

# City Environment, South Downs & The Sea Committee

Date: **20 June 2023**

Time: **4.00pm**

Venue: **Council Chamber, Hove Town Hall**

Members: **Councillors:** Rowkins (Chair), Fowler (Deputy Chair), Pickett (Opposition Spokesperson), Alexander, Burden, Galvin, Muten, Robinson, C Theobald and Winder

Contact: **John Peel**  
Democratic Services Officer  
01273 291058  
[john.peel@brighton-hove.gov.uk](mailto:john.peel@brighton-hove.gov.uk)

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Date of Publication – 12 June 2023

# AGENDA

Part One

Page

## PROCEDURAL MATTERS

### 1 PROCEDURAL BUSINESS

- (a) **Declarations of Substitutes:** Where councillors are unable to attend a meeting, a substitute Member from the same political group may attend, speak and vote in their place for that meeting.
- (b) **Declarations of Interest:**
  - (a) Disclosable pecuniary interests;
  - (b) Any other interests required to be registered under the local code;
  - (c) Any other general interest as a result of which a decision on the matter might reasonably be regarded as affecting you or a partner more than a majority of other people or businesses in the ward/s affected by the decision.

In each case, you need to declare

- (i) the item on the agenda the interest relates to;
- (ii) the nature of the interest; and
- (iii) whether it is a disclosable pecuniary interest or some other interest.

If unsure, Members should seek advice from the committee lawyer or administrator preferably before the meeting.

- (c) **Exclusion of Press and Public:** To consider whether, in view of the nature of the business to be transacted or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

*Note: Any item appearing in Part Two of the agenda states in its heading the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the press and public. A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls and on-line in the Constitution at part 7.1.*

### 2 CHAIRS COMMUNICATIONS

### 3 CALL OVER

- (a) Items 7 – 9 will be read out at the meeting and Members invited to reserve the items for consideration.
- (b) Those items not reserved will be taken as having been received and the reports' recommendations agreed.

#### 4 PUBLIC INVOLVEMENT

To consider the following matters raised by members of the public:

- (a) **Petitions:** To receive any petitions presented by members of the public;
- (b) **Written Questions:** To receive any questions submitted by the due date of 12 noon on the 14 June 2023;
- (c) **Deputations:** To receive any deputations submitted by the due date of 12 noon on the 14 June 2023.

#### 5 ITEMS REFERRED FROM COUNCIL

To consider items referred from the last meeting of Full Council held on 30 March 2023

#### 6 MEMBER INVOLVEMENT

7 - 8

To consider the following matters raised by Members:

- (d) **Petitions:** To receive any petitions;
- (e) **Written Questions:** To consider any written questions;
  - 1) Councillor Fishleigh- Public Toilet Contractor
- (f) **Letters:** To consider any letters;
- (g) **Notices of Motion:** to consider any Notices of Motion referred from Full Council or submitted directly to the Committee.

#### 7 CONSTITUTIONAL MATTERS: CITY ENVIRONMENT, SOUTH DOWNS & THE SEA COMMITTEE

9 - 14

Report of the Executive Director, Economy, Environment & Culture

Contact Officer: John Peel

Tel: 01273 291058

Ward Affected: All Wards

#### 8 ENVIRONMENTAL ENFORCEMENT FRAMEWORK UPDATE

15 - 46

Report of the Executive Director, Economy, Environment & Culture

Contact Officer: Rachel Chasseaud

Tel: 01273 290753

Ward Affected: All Wards

#### 9 PLAYGROUND REFURBISHMENT PROGRAMME

47 - 56

Report of the Executive Director, Economy, Environment & Culture

Contact Officer: Rachel Chasseaud

Tel: 01273 290753

Ward Affected: All Wards

## **10 ITEMS REFERRED FOR FULL COUNCIL**

To consider items to be submitted to the 20 July 2023 Council meeting for information.

*In accordance with Procedure Rule 24.3a, the Committee may determine that any item is to be included in its report to Council. In addition, any Group may specify one further item to be included by notifying the Chief Executive no later than 10am on the eighth working day before the Council meeting at which the report is to be made, or if the Committee meeting take place after this deadline, immediately at the conclusion of the Committee meeting*

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The closing date for receipt of public questions and deputations for the next meeting is 12 noon on the fourth working day before the meeting.

Meeting papers can be provided, on request, in large print, in Braille, on audio tape or on disc, or translated into any other language as requested.

Infra-red hearing aids are available for use during the meeting. If you require any further information or assistance, please contact the receptionist on arrival.

### **Further information**

For further details and general enquiries about this meeting contact John Peel, (01273 291058, email [john.peel@brighton-hove.gov.uk](mailto:john.peel@brighton-hove.gov.uk)) or email [democratic.services@brighton-hove.gov.uk](mailto:democratic.services@brighton-hove.gov.uk)

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- Do not stop to collect personal belongings;
- Once you are outside, please do not wait immediately next to the building, but move some distance away and await further instructions; and
- Do not re-enter the building until told that it is safe to do so



# Brighton & Hove City Council

## City Environment, South Downs & The Sea Committee

## Agenda Item 6(b)

**Subject: Member Questions**

**Date of meeting: 20 June 2023**

The question will be answered without discussion. The person who asked the question may ask one relevant supplementary question, which shall be put and answered without discussion. The person to whom a question, or supplementary question, has been put may decline to answer it.

The following written questions have been received from Members:

**(1) Councillor Fishleigh- Public Toilet Contractor**

What penalty clauses are in the contract between BHCC and the company appointed to refurbish various toilet blocks in the city including on Saltdean undercliff, will these be applied and will you ensure that this company is never given a BHCC contract again and that the procurement departments of neighbouring authorities are made aware of BHCC's unsatisfactory experience?





# Brighton & Hove City Council

## City Environment, South Downs & The Sea Committee

## Agenda Item 7

**Subject:** Constitutional Matters

**Date of meeting:** 20 June 2023

**Report of:** Executive Director, Governance, People & Resources

**Contact Officer:** Name: John Peel  
Tel: 01273 291058  
Email: [john.peel@brighton-hove.gov.uk](mailto:john.peel@brighton-hove.gov.uk)

**Ward(s) affected:** All

**For general release**

### **1. Purpose of the report and policy context**

1.1 To provide information on the committee's terms of reference and related matters including the appointment of its Urgency Sub-Committee.

### **2. Recommendations**

2.1 That the committee's terms of reference, as set out in Appendix 1 to this report, be noted; and

2.2 That the committee agrees to establish an Urgency Sub-Committee consisting of the Chair of the Committee and two other Members (nominated in accordance with the scheme for the allocation of seats for committees), to exercise its powers in relation to matters of urgency, on which it is necessary to make a decision before the next ordinary meeting of the Committee.

### **3. Context and background information**

3.1 Article 6 of the constitution, incorporates a schedule of all the Committees/Sub-committees established in the constitution together with a summary of their respective functions.

#### **The City Environment, South Downs & The Sea Committee – Terms of Reference**

3.2 A copy of the terms of reference for the committee is attached in Appendix 1. These should be read in the context of the 'Introduction and General Delegations' included in the Scheme of Delegations to Committees and Sub-Committees at part 4 of the constitution.

## **Membership**

- 3.3 The membership of the committee is set at 10 Members of the council.
- 3.4 The arrangements for substitute Members to attend meetings of Committees/Sub-Committees, are set out in the Council Procedure Rules 18.14 to 18.25.

## **Programme Meetings**

- 3.5 Ordinary meetings of the City Environment, South Downs & The Sea Committee are scheduled to take place on the following dates during 2023/24:  
  
20 June 2023  
19 September 2023  
14 November 2023  
23 January 2024  
12 March 2024
- 3.6 Meetings of the Committee will normally be held at Hove Town Hall and will start at 4.00 p.m.

## **Urgency Sub-Committee**

- 3.7 The Constitution states that each Committee of the Council except the Audit & Standards Committee may appoint an Urgency Sub-Committee to exercise its powers. The membership of such Urgency Sub-Committee shall consist of the Chair of the Committee, and two other Members nominated by the Group Leader or Leaders as appropriate to meet the requirements for the allocation of seats between political groups. Under current allocations this would mean an urgency sub-committee will consist of two Members from the Administration and one Member from the Official Opposition on the Council.
- 3.8 Such Urgency Sub-Committees may exercise their powers in relation to matters of urgency on which it is necessary to make a decision before the next ordinary meeting of the Committee. Every decision of each Urgency Sub-Committee shall be reported for information to the next ordinary meeting of the Committee as appropriate.'

## **4. Analysis and consideration of alternative options**

- 4.1 The council's constitution provides for the appointment of the sub-committees and urgency sub-committees and it is for the Committee to determine this action and it could decide not to make such appointments. However, this would be contrary to the wishes of the council and is not therefore regarded as a viable alternative option.

## **5. Community engagement and consultation**

- 5.1 All Members considered and approved the allocation of seats to Committees and Sub Committees and the Terms of Reference of new Committees on 25th May 2023.

## **6. Conclusion**

- 6.1 The recommendations are being put forward in line with the requirements of the constitution.

## **7. Financial implications**

- 7.1 There are no direct financial implications arising from the recommendations of this report. The financial implications of matters considered by the Urgency Sub-Committee will be included in reports to the Sub-Committee

Name of finance officer consulted: Jeff Coates    Date consulted 06/06/2023

## **8. Legal implications**

- 8.1 The Council's constitution complies with the legal framework set out in the Localism Act 2011, the Local Government Act 2000 and other relevant legislation.

Name of lawyer consulted: Alice Rowland    Date consulted: 07/6/23

## **9. Equalities implications**

- 9.1 There are no equalities implications arising from the report.

## **10. Sustainability implications**

- 10.1 There are no sustainability implications arising from the report.

## **Supporting Documentation**

### **1. Appendices**

1. City Environment, South Downs & The Sea Terms of Reference



## **CITY ENVIRONMENT, SOUTH DOWNS & THE SEA COMMITTEE**

### **Explanatory Note**

This Committee is responsible for the council's functions relating to waste, parks and open spaces, environmental health, coast protection and trading standards.

### **Delegated Functions**

#### **1. Parks and Open Spaces**

To exercise the Council's functions in relation to parks and open spaces to the following extent:-

- (a) provision, management and control of parks and open spaces (except those held for housing purposes);
- (b) making countryside management arrangements in liaison with the South Downs National Park Authority and other environmental bodies;
- (c) provision, management and control of allotments and smallholdings;
- (d) as commons registration authority.

