



## Port Health & Environmental Services Committee

**Date:** MONDAY, 27 SEPTEMBER 2021

**Time:** 11.00 am

**Venue:** HYBRID MEETING – VIRTUAL AND COMMITTEE ROOMS, 2ND FLOOR, WEST WING, GUILDHALL

**Members:**

Deputy Keith Bottomley (Chairman)	Deputy Wendy Hyde
Mary Durcan (Deputy Chairman)	Alderman Gregory Jones QC
Rehana Ameer	Shravan Joshi
Alexander Barr	Alderwoman Susan Langley
Adrian Bastow	Vivienne Littlechild
John Bennett	Deputy Edward Lord
Peter Bennett	Deputy Robert Merrett
Tijs Broeke	Deputy Andrien Meyers
John Chapman	Deputy Brian Mooney (Chief Commoner)
Deputy Peter Dunphy	John Petrie
John Edwards	Deputy Henry Pollard
Deputy Kevin Everett	Henrika Priest
Anne Fairweather	Jason Pritchard
Helen Fentimen	Deputy Elizabeth Rogula
Sophie Anne Fernandes	Jeremy Simons
Christopher Hill	George Abrahams

**Enquiries:** Leanne Murphy; [leanne.murphy@cityoflondon.gov.uk](mailto:leanne.murphy@cityoflondon.gov.uk)

### Accessing the virtual public meeting

Members of the public can observe this virtual public meeting at the below link:

[https://youtu.be/3\\_92p9i8Eu0](https://youtu.be/3_92p9i8Eu0)

This meeting will be a virtual meeting and therefore will not take place in a physical location. Any views reached by the Committee today will have to be considered by the Director of Markets & Consumer Protection after the meeting in accordance with the Court of Common Council's Covid Approval Procedure who will make a formal decision having considered all relevant matters. This process reflects the current position in respect of the holding of formal Local Authority meetings and the Court of Common Council's decision of 15 April 2021 to continue with virtual meetings and take formal decisions through a delegation to the Town Clerk and other officers nominated by him after the informal meeting has taken place and the will of the Committee is known in open session. Details of all decisions taken under the Covid Approval Procedure will be available online via the City Corporation's webpages.

A recording of the public meeting will be available via the above link following the end of the public meeting for up to one municipal year. Please note: Online meeting recordings do not constitute the formal minutes of the meeting; minutes are written and are available on the City of London Corporation's website. Recordings may be edited, at the discretion of the proper officer, to remove any inappropriate material.

**John Barradell**  
**Town Clerk and Chief Executive**

# AGENDA

## Part 1 - Public Agenda

1. **APOLOGIES**
2. **MEMBERS' DECLARATIONS UNDER THE CODE OF CONDUCT IN RESPECT OF ITEMS ON THE AGENDA**
3. **MINUTES**  
To agree the public minutes and non-public summary of the meeting held on 13 July 2021.  
**For Decision**  
(Pages 5 - 12)
4. **OUTSTANDING ACTIONS AND WORK PLAN**  
Report of the Town Clerk.  
**For Information**  
(Pages 13 - 16)
5. **ENVIRONMENT BILL UPDATE**  
The Deputy Remembrancer to be heard.  
**For Information**
6. **COVID-19 AND BREXIT UPDATE**  
The Port Health & Public Protection Director to provide an oral update on the latest position.  
**For Information**
7. **UPDATE ON THE IMPACT OF BUDGET CUTS ON THE CLEANSING SERVICE**  
The Assistant Cleansing Director to be heard.  
**For Information**
8. **BUSINESS PLANS 2021/2022: PROGRESS REPORT (PERIOD 1)**  
Report of the Executive Director of Environment.  
**For Information**  
(Pages 17 - 54)
9. **ADOPTION OF LETTINGS ENFORCEMENT POLICY**  
Report of the Director of Markets & Consumer Protection.  
**For Decision**  
(Pages 55 - 72)
10. **DRAFT CITY OF LONDON CONTAMINATED LAND INSPECTION STRATEGY 2021-2030**  
Report of the Director of Markets & Consumer Protection.  
**For Decision**  
(Pages 73 - 106)

11. **DELEGATED AUTHORITY REQUEST - REPLACEMENT OF THE LADY AILEEN'S ENGINES**  
Report of the Port Health & Public Protection Director.  
**For Decision**  
(Pages 107 - 110)
12. **RISK MANAGEMENT - PERIODIC UPDATE REPORT**  
Report of the Executive Director of Environment.  
**For Information**  
(Pages 111 - 148)
13. **QUESTIONS ON MATTERS RELATING TO THE WORK OF THE COMMITTEE**
14. **ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT**
15. **EXCLUSION OF THE PUBLIC**  
MOTION – That under Section 100(A) of the Local Government Act 1972, the public be excluded from the meeting for the following items on the grounds that they involve the likely disclosure of exempt information as defined in Part I of the Schedule 12A of the Local Government Act.

**For Decision**

## **Part 2 - Non-public Agenda**

16. **NON-PUBLIC MINUTES**  
To agree the non-public minutes of the meeting held on 13 July 2021.  
**For Decision**  
(Pages 149 - 150)
17. **PORT HEALTH AND ENVIRONMENTAL SERVICES DEBTORS - PERIOD ENDING 30 JUNE 2021**  
Report of the Executive Director of Environment.  
**For Information**  
(Pages 151 - 160)
18. **NON-PUBLIC APPENDIX: RISK MANAGEMENT REPORT - RISK REGISTER**  
To be read on conjunction with Item 12.  
**For Information**  
(Pages 161 - 162)
19. **NON-PUBLIC QUESTIONS ON MATTERS RELATING TO THE WORK OF THE COMMITTEE**
20. **ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERED URGENT AND WHICH THE COMMITTEE AGREES SHOULD BE CONSIDERED WHILST THE PUBLIC ARE EXCLUDED**

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## **PORT HEALTH & ENVIRONMENTAL SERVICES COMMITTEE**

**Tuesday, 13 July 2021**

**Minutes of the meeting of the Port Health & Environmental Services Committee held at the Guildhall EC2 at 11.00 am**

### **Present**

#### **Members:**

Deputy Keith Bottomley (Chairman)	Alderman Gregory Jones QC
Mary Durcan (Deputy Chairman)	Shravan Joshi
Rehana Ameer	Alderwoman Susan Langley
Alexander Barr	Vivienne Littlechild
John Bennett	Deputy Robert Merrett
Peter Bennett	Deputy Andrien Meyers
Deputy Peter Dunphy	John Petrie
John Edwards	Deputy Henry Pollard
Helen Fentimen	Henrika Priest
Sophie Anne Fernandes	Jason Pritchard
Christopher Hill	Jeremy Simons
Deputy Wendy Hyde	George Abrahams

#### **Officers:**

Jon Averbs	- Director of Markets & Consumer Protection
Gary Burks	- Superintendent & Registrar, COL Cemetery & Crematorium
Ruth Calderwood	- Environmental Health Officer
Paul Chadha	- Chief Lawyer
Tony Macklin	- Assistant Director, Environmental Health & Trading Standards
Jenny Pitcairn	- Chamberlain's Department
Rachel Pye	- Pollution Control Team Manager
Richard Steele	- IS & Finance Officer
Gavin Stedman	- Port Health & Public Protection Director
Ian Hughes	- Deputy Director, Transportation and Public Realm
Vince Dignam	- Business Performance & Transport Group Manager
Leanne Murphy	- Committee and Member Services Officer

#### **1. APOLOGIES**

Apologies were received from Elizabeth Rogula, Tijs Broeke, Anne Fairweather and John Chapman.

#### **2. MEMBERS' DECLARATIONS UNDER THE CODE OF CONDUCT IN RESPECT OF ITEMS ON THE AGENDA**

There were no declarations.

#### **3. MINUTES**

**RESOLVED**, that the public minutes and non-public summary of the meeting held on 18 May 2021 were approved as an accurate record.

### Matters arising

With regards to a question raised by a Member concerning noise nuisance by buskers outside of the Tate Modern, Officers confirmed a meeting was hosted by Southwark Council last week and the Deputy Chairman attended along with other Councillors. It was hoped the collaboration would bring changes on buskers and needed enforcement. Another meeting would take place in 4-6 weeks.

A Member enquired why buskers were able to use amplification. It was felt byelaws could stop its use, but resource was needed to resolve the problem.

#### 4. **OUTSTANDING ACTIONS AND WORK PLAN**

The Committee received a report of the Town Clerk setting out the current list of outstanding actions:

##### **Electric Vehicle Charging**

Officers confirmed there had been progress, and they were pressing DCCS for an update on the Middlesex Street plan and working closely on securing funding for kit.

Members were reminded that Estates generally provided charging spots themselves. The City was only developing sites for commercial/visitor use only and did not want to become a destination for recharging, only to provide for top ups for taxis, etc. Officers were looking to expand numbers at hubs but not significantly, with the Baynard House facility as a key site.

A Member requested a solution for East City residents and businesses. As the Corporation had not provided options in timely manner, the Member asked if residents were able to access the facility at Minories Car Park for free. The Committee supported this suggestion as a practical solution.

Whilst it was acknowledged these car park bays were not significantly used, this decision could not be made by this Committee and Officers agreed to follow up with the Planning & Transportation Chairman and Deputy Chairman.

##### **Garden Waste Recycling**

Officers confirmed there were no updates since the last meeting.

##### **Measurement and mitigation options for operational rail noise from London Underground affecting the Barbican Estate**

Members were informed that a letter was sent to London Underground regarding the concern and frustration that only half the issue had been dealt with, and Officers awaited an imminent response.

A Member voiced concern that those residents to the east have the worse situation and asked Officers to keep up the pressure as London Underground had given no indication that they would carry out the work soon.

It was noted that the Northern Line Bank Branch would be shut for a significant time and Officers agreed to ask if this would have an effect in communications.

**Amendment to KPI TPR 11 of the DBE business plan 2021/22 / surveys**

The Chairman confirmed data would come to the September meeting plus an agenda item.

**5. COVID-19 AND BREXIT UPDATE**

The Committee received an oral update from the Port Health and Public Protection Director concerning COVID-19 and the UK's impact of leaving the EU (Brexit) on Port Health & Public Protection.

**COVID-19**

The Government announced yesterday that most Covid guidance and legal restrictions would be lifted in England on the 19 July 2021. Officers awaited details of best practice; however, guidance remained on people meeting others outside where possible and the recommended use of face coverings in crowded public settings. The City will therefore look very different with clubs able to open and table service no longer mandatory.

The City's Public Protection Teams will continue to engage with businesses to provide advice and guidance. However, in light of the latest announcement, the City Covid Accreditation scheme is currently under review.

Members were reminded that the FSA was due to publish a roadmap for food hygiene interventions. This has recently been published and considered a reset of the inspection programme. Officers will bring details of the plan up to 2023 to the September Committee meeting.

Ports and HARC have continued to operate and both have been extremely busy this year with HARC experiencing a 40% increase on normal June levels. Similarly, Port Health are running at 25+% above normal levels although this may dip from July as a result of the impacts of the end of import quotas in June and the Suez Canal backlog. Port Health continue to work closely with the port operators to put procedures in place to increase capacity, e.g. approving extra seal check areas and numerous meetings with the trade to address delays have taken place.

**Brexit**

The implementation of the next phase of controls on high-risk imported food and feed is due to come in on the 1 October. This is the introduction of 100% documentary checks. Port Health continues to train its staff and work with stakeholders to ensure a smooth process. The aim remains to advise agents and importers if there are issues with paperwork, etc, and get the process correct for full checks to be implemented from January 2022.

It was noted that a bid had been made for additional funding from Defra in light of Sheerness advising that they would also be dealing with high risk food and feed. Officers await the final detailed bidding process to be confirmed.

With regards to animal health, Members were advised that the controls on live animals from the EU would not come in until 21 March 2022 at the earliest. There were concerns that private BCPs would be set up in competition to HARC and Officers were responding by making representations and seeking Counsel's opinion.

The Chairman congratulated the Team for their hard work which was not an easy feat.

A Member was concerned that private companies accepting animals from abroad would mean the Animal Reception Centre would be left with the rarer/more difficult animals. Officers agreed it was not a level playing field as the ARC covered a wide variety of animals as a statutory requirement and were responding to Defra accordingly.

**6. DENTON PIER AND PONTOON OVERHAUL WORKS - GATEWAY 2 REPORT**

The Committee considered a report of the City Surveyor regarding Denton Pier and Pontoon Overhaul Works – Gateway 2 Report.

A Member enquired where is Denton Pier was and how often it was used. Officers confirmed it was located on the Thames near Gravesend and the pier was strategically important to launch service and its ability to undertake a number of statutory duties and it is used by vessels daily.

Members were advised that the pier was 55 years old and the works would help it continue for the next 25 years. Members were interested to understand how long piers generally lasted and whether it was worth looking to move the facility to the new site of the markets, rather than spending £1m on a pier the Corporation did not own.

Officers confirmed the resiting of the markets was a long way off, and the site might not be suitable for launches but could be considered in the future. Officers agreed to investigate how long piers lasted.

**RESOLVED**, that the Committee:

- Budget of £50,000 for a condition survey and options appraisal is required to reach the next Gateway;
- Note the total estimated cost of the project at £850,000 (excluding risk);
- Note the estimated costed risk of £150,000.

**7. MST FEES 2021/22**

The Committee received a report of the Director of Markets and Consumer Protection regarding MST Fees 2021/22.

**RESOLVED**, that the Committee agree the proposed fees for 2021/22.



8. **WASTE AND STREET CLEANSING ANNUAL REPORT AND IMPROVEMENT PLAN**

The Committee noted a report of the Director of Markets and Consumer Protection regarding the Waste and Street Cleansing Annual Report and Improvement Plan.

The Chairman thanked the Team for the fantastic service keeping the City clean. Members queried how dirty the City got during lockdown and if the stats provided gave the full picture as the City was worse than the national benchmark.

Members were advised that whilst there was a lower footfall, there were less resources and the service still kept above the London benchmark. Officers were monitoring the situation closely following the new reductions to ensure standards were maintained and resources were in the right place as recovery and footfall would likely have an impact.

With regards to the questions concerning the use of electric vehicles and co2 savings, Officers required more time and data to make a proper comparison and agreed to bring this to a future Committee meeting.

A Member enquired if there were particular areas in the City that were prone to graffiti noting the increase. Member were advised that the increase was likely due to there being less people in City, so they were able to come unnoticed. This was being monitored by Officers who were reacting quickly and reporting these cases of ASB to the Police. It was noted that it could be difficult to engage with owners and rail owners to remove the graffiti when on private land.

A Member advocated for the introduction of reverse vending machines in the City which were popular in other countries. Officers confirmed none were in place yet, but they were looking for Partners for suitable areas to trial this.

In response to a question, Officers confirmed that the City's drinking fountains would return on 19 July 2021.

**RESOLVED**, that the report be noted.

9. **AIR QUALITY ANNUAL STATUS REPORT**

The Committee received a report of the Director of Markets and Consumer Protection in relation to Air Quality Annual Status Report.

The Chairman highlighted the huge importance of climate challenge issues noting that the Environment Bill was currently going through Parliament and Lord Tope supported the Corporation's amendments. It was noted that WHO would be publishing guidelines in September.

**RESOLVED**, that the report be noted.

10. **REVENUE OUTTURN 2020/21**

The Committee noted a joint report of the Chamberlain, Director of the Built Environment, Director of Markets and Consumer Protection and Director of Open Spaces regarding the Revenue Outturn 2020/21.

Highlights included an underspend of £2.2m, £1m was moved into a reserve fund for the ports due to Brexit implications and successful bids had been made for grants for waste cleaning and recycling.

A Member saw lots of the savings to be opportunistic and questioned how much of the underspend was planned and could be replicated in the future. Officers agreed some of the extra income was opportunistic and they would take advantage when possible. The Business Plan was being prepared and would take budgeting, the expansion of ports and late trade issues not yet budgeted for into account. Some of the reserve transfer was due to £300k in grant funding from Defra and would be carried over to next year and ringfenced.

Members were reminded that the accounts must always be cost neutral hence the move to the reserve fund.

**RESOLVED**, that the report be noted and carry forward the local risk underspending to 2021/22.

11. **CITY LIGHTING STRATEGY UPDATE**

The Committee received a report of the Director of the Built Environment concerning City Lighting Strategy Update.

The Chairman stated that this was an interim report, requested in partnership with the Planning & Transportation Committee Chairman, following concern from Members at the lack of progress on buildings not applying the necessary efficiency benefits and keeping lights on permanently.

Officers were proud of the ground-breaking LED Programme and noted that budgetary savings were not as high due to the increase in energy prices. The right steps were being taken to reduce usage and the carbon footprint in the City, and the aim was to include setting lighting in the framing of climate action which would require significant engagement with businesses and developers. Planning campaigns and new guidance were being developed.

The Deputy Chairman stated that the street lighting project was completed to time and budget with phenomenal savings and should be highlighted in communications from the Media Team.

A Member noted that building managers were surveyed and keen to change but were receiving push back from their tenants. It was hoped that the formal guidance would help support change. Officers agreed to engage with the Member concerning a lighting code of practice.

A Member observed that there was nothing in the strategy regarding lighting for safety for public exercise and encouraged engagement with sports and activity clubs. Officers confirmed they could directly influence how lights were managed against ASB and safety for exercise.

A Member suggested advertising how easy it was to change to LED lighting and the benefits to all residential estates.

In response to a request for practical advice that Members could share now to encourage constituents to switch lights off, Officers agreed to check what advice was currently available in advance of the upcoming planning advice and guidance coming for best practice.

**RESOLVED**, that the report be noted.

**12. QUESTIONS ON MATTERS RELATING TO THE WORK OF THE COMMITTEE**

Damage caused by Euros

A Member reported that the damage caused during and after the football was worse than New Year's Eve and asked what lessons had been learnt in advance of the World Cup next year, and whether the budget cuts would affect the ability to respond. Officers confirmed that cleansing colleagues had reported significant littering in the City, but the contractors were expected to clean up after big events as part of their contract.

**13. ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT**

There was no other business.

**14. EXCLUSION OF THE PUBLIC**

**RESOLVED**, that – under Section 100(A) of the Local Government Act 1972, the public be excluded from the meeting for the following items on the grounds that they involve the likely disclosure of exempt information as defined in Part I of the Schedule 12A of the Local Government Act.

**15. NON-PUBLIC MINUTES**

**RESOLVED**, that the non-public minutes of the meeting held on 18 May 2021 be approved as an accurate record.

**16. PORT HEALTH AND ENVIRONMENTAL SERVICES DEBTORS - PERIOD ENDING 31 MARCH 2021**

The Committee noted a joint report of the Director of the Built Environment, Director of Markets and Consumer Protection and Director of Open Spaces regarding Port Health and Environmental Services Debtors for the period ending 31 March 2021.

**17. NON-PUBLIC QUESTIONS ON MATTERS RELATING TO THE WORK OF THE COMMITTEE**

There were no questions.

18. **ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERED URGENT AND WHICH THE COMMITTEE AGREES SHOULD BE CONSIDERED WHILST THE PUBLIC ARE EXCLUDED**

There was one item.

**The meeting closed at 12.45 pm**

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Chairman

**Contact Officer: Leanne Murphy**  
**[leanne.murphy@cityoflondon.gov.uk](mailto:leanne.murphy@cityoflondon.gov.uk)**

**Port Health & Environmental Services Committee – Outstanding Actions**

Item	Date	Action	Officer(s) responsible	To be completed/ progressed to next stage	Progress Update
1.	19 September 2017	<b>Electric Vehicle Charging</b>	Transportation and Public Realm Director	September 2021	<p>The City's Transport Strategy &amp; long-standing policy remains that all residential parking needs must be met off-street due to space constraints and the need to balance competing demands for the use of the highway.</p> <p>The residential demand for electric charging facilities at the Barbican Estate are being met by the installation of new electric charging bays due to go live by the end of July, and for those residents who do not live on an estate with dedicated offstreet parking, facilities are already provided in the City's public car parks.</p> <p>In terms of Middx St Estate, DCCS are progressing plans for charging points on the estate, but it has been agreed to offer a temporary 'free entry' concession for residents of that estate to use Minorities public car park to enable them to use recharging bays in that location.</p> <p>In terms of providing additional facilities for commercial vehicles to recharge, the evidence continues to suggest that the majority of commercial electric vehicles are sufficiently charged at their origin not to require slow speed top ups during their time in the Square Mile. In addition, the Planning &amp;</p>

					<p>Transportation Committee remains keen to avoid the City itself becoming a destination for recharging, and with that in mind, not overwhelm the City with charging points.</p> <p>Nevertheless, works to enable the recharging hub at Baynard House car park are well underway albeit with a slight delay to completion (now expected in November), and officers are looking to expand the number of on-street rapid chargers next year (subject to funding and space constraints).</p>
2.	15 January 2019	<b>Measurement and mitigation options for operational rail noise from London Underground affecting the Barbican Estate</b>	Director of Markets and Consumer Protection	December 2021	<p>Following continued engagement with London Underground, 21 redundant insulated block joints (IBJ's) from underneath western end of the Barbican Estate have been removed. Officers have committed to keep up the pressure to remove the remaining IBJ's and put in place speed restriction for the area and further updates will be provided when available.</p> <p>Following the update letter from LUL to Barbican residents, a letter from the Chairman and Deputy Chairman has been sent to the Managing Director of LUL requesting the remaining works are prioritised for action. A response is awaiting and will be reported when available.</p> <p>Members and Officers met with LUL's Head of Track and Head of Line Operations on 2 September to discuss further mitigations for residents of the Barbican Estate affected by noise from the subsurface lines.</p> <p>A number of investigatory actions were committed to and will be reported to this committee.</p>

**Port Health & Environmental Services  
Work Programme 2021/22**

**Standing Items**

- Outstanding Actions
- Minutes
- Brexit update
- COVID-19 update

<b>23 November 2021</b>	<ul style="list-style-type: none"> <li>• 49th City of London Thames Fishery Research Experiment</li> <li>• Keep Britain tidy (KBT) report</li> <li>• PHES Statement / initial assessment of the impact 'on the streets' of the changes to the Veolia cleansing contract</li> <li>• Commercial Environmental Health Service Plan</li> <li>• PHES Debtors Period Ending 30 September 2021</li> <li>• Revenue and Capital Budgets 2022/23</li> <li>• <i>Food Inspection Report</i></li> <li>• <i>New International Health Guidelines for air pollution update</i></li> </ul>
<b>18 January 2022</b>	<ul style="list-style-type: none"> <li>• Annual Review of the Committee's Terms of Reference</li> <li>• Draft High-Level Business Plans 2022/23</li> <li>• Business Plans 2021/2022: Progress Report (Period 2)</li> <li>• Cemetery and Crematorium Fees and Charges 2022/23</li> <li>• Animal Reception Centre - Heathrow Airport: Annual Review of Charges</li> <li>• Risk Management - Periodic Update Report</li> <li>• Deep Dive CR21 Air Quality</li> <li>• <i>DBE Service Changes &amp; Budget Proposals</i></li> <li>• <i>Environment Bill implications</i></li> </ul>
<b>8 March 2022</b>	<ul style="list-style-type: none"> <li>• PHES Debtors - Period Ending 31 December 2021</li> <li>• Proposed Charges for Street Cleansing, Waste Collection and Public Conveniences 2022/23</li> </ul>
<b>24 May 2022</b>	<ul style="list-style-type: none"> <li>• Election of Chairman/Deputy Chairman</li> <li>• Committee appointments</li> <li>• Order of the Court of Common Council</li> <li>• Massage and Special Treatment Licence Fees</li> <li>• Commercial Environmental Health Service Plan</li> <li>• Risk Management - Periodic Update Report</li> <li>• Business Plan Progress Update P3/Year End 21/22</li> </ul>

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<b>Committee(s):</b> Port Health & Environmental Services Committee	<b>Dated:</b> 27 September 2021
<b>Subject:</b> Business Plans 2021/2022: Progress Report (Period 1)	<b>Public</b>
<b>Which outcomes in the City Corporation's Corporate Plan does this proposal aim to impact directly?</b>	1, 2, 5, 6, 8, 11
<b>Does this proposal require extra revenue and/or capital spending?</b>	N
<b>Report of:</b> Executive Director Environment	<b>For Information</b>
<b>Report authors:</b> Jim Graham Gerry Kiefer Joanne Hill	

## Summary

This report provides an update on progress made during Period 1 (April-July) against the High-Level Business Plans 2021/22 for the following service areas which fall within the remit of your Committee:

- Cleansing Services (Appendix 1)
- Cemetery and Crematorium (Appendix 2).
- Port Health & Public Protection (Appendix 3)

## Recommendation(s)

Members are asked to:

- Note the content of this report and its appendices.

## Main Report

### Background

1. The High-Level Business Plans of each service area were approved by your Committee in January 2021.
2. The Business Plans set out each service area's key aims, objectives and performance measures for 2021/22.
3. To ensure your Committee is kept informed, progress made against the High-Level Business Plans is reported to you on a periodic (four-monthly) basis, along with current financial information. This approach allows Members to ask questions and have a timely input into areas of particular importance to them.

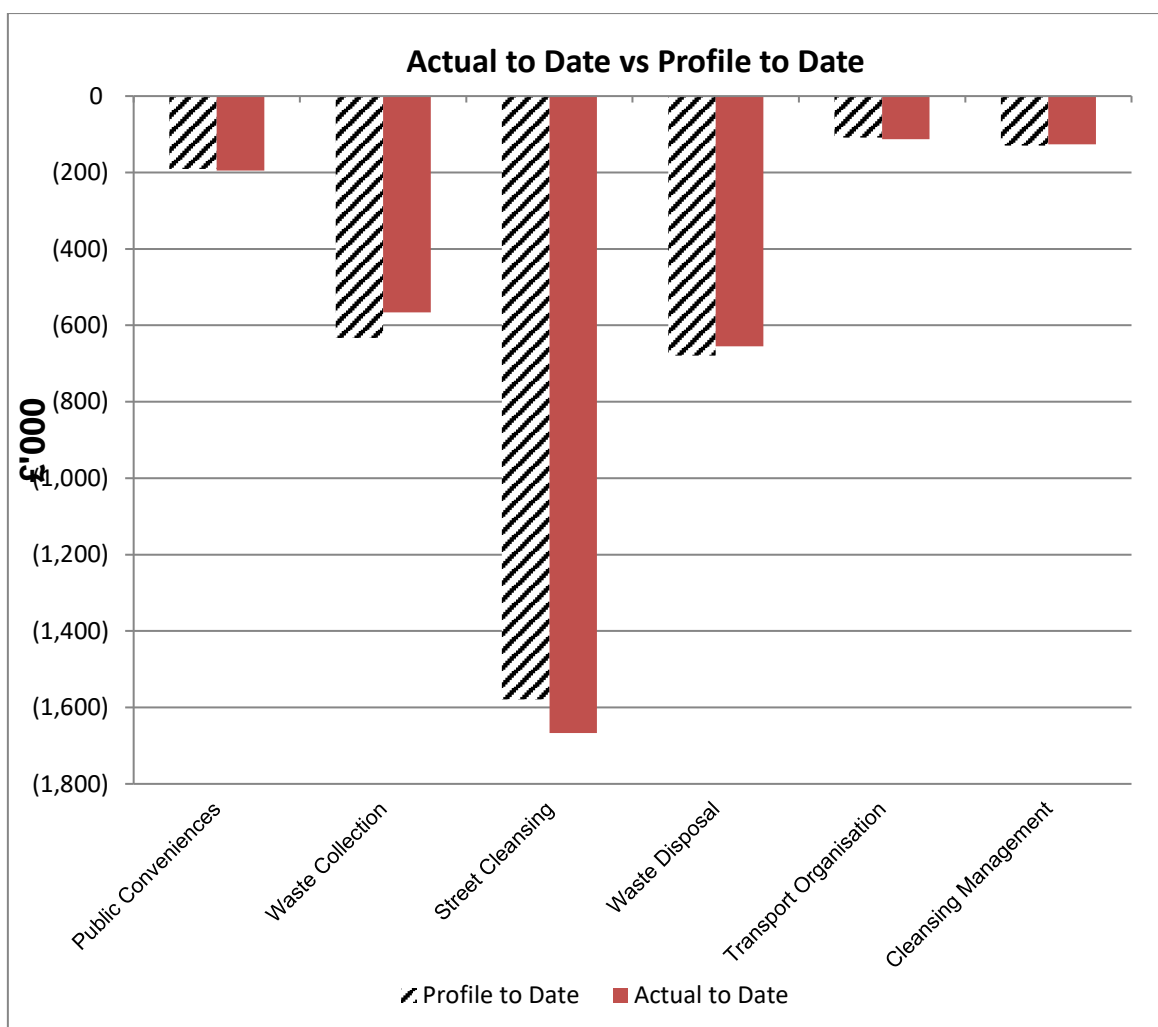
## **Cleansing Services**

### **Current Position**

4. The focus of the Cleansing Service during this period has largely remained dealing with the Covid-19 outbreak along with implementing the new service model that was necessitated by the 2021/22 budget changes. A verbal update on the effects of these changes will be provided to this committee and a full report will be provided in November 2021.
5. Throughout April, May and June the City took delivery of the new electric Refuse Collection Vehicle (RCV) fleet. This is the first fully electric RCV fleet in the country and will contribute towards the City's carbon reduction and air quality targets. As with any new technology there has been some initial technical issues but the manufacturer, Electra, have been prompt in attending to resolve these problems and the vehicles are currently performing satisfactorily.
6. Following inspections in April and May, the City was reaccredited with the Silver and Gold Standards for Transport for London Fleet Operator Recognition Scheme (FORS) which acknowledges excellence in all aspects of safety, fuel efficiency, economical operations and vehicle emissions.
7. Detailed outcomes against the performance indicators are provided in Appendix 1c and our infographics are provided in Appendix 1a.

