



CABINET

Subject Heading:

Public Protection Outbreak Control Service Plan 2020/21 and Public Protection Outbreak Control Enforcement Policy 2020/21

Cabinet Member:

Councillor Viddy Persaud
Cabinet Member for Public Protection and Safety

SLT Lead:

Barry Francis
Director of Neighbourhoods

Report Author and contact details:

Andy Watts, Public Protection Manager,
01708 433068
Andy.watts@havering.gov.uk

Policy context:

The Service Plan sets out the priorities for the Public Protection Outbreak Control enforcement function to align with the Council's objective for people to be safe. The Enforcement Policy sets out how the available legal powers will be applied. This is a legal requirement. This report includes reference to partnership working with the Police and others and the Council's overall response to the COVID-19 pandemic.

Financial summary:

The costs of implementing the plan and enforcement policy for 12 months is £577k. The activities are described in the LBH Outbreak Control Plan. The costs for the first year can be fully funded from the Contain Outbreak Management Fund allocated to the Council by central government.

Is this a Key Decision?

Yes, significant impact on two or more Wards

When should this matter be reviewed? 25/11/2021

Reviewing OSC: Environment

The subject matter of this report deals with the following Council Objectives

| | |
|-------------------------------|-------------------------------------|
| Communities making Havering | <input type="checkbox"/> |
| Places making Havering | <input checked="" type="checkbox"/> |
| Opportunities making Havering | <input checked="" type="checkbox"/> |
| Connections making Havering | <input type="checkbox"/> |

| |
|----------------|
| SUMMARY |
|----------------|

1.1 This report introduces the Public Protection Outbreak Control Service Plan and Enforcement Policy.

1.2 In response to the Global Coronavirus pandemic, the Council has in place an Outbreak Control Plan that sets out its overall approach to controlling coronavirus outbreaks in Havering. All top tier authorities were required to have such a plan by 30 June 2020.

1.3 The Council's approach is consistent with current national guidance, relevant legislation and learning from the national good practice network. It complements the plans of key partners including Public Health England and the NHS.

1.4 A key component of the Council's Outbreak Control Plan is ensuring that the borough is 'COVID secure'. The aim is to minimise further harm to residents caused by coronavirus including the direct harm to health caused by COVID-19 and the damaging effects on the local economy and wider wellbeing of residents if a significant degree of 'lockdown' is required to halt a further wave of infection.

1.5 An Outbreak Control Team has been formed within the Public Protection (PP) service. This is composed of new posts and its current work is being funded by government grant via the Director of Public Health. The team is comprised of a PP Manager, Senior PP Officer and PP Officers who are all qualified Environmental Health Officers, plus technical support posts. The team is assisted by other Officers from within the PP service as a priority over their normal business.

1.6 The work of the PP Outbreak Control Team enables engagement with:

- Businesses to improve their knowledge of how to ensure they operate safely in a COVID-19 secure manner and are thus compliant with their statutory obligations. This reduces the risk of COVID-19 outbreaks in the wider community.
- Other LBH departments, PHE, partners, NGOs and others in the community and voluntary sector and wider stakeholders to assist their understanding of COVID-19 and how they can contribute to minimising the risk of COVID-19 outbreaks occurring.
- The public generally to assist group and individual contributions to minimising the risk of COVID-19 outbreaks occurring.
- The public individually to assist the national NHS test and trace system.

1.7 The PP Outbreak Control Service Plan details how the PP Outbreak Control work will support and contribute to delivery of the overall LBH Outbreak Control Plan by carrying out work to ensure businesses and other organisations within Havering are 'COVID secure'.

1.8 Approval of the plan is sought to ensure that the Council complies with this statutory duty.

1.9 The PP Outbreak Control Enforcement Policy sets out how Havering Council will enforce the available legal powers to control the risk of a local outbreak of COVID-19. The Authority will aim to ensure the law is applied fairly and consistently, and to tackle offenders in proportion to any crime committed, whilst minimising the impact for the public and businesses.

1.10 The policy deals with the practical application of enforcement procedures to be used. The key principles we will apply to our enforcement activity are

- Consistency
- Proportionality
- Openness
- Transparency
- Accountability

1.11 The policy is consistent with the principles of good enforcement outlined in the Enforcement Concordat, the Hampton report and with specific regard to the Regulator's Code (Legislative and Regulatory Reform Act 2006). It takes account of current guidance from the Office of Product Safety and Standards (OPSS), the Health and Safety Executive (HSE), Public Health England (PHE) and COVID-19 guidance issued by HM Government.

1.12 Approval is sought for the PP Outbreak Control Enforcement Policy to ensure the Council complies with its statutory enforcement duties.

1.13 While this report primarily deals with the work of the Public Protection Outbreak Control service, it highlights that the Council has other service areas working in response to the COVID-19 pandemic and assisting in the delivery of its overall Outbreak Control Plan.

