

# EXECUTIVE

Wednesday, 25th January, 2017  
6.30 pm





# EXECUTIVE

## BURNLEY TOWN HALL

Wednesday, 25th January, 2017 at 6.30 pm

This agenda gives notice of items to be considered in private as required by Regulations (4) and (5) of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

Members are reminded that if they have detailed questions on individual reports, they are advised to contact the report authors in advance of the meeting.

Members of the public may ask a question, make a statement, or present a petition relating to any agenda item or any matter falling within the remit of the committee.

Notice in writing of the subject matter must be given to the Head of Governance, Law & Regulation by 5.00pm on the day before the meeting. Forms can be obtained for this purpose from the reception desk at Burnley Town Hall or the Contact Centre, Parker Lane, Burnley. Forms are also available on the Council's website [www.burnley.gov.uk/meetings](http://www.burnley.gov.uk/meetings).

### AGENDA

1) ***Apologies***

To receive any apologies for absence

2) ***Minutes***

1 - 2

To approve as a correct record the Minutes of the last meeting held on the 19th December 2016.

3) ***Minutes of Individual Decisions***

There aren't any individual decisions made since the last meeting

4) ***Declaration of Interest***

5) ***Additional Items of Business***

To consider whether there are any urgent items of business.

6) ***Exclusion of the Public***

7) ***Right To Speak***

8) ***Lancashire Wide Resettlement of Syrian Refugees***

3 - 6

To discuss participation in a Lancashire wide programme to resettle Syrian refugees

**9) Environmental Enforcement**

7 - 18

To consider an Environmental Enforcement Strategy (report enclosed)

**10) Exclusion of the Public**

To consider the exclusion of the public from the meeting before discussion takes place on the following items of business on the grounds that in view of the nature of the business to be transacted if the public were present there would be a disclosure to them of exempt information within the meaning of Part VA of the Local Government Act 1972.

PRIVATE ITEMS

Details of any representations received by the Executive about why any of the following reports should be considered in public – None received.

Statement in response to any representations – Not required

**11) Morecambe's Lodge**

19 - 22

To consider a report on Morecambe's Lodge (report enclosed)

This item is private as it contains information relating to the financial or business affairs of any particular person (including the authority holding that information).

**12) Implementation of Environmental Enforcement**

23 - 28

To consider the implementation of environmental enforcement across the Borough

This item is private as it contains information relating to the financial or business affairs of any particular person (including the authority holding that information).

**13) Housing Partnership**

29 - 32

To consider entering into a 10 year partnership with a housing developer

This item is private as it contains information relating to the financial or business affairs of any particular person (including the authority holding that information).

**MEMBERSHIP OF COMMITTEE**

Councillor Mark Townsend (Chair)  
Councillor John Harbour (Vice-Chair)  
Councillor Beatrice Foster

Councillor Sue Graham  
Councillor Wajid Khan  
Councillor Lian Pate

**PUBLISHED**

Tuesday, 17 January 2017

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## EXECUTIVE

### BURNLEY TOWN HALL

Monday, 19<sup>th</sup> December 2016 at 6.30 pm

#### PRESENT

#### MEMBERS

Councillors Mark Townsend (in the Chair), Bea Foster, Sue Graham, John Harbour, Wajid Khan and Lian Pate.

#### OFFICERS

Pam Smith	-	Chief Executive
Mick Cartledge	-	Director of Community Services
Lukman Patel	-	Head of Governance, Law, Property and Regulation
Eric Dickinson	-	Democracy Officer

#### 79. Minutes

The Minutes of the Meeting held on the 6<sup>th</sup> December 2016 were confirmed as a correct record and signed by the Chair.

#### 80. Minutes of Individual Decisions

The Minute of the following individual decision made since the last meeting was noted;

Minute 5 - Organisational Review

#### 81. Exclusion of the Public

**Purpose** To consider when it may be relevant to exclude the public from the meeting.

**Reason for Decision** Minute Numbers 82 and 83 contain exempt information relating to the financial or business affairs of any particular person (including the authority holding that information).

**Decision** That the public be excluded from the meeting before discussion takes place on the items relating to Minutes 82 and 83 since in view of the nature of the business to be transacted, if the public were present there would be a disclosure to them of exempt information within the meaning of Part VA of the Local Government Act 1972.

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**82. Land at Kinross Street**

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Purpose To dispose of Council owned land for development of new affordable homes

Reason for Decision The Government's policy is to boost the supply of affordable homes in response to growing demand. Disposal of the site identified will help achieve this objective

Decision (1) That it be approved to waive Standing Orders for Contracts (SOC) 13 to 18 to allow disposal to a Specific Purchaser of the freehold interest in land at Kinross Street, Burnley shown edged red on the attached plan, subject to planning permission; and

(2) That the purchaser, price and other terms of the disposal be approved as set out in paragraph 8 of this report.