#### **2. Environmental Health**

To exercise the Council's functions in relation to environmental health, air and water pollution control, health and safety at work (except in so far as it relates to the Council as an employer), public conveniences, food safety, control of nuisances, including noise control and control of dogs.

#### **3. Trading Standards**

To exercise the Council's functions regarding trading standards, including but not limited to consumer protection, product safety, fair trading, metrology, food standards and animal health.

#### **4. Waste**

To exercise the Council's functions in relation to waste and as waste collection authority, waste disposal authority and litter authority, including dealing with litter, street cleansing, abandoned vehicles and dog fouling.

#### **5. Water environment**

To lead on the Council's community leadership, advocacy and partnership roles in relation to the protection and enhancement of the water environment.

#### **6. Coast Protection and Flood Defence**

To exercise the Council's functions as a coast protection authority and a lead local flood authority.

**7. Scrutiny of Flood and Coastal Erosion Plans**

To undertake the scrutiny of flood and coastal erosion plans as required by the Localism Act 2011.

**8. Bereavement and Coroner's Services**

To exercise the Council's functions in relation to bereavement services and the Coroner's service.

**9. Public Space**

To exercise the council's functions regarding spaces to which the public have rights of access and consisting of the highway, street furniture on the highway and open spaces or parts of open spaces immediately adjacent to the highway to which the public have access.

# Brighton & Hove City Council

## City Environment, South Downs & The Sea Committee

## Agenda Item 8

**Subject:** Environmental Enforcement Framework Update

**Date of meeting:** 20 June 2023

**Report of:** Executive Director: Economy, Environment & Culture

**Contact Officer:** Name: Lynsay Cook  
Tel: 07592 103604  
Email: Lynsay.cook@brighton-hove.gov.uk

**Ward(s) affected:** All

**For general release**

### **1. Purpose of the report and policy context**

- 1.1 Fly-tipping, littering, graffiti, fly-posting, uncontrolled distribution of leaflets, inappropriate containment of business waste and the illegal disposal of business waste are all examples of environmental offences. These activities can have a significant and detrimental impact on the city, increasing the waste produced and reducing recycling. They also have a cost implication in terms of cleansing, collection and disposal.
- 1.2 To tackle this anti-social and illegal behaviour, the Environment Transport & Sustainability Committee approved the Environmental Enforcement Framework on 27 November 2018. Further updates have been approved as detailed in the Background Document section at the end of this report. This report is seeking further approval to update the Environmental Enforcement Framework and related activities.

### **2. Recommendations**

- 2.1 That the City Environment, South Downs & The Sea Committee approves the updated Environmental Enforcement Framework as detailed in Appendix 1 (which highlights the tracked changes).
- 2.2 That the City Environment, South Downs & The Sea Committee agrees that the use of CPWs and CPNs to take enforcement action against small and independent (locally headquartered) businesses is paused with immediate effect and a new process adopted as set out in paragraphs 3.9 to 3.12.
- 2.3 That the City Environment, South Downs & The Sea Committee delegates authority to the Executive Director: Economy, Environment & Culture to take enforcement action as detailed in paragraphs 3.9 to 3.25.
- 2.4 That the City Environment, South Downs & The Sea Committee delegates authority to the Executive Director: Economy, Environment & Culture to determine the timing of the implementation of the offences.

### 3. Context and background information

- 3.1 The purpose of the Environmental Enforcement Service is to:
- enforce certain environmental legislation
  - improve the cleanliness of the city
  - issue Fixed Penalty Notices (FPNs), Community Protection Warnings (CPWs) and Community Protection Notices (CPNs) in the city for the offences detailed in section 5 of the Framework in Appendix 1
  - enable the council to be more responsive to commercial waste offences and to incidents of fly-tipping
  - encourage behavioural change to reduce environmental crimes
  - minimise waste clean-up and disposal
- 3.2 The Environmental Enforcement Framework is reviewed on a regular basis to consider additional offences to include to address anti-social and illegal behaviour and to minimise waste clean-up and disposal costs. This update includes additional offences for inclusion following the cessation of the Field Officer Team and feedback from stakeholders.
- 3.3 As per the legislation, the income from fines paid are used to cover the costs of the Environmental Enforcement Service. Any surplus income is ring-fenced to spend on environmental improvement projects in line with legal requirements.

#### Service delivery

- 3.4 During 2022/23, the following were issued by the Environmental Enforcement Team, generating £0.382m income:

Offence	Number issued
Industrial and commercial waste offences	1654
Littering	728
Commercial fly-tip	396
Non-compliance with Duty of Care	354
Graffiti (CPW)	230
Failure to produce Duty of Care	199
Residential fly-tip	193
Graffiti (CPN)	128
Graffiti (FPN for non-compliance of CPN)	68
Spitting, urinating and defecating	57
Unauthorised Flyering	47
Dog exclusion	42
Using a single use barbecue	37
Graffiti (FPN)	16
Littering from a vehicle	15
Fly-posting (FPN)	6
Fly-posting (CPW)	5
Dog fouling	4
Fly-posting (CPN)	3



- 3.5 On 5 June 2023, seven members of the Environmental Enforcement Team teamed up with the Environment Agency, Sussex Police and the Commercial Vehicle Unit to check commercial vehicles entering and exiting the city on Preston Drive, Brighton. Over 100 vehicles were stopped to check they had the appropriate documentation and licenses to operate in their stated commercial capacity and that the vehicles were safe.
- 3.6 As a result of the checks:
- Nine drivers were issued with a FPN by the Environmental Enforcement Team for not having a waste carrier licenses
  - Ten drivers were issued with a FPN by Sussex Police for driver or vehicle defects
  - Five drivers were issued with a FPN by the Commercial Vehicle Unit; two for dangerous tyres, two for insecure loads and one for defective brakes. In addition, Sussex Police seized a van and trailer for committing an insecure load offence
- 3.7 It was a positive day, with illegal and dangerous vehicles dealt with. Those walking by welcomed the presence of the organisations involved and the action being taken. Another day is being planned.

### **Changes to graffiti tagging enforcement**

- 3.8 In May 2023, officers were asked to urgently review the current approach to graffiti tagging removal from private property via the use of CPWs and CPNs.
- 3.9 It is recommended that the use of CPWs and CPNs to take enforcement action against small and independent (locally headquartered) businesses is paused with immediate effect for a review of the enforcement measures to take place. Feedback received indicates small, independent businesses are struggling with the cost-of-living crisis and this pause is a supportive measure to help protect the city's vibrant, small, independent business sector. Instead, small, independent businesses that are tagged will receive a letter from the Environmental Enforcement Team requesting the removal of the graffiti at their earliest convenience. It is hoped that in using this approach, small, independent businesses will continue to support the council's efforts in keeping Brighton & Hove clean and tidy.
- 3.10 Enforcement action will continue to be used for a failure to remove graffiti tagging against large and non-independent businesses and Statutory Undertakers as per current policy.
- 3.11 Over the next few months, officers will review the options for graffiti tagging removal from all types of business property across the city. This will form part of a refresh of the Graffiti Reduction Strategy which will be brought to Committee in the autumn.
- 3.12 Learning from the approach detailed in 3.9 will be used to inform the options available. There is a risk that without the option of enforcement action, the

incidence of graffiti tagging on small, independent businesses will increase and action will not be taken to remove it. This will be monitored to inform future options as part of the refresh of the Strategy.

### **Fly-tipping on private land**

- 3.13 Fly-tipping on public land is already an offence within the Environmental Enforcement Framework. At present, the council cannot take any action regarding fly-tipping on private land. Previously, the Field Officers would refer reports, but not carry out enforcement action. Now the Field Officer Team has ceased, it is proposed that the offence of fly-tipping on private land is added to the Environmental Enforcement Framework.
- 3.14 Upon receiving a report of a flytip on private land, or if one is discovered whilst an Environmental Enforcement Officer is completing their daily patrols, an investigation will commence to identify the landowner. With the landowner's permission, Officers will seek to identify the perpetrator. Where there is sufficient evidence, the perpetrator will be issued with a FPN. The FPN amount will be £400 to align with the FPN issued for fly-tipping on public land. The landowner will be responsible for legally and safely disposing of the flytip.
- 3.15 Introducing this offence will support the council's efforts in tidying up the city and make it clear that flytipping is not tolerated.

### **Engine idling**

- 3.16 The Road Traffic Regulations 2002 and the Road Traffic Act (1988) allows for a FPN to be issued to the driver of a vehicle that is stationary on the road, committing an idling offence. It is proposed that the offence of idling on the city's streets is added to the Environmental Enforcement Framework. The FPN amount will be £20. This is the highest it can be within the legislation, which is in line with the way fine levels have been set for other offences within the Environmental Enforcement Framework.
- 3.17 Upon witnessing an idling car, an Environmental Enforcement Officer will speak with the driver and notify them that they are committing an offence. The Officer will obtain their details, including the registration number of the car and normally issue the driver with a FPN. Should the vehicle drive off without details being obtained, an Operation Crackdown will be submitted via Sussex Police for keeper details and the FPN will be issued through the post. FPNs will not be issued to cars queuing in traffic but those waiting in parking bays, taxi ranks or other parts of the highway.
- 3.18 Introducing this enforcement measure will support the council's efforts to become a Carbon Neutral City by 2023. It will improve urban air quality, to aid public health initiatives such as asthma prevention and coping with Covid. Cleaner air and quieter streets create an environment more conducive to active travel and the enjoyment of communal space, homes and gardens.

- 3.19 Signage is already displayed across the city (level crossings, taxi ranks, city centre, Portslade and Rottingdean) to discourage engine idling. Additional signage, in key locations that align with the Air Quality Management Areas Order 2020, will be installed in advance of this offence becoming live. The new approach will enable the council to take enhanced action against those who are allowing their vehicles to idle.

### **Estate agent, letting agent and managing agent boards**

- 3.20 The Town and Country Planning Regulations (2007) allows for a FPN to be issued to an estate agent, letting agent, or managing agent if a miscellaneous temporary advertisement breaches the conditions and limitations of Schedule 3, Part 1, Class 3A. One breach is that the temporary advertisement i.e. the “sold” or “let” board is not removed within 14 days after the completion of a sale or the grant of a tenancy. Enforcement in relation to this was previously a function of the Field Officers. Now the Field Officer Team has ceased, it is proposed that the offence of “sold” or “let” boards remaining in situ after 14 days is added to the Environmental Enforcement Framework.
- 3.21 Upon obtaining evidence that a board has remained in situ for longer than 14 days, an Environmental Enforcement Officer will make contact with the relevant estate agent, letting agent or managing agent to notify them that a FPN will normally be issued under the Town and Country Planning Regulations (2007). The FPN will be issued directly to the estate agent, letting agent or managing agent.
- 3.22 Introducing this enforcement measure will support the council's efforts in tidying up the city. These boards are regularly fly-tipped across the city, either on pavements or by communal bins. By introducing measures to ensure they are removed in a timely way will help keep the city's streets clean. FPNs will continue to be issued to estate agents, letting agents or managing agents when a board is fly-tipped on the pavement, highway or by a communal bin.