### **Financial Information**

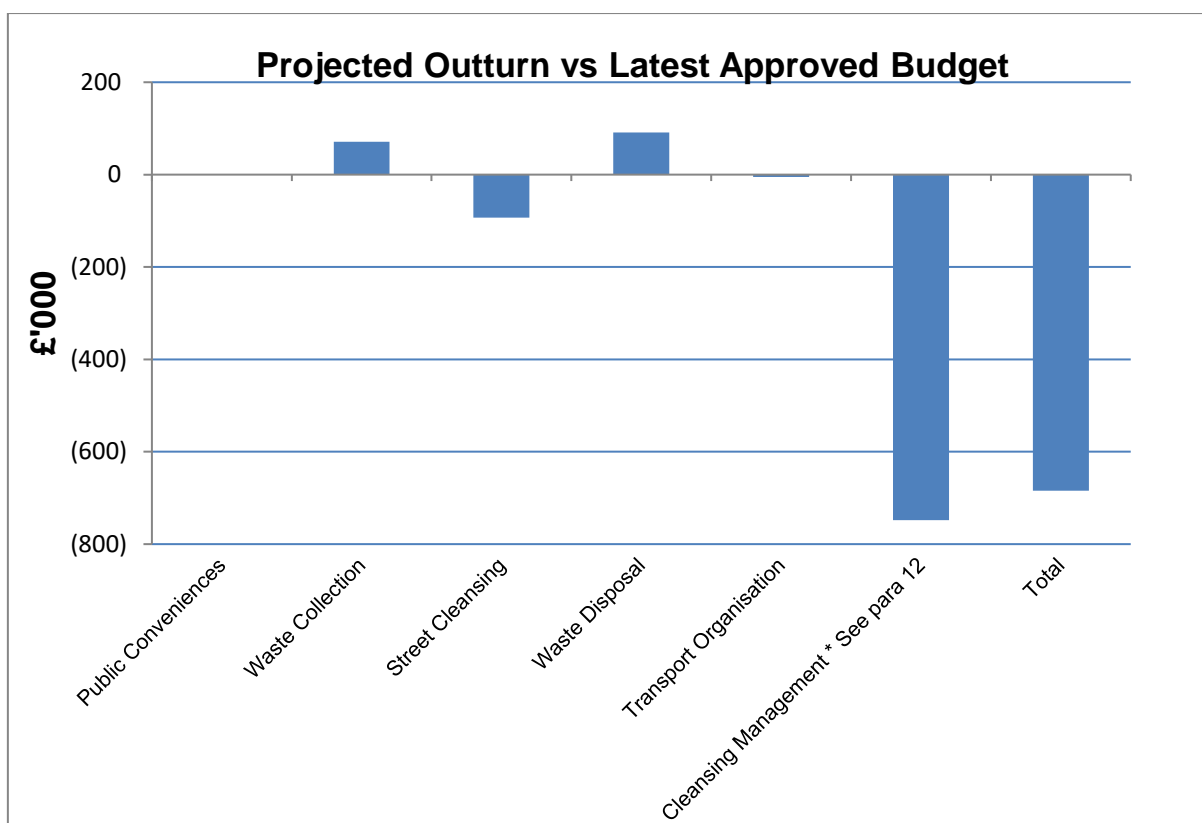
8. The end of July 2021 monitoring position for the services of Environment Department (which were formerly known as the Built Environment) within Port Health & Environmental Services Committee is provided at Appendix 1b. This shows a net overspend to date for the Department of £5k (0.2%) against the overall local risk budget to date of £3.32m for 2021/22.



**Notes:**

1. Graph shows the actual local risk net position against the profiled budget to date for each Division.
2. A position above the baseline shows overall net income.
3. A position below the baseline shows overall net expenditure.
4. Cleansing Services total actual to date net exp of £3.325m is £5k over the profiled budget to date of £3,320k.

9. The position at the end of July 2021 is almost exactly on budget.
10. Overall, the Executive Director Environment is currently forecasting a year end overspend position of £684k (9.0%) for her City Fund services.
11. The reasons for the significant budget variations are detailed in Appendix 1b, which sets out a detailed financial analysis of each individual division of service relating to this Committee, for the services the Executive Director Environment manages.



**Notes:**

1. Zero is the baseline latest approved budget for each Division of Service.
2. Graph shows projected outturn position against the latest approved budget.
3. A variance above the baseline is favourable i.e. either additional income or reduced expenditure.
4. A variance below the baseline is unfavourable i.e. additional expenditure or reduced income.
5. Overall the Service is forecasting an overspend of £684k at year end - see para 12

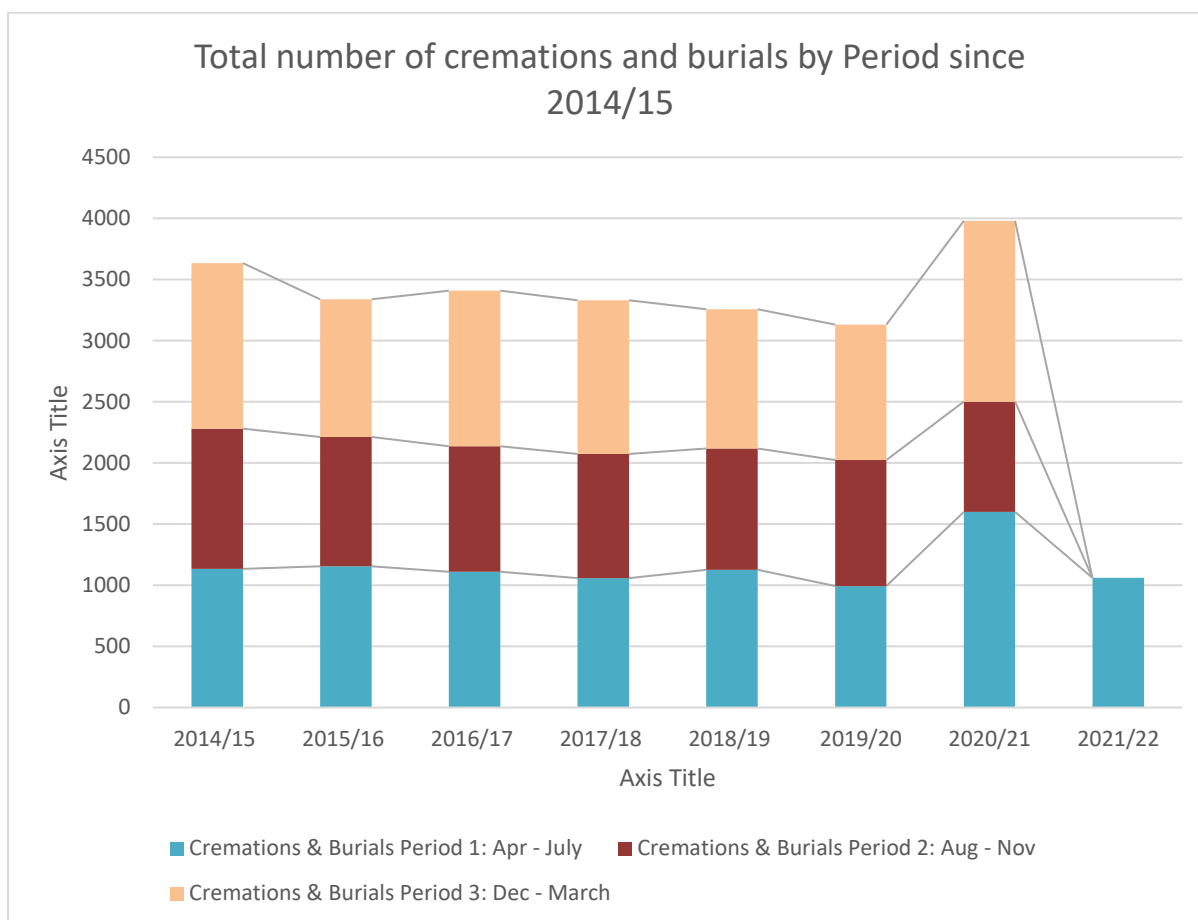
12. The Executive Director Environment anticipates that the budget position will worsen by year end, most significantly due to the 12% TOM savings on Cleansing Management still to be delivered. This will be partly offset by additional commercial waste royalty income, and a transfer from the Landfill Allowance Trading Scheme (LATS) reserve.

13. The Executive Director is continuing to review all opportunities to further reduce the projected overspend.

## **Cemetery & Crematorium**

### **Current Position**

14. At the end of Period 1 the Cemetery and Crematorium remains busy and operating at levels similar to the same period in previous years, excluding 2020/21, with burials are slightly up on the 7 year average at this period (excluding 2020/21) and cremations are slightly down.



15. Details of our performance against our performance measures is attached as Appendix 2.

16. All of the cremator replacement works from 202/21 are now complete and the equipment is working well. This should begin to show benefits in the energy use going forwards and will also have a significant impact of emissions now that all cremators are fitted with flue gas treatment plant.

17. Funeral streaming was operational from February 2021 from the two chapels at the Modern Crematorium building: the North and South Chapels. From 1 April to 30 July we carried out 217 webcasting (live streaming) services.

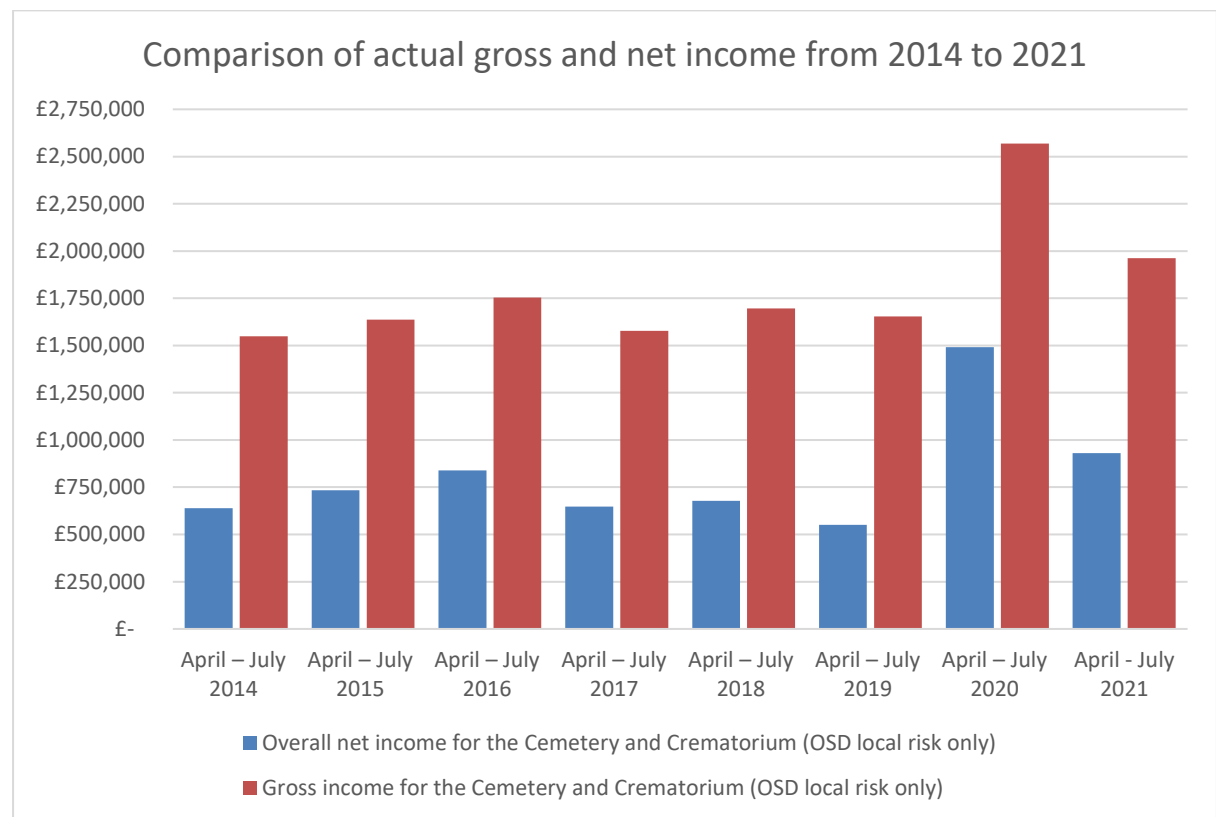
18. The current café lease expires in October and the Cemetery and Crematorium advertised during the summer for a tenant to operate the café for a five year plus period from October 2021 to January 2027. Four submissions were received which were evaluated 60% quality and 40% price. The winning bidder is the charity, the Royal Voluntary Service.

### Financial Information

19. Income levels are slightly above budget profiles as there has been an increase in burials in new graves and cremations and an increase in new dedications within the memorial gardens in this period. However, there is much uncertainty regarding the death rate (and resulting burials and cremations) over the rest of

this year which will impact on the year end income position. More detailed financial information is shown in appendix 2a.

20. The table below shows the actual gross and net income for previous financial years 2014/15 through to this year. Due to reduced expenditure, mainly arising in this period from supply chain issues delaying inhouse projects and provision of new equipment, the net budget position is above its usual forecast at this time of year.



## Port Health & Public Protection Service (PH&PP)

### Current Position

21. During Period One, all areas of PH&PP adapted quickly to meet the changing demands and implications of the Government's Coronavirus Roadmap and gradual easing of restrictions. Officers continued to provide high-quality reactive and proactive services to their customers and other stakeholders.
22. For Public Protection, there was a gradual shift in focus to supporting businesses in their recovery from the pandemic. This has included assessing and accrediting businesses under the COVID Compliant Accreditation Scheme, undertaking local 'Track and Trace' work, and implementing a new fast-track renewal process for pavement licences.
23. The Animal Health Team have been working hard to catch up on a backlog of targeted inspections which they were unable to carry out during the COVID lockdown period.

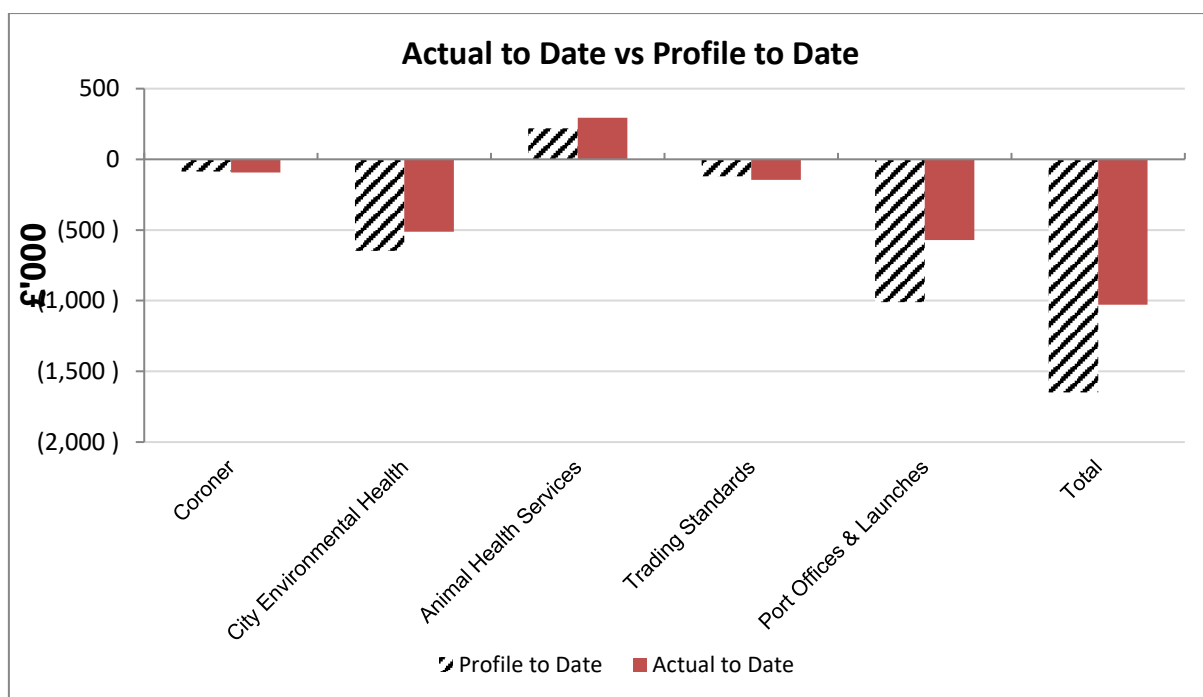
24. Port Health and the Heathrow Animal Reception Centre continued to deal with the implications of Brexit. Preparations for the phased introduction of border controls on imports from the EU are ongoing. Government delayed the introduction of these controls by six months due to the impacts of COVID-19. Paperwork and prenotification checks on food and feed will now commence in October 2021, and physical checks will now commence in January 2022. Live animal checks will start in March 2022.

25. Some key achievements and examples of work undertaken during Period One are:

- A prosecution taken by the Trading Standards Team against an 'accountancy' business led to a trial at Southwark Crown Court which found the company and its main Director guilty of fraudulent trading.
- The Commercial Environmental Health Team devoted a significant amount of time to explaining the changing COVID-related requirements to businesses and ensuring that they remained compliant.
- The Pollution Control Team continued to collaborate with TfL, utilities contractors and other local authorities to develop a single approach to managing TfL street works which will reduce disruption and disturbance to the public.
- The Air Quality Team released an updated version of the CityAir App to provide more accurate data to the public on air pollution.
- Heathrow Animal Reception Centre experienced one of the busiest periods in its history as staff dealt with many customers and pets arriving on repatriation flights and high numbers of rescue cats and dogs being imported for pets.
- The Port Health Service has been impacted by increasing numbers of third country imports with the arrival of a new Far Eastern service at the Port of Tilbury.

#### Financial Information

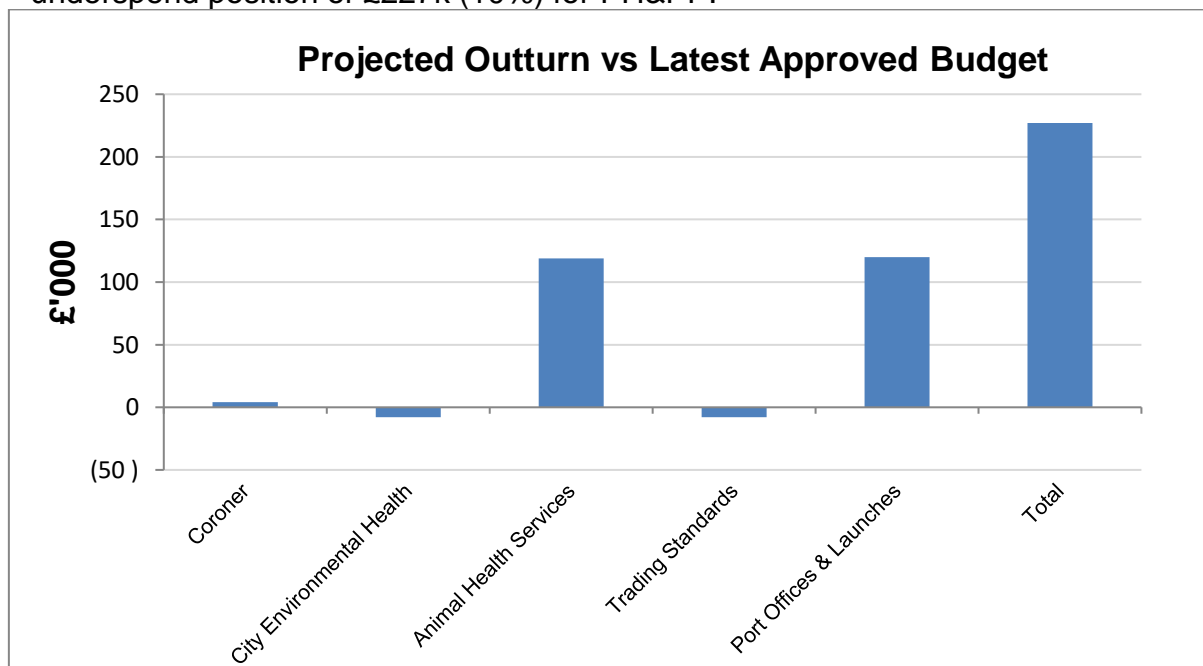
26. The end of July 2021 monitoring position for PH&PP is provided at Appendix 3d. This shows a net underspend to date for the Service of £619k (38%) against the overall local risk budget to date of £1.648M for 2021/22.



**Notes:**

1. Graph shows the actual local risk net position against the profiled budget to date for each Division.
2. A position above the baseline shows overall net income.
3. A position below the baseline shows overall net expenditure.
4. PH&PP total actual to date net exp of £1.029m is £619k under the profiled budget to date of £1.648m.

27. Overall, the Executive Director Environment is currently forecasting a year end underspend position of £227k (10%) for PH&PP.



**Notes:**

1. Zero is the baseline latest approved budget for each Division of PH&PP.
2. Graph shows projected outturn position against the latest approved budget.



3. A variance above the baseline is favourable i.e. either additional income or reduced expenditure.
4. A variance below the baseline is unfavourable i.e. additional expenditure or reduced income.
5. Overall, PH&PP is forecasting an underspend of £227k at year end.

28. The reasons for the significant budget variations are provided in Appendix 3d, which sets out a detailed financial analysis of each individual division of PH&PP relating to this Committee.
29. The better than budget position at the end of July 2021 is mainly due to additional income at the Ports and from the Construction/Deconstruction Levy, together with vacancies across the department.
30. The Executive Director Environment anticipates this current better than budget position will largely continue to year end, due mainly to additional income at the Ports and HARC. Current underspends from vacancies in established posts are expected to be offset by the required 12% savings, and delays in filling Brexit-related vacancies at the Ports will be offset by a reduction in corresponding grant income.

## **Corporate & Strategic Implications**

**Strategic implications** – The monitoring of key improvement objectives and performance measures links to the achievement of the aims and outcomes set out in the Corporate Plan 2018-23.

**Financial implications** – Financial implications are addressed within the earlier section of this report, with further detail included in the appendices.

**Resource implications** – None.

**Legal implications** – None.

**Risk implications** – The Risk Register for each service area includes any risks which are linked to the delivery of its High-Level Business Plan. A separate report on risk has been submitted to this Committee.

**Equalities implications** – None.

**Climate implications** – None.

**Security implications** – None.

## **Appendices**

- Appendix 1a – Cleansing Infographics Apr-Jul 2021
- Appendix 1b – Cleansing finance information Apr-Jul 2021
- Appendix 1c – Cleansing Business Plan update Period 1
  
- Appendix 2 – Cemetery & Crematorium, 2021/22 Performance Measures.
- Appendix 2a – Cemetery & Crematorium. Finance information Period 1
  
- Appendix 3 - Port Health & Public Protection, Business Plan Progress Summary, Period 1 2021-22
  - a) Progress against operational performance indicators
  - b) Progress against key improvement objectives
  - c) Enforcement activity
  - d) Financial information

## **Background Papers**

Revenue and Capital Budgets and High-Level Summary Business Plans 2021/22  
(PH&ES Committee, 20 January 2021)

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**0.83%**

Percentage of land having unacceptable levels of detritus  
**Target 5%**



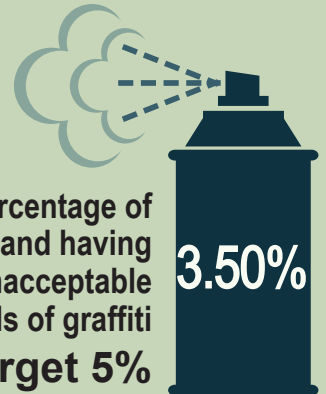
## Public Toilets

usage for the period  
**22,225**  
Target 198,000



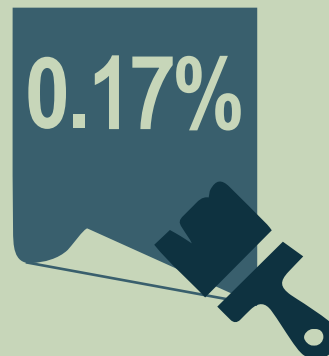
Percentage of household waste sent for reuse, recycling and composting

**Target 30%**



Number of members in the scheme

Target 80



Percentage of land with unacceptable levels of fly-posting  
**Target 5%**



**Target 75**



**Down 5**



Number of members in the scheme  
**248**  
Target 300

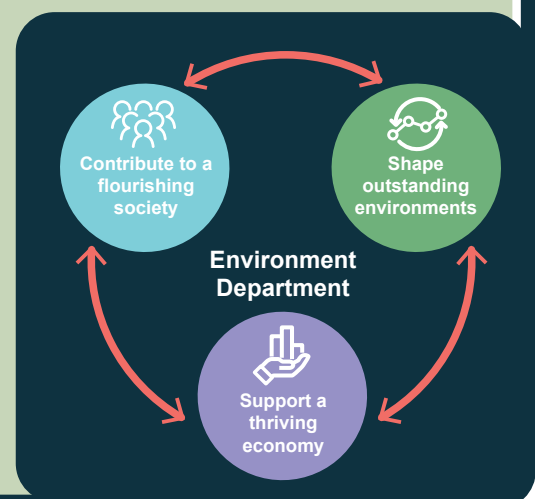


**1.17%**

Percentage of land assessed as having unacceptable levels of litter  
**Target 5%**



Kilograms per household of waste collected  
**Target below 125kg**



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**Department of Built Environment Local Risk Revenue Budget - 1st April to 31st July 2021**  
**(Expenditure and unfavourable variances are shown in brackets)**

**Appendix B**

	Latest Approved Budget 2021/22 £'000	Budget to Date (Apr-Jul)			Actual to Date (Apr-Jul)			Variance Apr-Jul £'000
		Gross Expenditure £'000	Gross Income £'000	Net Expenditure £'000	Gross Expenditure £'000	Gross Income £'000	Net Expenditure £'000	
<b><u>Port Health &amp; Environmental Services (City Fund)</u></b>								
Public Conveniences	(502)	(200)	9	(191)	(207)	11	(196)	(5)
Waste Collection	(2,012)	(724)	91	(633)	(721)	155	(566)	67
Street Cleansing	(4,531)	(1,680)	101	(1,579)	(1,778)	109	(1,669)	(90)
Waste Disposal	(924)	(552)	(127)	(679)	(531)	(124)	(655)	24
Transport Organisation	(264)	(118)	10	(108)	(123)	10	(113)	(5)
Cleansing Management	657	(130)	0	(130)	(126)	0	(126)	4
<b>TOTAL PORT HEALTH &amp; ENV SRV COMMITTEE</b>	<b>(7,576)</b>	<b>(3,404)</b>	<b>84</b>	<b>(3,320)</b>	<b>(3,486)</b>	<b>161</b>	<b>(3,325)</b>	<b>(5)</b>

Forecast for the Year 2021/22			Notes
LAB £'000	Forecast Outturn £'000	Better / (Worse) £'000	
(502)	(502)	0	
(2,012)	(1,941)	71	1
(4,531)	(4,624)	(93)	2
(924)	(833)	91	3
(264)	(269)	(5)	
657	(91)	(748)	4
<b>(7,576)</b>	<b>(8,260)</b>	<b>(684)</b>	

**Notes:**

- 1. Waste Collection** - projected underspend is mainly due to additional commercial waste royalty for 2020/21.
- 2. Street Cleansing** - projected overspend is due to contract price inflation uplift, partly offset by staff vacancies.
- 3. Waste Disposal** - projected underspend due to a reduction in residual waste disposal costs based on current throughput.
- 4. Cleansing Management** - projected overspend is due to TOM savings still to be identified, partly offset by a drawdown from the LATs reserve to offset the overall department shortfall.

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## **Appendix 1c – Business Plan update Period 1**

1. During Period 1 (April 21 to July 21) of this Business Plan, the management team continued to monitor the 12 Key Performance Indicators (KPIs) relevant to the performance of the Waste Collection and Street Cleansing contract and their KPIs will be reported separately to this committee on an annual basis.
2. Performance against the other departmental KPIs has been good, with performance against NI191 (the amount of residual domestic waste per household) performing well against target (110.16kg per household against a target of 125kg per household).
3. NI192 (percentage of domestic waste recycled) is above target for the period at 33.55% against a target of 30%. In accordance with the Mayor of London's Environment Strategy, the Reduction and Recycling Plan has been drawn up and is being undertaken as much as possible in the current circumstances.
4. Our NI195 KPI (measuring the amount of land with unacceptable level of litter, detritus, fly tipping and graffiti), which is independently monitored by Keep Britain Tidy, achieved well above the target when measured in March 2021, with all elements of the survey meeting the required standards of cleanliness. The City's overall score of 1.42% for all areas compares well to previous years. N.B. These inspections were carried out before the service was reduced in April 2021 and the targets revised upwards to 5% to take account of this.
5. Due to Covid-19 the attended Public Conveniences have been closed for a significant proportion of this period. The facilities at Tower Hill and Paternoster have reopened for periods when possible (with safety precautions being taken) in order to serve the main tourist attractions. Usage has considerably been lower than previous years. The target has been proportionally reduced to take account of the closure of Eastcheap and Bank toilets and is now shown as a trimester target, rather than monthly as before.
6. The indicator relating to the fleet carbon is being developed. Due to Covid-19 we have not been able to obtain fully robust and reflective data for this period and therefore have not been able assign accurate targets for this report.
7. The water refill points have been turned off for the majority of this period. They were returned to service on the 19 July 21 and full usage data will be provided in the next report. The Community Toilet Scheme, the Clean Streets Partnership and the Clean City Awards Scheme have also all been negatively affected by Covid-19.

