools, and Families to implement the 'Pseudo DPS' and make the decision to award all contracts where the selection criteria has been followed under the 'Pseudo DPS' during its term validity of 5 years (until 31 March 2028).

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. The purpose of this report is to explain the procurement process for a new contract for the provision of Non-Maintained and Independent Special Schools placement services and to seek the approval of Cabinet for the award of contracts for the placement provision of Independent and Non-Maintained Special Schools across the Council's administrative area and to recommend that Cabinet approves the award of the contracts to the successful bidders contained within Confidential Appendix.
- 1.2. London Borough of Merton called for competition on Find a Tender procure system by making known the intention to establish a procurement under the 'Light Touch Regime' (LTR) based on a Dynamic Purchasing System style arrangement (referred to in the report as 'Pseudo DPS') compliant with the Council's Contract Standing Orders (CSOs) and as set out in Regulations 74-77

of the Public Contracts Regulations 2015 (PCR). The procurement is supported by software hosted by a software provider procured separately (adam).

- 1.3. Providers who have successfully registered and those yet to complete the registration process during the contract term are recommended to be admitted on the system. Due to commercial sensitivity, the details of approved providers have been circulated as a confidential appendix to this report.

2. DETAILS

- 2.1. This report outlines the key features and benefits of above recommendations and the overall impact on service quality, cost control and value for money.
- 2.2. In Merton, we are working towards meeting the majority of educational needs for children with a Special Educational Need or Disability (SEND) in one of Merton's mainstream settings. However, even with the pursuance of an inclusive approach there are still children who may be identified as needing support in a specialist setting such as a Non-Maintained or Independent Special School. This is due to a shortage of in-borough special school places or their needs cannot be met in local provisions. Placement decisions are made by a Placements Panel, which considers all maintained and in-borough alternatives, but parental choice is a principle in all school choices. Decisions by the authority can be challenged and subject to mediation and challenge through the Tribunal process.
- 2.3. The dependency on and high cost of Independent, Non-Maintained Special Schools is one of the key factors in the deficit in the Dedicated Schools Grant budget. While we are working to increase in-borough maintained provision, we are left with the cost of current placements until the new capacity comes on stream and children in current placements move back in-borough or transition. Improving the contractual basis of those placements is one of the actions in the Safety Valve programme. Whilst it will not directly impact on fees, it will give us better tools to contract manage the placements and where appropriate trigger fee clawbacks and placement reviews.
- 2.4. The Independent, Non-Maintained Special School sector is well developed in London and the South-East. It is a difficult market to operate in because whilst local authorities are the predominant funders, schools see parents as their customers and target them for all their marketing and relationship management. The demand for places and the role of parental choice and tribunals means that it is a supply driven and dominated market.
- 2.5. Merton was previously part of the South London Commissioning Partnership purchasing Independent, Non-Maintained Special Schools in the hope of having stronger bargaining power. However, the benefits did not materialise. As it was based on voting across the ten-authority members, it was difficult for Merton to have any control or influence. In our view, the contract put in place by the SLCP had poor contract monitoring and performance management. It was also weak on financial management. This came to a head when we became aware that they were agreeing levels of uplifts that we would not have agreed to and without reference to quality or performance on a child level data.

- 2.6. There has been no contractual framework in place since we left the South London Commissioning Partnership (SLCP). The Council commissions services as and when required through spot purchasing. SLCP did not provide the contract terms and financial control required. There has been inconsistent and lack of transparency as to how fees are calculated by providers. In addition, the absence of formal contracts, with clear and consistent monitoring arrangements exposes the Council to challenge. Having withdrawn from the SLCP, we reviewed the options in Gateway 1 paper and determined that a Dynamic Purchasing System approach was the best as it allows providers to join the framework and has a fee breakdown requirement and rigorous contract monitoring arrangements.
- 2.7. Merton Council currently spot purchases 402 placements from approximately 72 Independent Special Schools including Independent Schools, Specialist Post 16 institutions and Non-Maintained Special Schools to support the needs of young people with SEND whose needs cannot be met within local special school provision mainly due to lack of capacity in local maintained provision. The annual cost for 2021/22 was circa. £21m.