### **Unlicensed mobile street trading**

- 3.23 Mobile street trading is only permitted in some areas of the city and requires approval from the council to do so. Enforcement in relation to unlicensed mobile street trading on Madeira Drive, the seafront and promenade was previously a function of the Field Officers. Now the Field Officer Team has ceased, it is proposed that the offence of unlicensed mobile street trading on Madeira Drive, the seafront and the promenade is added to the Environmental Enforcement Framework. The enforcement of unlicensed trading in parks and open spaces was not a function of the Field Officer Team and is proposed as a new offence within the Framework.
- 3.24 Upon being notified of an unlicensed mobile street trader, or if one is discovered whilst an Environmental Enforcement Officer is completing their daily patrols, the Officer will issue a CPW to the trader. This will provide an instruction for the trader to leave the area immediately and to not repeat

illegally trading in any area of the city. If the trader repeats the offence, the trader will be issued with a CPN with a further instruction to not illegally trade. If the trader is found for a third time, a FPN of £100 will be issued to the trader. Prosecution is also an option.

- 3.25 Introducing this enforcement measure will ensure trading only takes place in designated areas, having received approval from the council. Traders that set up on council land without permission have a detrimental impact on licensed mobile traders and/or the amenity of the public space.

## **Implementation**

- 3.26 If Committee approves the introduction of these offences, a phased approach to implementation will be taken, with go-live dates determined by the Executive Director: Economy, Environment & Culture. This is because time is required to: complete relevant communication activities on the new offences in advance of go-live, make changes to the environmental enforcement system and train Officers. Communication on the new offences will include a news story and social media posts. Councillors will be briefed, and the council website will be updated to inform members of the public about the offences.

## **4. Analysis and consideration of alternative options**

- 4.1 Not updating the Environmental Enforcement Framework will mean offences will be carried out, but no enforcement measures in place.

## **5. Community engagement and consultation**

- 5.1 The Framework will continue to be regularly reviewed to consider stakeholder feedback and any changes will be brought back to Committee for approval.

## **6. Conclusion**

- 6.1 The Environmental Enforcement Service delivers the objectives as detailed in paragraph 3.1. To enhance this, additional offences have been identified for inclusion on the Framework to further improve the cleanliness of the city. It is proposed a new offence relation to engine idling is added to the Framework to support efforts to improve air quality within Brighton & Hove. It is proposed a new offence relating to unlicensed mobile street trading is added to the Framework to protect the city's seafront and open spaces.

## **7. Financial implications**

- 7.1 There are no direct financial implications from the updated Environmental Enforcement Framework. Any surplus income from Fixed Penalty Notices, as set in paragraph 3.3 of this report, are legally ring fenced to support specific environmental purposes. Additional spend is expected to be funded from additional income and any significant variation to budget will be reported as part of the council's monthly budget monitoring process.

Name of finance officer consulted: John Lack Date consulted: 24/05/2023

## **8. Legal implications**

- 8.1 The legal position is governed by statute and regulation. There will be a review process if those issued with a FPN wish to object. Whilst there is no statutory requirement for this it is good practice. The right of appeal to the Magistrates Court will still be available. Officers will have some discretion under the policy and will take into the account the circumstances in each case. With regards to community protection warnings and the subsequent notices, there is a defined process under statute and guidance on how to use the powers. There is no requirement for an internal review process as there is the right of appeal to a Magistrates Court. On a practical level it is prudent to consider an internal review where a CPN is challenged, but not required.

Name of lawyer consulted: Simon Court Date consulted: 22/05/2023

## **9. Equalities implications**

- 9.1 An Equalities Impact Assessment (EIA) for the new offences is in Appendix 2. It has been identified that there may be some disproportionate impacts on some protected groups in relation to the engine idling offence. Actions to address this are within the EIA.
- 9.2 All those that live in, work in, or visit the city, including those in protected groups, may be subject to environmental enforcement action if they are witnessed committing an environmental crime, or if evidence is obtained to that effect.
- 9.3 Equalities considerations are also addressed within the Environmental Enforcement Framework.

## **10. Sustainability implications**

- 10.1 Environmental enforcement activity improves the environment by reducing littering, dog fouling, fly-tipping, graffiti, fly-posting and littering associated with flyers. Enhancing the Environmental Enforcement Framework allows the council to further protect the environment from these detrimental activities.
- 10.2 The new enforcement measure relating to engine idling will help improve air quality within the Brighton & Hove.
- 10.3 The new enforcement measure relating to unlicensed mobile street trading will help protect the city's seafront and open spaces.

## **11. Other Implications**

### **Crime & disorder implications**

- 11.1 Environmental enforcement addresses illegal and anti-social behaviour and has a beneficial impact on crime and disorder.

## **Supporting Documentation**

### **Appendices**

1. Updated Environmental Enforcement Framework (tracked changes)
2. Equality Impact Assessment – new environmental enforcement measures

### **Background documents**

1. [Environmental Enforcement Report](#) presented to Environment, Transport & Sustainability Committee on 27 November 2018 (item 46)
2. [Environmental Enforcement Framework Update](#) presented to Environment, Transport & Sustainability Committee on 25 June 2019 (item 11)
3. [Environmental Enforcement Framework](#) presented to Environment, Transport & Sustainability Committee on 29 September 2020 (item 31)
4. [Commercial Bins on the Highway: Outcome of Public Consultation](#) presented to Environment, Transport & Sustainability Committee on 22 June 2021 (item 10)
5. [Environmental Enforcement Framework Update](#) presented to Environment, Transport & Sustainability Committee on 22 June 2021 (item 11)
6. [Public Space Protection Orders - barbecues, lanterns and balloons: Outcome of Public Consultation](#) presented to Environment, Transport & Sustainability Committee on 15 March 2022 (item 95)
7. [Outcomes of environmental enforcement consultations](#) presented to Environment, Transport & Sustainability Committee on 15 November 2022 (item 45)
8. Air Quality Management Areas Order 2020: <https://www.brighton-hove.gov.uk/sites/default/files/2020-12/AQMA%20Order%20November%202020%20%28colour%29%5B2267%5D.pdf>
9. Street trading options in Brighton & Hove: <https://www.brighton-hove.gov.uk/business-and-trade/licensing-and-gambling/street-trading-options-brighton-hove>



**Brighton & Hove  
City Council**

# **Environmental enforcement framework**

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# 1. Purpose

The purpose of the Environmental Enforcement Framework is to address anti-social and illegal behaviour to improve the environment and minimise waste clean-up and disposal costs.

Environmental enforcement is delivered by authorised Environmental Enforcement Officers patrolling Brighton & Hove. Enforcement action includes the issuing of Fixed Penalty Notices (FPNs), Community Protection Warnings (CPWs), Community Protection Notices (CPNs), FPNs in relation to Public Space Protection Orders (PSPOs) and court orders.

This Framework sets out the standards that will be applied when issuing FPNs, CPWs, and CPNs for environmental offences and what residents, businesses, and visitors can expect from Brighton & Hove City Council.

# 2. Introduction

Brighton & Hove City Council is committed to combatting fly tipping and littering, ensuring the city remains attractive and enjoyable for all those living and working here as well as those visiting the area.

The council will take a fair and proportionate approach to issuing fines for environmental offences to ensure that those spoiling the environment for others are made accountable for their actions.

The council will issue FPNs, CPWs, CPNs and PSPOs to enforce environmental crimes under the following legislation:

- Sections 33, 34, 46A, 47, 47ZA, [59](#), 88 and 94B of the Environmental Protection Act 1990
- Section 43 of the Anti-Social Behaviour Act 2003
- [Sections 43, and 59 to 68 of the Anti-Social Behaviour, Crime and Policing Act 2014](#)
- [Section 42 of the Road Traffic Act 1988](#)
- [The Road Traffic \(Vehicle Emissions\) \(Fixed Penalty\) \(England\) Regulations 2002](#)
- [Schedule 3 of the Town and Country Planning \(Control of Advertisements\) \(England\) Regulations 2007](#)

The council will issue FPNs, CPWs, and CPNs on all council-owned land, including, but not limited to, the beach, seafront, parks, open spaces, pavements and the highway. [FPNs will also be issued for flytipping on private land.](#)

FPNs provide a quick, visible and effective way of dealing with low-level straightforward environmental crimes, offering an alternative to prosecution.

This Framework complements the Highways Policy ~~and the Delegated Powers assigned to Field Officers~~, which ~~both~~ deals with other areas of environmental enforcement.

# 3. FPN fines

FPN fines are as follows:



Offence	BHCC penalty	BHCC early payment
Littering	£150	£110
Littering from vehicles	£150	£110
Spitting, urinating or defecating	£150	N/A
Dog fouling	£80	N/A
Dogs on leads	£80	N/A
Dogs on lead by direction	£80	N/A
Dogs in dog exclusion zone	£80	N/A
Graffiti	£150	N/A
Fly posting	£150	N/A
Unauthorised flyering	£150	N/A
Household waste bins and boxes	£80	N/A
Industrial and commercial waste receptacle offence	£110	N/A
Residential fly-tipping <u>on public and private land</u>	£400	N/A
Disposing of commercial waste illegally	£400	N/A
Failure to produce a Waste Transfer Note or Duty of Care Certificate or non-compliance with Certificate	£300	N/A
<u>Engine idling</u>	<u>£20</u>	<u>N/A</u>
<u>Miscellaneous temporary advertisements</u>	<u>£100</u>	<u>N/A</u>
Failure to comply with a PSPO	£100	N/A
Failure to comply with a CPN <u>for graffiti, flyposting and unlicensed mobile street trading offences</u>	£100	N/A

FPN fines are set in line with DEFRA guidance: <https://www.gov.uk/government/publications/code-of-practice-on-litter-and-refuse> and <https://www.gov.uk/guidance/household-waste-bins-when-and-how-councils-may-issue-fixed-penalties>

The fine for failing to comply with a PSPO is set in line with Section 68 of the Anti-Social Behaviour, Crime and Policing Act 2014:

<https://www.legislation.gov.uk/ukpga/2014/12/section/68/enacted>

The fine for littering is £150 with an early payment discount reducing it to £110, if it is paid within 10 days.