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**83. Pennine Empty Homes Programme**

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Purpose To consider a report on the Pennine Empty Homes Programme.

Reason for Decision The recommendation recognises the contribution of the Empty Homes Programme to Burnley's housing market, in particular, the improvements to the private rented sector

Decision That the contribution be approved as outlined in paragraph 12 of this report.

## REPORT TO EXECUTIVE

### PARTICIPATION IN A LANCASHIRE WIDE PROGRAMME TO RESETTLE SYRIAN REFUGEES



<b>DATE</b>	<b>25 January 2017</b>
<b>PORTFOLIO</b>	<b>Community Services / Housing</b>
<b>REPORT AUTHOR</b>	<b>Mike Waite</b>
<b>TEL NO</b>	<b>01282 425011 ext 7198</b>
<b>EMAIL</b>	<b>mwaite@burnley.gov.uk</b>

#### PURPOSE

1. To agree Burnley Council's participation in a Lancashire-wide programme to resettle Syrian refugees.

#### RECOMMENDATION

2. To agree to work with Lancashire County Council on a programme to resettle Syrian refugees, in line with the average number being resettled across the county.
3. To agree to develop existing partnership work with SERCO, who are responsible for a programme of dispersing asylum seekers.
4. To support LCC in a bid for government funds from the Controlling Migration Fund.
5. To delegate detailed decision making on participation in the programme and related partnership work to the Head of Corporate Engagement, in consultation with the Head of Housing and Development Control, and the Executive Member for Community Services.

#### REASONS FOR RECOMMENDATION

6. The recommendation is in line with the position that Burnley will play its proper and proportionate part in helping resettle refugees, and will do so as part of a co-ordinated approach across Lancashire.
7. The recommendation is made on the basis that there will be appropriate financial and practical support from government and through partner organisations, so that all proper arrangements will be put in place without the programme having any disproportionate impact on existing services.

#### SUMMARY OF KEY POINTS

8. The British government has agreed to resettle a number of people who have fled the conflict in Syria, and this is now being organised through various programmes, including the Syrian Resettlement Programme and the Vulnerable Children Resettlement Scheme.

9. In Lancashire, these programmes are being co-ordinated by Lancashire County Council, and provisional agreements have been made about the numbers of people coming to come to the county. On the basis that Burnley takes the average number being resettled across the county, the combined programmes would see five families – amounting to around fifteen or so individuals – coming to the town later this year, with additional similar numbers coming to Burnley in 2018 and 2019.
10. Burnley's participation in the programme would be on the basis that there is a sufficient lead in time period of several months, and that financial support is provided in relation to the refugees, so that cash costs incurred in arranging accommodation; co-ordinating the programme; interpretation and translation work etc. are covered by government payment. On this basis, disproportionate and adverse impact on existing services will be avoided.
11. In addition to these programmes, SERCO are responsible for local involvement in the national asylum seeker dispersal programme. Burnley Council and other agencies have been working in support of SERCO on a pilot basis, with around twenty five asylum seekers having lived across ten properties in the borough at any one time over the last few months. It is appropriate to complement participation in the programmes to resettle refugees with the formalisation of the pilot work with SERCO, and to increase the level of participation from ten properties to twenty properties in 2017.
12. In addition to the financial support provided in relation to the refugee resettlement programme, the government has established a Controlling Migration Fund, which councils can apply to. In Lancashire, given the county-wide approach which is being taken, it is appropriate for LCC to lead on a bid. Burnley officers will support this, on the basis that an appropriate and proportionate support would come to Burnley as a result of a successful bid.

## **FINANCIAL IMPLICATIONS AND BUDGET PROVISION**

13. Direct cash costs resulting from Burnley Council's participation in the Syrian Resettlement Programme and Vulnerable Children Resettlement Scheme will be reimbursed through government funds. A successful Lancashire bid to the Controlling Migration Fund will reduce the extent to which existing officer time is spent on these programmes, and the related partnership work with SERCO.

## **POLICY IMPLICATIONS**

14. Agreement to the recommendations would establish the policy that Burnley Council participates in government determined programmes to resettle and support asylum seekers and refugees. Burnley Council does this on a proportionate basis, as part of Lancashire wide programmes, and ensuring that all proper support systems are put in place with government support, and without disproportionate impact on existing services.