1.14 The Council is also working closely with external agencies such as the NHS, PHE and the Police on COVID-19 matters.

1.15 The Police continue to lead enforcement in relation to breaches of the requirements placed on individuals (including employees) while the Council is leading in relation to the obligations placed on businesses. More specific details of the partnership working arrangements with the Police are described.

RECOMMENDATIONS

2.1 Cabinet is asked to:

Agree and adopt the Public Protection Outbreak Control Service Plan 2020-21 (Appendix 1)

Agree and adopt the Public Protection Outbreak Control Enforcement Policy 2020-21 (Appendix 2)

| |
|----------------------|
| REPORT DETAIL |
|----------------------|

3.1 In response to the Global Coronavirus pandemic, the Council has in place an Outbreak Control Plan that sets out its overall approach to controlling coronavirus outbreaks in Havering. All top tier authorities were required to have such a plan by 30 June 2020.

3.2 The Council's approach is consistent with current national guidance, relevant legislation and learning from the national good practice network. It complements the plans of key partners including Public Health England and the NHS.

3.3 A key component of the Council's Outbreak Control Plan is ensuring that the borough is 'COVID secure'. The aim is to minimise further harm to residents caused by coronavirus including the direct harm to health caused by COVID-19 and the damaging effects on the local economy and wider wellbeing of residents if a significant degree of 'lockdown' is required to halt a further wave of infection.

3.4 An Outbreak Control Team has been formed within the Public Protection (PP) service. This is composed of new posts and its current work is being funded by government grant as detailed below. The team is comprised of a PP Manager (Andy Watts), Senior PP Officers (Natalie Malupa and Giselle Francis) and a PP Officer (David Cox) who are all qualified Environmental Health Officers, plus technical support posts. The team is assisted by other Officers from within the PP service as normal business allows.

3.5 The work of the PP Outbreak Control Team enables engagement with:

- Businesses to improve their knowledge of how to ensure they operate safely in a COVID-19 secure manner and are thus compliant with their statutory obligations. This reduces the risk of COVID-19 outbreaks in the wider community.
- Other LBH departments, PHE, partners, NGOs and others in the community and voluntary sector and wider stakeholders to assist their understanding of COVID-19 and how they can contribute to minimising the risk of COVID-19 outbreaks occurring.
- The public generally to assist group and individual contributions to minimising the risk of COVID-19 outbreaks occurring.

3.6 This PP Outbreak Control Service Plan details how the PP Outbreak Control work will support and contribute to delivery of the LBH Outbreak Control Plan by carrying out work to ensure businesses and other organisations within Havering are 'COVID secure'.

3.7 An important component of the Public Protection Outbreak Control Service Plan is the Public Protection contribution to the NHS Test and Trace scheme. LBH is one of many Councils across the country taking on the task of trying to trace and then contact people who have tested positive for COVID-19 but have not responded to attempted contact by the National test and trace service.

3.8 The principal reasons for the Test and Trace service is to ensure those who have tested positive for COVID-19 are self-isolating and to identify any contacts they may have had while in their infectious period. There are various reasons why the national service may have been unsuccessful in contacting people. This includes:

- Incorrect phone numbers, email addresses and other data being provided by individuals or recorded on the system
- People being unwilling to respond to the phone numbers used by the national service
- A general unwillingness to comply and cooperate with the system

3.9 The Council is only receiving the difficult cases, the straightforward cases all having been dealt with by the National service. The Council has the role of reaching these people via phone, email, text message or visit. The Council uses its internal data base resources to identify alternative phone numbers and other contact details. If they still do not respond to phone calls etc. then Public Protection Officers visit their last known address to speak to them directly.

3.10 Residents are visited at home by Public Protection Officers. The Officers will attempt to positively identify the covid positive individual, explain the situation and provide both verbal and written advice and guidance on how to comply with the requirements of NHS Test and Trace. Where Public Protection Officers are unable to speak to a person, a letter is left at the property that explains the requirements and provides a Freephone number for the individual to contact the Council's Contact Centre and participate in the NHS Test and Trace scheme.

3.11 Residents who must self-isolate, are unable to work from home, who are losing income, and who are claiming qualifying benefits or working tax credit, are eligible for a £500 'Test and Trace Support' payment. Other potential sources of support are also identified and provided to these residents.

3.12 The performance of the Council's local Test and Trace service is recognised as being as good as anywhere in London with around a 90% success rate. The Council's Test and Trace service is the subject of a separate cabinet report.