There are no early payment discounts for other offences because Brighton & Hove City Council is taking a hard stance on these offences with the penalty set accordingly.

The cost of FPNs will be reviewed annually to enable Brighton & Hove City Council to target particular environmental offences when needed and ensure appropriate costs of the service are met. Payment of an FPN in instalments is not possible.

## 4. Issuing of FPNs

All FPNs will be issued in line with government guidance:

<https://www.gov.uk/government/publications/code-of-practice-on-litter-and-refuse> and <https://www.gov.uk/guidance/household-waste-bins-when-and-how-councils-may-issue-fixed-penalties>

Details about when a FPN would and would not be issued are detailed below.

### When a FPN will be issued

A FPN will only be issued when all of the following apply:

- an offence has been committed (see section 5)
- a FPN is a proportionate response
- there is evidence to support prosecution if the offender does not pay the FPN
- the offender understands why the FPN is being issued
- the Environmental Enforcement Officer believes that the name and address offered by the offender are correct

In addition, a FPN will be issued when a PSPO has not been complied with.

### When a FPN will not be issued

A FPN will not be issued if any of the following apply:

#### **If there is no criminal liability**

- the person in question is exempt, e.g. a blind person whose dog has fouled in an area where a dog control order applies
- the offender is a child under the age of 10, when the child's parents or guardian may be informed

#### **If enforcement action is inappropriate or would be disproportionate for the offence**

- it is not in the public interest to do so

- the offender is vulnerable; for example, someone who is a rough sleeper or suffers from a mental impediment; this list is not exhaustive

### **If prosecution is more suitable**

- the offence is major, e.g. deliberate smashing of glass, racist graffiti, or where an extensive quantity of waste is fly tipped or where the content of the waste is hazardous.
- the offence is committed by a persistent offender
- the offender is violent or aggressive

In these cases, evidence will be referred to officers in City Environment to determine whether the case should be referred to council's legal team.

### **If littering is done accidentally**

- accidental: for example, something falls out of someone's pocket (as opposed to intentional where, for example, litter is dropped and the offender walks away, including the discarding of cigarettes).

Where there is doubt over intent, the Environmental Enforcement Officer will challenge the offender, stating they have seen them drop something and ask them to pick it up. Should the person refuse to pick up the litter, they may be issued with an FPN.

### **About issuing fines**

The FPN gives the alleged offender an opportunity to avoid prosecution by payment of the penalty. An FPN is therefore only issued where there is adequate evidence to support a prosecution, if a notice is not paid.

FPNs will not be issued to under 18s but if an Environmental Enforcement Officer witnesses an under 18 committing an environmental offence, they will have an informal discussion with them about it and may write to their parent or guardian.

Officers will have sufficient training and understanding of Brighton & Hove City Council's Environmental Enforcement Framework and their area of work to ensure a consistent approach to their duties. Environmental Enforcement Officers will carry identification picture cards at all times whilst on duty. An Environmental Enforcement Officer will never take payment for FPNs. Information about how to pay is included on the FPN.

## **5. FPN offences**

FPNs will be issued in a fair and proportional manner so those who are spoiling the environment for others are made accountable.

### **Littering**

Littering is an offence under section 87 of the Environmental Protection Act 1990. The act states that an offence is committed if anything is dropped, thrown, left or deposited that causes defacement, in any place open to the air that the public have access to with or without payment. This includes any deposit on land or water and the statutory definition of litter specifically includes cigarette butts and chewing gum.

When issuing FPNs for littering, a distinction will be made between intentional littering and accidental littering:

- Intentional: for example, litter is dropped and the offender walks away, including the discarding of cigarettes.
- Accidental: for example, something falls out of someone's pocket.

Where littering is considered to be accidental (with no intent to drop litter) an FPN will not be issued.

## **Littering from vehicles**

Littering from vehicles is an offence under section 87 of the Environmental Protection Act 1990. As with general littering, littering from vehicles is a nuisance and is detrimental to the environment. Vehicle owners are responsible for ensuring whoever is travelling in their vehicle does not litter from the vehicle. FPNs for littering from vehicles will be issued to registered vehicle owners when the person who actually littered cannot be identified. In cases where the registered vehicle owner is fined, the FPN must be issued within 35 days of the alleged offence.

## **Spitting, urinating and defecating**

FPNs for spitting, urinating and defecating are issued under section 87 of the Environmental Protection Act 1990.

Spitting, urinating and defecating in public places are anti-social habits and can have a number of health implications. An FPN will be issued when spitting, urinating or defecating occurs on public surfaces, roads, pavements or streets.

## **Dog fouling, dogs on leads, dogs on lead by direction and dogs in dog exclusion zones**

FPNs for Dog Control Order offences are issued under section 68 of the Anti-Social Behaviour, Crime and Policing Act 2014.

Dog control offences have an impact on the city and the communities within in. FPNs for dog control offences will be issued to enforce responsible dog ownership and reduce the issues relating to dogs running loose and causing as nuisance to others, as well as reduce the potential health implications associated with dog fouling.

The Fouling of Land by Dogs Order makes it an offence for a person in charge of a dog to fail to remove faeces from the land. The Dogs on Leads Order makes it an offence for a person in charge of a dog to fail to ensure that a dog is kept on a lead on relevant land.

The Dogs on Lead by Direction Order makes it an offence for a person in charge of a dog to fail to put that dog on a lead under the direction of an authorised officer on relevant land.

The Dog Exclusion Order makes it an offence for a person in charge of a dog to permit the dog to enter or remain on any land to which the Order applies. The land to which this Order applies is detailed in Section 14.

Assistant Dogs are exempt from Dog Control Orders.

## **Graffiti**

FPNs for graffiti are issued under section 43 of the Anti-Social Behaviour Act 2003.

Graffiti is classed as criminal damage and defined as any informal or illegal marks, drawings or paintings that have been deliberately made by anyone on any physical element in the outdoor environment. Graffiti is difficult and costly to remove.

Before issuing a FPN for graffiti, the Environmental Enforcement Officer will speak to the owner of the building to ascertain whether permission has been granted to graffiti the physical element question.

City Environment will work with the Safer Communities Team to ensure that enforcement action does not impact on any legally created graffiti art and does not contradict the Graffiti Reduction Strategy.

## **Fly posting**

FPNs, CPW and CPNs for fly posting are issued under section 43 of the Anti-Social Behaviour Act 2003.

Fly posting is putting up posters or stickers on properties, lamp posts, telephone boxes or other structures on the street such without consent from the owner.

Examples of this are:

- Sticking posters onto boarded up shops advertising a gig
- Attaching a poster to a lamp post advertising a business
- Putting stickers onto road signs showing political statements

A FPN will be issued to an individual witnessed flyposting by an authorised Environmental Enforcement officer.

Upon obtaining evidence of illegal fly posting, an authorised Environmental Enforcement Officer will issue a CPW to an individual aged 16 or over, business or organisation as per Section 7 below.

## **Unauthorised flyering**

FPNs for unauthorised flyering are issued under section 94b of the Environmental Protection Act 1990.

Flyering can cause lots of litter and Brighton & Hove City Council restricts where and when free flyers can be distributed. This includes printed materials to advertise things like events, businesses or product promotions.

Anyone wishing to distribute free printed material within a designated area must apply for a flyering licence from the council. The flyering licence covers the cost of the extra work required to clear the additional litter generated as some people will just drop flyers on the floor.

Any person distributing matter by or on behalf of a charity or for political or religious purposes are exempt from this rule. To reduce confusion, the council encourages charities to make an application. There will not be a charge for the licence in these cases.

FPNs for flyering without a license will be issued to the individual and not the organisation they are flyering for. One fine will be issued to each person distributing the flyers, regardless if a group is distributing the same flyers.

Flyering materials will be confiscated until the owners of the materials have arranged for a flyering licence.

Details about where a licence is required and how to apply for a flyering licence are available on the council's website: [www.brighton-hove.gov.uk/flyering](http://www.brighton-hove.gov.uk/flyering)

## **Household waste bins and boxes**

FPNs for household waste bin and box (receptacle) offences are issued under section 46A of the Environmental Protection Act.

A household can cause harm to the local environment by not following the rules relating to household waste bins and boxes (receptacles). This includes:

- when it causes, or is likely to cause a nuisance, or
- when it has a negative effect or is likely to have a negative effect on local amenities

Enforcement action will be taken when:

- the household has adequate private outside storage space, and the receptacle(s) is not stored within it
- the receptacle(s) is causing an obstruction, such as forcing pedestrians and those using wheelchairs or buggies to walk on the road, and there is adequate storage space on the property
- the receptacle(s) restricts access to the pavement or street, for example leaving receptacles out for several days, including bags of waste
- the receptacle(s) is likely to attract vermin like foxes and rats, such as leaving bags or open receptacles out days before a waste collection
- the receptacle(s) is unsightly (torn bags or overturned receptacles are left out)

Enforcement action will not be taken if:

- the receptacle(s) is on the pavement / highway as it has been presented for collection – both before and after (and considering people returning from work to be able to return to their adequate private outside storage space)
- the household is unable to return the receptacle (s) to their adequate private outside storage space due to a Protected Characteristic
- the household does not have adequate private outside storage space for the receptacle(s)
- the receptacle(s) has been left out due to non-collection

Adequate private outside storage space includes:

- an outside area including: front garden, driveway, front patio area, back garden (accessible without needing to take the receptacle through the house)
- a front patio area over a small lip / step
- space available if taken up three steps or fewer

Upon receiving a report of a household waste bin or box (receptacle) causing a nuisance, and which meets the criteria, an authorised Environmental Enforcement Officer will:

1. Send a written warning, explaining how the householder has broken the rules, how this has (or is likely) to cause a nuisance or have a negative effect on local amenities, what they must do, how long they've got to fix the problem and what will happen if they don't comply within 28 days
2. If the householder does not comply, a notice of intent will be sent, telling the householder they may get a Fixed Penalty Notice, the reasons why and how much they'll have to pay if they do not fix the problem
3. If the problem is not fixed after 28 days, a final notice will be issued, along with the Fixed Penalty Notice

## Industrial and commercial waste receptacle offences

FPNs for receptacle offences are issued under sections 47 and 47ZA Environmental Protection Act 1990.

Businesses have a duty to ensure that their waste is stored, presented and disposed of in accordance with the waste Duty of Care. FPNs will be issued when the waste is likely to cause a nuisance or be detrimental to the amenities of the locality. This includes:

- Bins in time-banding zones (T-Zones) left on the pavement outside of agreed collection times (from 1 April 2022)
- Bins blocking the highway
- Bins with size, construction or maintenance issues

Businesses are also expected to label their waste receptacle with their business name. Failure to comply with a request to place a label on a receptacle could result in a FPN being issued.