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## Appendix 2– Open Spaces Performance Measures 2021-22 Period 1

<b>Market Share</b>	2019/20 Actual (annual)	2020/21 Actual (annual)		April – July 2019 (actual)	April – July 2020 (actual)	<b>April – July 2021 (actual)</b>
Maintain our market share of burials in relation to the Cemetery & Crematorium's seven neighbouring Borough's.	7.1%	7.6%		8.1%	8.9%	<b>8.5%</b>
Maintain our market share of cremations in relation to the Cemetery & Crematorium's seven neighbouring Borough's.	22.0%	20.5%		20.9%	25.1%	<b>21.95%</b>

<b>Total numbers</b>	2019/20 Actual (annual)	2020/21 Actual (annual)		April – July 2019 (actual)	April – July 2020 (actual)	<b>April – July 2021 (actual)</b>
The number of burials.	815	1,033		269	405	<b>299</b>
Increase the number of cremations.	2,528	2,947		725	1195	<b>762</b>

<b>Description</b>	2019/20 Actual (annual)	2020/21 Actual (annual)	<b>2021/22 Target</b>		April – July 2019 (actual)	April – July 2020 (actual)	<b>April – July 2021 (actual)</b>
Number of 'no service' cremations	60	176	<b>70</b>		21	31	<b>8</b>
% of early time slots taken up	48%	89.60%	<b>28%</b>		12.6%	93%	<b>64%</b>
Amount of gas used to heat the Modern Crematorium – kWh	23,126 kWh	22,812 kWh	<b>21,500</b>		21,255 kWh	3,121 kWh	<b>6,261 kWh</b>
Energy generation from Solar Power - electricity in kWh	25,126 kWh	26,122 kWh	<b>25,000</b>		6,225 kWh	8,555 kWh	<b>5,852 kWh</b>

<b>Finance Performance Measures</b>	2019/20 Actual	2020/21 Actual	<b>2021/22 Target</b>		April – July 2019 (actual)	April – July 2020 (actual)	<b>April – July 2021 (actual)</b>
The annual overall income target for the Cemetery and Crematorium (OSD local risk only)	£5,157,686	£6,976,516	<b>£5,259,000</b>		£1,654,234	£2,567,645	<b>£1,961,000</b>
The overall net financial position for the Cemetery and Crematorium (OSD local risk only)	£1,757,472	£3,577,681	<b>£1,885,000</b>		£551,643	£1,488,286	<b>£925,000</b>

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## Appendix 2a

### Department of Port Health & Environmental Services Local Risk Revenue Budget - 1st April - 31st July 2021

(Income and favourable variances are shown in brackets)

	Latest Approved  Budget 2021/22 £'000	Budget year to date (Apr-Jul)			Actual year to date (Apr-Jul)			Variance  Apr-Jul £'000	Forecast for the Year 2021/22			
		Gross Expenditure  £'000	Gross Income  £'000	Net Income  £'000	Gross Expenditure  £'000	Gross Income  £'000	Net Income  £'000		LAB  £'000	Forecast Outturn £'000	Over / (Under) £'000	Note
Open Spaces (City Fund) City of London Cemetery and Crematorium	1,885	(1,191)	1,763	572	(1,036)	1,961	925	353	1,885	1,985	100	
<b>TOTAL PORT HEALTH AND ENVIRONMENTAL SERVICES COMMITTEE LOCAL RISK</b>	1,885	(1,191)	1,763	572	(1,036)	1,961	925	353	1,885	1,985	100	

#### Notes:




1. Cemetery forecast is £100K above target. There was a peak for the first 4 months of the year, however it is uncertain whether funeral numbers will continue on its current trend or drop away significantly, which would reduce the current income surplus.

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**Performance Management Report 2021-22**  
**Period One: 1 April - 31 July 2021**

**Port Health and Public Protection Division**



**Progress against Operational Performance Indicators**

	This indicator is performing to or above the target. (100% of the target or higher)
	This indicator is a cause for concern, frequently performing just under target. (85% - 99% of the target)
	The indicator is performing below the target. (<85% of the target)

# Appendix 3a

			Actual 2020-21			Target 2021-22	Actual 2021-22	Status
			Period 1	Period 2	Period 3			
PI 1	<b>Port Health</b> Proportion of imported food and feed consignments that satisfy the checking requirements cleared within five days.	a) Products of Animal Origin (POAO) <i>(revised indicator for 2021/22)</i>	N/A	N/A	N/A	85%	52%	☹️
		b) High Risk Products of Non-Animal Origin (PNAO)	74%	96%	96%	85%	97%	😊
PI 2	<b>Port Health</b> Proportion of imported food and feed consignments (Products of Non-Animal Origin - PNAO) subjected to documentary controls within five days.		70%	98%	98%	85%	96%	😊
<b>PI 1a:</b> The requirement for enhanced checks on Brazilian imports continues to impact clearance rates at London Gateway. At London Gateway, 49% of 3,649 consignments met the target (62% of 1,828 non-Brazilian and 39% of 1,821 Brazilian consignments); At Tilbury, 76% out of 330 consignments met the target. <b>PI 1b:</b> At London Gateway, 97% of 2263 consignments met the target; At Tilbury, 90% of 99 consignments met the target.								

		Actual 2020-21			Target 2021-22	Actual 2021-22	Status
		Period 1	Period 2	Period 3		Period 1	
PI 3	<b>Food Safety</b> Over the course of the year, secure a positive improvement in the overall Food Hygiene Ratings Scheme (FHRS) ratings profile for City food establishments compared to the baseline profile of 31 March 2013.	N/A	N/A	End of year result: Improved profile	<b>Improved profile</b>	N/A	-
PI 4	<b>HARC</b> Less than 1% of missed flights for transit of animals caused by the Animal Reception Centre (ARC).	0%	0%	0%	<b>&lt;1%</b>	0%	😊
PI 5	<b>Pollution Team</b> Proportion of justifiable noise complaints investigated which result in a satisfactory outcome.	92.9%	89.3%	81.9%	<b>90%</b>	96%	😊
PI 6	<b>Trading Standards</b> Respond to all victims of investment fraud identified to the Trading Standards Service within five working days to advise on the risk of repeat targeting, assess the need for Safeguarding interventions for vulnerable adults and initiate the Safeguarding process where appropriate.	100%	100%	100%	<b>100%</b>	100%	😊
PI 7	<b>Health &amp; Safety</b> Complete the annual risk-based cooling towers inspection programme in order to ensure that the risk of Legionnaires' disease is being effectively managed by all those responsible.	N/A	N/A	End of year result: 100%	<b>100%</b>	N/A	-
<p><b>PI 3:</b> Annual indicator. The purpose of this indicator is to show an overall improvement in the FHRS rating profile across all City food establishments by the end of the year. The target cannot be expressed as a specific percentage since any increase will indicate achievement.</p> <p><b>PI 5:</b> The percentage of total justified noise complaints investigated resulting in noise control, reduction to an acceptable level and/or prevention measures; complaints may or may not be actionable through statutory action.</p> <p><b>PI 7:</b> Annual indicator.</p>							

	All PH&PP Service areas	Actual 2020-21			Target 2021-22	Actual 2021-22 Period 1	Status
		Period 1	Period 2	Period 3			
PI 8	a) 90% of debts to be settled within 60 days.	43%	82.9%	72.3%	90%	80.8%	
	b) 100% of debts settled within 120 days.	78%	89.9%	94.8%	100%	90.6%	
<p><b>PI 8a:</b> This indicator measures the percentage of overall debt that is less than 61 days old.</p> <p><b>PI 8b:</b> This indicator measures the percentage of overall debt that is less than 121 days old.</p> <p>All debtors with debts more than 120 days old are being actively pursued.</p>							



## Progress against Port Health & Public Protection key improvement objectives 2021-2022

Ref:	Objective	Progress to date
1.	Implement alternative, more efficient methods of delivery across all the services we provide to make the required savings, by <b>reducing expenditure and increasing income.</b>	<b>Period One</b> <ul style="list-style-type: none"> <li>Work to achieve this objective is ongoing.</li> </ul>
2.	Implement actions arising from the new <b>Target Operating Model</b> and provide open and early communication to all employees.	<b>Period One</b> <ul style="list-style-type: none"> <li>Preliminary work and information gathering have been undertaken.</li> <li>The action will be progressed as directed by the new Executive Director, Environment, who joined the City of London at the beginning of August.</li> </ul>
3.	The Public Protection Team will continue to support businesses as they recover from the <b>COVID-19</b> pandemic and associated restrictions, through the City's Al Fresco Eating and Drinking Policy; the COVID Compliant Accreditation Scheme; and the provision of relevant information to the public on the City's website.	<b>Period One</b> <ul style="list-style-type: none"> <li>A refreshed Al Fresco Eating and Drinking Policy has been published following approval by the Planning and Transportation Committee. The Policy implements the legislative extension from September 2021 to September 2022.</li> <li>All Pavement licence applications have been processed within time and a fast track renewal process has been implemented.</li> <li>The Commercial Team has maintained an ongoing focus on: <ul style="list-style-type: none"> <li>assisting City businesses in their recovery (including the accreditation of 125 businesses under the COVID Compliant Accreditation Scheme); and</li> <li>undertaking local Track &amp; Trace work with the City &amp; Hackney Public Health Team.</li> </ul> </li> </ul>
4.	Plan for the phased introduction of <b>border controls</b> on live animals and high-risk products of food and feed and implement appropriate operational processes.	<b>Period One</b> PORT HEALTH <ul style="list-style-type: none"> <li>Border Controls on high-risk food and feed from the EU will be phased in from October 2021 (Documentary Checks) and January 2022 (Physical Checks). However, the Port Health Service is still waiting for final details of the Border Operating Model.</li> <li>Defra have provided a financial underwriting for 2021/22 for Brexit preparations.</li> <li>There are currently two Official Veterinarian and two Port Health Officer roles to be filled to meet the numbers approved in Defra's financial underwriting. Active recruitment will be undertaken during Period Two.</li> <li>Sheerness Port confirmed in April 2021 that they would be receiving high-risk food and feed. The Port Health Service is in discussions with the port operator and Defra about the resource implications of this announcement.</li> </ul>

Ref:	Objective	Progress to date
		HARC Live animal controls will not be implemented before March 2022.
5.	Investigate and develop new business models for Port Health and the Heathrow Animal Reception Centre to capitalise on opportunities that arise as a result of <b>Brexit</b> .	<b>Period One</b> PORT HEALTH <ul style="list-style-type: none"> <li>Discussions with government agencies and other Port Health Authorities are ongoing.</li> </ul> HARC <ul style="list-style-type: none"> <li>Work to achieve this objective for the HARC is ongoing.</li> </ul>
6.	Improve <b>air quality</b> and manage the risk to our residents and stakeholders. Work with third parties to influence London-wide and national strategies.	<b>Period One</b> <ul style="list-style-type: none"> <li>Ongoing low levels of activity, and higher than average rainfall, had a major impact on air pollution levels with nitrogen dioxide being just under 50% lower during this period than the same period in 2019. PM10 and PM2.5 levels were both 29% lower.</li> <li>Amendments to the Environment Bill were tabled in the House of Lords to propose new powers for local authorities to deal with non-traffic sources of pollution.</li> </ul>
7.	Heathrow Animal Reception Centre (HARC) will explore <b>income generation</b> opportunities and contracts with partner organisations at the airport.	<b>Period One</b> Discussions with Heathrow Airport Limited and other stakeholders are ongoing.
8.	The Commercial Environmental Health Team will focus on delivery of the <b>food and health and safety interventions</b> in its annual Service Plan.	<b>Period One</b> <ul style="list-style-type: none"> <li>A transition Service Plan to include increased pro-active Food Safety work for 2022-2023, in accordance with the Food Standards Agencies Reset Programme, will be presented to November's PH&amp;ES Committee.</li> <li>The Plan will also include pro-active Health &amp; Safety work and the Team's ongoing commitments to Track &amp; Trace activities.</li> </ul>
9.	Undertake the actions identified in the Department's <b>Equality, Diversity and Inclusion</b> Action Plan.	<b>Period One</b> <ul style="list-style-type: none"> <li>The Services' Equality Improvement Plan was updated. The main area highlighted for improvement is to consider equalities in the procurement process and this will be addressed over the coming months.</li> <li>Work on advancing trans-equality is being undertaken corporately and PH&amp;PP will input into the process where possible.</li> </ul>

## Port Health & Public Protection Enforcement Activity Period 1 (April - July) 2021-22

Food Safety	2020-2021 Annual Total	Period 1 2021-22
Programmed inspections	<u>Food Hygiene:</u> 110  <u>Food Standards:</u> 47	<u>Food Hygiene:</u> 86  <u>Food Standards:</u> 44
Hygiene Emergency Closures	0	1
Voluntary closures	0	0
Complaints & service requests received	538	653
Notices served	0	1
Prosecutions	0	0

Health & Safety	2020-2021 Annual Total	Period 1 2021-22
Programmed Cooling Tower inspections	10	8
Other H&S Inspections	0	0
H&S Project visits	0	0
Accident and dangerous occurrences notifications	65	22
Complaints & service requests received	700	641
Notices	2	0
Prosecutions	0	0

### **Period 1 – Commercial Team Highlights (Food Safety and Health & Safety)**

- The phased approach to the delivery of business as usual, laid out in the Team's [Service Plan](#), has continued but with further changes as the ongoing pandemic and the responses to it developed. The Team is now developing its food intervention work further and in line with the [FSA Recovery Plan](#).
- This period saw Steps 2, 3 & 4 of the Government's Coronavirus Roadmap brought in and the gradual easing of restrictions. A significant amount of time was devoted to explaining the changing requirements to businesses and to ensuring they remained compliant.
- The Team helped deliver webinars to City & Hackney businesses on the Roadmap requirements.
- There was further development of the COVID Compliant Accreditation Scheme (CCAS) during this period and following its link to the City's £50m Covid Recovery Grant Fund. 474 businesses expressed interest in the CCAS and 205 submitted applications. To date, 125 business have been accredited (66 applications are pending further information from the applicant).
- Contact tracing work has increased as transmission rates have risen; the work remains a key component in preventing and managing outbreaks and incidents.
- Enhanced outbreak management work has also increased; incident follow up work has taken place in a number of City businesses and relating to the prevention of further

## **Port Health & Public Protection Enforcement Activity Period 1 (April - July) 2021-22**

potential transmission. A number of businesses elected to close or scale back their presence in the City (including to heed the Government messaging on working at home, which itself has developed in this period).

- A team member continues to provide regular fish quality inspection work to Billingsgate Market and discussions are ongoing around exports (Health Certification) with Europe and the additional systems required now we have left the EC.
- The Team served a Hygiene Emergency Prohibition Notice (HEPN) to close a food business following discovery of an active and extensive rodent infestation, the control of which had not been managed effectively.
- A further Primary Authority Partnership was signed off with a new partner, [Grayson Restaurants](#).
- Two inquests in which officers were involved as the relevant health and safety investigators, concluded.

## Port Health & Public Protection Enforcement Activity Period 1 (April - July) 2021-22

### Food Hygiene Rating Scheme (FHRS) – profile of food businesses in the City

		Hygiene Rating						Total no. of food businesses in the City included in the FHRS
		5	4	3	2	1	0	
Number (%) of food businesses	31 July 2019	1310 (75%)	236 (14%)	73 (4%)	48 (3%)	24 (1%)	2 (<1%)	<b>1747</b> (incl. 54 awaiting inspection)
	29 November 2019	1335 (77%)	232 (13%)	73 (4%)	49 (3%)	20 (1%)	2 (<1%)	<b>1743</b> (incl. 32 awaiting inspection)
	31 March 2020	1372 (78%)	207 (12%)	71 (4%)	53 (3%)	24 (1%)	2 (<1%)	<b>1751</b> (incl. 22 awaiting inspection)
	31 July 2020	1352 (78%)	214 (12%)	73 (4%)	48 (3%)	27 (2%)	3 (<1%)	<b>1743</b> (incl. 26 awaiting inspection)
	30 November 2020	1378 (79%)	200 (12%)	70 (4%)	43 (3%)	18 (1%)	1 (<1%)	<b>1736</b> (incl. 26 awaiting inspection)
	31 March 2021	1364 (79%)	200 (12%)	68 (4%)	42 (2%)	16 (1%)	1 (<1%)	<b>1722</b> (incl. 31 awaiting inspection)
	30 July 2021	1356 (80%)	193 (11%)	66 (4%)	37 (2%)	15 (<1%)	2 (<1%)	<b>1703*</b> (incl. 34 awaiting inspection)

**\*N.B.** In addition to the 1,752 businesses included in these statistics, there are currently a further 49 food businesses in the City of London which are exempt from the FHRS. They are inspected by Environmental Health Officers but are not given a food hygiene rating. These are businesses that are low-risk to public health, for example, shops selling pre-wrapped goods that do not require refrigeration.

#### '0' rated food businesses in the City

These businesses were rated '0' on 30 July 2021 (the last working day of the period); food businesses will have taken some action to improve and some have been since been re-inspected.

Premises	Details
City Izakaya Retail Unit 46 Moorgate, London, EX2R 6EL	This business remains closed
Indochine 62 Fleet Street London EC4Y 1JU	A Hygiene Emergency Prohibition Notice was served on this business; it was subsequently lifted on 11 August following an EHO revisit to the premises which identified that the health risk condition had satisfactorily been removed by the Food Business Operator. An application for a Hygiene Emergency Prohibition Order to ratify the HEPN was granted by the City Magistrate's Court on 12 August, with full costs awarded to the City of London (total £2,863).

## Port Health & Public Protection Enforcement Activity Period 1 (April - July) 2021-22

Trading Standards	2020-21 Annual Total	Period 1 2021-22
Inspections and visits	32	17
Complaints & service requests received	3,050	1,051
Acting as a responsible authority for Licensing Applications	29	23
Prosecutions	0	1

### **Period 1 – Trading Standards Team Highlights**

- The Team continues to operate by working mainly from home.
- The level of consumer complaints and enquiries coming into Trading Standards has risen significantly in the last year: from 2,292 in 2019/20 to 3,050 during 2020/21 which is an increase of 33%.
- Operation Broadway, the multi-agency partnership that disrupts investment fraud in and around the Square Mile, continues to function virtually with meetings taking place every two weeks.
- Preparation for the prosecution of an "accountancy" business has continued to take up considerable officer time. A four-week trial commenced on 19 July 2021 at Southwark Crown Court. The case concluded on 12 August 2021 and the company and the main Director were found guilty of fraudulent trading. Sentencing is due to take place at The Old Bailey on 24 September 2021.

## Port Health & Public Protection Enforcement Activity Period 1 (April - July) 2021-22

Pollution	2020-21 Annual Total	Period 1 2021-2022			
		Total	% Noise complaints resolved	Notices served	Prosecutions
Complaint investigations, noise	567	249	96%	0	0
Complaint investigations, other	88	10	N/A	N/A	0
Licensing, Planning and Construction Works applications assessed	428	327	N/A	N/A	N/A
No. of variations (to construction working hours) notices issued	833	337	N/A	2 S.61 consents*	N/A

\* COPA: Control of Pollution Act 1974. S61: [Prior consent for work on construction sites.](#)

### **Period 1 – Pollution Control Team Highlights**

- The Team continued to deal with increasing numbers of enquiries. Anecdotally, developers and contractors continue to report overall delays in program but are now making better progress. Sites have established safe working practices and have arrangements for COVID-19 testing on site. The Team, in collaboration with Public Health, has been encouraging the use of the testing facilities available within the City.
- Officers are now present in the City every day with approximately 40% staffing levels. Between the Street Environment Officers and the Pollution Control Team members, a 24/7 service is being operated. Most operational practices now have a limited impact on performance. Visits, both external and internal, are undertaken following appropriate risk assessment. Less restricted working practices and a return to the City are likely to have contributed to the improved response times and satisfactory results.
- Work on the TfL street works project continued: this is a collaboration with TfL, utilities contractors and other local authorities to develop a single approach to managing TfL street works. Officers are also engaged with contractors (primarily those dealing with gas, electricity, water and telecoms) to develop smarter ways of working to reduce disruption and disturbance by use of quieter working methods, better programming and development of monitoring systems to assist in the management of street works.
- Work on the major infrastructure projects continued. Crossrail, while not due to open until the end of this year or early 2022, has completed nearly all surface works. Thames Tideway Tunnel and the Bank Station Capacity Upgrade will continue into 2022/23 and still have major work to complete.

## **Port Health & Public Protection Enforcement Activity Period 1 (April - July) 2021-22**

### **Period 1 – Air Quality Team Highlights**

During Period One, the Team:

- Compiled and submitted the air quality annual statutory report to Defra and the Mayor of London.
- Produced a guide to managing emissions from non-road mobile machinery for the construction industry.
- Installed sensors measuring nitrogen dioxide at the Middlesex Street Estate.
- Compiled air quality data reports for schools and nurseries.
- Held a Vehicle Idling Action enforcement workshop for London borough officers.
- Took part in judging the annual Sustainable City Awards.
- Provided comments on Thames Vision 2050.
- Released an updated version of the CityAir App to provide more accurate data on air pollution.
- Held two information stalls in the City on National Clean Air Day. A video was made for The Aldgate School Assembly and lessons produced for teachers to deliver

Also, during this period:

- Ongoing low levels of activity, and higher than average rainfall, had a major impact on air pollution levels. Nitrogen dioxide was just under 50% lower during this period than the same period in 2019; PM10 and PM2.5 were both 29% lower.
- Amendments to the Environment Bill were tabled in the House of Lords to propose new powers for local authorities to deal with non-traffic sources of pollution.
- 59 residents on the Barbican and Golden Lane Estates have been taking part in a Citizen Science air quality monitoring study. An MSc student is conducting research into motivations behind people's involvement in the programme as well as undertaking particulate monitoring in the area.
- The Air Quality Superhero winning designs were turned into lanterns and displayed as part of the Aldgate summer festival.



## Port Health & Public Protection Enforcement Activity Period 1 (April - July) 2021-22

### **Period 1 - Unlicensed Street Trading update**

- A new partnership has been formed with the Suicide Prevention Team which is assisting the City of London to deal effectively with cases of suicide from across all the Bridges. Work is underway with The Salvation Army, Southwark Cathedral, Guoman Tower Bridge Hotel, Novotel Hotel Southwark Bridge and the Tower of London, all of which have agreed to provide safe conversation areas for individuals inclined to commit suicide. The City of London Police is also actively involved. On 13 August 2021, an individual was successfully prevented from committing suicide on Tower Bridge; a specialised CoL Police Officer was then called upon to provide further assistance to the person involved.
- The intelligence sharing partnership with the Food Standards Agency is progressing and data on food safety issues arising from unlicensed trading is shared with them.
- Intelligence on crime trends around the Tower Bridge area, and other City Bridges is shared with the City of London Police. Hays Galleria at 1 London Bridge has agreed to share CCTV data to assist with gathering evidence against illegal street traders in the vicinity of London Bridge.
- Section 101 agreements with the London Boroughs of Tower Hamlets and Southwark enable City officers to tackle illegal street traders on the City's Bridges and environs and officers have been actively engaged in enforcement. The latest enforcement activity and legal proceedings since the beginning of December are as follows:

### **Enforcement**

- 1 x Peanut Trolley seized from London Bridge in April 2021. Case to be heard on 29 September 2021 at City of London Magistrates Court.
- 2 x Arrest for alleged pickpocketing at Tower Bridge (by City of London Police).
- 6 x Peanut and Ice Cream selling offences reported to Southwark Council (on the Sect. 101 border, no seizure).
- 1 x Bicycle Thief pursued near London Bridge and details reported to the Met Police. Bicycle recovered by owner and thief's bicycle kept in storage pending Police enquiry.
- 118 x Warnings given to Buskers at the Tate Modern to reduce noise levels affecting CoL School.
- 56 x Buskers moved from City of London area, especially outside the COL School near Millennium Bridge.
- 12 x Incidents of begging cleared from London Bridge and within the City of London area.
- 56 x Warnings to individuals to desist from riding bicycle on bridges. CoL police involved.
- A joint operation involving Met police and CoL Police on Tower Bridge led to the seizure of more than 110 electric scooters for riding without insurance.
- 1 x Illegal street trader investigated for trespass as she tried to gain access at Walbrook Wharf where the seized peanut trolleys are stored.
- Metropolitan Police, British Transport Police and CoLP are working together to ensure a presence in the Tower of London area.
- All the above enforcement actions, including those by the Police, were a result of shared intelligence.

**Port Health & Public Protection Enforcement Activity  
Period 1 (April - July) 2021-22**

**Legal Proceedings**

- 11 June 2021: £100 fine (One charge), £400.00 costs, £32 Victim Surcharge for illegal picture frame seller at Westminster Magistrates' Court.
- 11 June 2021: Case of peanut trader at Westminster Magistrates' Court postponed to 29 September 2021 (Four counts).
- TBA: Three charges against one trader for illegal selling of peanuts (being prepared by Southwark Council). One injunction being sought by Southwark Council against a peanut trader is currently being processed by Southwark's Legal Team.

## Port Health & Public Protection Enforcement Activity Period 1 (April - July) 2021-22

Animal Health & Welfare	2020-21 Annual total	Period 1 2021-2022			
		Total	Warning letters	Notices served	Prosecutions
Heathrow Animal Reception Centre					
Throughput of animals (no. of consignments)	14,977 (consignments)	7,327 (consignments)	21	0	0
Animal Health					
Inspections carried out	194	218	0	10	0

### **Period 1 – Animal Health Team Highlights**

- The City & Guild Level 3 qualification delivered by City of London Animal Health Inspectors for local authority officers, run in conjunction with the National Pet College (Pet Industry Federation), has continued despite the difficulties caused by the pandemic. All courses are fully booked until the end of 2021.
- CoL officers have continued to operate during this period, dealing with illegal imports and carrying out inspections where possible, but there is a large back log of target inspections which the officers are now working to complete.
- More local authorities are requesting our services, but limited staff resources are making it difficult to take on more contracts at present.

### **Period 1 – Heathrow Animal Reception Centre (HARC) Highlights**

- This was one of the busiest periods ever in the HARC's history.
- Many customers and their pets arrived on special repatriation flights.
- The demand for pet dogs and cats during the COVID-19 pandemic has meant demand is increasingly being met by importing 'rescue' dogs and cats from abroad.
- Although airline activity during the period was around 25% of pre-COVID levels, greater numbers of pets arrived on each flight.

## Port Health & Public Protection Enforcement Activity Period 1 (April - July) 2021-22

Port Health	2020-21 Annual total	Period 1 2021-2022			
		Total	Cautions	Notices served	Prosecutions
Products of Animal Origin Consignments – document checks	9,391	4,028	0	24	0
Products of Animal Origin Consignments – physical checks	6,099	2,394	0	24	0
Number of samples taken	709	364	N/A	346	N/A
Imported food Not of Animal Origin -document checks	30,145	11,398	0	97	0
Imported food Not of Animal Origin - physical checks	2,377	1,538	0	N/A	0
Number of samples taken	1,096	308	0	N/A	N/A
Food Safety inspections and revisits	44	16	0	0	0
Ship Sanitation Inspections and Routine Boarding of Vessels	21	32	N/A	0	N/A

### **Period 1 – Port Health Service Highlights**

- A switch in import declarations by the “traditional” EU trade has resulted in a huge increase in third country imports.
- The main source of import data has changed to a system called Destin8, this is another direct result of impending changes to EU imports.
- Third country imports continue to increase with the arrival of a new far eastern service at Tilbury.

**Port Health & Public Protection Local Risk Revenue Budget - 1 April to 31 July 2021**  
**(Expenditure and unfavourable variances are shown in brackets)**

	Latest Approved Budget 2021/22 £'000	Budget to Date (Apr-Jul)			Actual to Date (Apr-Jul)			Variance Apr-Jul £'000	Forecast for the Year 2021/22			Notes
		Gross Expenditure £'000	Gross Income £'000	Net Expenditure £'000	Gross Expenditure £'000	Gross Income £'000	Net Expenditure £'000		LAB £'000	Forecast Outturn £'000	(Over) / Under £'000	
<b>Port Health &amp; Environmental Services (City Fund)</b>												
Coroner	(293)	(86)	0	(86)	(94)	0	(94)	(8)	(293)	(289)	4	
City Environmental Health	(1,907)	(755)	106	(649)	(731)	220	(511)	138	(1,907)	(1,915)	(8)	1
Animal Health Services	1,477	(1,107)	1,326	219	(1,054)	1,348	294	75	1,477	1,596	119	2
Trading Standards	(360)	(121)	0	(121)	(146)	0	(146)	(25)	(360)	(368)	(8)	
Port Offices & Launches	(1,174)	(1,832)	821	(1,011)	(1,667)	1,095	(572)	439	(1,174)	(1,054)	120	3
<b>TOTAL PORT HEALTH &amp; ENV SRV COMMITTEE</b>	<b>(2,257)</b>	<b>(3,901)</b>	<b>2,253</b>	<b>(1,648)</b>	<b>(3,692)</b>	<b>2,663</b>	<b>(1,029)</b>	<b>619</b>	<b>(2,257)</b>	<b>(2,030)</b>	<b>227</b>	

**Notes:**

- 1. City Environmental Health** - underspend to date is mainly additional income from the Construction/Deconstruction Levy, together with vacancies. These are offset in the forecast by the 12% savings to be identified.
- 2. Animal Health Services** - projected underspend is due mainly to additional income, together with reduced energy costs.
- 3. Port Offices & Launches** - the projected underspend is mainly due to additional CVED (Common Veterinary Entry Documents) and NAO (Products of Non-Animal Origin) income. The underspend to date also includes delays in Brexit recruitment, which will be offset by a reduction in DEFRA funding by year end, and vacancies in established posts, which will be offset by the 12% savings by year end. This also takes into account further additional staffing required for Brexit preparations eg at Sheerness, which is currently not funded by Defra.