3.13 The PP Outbreak Control Service Plan was endorsed by the LBH Health Protection Board on 15th October 2020.

3.14 Approval and adoption of the plan would ensure that the Council complies with this statutory duty.

3.15 The PP Outbreak Control Enforcement Policy sets out how Havering Council will enforce the available legal powers to control the risk of a local outbreak of COVID-19. The Authority will aim to ensure the law is applied fairly and consistently, and to tackle offenders in proportion to any crime committed, whilst minimising the impact for the public and businesses.

3.16 The policy deals with the practical application of enforcement procedures to be used. The key principles we will apply to our enforcement activity are

- Consistency
- Proportionality
- Openness
- Transparency
- Accountability

3.17 The policy is consistent with the principles of good enforcement outlined in the Enforcement Concordat, the Hampton report and with specific regard to the Regulator's Code (Legislative and Regulatory Reform Act 2006). It takes account of current guidance from the Office of Product Safety and Standards (OPSS), the Health and Safety Executive (HSE), Public Health England (PHE) and COVID-19 guidance issued by HM Government.

3.18 The policy was endorsed by the LBH Health Protection Board on 15th October 2020.

3.19 Approval and adoption of the PP Enforcement Policy would ensure the Council complies with its statutory enforcement duties.

3.20 While this report primarily deals with the work of the Public Protection Outbreak Control service, it is highlighted that the Council has other service areas working in response to the COVID-19 pandemic and assisting in the delivery of its overall Outbreak Control plan. The redeployment of staff from service areas such as Housing is one example.

3.21 The deployment of COVID Marshalls is an important component of the Council's COVID-19 response work and this has been covered in a separate report to Cabinet from the Head of Enforcement and Safety.

3.22 The Council is also working closely with external agencies such as the NHS, PHE and the Police on COVID-19 matters.

3.23 In respect of the Council's partnership working with the Police, it is the national position that the Police will continue to lead enforcement in relation to breaches of the requirements placed on individuals (including employees) while the Council is leading in relation to the obligations placed on businesses.

3.24 Weekly meetings are taking place with the Police and other Local Authorities, at an operational level, to ensure consistency of approach and

appropriate targeting of resources. The Police also assist Public Protection Officers when they encounter abusive members of the public or, when threatened with hostile situations. However, disappointingly, the Police have stated that they will not participate in the enforcement of self-isolation requirements and thus it will fall to the Council to take enforcement action if appropriate in such situations.

3.25 On 31 October 2020 the Prime Minister made an announcement that national business restrictions would be put in place in England from Thursday 5 November, replacing the regional approach.

3.26 The Health Protection (Coronavirus, Restrictions) (England) (No. 4) Regulations 2020 (SI. 2020: No.1200) as amended¹, were made on 3 November, and came into force on 5 November 2020. Guidance on the national restrictions has also been published.

3.27 To ensure the effectiveness of the new measures there is an expectation by Government that local authorities will take proportionate, yet firm, action when breaches are found. The Council's Public Protection service is providing advice and support to businesses on the new restrictions, existing and continuing restrictions and undertaking enforcement action where necessary in accordance with the Public Protection Outbreak Control Enforcement Policy.

REASONS AND OPTIONS

4 Reasons for the decision:

4.1 In response to the Global Coronavirus pandemic, the Council has in place an Outbreak Control Plan that sets out its overall approach to controlling coronavirus outbreaks in Havering. All top tier authorities were required to have such a plan by 30 June 2020.

4.2 The Council's approach is consistent with current national guidance, relevant legislation and learning from the national good practice network. It complements the plans of key partners including Public Health England and the NHS.

5 Other options considered:

None

¹ Amended by SI. 2020 No. 1242

IMPLICATIONS AND RISKS

6 Financial implications and risks:

6.1 The Department of Health and Social Care has committed to providing two grants to reflect the new responsibilities asked of local government. The first was the Local Authority Covid-19 Test and Trace Service Support Grant of £1,022,848 which was allocated in June 2020. The second is the Contain Outbreak Management Fund was originally allocated at £3 per head of population in October 2020 when Havering was in Tier 2 but which has now been increased to £8 per head to reflect the current national lockdown. The Council is now expecting to receive a total of £2,076,416. Therefore the total funding available for additional containment activities by the Council is £3,099,264.

6.2 The table below shows the total budget allocations apportioned to the Outbreak Control Service Plan.

| Activity | Detail | Estimated Annual Cost |
|--|--|-----------------------|
| Public Protection – Outbreak Control Team staffing | 7No. posts to support businesses/community settings to be COVID secure and to control outbreaks should they occur. | £0.554m |
| ICT/Training/Other costs | Develop (online) training and self-help aids re. IPC / COVID security for priority business / community settings | £0.023m |

6.3 The total cost of £0.577 for twelve months will be funded from the existing Contain Outbreak Management Fund. This will take the team through to autumn 2021. A review of the Outbreak Control Plan will take place in summer 2021. At this point the demands may have reduced should a vaccine be in place and be proving effective. If the activity does need to continue, it is likely that more funding will have been available by the Department of Health and Social Care. There is also a balance of circa £1 million on the Council's Public Health reserve.