## **DETAILS OF CONSULTATION**



15. Partner organisations, as set out below;  
Home Office  
SERCO  
Lancashire Constabulary  
Calico  
Building Bridges in Burnley.

<b>BACKGROUND PAPERS</b>
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16. None

<b>FURTHER INFORMATION</b>
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**PLEASE CONTACT: Mike Waite, [mwaite@burnley.gov.uk](mailto:mwaite@burnley.gov.uk) 01282 425011 ext 7198**

**ALSO:**

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## ENVIRONMENTAL ENFORCEMENT

### EXECUTIVE REPORT



<b>DATE</b>	<b>25<sup>th</sup> January 2017</b>
<b>PORTFOLIO</b>	<b>Community Services</b>
<b>REPORT AUTHOR</b>	<b>Joanne Swift</b>
<b>TEL NO</b>	<b>7301</b>
<b>EMAIL</b>	<a href="mailto:jswift@burnley.gov.uk" style="color: blue; text-decoration: underline;">jswift@burnley.gov.uk</a>

#### PURPOSE

1. To seek approval to;
  - Re-fresh the Council’s Environmental Enforcement Strategy

#### RECOMMENDATION

2. That the Executive;
  - Approve the amended Environmental Enforcement Strategy (Appendix 1).

#### REASONS FOR RECOMMENDATION

3. To enable the Council to;
  - Continue to deliver its ‘Clean Burnley’ strategic priorities.
  - Set out the environmental enforcement standards that residents, local businesses and the community can expect across the Borough.

#### SUMMARY OF KEY POINTS

##### **Background**

4. In 2009 the Executive approved the Council’s Environmental Enforcement Strategy to ensure that fair and robust enforcement was put in place across the town for priority issues including; littering and dog fouling. These issues have remained a priority for the Council. In delivery of the Strategy to date, significant pro-active work and success has been achieved in maintaining the performance and the reputation of the Council in tackling these priority concerns. These activities include;
  - Identifying dedicated resources to create the Littering and Dog Fouling

Enforcement role

- The introduction of targeted hotspots to address resident concerns
- The use of Fixed Penalty notices and publicity campaigns to provide awareness of the issues and to change and challenge behaviour to environmental concerns.

The proposed Strategy re-refresh is an integral theme to the Council achieving the delivery of its Strategic vision and its strategic objectives of Burnley being 'a place of choice' for residents and businesses. The Strategy (Appendix 1) provides the principles for all operational environmental enforcement activity.

#### **FINANCIAL IMPLICATIONS AND BUDGET PROVISION**

5. The strategy will be implemented within existing resources.

#### **POLICY IMPLICATIONS**

6. The Enforcement Strategy will determine Streetscene's environmental enforcement performance and will be monitored periodically to ensure regulatory requirements continue to be met.

#### **DETAILS OF CONSULTATION**

7. None.

#### **BACKGROUND PAPERS**

8. None.

#### **FURTHER INFORMATION**

**PLEASE CONTACT: Joanne Swift**

**ALSO: Mick Cartledge**



**Policy Document**

**Environmental  
Enforcement Strategy**

6<sup>th</sup> January 2017

## Streetscene Enforcement Policy

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## **1. INTRODUCTION**

It is the stated aim of Burnley Borough Council to protect the public and the environment and promote health, safety and welfare and to enhance the quality of life of all residents, workers and visitors to the Borough. This will be achieved by education, providing advice and by regulating the activities of others. Enforcement action will play an important role in helping the Council to secure compliance with regulatory requirements.

The Council will work with other regulators, such as the Environment Agency and Central Government to ensure co-ordinated and cohesive regulation. The Council will seek to share good practice and local intelligence with appropriate enforcing bodies. The Council will also work with community and voluntary groups in order to achieve common goals.

The enforcement policy sets out the general principles, which the Council intends to follow when taking enforcement action. More detailed, operational guidance may be developed for staff in respect of specific functions. The policy commits the Council to good enforcement policies and practices.

This enforcement policy helps to promote efficient and effective approaches to regulatory inspection and enforcement, which improve regulatory outcomes without imposing unnecessary burdens. This is in accordance with the Regulator's Compliance Code.

In certain instances we may conclude that a provision in the Code is either not proportional, relevant or is outweighed by another provision. We will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.

### **1.1 RESPONSIBILITY & AUTHORISATION**

Responsibility for the implementation of the Policy rests with the Head of Streetscene. This Policy covers the role of Authorised Officers within the Unit and / or duly appointed bodies acting on our behalf to carry out day to day enforcement activities. Such authorisation is in accordance with relevant Codes of Practice or National Guidance to carry out inspections, complaints investigation, deal with requests for service, implement and enforce action plans and where necessary to offer advice or training. The Unit Head is responsible for the planning, organisation and subsequent monitoring of all aspects of the Policy.