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<b>Committee(s):</b> Port Health & Environmental Services Committee	<b>Dated:</b> 27/09/2021
<b>Subject:</b> Adoption of Lettings Enforcement Policy	<b>Public</b>
<b>Which outcomes in the City Corporation's Corporate Plan does this proposal aim to impact directly?</b>	5
<b>Does this proposal require extra revenue and/or capital spending?</b>	<b>No</b>
<b>If so, how much?</b>	<b>N/A</b>
<b>What is the source of Funding?</b>	<b>N/A</b>
<b>Has this Funding Source been agreed with the Chamberlain's Department?</b>	<b>N/A</b>
<b>Report of:</b> Director of Markets & Consumer Protection	<b>For Decision</b>
<b>Report author:</b> Karen Tillett, Trading Standards Officer	

## Summary

Since 2014 the Government has introduced various pieces of legislation to regulate the activities of lettings and property management agents. These include the requirement for agents to belong to an approved Redress Scheme and Client Money Protection Scheme, the banning of tenants' fees (with certain prescribed exceptions), and requirements in relation to the publication of fees. Enforcement is largely by means of financial penalties, which can amount to up to £30,000, depending upon the circumstances.

The responsibility for enforcement of the above provisions lies with Trading Standards. The level of penalty to be imposed is subject to the discretion of the Corporation, up to statutory maximum values.

In order to support the determination of financial penalties for breaches of legislation we are looking to adopt the Model London Lettings Enforcement Policy, which has been prepared by London Trading Standards (LTS). It sets out the decision-making process to be followed when taking enforcement action.

## Recommendation(s)

Members are asked to:

- Agree to the adoption of the Lettings Enforcement Policy

## **Main Report**

### **Background**

1. The population of London has grown rapidly over the last decade, as has the proportion of households renting privately, estimated to be 27% in 2019. At the same time, private rents have risen by 43% since 2005.
2. Accordingly, a large letting agent industry has developed, with London accounting for about 40% of all letting agents in England.
3. There is evidence of widespread non-compliance with legal requirements. Enforcement data collected from London boroughs in 2018/19 suggests that only 54% of agents were fully compliant when inspected by Trading Standards Officers.
4. Since 2014, letting agents have been required to be a member of a government approved redress scheme, such as The Property Ombudsman scheme. As part of the Consumer Rights Act 2015, the government introduced the requirement for letting agents to publicise landlord and tenant fees. To further regulate the sector, the Tenant Fees Act 2019 was passed into legislation; this prohibited the charging of tenants' fees, save for permitted exceptions. Since 2019, letting agents are also required to be members of a government approved Client Money Protection Scheme.
5. The sanction for breaches of letting agents' requirements is usually by way of a civil financial penalty imposed by the enforcement authority (although certain breaches of the Tenant Fees Act can give rise to criminal proceedings). The penalty imposed can be up to £5,000 in the case of non-membership of a redress scheme or breaches of the fees publication requirements. The maximum penalty increases to £30,000 for breaches of the permitted payments regime and non-membership of a Client Money Protection scheme. The penalty amount to be imposed is at the discretion of the enforcement authority.

### **Current Position**

6. When setting financial penalties, an enforcement authority must have regard to relevant statutory guidance and guidance issued by the lead enforcement authority for England, Bristol City Council. With this in mind, a model enforcement policy has been prepared by London Trading Standards, in consultation with the lead enforcement authority. The proposed policy also takes into account the Regulators' Code and the Code for Crown Prosecutors.
7. The model enforcement policy aims to ensure consistency of approach across London when setting the level of financial penalty to be imposed. The policy sets out the decision-making process to be used when taking enforcement action for breaches of the letting agent legislation mentioned above.



8. The proposed policy sets out factors to be considered such as culpability, harm, aggravating and mitigating features, and proportionality. The legislation also provides the ability for those committing breaches to make representations to the enforcement authority within a set time period before a Final Notice is served.
9. In order to promote consistency and put in place a framework for decision-making, it is recommended that the model enforcement policy is adopted. The route for formal adoption is by way of Committee decision.
10. An informal poll of London Boroughs and internet searches revealed that so far six boroughs have adopted the LTS Model Lettings Enforcement Policy in whole or part. They are Brent, Bromley, Greenwich, Hammersmith & Fulham, Southwark and Waltham Forest.
11. The draft Lettings Enforcement Policy for the City of London Corporation can be found at Appendix 1. The policy sits alongside and should be read in conjunction with the Port Health & Public Protection Enforcement Policy, which is published on the City of London website  
<https://www.cityoflondon.gov.uk/assets/Business/phpp-enforcement-policy-jan-2019.pdf>

## **Options**

12. The Lettings Enforcement Policy is not statutory guidance but provides a consistent framework for setting financial penalties. The adoption and implementation of the policy will provide good evidence in the event of an appeal to the First Tier and Upper Tier Tribunals. It will enable the Corporation to demonstrate that we have taken a fair and proportional approach to breaches, so decreasing the chances of an appeal being successful.
13. There is no cost to the adoption of the policy, and it will assist in appropriate financial penalties being upheld on appeal.

## **Proposals**

14. It is recommended that the proposed Lettings Enforcement Policy is adopted in order to promote a consistent approach across London and ensure that decisions are made using the suggested process, taking the appropriate factors into account.

## **Corporate & Strategic Implications**

15. Strategic implications – The adoption of this policy will help to promote a thriving economy because its purpose is to ensure that financial penalties for businesses that breach the legislation are dealt with fairly and proportionately. The policy also aligns with the work of the National Trading Standards Estate Agency and Letting Agency Team who are responsible for overseeing letting agency regulation in England. They were consulted when the model policy was drawn up.

16. Financial implications – None.

17. Resource implications – None; lettings agency work is already within the remit of Trading Standards.

18. Legal implications – Adoption and application of this policy will act to strengthen and justify the Corporation's position, should the recipient of a Final Notice wish to appeal to the First Tier Tribunal. Legal Services have been consulted as part of the process and support the proposal to adopt the policy.

19. Risk implications – None

20. Equalities implications – None

21. Climate implications – None

22. Security implications - None

## **Conclusion**

23. Trading Standards are responsible for the enforcement of legislation relating to the activities of letting agents. The legislation covers matters such as membership of approved bodies, prohibited fees, and the publication of fees. The key sanction available for those found in breach of the legislation is the imposition of a financial penalty of up to £30,000.

24. The proposed Lettings Enforcement Policy sets out the process to be used for arriving at the appropriate financial penalty; including what considerations should be taken into account. Adoption of the policy will ensure a fair and consistent approach to determining the level of financial penalty, in line with other London Boroughs and nationally.

## **Appendices**

- Appendix 1 – City of London Corporation Trading Standards Service Lettings Enforcement Policy – Date see policy

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CITY OF LONDON CORPORATION TRADING STANDARDS SERVICE

# Lettings Enforcement Policy

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## **Introduction**

London's population has grown rapidly over the last decade to a record 9.0 million people by mid-2019. The proportion of households renting privately has also increased significantly from around 15% at the turn of the century to 27% by 2019 and of London's 3.6 million households almost a million are now renting privately, representing more than a fifth of all privately renting households in England.

London has a higher rate of population "churn" than other areas due to its higher levels of outward and inward migration, and more transient population. The high influx of working age population means that London has a younger population than England as a whole.

Occupancy levels are also particularly high in the private rented sector, with average floor area per person falling from 31m<sup>2</sup> to 25m<sup>2</sup> over the past 25 years and is now less than for any other tenure.

At the same time, average private rents in London have risen by 43% since 2005, by far the largest increase of any English region.<sup>1</sup> In the year to March 2020, the median rent for a privately rented home in London was £1,425 per calendar month, more than twice as high as the median in England as a whole (£700). London's rents are so much higher than those of other regions that the median monthly rent for a one-bedroom home in the capital (£1,204) is almost as high as the national median monthly rent for a home with four bedrooms or more (£1,300).<sup>2</sup>

With the expansion of the private rented sector, a large letting agent industry has grown in the Capital which accounts for around 40% of all letting agents in England. It is estimated that there are 10,000 such agents, now operating in London.

There is also evidence of widespread non-compliance with legal requirements in the sector. Recent (2018-19) enforcement data from the London boroughs suggests that only around a half (54%) of London letting agents were fully compliant with the law when inspected by Trading Standards Officers.

In this context, the City of London Corporation has adopted an enforcement policy which has been prepared by London Trading Standards in conjunction with an expert Barrister, Daniel Brayley, of Gough Square Chambers. This sets out the decision-making process to be used by the City of London Corporation in relation to enforcement action for breaches of the following lettings legislation:

- a. The Enterprise and Regulatory Reform Act 2013 (in relation to The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014);
- b. The Consumer Rights Act 2015 (sections 83-88);
- c. The Tenants Fees Act 2019;

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<sup>1</sup> Office for National Statistics ("ONS") Experimental Index of Private Housing Rental prices

<sup>2</sup> ONS, Private Rental Market summary statistics

- d. The Housing and Planning Act 2016 (in relation to The Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019).

This policy is not statutory guidance. It has been prepared by reference to the primary legislation, applicable statutory and non-statutory guidance, the Regulators' Code and, where applicable, the Code for Crown Prosecutors. In preparing this policy the authority has also considered the extensive body of First and Upper Tier Tribunal rulings under the above legislation relating specifically to the London market.

The policy has been made in consultation with the lead enforcement authority.

The relevant sections of the above legislation mainly concern civil breaches, albeit with potential criminal offences arising from them, accordingly, where appropriate, reference is made to the overarching principles of criminal law, such as culpability, harm, aggravating and mitigating features, and proportionality.

When considering the culpability of letting agents attention is drawn to the professional status of the sector, the extensive guidance provided by, and available from, industry bodies, and the requirements for compliance provided by statutory redress schemes.

## **Redress Schemes**

### **Legislation**

The Enterprise and Regulatory Reform Act 2013 sections 83-88 and The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014 ("the Redress Schemes Order 2014").

### **The requirement**

It has been a requirement since 1 October 2014 for lettings and property management agents to be a member of a government approved redress scheme.<sup>3</sup>

This provides clients of these businesses, both tenants and landlords, with an independent form of redress to resolve complaints.

There are currently two schemes approved by the government:

- a. The Property Ombudsman ("TPO"); and
- b. The Property Redress Scheme ("PRS").

### **Sanction for breach of the requirement**

The requirement is enforced by local authority Trading Standards or Housing Services.

A failure to join a scheme is enforced by a civil penalty process with a **maximum penalty of £5,000**.

---

<sup>3</sup> The Redress Schemes Order 2014, Part 2

The breach must be proved on “the balance of probabilities”, i.e. to the civil standard of proof.<sup>4</sup>

For both tenants and landlords, the consequence of a business not being a member of a redress scheme can be significant in that they lose an important method of resolving complaints without having to take recourse to legal action (which can be both time consuming and expensive). This is true even if a business later joins a scheme as the membership is not retrospective and clients who contracted with an agent prior to the date of membership are still not covered.

Trading Standards consider this an important access to justice issue and a very serious breach because of the potential collective harm to both tenants and landlords. It is also an indicator of poor professional standards within the sector.

### *Determining the level of financial penalty*

The Ministry for Housing Communities and Local Government (“MHCLG”)<sup>5</sup> has issued guidance for local authority housing officers on *Improving the Private Rented Sector and Tackling Bad Practice - A Guide for Local Authorities*.<sup>6</sup> Annex C - *Letting Agents Redress Scheme Guidance* provides:

*The expectation is that a £5,000 fine should be considered the norm and that a lower fine should only be charged if the enforcement authority is satisfied that there are extenuating circumstances”.*<sup>7</sup>

The guidance also makes clear that it will be up to the enforcement authority to decide what such circumstances might be.

In having regard to the guidance issued by MHCLG, the expectation is that a £5,000 penalty should be considered the norm. Due to the serious detriment associated with lack of membership of a redress scheme, the lack of professional standards it indicates and the particulars of the London Lettings market, the authority is adopting the policy that when issuing an initial notice (notice of intent) against an agent, **the monetary penalty will usually start at £5,000.**

The notice of intent provides the agent with the option to submit representations to the authority within 28 days. The authority shall consider the representations and may reduce the monetary penalty if appropriate.

This approach has been accepted by Judges in the First Tier Tribunal.

In considering whether to vary, withdraw or confirm a monetary penalty after the notice of intent has been served, the authority will take into account any representations provided by the agent. The following non-exhaustive list of factors will be considered in either mitigation or aggravation, as appropriate in each case:

- The severity of the breach (i.e. the length of breach, has membership just lapsed or has the agent never been a member of a redress scheme)

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<sup>4</sup> Ibid. Article 8

<sup>5</sup> Formerly the Department for Communities and Local Government

<sup>6</sup>

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/412921/Improving\\_private\\_rented\\_sector.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/412921/Improving_private_rented_sector.pdf), published March 2015,

<sup>7</sup>Ibid. pp.53-54

- The financial impact of the breach on tenants and landlords (this may be difficult to assess)
- How long the legislation and requirements have been in force
- The agent's history of compliance and/ or non-compliance
- Any complaints against the agent
- The attitude of the agent and/ or co-operation with the authority in its investigation
- Whether the breach was rectified promptly
- Steps that the agent has or has not taken to ensure compliance
- Personal or health issues that may have had or be having an effect on the agent's business (e.g. impacting on the period of breach or ability to pay)
- Any other factors that could amount to extenuating circumstances.

Where applicable the authority shall consider the affordability of the proposed penalty, including the financial status of the agent and/ or the agent's ability to pay.

Simply correcting a breach after receiving a notice will not nullify the proposed penalty and if an agent would like a reduction to be considered, in the first instance, representations/ objections should be made to the Council in the 28 days allowed.

### **Publicise relevant fees and required information**

#### Legislation

Consumer Rights Act 2015 ("CRA") sections 83-88.

#### The requirement

Section 83 CRA makes it a requirement for all letting agents in England to publicise details of their relevant fees and other required information. Sections 83 to 88 CRA contain detailed disclosure requirements.

#### Sanction on breach of the requirement

Where the authority is satisfied on the balance of probabilities that a letting agent has breached the above duty it may impose a penalty under section 87 CRA.

The amount of the financial penalty may be determined by the local authority but **must not exceed £5,000.**<sup>8</sup>

#### *Determining the level of financial penalty*

In line with the statutory guidance issued by the MHCLG: *Improving the private rented sector and tackling bad practice: a guide for local authorities. Annex D – Guidance on Letting Agent Fees*, **the authority will normally issue the financial penalty for the maximum of £5,000 and a lower penalty will only be considered if the authority is satisfied that there are extenuating circumstances.**<sup>9</sup>

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<sup>8</sup> CRA, s. 87(7)

<sup>9</sup> <https://www.gov.uk/government/publications/improving-the-private-rented-sector-and-tackling-bad-practice-a-guide-for-local-authorities>, published 13 March 2015, p.60

In considering whether to vary, withdraw or confirm a monetary penalty after a notice of intent has been issued the authority will take into account any representations provided by the agent.

Each of the following non-exhaustive factors will be considered, as possible mitigation, in the authority's decision of whether to vary, withdraw or confirm a penalty:

- The severity of the breach
- The financial impact of the breach on tenants and landlords
- How long the legislation and requirements have been in force
- Whether a letting agent was in breach of some but not all aspects of the requirements (with respect to displaying fees, client money protection and redress scheme information).
- The period of non-compliance (e.g. was a technical error on a website causing a breach for a matter of hours or was there an extended period of non-compliance)
- Whether the breach was rectified promptly
- Steps that the agent has or has not taken to ensure compliance
- The attitude of the agent and/ or co-operation with the authority in its investigation
- Personal or health issues that may have had or be having an effect on the letting agent's business (e.g. impacting on the period of breach or ability to pay)
- Any other factors that could amount to extenuating circumstances.

Where applicable the authority shall consider the affordability of the proposed fine, including the financial status of the agent and/ or the agent's ability to pay.

Mitigating factors advanced by the agent in representations shall be weighed up against all of the facts of the case as well as wider factors where relevant, including the following points:

- How long the legislation and/ or requirements have been in force
- The agent's history of compliance and/or non-compliance
- Whether an agent was in breach of other lettings requirements (e.g. client money protection or redress scheme membership)
- Steps the agent has or has not taken to ensure compliance
- The size of the business and number of staff
- Any other relevant factors

The authority can issue a penalty **per breach**, therefore if an agent is in breach on their website **and** in their office this would amount to two separate breaches. If an agent has multiple branches, then a penalty of £5,000 may be imposed separately against each non-compliant branch.

For continued non-compliance further penalties of £5,000 can be issued for the same breach over a different period.<sup>10</sup> It is therefore of utmost importance that breaches are corrected by the agent as soon as possible after notification to avoid further penalties. There is no limit to the number of penalties that can be imposed for a continued breach. However, no further penalties can be issued if the letting agent appeals to the Tribunal until the end of 28 days beginning the day after the day on which the appeal is finally determined, withdrawn or abandoned.

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<sup>10</sup> CRA s.87(6A)



Simply correcting a breach after receiving a notice will not nullify the proposed penalty and if an agent would like a reduction to be considered, in the first instance, representations/objections should be made to the Council in the 28 days allowed.

## **Prohibited payments**

### **Legislation**

Tenant Fees Act 2019 (“TFA”)

### **Requirement**

Under the TFA it is now unlawful for a landlord or letting agent to require a relevant person to make a ‘*prohibited payment*’ in relation to a tenancy agreement. Tenancy Agreements include Assured Shorthold Tenancies (“ASTs”), student accommodation and licences to occupy housing (with limited exception). All payments are prohibited unless they are one of the permitted payments listed in Schedule 1 TFA. Sections 1, 2 and 3 TFA give further details on the specific breaches by a landlord or letting agent.

### **Sanction**

Section 8 TFA provides local authorities with the power to impose a civil penalty in situations where a breach of the TFA has been identified.

Each separate ‘*prohibited payment*’ represents a separate breach of the TFA.

The TFA sets out maximum penalties that the Council may impose on agents and landlords that breach the above prohibition<sup>11</sup>, namely:

- a. £5,000 where a landlord or agent has required a tenant or landlord to make a ‘prohibited payment’;
- b. £30,000 where a landlord or agent has required a tenant or landlord to make a ‘prohibited payment’ within 5 years of a previous conviction or imposition of a Civil Penalty [as an alternative to instigating prosecution proceedings];
- c. £5,000 where a landlord or agent is in breach of the requirement to repay the holding deposit.

If a further breach is committed within five years of the imposition of a financial penalty or conviction for a previous breach, this will be a criminal offence under section 12 TFA. Upon conviction, the penalty is an unlimited fine. This offence is also a banning order offence.<sup>12</sup>

Accordingly, an offence is committed contrary to section 12 TFA, the Council may either impose a financial penalty of up to £30,000 **or** prosecute the landlord or letting agent. For the avoidance of doubt where a financial penalty is imposed this does not amount to a criminal conviction.

Schedule 3 TFA sets out the procedure in relation to notices, appeals and the recovery of prohibited payments.

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<sup>11</sup> Tenant Fees Act 2019, s. 8

<sup>12</sup> Housing and Planning Act 2016, s. 14

The Government has issued statutory guidance: *Tenant Fees Act 2019 Statutory Guidance for Enforcement Authorities*.<sup>13</sup> The Council has regard to this guidance in the exercise of its functions in respect of civil penalties and other enforcement action.

### *Decision to Prosecute*

A decision to prosecute for an offence under section 12 (and/or section 13) will be made, subject to the above-mentioned statutory guidance, the Code for Crown Prosecutors, and our enforcement policy.

We will consider the following general principles when deciding whether to prosecute a landlord or agent:

- a. whether there is sufficient admissible and reliable evidence that the offence has been committed;
- b. whether there is a realistic prospect of conviction;
- c. whether the enforcement authority believes that it is in the public interest to do so.

Additionally, the following non-exhaustive list of factors will be considered when deciding whether to prosecute:

- The agent and/ or landlord's history of compliance/non-compliance
- Whether the first or previous penalties were paid
- The severity of the breach
- Deliberate concealment of the activity and/or evidence
- Knowingly or recklessly supplying false or misleading evidence
- The intent of the landlord/agent, individual and/or corporate body
- The attitude and level of cooperation of the landlord/agent
- The deterrent effect of a prosecution on the landlord/agent and others
- The extent of any financial gain as a result of the breach

Simply correcting a breach after receiving a notice will not nullify the proposed penalty and if an agent would like a reduction to be considered, in the first instance, representations/ objections should be made to the Council in the 28 days allowed.

### *Determining the level of financial penalty*

In accordance with section 8 TFA the financial penalty may be of such amount as the authority determines, subject to the maximum figures stated above.

Below is a list of some, but not all factual elements that provide the context of the breach and factors relating to the Landlord or Agent that may be considered as a part of the Council's decision-making process. The Council will identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment when determining the level of penalty.

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<sup>13</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/819633/TFA\\_Statutory\\_Enforcement\\_Guidance\\_190722.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/819633/TFA_Statutory_Enforcement_Guidance_190722.pdf)

## **Factors increasing seriousness**

### **Aggravating factors:**

- Previous breaches of the TFA
- Previous convictions, having regard to the nature of the offence to which the conviction relates and its relevance to the current breach and the time that has elapsed since the conviction
- A landlord or agent with a history of failing to comply with their obligations and/or their actions were deliberate and/ or they knew, or ought to have known, that they were in breach of their legal responsibilities
- Level of harm caused to the tenant
- Established evidence of wider/community impact
- Motivated by or evidence of financial gain
- Deliberate concealment of illegal nature of activity
- Obstruction of the investigation
- Refusal of advice or training or to become a member of an Accreditation scheme
- Failure to act quickly in rectifying breach once notified by enforcement authority
- Failure to act quickly in rectifying breach once notified by another person such as a tenant or someone acting on their behalf

## **Factors reducing seriousness**

### **Mitigating factors**

- No previous or no relevant/recent breaches or complaints
- No previous convictions or no relevant/recent convictions
- Steps voluntarily taken to remedy problem
- High level of co-operation with the investigation, beyond that which will always be expected
- Good record of relationship with tenants
- Self-reporting
- Acceptance of responsibility and/ or admission of guilt
- Good character and/or exemplary conduct
- Mental disorder or learning disability, where linked to the commission of the breach
- Serious medical conditions requiring urgent, intensive or long-term treatment and supported by medical evidence (affecting reasonable compliance and affecting someone integral to the business such as a Director or manager and particularly relevant in small businesses where there may not be the resources to put alternative arrangements easily in place)
- Prompt repayment of prohibited charge to tenant
- Whether landlords or agent's primary trade or income is connected with the private rented sector

The final determination of any financial penalty will be considered alongside the general principle that a penalty should be fair and proportionate and, in all instances, act as a deterrent and remove any gain as a result of the breach.

### **Other factors to be considered**

- a. Totality principle – if issuing a financial penalty for more than one breach, or where the landlord or agent has already been issued with a penalty, we will consider whether the total financial penalties are just and proportionate to the breaches.

- b. Affordability issues – impact of the financial penalty on the landlord or agent’s ability to comply with the law and whether the penalty is proportionate to their means
- c. Impact of the financial penalty on the business – if the penalty would be disproportionate to the turnover/scale of the business or would lead to the agent going out of business

A record of each decision and the reason for determining the financial penalty will be kept.

## **Client money protection**

### **Legislation**

The Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019 (“CMP Regulations”)

### **The requirement**

From 1 April 2019 property agents in the private rented sector in England that hold client money must obtain membership from a Government approved or designated Client Money Protection Scheme.<sup>14</sup>

Property agents must also comply with the “transparency requirements” in regulation 4 of the CMP Regulations, for example, they must display, publish and produce the certificate of membership (if the scheme administrator provides a certificate) and give notice to clients if the agents membership of the scheme is revoked.<sup>15</sup>

Mandatory client money protection is intended to give landlords and tenants confidence that their money is safe when it is being handled by an agent. Where an agent is a member of a Government approved Client Money Protection Scheme, it enables a tenant, landlord or both to be compensated if all or part of their money is not repaid.

“Client money” means money received by a property agent held on behalf of another person in the course of English letting agency work within the meaning of section 54 of the Housing and Planning Act 2016 or English property management work within the meaning of section 55 of that Act. This does not include money held in accordance with an authorised tenancy deposit scheme within the meaning of Chapter 4 of Part 6 Housing Act 2004.<sup>16</sup> However, “Client Money” includes deposits paid to a letting agent before they are protected and unprotected deposits at the end of a tenancy, before they are returned/paid to the tenant or landlord.

### **Sanctions**

The CMP Regulations provide that enforcement authorities may impose a financial penalty at such a level as the Council determines but **not exceeding £30,000** where it is satisfied beyond reasonable doubt that a property agent is engaging in letting agency or property management work and is required to be a member of an approved client money protection scheme but has failed to join one.<sup>17</sup>

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<sup>14</sup> CMP Regulations, Regulation 3(1)

<sup>15</sup> Ibid. Regulation 4(2) & 4(3)

<sup>16</sup> Ibid. Regulation 2

<sup>17</sup> Ibid. Regulation 6

Trading Standards considers this a very serious breach because of the potential for extreme harm with potentially devastating consequences to both tenants and landlords. It is also an indicator of poor professional standards within the sector.

A full list of client money protection schemes can be found at the link below. The list of schemes is kept up to date by the MHCLG:

<https://www.gov.uk/client-money-protection-scheme-property-agents>

The CMP Regulations provide that enforcement authorities may impose a financial penalty at such level as the Council determines **but not exceeding £5,000**, where it is satisfied beyond all reasonable doubt that a regulated property agent has failed to:

- a. **Display** a certificate of its membership of an approved Client Money Protection Scheme prominently in their office(s) (where the scheme administrator of the approved scheme provides a certificate);
- b. **Publish** a copy of the certificate on their website (if any); and
- c. **Produce** a copy of the certificate to any person who may reasonably require it, free of charge.<sup>18</sup>

The right to impose a financial penalty in respect of the transparency requirements does not apply if the agent has taken all reasonable steps to obtain a copy of a certificate confirming the agent's membership of the approved or designated client money protection scheme and the scheme administrator has not provided it.<sup>19</sup>

A financial penalty may also be imposed at such level as the Council determines **but not exceeding £5,000**, where it is satisfied beyond reasonable doubt that a regulated property agent has failed to notify each client in writing within 14 days of:

- the agent's membership of an approved or designated client money protection scheme being revoked; or
- the agent ceasing to be a member of a particular approved or designated client money protection scheme and becoming a member of a different approved or designated client money protection scheme.<sup>20</sup>

In such circumstances the notification must give the name and address of the new scheme which the agent joins.<sup>21</sup>

A breach of each of the transparency requirements above would account for a separate breach.<sup>22</sup> Therefore, where an agent has breached more than one of these requirements, they will be liable for a separate financial penalty in respect of each breach. For example, in the event that an agent fails to display their membership certificate and also fails to provide a copy of these certificates free of charge to anyone who reasonably asks these are two individual breaches with two separate potential financial penalties.

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<sup>18</sup> Ibid. Regulation 4 & 7

<sup>19</sup> Ibid. Regulation 7(3)

<sup>20</sup> Ibid. Regulation 4(2) & 7

<sup>21</sup> Ibid. Regulation 4(3)

<sup>22</sup> See MHCLG statutory guidance, Mandatory client money protection for property agents , Enforcement guidance for local authorities

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/800548/CMP\\_enforcement\\_guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/800548/CMP_enforcement_guidance.pdf), p. 10

Simply correcting a breach after receiving a notice will not nullify the proposed penalty and if an agent would like a reduction to be considered, representations/objections should be made in the 28 days allowed (as detailed on the back of the notice of intent).

### *Determining the level of financial penalty*

Although the Council has a wide discretion in determining the appropriate level of financial penalty in any particular case, in creating this policy regard has been given to the statutory guidance and non-statutory guidance, the Regulators' Code and where applicable the Code for Crown Prosecutors. This policy has been made in consultation with the lead enforcement authority.

### **STEP 1: Determine starting point**

In determining the appropriate financial penalty where an agent is not a member of a client money protection scheme the authority will start by taking into account the size of the company and apply a penalty as follows:

- Property Agent Business turnover below £75,000: penalty starting point £10,000
- Property Agent Business turnover between £75,000 - £150,000: penalty starting point £20,000
- Property Agent Business turnover over £150,000: penalty starting point £30,000

The above figures will be applied before serving the notice of intent. The company's turnover shall be assessed by reference to the turnover of the company stated in the most recent accounts submitted to Companies House. If the business is not a company or no accounts indicating turnover have been submitted to Companies House or the accounts are more than 18 months old, then the maximum of £30,000 may be applied until the Council has a better indication of the business' financial status, in practice this may be after the notice of intent is served and financial documents have been supplied by the agent.