Type	Total No. of Providers	Total No. of Placements
Non-Maintained Special	9	14
Independent Special	36	307
Independent Other	19	46
Specialist Post-16	8	35
TOTAL	72	402

- 2.8. This 'Pseudo DPS' is underpinned by the Department for Education (DfE) Safety Valve programme, Action 6 which is aimed at strengthening contracting arrangements with Non-Maintained and Independent Special Schools to manage financial pressures and increase capacity of appropriate placements to meet the needs of Merton's vulnerable children and young people with an EHCP and achieve better terms and consistent prices through improved relationships and strong negotiation.
- 2.9. The new contract is open to current and new providers to complete a two-stage process of Accreditation and Enrolment. The contract length will be for a maximum period of 5 years, from the 3rd April 2023 to 31st March 2028.
- 2.10. There is no guaranteed minimum level of spend or volume of placement services under the 'Pseudo DPS' and the council has the ability to procure services outside of this contract should it deem this necessary. The 'Pseudo DPS' remains continuously open to new joiners throughout the term of operation thus making it agile and able to respond to changing demand. There is no guarantee of business for any provider on the 'Pseudo DPS'.
- 2.11. This 'Pseudo DPS' will benefit the council as follows.
- Provide the Council a strategic procurement solution that ensures that children and young people with the most severe and complex special educational needs and disabilities are provided with high quality specialist

provision, matched to their individual assessed needs, with a capable market of providers, in line with the principles of best value.

- Better protection for children by ensuring adequate contract terms are in place for every placement, and protection for the Council from provider disputes due to consistent contract terms, outcomes, and service standards.
- Clarity for placement panel decision makers and SEND teams regarding supplier pricing, discounts, performance, and risk.
- A competitive and transparent process to ensure better value for money by ensuring all suitable providers are invited to bid and the ability to compare offers.

2.12. Establishing the 'Pseudo DPS' has been met with some reluctance from the sector. Some independent educational settings prefer to negotiate on a pupil-by-pupil basis and/or want to use their own terms and conditions or felt they had sufficient demand for placements from parental preference and other local authorities. Other issues were linked to providers' resistance to transparency of costs or use of the adam procure system. Other providers were citing reasons that their placement fees are not negotiable and come as part of the holistic service they offer.

2.13. Commissioners are committed to continued working with market providers to gain their increased buy in to working in a transparent manner. New providers are being added to the 'Pseudo DPS' and as a priority, Commissioners are planning to hold a range of market engagement activities to significantly increase the number of providers on the 'Pseudo DPS'.

3. PROCUREMENT PROCESS

3.1. London Borough of Merton called to competition via Find a Tender and Contracts Finder, making it known the intention to establish a structure for the procurement of the services under the LTR. This was set up as a Pseudo Dynamic Purchasing System procured under Regulation 74-77 of the PCR.

3.2. Adam Procure was used for the procurement process, enabling providers to register by successfully completing a two-stage process of Accreditation and Enrolment. (NB Adam Procure was selected through a separate procurement exercise).

3.3. The submissions were evaluated within 10 working days of receipt, whereby providers were either passed for admission or failed with feedback on elements missing which they could rectify and resubmit immediately.

3.4. All future submissions will be evaluated within the 10 days of tender receipts unless there is some justification to extend to 15 days.

3.5. The new Independent and Non-Maintained Special Schools Placement contract length will be for a maximum period of 5 years, from the 3rd of April 2023. With future submissions pro-rata no later than the stated contract term.

3.6. The council stipulated that the contracts would be awarded to the bidders whose tenders were judged to pass both the Accreditation and Enrolment stages as per the below table:

Published Award Criteria	Weighting
First Stage - Accreditation Company Information signed Admission Agreement, Sub-contractor Information.	Pass/Fail
Second Stage - Enrolment Contract examples, Pricing Schedule, Commercially Sensitive Information, GDPR and Tender Declaration	Pass/Fail

3.7. Bidders who at any stage had gaps in submission, they were failed and advised on what required to be rectified or what was missing for them to successfully re-submit.

3.8. Bidders had the option to attend supplier support sessions on 21st November 2022, 5th December 2022, 10th January 2023 and 12th January 2023, call adam support line for system support issues which may have been experienced. Moreover, a detailed step by step user guide was drafted and shared with all providers on adam procure and by email.

3.9. Bidders were advised that contracts would be awarded to all providers that passed both the Accreditation and Enrolment stages.

3.10. The bidders were required to provide within the pricing schedule, two elements of their costings for the council's information:

- Average Cost of a Placement (Based on the last full academic year) - Day Placement and
- Average Cost of a Placement (Based on the last full academic year) - Weekly Boarding

3.11. The return date for initial tender was 20 January 2023. 16 bidders were still in the draft stage for Accreditation and 10 in the Enrolment stage by the initial submission deadline. These bidders will be able to submit post the initial deadline.

3.13 Social Value considerations:

The Social Value Measurement Charter was considered for inclusion in this 'Pseudo DPS'. After discussion with Commercial Services, it was agreed that the nature of the suppliers' businesses, coupled with the fact that LBM wanted to create a Dynamic Purchasing System which in itself creates new challenges and opportunities, SVMCs should not be issued on this project. It was also felt that the inclusion of SVMCs would potentially harm the breadth of potential bidders as a soft market test showed that most were unfamiliar with the concept.