More details on businesses' waste management responsibilities are available on the Brighton & Hove City Council website: <https://www.brighton-hove.gov.uk/rubbish-recycling-and-streets/rubbish/how-dispose-business-and-trade-rubbish-and-recycling>

## Fly-tipping

FPNs for flytipping are issued under section 33 of the Environmental Protection Act 1990.

Flytipping is the illegal dumping of waste, items or materials. This includes anything from putting a TV on the pavement to dumping a van's contents in the countryside. Flytipping is unattractive, can cause obstructions and can lead to a build-up of other waste. The following are all examples of flytipping:

- Putting items, including furniture, electrical items and appliances on the public highway or private land and on the pavement for others to pick up and reuse.
- Putting items including furniture, electrical items and appliances by communal refuse or recycling bins, wheelie bins, refuse areas, bring sites or litter bins. If a bin is full, items should be taken to the next nearest bin or taken home until there is capacity in a bin.
- Putting refuse into communal recycling bins.
- Putting bulky items in refuse or recycling bins.

If someone else flytips an individual's waste, the individual may still be held responsible.

Any company carrying or disposing of waste must have a waste carriers licence and individuals can check they have this through the Environment Agency's waste carrier's public register.

Unwanted items, such as electrical items, furniture, appliances etc. cannot be collected with normal household refuse and must be reused, recycled or disposed of in a legal and safe way. Options include:

- Keeping these goods on an individual's property and advertised through signs, newspapers or websites
- Using a company or charity that collects items for free
- Taking items to a Household Waste Recycling Site
- For a fee, using the council's bulky waste collection service.

More details are available on the Brighton & Hove City Council website: [www.brighton-hove.gov.uk/bulkywaste](http://www.brighton-hove.gov.uk/bulkywaste)

## **Disposing of commercial waste illegally**

FPNs for disposing of commercial waste illegally are issued under section 33 of the Environmental Protection Act 1990.

Any waste that comes from a commercial activity is business waste, including waste produced as a result of an individual running their business from home. Businesses cannot use domestic waste and recycling bins, and the collection of commercial waste is not covered by business rates.

Businesses are responsible for:

- All recycling and refuse they create
- Ensuring waste is stored and disposed of in a safe and legal way
- Using a registered waste contractor or a business waste site to dispose of their waste
- Avoiding any disruption to the public when storing and disposing of their waste.

Any business found to be not adhering to these responsibilities, may be issued with a FPN.

## **Failure to produce a Waste Transfer Note or Duty of Care Certificate or non-compliance with the Certificate**

FPNs for failure to produce a Waste Transfer Note or Duty of Care Certificate or noncompliance with the Certificate are issued under section 34 of the Environmental Protection Act 1990.

Businesses must have a registered waste carrier to collect and dispose of their waste. Businesses that have set up a waste collection with a registered waste contractor will receive a Duty of Care Certificate. This is proof that there are waste collection arrangements in place and it is being disposed of legally.

If a registered waste contractor does not supply a Duty of Care Certificate it may mean they are not registered. If this waste is then subsequently dumped or disposed of illegally, the business could be held responsible. For this reason, it is recommended that businesses check the waste contractor through the Environment Agency's waste carrier's public register.

If an Environmental Enforcement Officer requests a copy of a business's Duty of Care Certificate and the business is unable to provide one, the business will be given 14 days to produce a Duty of Care Certificate before an FPN is issued.



Environmental Enforcement Officers conduct regular checks across the city to make sure businesses have a Duty of Care Certificate. If a business does not have a legal method for disposing of waste, the business could receive a fine which could lead to prosecution.

Businesses have a duty to ensure that their waste is stored, presented and disposed of in accordance with the waste Duty of Care. FPNs will be issued when the waste is likely to cause a nuisance or be detrimental to the amenities of the locality, including overflowing bins meaning lids cannot be closed or side waste.

## **Engine idling**

FPNs for engine idling are issued under the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002 and Section 42 of the Road Traffic Act 1988.

Idling, or leaving an engine running whilst the vehicle is stationary, emits vehicle fumes which damage both health and the local environment. Tackling engine idling through the use of FPNs will help reduce pollution across Brighton & Hove.

An FPN will be issued to the driver of a car witnessed idling on the city's highways. A FPN will not be issued to cars queuing in traffic but those waiting in parking bays, taxi ranks and other parts of the highway.

## **Miscellaneous temporary advertisements**

FPNs for miscellaneous temporary advertisements are issued under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. Under the regulations, following completion of a sale or the grant of a tenancy, the advertising boards should be removed within 14 days.

Redundant "sold" and "let" boards are regularly discarded across the city, making the city look untidy and creating clean-up costs.

Upon obtaining evidence that a board has remained in situ for longer than 14 days, an authorised Environmental Enforcement Officer will make contact with the relevant estate agent, letting agent or managing agent to notify them that they will be issued with a FPN. The FPN will be issued directly to the relevant estate agent, letting agent or managing agent, not an employee.

## **Failure to comply with a PSPO**

PSPOs are designed to counter unreasonable and persistent behaviour that affects the quality of life of residents. A PSPO can be made on reasonable grounds that two conditions are met:

The first condition is that:

- Activities carried on in a public place have had a detrimental effect on the quality of life of those in the locality, or
- It is likely that activities will be carried on in a public place within that area and that they will have such an effect

The second condition is that the effect, or likely effect, of the activities:

- Is, or is likely to be, of a persist or continuing nature,
- Is, or is likely to be, such as to make the activities unreasonable, and
- Justifies the restrictions imposed by the notice

The use of single-use disposable barbecues and the release of lanterns and balloons outdoors has a detrimental effect on the quality of life, as well as problems for people, the environment and the council:

- Single-use disposable barbecues pose a significant fire risk when in use and if not disposed of correctly; there have been many times when they have caused bins and the surrounding area to catch fire
- Single-use disposable barbecues present a risk to injury to people and animals, particularly on the beach and in open spaces
- If not set up correctly, single-use disposable barbecues can scorch and damage the environment around them
- When not disposed of it means the taxpayer has to pay for the tidy up of single-use disposable barbecues
- Lanterns and balloons are impossible to dispose of in a safe way as the owner has no way of finding it, once released; for lanterns, there is no way of ensuring it is extinguished before reaching the ground
- Both lanterns and balloons return to the ground or sea as litter and can be ingested by animals, birds and marine wildlife, causing risk of death, injury and entrapment

Together, this does not only incur environmental costs, but bring additional and substantive costs to the council to clear up.

At its meeting on 15 March 2022, the Environment, Transport & Sustainability agreed FPNs may be issued to anyone found:

- Using a single-use disposable barbecue in or on council-owned parks, open spaces and the seafront
- Releasing lanterns or balloons in or on council-owned parks, open spaces and the seafront

Anyone failing to comply with a PSPO may be issued with an FPN of £100.

## **6. Appeals and disputes for FPNs**

There is no formal right to appeal against an FPN. If an offender does not agree that an offence has been committed, then the matter will be dealt with through formal prosecution via the Magistrates courts. It will then be up to the court, on receiving evidence, to determine whether or not an offence was committed and therefore whether or not any penalty should be imposed.

If the offender believes an FPN has been issued incorrectly, they can put their complaint to City Environment in writing who will assess whether the correct procedure has been followed.

If, upon receiving a written warning relating to household waste bin and box offences, a household disagrees with the request to fix the problem, they can write to [environmentenforcement@brighton-hove.gov.uk](mailto:environmentenforcement@brighton-hove.gov.uk) setting out the reasons why they are unable to fix the problem, with appropriate evidence.

If City Environment has responded to a complaint about the way the FPN was issued to which the offender remains unsatisfied, the offender can raise a formal complaint with Brighton & Hove City Council by contacting [customerfeedback@brightonhove.gov.uk](mailto:customerfeedback@brightonhove.gov.uk). Brighton & Hove City Council will investigate whether the FPN was issued in accordance with the appropriate procedures, the law and this framework.

## 7. Issuing of CPWs and CPNs

The council can address offences which have a negative impact on a community's quality of life by issuing a CPW and serving a CPN in accordance with the Anti-Social Behaviour, Crime and Policing Act 2014. Any behaviour that is detrimental to a community's quality can result in a CPW and CPN.

A CPW can be issued to an individual aged 16 or over, business or organisation if an authorised person is satisfied that the behaviour:

- has a detrimental effect on the quality of life of those in the locality
- is unreasonable and
- is of a persistent nature

The CPW will be issued to an individual, business or organisation suspected of causing the problem. The CPW will detail the impact on the community and that the behaviour should cease, or the reasonable steps that need to be taken to ensure the problem does not occur again. The CPW will include the consequences of not addressing the behaviour and that a CPN will be issued.

If the behaviour persists, a CPN will be issued with the following requirements:

- to stop doing something specified and/or to do some specified action
- to take reasonable steps to achieve a specified result; this will be aimed at either preventing the effect of the unacceptable conduct continuing, or prevent the likelihood of it recurring

If a recipient of a CPN fails to comply with the requirement, the council may take action to ensure that the failure is remedied:

### **FPN**

A FPN may be issued if the recipient does not comply with the CPN requirements. If the FPN is not paid, this may result in a court order.

A FPN issued for non-compliance will be £100.

### **Remedial work**

An instruction to complete remedial work may be issued if the recipient does not comply with the CPN requirements. If the remedial work is not completed, this may result in a court order.

### **Court order**

If the FPN is not paid or the remedial work is not completed, a court order may be served. On conviction, this can result in a fine of up to £2,500 for individuals or £20,000 for businesses. The council will also look to recover costs.

## 8. CPW and CPN offences

A CPW may be issued to Statutory Undertakers or a non-Brighton & Hove headquartered business, large businesses (over 250 employees) and small and medium-sized enterprises (fewer than 250 employees) when the property owner does not follow the council's request for graffiti to be removed from a property.

A CPW may be issued to an individual aged 16 or over, business or organisation when evidence has been obtained of illegal fly posting is available.

A CPW may be issued to an unlicensed mobile street trader who does not have a licence or permission to trade in the city.

A CPN may be issued when the recipient of a CPW fails to comply to the request of the CPW.

## 9. Appeals and disputes for CPNs

Any person issued with a CPN may appeal against it by making a Complaint to a Magistrates' Court within 21 days of its issue. An appeal may be made on any of the following substantive grounds:

- the specified conduct did not take place;
- the conduct has not had a detrimental effect on the quality of life of those in the locality;
- the conduct was not of a persistent or continuing nature;
- the conduct is not unreasonable;
- the conduct is that which the person cannot reasonably be expected to control or affect.