### **STEP 2: Adjust starting point to reflect aggravating and mitigating features**

Having selected the appropriate starting point for determining the financial penalty, the authority will then adjust the financial penalty imposed up and down in light of the following aggravating and mitigating factors:

#### **Aggravating factors**

- Extended period of breach
- Previous civil penalties being issued against the agent and/ or a record of non-compliance with relevant legislation
- Agent has made no reasonable attempts to comply with the Regulations
- Failure to act quickly in rectifying any breach once notified by the authority (or to take reasonable steps to do so)
- The agent has previously received advice and guidance from the authority in relation to joining a CMP scheme
- Actual Harm caused to tenants or landlord (or evidence of a loss of client money in respect of previous tenants or landlords)
- Potential harm caused to tenants or landlords
- Complaints received relating to client money or otherwise

- Where an agent has been expelled from an approved scheme and has not taken immediate action to join another scheme or ensure it is not holding client money
- Lack of co-operation / obstruction of the investigation

### **Mitigating factors**

- Co-operation with the investigation
- The agent has a good reputation with no previous breaches or complaints
- Early admission of the breach and taking all reasonable steps to quickly join a scheme
- Evidence that the agent has made every reasonable effort to join an approved client money protection scheme but is unable to do so for issues outside of their control
- Production of up to date full accounts showing for example that the agent's turnover is significantly less than that stipulated on the most recent companies house accounts or that the fine would cause severe financial hardship or would be likely to put the agent out of business
- Mental disorder or learning disability, where linked to the commission of the breach
- Serious medical conditions requiring urgent, intensive or long-term treatment and supported by medical evidence (affecting reasonable compliance and affecting someone integral to the business such as a Director or manager and particularly relevant in small businesses where there may not be the resources to put alternative arrangements easily in place)

### **STEP 3: Consider other factors**

#### **Deterrence**

In order to deter agents from breaching the CMP regulations and to deter other agents from committing similar breaches the penalty should be such as to have a real financial impact on the business.

#### **Totality principle**

If issuing a financial penalty for more than one breach, or where the agent has already been issued with a penalty, the authority will consider whether the total financial penalties are just and proportionate to the breaches.

#### **Affordability issues**

Impact of the financial penalty on the agent's ability to comply with the law and whether it is proportionate to their means.

Impact of the financial penalty on the business, the penalty should not be disproportionate to the turnover and scale of the business and/ or would lead to the agent going out of business.

The final determination of any financial penalty will be considered alongside the general principle that a penalty should be fair and proportionate but, in all instances, act as a deterrent and remove any gain as a result of the breach.

In practice, step 2 and 3 are likely to take place after the Council have issued a notice of intent after an agent has made representations.

A record of each decision and the reason for determining the financial penalty will be kept.

A breach of the CMP Regulations does not give rise to a criminal offence under the CMP Regulations, however in the event that an agent is displaying a client money protection certificate to a scheme to which they do not belong (or have been expelled from) the authority will consider taking criminal enforcement action against the agent under the Consumer Protection from Unfair Trading Regulations 2008.

### **The Mayor of London's Rogue Landlord and Agent Checker**

The Council may publicise details of landlords and agents who are prosecuted or who are issued with a financial penalty under any of the above legislation on the Mayor of London's Rogue Landlord and Agent Checker, operated by the Greater London Authority (GLA).

In relation to civil penalties once an agent has been issued with a Final Notice, if the agent does not appeal or is unsuccessful with their appeal, then the details of the breach and the level of the penalty will be publicised. Penalties can be publicised on the public tier if the penalty is £500 or greater (there is no threshold on the private tier).

If an agent is issued with multiple penalties these will be publicised as separate entries.

For full details of the policies and procedures for the Rogue Landlord and Agent Checker please see the following link: [https://www.london.gov.uk/sites/default/files/190515-policies\\_and\\_procedures\\_update\\_clean\\_1.pdf](https://www.london.gov.uk/sites/default/files/190515-policies_and_procedures_update_clean_1.pdf)



<b>Committee(s)</b>	<b>Dated:</b>
Port Health and Environmental Services Health and Wellbeing Board	27 <sup>th</sup> September 2021 17 <sup>th</sup> September 2021
<b>Subject:</b> City of London Contaminated Land Inspection Strategy 2021-2030	<b>Public</b>
<b>Which outcomes in the City Corporation's Corporate Plan does this proposal aim to impact directly?</b>	1,2,11,12
<b>Does this proposal require extra revenue and/or capital spending?</b>	No
<b>If so, how much?</b>	
<b>What is the source of Funding?</b>	
<b>Has this Funding Source been agreed with the Chamberlain's Department?</b>	
<b>Report of:</b> Director of Markets & Consumer Protection	<b>PHES: For decision</b> <b>HWB: For information</b>
<b>Report author:</b> Robin Whitehouse – Pollution Control	

## Summary

The City of London Corporation published a Contaminated Land Strategy in 2001 which has been subsequently reviewed in 2004 and 2015.

In accordance with statutory guidance issued by the Department of Environment, Food and Rural Affairs (Defra) the Contaminated Land Inspection Strategy has been reviewed again.

The strategy fulfils the City of London's statutory obligation to set out its wider approach to contaminated land and its inspection duties within the Square Mile and provides a more accessible, shorter and condensed strategy document.

The draft strategy was approved to go out to external consultation by this committee (18<sup>th</sup> May2021). The consultation has been completed, comments considered and minor amendments have been made to the strategy in line with those comments.

This report requests the adoption of this revised strategy

## Recommendation(s)

Members are asked to:

- Approve the proposal set out in paragraph 10 that the attached contaminated land inspection strategy 2021-2030 (Appendix 1) is adopted from the 1<sup>st</sup> October 2021.

## Main Report

### Background

- 1 In 2000, Part 2A of the Environmental Protection Act 1990 (EPA) was introduced to enable the remediation of land which meets the definition of contaminated land, based on its current land use.
- 2 The City of London Corporation as a regulator of Part 2A must:
  - Inspect the City to identify and categorise contaminated land.
  - Establish responsibility for the remediation of the land.
  - Ensure that appropriate remediation takes place.
  - Keep a public register detailing regulatory action taken to deal with contamination.
- 3 In 2001, the City of London produced a strategy outlining its approach to dealing with contaminated land in the ‘Square Mile’ using Part 2A Environmental Protection Act 1990.
- 4 This revised Strategy builds upon the earlier 2001 strategy and its revisions. It is considered that *“no evidence of significant harm or pollution of controlled water is currently taking place, and there is no contaminated land in the City as defined by the legislation”*.
- 5 This strategy review concludes there is scope for further ‘strategic inspection’ (desktop study) and documentation of the City’s exposed ground and work to be undertaken to ensure continued compliance with the aims and objectives of the legislation and Statutory Guidance.
- 6 This revised and condensed Strategy ensures that the City of London’s approach continues to be suitable and appropriate to address the City’s obligations.
- 7 The details of the Strategy were included in the papers for the 18<sup>th</sup> May 2021 committee meeting.
- 8 External consultation was undertaken in accordance with the committee report (18<sup>th</sup> May 2021).

- 9 The Environment Agency responded recommending technical amendments regarding the description of the underlying soils and aquifers, and the nature of some water abstraction licences within the City (appendix 2). These amendments have been made to the strategy and highlighted (Appendix 3).

## **Proposals/Options**

- 10 The attached contaminated land inspection strategy 2021-2030 is adopted from the 1st October 2021.

## **Corporate & Strategic Implications**

- 11 The proposals within this report and strategy meet the statutory requirements set out under Part 2A Environmental Protection Act 1990, as they apply to the City of London Corporation.
- 12 The work on contaminated land sits within the Corporate Plan Strategic Aims to “shape outstanding environments” and to “contribute to a flourishing society”

## **Implications**

- 13 The work contained within the strategy will be funded using existing resources from within the Port Health and Public Protection Service.
- 14 Should quantitative risk assessment as part of a detailed inspection be required costs (consultants fees / soil sampling / remediation) will be assessed based on the individual characteristics of the site and details of land ownership in line with the core legislation and the Guidance. Costs and liability will be apportioned to the responsible individual or organisation. A further report will be made to this committee if the need for a quantitative investigation is identified involving a financial implication for the City.

## **Appendix**

- Appendix 1 - The City of London Contaminated Land Inspection Strategy 2021-2030.
- Appendix 2 - Environment Agency consultation response.
- Appendix 3 - The City of London Contaminated land Inspection Strategy 2021-2030.(Track changes)

## **Background Papers**

- The Port Health and Environmental Services Committee 18<sup>th</sup> May 2021, available at:  
<https://democracy.cityoflondon.gov.uk/documents/g21985/Public%20reports%20pack%2018th-May-2021%2011.00%20Port%20Health%20Environmental%20Services%20Committee.pdf?T=10>

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# City of London - Contaminated Land Inspection Strategy 2021-2030

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## **I Summary**

- I.1** Part 2A of the Environmental Protection Act 1990 is the legislative framework behind the contaminated land regime in England. Under Part 2A the City of London Corporation (City Corporation) is required to take a strategic approach to inspect the land within its geographic boundaries, to identify and prioritise contaminated land most likely to pose an unacceptable risk to human health and publish this information within a written Strategy. Where land is classified as contaminated under Part 2A the City Corporation is required to identify the person(s) liable to pay for the remediation and to ensure that it is carried out to the required standard. The Department for Environment Food and Rural Affairs (DEFRA) published revised Statutory Guidance in April 2012. This requires all local authorities to periodically review their existing Inspection Strategy to ensure it remains up to date.
- I.2** This Strategy revises and updates the 2015 Strategy. It contains information about the characteristics of the City of London and seeks to set out clearly the City Corporation's approach to dealing with land contamination using Part 2A over the next 10 years. It also summarises the City Corporation's wider approach to considering and regulating contaminated land through development management, whilst reflecting the uniqueness of the Square Mile. Work on any identified high priority sites on City Corporation owned land will be completed utilising the City Corporation's in-house resources and employing external services as required.
- I.3** This Strategy will be reviewed and, if necessary, updated further in 2026.

## **2 Context**

- 2.1 This Strategy outlines how the City Corporation will fulfil its statutory duties to investigate potentially contaminated land in the City of London as laid out in the Defra Contaminated Land Statutory Guidance (the Statutory Guidance). It should be read in conjunction with the Statutory Guidance, as that contains the legal and scientific detail behind the City Corporation's Strategy. Reference is also made to supplementary planning guidance which details the City Corporation's expectations of how land quality issues will be addressed and managed, primarily through the redevelopment of land under the planning process. The targets set out in the Strategy reflect the current and anticipated future financial circumstances the City Corporation will face over the Strategy period (2021-2030).

## **3 Objectives**

- 3.1 The objective of the Strategy is to set out a framework detailing a proportionate approach to management of the risks raised by land contamination, whilst ensuring that any unacceptable risk to human health or the wider environment from land contamination is removed.
- 3.2 All investigations and risk assessments completed by City Corporation will be site specific, scientifically robust and will ensure only land that poses a genuinely unacceptable risk is determined as contaminated under Part 2A.
- 3.3 The City Corporation will consider the various benefits and costs of taking action, with a view to ensuring that corporate priorities and statutory requirements are met in a balanced and proportionate manner.

## **4 Statutory Guidance**

- 4.1 The legislation behind the Contaminated Land regime in England is Part 2A (Sections 78A-78Y) of the Environmental Protection Act 1990 (EPA 1990), which came into force in April 2000 (inserted by Section 57 of the Environment Act 1995). This established the regulatory system for the identification and remediation of land contamination.
- 4.2 The overarching objectives of the Government's policy on contaminated land and the Part 2A regime are:
- To identify and remove unacceptable risks to human health and the environment;
  - To seek to ensure that contaminated land is made suitable for its current use;
  - To ensure that the burdens faced by individuals, companies and society as a whole are proportionate, manageable and compatible with the principles of sustainable development.
- 4.3 The legislation places a duty on the City Corporation to inspect the area from 'time to time' for the purpose of (a) identifying contaminated land and (b) deciding whether such land should be designated a special site, which then becomes the responsibility of the Environment Agency (EA).

- 4.4 Defra published the Contaminated Land Statutory Guidance in April 2012. This requires local authorities to adopt a “strategic approach” to inspecting their areas and prioritise land most likely to pose the greatest risk to human health and the environment and publish this information within a written Strategy. The Statutory Guidance requires the City Corporation to keep their written strategy under periodic review to ensure it remains up to date. This Strategy specifies a 5 year review in line with the Guidance “good practice.”
- 4.5 The City Corporation published its first written Strategy in 2001, this was reviewed and updated in 2015. The 2015 review set out how the City Corporation would develop an approach to inspection of the City of London for land that may be contaminated land. The 2015 strategy covered a 5 year period and is superseded by this document.
- 4.6 There is other statutory guidance which the City Corporation needs to consider in relation to Part 2A:
- National Planning Policy;
  - Local Planning Policy;
  - Building Regulations;
  - Environmental Permitting (England and Wales) Regulations 2016; and
  - Environmental Damage (Prevention and Remediation) Regulations 2015.

## **5 Approach to contaminated land assessment**

- 5.1 The approach to contaminated land assessment is detailed in the Land Contamination Risk Management (LCRM) documentation. The guidance sets out a three stage approach:

a Risk Assessment

b Options Appraisal and

c Remediation and Verification.

- 5.2 Risk assessment is based on the Source-Pathway-Receptor contaminant linkage concept. For a risk to exist then all three elements of the linkage must be present. This is the case for land quality assessments completed under both planning and Part 2A.

**Source:** Contaminants in soil, groundwater, gas or vapour;

**Pathway:** Physical contact with contaminated soil or groundwater, inhalation of dust, consumption of edible plants grown in contaminated soil and/or soil attached to edible plants, inhalation of indoor or outdoor gases or vapours, permeation of contamination into water supply pipes, migration of contamination in groundwater, migration of contamination via over ground flow;

**Receptor:** Humans, controlled waters (groundwater or surface water), ecological receptors (animals and sites designated as environmentally sensitive land uses), buildings and structures.

### **5.3 Assessment under Part 2A**

- 5.3.1 For land to be determined as contaminated land under Part 2A there must exist a ‘Significant Possibility of Significant Harm’ (SPOSH) from contamination in, on, or under the land, such that it presents an unacceptable intake (UI) for users of that land (i.e. in such a form and quantity that it presents a hazard by means of one or more pathways that has a *significant*

possibility of causing *significant* harm to someone). It is noted that there is no clear Government guidance on what constitutes “unacceptable intake” or “significant possibility of significant harm”. However, the regime and associated Statutory Guidance<sup>1</sup> is clear that only those sites that present a ‘significant possibility of harm’ or are found to be causing ‘harm’ should be dealt with under Part 2A.

- 5.3.2 The Statutory Guidance sets out four categories of sites to assist in the decision making process, where Categories **1** and **2** ‘would encompass land which is **capable** of being determined as contaminated land on the grounds of SPOSH’ and, Categories **3** and **4** would ‘encompass land **not capable** of being determined on such grounds’. Further technical supporting information was provided by DEFRA in respect of screening levels for Category 4 land (i.e. not Contaminated Land as defined by Part 2A). These are often referred to as C4SLs. The C4SLs consist of **cautious** estimates of contaminant concentrations in soil that are considered to present an **acceptable level of risk**, within the context of Part 2A, by combining information on human health toxicology, exposure assessment and normal ambient levels of contaminants in the environment. That is to say that exceedance of a C4SL does not, in and of itself, constitute SPOSH.

## 5.4 Duties

### 5.4.1 Local Authorities

- Where possible inspect the Borough to identify contaminated land;
- Prepare a strategy for inspection of their area;
- Determining whether any land meets the definition of Contaminated Land under Part 2A i.e. land that is causing harm or has potential of causing harm;
- Establish whether sites should be designated as “Special Sites” and thus become the enforcing responsibility of the Environment Agency;
- Consult the Environment Agency on sites where there is pollution of controlled waters and where the Local Authority considers that land meets the definition of a Special Site;
- Where the Agency carries out an inspection on behalf of the Council, the inspection duty and the decision as to whether land is Contaminated Land, remain the sole responsibility of the Council;
- Act as enforcing authority for all contaminated land which is not designated as a “Special Site”; and
- Maintain a public register of sites for which a remediation notice has been served, or where a remediation statement or declaration has been published.

### 5.4.2 Environment Agency

The Agency is a primary source of information and advice for local authorities. In addition, the Agency has its own regulatory functions to perform under Part 2A:

- Assist and provide guidance to local authorities in identifying contaminated land, particularly in cases of water pollution;
- Undertake inspections of Potential Special Sites following LA request;
- Act as enforcing authority for any land designated as a Special Site;
- Maintain a register of Special Sites remediation; and
- Publish periodic reports on the State of Contaminated Land.



#### 5.4.3 Both LA and EA

- Establish who should bear responsibility for the remediation of land;
- Decide, after consultation, what remediation is required and ensure that such remediation takes place either through agreement or by serving a remediation notice. In certain circumstances the local authority may need to undertake the remediation;
- Where a remediation notice is served or the authority carries out the work, to determine who should bear what proportion of the costs for the work; and
- Record certain prescribed information regarding regulatory actions on a public register.

## **6 The City's Characteristics**

### **6.1 *Physical and Land designations***

- 6.1.1 The City of London is located in the historic heart of London, to the north of the Thames. The City Corporation provides local authority services for this area, known colloquially as the 'Square Mile'. It has approximately 8,000 residents and a working population of approximately 500,000. It is a primarily commercial area with a rich history and iconic London landmarks, attracting thousands of tourists per annum. The City Corporation also owns, leases and manages property and land within and outside the City of London.
- 6.1.2 Residential accommodation is distributed across the City of London. Most residential properties in the City of London are residential flats and are concentrated in the following areas: The Barbican Estate, Golden Lane Estate, Middlesex Street Estate and Mansell Street. There are also a very small number of detached, semidetached, and terraced residential properties within the area. Some of these dwellings have access to private and communal gardens which would create a direct contact or inhalation pathway for exposure if contaminants are present.
- 6.1.3 There are no nature reserves or other designated protected habitats within the Square Mile. Much of the open space in the City of London comprises hard-standing, with raised planter beds; pockets of managed green open space also exist in some areas. There are several managed public spaces and gardens throughout the area which could be utilised by the working population and residents. Some of these areas contain soft landscaping and others are hard standing with raised planter beds.
- 6.1.4 The City of London dates from Roman times and has a rich history. It is the historic core from which the rest of London developed. It has a rich historical heritage with more than six hundred listed buildings and other protected structures in the City. Although predominantly non-industrial, there have been a wide range of historic land uses, which could potentially have given rise to contamination.
- 6.1.5 All of the City of London is considered to have archaeological potential, except where there is evidence that remains have been removed previously. The archaeological potential of a site is considered as part of development management process.
- 6.1.6 Due to the City's position, extensive areas were damaged by war time bombing. Historic land uses which may have led to contamination prior to this time will have been destroyed in part during the bombing. Thereafter, World War II site redevelopment would have created areas of made ground of significant thickness locally and the composition of this made ground is unknown. Material may also have been removed or redistributed within the City during the post war redevelopment and thereafter; this would all be undocumented.

- 6.1.7 Due to the intensive bombing across the City, unexploded ordinance (UXO) has been found during excavations. Buried UXO therefore remain a risk which must be managed during excavations.

## **6.2 Geology, Hydrogeology and Hydrology**

- 6.2.1 The underlying geology is an important consideration when considering contaminated land, especially with consideration to controlled waters as the permeability of the soils affect the migration of contamination in both soil and groundwater. Mobile contaminants generally move more freely within coarse textured soils, such as sand and gravels as opposed to less freely through fine textured soils, such as silty clays.
- 6.2.2 The superficial geology across the City of London includes a mixture of alluvium, silts and River Terrace Deposits. The thickness of the gravels and alluvium varies and during the development management process, the excavation and construction of basements has resulted in the removal of superficial deposits in many areas. The underlying solid geology of the City comprises London Clay overlying the Lambeth Group, a mixture of sands, silts and clays. The Thanet Sand Formation and Upper Chalk underlie the Lambeth group. Borehole records indicate the London Clay to be approximately 35m thick and the Upper Chalk is generally encountered at approximately 60-70m below ground level. In addition to the creation of basements in the superficial geology, there has also been an increase in the number of developments where foundations (often bored pile foundations) extend to the Thanet Sands.
- 6.2.3 London Clay is a silty clay of negligible permeability and hence it is designated as an Unproductive Stratum by the Environment Agency. The London Clay confines the underlying soils (Lambeth Group, Thanet Sands and Upper Chalk) which are considered collectively to be a Principal Aquifer, largely preventing infiltration from above. There is therefore a risk that the Principal Aquifer could be contaminated through deep excavations, deep boreholes or piled foundations penetrating through the London Clay.
- 6.2.4 The majority of the Borough is underlain by the Taplow Gravel Formation (Secondary A Aquifer). The River Thames and southern area of the Borough adjacent to the river is underlain by Alluvium (Secondary Undifferentiated Aquifer). The Langley Silt Member (Secondary Undifferentiated Aquifer) is also present centrally and towards the east of the Borough.
- 6.2.5 Surface water features within the Borough include the River Thames which forms the southern boundary of the City. In addition, there are two historic rivers flowing through the City , being the Fleet and the Walbrook. Both historic rivers are now canalised/culverted and are incorporated into the sewer system, reducing the risk from contamination from historical land uses entering surface water receptors.
- 6.2.6 A small number of premises in the City are licenced by the EA to abstract groundwater. Environment Agency records have identified licences which include private abstractions for drinking water on Lombard Street and the Bank of England. The remainder of licences are predominantly for heating and cooling water, with some sites using the water for domestic purposes (e.g. flushing toilets). The location and information relating to the private water supplies in the City is periodically reviewed and updated. Given the presence of water abstracted for drinking purposes in the City, there is a requirement to ensure groundwater is protected.

## **7 What have we done already?**

7.1 As part of the 2001 Strategy development the City Corporation set about the process for strategic inspection of the City of London. The following work was completed as part of the initial Strategy by the City Corporation:

- identified and recorded sensitive receptors;
- identified and recorded current potential sources of contamination (based on historical maps and 'Kelly's Directories' available at that time.);
- assessed information provided by the EA;
- assessed geological and groundwater data for the City;
- developed an initial GIS system of data management; and
- developed procedures for:
  - site inspections in the event of contaminated land being suspected;
  - dealing with pollution incidents or spillages; and
  - dealing with complaints or concerns about potentially contaminated land.

7.2 Following the 2001 Strategy and review in 2004, there was no strong evidence suggesting contaminated land was present in the City (as defined by the legislation). A review of the Strategy was undertaken in 2015 to assess whether the City Corporations approach was sufficient and whether any new information was available. The 2015 review highlighted areas where additional work could be undertaken to improve data on which regulatory land contamination decisions were based. In particular the review identified the following broad priorities and areas for improvement:-

- Gain improved understanding and additional information on potential sources of contamination;
- Requirement to identify and record locations and nature of current receptors;
- Requirement to identify current potential contaminant linkages; and
- Requirement to prioritise sites where contaminant linkages may be present, to identify sites that may require 'Detailed Inspection' as set out in the Guidance i.e. to assess whether sites are 'suitable for the current use'.

### ***Works completed following 2015 Strategy***

7.3 A third party and internal review process was completed which concluded that several useful datasets were available to take forward for prioritisation of potentially contaminated sites for more detailed inspection. However, the data available on historical land uses was considered limited in both temporal coverage and scale of mapping reviewed. Further research into historical land uses in the area was commissioned.

7.4 A detailed review of historical land uses was undertaken which included a review of additional historical OS mapping dating from the 1860s (1:1250 and 1:2500 scale) and available GOAD insurance plans. Locations and dates of historical land use with a contamination potential were recorded on the City Corporation's Land Quality Geographical Information System (LQGIS).

7.5 A combined layer of historical land use with contamination potential was created within the LQGIS. Having completed the above data collection work, the detail and volume of information available on historical land use in the City of London is considered to represent best practice, with the City Corporation now having a thorough and detailed understanding of historical land use and potential historical contaminative industries in the area.

- 7.6 The City Corporation's maintained datasets relating to 'current' land uses were utilised to identify locations of current receptors. Receptors were split into the following broad categories, with a focus on assessing potential risks to human health.
- Residential land (flats, housing with and without private and communal gardens);
  - Educational land (schools/nurseries);
  - Office/Retail/ Commercial land use (offices, hotels, shops); and
  - Ancient monuments/listed buildings/park and open spaces (gardens, parks, allotments/nature conservation areas etc).
- 7.7 Having identified historical land uses, locations of current receptors and data on current land use, the LQGIS was used to identify areas where contaminant linkages may exist.
- 7.8 The City Corporation has developed a site prioritisation procedure whereby source, pathway and receptor layers are combined in the LQGIS to identify locations where contaminant linkages may exist.
- 7.9 It is important to stress that the presence of a potential contaminant linkage on site does not provide sufficient evidence to confirm that a site meets the legal definition of contaminated land. In that the presence of a potential contaminant linkage does not demonstrate that there is either 'significant possibility of significant harm' or evidence that 'Harm is being caused' on site, rather it is the starting point for the City Corporation to consider whether more detailed inspection is required. It is also important to stress that the use of the LQGIS site prioritisation process is only a tool to assist with identifying sites for more detailed inspection. The prioritisation of sites is an evolving process and 'prioritisation' of a site or parcel of land for more detailed inspection is based on information contained within the LQGIS at the time that the assessment is undertaken. Results of any prioritisation exercise are therefore subject to change at any point and may not be reflective of actual site conditions. It is for this reason that a register of site prioritisation outputs is not maintained or published.

## **8 Current and future actions**

### **8.1 What are we doing now? (and will continue to do)**

#### *8.1.1 Responding to enquiries and complaints about contaminated land*

The Pollution Control Team is the main recipient of complaints regarding pollution (including contaminated land). Once a request for service is received, Environmental Health Officers investigate and advise.

#### *8.1.2 Processing planning applications*

The planning system has, and continues to be, the main mechanism in the identification and management of land affected by contamination. Potentially contaminated sites are dealt with via the development control procedures by applying planning conditions on development schemes, requiring contamination assessments and where applicable remedial work and verification;

#### *8.1.3 Undertaking site inspections and site visits as/where required*

A site visit might be required in one of the following scenarios:

- A site has been identified as requiring further inspection as part of the Council's duties under Part 2A;
- A site may be visited in conjunction with a planning application that has been made or to oversee remediation or investigation works required by a planning condition; and

- A site may be visited in response to a complaint from a member of public.

#### 8.1.4 *Responding to land search requests*

The Pollution Control Team responds to land search enquiries which request what the City Corporation knows in regard the condition of the site and the surrounding area and what intentions the City Corporation has in regard to inspection of the land under Part 2A.

### 8.2 **What do we need to do?**

8.2.1 The Statutory Guidance requires the City Corporation to continue to identify and prioritise sites that may be potentially contaminated by their historic or current use, followed by detailed inspections/investigations of sites where a need for further investigation has been identified.

8.2.2 The tasks and delivery timescales proposed for the Strategy review period are as follows:

No	Target	Proposed Deadline
1	Review land search procedure and ensure it meets current best practice.	October 2021
2	Maintain GIS mapping layers and datasets, including linking up information held on planning with LQGIS.	Annually
3	Review of sites identified with potential contaminant linkages and decide whether more detailed inspection is required.	January 2022 and annually thereafter
4	Carry out detailed inspection of potential Part 2A sites.	As priorities dictate and resource permits
5	Review Strategy (every 5 years).	January 2026

### 8.3 **How are we proposing to do it?**

8.3.1 *Identification of potential sites and prioritisation for detailed inspection*

8.3.2 The work already undertaken means that the City Corporation has a database of potential sites of interest across the City. The database will be regularly updated when new information becomes available– for example when reports are submitted to City Corporation via the planning development process.

8.3.3 The contaminated land register for the City of London will be maintained in accordance with Statutory Guidance requirements.

8.3.4 Only those sites with the highest priority ranking will be subject to more detailed inspection. It is envisaged that all but the highest risk sites will be addressed via the planning process. High risk sites under private ownership will be addressed by identifying and contacting the landowner and initialising the assessment process in accordance with the Statutory Guidance. High risk sites within the City of London under City Corporation ownership will be assessed in accordance with the Statutory Guidance requiring a phased approach. A Desk-based (Phase

l) study, including a site visit will be undertaken. If the Phase I assessment concludes a significant potential risk might exist to one or more identified receptors then moving onto the next phase. an intrusive (Phase 2) site investigation will be considered. It is envisaged that this work would be undertaken by the Pollution Control Team and the services of specialist environmental consultancies.

8.3.5 Investigation of sites where a potential unacceptable risk has been identified will be prioritised as follows:

- 1) Human Health Receptors
  - a. Residential/Education End Use
  - b. Commercial End Use
- 2) Controlled Waters Receptors
- 3) Ecological and Environmentally Sensitive Land Uses (Ecosystems)
- 4) Buildings and Structures.

8.3.6 The detailed inspection of a site will be limited to a site walkover and desktop study in the first instance. The City Corporation will follow the Statutory Guidance at all points of the process and will work with the Environment Agency and external experts where appropriate.