As an alternative, providers were asked as part of their bids to have regard to the economic, social and environmental well-being impact of their provision and work towards positive outcomes in these areas for the CYP placed within their provision as well as the wider community where relevant.

3.14 Contract Management:

Contract and Supplier management is a critical requisite to ensure the success of a contract of this size and importance. The Council will monitor the performance of providers at organisational and individual levels against set Key Performance Indicators outlined in the DAA Schedule 2 – Contract Management on an Academic Term basis unless stated otherwise for individual indicators. Data will be collected on an individual level and monitored on an individual and total cohort basis. Data returns template for providers to complete has been created and tested. This will be sent to providers prior to contract meetings to allow for data analysis.

4. TENDER EVALUATION

- 4.1 The evaluation of bids was undertaken in two parts, where adam and commissioning reviewed and approved the accreditation stage. Only when the provider passed the Accreditation stage then the enrolment stage was reviewed and approved.
- 4.2 The evaluation process was supported by officers from adam procure and overseen by an officer from the Council's Commissioning team, acting in a quality assurance role to ensure national procurement legislation and the council's own procedures were complied with in full, and that the approach of the adam team, to testing and scoring against the evaluation criteria was rational and consistent for all elements of the tender.
- 4.3 Bids were checked for completeness and assessed against the mandatory and then discretionary grounds for exclusion including experience of delivering the required educational services.
- 4.4 The evaluation team assessed each tender pass/fail, with the option for those that failed to resubmit with guidance provided from adam.
- 4.5 Following the conclusion of this initial process, the evaluation team determined that 15 providers met the criteria to supply to Merton Council against the published criteria. It is recommended that all 15 Providers are awarded a place on the 'Pseudo DPS'. Full details of the results of the bid evaluation process are included in the Part 2 report (Confidential Annex).
- 4.6 At the Accreditation stage, there were 22 providers approved, 16 in draft and 8 failed. At Enrolment stage, there were 15 providers approved, 10 in draft and 5 failed. The Council will keep the 'Pseudo DPS' open to allow new providers to join at any time, including those that were unsuccessful or still in draft.
- 4.7 The Council is now in a position to make full use of the 'Pseudo DPS' from 3rd of April 2023. Implementation of the 'Pseudo DPS' and responsibility to award contracts for individual placements made by calling off from the 'Pseudo DPS' will remain with SEND Commissioning.

5. ALTERNATIVE OPTIONS

- 5.1 An alternative option is to do nothing, do not enter contracts with providers and continue with negotiating when a placement is required.
- 5.2 The disadvantages to this would be that the council will not be able to ensure value for money as the balance of power upon requiring placement will be tilted towards providers and the council will be forced to pay high fees due to not having stipulated core costs agreed in advance.

6. CONSULTATION UNDERTAKEN OR PROPOSED

- 6.1 Consultation has been undertaken mainly through meeting discussions on the 'Pseudo DPS' held with our largest providers and all market providers were invited to market engagement events to seek views on joining a 'Pseudo DPS' on the 19th & 25th October 2022 and 2nd November 2022.

7. TIMETABLE

Procurement Stage:	Date:
Publication of Contract Notice and Tender documents on Adam Provider Site	7 th November 2022
Clarification Closes	02 nd December 2022
Initial Accreditation and Enrolment Closes	20 th January 2023
Accreditation and Enrolment Evaluation	23 th to 24 th January 2023
'Pseudo DPS' Appointment Notices, Internal Approvals & 'Pseudo DPS' Admission Agreement Signing	February – March 2023
Delivery Commences ('Pseudo DPS' is live) <i>Note: individual call-offs, or Placements, will have different commencement and end dates</i>	03 rd April 2023

- 7.1 The award of this contract **not** subject to observing a 'standstill' period. Accordingly, the contract can be formally awarded to the successful tenderers immediately after the internal processes are completed.

8. FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 8.1 There was a total spend of approx. £21m based on 2021/22 budget report (currently waiting for 2022/23 figures) which is funded from High Needs Block (HNB) of the Designated Schools Grant (DSG).
- 8.2 The adam procure system cost the council £30,000 per annum.