7 Legal implications and risks:

7.1 The Public Protection Outbreak Control Service Plan and Enforcement Policy set out the legal obligations placed upon the Council in response to the transmission of the COVID-19 across the community and businesses etc. COVID-19 is identified as one of 31 notifiable diseases under The Health Protection (Notification) Regulations 2010. The list of diseases is maintained by Public Health

England. The majority of COVID-19 outbreaks will be dealt with at a local level and there are a number of existing and new powers available to the Council to control the spread of COVID-19 in the borough. These powers are summarised in the Outbreak Control Service Plan. Any new regulations introduced as a result of the pandemic such as the Health Protection (Coronavirus, Restrictions) (England) (No.3) Regulations 2020 must be kept under review for further amendment and any new legislation introduced. The Enforcement Policy sets out a graduated approach before formal action is taken against any individual. The Council envisages the use of fixed penalty notices will be the most utilised enforcement action. There is no statutory appeal against such a notice, however if a complaint is raised this may be reviewed and subsequently withdrawn or alternatively prosecution proceedings can be issued where it is appropriate to do so in line with the Code of Crown Prosecutors and the Regulator's Code under the Legislative and Regulatory Reform Act 2006.

8 Human Resources implications and risks:

8.1 An Outbreak Control Team has been created within the Public Protection department.

8.2 The creation of, and appointment to posts in the team has been undertaken following the Council's policies and procedures.

8.3 The team currently consists of a Public Protection Manager, Senior Public Protection Officers and a Public Protection Officer. Additional technical support posts are being considered and created.

8.4 This new team is still being put in place but is already delivering the overall plan with the support of other PP officers. The Outbreak Control Team are providing crucial additional capacity to LBH in response to the COVID-19 pandemic. However, it is emphasised that COVID-19 compliance work and related matters is the number 1 priority for Public Protection as a whole.

8.5 Under the Health and Safety at Work etc. Act 1974 it is the individual qualified and authorised inspector who can take legal action in respect of any breaches of health and safety legislation, rather than the Council. The Council will indemnify officers appointed under the Health and safety at Work etc. Act against the whole of any damages and costs or expenses which may be involved, where the inspector honestly believed that the act complained of was within their powers and that their duty as an inspector entitled them to do it, providing the inspector was not wilfully acting against instructions. Insurance has been obtained to cover the financial and personal risk associated with this.

8.6 Further to this there are no HR implications or risks.

9 Equalities implications and risks:

9.1 The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:

- (i) the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) the need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment.

9.2 The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

9.3 An equalities assessment was completed for this decision.

10 Health and Wellbeing Implications and Risks

10.1 The COVID-19 pandemic has led to loss of lives and impacted people's health and wider social and mental wellbeing nationally and locally. The principle aim of the PP Outbreak Control Service Plan is to deliver the Public Protection component of the Havering Health Protection Board Outbreak Control Plan. In doing so to minimise further harm to residents caused by COVID-19, including the direct harm to physical health, mental and social wellbeing and the damaging effects on the local economy.

10.2 Interventions identified in the PP Outbreak Control Service plan will help protect residents from further COVID-19 transmission and outbreaks and support businesses within the Borough to control the risks of COVID-19 transmission and outbreaks, thus protecting the health and wellbeing of employees and residents.

10.3 The work of the PP Outbreak Control Team and their Public Protection colleagues in delivering the PP Outbreak Control Service Plan will enable engagement with:

- i) Businesses to improve their knowledge of how to ensure they operate safely in a COVID-19 secure manner and are thus compliant with their statutory obligations. This reduces the risk of COVID-19 outbreaks in the wider community.
- ii) Other LBH departments, PHE, partners, NGOs and others in the community and voluntary sector and wider stakeholders to assist their understanding of COVID-19 and how they can contribute to minimising the risk of COVID-19 outbreaks occurring.
- iii) The public generally to assist group and individual contributions to minimising the risk of COVID-19 outbreaks occurring.

10.4 The application of the associated Outbreak Control Enforcement Policy in a consistent, open, proportionate and transparent manner is an essential factor in the protection of the health and wellbeing of Havering residents.

10.5 Evidence shows Covid 19 infection has impacted some groups more than others with older people, individuals from a BAME background and those with underlying health conditions being more susceptible to serious illness following COVID-19 infection. Robust compliance to Covid 19 guidelines and enforcement will particularly benefit the health and wellbeing of people with those characteristics.

| |
|-------------------|
| Appendices |
|-------------------|

- 1) Public Protection Outbreak Control Service Plan
- 2) Public Protection Outbreak Control Enforcement Policy

BACKGROUND PAPERS

None