8.3.7 Where evidence of significant harm or a significant possibility of significant harm is identified the site will be actioned in accordance with the Statutory requirements under the EPA 1990 and the relevant Statutory Guidance to secure satisfactory remediation of the site, identify liable persons and recover costs as appropriate

#### **8.4 What are the possible outcomes of a detailed inspection?**

8.4.1 The Statutory Guidance describes in detail the possible outcomes of detailed inspection for all receptors. Sites will be assigned categories (1-4). Generally, sites in Category 1 will require immediate action (designation as contaminated land); sites in Category 2 may require immediate action. These categories represent sites where an unacceptable risk is found to be present or there is evidence of harm being caused, this will trigger the process of determination of the site as contaminated land. The City Corporation will then decide based upon all available information and in line with the Statutory Guidance, whether remediation of the site should be carried out. If remediation is carried out this will only be done where necessary and the City Corporation will work with residents, land owners and all interested parties and appropriate persons to minimise disruption as much as possible. Sites in Category 3 may not meet the stringent definition of contaminated land but may require observation or monitoring and sites in Category 4 are unlikely to meet the definition of contaminated land with no further action required. For controlled water receptors the City Corporation will consult with the Environment Agency.

#### **8.5 Who pays for this?**

Part 2A of the Environmental Protection Act 1990 makes it clear that, wherever possible, the original polluter and/or a developer ('Class A appropriate person') that knowingly developed a contaminated site without ensuring suitable levels of remediation are completed should pay for any remediation needed in later years. The City Corporation has a duty under the legislation to make all reasonable effort to ensure that this is the case. However, where it is not possible to identify the 'Class A appropriate person', for example where the contamination

and/or the development occurred many years ago and the people and companies involved no longer exist. In accordance with the Statutory Guidance, the responsibility for dealing with the contamination passes to the current landowner ('Class B appropriate person'). Under the legislation the City Corporation has a duty to identify appropriate persons and apportion liability.

#### **8.6 What are the wider benefits of this strategy?**

From the work completed to date, the City Corporation has an extensive understanding and detailed, searchable record of historical land use in the City of London. This information is used by Environmental Health, Planning and Building Control Teams when considering new developments. The information is used to provide more detailed and useful replies to environmental information requests and will enable the City Corporation to focus regulatory effort on the highest risk sites in the Borough.

#### **8.7 How will we measure our progress in implementing this strategy?**

The strategic inspection process is by nature an iterative process. It is normal that sites will be added and removed from the database as information becomes available. We aim to add more detailed knowledge about sites each year using existing resources. This increased knowledge will enable the Council to refine the prioritisation process further, reduce the number of sites that might need more detailed investigation and identify those that may need detailed investigation most urgently.

#### **8.8 How does this strategy interact with the planning system?**

- 8.8.1 The National Planning Policy Framework (NPPF) makes specific reference to dealing with land contamination and land contamination is a material planning consideration. The development management process is the primary way in which land contamination issues are investigated, managed and remediated.
- 8.8.2 Where a site is affected by contamination, responsibility for securing a safe development rests with the developer and/or landowner. As an absolute minimum this means that the site must be incapable of being designated as contaminated land as defined under Part 2A.
- 8.8.3 Under most circumstances the City Corporation will expect any planning application for land which may be affected by contamination to be accompanied by a report either at application stage or will be required by a pre-commencement planning condition. Reports submitted should comply with current LCRM Guidance and with the British Standard BS10175:2011+A2:2017 "Investigation of potentially contaminated site – Code of Practice". Reports should identify that the site under consideration has been assessed as suitable for use or in the event that further works are needed, detail the works required to make the site suitable for use. Reports will need to be submitted for approval at each stage, on completion of the Phase 1 desk study, prior to investigations commencing, prior to remediation works and on completion of any required remediation. All reports should be completed by a suitably qualified "competent" person as defined in the NPPF.

## 9 Contact us

If you would like to talk to us about this strategy or other matters related to contaminated land in detail please contact the Pollution Team via telephone 0207 606 3030 or email pollution team [Pollution@cityoflondon.gov.uk](mailto:Pollution@cityoflondon.gov.uk) or visit the City Corporation web site <https://www.cityoflondon.gov.uk/services/environmental-health/other-public-health>

### References

Contaminated land Statutory Guidance-

<https://www.gov.uk/government/publications/contaminated-land-statutory-guidance>

City of London Contaminated Land Strategy 2015-

<https://democracy.cityoflondon.gov.uk/documents/s57004/City%20Contaminated%20Land%20Strategy%202015%20-%202020%20FINAL.pdf>

Environmental Protection Act 1990 section 78A-78Y-

<https://www.legislation.gov.uk/ukpga/1990/43/section/78A/england+wales>

National Planning Policy-

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

City of London Planning Policy-

<https://www.cityoflondon.gov.uk/services/planning/planning-policy>

Building Regulations

<https://www.gov.uk/government/collections/approved-documents>

Environmental Permitting (England and Wales) Regulations 2016-

<https://www.legislation.gov.uk/uksi/2016/1154/contents/made>

Environmental Damage (Prevention and Remediation) (England) Regulations 2015-

<https://www.legislation.gov.uk/uksi/2015/810/contents>

Land Contamination Risk Management (LCRM)-

<https://www.gov.uk/government/publications/land-contamination-risk-management-lcrm>

Category 4 Screening Levels (C4SLs)

[https://www.claire.co.uk/home/news/%5C/%5C/www2.hull.ac.uk%5C/index.php?option=com\\_content&view=article&id=207&catid=44&Itemid=256](https://www.claire.co.uk/home/news/%5C/%5C/www2.hull.ac.uk%5C/index.php?option=com_content&view=article&id=207&catid=44&Itemid=256)



Department of Markets & Consumer  
Protection  
City of London Corporation  
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**Our ref:** NE/2006/000160/SD-03/IS1-L01

**Date:** 29 July 2021

Dear Sir/Madam

### **City of London – Draft Contaminated Land Inspection Strategy 2021 - 2030**

Thank you for consulting us on the City of London – Draft Contaminated Land Inspection Strategy 2021 – 2030. We are pleased to see that you are providing an update to the previous City of London Contaminated Land Inspection Strategy published in 2015.

We note that the contaminated land strategy is aligned with Part 2A of the Environmental Protection Act 1990, the relevant updated statutory guidance published in 2012 and the City Plan 2036 – Shaping the Future City – City of London Local Plan Draft submission Report

This update also provides timescales for ongoing review of datasets, review of sites identified with potential contaminant linkages and to provide subsequent updates of the strategy. We agree that with the City Corporation's position with that only land that poses and unacceptable risk to human health or the environment should be determined as contaminated under Part 2A and that development management should remain the primary route for regulating land affected by contamination. Based on the above we are happy to support this strategy.

Whilst we are pleased with the strategy overall we have several specific observations to correct and improve some of the sections.

### **Section 6.2 Geology, Hydrogeology and Hydrology**

#### Section 6.2.2

We are very pleased to see specific reference to bored foundations extending into the Thanet Sand formation. Deep penetrations through the London Clay do increase the risk to the deeper more sensitive groundwater bearing aquifers by potentially creating preferential migration pathways for contaminants present in shallow soils. We are glad this has been highlighted.

#### Section 6.2.3

Cont/d..

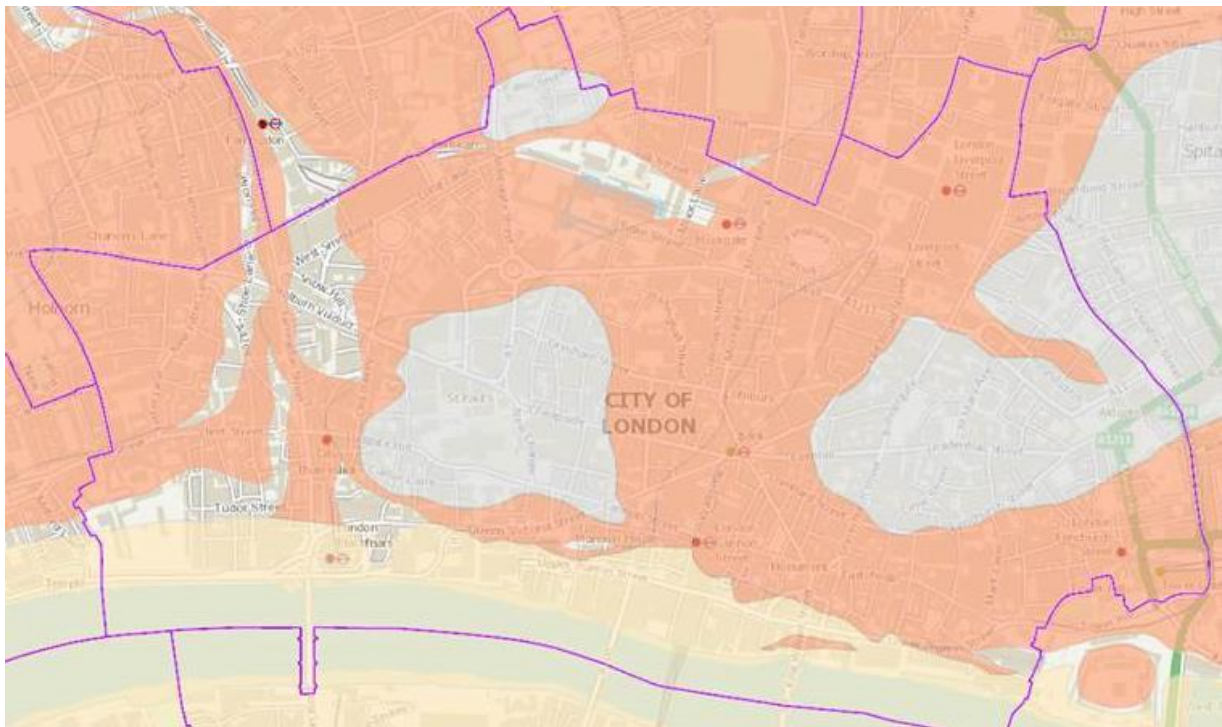
Section 6.2.3 discusses the protection provided by the London Clay to deeper aquifers. Whilst we welcome a section on this we feel that some words are missing and recommend that the third sentence should read as follows:

*“...The London Clay confines the underlying soils (Lambeth Group, Thanet Sands and Upper Chalk) which are considered collectively to be a Principal Aquifer, largely preventing infiltration from above.”*

Across large areas of the London Basin hydrogeological testing has shown continuity between the Thanet Sands and the Chalk meaning contamination of the Thanet Sands is likely to impact on the more strategically important (and therefore sensitive) Chalk. The Lambeth Group is much more heterogeneous but in some places does comprise of permeable soils and is in hydraulic connectivity with the underlying Thanet Sands and Chalk. Due to this we often collectively consider these deposits to be a Principal Aquifer. Strictly speaking however, the Lambeth Group and Thanet sands are classified as Secondary A Aquifers.

#### Section 6.2.4

The drift deposits described in this section have been incorrectly described. The majority of the area is underlain by the Taplow Gravel Formation (Secondary A Aquifer). The River Thames and the southern fringe of the area adjacent to the river is underlain by Alluvium (Secondary (undifferentiated) Aquifer). The Langley Silt Member (Secondary (unproductive) Aquifer) is also present centrally and towards the east of the area. We have provided an extract from the Environment Agency's in house GIS mapping layer below – this is based on the most recent BGS geological mapping data.



#### Key

Unshaded areas = no information

Pale orange areas = Taplow Gravels Formation (Secondary A Aquifer)

Pale grey areas = Langley Silt Member (Unproductive)

Pale yellow area = Alluvium (Secondary undifferentiated Aquifer)

This information is available via Defra's MAGIC website.

### Section 6.2.6

Our records show that water for drinking is identified in the licence description for the Lombard Street and Bank of England private abstractions. The rest appear to be predominant used for heating and cooling water.

### **Alignment of document with other City of London Policy**

We have also checked the City Plan 2036 – Shaping the Future City – City of London Local Plan Draft submission Report (City of London Corporation dated March 2021) to see if it aligned with the draft Contaminated Land Strategy.

We welcome the specific reference to “addressing land contamination” in Strategic Policy S1 (in the context of site development). We also welcome Policy HL4 (Contaminated Land and Water Quality); this policy establishes the expectation that developers will undertake detailed site investigations and the requirement to undertake remediation or provide mitigation where potential risks to human health of environmental receptors is identified. Section 4.1.37 also encourages the use of pre-application discussions to identify particular issues related to environmental protection.

### **Final comments**

Thank you for contacting us regarding your draft Contaminated Land Inspection Strategy 2021 - 2030. Should you have any queries regarding this response, please do not hesitate to contact me.

Yours sincerely,

**George Lloyd**  
**Planning Advisor**

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# City of London - Contaminated Land Inspection Strategy 2021-2030

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## **I Summary**

- I.1** Part 2A of the Environmental Protection Act 1990 is the legislative framework behind the contaminated land regime in England. Under Part 2A the City of London Corporation (City Corporation) is required to take a strategic approach to inspect the land within its geographic boundaries, to identify and prioritise contaminated land most likely to pose an unacceptable risk to human health and publish this information within a written Strategy. Where land is classified as contaminated under Part 2A the City Corporation is required to identify the person(s) liable to pay for the remediation and to ensure that it is carried out to the required standard. The Department for Environment Food and Rural Affairs (DEFRA) published revised Statutory Guidance in April 2012. This requires all local authorities to periodically review their existing Inspection Strategy to ensure it remains up to date.
- I.2** This Strategy revises and updates the 2015 Strategy. It contains information about the characteristics of the City of London and seeks to set out clearly the City Corporation's approach to dealing with land contamination using Part 2A over the next 10 years. It also summarises the City Corporation's wider approach to considering and regulating contaminated land through development management, whilst reflecting the uniqueness of the Square Mile. Work on any identified high priority sites on City Corporation owned land will be completed utilising the City Corporation's in-house resources and employing external services as required.
- I.3** This Strategy will be reviewed and, if necessary, updated further in 2026.

## **2 Context**

- 2.1 This Strategy outlines how the City Corporation will fulfil its statutory duties to investigate potentially contaminated land in the City of London as laid out in the Defra Contaminated Land Statutory Guidance (the Statutory Guidance). It should be read in conjunction with the Statutory Guidance, as that contains the legal and scientific detail behind the City Corporation's Strategy. Reference is also made to supplementary planning guidance which details the City Corporation's expectations of how land quality issues will be addressed and managed, primarily through the redevelopment of land under the planning process. The targets set out in the Strategy reflect the current and anticipated future financial circumstances the City Corporation will face over the Strategy period (2021-2030).

## **3 Objectives**

- 3.1 The objective of the Strategy is to set out a framework detailing a proportionate approach to management of the risks raised by land contamination, whilst ensuring that any unacceptable risk to human health or the wider environment from land contamination is removed.
- 3.2 All investigations and risk assessments completed by City Corporation will be site specific, scientifically robust and will ensure only land that poses a genuinely unacceptable risk is determined as contaminated under Part 2A.
- 3.3 The City Corporation will consider the various benefits and costs of taking action, with a view to ensuring that corporate priorities and statutory requirements are met in a balanced and proportionate manner.

## **4 Statutory Guidance**

- 4.1 The legislation behind the Contaminated Land regime in England is Part 2A (Sections 78A-78Y) of the Environmental Protection Act 1990 (EPA 1990), which came into force in April 2000 (inserted by Section 57 of the Environment Act 1995). This established the regulatory system for the identification and remediation of land contamination.
- 4.2 The overarching objectives of the Government's policy on contaminated land and the Part 2A regime are:
- To identify and remove unacceptable risks to human health and the environment;
  - To seek to ensure that contaminated land is made suitable for its current use;
  - To ensure that the burdens faced by individuals, companies and society as a whole are proportionate, manageable and compatible with the principles of sustainable development.
- 4.3 The legislation places a duty on the City Corporation to inspect the area from 'time to time' for the purpose of (a) identifying contaminated land and (b) deciding whether such land should be designated a special site, which then becomes the responsibility of the Environment Agency (EA).

- 4.4 Defra published the Contaminated Land Statutory Guidance in April 2012. This requires local authorities to adopt a “strategic approach” to inspecting their areas and prioritise land most likely to pose the greatest risk to human health and the environment and publish this information within a written Strategy. The Statutory Guidance requires the City Corporation to keep their written strategy under periodic review to ensure it remains up to date. This Strategy specifies a 5 year review in line with the Guidance “good practice.”
- 4.5 The City Corporation published its first written Strategy in 2001, this was reviewed and updated in 2015. The 2015 review set out how the City Corporation would develop an approach to inspection of the City of London for land that may be contaminated land. The 2015 strategy covered a 5 year period and is superseded by this document.
- 4.6 There is other statutory guidance which the City Corporation needs to consider in relation to Part 2A:
- National Planning Policy;
  - Local Planning Policy;
  - Building Regulations;
  - Environmental Permitting (England and Wales) Regulations 2016; and
  - Environmental Damage (Prevention and Remediation) Regulations 2015.

## **5 Approach to contaminated land assessment**

- 5.1 The approach to contaminated land assessment is detailed in the Land Contamination Risk Management (LCRM) documentation. The guidance sets out a three stage approach:

a Risk Assessment

b Options Appraisal and

c Remediation and Verification.

- 5.2 Risk assessment is based on the Source-Pathway-Receptor contaminant linkage concept. For a risk to exist then all three elements of the linkage must be present. This is the case for land quality assessments completed under both planning and Part 2A.

**Source:** Contaminants in soil, groundwater, gas or vapour;

**Pathway:** Physical contact with contaminated soil or groundwater, inhalation of dust, consumption of edible plants grown in contaminated soil and/or soil attached to edible plants, inhalation of indoor or outdoor gases or vapours, permeation of contamination into water supply pipes, migration of contamination in groundwater, migration of contamination via over ground flow;

**Receptor:** Humans, controlled waters (groundwater or surface water), ecological receptors (animals and sites designated as environmentally sensitive land uses), buildings and structures.

### **5.3 Assessment under Part 2A**

- 5.3.1 For land to be determined as contaminated land under Part 2A there must exist a ‘Significant Possibility of Significant Harm’ (SPOSH) from contamination in, on, or under the land, such that it presents an unacceptable intake (UI) for users of that land (i.e. in such a form and quantity that it presents a hazard by means of one or more pathways that has a *significant*

possibility of causing *significant* harm to someone). It is noted that there is no clear Government guidance on what constitutes “unacceptable intake” or “significant possibility of significant harm”. However, the regime and associated Statutory Guidance<sup>1</sup> is clear that only those sites that present a ‘significant possibility of harm’ or are found to be causing ‘harm’ should be dealt with under Part 2A.

- 5.3.2 The Statutory Guidance sets out four categories of sites to assist in the decision making process, where Categories **1** and **2** ‘would encompass land which is **capable** of being determined as contaminated land on the grounds of SPOSH’ and, Categories **3** and **4** would ‘encompass land **not capable** of being determined on such grounds’. Further technical supporting information was provided by DEFRA in respect of screening levels for Category 4 land (i.e. not Contaminated Land as defined by Part 2A). These are often referred to as C4SLs. The C4SLs consist of **cautious** estimates of contaminant concentrations in soil that are considered to present an **acceptable level of risk**, within the context of Part 2A, by combining information on human health toxicology, exposure assessment and normal ambient levels of contaminants in the environment. That is to say that exceedance of a C4SL does not, in and of itself, constitute SPOSH.

## **5.4 Duties**

### **5.4.1 Local Authorities**

- Where possible inspect the Borough to identify contaminated land;
- Prepare a strategy for inspection of their area;
- Determining whether any land meets the definition of Contaminated Land under Part 2A i.e. land that is causing harm or has potential of causing harm;
- Establish whether sites should be designated as “Special Sites” and thus become the enforcing responsibility of the Environment Agency;
- Consult the Environment Agency on sites where there is pollution of controlled waters and where the Local Authority considers that land meets the definition of a Special Site;
- Where the Agency carries out an inspection on behalf of the Council, the inspection duty and the decision as to whether land is Contaminated Land, remain the sole responsibility of the Council;
- Act as enforcing authority for all contaminated land which is not designated as a “Special Site”; and
- Maintain a public register of sites for which a remediation notice has been served, or where a remediation statement or declaration has been published.

### **5.4.2 Environment Agency**

The Agency is a primary source of information and advice for local authorities. In addition, the Agency has its own regulatory functions to perform under Part 2A:

- Assist and provide guidance to local authorities in identifying contaminated land, particularly in cases of water pollution;
- Undertake inspections of Potential Special Sites following LA request;
- Act as enforcing authority for any land designated as a Special Site;
- Maintain a register of Special Sites remediation; and
- Publish periodic reports on the State of Contaminated Land.



#### 5.4.3 Both LA and EA

- Establish who should bear responsibility for the remediation of land;
- Decide, after consultation, what remediation is required and ensure that such remediation takes place either through agreement or by serving a remediation notice. In certain circumstances the local authority may need to undertake the remediation;
- Where a remediation notice is served or the authority carries out the work, to determine who should bear what proportion of the costs for the work; and
- Record certain prescribed information regarding regulatory actions on a public register.

## **6 The City's Characteristics**

### **6.1 *Physical and Land designations***

- 6.1.1 The City of London is located in the historic heart of London, to the north of the Thames. The City Corporation provides local authority services for this area, known colloquially as the 'Square Mile'. It has approximately 8,000 residents and a working population of approximately 500,000. It is a primarily commercial area with a rich history and iconic London landmarks, attracting thousands of tourists per annum. The City Corporation also owns, leases and manages property and land within and outside the City of London.
- 6.1.2 Residential accommodation is distributed across the City of London. Most residential properties in the City of London are residential flats and are concentrated in the following areas: The Barbican Estate, Golden Lane Estate, Middlesex Street Estate and Mansell Street. There are also a very small number of detached, semidetached, and terraced residential properties within the area. Some of these dwellings have access to private and communal gardens which would create a direct contact or inhalation pathway for exposure if contaminants are present.
- 6.1.3 There are no nature reserves or other designated protected habitats within the Square Mile. Much of the open space in the City of London comprises hard-standing, with raised planter beds; pockets of managed green open space also exist in some areas. There are several managed public spaces and gardens throughout the area which could be utilised by the working population and residents. Some of these areas contain soft landscaping and others are hard standing with raised planter beds.
- 6.1.4 The City of London dates from Roman times and has a rich history. It is the historic core from which the rest of London developed. It has a rich historical heritage with more than six hundred listed buildings and other protected structures in the City. Although predominantly non-industrial, there have been a wide range of historic land uses, which could potentially have given rise to contamination.
- 6.1.5 All of the City of London is considered to have archaeological potential, except where there is evidence that remains have been removed previously. The archaeological potential of a site is considered as part of development management process.
- 6.1.6 Due to the City's position, extensive areas were damaged by war time bombing. Historic land uses which may have led to contamination prior to this time will have been destroyed in part during the bombing. Thereafter, World War II site redevelopment would have created areas of made ground of significant thickness locally and the composition of this made ground is unknown. Material may also have been removed or redistributed within the City during the post war redevelopment and thereafter; this would all be undocumented.

- 6.1.7 Due to the intensive bombing across the City, unexploded ordinance (UXO) has been found during excavations. Buried UXO therefore remain a risk which must be managed during excavations.

## **6.2 Geology, Hydrogeology and Hydrology**

- 6.2.1 The underlying geology is an important consideration when considering contaminated land, especially with consideration to controlled waters as the permeability of the soils affect the migration of contamination in both soil and groundwater. Mobile contaminants generally move more freely within coarse textured soils, such as sand and gravels as opposed to less freely through fine textured soils, such as silty clays.
- 6.2.2 The superficial geology across the City of London includes a mixture of alluvium, silts and River Terrace Deposits. The thickness of the gravels and alluvium varies and during the development management process, the excavation and construction of basements has resulted in the removal of superficial deposits in many areas. The underlying solid geology of the City comprises London Clay overlying the Lambeth Group, a mixture of sands, silts and clays. The Thanet Sand Formation and Upper Chalk underlie the Lambeth group. Borehole records indicate the London Clay to be approximately 35m thick and the Upper Chalk is generally encountered at approximately 60-70m below ground level. In addition to the creation of basements in the superficial geology, there has also been an increase in the number of developments where foundations (often bored pile foundations) extend to the Thanet Sands.
- 6.2.3 London Clay is a silty clay of negligible permeability and hence it is designated as an Unproductive Stratum by the Environment Agency. The London Clay confines the underlying soils (Lambeth Group, Thanet Sands and Upper Chalk) which are considered collectively to be a Principal Aquifer, largely preventing infiltration from above.. There is therefore a risk that the Principal Aquifer could be contaminated through deep excavations, deep boreholes or piled foundations penetrating through the London Clay.
- 6.2.4 The majority of the Borough is underlain by the Taplow Gravel Formation (Secondary A Aquifer). The River Thames and southern area of the Borough adjacent to the river is underlain by Alluvium (Secondary Undifferentiated Aquifer). The Langley Silt Member (Secondary Undifferentiated Aquifer) is also present centrally and towards the east of the Borough.
- 6.2.5 Surface water features within the Borough include the River Thames which forms the southern boundary of the City. In addition, there are two historic rivers flowing through the City , being the Fleet and the Walbrook. Both historic rivers are now canalised/culverted and are incorporated into the sewer system, reducing the risk from contamination from historical land uses entering surface water receptors.
- 6.2.6 A small number of premises in the City are licenced by the EA to abstract groundwater. Environment Agency records have identified licences which include private abstractions for drinking water on Lombard Street and the Bank of England. The remainder of licences are predominantly for heating and cooling water, with some sites using the water for domestic purposes (e.g. flushing toilets). The location and information relating to the private water supplies in the City is periodically reviewed and updated. Given the presence of water abstracted for drinking purposes in the City, there is a requirement to ensure groundwater is protected.



## **7 What have we done already?**

7.1 As part of the 2001 Strategy development the City Corporation set about the process for strategic inspection of the City of London. The following work was completed as part of the initial Strategy by the City Corporation:

- identified and recorded sensitive receptors;
- identified and recorded current potential sources of contamination (based on historical maps and 'Kelly's Directories' available at that time.);
- assessed information provided by the EA;
- assessed geological and groundwater data for the City;
- developed an initial GIS system of data management; and
- developed procedures for:
  - site inspections in the event of contaminated land being suspected;
  - dealing with pollution incidents or spillages; and
  - dealing with complaints or concerns about potentially contaminated land.

7.2 Following the 2001 Strategy and review in 2004, there was no strong evidence suggesting contaminated land was present in the City (as defined by the legislation). A review of the Strategy was undertaken in 2015 to assess whether the City Corporations approach was sufficient and whether any new information was available. The 2015 review highlighted areas where additional work could be undertaken to improve data on which regulatory land contamination decisions were based. In particular the review identified the following broad priorities and areas for improvement:-

- Gain improved understanding and additional information on potential sources of contamination;
- Requirement to identify and record locations and nature of current receptors;
- Requirement to identify current potential contaminant linkages; and
- Requirement to prioritise sites where contaminant linkages may be present, to identify sites that may require 'Detailed Inspection' as set out in the Guidance i.e. to assess whether sites are 'suitable for the current use'.

### ***Works completed following 2015 Strategy***

7.3 A third party and internal review process was completed which concluded that several useful datasets were available to take forward for prioritisation of potentially contaminated sites for more detailed inspection. However, the data available on historical land uses was considered limited in both temporal coverage and scale of mapping reviewed. Further research into historical land uses in the area was commissioned.

7.4 A detailed review of historical land uses was undertaken which included a review of additional historical OS mapping dating from the 1860s (1:1250 and 1:2500 scale) and available GOAD insurance plans. Locations and dates of historical land use with a contamination potential were recorded on the City Corporation's Land Quality Geographical Information System (LQGIS).

7.5 A combined layer of historical land use with contamination potential was created within the LQGIS. Having completed the above data collection work, the detail and volume of information available on historical land use in the City of London is considered to represent best practice, with the City Corporation now having a thorough and detailed understanding of historical land use and potential historical contaminative industries in the area.

- 7.6 The City Corporation's maintained datasets relating to 'current' land uses were utilised to identify locations of current receptors. Receptors were split into the following broad categories, with a focus on assessing potential risks to human health.
- Residential land (flats, housing with and without private and communal gardens);
  - Educational land (schools/nurseries);
  - Office/Retail/ Commercial land use (offices, hotels, shops); and
  - Ancient monuments/listed buildings/park and open spaces (gardens, parks, allotments/nature conservation areas etc).
- 7.7 Having identified historical land uses, locations of current receptors and data on current land use, the LQGIS was used to identify areas where contaminant linkages may exist.
- 7.8 The City Corporation has developed a site prioritisation procedure whereby source, pathway and receptor layers are combined in the LQGIS to identify locations where contaminant linkages may exist.
- 7.9 It is important to stress that the presence of a potential contaminant linkage on site does not provide sufficient evidence to confirm that a site meets the legal definition of contaminated land. In that the presence of a potential contaminant linkage does not demonstrate that there is either 'significant possibility of significant harm' or evidence that 'Harm is being caused' on site, rather it is the starting point for the City Corporation to consider whether more detailed inspection is required. It is also important to stress that the use of the LQGIS site prioritisation process is only a tool to assist with identifying sites for more detailed inspection. The prioritisation of sites is an evolving process and 'prioritisation' of a site or parcel of land for more detailed inspection is based on information contained within the LQGIS at the time that the assessment is undertaken. Results of any prioritisation exercise are therefore subject to change at any point and may not be reflective of actual site conditions. It is for this reason that a register of site prioritisation outputs is not maintained or published.

## **8 Current and future actions**

### **8.1 What are we doing now? (and will continue to do)**

#### *8.1.1 Responding to enquiries and complaints about contaminated land*

The Pollution Control Team is the main recipient of complaints regarding pollution (including contaminated land). Once a request for service is received, Environmental Health Officers investigate and advise.