Details of how to appeal and the time limit will be included in the CPN.

## 10. Fine income

Income received from the issuing of FPNs and CPNs is used for specific environmental purposes such as providing additional litter and dog bins and to fund environmental education for local schools.

## 11. CCTV

CCTV and bodycam footage will be used as appropriate to obtain evidence of offences, taking into account the following legislation:

- The Data Protection Act 1998
- The Human Rights Act 1998
- The Regulation of Investigatory Powers Act 2000
- The Freedom of Information Act 2000
- The Equality Act 2010
- The Protection of Freedoms Act 2012

Authorised officers will adhere to the 12 guiding principles in the [Surveillance Camera Code of Practice](#):

1. Use of a surveillance camera system must always be for a specified purpose which is in pursuit of a legitimate aim and necessary to meet an identified pressing need.
2. The use of a surveillance camera system must take into account its effect on individuals and their privacy, with regular reviews to ensure its use remains justified.
3. There must be as much transparency in the use of a surveillance camera system as possible, including a published contact point for access to information and complaints.
4. There must be clear responsibility and accountability for all surveillance camera system activities including images and information collected, held and used.
5. Clear rules, policies and procedures must be in place before a surveillance camera system is used, and these must be communicated to all who need to comply with them.
6. No more images and information should be stored than that which is strictly required for the stated purpose of a surveillance camera system, and such images and information should be deleted once their purposes have been discharged.
7. Access to retained images and information should be restricted and there must be clearly defined rules on who can gain access and for what purpose such access is granted; the disclosure of images and information should only take place when it is necessary for such a purpose or for law enforcement purposes.
8. Surveillance camera system operators should consider any approved operational, technical and competency standards relevant to a system and its purpose and work to meet and maintain those standards.
9. Surveillance camera system images and information should be subject to appropriate security measures to safeguard against unauthorised access and use.
10. There should be effective review and audit mechanisms to ensure legal requirements, policies and standards are complied with in practice, and regular reports should be published.
11. When the use of a surveillance camera system is in pursuit of a legitimate aim, and there is a pressing need for its use, it should then be used in the most effective way to support public safety and law enforcement with the aim of processing images and information of evidential value.
12. Any information used to support a surveillance camera system which compares against a reference database for matching purposes should be accurate and kept up to date.

Authorised officers will be BTEC Level 2 trained via the CCTV Operator within the Private Security Industry standard.

## **12. Equalities**

All authorised Environmental Enforcement Officers involved in environmental enforcement will be made aware of their responsibilities under the Equalities Act 2010 and in particular the Public Sector Equality Duty. They will be expected to have regard to the needs of vulnerable people and protected groups and to apply this Framework in a manner that is consistent, transparent and proportionate.

CCTV footage will be used as appropriate to obtain evidence of offences, taking into account the legislation listed in Section 11. Brighton & Hove City Council will ensure that all CCTV use for the purpose of tackling fly-tipping is consistent, transparent and proportionate, according to legal

requirements, and aligned with our duties under the Equality Act 2010 and human rights legislation.

## 13. Privacy Notice

In order to process FPNs, CPWs, CPNs and PSPOs, Brighton & Hove City Council collects, stores and processes personal information. The privacy notice that explains what information is collected and how it is used is available at: <https://www.brighton-hove.gov.uk/content/about-website/service-privacy-notices/fixed-penalty-notices-environmental-offences-service>.

In order to issue FPNs, for fly-tipping and other environmental offences, Brighton & Hove City Council collects, store and processes information from CCTV cameras and ANPR technology. The privacy notice that explains what information is collected and how it is used is available at: <https://www.brighton-hove.gov.uk/content/about-website/service-privacy-notices/environmental-enforcement-cctv-privacy-notice>.

## 14. Dogs Exclusion Order

### Description of land, or lands, to which the Order applies

All those areas situated within the City of Brighton & Hove as described for the purposes of identification below, being land which is open to the air and to which the public are entitled or permitted to have access (with or without payment). For the purposes of this Order, land which is covered is to be treated as “open to the air” if it is open at least one side.

#### 1. Children’s Play Areas

All children’s play areas in the City of Brighton & Hove enclosed by fencing and containing play equipment.

#### 2. Cemeteries

a. The following cemeteries subject to the exception set out in paragraph 2.b below:

- Borough Cemetery (Woodvale), Lewes Road
- Extra Mural Cemetery, Lewes Road
- Borough Cemetery, Bear Road
- Jewish Cemetery, Bear Road
- Meadowview and Lawn Memorial Cemetery, Warren Road
- Hove Cemetery, North and South, Old Shoreham Road
- Portslade Cemetery, Victoria Road

b. The Order does not apply to persons attending a funeral or remembrance service or visiting a grave or to persons residing in the premises of the cemeteries specified at 2a above. In these circumstances dogs must be kept on leads at all times

#### 3. Gardens and Parks

The enclosed gardens of the following city centre squares:

- Brunswick Square
- Norfolk Square
- Russell Square
- Bedford Square
- Clarence Square

- Powis Square
- Pelham Square
- Regency Square (North End)
- New Steine Square

The following parks and gardens:

- Steine Memorial Gardens
- Kipling Gardens, Rottingdean
- The Rockery, Preston Park
- William Clarke Park, Picton Street
- Saunders Park (excluding the fenced dog area to the South West corner of the park), Lewes Road

#### 4. Beaches

The beaches (including the foreshore) between the months of May to September inclusive with the exception of the following beaches (showing a “Dog friendly” sign):

- the beach between Longridge Avenue and the border
- beaches between Chailey Avenue and Arundel Drive West, Rottingdean
- beaches between West Marina Wall to Rottingdean slope
- beaches between the west wall of Brighton Marina and up to the Volks railway station opposite New Steine
- the beach in front and to the East of the Meeting Place Cafe, up to the large groyne with the life-ring on
- the beach to the east of the Lawns Cafe, at the bottom of St John's Road, Hove promenade
- the beach in front of the King Alfred car park
- the beach to the east of Hove Lagoon

#### 5. Areas of Queens Park

The Southern Lawns of Queens Park (containing the lake), the tennis courts, the Quiet Garden, the Wild Garden, the cascade area and bowling green.







**Equality Impact and Outcome Assessment (EIA) Template - 2019**

**EIAs make services better for everyone and support value for money by getting services right first time.**

**1. Equality Impact and Outcomes Assessment (EIA) Template**

First, consider whether you need to complete an EIA, or if there is another way to evidence assessment of impacts, or that an EIA is not needed.

Title of EIA	New environmental enforcement measures	ID No.	
Team/Department	City Environment		
Focus of EIA	<p>The Environmental Enforcement Framework is reviewed on a regular basis to consider additional offences to be included to address anti-social and illegal behaviour and to minimise waste clean-up and disposal costs. It is proposed four new offences are added to the Framework following the cessation of the Field Officer Team and feedback from stakeholders. This includes enforcement measures for fly-tipping on private land, engine idling and estate / letting agent boards.</p> <p>Fly-tipping on private land: where the perpetrator of a fly-tip on private land can be evidenced, a FPN will be issued to perpetrator. Introducing this offence will support the council’s efforts in tidying up the city.</p> <p>Engine idling: upon witnessing an idling car, an Environmental Enforcement Officer will speak with the driver and notify them that they are committing an offence. The Officer will obtain their details, including the registration number of the car and normally issue the driver with a FPN. Introducing this enforcement measure will support the council’s efforts to become a Carbon Neutral City by 2023 and help improve air quality, producing a benefit for people with some health conditions, as well as all those that live in, work in or visit the city.</p> <p>Estate / letting agent boards: upon obtaining evidence that a board has remained in situ for longer than 14 days, an Environmental Enforcement Officer will make contact with the relevant estate agent, letting agent or managing agent to notify them that a FPN will be issued under the Town and Country Planning Regulations (2007). The FPN will be issued directly to the estate agent, letting agent or managing agent.</p> <p>Unlicensed mobile street trading: Upon being notified of an unlicensed mobile street trader, or if one is discovered whilst an Environmental Enforcement Officer is completing their daily patrols, the Officer will issue a CPW to the trader. This will provide an instruction for the trader to leave the area immediately and to not repeat illegally trading in any area of the city. If the trader repeats the offence, the trader will be issued with a CPN with a further instruction to not illegally trade. If the trader is found for a third time, a FPN of £100 will be issued to</p>		

the trader. Prosecution is also an option. Introducing this enforcement measure will ensure trading only takes place in designated areas, having received approval from the council. Traders that set up on council land without permission have a detrimental impact on licensed mobile traders and/or the amenity of the public space.

Visitors to the city can also be issued with a FPN if they are witnessed committing an environmental crime.

## 2. Update on previous EIA and outcomes of previous actions

What actions did you plan last time? (List them from the previous EIA)	What improved as a result? What outcomes have these actions achieved?	What <u>further</u> actions do you need to take? (add these to the Action plan below)
N/A		

## 3. Review of information, equality analysis and potential actions

<b>Groups to assess</b>	<b>What do you know?</b> Summary of data about your service-users and/or staff	<b>What do people tell you?</b> Summary of service-user and/or staff feedback	<b>What does this mean?</b> Impacts identified from data and feedback (actual and potential)	<b>What can you do?</b> All potential actions to: <ul style="list-style-type: none"> <li>• advance equality of opportunity,</li> <li>• eliminate discrimination, and</li> <li>• foster good relations</li> </ul>
<b>Age</b>	<p>The population in Brighton &amp; Hove in November 2022<sup>1</sup>:</p> <ul style="list-style-type: none"> <li>• 0-15 years: 44,750</li> <li>• 16-64 years: 207,971</li> <li>• 65+ years: 39,017</li> </ul>		<p>Fly-tipping on private land: no disproportionate impacts identified</p> <p>Engine idling: older people may keep their engine idling in colder months to stay warm.</p> <p>Estate / letting agent boards: no disproportionate impacts identified</p> <p>Unlicensed mobile street trading: no disproportionate impacts identified</p>	<p>Authorised Environmental Enforcement Officers have regard to the needs of vulnerable people and protected groups and apply this to the offences with the Environmental Enforcement Framework in a manner that is consistent, transparent and proportionate. Discretion is also applied.</p> <p>Communication on the new offences will include a news story and social media posts. Councillors will be briefed, and the council website will be updated to</p>

<sup>1</sup> [Local Insight \(communityinsight.org\)](https://www.localinsight.org/)

