

**Manchester City Council  
Report for Information**

**Report to:** Neighbourhoods and Environment Scrutiny Committee - 5 December 2018

**Subject:** Compliance and Enforcement Service - Performance in 2017/18

**Report of:** Chief Operating Officer – Neighbourhoods

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**Summary**

To provide members with an update on demand for and performance of the Compliance and Enforcement service during 2017/18. The report also provides information on the activities undertaken around enforcement in relation to double yellow line tickets; obstruction of the highways; hot food providers' waste contracts and how these are policed; enforcement activity undertaken by the Licensing and Out of Hours Compliance Team outside of the city centre area; tackling counterfeit goods, with particular reference to the Strangeways area; planning enforcement and legislation relating to the operation of Airbnb.

**Recommendations**

That Members note and comment on the report.

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**Alignment to the Our Manchester Strategy Outcomes (if applicable)**

<b>Manchester Strategy outcomes</b>	<b>Summary of how this report aligns to the OMS</b>
A thriving and sustainable city: supporting a diverse and distinctive economy that creates jobs and opportunities	The Compliance and Enforcement Services contribute to a thriving and sustainable city through enforcing the law in a fair, equitable and consistent manner, assisting businesses to meet their legal obligations and taking firm action against those who flout the law or act irresponsibly and enable local businesses to thrive by achieving high regulatory standards through engagement, support and education.
A highly skilled city: world class and home grown talent sustaining the city's economic success	The support provided to businesses enables businesses to grow and thrive in Manchester.
A progressive and equitable city: making a positive contribution by unlocking the potential of our communities	The compliance and enforcement services work closely with both residents and businesses to support them in improving the neighbourhoods in which they live and work and socialise.

A liveable and low carbon city: a destination of choice to live, visit, work	The compliance and enforcement services work closely with both residents and businesses to support them in improving the areas in which they live work and socialise.
A connected city: world class infrastructure and connectivity to drive growth	The compliance and enforcement services support growth via the airport through provision of a Border Inspection Post that enables businesses to import goods through Manchester Airport that would otherwise have to pass through more Southerly airports.

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**Background documents (available for public inspection):**

The following documents disclose important facts on which the report is based and have been relied upon in preparing the report. Copies of the background documents are available up to 4 years after the date of the meeting. If you would like a copy please contact one of the contact officers above.

*1. Report to Neighbourhoods and Environment Scrutiny Committee 6 September 2017: Compliance and Enforcement Service – Overview of the role service and performance to date (Report of the Deputy Chief Executive – Growth and Neighbourhoods)*

*2. Report to Neighbourhoods Scrutiny Committee 6 September 2017: Strangeways - Tackling Counterfeit Activity and Environmental Issues (Report of Deputy Chief Executive -Growth and Neighbourhoods)*