All Officers / relevant bodies are authorised in accordance with their qualifications, experience and competency. Such Officers are authorised in writing by the Head of Streetscene specifying which legal provisions they are entitled to exercise.

Statutory Notices may only be prepared and signed by Officers designated as competent by the Head of Streetscene.

The issuing of a Simple Caution and any decision to prosecute will only be administered or approved by either the Head of Streetscene, the Streetscene Solicitor or one of the Unit Heads.

## **2.0 PRINCIPLES OF ENFORCEMENT**

The Council will adopt a robust 'zero tolerance' firm but fair approach to environmental regulation. The provision of excellent and clean public spaces and to continue to address quality of life concerns, continue to be integral to the Council meeting its Strategic Objectives for the Town. The principles underlying firm but fair regulation include;

### **2.1 Standards**

In consultation with business and other interested parties, we will draw up clear standards setting out the level of service and performance that the public and business can expect to receive. We will do this via existing Town Centre Partnerships.

### **2.2 Helpfulness**

We believe that prevention is better than cure; we will actively work with local business and individuals to advise about, and assist with, compliance. We will provide a courteous and efficient service, and our staff will identify themselves by name, showing a warrant or other means of identification. We will offer a contact point and telephone number to encourage further liaison. We will strive to ensure that wherever practicable, our activities are effectively co-ordinated to avoid unnecessary overlaps and/or delays.

### **2.3 Equality**

Any enforcement undertaken or changes to operating practices that are adopted by the Council or on its behalf will be done in line with equalities legislation and good practice. In particular, any such operating systems will be undertaken as relevant with the completion of a detailed Equalities Impact Assessment and the impact of changing operating practices will be monitored periodically.

We will seek to ensure that everyone using our services receives equal treatment and we will take positive action to make our services accessible by using for example, interpreters and translations.

The particular needs and interests of consumers within the borough, including business proprietors, their employees and the public will be accommodated wherever possible.

### **2.4 Proportionality**

The enforcement action taken by Burnley Borough Council will be proportionate to the risks posed to the public or environment, the seriousness



of any breach of law, the need for deterrence and in accordance with the overall direction/policy of the Council. However, it is recognised that any form of littering, fly-tipping and dog fouling is pernicious and blights the town and its reputation.

The Council does not wish to subject young people to criminal proceedings unnecessarily. Offences committed by persons under the age of 18 years old will be dealt with in accordance with the Council's Principles of Enforcement and based on the relevant circumstances of the case. This may include wider agency involvement and support.

## **2.5 Consistency**

Whilst Officers exercise discretion, the Unit will endeavour to ensure that enforcement decisions are consistent, balanced, fair and relate to common standards. Variables taken into account when making enforcement decisions include the seriousness of the offence, past history, confidence in management, the consequences of non-compliance, evidence of remorse, consideration of the offender and the likely effectiveness of the various enforcement options.

## **2.6 Transparency and Openness**

Transparency is vitally important in maintaining public confidence in the ability to regulate. It means helping those regulated and others to understand what is expected of them and what they should expect from Streetscene. It also means making clear why an Officer intends to or has taken enforcement action.

## **2.7 Targeting**

In certain circumstances, It may be appropriate to direct resources to address a 'hotspot' area that may need a focused approach. This normally will be identified by a high volume of complaints regarding an area from the public or business community.

## **2.8 Shared Enforcement – Multi Agency Approach**

In some circumstances, risks to the public, workers and the environment are also dealt with by other authorities. Where appropriate we will liaise with all other authorities before taking enforcement action.

Relevant information will be shared with other enforcement bodies, where appropriate.

## **2.9 Complaints About Our Service**

We will maintain informal and formal complaint procedures, which are easily accessible to all service users. The complaint procedure includes details of our method of response to complaints and the time-scales involved.

### **3.0 APPLICATION OF OUR POLICY**

All Officers will have regard to this policy when making enforcement decisions.

#### **3.1 Departure from Policy**

Any departure from this policy must be exceptional, capable of justification and be fully considered by the Head of Street scene or a designated alternative officer before a final decision is taken.

This proviso shall not apply where a serious risk of injury to health or to the environment is likely to occur due to a delay in any decision being made. A record of all departures from this policy shall be kept. The Head of Street scene shall as soon as is practicable be informed of any such departures.

#### **3.2 Monitoring Compliance with the Policy**

An audit of the enforcement action undertaken by the Department will be carried out on an annual basis, in order to monitor compliance with this policy. The audit results will be reported through the Departmental Management Team Meetings and Business Plans.