<b>Groups to assess</b>	<b>What do you know?</b> Summary of data about your service-users and/or staff	<b>What do people tell you?</b> Summary of service-user and/or staff feedback	<b>What does this mean?</b> Impacts identified from data and feedback (actual and potential)	<b>What can you do?</b> All potential actions to: <ul style="list-style-type: none"> <li>• advance equality of opportunity,</li> <li>• eliminate discrimination, and</li> <li>• foster good relations</li> </ul>
				inform members of the public about the offences.
<b>Disability</b>	There are 44,569 people (16.3% of the population) in Brighton & Hove whose daily activities are limited in some degree by a long-term health problem or disability <sup>1</sup> .		<p>Fly-tipping on private land: no disproportionate impacts identified</p> <p>Engine idling: some people with certain disabilities keep their engine idling in colder months to stay warm.</p> <p>Estate / letting agent boards: no disproportionate impacts identified</p> <p>Unlicensed mobile street trading: no disproportionate impacts identified</p>	<p>Authorised Environmental Enforcement Officers have regard to the needs of vulnerable people and protected groups and apply this to the offences with the Environmental Enforcement Framework in a manner that is consistent, transparent and proportionate. Discretion is also applied.</p> <p>Communication on the new offences will include a news story and social media posts. Councillors will be briefed, and the council website will be updated to inform members of the public about the offences.</p>
<b>Gender reassignment</b>			No disproportionate impacts identified.	
<b>Pregnancy and maternity</b>	Data not available.		<p>Fly-tipping on private land: no disproportionate impacts identified</p> <p>Engine idling: pregnant people may keep their engine idling in colder months to stay warm.</p>	<p>Authorised Environmental Enforcement Officers have regard to the needs of vulnerable people and protected groups and apply this to the offences with the Environmental Enforcement Framework in a manner that is consistent,</p>

<sup>1</sup> [Equalities in Brighton & Hove: Data snapshot for equalities groups across the city \(bhconnected.org.uk\)](https://www.bhconnected.org.uk/equalities-in-brighton-hove-data-snapshot-for-equalities-groups-across-the-city)

<b>Groups to assess</b>	<b>What do you know?</b> Summary of data about your service-users and/or staff	<b>What do people tell you?</b> Summary of service-user and/or staff feedback	<b>What does this mean?</b> Impacts identified from data and feedback (actual and potential)	<b>What can you do?</b> All potential actions to: <ul style="list-style-type: none"> <li>• advance equality of opportunity,</li> <li>• eliminate discrimination, and</li> <li>• foster good relations</li> </ul>
			Estate / letting agent boards: no disproportionate impacts identified Unlicensed mobile street trading: no disproportionate impacts identified	transparent and proportionate. Discretion is also applied. Communication on the new offences will include a news story and social media posts. Councillors will be briefed, and the council website will be updated to inform members of the public about the offences.
<b>Race/ethnicity</b> Including migrants, refugees and asylum seekers			No disproportionate impacts identified.	
<b>Religion or belief</b>			No disproportionate impacts identified.	
<b>Sex/Gender</b>			No disproportionate impacts identified.	
<b>Sexual orientation</b>			No disproportionate impacts identified.	
<b>Marriage and civil partnership</b>			No disproportionate impacts identified.	
<b>Community Cohesion</b>			No disproportionate impacts identified.	
<b>Other relevant groups</b> <b>Those on lower incomes</b>	From January to December 2021 there were 8,300 workless households in Brighton & Hove (8.6% of households). No data is available on the number of		All offences: those on lower incomes may not be able to pay the FPN fine.	Payment plans can be set up for those issued with a FPN who are on lower incomes.

<b>Groups to assess</b>	<b>What do you know?</b> Summary of data about your service-users and/or staff	<b>What do people tell you?</b> Summary of service-user and/or staff feedback	<b>What does this mean?</b> Impacts identified from data and feedback (actual and potential)	<b>What can you do?</b> All potential actions to: <ul style="list-style-type: none"> <li>• advance equality of opportunity,</li> <li>• eliminate discrimination, and</li> <li>• foster good relations</li> </ul>
	children within these households <sup>1</sup> . In November 2022, there were 7,860 (3.8% of the population) out-of-work benefit claimants <sup>2</sup> .			
<b>Cumulative impact</b>	N/A			
<b>Assessment of overall impacts and any further recommendations</b>				
No data is held on the individuals that have been issued with FPNs. There may be adverse or disproportionate effects on some protected groups. All communities should benefit long term from reduced environmental crime and better air quality as a result of introducing these new offences into the Environmental Enforcement Framework.				

#### 4. List detailed data and/or community feedback that informed your EIA

<b>Title</b> (of data, research or engagement)	<b>Date</b>	<b>Gaps in data</b>	<b>Actions to fill these gaps: who else do you need to engage with?</b> (add these to the Action Plan below, with a timeframe)
As per footnotes in section 3			

#### 5. Prioritised Action Plan

<sup>1</sup> [Labour Market Profile - Nomis - Official Census and Labour Market Statistics \(nomisweb.co.uk\)](https://nomisweb.co.uk)

<sup>2</sup> [Labour Market Profile - Nomis - Official Census and Labour Market Statistics \(nomisweb.co.uk\)](https://nomisweb.co.uk)

Impact identified and group(s) affected	Action planned	Expected outcome	Measure of success	Timeframe
NB: These actions must now be transferred to service or business plans and monitored to ensure they achieve the outcomes identified.				
For all groups	<p>Authorised Environmental Enforcement Officers will apply discretion before issuing a FPN for example when a driver is clearing ice or snow from the car and the engine is idling.</p>	<p>Officers demonstrate discretion before issuing a FPN.</p>	<p>A limited number of FPNs are rescinded due to Officers not applying discretion.</p>	<p>Ongoing</p>
	<p>Deliver communications on the new offences, including a news story, social media, councillor briefing and updating the website.</p>	<p>Residents are informed of the new offences.</p>	<p>A reduction in fly-tipping on private land. A reduction in the number of car's idling across the city. A reduction in the number of estate and letting agent boards discarded across the city.</p>	<p>In the run up to and after new offences have been launched.</p>

**EIA sign-off:** (for the EIA to be final an email must sent from the relevant people agreeing it or this section must be signed)

**Staff member completing Equality Impact Assessment:**

**Date:**

**Directorate Management Team rep or Head of Service/Commissioning:**

**Date:**

**CCG or BHCC Equality lead:**

**Date:**

# Brighton & Hove City Council

## City Environment, South Downs & The Sea Committee

## Agenda Item 9

**Subject:** Playground Refurbishment Programme

**Date of meeting:** 20 June 2023

**Report of:** Executive Director: Economy, Environment & Culture

**Contact Officer:** Name: Lynsay Cook  
Tel: 07592 103604  
Email: [Lynsay.cook@brighton-hove.gov.uk](mailto:Lynsay.cook@brighton-hove.gov.uk)

**Ward(s) affected:** All

### For general

#### 1. Purpose of the report and policy context

1.1 This report provides City Environment, South Downs & The Sea Committee with an update on the delivery of the Playground Refurbishment Programme. The report is also seeking approval for further funding and procurement within the Programme.

#### 2. Recommendations

That Committee:

2.1 approves the further funding of £0.803m and procurement for the Playground Refurbishment Programme as set out in Table 3 in Appendix 1.

2.2 approves borrowing of up to £0.468m to contribute to the refurbishment of playgrounds.

2.3 delegates authority to the Executive Director: Economy Environment & Culture to procure and award contracts for playground refurbishment over a period of up to three years.

#### 3. Context and background information

3.1 Brighton & Hove City Council owns and maintains 55 playgrounds in the city of which 15 are owned by the Housing Department but managed and maintained by City Parks. The Seafront Team manage and maintain two playgrounds on the seafront.

3.2 All the city's playgrounds are well-used resources for families. They are important for child and family health and wellbeing and also for childhood development and socialisation. The consultation carried out as part of the Open Spaces Strategy 2017 made it clear that the provision of playgrounds is a high priority for residents.

- 3.3 Before the start of this Playground Refurbishment Programme, the last significant investment in council-owned playgrounds was through the Playbuilder Grant scheme in 2010. Whilst this meant there was substantial investment in the city's playgrounds, it also meant that a large amount of playground equipment was due to come to the end of life simultaneously.
- 3.4 In 2019/20, Members allocated £0.200m capital towards the costs of refurbishing playgrounds that were not eligible for funding from developer contributions. This was complemented by the additional £0.539m of borrowing, Section 106 and HRA contributions, leading to a £3.000m Playground Refurbishment Programme being approved by Policy & Resources Committee on 18 March 2021.
- 3.5 Since this time, further contributions have been made to the Programme from Section 106 funds, Housing and the capital investment. This has brought total spend to the £3.000m already approved and this report is seeking further approval to procure and award contracts for up to £0.803m to continue the playground refurbishments.

### **Implementation update**

- 3.6 On 17 January 2023, Committee received an update on the delivery of the Programme. As part of the first phase of the Refurbishment Programme, City Parks completed 24 sites, as detailed in Table 1 in Appendix 1.
- 3.7 Since that time, tender processes have been completed for a further eight sites, as set out in Table 2 in Appendix 1. Works on these sites will begin in the summer / autumn and will be completed during the winter. Some of the playgrounds may need to be closed during the summer school holidays to ensure the weather does not impact on the installation of new equipment and new safety surfaces being laid. City Parks will work with the contractors to minimise disruption as much as possible. Residents and 'friends of' groups have shared their thoughts and ideas for the eight sites, which has led to improvements in the design and to provide the most sought-after equipment.

### **Refurbishment projects for approval**

- 3.8 There are a further 12 sites to undergo refurbishment, and three that require maintenance. These are detailed in Table 3 in Appendix 1. The funding for these sites is from Section 106 contributions, Housing and City Parks' budgets and the funding source for each site is indicated in Table 3.
- 3.9 The work will be completed in four packages as set out in Table 3 in Appendix 1. The indicative timescales, subject to approval from committee, is:
- Draft tender documents by the end of July 2023, incorporating feedback from the consultation process (see paragraphs 5.3 to 5.5 below).
  - Publish tender documents in September or October 2023, for a period of eight weeks.
  - Award contracts in early 2024.



- Install during 2024.

#### **4. Analysis and consideration of alternative options**

- 4.1 The alternative to this Programme is to not replace the play infrastructure as it fails. This would save the council significant capital investment and future maintenance costs. This would have a detrimental impact on a number of children who would not benefit from outdoor play, both developmentally and in terms of health and wellbeing.
- 4.2 A variation to the above is to consolidate playgrounds and close some sites. It may provide an opportunity for more transformative play spaces and a high-quality number of sites. However, this would mean sites are further away from several children. This option will not reduce maintenance costs but create an inequality pertaining to the distribution of playgrounds.