#### *8.1.2 Processing planning applications*

The planning system has, and continues to be, the main mechanism in the identification and management of land affected by contamination. Potentially contaminated sites are dealt with via the development control procedures by applying planning conditions on development schemes, requiring contamination assessments and where applicable remedial work and verification;

#### *8.1.3 Undertaking site inspections and site visits as/where required*

A site visit might be required in one of the following scenarios:

- A site has been identified as requiring further inspection as part of the Council's duties under Part 2A;
- A site may be visited in conjunction with a planning application that has been made or to oversee remediation or investigation works required by a planning condition; and

- A site may be visited in response to a complaint from a member of public.

#### 8.1.4 *Responding to land search requests*

The Pollution Control Team responds to land search enquiries which request what the City Corporation knows in regard the condition of the site and the surrounding area and what intentions the City Corporation has in regard to inspection of the land under Part 2A.

### 8.2 **What do we need to do?**

8.2.1 The Statutory Guidance requires the City Corporation to continue to identify and prioritise sites that may be potentially contaminated by their historic or current use, followed by detailed inspections/investigations of sites where a need for further investigation has been identified.

8.2.2 The tasks and delivery timescales proposed for the Strategy review period are as follows:

No	Target	Proposed Deadline
1	Review land search procedure and ensure it meets current best practice.	October 2021
2	Maintain GIS mapping layers and datasets, including linking up information held on planning with LQGIS.	Annually
3	Review of sites identified with potential contaminant linkages and decide whether more detailed inspection is required.	January 2022 and annually thereafter
4	Carry out detailed inspection of potential Part 2A sites.	As priorities dictate and resource permits
5	Review Strategy (every 5 years).	January 2026

### 8.3 **How are we proposing to do it?**

8.3.1 *Identification of potential sites and prioritisation for detailed inspection*

8.3.2 The work already undertaken means that the City Corporation has a database of potential sites of interest across the City. The database will be regularly updated when new information becomes available– for example when reports are submitted to City Corporation via the planning development process.

8.3.3 The contaminated land register for the City of London will be maintained in accordance with Statutory Guidance requirements.

8.3.4 Only those sites with the highest priority ranking will be subject to more detailed inspection. It is envisaged that all but the highest risk sites will be addressed via the planning process. High risk sites under private ownership will be addressed by identifying and contacting the landowner and initialising the assessment process in accordance with the Statutory Guidance. High risk sites within the City of London under City Corporation ownership will be assessed in accordance with the Statutory Guidance requiring a phased approach. A Desk-based (Phase

l) study, including a site visit will be undertaken. If the Phase I assessment concludes a significant potential risk might exist to one or more identified receptors then moving onto the next phase. an intrusive (Phase 2) site investigation will be considered. It is envisaged that this work would be undertaken by the Pollution Control Team and the services of specialist environmental consultancies.

8.3.5 Investigation of sites where a potential unacceptable risk has been identified will be prioritised as follows:

- 1) Human Health Receptors
  - a. Residential/Education End Use
  - b. Commercial End Use
- 2) Controlled Waters Receptors
- 3) Ecological and Environmentally Sensitive Land Uses (Ecosystems)
- 4) Buildings and Structures.

8.3.6 The detailed inspection of a site will be limited to a site walkover and desktop study in the first instance. The City Corporation will follow the Statutory Guidance at all points of the process and will work with the Environment Agency and external experts where appropriate.

8.3.7 Where evidence of significant harm or a significant possibility of significant harm is identified the site will be actioned in accordance with the Statutory requirements under the EPA 1990 and the relevant Statutory Guidance to secure satisfactory remediation of the site, identify liable persons and recover costs as appropriate

#### **8.4 *What are the possible outcomes of a detailed inspection?***

8.4.1 The Statutory Guidance describes in detail the possible outcomes of detailed inspection for all receptors. Sites will be assigned categories (1-4). Generally, sites in Category 1 will require immediate action (designation as contaminated land); sites in Category 2 may require immediate action. These categories represent sites where an unacceptable risk is found to be present or there is evidence of harm being caused, this will trigger the process of determination of the site as contaminated land. The City Corporation will then decide based upon all available information and in line with the Statutory Guidance, whether remediation of the site should be carried out. If remediation is carried out this will only be done where necessary and the City Corporation will work with residents, land owners and all interested parties and appropriate persons to minimise disruption as much as possible. Sites in Category 3 may not meet the stringent definition of contaminated land but may require observation or monitoring and sites in Category 4 are unlikely to meet the definition of contaminated land with no further action required. For controlled water receptors the City Corporation will consult with the Environment Agency.

#### **8.5 *Who pays for this?***

Part 2A of the Environmental Protection Act 1990 makes it clear that, wherever possible, the original polluter and/or a developer ('Class A appropriate person') that knowingly developed a contaminated site without ensuring suitable levels of remediation are completed should pay for any remediation needed in later years. The City Corporation has a duty under the legislation to make all reasonable effort to ensure that this is the case. However, where it is not possible to identify the 'Class A appropriate person', for example where the contamination

and/or the development occurred many years ago and the people and companies involved no longer exist. in accordance with the Statutory Guidance, the responsibility for dealing with the contamination passes to the current landowner ('Class B appropriate person'). Under the legislation the City Corporation has a duty to identify appropriate persons and apportion liability.

#### **8.6 What are the wider benefits of this strategy?**

From the work completed to date, the City Corporation has an extensive understanding and detailed, searchable record of historical land use in the City of London. This information is used by Environmental Health, Planning and Building Control Teams when considering new developments. The information is used to provide more detailed and useful replies to environmental information requests and will enable the City Corporation to focus regulatory effort on the highest risk sites in the Borough.

#### **8.7 How will we measure our progress in implementing this strategy?**

The strategic inspection process is by nature an iterative process. It is normal that sites will be added and removed from the database as information becomes available. We aim to add more detailed knowledge about sites each year using existing resources. This increased knowledge will enable the Council to refine the prioritisation process further, reduce the number of sites that might need more detailed investigation and identify those that may need detailed investigation most urgently.

#### **8.8 How does this strategy interact with the planning system?**

- 8.8.1 The National Planning Policy Framework (NPPF) makes specific reference to dealing with land contamination and land contamination is a material planning consideration. The development management process is the primary way in which land contamination issues are investigated, managed and remediated.
- 8.8.2 Where a site is affected by contamination, responsibility for securing a safe development rests with the developer and/or landowner. As an absolute minimum this means that the site must be incapable of being designated as contaminated land as defined under Part 2A.
- 8.8.3 Under most circumstances the City Corporation will expect any planning application for land which may be affected by contamination to be accompanied by a report either at application stage or will be required by a pre-commencement planning condition. Reports submitted should comply with current LCRM Guidance and with the British Standard BS10175:2011+A2:2017 "Investigation of potentially contaminated site – Code of Practice". Reports should identify that the site under consideration has been assessed as suitable for use or in the event that further works are needed, detail the works required to make the site suitable for use. Reports will need to be submitted for approval at each stage, on completion of the Phase 1 desk study, prior to investigations commencing, prior to remediation works and on completion of any required remediation. All reports should be completed by a suitably qualified "competent" person as defined in the NPPF.



## 9 Contact us

If you would like to talk to us about this strategy or other matters related to contaminated land in detail please contact the Pollution Team via telephone 0207 606 3030 or email pollution team [Pollution@cityoflondon.gov.uk](mailto:Pollution@cityoflondon.gov.uk) or visit the City Corporation web site <https://www.cityoflondon.gov.uk/services/environmental-health/other-public-health>

### References

Contaminated land Statutory Guidance-

<https://www.gov.uk/government/publications/contaminated-land-statutory-guidance>

City of London Contaminated Land Strategy 2015-

<https://democracy.cityoflondon.gov.uk/documents/s57004/City%20Contaminated%20Land%20Strategy%202015%20-%202020%20FINAL.pdf>

Environmental Protection Act 1990 section 78A-78Y-

<https://www.legislation.gov.uk/ukpga/1990/43/section/78A/england+wales>

National Planning Policy-

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

City of London Planning Policy-

<https://www.cityoflondon.gov.uk/services/planning/planning-policy>

Building Regulations

<https://www.gov.uk/government/collections/approved-documents>

Environmental Permitting (England and Wales) Regulations 2016-

<https://www.legislation.gov.uk/uksi/2016/1154/contents/made>

Environmental Damage (Prevention and Remediation) (England) Regulations 2015-

<https://www.legislation.gov.uk/uksi/2015/810/contents>

Land Contamination Risk Management (LCRM)-

<https://www.gov.uk/government/publications/land-contamination-risk-management-lcrm>

Category 4 Screening Levels (C4SLs)

[https://www.claire.co.uk/home/news/%5C/%5C/www2.hull.ac.uk%5C/index.php?option=com\\_content&view=article&id=207&catid=44&Itemid=256](https://www.claire.co.uk/home/news/%5C/%5C/www2.hull.ac.uk%5C/index.php?option=com_content&view=article&id=207&catid=44&Itemid=256)

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<b>Committee(s):</b> Port Health & Environmental Services Committee – request for delegated decision  Corporate Projects Board - for decision  Projects Sub - for decision	<b>Dated:</b> 27/09/2021  06/10/2021  20/10/2021
<b>Subject:</b> Replacement of the Lady Aileen's engines.	<b>Public</b>
<b>Which outcomes in the City Corporation's Corporate Plan does this proposal aim to impact directly?</b>	1, 5, 11
<b>Does this proposal require extra revenue and/or capital spending?</b>	Y
<b>If so, how much?</b>	<b>£350,000</b>
<b>What is the source of Funding?</b>	<b>Carry forward</b>
<b>Has this Funding Source been agreed with the Chamberlain's Department?</b>	Y
<b>Report of:</b> Juliemma McLoughlin, Executive Director, Environment Department	<b>For Decision</b>
<b>Report author:</b> Gavin Stedman, Director of Port Health & Public Protection	

## Summary

The Port Health Service have a number of vessels, which enables them to undertake their duties on the River Thames. One of the vessels, the Lady Aileen, is over 20 years old, with engines of an even older design. The hull of the Lady Aileen is in good order however, the engines are deteriorating rapidly with the problem of the parts no longer being available.

Estimates to rebuild the existing engines, replace the engines and replace the vessel have been obtained from the limited suppliers in the market and a Gateway 1-4 Project Proposal & Options Appraisal will be presented to both the Corporate Projects Board and Projects Sub for decision.

The Gateway 1-4 report would normally come to this Committee after the Corporate Projects Board, but due to the timescales and need to progress this work Delegated Authority is requested.

Carry forward from the Department underspend for 2020/21 of £350,000 has been agreed.

## **Recommendation(s)**

Members are asked to:

- Delegate authority to the Town Clerk, in consultation with the Chairman and Deputy Chairman, to approve the Gateway 1-4 Project Proposal and Options Appraisal for the replacement of the Lady Aileen's engines.

## **Main Report**

### **Background**

1. The Port Health Service, which is part of the Environment Department, have a number of vessels, which enables them to undertake their duties on the River Thames, covering an area from Teddington Lock to the Outer Thames Estuary.
2. The use of fully functioning vessels is integral to the discharge of the City's duties in its capacity as London Port Health Authority.
3. This includes statutory work associated with infectious disease control, ship hygiene inspections, water sampling and shellfish sampling etc. and non-statutory work, including ceremonial activities.
4. Two vessels are required meet the service demands. These are moored either side of the Thames Barrier at Charlton and Gravesend. This allows the service to effectively cover the 94 miles of the tidal River Thames that the service is responsible for. Due to the distances, the service could not effectively operate with one launch.
5. The Lady Aileen is over 20 years old, with the engines being of an older design. They are maintained in-house and regularly inspected by the Maritime and Coastal Agency (MCA).

### **Current Position**

6. The hull of the Lady Aileen has been assessed by the MCA as being in good order. However, the engines are deteriorating rapidly with the problem of the parts no longer being available.
7. There are a number of options from replacing the vessel, installing new 'state-of-the-art' engines or installing new 'old technology' engines.
8. The new engines would be lighter, more powerful and consequently will be more fuel efficient and less polluting. This is a good opportunity to ensure that our fleet is as environmentally friendly as possible.

### **Proposals**

9. Although there are limited suppliers in the marketplace, estimates have been obtained to:
  - Rebuild the engines, however the engines are old technology.
  - Replace the engines with Tier 3 IMO approved engines; would expect to get 40% fuel savings with new engines.
  - Replace with a new vessel.
10. The Gateway 1-4 report would normally come to this Committee after the Corporate Projects Board, but due to the timescales and need to progress this work Delegated Authority is requested.

## **Corporate & Strategic Implications**

11. Strategic implications – The work undertaken by the service supports the delivery of the following Corporate Plan Outcomes:
  - Contribute to a flourishing society
    1. People are safe and feel safe.
  - Support a thriving economy
    5. Businesses are trusted and socially and environmentally responsible.
  - Shape outstanding environments
    11. We have clean air, land and water and a thriving and sustainable natural environment.
12. Financial implications – Carry forward from the Department underspend for 2020/21 of £350,000 has been agreed.
13. Resource implications - None
14. Legal implications - The use of fully functioning vessels is integral to the discharge of the City's statutory functions in its capacity as London Port Health Authority. These functions include infectious disease control, shellfish sampling, ship sanitation, noise etc.
15. Risk implications – Likely reputational risks if the service is unable to undertake its statutory duties.
16. Equalities implications – An equality impact assessment will not be undertaken.
17. Climate implications – Use of the latest suitable technology will ensure that the fleet is as environmentally friendly as possible.
18. Security implications - None

## **Conclusion**

19. Estimates to rebuild the Lady Aileen's existing engines, replace the engines and replace the vessel have been obtained from the limited suppliers and a Gateway

1-4 Project Proposal & Options Appraisal will be presented to both the Corporate Projects Board and Projects Sub for decision.

20. The Gateway 1-4 report would normally come to this Committee after the Corporate Projects Board, but due to the timescales and need to progress this work Delegated Authority is requested.

### **Appendices**

None

### **Gavin Stedman**

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<b>Committee(s):</b> Port Health & Environmental Services Committee	<b>Dated:</b> 27 September 2021
<b>Subject:</b> Risk Management – Periodic Update Report	<b>Public</b>
<b>Which outcomes in the City Corporation's Corporate Plan does this proposal aim to impact directly?</b>	All
<b>Does this proposal require extra revenue and/or capital spending?</b>	N
<b>Report of:</b> Executive Director Environment	<b>For Information</b>
<b>Report authors:</b> Elisabeth Hannah Joanne Hill Martin Falder	

## Summary

This report has been produced to provide the Port Health & Environmental Services Committee with assurance that risk management procedures in place within the Environment Department are satisfactory and that they meet the requirements of the corporate Risk Management Framework.

This report only considers risks managed by the following service areas which fall within the remit of your Committee:

- Public Conveniences, Waste Collection, Street Cleansing, Waste Disposal and Transport Services
- Port Health and Public Protection
- Cemetery and Crematorium

Risk is reviewed regularly within each service area as part of the ongoing management of operations. In addition to the flexibility for emerging risks to be raised as they are identified, a process exists for in-depth periodic review of the risk register.

## Recommendation

Members are asked to:

- Note the report and the actions taken by each service area to monitor, mitigate and manage effectively risks arising from their operations.

## **Main Report**

### **Background**

1. The Risk Management Framework of the City of London Corporation requires each Chief Officer to report regularly to Committee on the key risks faced by their department.
2. Appendices 2, 3 and 4 present the current Risk Register Summaries of the following service areas which fall within the remit of your Committee:
  - Public Conveniences, Waste Collection, Street Cleansing, Waste Disposal and Transport Services
  - Port Health and Public Protection
  - Cemetery and Crematorium

### **Current Position**

3. This report provides an update on the key risks that exist in relation to the operations of the services areas within the Environment Department which fall within the remit of the Port Health and Environmental Services Committee.

### **Risk Management Process**

4. Risk Management is a standing agenda item at the regular meetings of each service area's Senior Management Team.
5. Between Management Team meetings, risks are reviewed in consultation with risk and control owners, and updates are recorded in the corporate risk management system (Pentana).
6. Regular risk management update reports are provided to this Committee in accordance with the City's Risk Management Framework.

### **Identification of New Risks**

7. New and emerging risks are identified through a number of channels, the main being:
  - Directly by Senior Management Teams as part of the regular review process.
  - In response to ongoing review of progress made against Business Plan objectives and performance measures, e.g., slippage of target dates or changes to expected performance levels.
  - In response to emerging events and changing circumstances which have the potential to impact on the delivery of services, such as Brexit and the COVID-19 pandemic.

The risk register may be refreshed over and above the stated process for review and oversight, in response to emerging issues or changing circumstances.



## **COVID-19 Risks**

8. As part of the City Corporation's response to the threat of the COVID-19 virus affecting the operation of services and support for its stakeholders, a command and control structure has been implemented with Gold, Silver and Bronze levels to manage the ongoing situation.
9. Gold requested that all Silver Groups should develop COVID-19 risks that may affect the service areas that report to these groups. These risks are now recorded on the Pentana Risk system.
10. Guidance has been issued to all Chief Officers to report relevant Silver Group risks to their appropriate service/Grand Committee along with the regular risk update reports.
11. The COVID-19 risks for each relevant service area are included in the appendices to this report. Members are asked to note that, in general, no target date has been included for the mitigation of each risk given the current uncertainty over the duration of this pandemic.
12. This approach enables Members to question and seek assurance that COVID-19 risks, held at Silver Group, are being managed and mitigated effectively.

## **Summary of Key Risks**

### **Public Conveniences, Waste Collection, Street Cleansing, Waste Disposal and Transport Services**

13. The Risk Register for the Cleansing and Waste Service, attached as Appendix 2 to this report, includes one Red Departmental risk:
  - DBE-TP-01 Road Traffic Collision caused by City of London staff or contractor who is unfit to drive while on City business (Red 16)
  - DBE-TP-07 A major incident, such as flooding or fire, makes Walbrook Wharf unusable as a depot (Green 4)
14. The COVID-19 Risk Register for the Cleansing and Waste Service, attached as Appendix 2 to this report, includes five risks:
  - CVD19 SGPS 24 Failure by BRONZE to deliver the Waste and Litter service (Amber 12)
  - CVD19 SGPS 25 Failure by BRONZE to deliver the Highways, Parking & Enforcement service (Amber 8)
  - CVD19 SGPS 26 Failure by BRONZE to deliver the Development & Construction service (Green 4)
  - CVD19 SGPS 27 Failure to deliver the New DBE – Finance (Green 4)
  - CVD19 SGPS 28 Failure to deliver the New DBE – Business Plan (Green 4)

## Port Health and Public Protection

15. The Risk Register for Port Health & Public Protection (PH&PP), attached as Appendix 3a to this report, includes one Amber Corporate risk and one Red Departmental risk:
- CR21** Air Quality (Amber, 12)
  - MCP-PHPP 001** Brexit (Red, 24)
16. The COVID-19 Risk Register for PH&PP, attached as Appendix 3b to this report, includes four risks:
- CVD19 SPGS 34** HARC Emerging recovery (Amber, 8)
  - CVD19 SGPS 20** HARC Animal welfare (Green, 4)
  - CVD19 SGPS 21** Port Health Imported food and feed (Green, 4)
  - CVD19 SGPS 22** Port Health Infectious disease control (Green, 4)
17. The PH&PP Service has an additional departmental risk which is exempt from public disclosure by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972. Appendix 5 to this report contains the details of the risk for consideration by Members in closed session.

## Cemetery and Crematorium

18. The Cemetery and Crematorium Risk Register for Port Health and Environmental Services Committee is attached to this report as Appendix 4a. The Cemetery and Crematorium risks are as follows:
- OSD CC 003 – Deterioration of buildings, plant and machinery (Amber, 8)
  - OSD CC 009 – Systems Failure (Amber, 6)
  - OSD CC 010 – Extreme Weather (Amber, 6)
  - OSD CC 011 – Tree and plant diseases (Amber, 6)
19. All four risks remain at the same level as previously reported. Their target score is at the same level as their current score, and we 'accept' these risks.
20. The Open Spaces COVID-19 Risk Register for Port Health and Environmental Services Committee is attached to this report as Appendix 4b. Risks related to the operation of the Cemetery and Crematorium have been included. The risks included are as follows:
- CVD19 SGPS 18 – Failure of Cemetery & Crematorium Services (Green, 4)
  - CVD19 SGPS 37 – Open Spaces Workforce Wellbeing (Amber, 8)
21. These risks remain at the same level as previously reported. Full details of these risks can be found at Appendix 4b.
22. In accordance with current corporate risk guidance, COVID-19 risks where the risk approach is set to 'Accept' have had their Target Score removed from the report.

## Corporate & Strategic Implications

**Strategic implications:** Effective management of risk is at the heart of the City Corporation's approach to delivering cost effective and valued services to the public as well as being an important element within the corporate governance of the organisation.

**Financial implications:** None

**Resource implications:** None

**Legal implications:** None

**Risk implications:** The proactive management of risk, including the reporting process to Members, demonstrates that each service area is adhering to the requirements of the City of London Corporation's Risk Management Policy and Strategy.

**Equalities implications:** There are no proposals in this report that would have an impact on people protected by existing equality legislation.

**Climate implications:** None

**Security implications:** None

## Conclusion

23. Members are asked to note that risk management processes within each service area adhere to the requirements of the City Corporation's Risk Management Framework. Risks identified within the operational and strategic responsibilities of each area are proactively managed.

## Appendices

- Appendix 1 – City of London Corporation Risk Matrix
- Appendix 2
  - a) Department of the Built Environment Risk Register
  - b) Department of the Built Environment COVID-19 Risk Register
- Appendix 3
  - a) Port Health and Public Protection Risk Register
  - b) Port Health and Public Protection COVID-19 Risk Register
- Appendix 4
  - a) Cemetery and Crematorium Risk Register
  - b) Cemetery and Crematorium COVID-19 Risk Register
- Appendix 5 **(for consideration in Closed Session only)**  
Port Health & Public Protection **Non-Public** Risk Register

## **Contacts**

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### *Cemetery & Crematorium*

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## City of London Corporation Risk Matrix (Black and white version)

Note: A risk score is calculated by assessing the risk in terms of likelihood and impact. By using the likelihood and impact criteria below (top left (A) and bottom right (B) respectively) it is possible to calculate a risk score. For example a risk assessed as Unlikely (2) and with an impact of Serious (2) can be plotted on the risk scoring grid, top right (C) to give an overall risk score of a green (4). Using the risk score definitions bottom right (D) below, a green risk is one that just requires actions to maintain that rating.

### (A) Likelihood criteria

	Rare (1)	Unlikely (2)	Possible (3)	Likely (4)
Criteria	Less than 10%	10 – 40%	40 – 75%	More than 75%
Probability	Has happened rarely/never before	Unlikely to occur	Fairly likely to occur	More likely to occur than not
Time period	Unlikely to occur in a 10 year period	Likely to occur within a 10 year period	Likely to occur once within a one year period	Likely to occur once within three months
Numerical	Less than one chance in a hundred thousand (<10-5)	Less than one chance in ten thousand (<10-4)	Less than one chance in a thousand (<10-3)	Less than one chance in a hundred (<10-2)

### (B) Impact criteria

Impact title	Definitions
Minor (1)	<b>Service delivery/performance:</b> Minor impact on service, typically up to one day. <b>Financial:</b> financial loss up to 5% of budget. <b>Reputation:</b> Isolated service user/stakeholder complaints contained within business unit/division. <b>Legal/statutory:</b> Litigation claim or find less than £5000. <b>Safety/health:</b> Minor incident including injury to one or more individuals. <b>Objectives:</b> Failure to achieve team plan objectives.
Serious (2)	<b>Service delivery/performance:</b> Service disruption 2 to 5 days. <b>Financial:</b> Financial loss up to 10% of budget. <b>Reputation:</b> Adverse local media coverage/multiple service user/stakeholder complaints. <b>Legal/statutory:</b> Litigation claimable fine between £5000 and £50,000. <b>Safety/health:</b> Significant injury or illness causing short-term disability to one or more persons. <b>Objectives:</b> Failure to achieve one or more service plan objectives.
Major (4)	<b>Service delivery/performance:</b> Service disruption > 1 - 4 weeks. <b>Financial:</b> Financial loss up to 20% of budget. <b>Reputation:</b> Adverse national media coverage 1 to 3 days. <b>Legal/statutory:</b> Litigation claimable fine between £50,000 and £500,000. <b>Safety/health:</b> Major injury or illness/disease causing long-term disability to one or more people <b>Objectives:</b> Failure to achieve a strategic plan objective.
Extreme (8)	<b>Service delivery/performance:</b> Service disruption > 4 weeks. <b>Financial:</b> Financial loss up to 35% of budget. <b>Reputation:</b> National publicity more than three days. Possible resignation leading member or chief officer. <b>Legal/statutory:</b> Multiple civil or criminal suits. Litigation claim or find in excess of £500,000. <b>Safety/health:</b> Fatality or life-threatening illness/disease (e.g. mesothelioma) to one or more persons. <b>Objectives:</b> Failure to achieve a major corporate objective.

### (C) Risk scoring grid

Likelihood	Impact				
	X	Minor (1)	Serious (2)	Major (4)	Extreme (8)
	Likely (4)	4 Green	8 Amber	16 Red	32 Red
	Possible (3)	3 Green	6 Amber	12 Amber	24 Red
	Unlikely (2)	2 Green	4 Green	8 Amber	16 Red
	Rare (1)	1 Green	2 Green	4 Green	8 Amber

### (D) Risk score definitions

RED	Urgent action required to reduce rating
AMBER	Action required to maintain or reduce rating
GREEN	Action required to maintain rating

This is an extract from the City of London Corporate Risk Management Strategy, published in May 2014.

Contact the Corporate Risk Advisor for further information. Ext 1297

October 2015

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# DBE Committee Report (PH&ES only) Corporate & Departmental)

**Report Author:** Elizabeth Hannah

**Generated on:** 07 September 2021



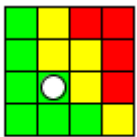
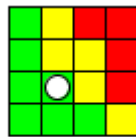
Rows are sorted by Risk Score

Risk no, Title, Creation date, Owner	Risk Description (Cause, Event, Impact)	Current Risk Rating & Score		Risk Update and date of update	Target Risk Rating & Score		Target Date/Risk Approach	Flight path
<b>DBE-TP-01</b> <b>Road Traffic Collision</b> <b>Caused by City of London staff or contractor who is unfit to drive while on City business</b>	Cause: A member of staff/contractor who is unfit or unqualified to drive causes ... Event: a road traffic collision which results in ... Impact: death or injury; financial claim	 Likelihood Impact	16	No change from April 2021 due to Pending completion of work by HR to improve the certainty regarding who works for the City of London this risk remains RED. Whilst going through the information with HR an IT issue has arisen with the data so this has to be resolved also and has been escalated.  93.9% of City of London staff have completed driver Check and 97.2% of staff who have been identified, through Driver check , as drivers (or management of drivers) have completed the Corporate Transport Policy online training course. The overall compliance is now 97.2% that shows an improvement since the last update.	 Likelihood Impact	8	31-Dec-2021	
13-Mar-2015 Vince Dignam				06 Jul 2021			Reduce	

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Action no, Title,	Action description	Latest Note	Action owner	Latest Note Date	Due Date
DBE-TP-01c Business As Usual Mitigation	Monitor the percentage of City of London staff who have completed Driver Check and ensure that it remains above 92.5% Monitor the percentage of City of London staff who have been identified, through Driver Check, as drivers (or managers of drivers) who have completed the Corporate Transport Policy online training course and ensure that it remains above 92.5%. Monitor overall completion rates for both driver check and the online training course and ensure that it remains above 92.5%. Monitor the collection and periodic monitoring of driver licence details (and, in the case of grey fleet drivers, vehicle details).	No change from April 2021 Pending completion of work by HR to improve the certainty regarding who works for the City of London this risk remains RED. Whilst going through the information with HR an IT issue has arisen with the data so this has to be resolved also and has been escalated.  93.9% of City of London staff have completed driver Check and 97.2% of staff who have been identified, through Driver check , as drivers (or management of drivers) have completed the Corporate Transport Policy online training course. The overall compliance is now 97.2% that shows an improvement since the last update.	Jim Graham	06-Jul-2021	31-Dec-2021

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Risk no, Title, Creation date, Owner	Risk Description (Cause, Event, Impact)	Current Risk Rating & Score		Risk Update and date of update	Target Risk Rating & Score		Target Date/Risk Approach	Flight path
DBE-TP-07 A major incident, such as flooding or fire, makes Walbrook Wharf unusable as a depot	Cause: A major incident, such as flooding or fire Event: Walbrook Wharf unusable as a depot Impact: Unable to clean streets; collect waste or maintain City of London Police vehicles. City of London unable to meet its contractual arrangements with third parties who use the depot for their commercial purposes.	Likelihood 	4	The risk has been reviewed and is unchanged.  A Review of actions from the Business continuity plan exercise in October 2019 was carried out and the contract and City have updated any lessons learned and added the business continuity plan as a live document to the governance for review.  Our response to COVID-19 has shown how this contract can be delivered with managers working from home. At the same time we lost the use of some hire vehicles but, in accordance with the BC Plan, vehicles were brought, in by our contractor,	Likelihood 	4	31-Dec-2021	



27-Mar-2015 Vince Dignam; Ian Hughes				from other contracts. This has continued into July 2021 for COVID as well.  The Business Continuity plan was discussed as the Quarterly Partnership board meeting in July 2021 and next Business Continuity Exercise is scheduled for October 2021. BC Has been reviewed in January 2021 and added to contract manual.  <b>03 Aug 2021</b>				
							Reduce	

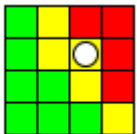
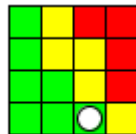
# DBE COVID-19 Risks

Report Author: Elizabeth Hannah

Generated on: 07 September 2021

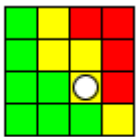
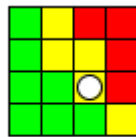


Rows are sorted by Risk Score

Risk no, Title, Creation date, Owner	Risk Description (Cause, Event, Impact)	Current Risk Rating & Score		Risk Update and date of update	Target Risk Rating & Score		Target Date/Risk Approach	Flight path
<b>CVD19 SGPS</b> <b>Failure by BRONZE to deliver the Waste and Litter service required by SILVER (DBE) (RECOVERY)</b> 17-Apr-2020 Jim Graham	<b>Cause:</b> The pandemic leads to a critical number of waste collection and street cleansing staff (employed by our term contractor Veolia) being unable to attend work due to illness/self-isolation/caring responsibilities.  <b>Event:</b> Our contractor is unable to provide a waste collection and street cleansing service.  <b>Impact:</b> Household waste remains uncollected, littering and fly tips increase to the extent that it leads to a secondary public health issue.	 Likelihood Impact	12	Continually monitoring services and currently no significant issues which require use of contingencies          <b>03 Sep 2021</b>	 Likelihood Impact	4	31-Dec-2021          Reduce	

Action no, Title,	Action description	Latest Note	Action owner	Latest Note Date	Due Date
CVD19 SGPS		No need to use contingencies yet but as highlighted there is a national shortage of HGV drivers	Jim	03-Sep-2021	31-Dec-2021

24a Utilising Alternative Resources	Officers have put in place a robust process for sourcing alternative staff to ensure the waste collection from households and streets continues to happen by utilising HGV drivers from alternative sources in this order: 1. Spare drivers from street cleansing service. 2. Veolia Commercial Waste Drivers and Operatives. 3. City Officers with HGV licences. 4. 3rd party commercial drivers with HGV licences.	which is being monitored	Graham		
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Risk no, Title, Creation date, Owner	Risk Description (Cause, Event, Impact)	Current Risk Rating & Score		Risk Update and date of update	Target Risk Rating & Score		Target Date/Risk Approach	Flight path
<b>CVD19 SGPS 25 Failure by BRONZE to deliver the highways, parking &amp; enforcement service required by SILVER (DBE) (RECOVERY)</b> 17-Apr-2020 Ian Hughes	<b>Cause:</b> <ul style="list-style-type: none"> <li>The pandemic leads to a critical number of staff (employed by our highway term contractor J B Riney) being unable to attend work due to illness/self-isolation/caring responsibilities.</li> <li>The pandemic leads to a critical number of staff (employed by our parking contractor Saba) being unable to attend work due to illness/self-isolation/caring responsibilities.</li> <li>The pandemic leads to a critical number of City of London staff being unable to attend work due to illness/self-isolation/caring responsibilities.</li> <li>The pandemic leads to a failure of the supply chain of our highway term contractor (J B Riney)</li> </ul> <b>Event:</b> Our contractors and/or City of London staff	 Likelihood Impact	8	All temporary Covid-19 measures that were agreed for removal have now been removed. The remainder are under review for retaining long term, initially as experiments, under the wider Pedestrian Priority programme.  Services are operating as BAU following release from lockdown restrictions. Monitoring of resilience issues continues re positive tests and self-isolation requirements. No significant issues to this point.  <b>17 Aug 2021</b>	 Likelihood Impact	8	31-Dec-2021	
							Accept	

are unable to provide a highway maintenance and/or parking service.