### **4.0 LEVELS OF ENFORCEMENT ACTION**

There are a number of levels of enforcement action available to the Council.

#### **4.1 Prevention**

To raise awareness and promote good practice in order to help prevent any contravention of the law. This activity may include targeted publicity, media, engagement and routine inspections.

#### **4.2 Informal action**

We will use our best endeavours to resolve problems in a speedy and efficient manner when the issue is one that the officer is confident that appropriate corrective action can be taken and the result of the transgression is minor.

#### **4.3 Acceptable Behaviour Contracts (ABC)**

ABC's are written voluntary agreements between a person who has been involved in anti-social behaviour and one or more Street scene authorities. The purpose of the ABC is to lead to a correction in anti social behaviour. ABC's will be considered, where appropriate, for use in wider initiatives to forge an agreement for the good of strategic area based initiatives.

#### **4.4 Warning letters**

A warning is a written notification that in the Council's opinion an offence has been committed. It will be made clear in writing any such breaches of legislation, and distinctions between guidance and legal requirements will be made. It will be recorded and may be referred to in subsequent proceedings.

#### **4.5 Statutory Notices/Orders**

Formal Notices/orders may be served requiring residents or businesses to meet specific legal requirements. The Notice will explain what is wrong, what is required to put things right and the likely consequences if the notice is not complied with.

#### **4.6 Works in Default**

The Council will normally carry out works in default of a statutory notice where appropriate and in accordance with legislation.

#### **4.7 Fixed Penalty Notices**

Under the Department for Enforcement, Food and Rural Affairs (DEFRA) guidelines (Gov.UK), Fixed penalty notices can only be used in accordance with the enforcement of certain legislation. This includes the; Clean Neighbourhood and Environmental Act 2005, Environmental Protection Act 1990, Dog (Fouling of Land) Act 1996.

The service of a fixed penalty notice will be carried out when the circumstances of the offence satisfy the following criteria;

- The offence is sufficiently serious to warrant prosecution.
- There is sufficient evidence of the offender's guilt to give a realistic prospect of conviction
- The offender has expressed remorse and a willingness to comply with the law in future.
- The officer believes that a fixed penalty notice will prevent repeat offences.
- The offender will accept the fixed penalty notice and understands its significance.
- It is in the public interest to issue a fixed penalty notice rather than instigate prosecution proceedings, unless previous fixed penalty notices have not resolved the offender's behaviour.

Fixed penalty notice may be cited in prosecution proceedings in relation to a similar offence committed within three years of the cautions issue.

#### **4.7i Payment of Fixed Penalty Notices**

Whilst the payment rate is fixed currently at £75.00 the deadline for payment may be extended at the discretion of the Head of Service or any officer given that authority and in accordance with [Gov.UK](https://www.gov.uk) guidelines.

#### **4.8 Simple Caution**

A Caution is the written acceptance by an Offender that they have committed an Offence and may only be used where a prosecution could properly have been brought. It will be brought to the Court's attention if the Offender is convicted of a subsequent offence. Simple cautions will be recorded centrally and administered by the legal department.

#### **4.9 Prosecution**

Where the circumstances warrant and the alternative actions previously mentioned are considered inappropriate or insufficient, then prosecution may result. Before deciding whether a prosecution will be taken consideration will be given to a number of factors including Central Government guidance and the Code for Crown Prosecutors.

#### **4.9i Reparation**

Planned and supervised community activities may be identified as an alternative sanction for Fixed Penalty Notices issued to Under 18's. This is subject to availability and at the discretion of the Head of Streetscene.

### **5.0 The Human Rights Act 1998**

Under the Human Rights Act 1998, it is unlawful for the Council to act in a way, which is incompatible with the European Convention on Human Rights. All enforcement activity will be undertaken with due regard to the provisions of the Human Rights Act 1998 and associated legislation. E.g. Regulation of Investigatory Powers Act 2000. Operating practices, policies and training needs are monitored and are updated in accordance with appropriate legislation.

### **6.0 PUBLICITY**

Burnley Borough Council will, where appropriate, support its enforcement activity for the town with both pro-active and reactive publicity campaigns to positively reinforce the key Council Values regarding environmental enforcement. The publicity will be proportionate to the activity and its primary objective will be to educate and deter further environmental crime and activity.

## 7.0 REVIEW

It is intended that this policy will be subject to an annual review with additional reviews as and when required to accommodate changes in legislation and local needs. We will seek the views of businesses and other stakeholders when undertaking such reviews.

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of the Local Government Act 1972.

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