#### **5. Community engagement and consultation**

- 5.1 The sites that have recently been procured (Table 2, Appendix 1) have all been subject to consultation. Members of the public were encouraged to provide feedback for Queens Park via the council's consultation portal from 25 February 2022 and 8 April 2022. Feedback was invited for the remaining sites between 8 April 2022 and 27 May 202. In addition, face-to-face consultation events were held with the Friends of Knoll Park, members of the public and the Trust for Developing Communities for Knoll Park, plus two events with the Friends of Queens Park and members of the public.
- 5.2 Community engagement sessions for these eight sites were held between 30 May and 9 June to show members of the public the new designs and answer any questions before installation.
- 5.3 The sites to be procured in the future (Table 3, Appendix 1) were subject to consultation between 12 October 2022 and 13 January 2023 on the council's consultation portal, with the exceptions of:
- Hollingbury Park which is currently out for consultation.
  - Gatton Park, Newhaven Street and The Level, which require essential maintenance, rather than refurbishment.
- 5.4 City Parks' officers also met with the newly formed Friends of Mackie Park to inform the plans for the Mackie Park refurbishment.
- 5.5 Subject to committee approval, the feedback from these consultations will inform the designs to be contained within the tender documents.

#### **6. Conclusion**

- 6.1 This report provides Members with an update on the delivery of the Playground Refurbishment Programme. Committee is asked to approve further funding of £0.803m and procurement for the Playground Refurbishment Programme and borrowing of up to £0.468m to contribute to the refurbishment of playgrounds.

## 7. Financial implications

- 7.1 The General Fund playground investment programme is proposed to be funded as set out in the table below.

	2024/25
<b>Planned Programme</b>	<b>608,000</b>
Less Section 106 funding	(256,000)
Less City Parks revenue funding	(100,000)
Less City Parks Car Parking Net Income/Unsupported Borrowings	(252,000)
<b>Balance to fund</b>	<b>0</b>

- 7.2 The funding includes the use of earmarked Section 106 funds. If additional Section 106 funds are available for other playgrounds within this programme, they will be called upon before other funding options. City Parks have identified available revenue budgets to support Direct Revenue Funding of £0.100m to support this programme. The remaining £0.252m would be met through unsupported borrowings supported by City Parks available budgets and from net incomes from Parks car parking charges. Borrowing for this sum of £0.252m would result in an estimated annual cost of £0.023m per annum assuming a 15 year the life of the assets and an estimated 4% interest rate. The final split (revenue versus unsupported borrowing) will be assessed as part of a review of the projected ongoing maintenance requirements following the delivery of the investment programme.
- 7.3 In addition, there is also £0.195 million of proposed investment in Housing Revenue Account (HRA) playgrounds which will be funded by the HRA. The programme will be amended as tender prices are obtained and reflected in Targeted Budget Management reports to Finance, Strategy & City Regeneration Committee as required

Name of finance officer consulted: John Lack Date consulted: 09/06/2023

## 8. Legal implications

- 8.1 All contracts required to implement to implement the programme will need to be tendered in compliance with the Council's Contract Standing Orders.

Name of lawyer consulted: Alice Rowland Date consulted: 09/06/2023

## 9. Equalities implications

- 9.1 Accessibility and inclusion are key to the Playground Refurbishment Programme.
- 9.2 The consultation process provides an opportunity for members of the public and local organisations to share their suggestions for each playground refurbishment, including accessibility and inclusion. The consultations are

shared specifically with local organisations, charities and disability advocacy groups for them to share with their networks to ensure a greater reach as possible and enable everyone to feedback.

- 9.3 The Ronald Mace principles for inclusive play spaces are referenced in all tender documents. The procurement tenders are heavily weighted and scored for their accessibility and inclusion credentials to ensure accessibility is sincerely considered when refurbishing sites. It is evaluated as one of the top three-point scoring criteria.
- 9.4 The council is seeking to obtain accreditation from [PiPA](#) once they have assessed the city's playgrounds for accessibility and inclusion.
- 9.5 It is important to remember that providing accessible and inclusive play equipment is not only about the equipment itself. When considering items for wheelchair users, for example, consideration also needs to be given to accessible parking, step free access and the availability of accessible or Changing Places Toilets to ensure users can enjoy the whole experience.
- 9.6 The first truly wheelchair accessible multi play unit is to be installed at Queens Park this summer, with officers looking at other sites where such units can be installed. Accessible and inclusive space at Carden Park and The Level have received awards for inclusion.
- 9.7 Further information on additional equalities implications and how equalities have been addressed in the Playground Refurbishment Programme is available in the Background Documents listed below.

## **10. Sustainability implications**

- 10.1 This report relates to activity which will have limited impact on sustainability. However, the Playground Refurbishment Programme has sought to undertake the following to uphold best practice:
  - Select companies which have the longest warranties.
  - Score tenders on companies' sustainability credentials.
  - Ensure components are easy to replace so equipment can be repaired.
  - Specify for quality so that items such as slides are stainless steels rather than plastic or fibre glass.
  - Request that no wooden post enter the ground but ensure they are shod or sleeved with metal to prevent them rotting.

## **11. Other Implications**

### **Social Value and procurement implications**

- 11.1 The procurement process for the Playground Refurbishment Programme has, and will continue to, comply with Contract Standing Orders and the council's procurement policies.

### **Public health implications**

- 11.2 Improvement of play facilities that are accessible to all children will contribute to achieving the strategic objectives of the Brighton & Hove Health and Wellbeing Strategy, including:
- Starting Well: The health and wellbeing of children and young people in Brighton & Hove will be improved.
  - Brighton & Hove will be a place which helps people to be healthy: green & open spaces and sports & leisure facilities will be used effectively to improve wellbeing.

## **Supporting Documentation**

### **Appendices**

1. Playground Refurbishment Programme

### **Background documents**

1. [The Big Conversation – An Open Spaces Strategy for Brighton & Hove](#) presented to Environment, Transport & Sustainability Committee on 17 January 2017 (item 66)
2. [Playground Refurbishment Programme 2021-2025 Report](#) presented to Environment, Transport & Sustainability Committee on 19 January 2021 (item 72)
3. [Playground Refurbishment Programme 2021-2025 Report](#) presented to Policy & Resources Committee on 18 March 2021 (item 172)
4. [Playground Refurbishment Programme Report](#) presented to Environment, Transport & Sustainability Committee on 17 January 2023 (item 76)

## Appendix 1: Playground Refurbishment Programme

Table 1: completed sites			
Site	Spend	Funded by	Status
Barn Rise	£60,000	Section 106	Completed
Bexhill Road	£78,000	Housing	Completed
Blakers Park	£100,000	Section 106 & City Parks	Completed
Carden Park	£440,000	Section 106	Completed
Chalk Pit	£60,000	Section 106	Completed
Dyke Road	£50,000	Section 106	Completed
East Brighton	£45,000	Section 106	Completed
East Hill	£83,500	Section 106	Completed
Greenleas Park	£50,000	Section 106	Completed
Haig Avenue	£50,000	Housing	Completed
Hangleton Park	£80,000	Section 106 & City Parks	Completed
Hodshrove Road	£130,000	Housing	Completed
Hove Park	£142,000	Section 106	Completed
Mackie Park	£80,000	City Parks	Completed
Middle Park	£130,000	Section 106	Completed
Preston Park	£100,000	City Parks	Completed
Saunders Park	£50,000	Section 106	Completed
St Ann's Well Gardens	£50,000	Section 106	Completed
St Nicholas	£120,000	Section 106	Completed
Stoneham Park	£45,000	Section 106	Completed
Tarner Park	£60,000	Section 106	Completed
Vale Park	£45,000	Section 106	Completed
Victoria Rec Road	£45,000	Section 106	Completed
Wish Park	£100,000	Section 106	Completed
<b>Total</b>	<b>£2,193,500</b>		

Table 2: sites to be completed in 2023			
Site	Spend	Funded by	Status
Hollingdean Park	£308,000.00	Section 106, City Parks & Housing	Tender complete; installation during summer/autumn 2023
Knoll Park	£79,999.56	City Parks	Tender complete; installation during summer/autumn 2023
Queens Park	£146,000.00	Section 106 & City Parks	Tender complete; installation during summer/autumn 2023
Rottingdean	£29,994.49	Section 106	Tender complete; installation during summer/autumn 2023
Saltdean Oval	£49,999.03	Section 106 & City Parks	Tender complete; installation during summer/autumn 2023
Whitehawk Way	£85,000.00	Housing	Tender complete; installation during summer/autumn 2023
Woodingdean Central	£150,000.00	City Parks & Housing	Tender complete; installation during summer/autumn 2023
Woollards Field	£64,995.00	Section 106	Tender complete; installation during summer/autumn 2023
Total	£913,988.08		

Table 3: refurbishment projects for approval				
Site	Estimated Spend	Work required	Funding source	Status
Package 1				
Gatton Park #1 (Redhill)	£5,000	Maintenance	Section 106	Purchase 2023/24
Newhaven Street	£5,000	Maintenance	Housing	Purchase 2023/24
The Level Play Area	£50,000	Maintenance	City Parks	Purchase 2023/24
Package 2				
Happy Valley	£60,000	Refurbishment	City Parks	Procurement 2023/24
Hove Lagoon	£58,000	Refurbishment	Section 106	Procurement 2023/24
Mackie Park	£45,000	Refurbishment	City Parks	Procurement 2023/24
Ovingdean	£30,000	Refurbishment	City Parks	Procurement 2023/24
William Clark	£50,000	Refurbishment	Section 106 & City Parks	Procurement 2023/24
Package 3				
Hollingbury Park	£120,000	Refurbishment	City Parks	Procurement 2023/24
Manor Road	£40,000	Refurbishment	Section 106	Procurement 2023/24
Stanmer Heights	£15,000	Refurbishment	Housing	Procurement 2023/24
Wolseley Road	£50,000	Refurbishment	Housing	Procurement 2023/24

**Table 3: refurbishment projects for approval**

Site	Estimated Spend	Work required	Funding source	Status
Package 4				
Kingswood Flats	£25,000	Refurbishment	Housing	Procurement 2023/24
Mile Oak Recreation	£200,000	Refurbishment	Section 106 & Housing	Procurement 2023/24
Milner Flats Play Area	£50,000	Refurbishment	Housing	Procurement 2023/24
Total	£803,000			