- 8.3 The Council has a duty and is responsible for payment of independent and non-maintained special school placements as assessed and approved by the SENDIS service.
- 8.4 Spend on existing packages will continue and existing packages will be maintained with the current provider. Existing placement fees will stay the same for the duration of the placement.
- 8.5 Demand pressures in future years could also cause costs to increase and so too could inflationary increases. The council exited The South London Commissioning Programme (SLCP) in April 2022 as it gave little control over fee uplifts negotiations. This 'Pseudo DPS' will give the Council the right to follow its own process for fee management as set out in DAA Schedule 4 – Fee Uplift Process.
- 8.6 The Council is facing budget pressures and there is ongoing programme of work to establish a balanced budget regarding expenditure funded from the High Needs Block of the Dedicated Schools Grant. This 'Pseudo DPS' approach, with no commitment of spend or volumes, offers the greatest degree of flexibility and may allow us to facilitate these budget pressures.
- 8.7 Commissioners are working with market providers to ensure that a greater number of providers join the 'Pseudo DPS'. A further programme of market engagement events to encourage more providers to join the 'Pseudo DPS'. At present those who have successfully joined the 'Pseudo DPS' represent just over 20% of our total incumbent supply base. As a result, joining the 'Pseudo DPS' will not mean that spot purchasing will cease because of entering this contracting arrangement. Parental choice also impacts on the Council's ability to solely commission via this 'Pseudo DPS' procurement vehicle.

Section 151 Officer Commentary

This expenditure is funded from the Dedicated Schools Grant and the financial implications are outlined within section 8.

9. LEGAL AND STATUTORY IMPLICATIONS

- 9.1 The service procured as described in the report as a 'Pseudo DPS' was procured under the Light Touch Regime (LTR) under regulations 74-77 of the Public Contract Regulations 2015 (PCR). The LTR allows for flexibility for contracting authorities to design compliant procurement processes which must meet basic requirements of transparency and equal treatment of economic operators. Such a procurement will be compliant with the Council's own Contract Standing Orders (CSOs) in particular CSO 15 as well as the PCR.
- 9.2 The Council should retain an auditable record of its compliance with the procedures it has set in place.
- 9.3 Once contracts are awarded, they should be entered onto the Council's Corporate Contracts Register and CSO 19.2.4 and award notices must be published periodically under PCR regulation 75(5).

- 9.4 The Procurement of Adam was undertaken from a framework which will provide a lawful method for the procurement of software services. The council should retain evidence that it has complied with the call of requirements of the framework and the publish the information required by regulation 108 of the PCR in relation to that procurement and enter relevant details on the corporate contracts register.
- 9.5 The Council is entitled to delegate decision making as referred to in the recommendations under section 9E of the Local Government Act 2000.

10.HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 10.1 There are no substantive Human Rights, Equalities and Community Cohesion Implications arising from the recommendations contained within this report.

11.CRIME AND DISORDER IMPLICATIONS

- 11.1 There are no substantive crime and disorder implications arising from the recommendations contained within this report.

12.RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 12.1 All providers that are awarded contracts must be an educational establishment, and where required be CQC or Ofsted or ISI registered.
- 12.2 The UK procurement regulations allow bidders to challenge a contract decision from a public body, especially on matters of procedure. This risk is deemed minimum for this contract, as the route used is the Dynamic Purchasing System, where providers may always re-submit unsuccessful submissions with guidance from the Council.
- 12.3 One of the risks of a 'Pseudo DPS' is that providers choose not to join and continue to operate on a spot purchase arrangement as they are aware that due to demand and/or parental preference they will still be needed by local authorities. This will be mitigated by continued provider conversations to convey the importance of transparency around providing high quality and cost-effective places for children. The council will also have a role in liaising with parents to assure them that we have robust processes in place to reflect this. Where specialist educational need can be met via the 'Pseudo DPS', the Council would work with parents to state this as the placing preference on the Education Health and Care Plan. This will also provide a compelling narrative for providers to join the 'Pseudo DPS'.
- 12.4 Another risk is that some providers might see it as an opportunity to submit higher pricing than the council currently pay them. This was mitigated in the development of the 'Pseudo DPS' through a requirement for detailed breakdown of fees, data integrity checks and comparison of last academic fees and current academic fees.
- 12.5 The following key risks associated with the contract have been identified, along with mitigation activities:

Risk Description	Mitigation Activity
Demand may grow for services resulting in increased costs	There has been an annual increase in demand for services. The 'Pseudo DPS' established maximum process for provision to help control the unit cost.
Poor quality of service and service does not deliver required outcomes.	Strong contract management and quarterly contract review meetings will mitigate the risk of a poor-quality service. Failure to meet the service outcomes and objectives will enable the Council to restrict payment based on performance and ultimately terminate the contract if performance does not improve.
Current placements	Spend on existing placements will be maintained with the current Provider. However, if this Provider is successful in joining the 'Pseudo DPS', they will automatically transfer on to the 'Pseudo DPS's T&C's excluding costs.
Prices submitted to the 'Pseudo DPS' increases cost of new placements	There is ongoing work through setting market expectations and requiring greater fee transparency to mitigate the risk of higher fees. Ongoing market engagement with providers will help negotiate better value for money.

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

APPENDIX A - EXEMPT