**Impact:**

- Failure to maintain the highway in a safe state leading to personal damage injuries. (1, 3 and 4)
- Increased inability to manage car parks leading to increases potential for crime and anti-social behaviour, increased fire risk and associated loss of income (2 and 3).
- Failure to manage on-street parking leading to loss of access by emergency services to residential and business premises (2 and 3).
- Failure to monitor 3rd party on-street activities licenced by the City of London leading to unsafe systems of work.

Action no, Title,	Action description	Latest Note	Action owner	Latest Note Date	Due Date
CVD19 SGPS 25a Contractor liaison	Working with contractors to ensure that they are adequately forecasting staff or supply chain issues to ensure that the City received adequate warning of the need to decrease service levels any further allowing decisions to be taken in a timely and reasonable manner. Where works are continuing we have worked with the contractor to ensure that they have adequate risk assessments and method statements in place to minimise the infection and other risks to staff.	Works are continuing as scheduled – BAU	Ian Hughes	17-Aug-2021	31-Dec-2021
CVD19 SGPS 25b City staff resilience	Reducing the overall number of City of London staff on duty in the City at any one time. This reduces the risk to individual	Staff monitoring on-street activities by developments, utilities and City contractors continues. Staff have been reminded to continue to follow best practice guidelines including protocols at Guildhall. Risk assessments up to date. Planning for staff 2 day minimum return from Sept as per request by	Ian Hughes	17-Aug-2021	31-Dec-2021



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## Port Health & Public Protection

### Corporate and Departmental Risks (excluding completed actions)

Report Author: Joanne Hill

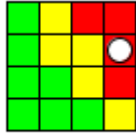
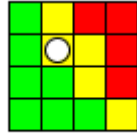

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Risk no, Title, Creation date, Owner	Risk Description (Cause, Event, Impact)	Current Risk Rating & Score		Risk Update and date of update	Target Risk Rating & Score		Target Date/Risk Approach	Current Risk score change indicator
<b>CR21 Air Quality</b>  07-Oct-2015  Ruth Calderwood	<b>Cause:</b> Levels of air pollution in the City, specifically nitrogen dioxide and fine particles, impact on the health of residents, workers and visitors. The City Corporation has a statutory duty to take action to improve local air quality. <b>Event:</b> The City of London Corporation is insufficiently proactive and resourced, and does not have the right level of competent staff, to be able to fulfil statutory obligations, as a minimum, in order to lower levels of air pollution and reduce the impact of existing air pollution on the health of residents, workers and visitors. <b>Effect:</b> The City Corporation does not fulfil statutory obligations and air pollution remains a problem, impacting on health. Potential for legal action against the Corporation for failure to deliver obligations and protect health. Adverse effect on ability to deliver outcomes 2 and 11 of the Corporate Plan	 Likelihood Impact	12	The risk remains unchanged as the Environment Bill has not yet received Royal Assent and the updated WHO Guidelines have not been published. The contents of the Prevention of Future Deaths Report does not impact on the risk. Levels of air pollution fell due to the impact of the pandemic but are expected to increase once activity returns to the City.  <b>23 Aug 2021</b>	 Likelihood Impact	6	31-Dec-2024	 Constant
							Reduce	

Action no, Title,	Action description	Latest Note	Action owner	Latest Note Date	Due Date
CR21 001h Publish annual report of air quality data	Develop baseline model for compliance assessment and publish annual report of air quality data	The 2020 assessment is complete, has been submitted to the GLA and Defra and is on the Corporation website.	Ruth Calderwood	23-Aug-2021	31-Dec-2025

CR21 001i Compliant vehicles	100% of vehicles owned or leased by the CoL are electric or hybrid by 2025	<p>The following vehicle purchasing hierarchy continues to be implemented: fully electric; plug in hybrid; petrol hybrid, Euro VI petrol; Euro VI diesel</p> <p>We currently have 12 in service plus 3 petrol / electric hybrid. Five fully electric refuse collection vehicles are now used in our refuse collection contract. We have installed 20 new electric vehicle charge points to support our vehicles.</p> <p>In addition to 5 all electric RCVs, the Corporate refuse contract has 9 electric vehicles and 10 hybrid vehicles.</p>	Ruth Calderwood	23-Aug-2021	31-Dec-2025
CR21 001j Develop Private Members Bill	Develop and support an Emission Reduction Private Members Bill for London local authorities	An amendment to the Environment Bill based on the Emission Reduction Bill has been developed to be introduced in the House of Lords by Lord Tope. A meeting has been held with a Defra Minister to discuss the contents and meetings are taking place with Defra officials	Ruth Calderwood	23-Aug-2021	31-Dec-2021
CR21 001k Engine idling programme	Manage pan London idling vehicle engine programme	Further advertising campaign to be undertaken in November 2021. School and business workshops recommenced following the closures due to the impact of the pandemic	Ruth Calderwood	23-Aug-2021	31-Mar-2022
CR211 Compliance with NO2 target	Assess percentage compliance rate with NO2 target	Delay with external data ratification meant that assessment for % area compliance was delayed and is not yet available	Ruth Calderwood	23-Aug-2021	31-Dec-2024

Risk no, Title, Creation date, Owner	Risk Description (Cause, Event, Impact)	Current Risk Rating & Score		Risk Update and date of update	Target Risk Rating & Score		Target Date/Risk Approach	Current Risk score change indicator
<b>MCP-PHPP 001 Brexit - Impact on Port Health and Animal Health</b>  Page 131  08-Nov-2016 Gavin Stedman	<b>Cause:</b> The outcome of Brexit negotiations does not secure continuity of contracts, access to talent, ongoing grant funding and/or security of supply chains. <b>Event:</b> The City Corporation services fail to prepare appropriately for the end of the Brexit transition period on 31 December 2020. Uncertainty around the potential outcomes until it is too late to react. <b>Effect:</b> There are a range of potential impacts. The City Corporation's services are disrupted due to increases/changes in trade and as supply chains and contracts are reassessed, potentially increasing cost and reprioritisation of resources. Increased risk to public, animal and environmental health due to legislative changes. Increased risk and cost to consumers. Inadequate IT support if current EU software is replaced by bespoke UK systems that do not have sufficient functionality. Reduction in income if charging regimes are not established as part of Brexit. Potential for increased workload depending on whether agreement is reached from 'no deal' (check everything), through to no checks on EU products based and on risk via a full reciprocal arrangement (status quo).	 Likelihood Impact	24	On 11 March 2021, the government announced that the implementation of new border checks would be delayed for another six months, as follows:  <ul style="list-style-type: none"> <li>• Stage 2 (documentary checks) will now commence in October 2021.</li> <li>• Stage 3 (full physical checks) will now commence in January 2022.</li> <li>• Live animal checks will commence from March 2022.</li> </ul> Port Health is in discussions with government departments regarding the details of stages 2 and 3, and this includes funding for 2021/22 and 2022/23.  The current risk rating continues to be 'red' due to remaining uncertainties.  <b>02 Sep 2021</b>	 Likelihood Impact	6	01-Jan-2022	
							Reduce	Constant

Action no, Title,	Action description	Latest Note	Action owner	Latest Note Date	Due Date
MCP-PHPP 001c Liaison with Remembrancer and other CoL depts.	Engage with stakeholders to assist in the identification of impacts and possible mitigations. Ensure Remembrancer and CoL depts are fully aware of the implications of Brexit on PH and PP and that they lobby accordingly.	Our previous actions have been completed. We are awaiting more details about the next implementation stages before considering further lobbying.	Gavin Stedman	02-Sep-2021	01-Jan-2022

MCP-PHPP 001d Respond promptly to developments	Respond promptly to policy decisions from the UK Government and the outcome of negotiations.	We are awaiting more details about the next implementation stages before considering further lobbying.	Gavin Stedman	02-Sep- 2021	01-Jan- 2022
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## Port Health & Public Protection

### COVID-19 Risks (excluding completed actions)

Report Author: Joanne Hill

Generated: 2 September 2021



Risk no, Title, Creation date, Owner	Risk Description (Cause, Event, Impact)	Current Risk Rating & Score		Risk Update and date of update	Target Risk Rating & Score		Target Date/Risk Approach	Current Risk score change indicator
<b>CVD19 SGPS 34 HARC</b> <b>Emerging recovery &amp; CP)</b>  01-Jun-2020 Robert Quest	<b>Cause:</b> Rise in number of arrivals at Heathrow requires increased staff, so a greater risk of not being able to maintain social distancing. This is compounded by the size of the accommodation and lack of available space. <b>Event:</b> A whole shift having to self-isolate should one person develop COVID-19 symptoms. <b>Impact:</b> Failure to deliver service leading to reputational damage to the City. Full cost recovery not being achieved due to large numbers of animals in a consignment.	 Likelihood Impact	8	An 'OK to forward' procedure remains in place to even out consignments and help the service to be more efficient. We are aware that there are still many pets waiting to be exported to the UK.  The Service continues to look at the potential for using other areas to provide greater capacity.  Travel restrictions may impact this further as the year progresses.  <b>02 Sep 2021</b>	 Likelihood Impact	4	01-Jan-2022	 Constant
							Reduce	

Action no, Title,	Action description	Latest Note		Action owner	Latest Note Date	Due Date
CVD19 SGPS 34d Extend available space for staff.	Extend the amount of accommodation and available space for staff to work.	The service is reviewing the possibilities and developing plans to provide increased space at the HARC which will allow greater throughput.  The Service continues to look at the potential for using other areas to provide greater capacity.		Robert Quest	02-Sep-2021	01-Jan-2022

## Appendix 3b

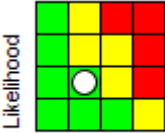
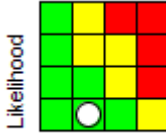

Risk no, Title, Creation date, Owner	Risk Description (Cause, Event, Impact)	Current Risk Rating & Score		Risk Update and date of update	Target Risk Rating & Score		Target Date/Risk Approach	Current Risk score change indicator
<b>CVD19 SGPS 20 HARC Animal Welfare (M&amp;CP)</b>  09-Apr-2020 Robert Quest	<b>Cause:</b> The spread of COVID-19 continues to escalate affecting key staff and businesses. <b>Event:</b> The reduction in airline operations and the loss of key staff. Failure to deliver statutory and critical services at the HARC. <b>Impact:</b> Loss of business results in a significant loss of income. Because of the specialist nature of some of the services we may be unable to fulfil our statutory duties leading to financial and reputational damage to the City. Staff shortages could also have an impact on the welfare of resident animals.		4	We are continuously monitoring staff availability and following current government guidance.  Travel restrictions may impact this risk further as the year progresses.  Trade levels remain positive and will be closely monitored.  The current risk rating has been reduced to target, but we will continue to review the ongoing situation.  <b>02 Sep 2021</b>		4	01-Jan-2022	
							Reduce	

Action no, Title,	Action description	Latest Note		Action owner	Latest Note Date	Due Date
CVD19 SGPS 20f Keep risk under review	This risk will be kept under review.	The ongoing COVID situation will be kept under review and the risk updated as necessary.		Robert Quest	02-Sep-2021	01-Jan-2022

Risk no, Title, Creation date, Owner	Risk Description (Cause, Event, Impact)	Current Risk Rating & Score		Risk Update and date of update	Target Risk Rating & Score		Target Date/Risk Approach	Current Risk score change indicator
<b>CVD19 SGPS 21 Port Health Imported Food and Feed (M&amp;CP)</b>  09-Apr-2020 Peter Markwell	<b>Cause:</b> The spread of COVID 19 causes loss of critical staff attendance. <b>Event:</b> The London Port Health Authority will struggle to maintain a minimum number of staff at inspection facilities that are required to carry out regulatory enforcement checks on food and feed required by DEFRA and the FSA amongst others. There will also be reduced throughput of imports. <b>Effects:</b> This will lead to delays and checks carried out by supplementary staff increase the risk of non- conforming import consignments of food and feed coming in and reduces our intelligence gathering ability. Reduced throughput will lead to loss of income to the City.	 Likelihood Impact	4	So far in 2021, trade has remained high. This is under constant review and we will continue to monitor the situation.  We are continuously monitoring staff availability and following current government guidance.  The current risk rating has been reduced to target but we will continue to monitor the ongoing situation.  <b>02 Sep 2021</b>	 Likelihood Impact	4	01-Jan-2022	 Constant
							Reduce	

Action no, Title,	Action description	Latest Note			Action owner	Latest Note Date	Due Date
CVD19 SGPS 21f Keep risk under review	Keep risk under review.	The ongoing COVID situation will be kept under review and the risk updated as necessary.			Robert Quest	02-Sep-2021	01-Jan-2022

## Appendix 3b

Risk no, Title, Creation date, Owner	Risk Description (Cause, Event, Impact)	Current Risk Rating & Score		Risk Update and date of update	Target Risk Rating & Score		Target Date/Risk Approach	Current Risk score change indicator
<b>CVD19 SGPS 22 Port Health Infectious disease control (M&amp;CP)</b> 09-Apr-2020 Peter Markwell	<b>Cause:</b> The spread of COVID 19 on a vessel prevents operation of the vessel. <b>Event:</b> Cruise ship operations disrupted and vessels unable to leave port. <b>Effect:</b> Health & welfare of staff on vessels adversely affected. Increased workload for Port Health staff. Risk to the welfare of Port Health staff and their ability to perform the wider Port Health role.	 Likelihood	4	The service continues to respond to cases that are highlighted by Maritime Declarations of Health.  <b>02 Sep 2021</b>	 Likelihood	2	01-Jan-2022	 Constant
							Reduce	

Action no, Title,	Action description	Latest Note		Action owner	Latest Note Date	Due Date
CVD19 SGPS 22 Infectious disease control.	Daily contact with vessels laid up at Tilbury and within the LPHA area regarding infectious disease control	The Port Health Service continues to liaise with the port, PHE and cruise lines regarding infectious disease control. Cruises recommenced on 28 June 2021.		Peter Markwell	02-Sep-2021	01-Jan-2022
CVD19 SGPS 22 Contact PHE	Contact with Public Health England to ensure standard advice procedures and comms.	Port Health is in contact with Thurrock PHE. This action is complete but will be kept under review.		Peter Markwell	02-Sep-2021	01-Jan-2022



## Appendix 4a – C&C Risk Register

### OSD Cemetery & Crematorium Detailed Risk Register

Report Author: Martin Falder

Generated on: 08 September 2021



Rows are sorted by Risk Score

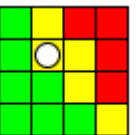
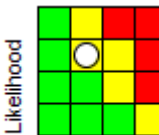

Risk no, title, creation date, owner	Risk Description (Cause, Event, Impact)	Current Risk Rating & Score		Risk Update and date of update	Target Risk Rating & Score		Target Date/Risk Approach	Current Risk score change indicator
<b>OSD CC 003</b> <b>Deterioration of buildings, plant and machinery</b>  19-Aug-2015 Gary Burks	<b>Causes:</b> Inadequate proactive and reactive maintenance; failure to identify and communicate maintenance issues <b>Event:</b> Operational or public buildings become unusable. Plants and trees die due to reduced maintenance capacity. <b>Impact:</b> Service capability disrupted; ineffective use of staff resources; damage to corporate reputation; increased costs for reactive maintenance	 Likelihood Impact	8	There are projects in the CWP which are going ahead (central heating at crematorium, roofing at Haywood Centre near main gate). Although this is positive, there remains a huge bow wave of maintenance to be tackled.  City Surveyor is focusing on H&S risks only at present.  Risk remains at amber due to bow wave. <b>08 Sep 2021</b>	 Likelihood Impact	8	31-Mar-2022  Accept	 Constant

Action no	Action description	Latest Note			Action owner	Latest Note Date	Due Date
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Appendix 4a – C&C Risk Register

OSD CC 003 b	Continue to develop relationship with City Surveyors and ways of working to ensure CWP works are delivered Regular meetings with CS's Property Facilities Managers The Superintendent was engaged in the development of the 2017 R&M specification and tender documents	Two projects are proceeding, as per main update. Liaison work with City Surveyors remains in place to establish timelines for future works.	Gary Burks	08-Sep-2021	31-Mar-2022
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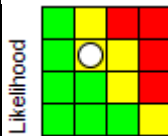

## Appendix 4a – C&C Risk Register

Risk no, title, creation date, owner	Risk Description (Cause, Event, Impact)	Current Risk Rating & Score		Risk Update and date of update	Target Risk Rating & Score		Target Date/Risk Approach	Current Risk score change indicator
<b>OSD CC 009 Systems Failure</b>  01-Jun-2016 Gary Burks	<b>Cause:</b> IT systems including telephony fail <b>Effect:</b> Unable to operate as per normal. Unable to access Gower system. Unable to speak to funeral directors, doctors and internally across the site <b>Impact:</b> Burials and cremations may have to be cancelled/no bookings can be taken. Burials in the wrong graves. Loss of income. Reputational damage	 Likelihood Impact	6	Mitigation is in place for GOWER being temporarily offline, but longer-term issues with the system would have a significant impact on work. This risk therefore remains at Amber. We are unable to mitigate or reduce this risk further at present.  <b>08 Sep 2021</b>	 Likelihood Impact	6	31-Mar-2022	  Constant
							Accept	

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Action no	Action description	Latest Note		Action owner	Latest Note Date	Due Date
OSD CC 009 a	Review continuity plans on a regular basis and following significant systems failures Ensure staff are familiar with 'alternate operations' as detailed in the continuity plans IS partners aware that C&C is recognised as a 'critical' service and failures are treated as a priority.	Systems are in place to account for business continuity. Manual diaries and standalone PCs are available in case GOWER system is unavailable. Mobile phone backups are also in place in case of landline issues. Small printers are also available for vital daily print runs.  Ongoing action.		Gary Burks	08-Sep-2021	31-Mar-2022

## Appendix 4a – C&C Risk Register

Risk no, title, creation date, owner	Risk Description (Cause, Event, Impact)	Current Risk Rating & Score		Risk Update and date of update	Target Risk Rating & Score		Target Date/Risk Approach	Current Risk score change indicator
<b>OSD CC 010</b> <b>Extreme weather</b>  21-Jun-2016 Gary Burks	<b>Cause:</b> Strong winds causing significant tree damage within the cemetery and crematorium landscape <b>Effect:</b> Roads closed, exclusion of the public, disruption to funerals <b>Impact:</b> Significant cost to division and possible loss of income/ negative publicity	 Likelihood Impact	6	Current and target score remain the same. This risk will remain reportable. There is an ongoing risk of high winds and drought conditions to tree stock at the cemetery. Some localised flooding due to heavy rains over the summer, including some flooding to buildings; this is being monitored.  <b>08 Sep 2021</b>	 Likelihood Impact	6	31-Jul-2022	 Constant
							Accept	

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Action no	Action description	Latest Note	Action owner	Latest Note Date	Due Date
OSD CC 010 a	A significant storm could (and has in the past) cause significant damage to tree stocks and buildings meaning that for a short period of time the cemetery roads could be closed and block, and one or more buildings could be out of action. This is managed through: <ul style="list-style-type: none"> <li>Tree inspections</li> <li>Maintain staff with chainsaw qualifications</li> </ul>	Ongoing monitoring action. As previously:  <ul style="list-style-type: none"> <li>Trees are surveyed and inspected with advisory works carried out. A group of staff within the cemetery team are trained in the operation of chainsaws for clearing fallen trees.</li> <li>It is unlikely that storm damage would close the modern crematorium building but could damage other service chapels and block roads. The cemetery and crematorium service has 6 service chapels.</li> </ul> No change, with 3,500 trees around the site, the risks associated with high winds remain.	Gary Burks	08-Sep-2021	31-Jul-2022

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## Appendix 4b – Cemetery & Crematorium COVID Risks Relevant to PHES

### OSD COVID-19 - Cemetery & Crematorium COVID Risks Relevant to PHES

Report Author: Martin Falder

Generated on: 09 September 2021



Rows are sorted by Risk Score

Risk no, title, creation date, owner	Risk Description (Cause, Event, Impact)	Current Risk Rating & Score		Risk Update and date of update	Target Risk Rating & Score		Target Date/Risk Approach	Current Risk score change indicator
<b>COVID19 SGPS</b> <b>Open Spaces</b> <b>Workforce Wellbeing (OSD)</b>  01-Dec-2020 Colin Buttery	<p><i>Cause:</i> Greatly increased pressure on staff across all sites, who have continued throughout the pandemic, often with an increased workload. This risk incorporates both the pressures on frontline staff (more incidents of verbal abuse, confrontation with members of the public, and antisocial behaviour on site) and WFH staff (isolation, depression, anxiety and work related abuse coming into the home).</p> <p><i>Event:</i> Increased staff sickness levels and worsening wellbeing outcomes for staff across sites.</p> <p><i>Impact:</i> Cessation of services; damage to sites; loss of vital expertise from staff turnover; serious injury or death of employee in service due to exhaustion or suicide.</p>	Likelihood  Impact	8	Risk remains high to reflect the very difficult situation across all sites. Cemetery in particular was heavily impacted throughout third lockdown but is now returning to BAU, although all sites have seen increased visitor numbers, antisocial behaviour, and commensurate damage to natural asset, impacting staff morale. We expect high visitor numbers over summer, although this is stabilising as other venues open. This is in combination with other mitigating staff morale and wellbeing factors outside of COVID. Risk to be considered regularly at Bronze for possible mitigations.  <b>09 Sep 2021</b>	Likelihood  Impact	4	31-Mar-2022         Reduce	Constant

Appendix 4b – Cemetery & Crematorium COVID Risks Relevant to PHES

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Action no	Action description	Latest Note	Action owner	Latest Note Date	Due Date
CVD19 SGPS 37 001	Departmental actions taken to help mitigate this risk.	Target date has been pushed to end of financial year to reflect expected visitor pressure in this period, despite reopening of other leisure venues.	Colin Buttery	09-Sep - 2021	31-Mar-2022



## Appendix 4b – Cemetery & Crematorium COVID Risks Relevant to PHES

Risk no, title, creation date, owner	Risk Description (Cause, Event, Impact)	Current Risk Rating & Score		Risk Update and date of update	Target Risk Rating & Score		Target Date/Risk Approach	Current Risk score change indicator
<b>CVD19 SGPS 18 Failure of Cemetery &amp; Crematorium Services (OSD)</b>  07-Apr-2020 Colin Buttery	Cause: Pandemic significantly increases mortality rate combined with a high impact on staff required to deliver essential services at the Cemetery & Crematorium. Staff from other areas are not able to be reassigned to compensate for this shortfall. Key staff with specialist knowledge are unavailable during a surge in demand. Failure of aging cremators.  Event: Cemetery & Crematorium forced to close or severely reduce service.  Impact: Failure of critical statutory service; reputational damage; financial damage; legal repercussions; failure to meet the excess death plan; significant impact on other nearby sites, resulting in potential chain of failure points, as C&C is the largest site of its kind in the area.		4	Demand is at normal levels. Cremators are in place. Staffing is adequate to manage the needs of the service.  Risk remains at Green. We will continue to report on this risk and consider reviewing / raising if there is a third spike.  <b>08 Sep 2021</b>				
							Accept	

Action no	Action description	Latest Note			Action owner	Latest Note Date	Due Date
CVD19 SGPS 18 001	Actions undertaken by the Cemetery & Crematorium to preserve statutory responsibilities.	Cremators are in place and pressure on site has significantly dropped. Returning to BAU.			Gary Burks	08-Sep-2021	31-Oct-2021

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## Port Health & Public Protection - Non-Public Risks

Report Author: Joanne Hill

Generated on: 2 September 2021



Risk no, Title, Creation date, Owner	Risk Description (Cause, Event, Impact)	Current Risk Rating & Score		Risk Update and date of update	Target Risk Rating & Score		Target Date/Risk Approach	Current Risk score change indicator
<p>Page 14</p> <p>MCP-PP 007 City of London Coroner - Fishmongers Hall inquest costs (NOT FOR PUBLIC REPORTING)</p> <p>12-Jan-2021</p>	<p><b>Cause:</b> The Chief Coroner, on behalf of the City of London Coroner, has conducted a complex, high-profile inquest into the two deaths arising from events at Fishmongers Hall in November 2019.</p> <p>The Coroners and Justice Act 2009 requires the Coroner to conduct investigations into certain deaths and to hold inquests. The City of London is obliged, by the same Act, to provide, or secure the provision of, accommodation to enable senior coroners to carry out their function, including the provision of suitable court facilities for inquests to be held.</p> <p><b>Event:</b> The Department is unable to source funding from the Ministry of Justice to cover, or partially offset, the cost of the inquests in relation to the events at Fishmongers Hall in November 2019.</p> <p><b>Effect:</b> The Department incurs high costs for the provision of the inquests, resulting in a significant financial loss to the City of London's central risk budget.</p>	<p>Likelihood</p> <p>Impact</p>	<p>6</p>	<p>The substantive inquests are now complete.</p> <p>On 12 August 2021, a further letter was sent to the Ministry of Justice with updated figures and projections, along with a very detailed justification as to why the costs of the inquest should be met by Her Majesty's Government. Their reply is awaited.</p> <p><b>02 Sep 2021</b></p>	<p>Likelihood</p> <p>Impact</p>	<p>2</p>	01-Jul-2021	
							Reduce	Constant

Action no, Title,	Action description	Latest Note	Action owner	Latest Note Date	Due Date
MCP-PP 001b Contact the Ministry of Justice to request funding	Contact the Ministry of Justice to request financial assistance with the costs relating to this inquest.	<p>An initial letter was sent to the Ministry of Justice by the Town Clerk. However, the projected costs then rose from £900,000 to £1,721,945 and a further letter to the MoJ notifying them of the increase was sent in January 2021. In reply, the MoJ requested sight of the detailed cost projections.</p> <p>Now that the substantive inquests are complete, a further letter has been sent to the Ministry of Justice (12 August 2021) with updated figures and projections and a very detailed justification as to why the costs should be met by Her Majesty's Government. Their reply is awaited.</p>	Jon Averns; Rachel Pye; Gavin Stedman	02-Sep- 2021	01-Jul-2021

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of the Local Government Act 1972.

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