## 1.0 Introduction

- 1.1 This report has been produced collaboratively by officers from Compliance Enforcement and Community Safety, Highways (in respect of double yellow line enforcement and obstruction of the highway) and Planning, Building Control and Licensing (in respect of Planning enforcement and legislation relating to the operation of Airbnb).
- 1.2 The Compliance and Enforcement service brings together the services responsible for fulfilling the Council's statutory duties in respect of protecting the public and the environment and ensuring that businesses and residents comply with a range of legislation that helps to make our neighbourhoods places where people want to live, work and socialise.
- 1.3 The teams that make up the Compliance and Enforcement services are:
  - **Neighbourhood Compliance Teams (NCT)** – based within the three neighbourhood areas of North, Central, & South, the teams are responsible for compliance & enforcement across these areas, ensuring that local communities have safe clean and attractive neighbourhoods to live in. Their particular focus is resident & business compliance with waste disposal & recycling; untidy private land; visual disamenity of private buildings & land; fly-tipping; littering; dog fouling; highway obstructions including skips; flyposting; empty properties and illegal encampments.
  - **Environmental Crimes Team (ECT)** - responsible for works carried out in default; contract management; enforcement support; prosecutions; animal welfare and public space protection orders.
  - **Neighbourhood Project Team (NPT)** - responsible for investigating incidents of flytipping in conjunction with Biffa and undertaking enforcement action against those who illegally dispose of their waste.
  - **Food, and Health & Safety Team (FHS)** - responsible for regulating food safety and food standards; health and safety in certain premises; dealing with complaints and requests for service; accident investigations; infectious disease control; port health and the importation of foodstuffs arriving at Manchester Airport.
  - **Environmental Protection Team (EP)** - responsible for dealing with the environmental aspects of planning applications; provide technical support to strategic regeneration schemes; oversee exhumations and noise control at large events. The team discharge the council's regulatory duties in relation to contaminated land; industrial processes; air quality and private water supplies.
  - **Licensing and Out Of Hours Teams City Centre and City Wide (LOOH)** - responsible for licensing enforcement and for addressing effectively a range of issues that that can arise both during and outside of normal working hours e.g. licensed premises enforcement; street trading; domestic and

commercial noise enforcement; busking; begging etc. These teams provide cover over 7 days providing a service during the day, evenings and at night. In the city centre the team also deals with resident & business compliance with waste disposal, untidy private land; fly-tipping; littering; dog fouling; highway obstructions including skips; flyposting; etc.

- **Trading Standards Team (TS)** - responsible for enforcing a wide range of criminal legislation aimed at protecting consumers and maintaining standards of fair trading e.g. counterfeiting; product safety; sale of age restricted products such as fireworks, alcohol, cigarettes, knives, solvents etc; rogue traders; doorstep scams and regulation of weights and measures.
  - **Housing Compliance & Enforcement Team (HST)** - responsible for ensuring that privately rented properties meet acceptable safety and management standards. The team manage the licensing of HMOs and selective licensing schemes and deal with complaints regarding private rented housing ranging from complaints about disrepair to preventing unlawful eviction and harassment.
  - **Compliance & Enforcement Support Team (CST)** - responsible for intelligence and evaluation of project based activities, producing management information and monitoring service performance. The team also undertake a wide range of desk based compliance activities in support of the specialist teams: e.g. creating programmed inspection plans; verifying waste management contracts; food business registration; verification surveys and checks and management of the debt recovery and enforced sales processes. The team is also responsible for producing service wide statutory returns.
- 1.4 This report sets out the key areas of demand and how the teams performed across the whole service in 2017/18. The workload of the service is a combination of planned regulatory work such as inspection programmes; regulatory compliance activities such as assessing planning and licensing applications; reactive work such as investigating complaints from customers and proactive and project work to pick up on issues that are causing problems but may not be being reported or are intractable issues that need a more focussed and targeted approach.
- 1.5 The service takes an Our Manchester approach to achieving compliance, working on the principle that the vast majority of citizens and businesses in Manchester want to do the right thing. Sometimes people are not sure what they need to do and our approach to achieving compliance includes working with people and giving them the chance to get it right.
- 1.6 The City Council's Corporate Enforcement Policy outlines the approach that officers should take when considering enforcement action. The policy is an overarching policy that applies to all the Council's Services with enforcement duties, although some services have specific Legislative Guidance and Regulations which set out the enforcement requirements in these services. The appropriate use of the full range of enforcement powers, including prosecution,

is important, both to secure compliance with the law and to ensure that those who have duties under it may be held to account for failures to safeguard health, safety and welfare or breach of regulations enforced by the Council. In deciding on the most appropriate course of action officers should have regard to the principles set out in the policy and the need to maintain a balance between enforcement and other activities, including inspection, advice and education.

1.7 The policy states that an open, fair and proportionate approach will be taken in dealing with breaches of legislation which are regulated and enforced by the Council. Raising awareness and promoting good practice in regulated areas is the first step in preventing breaches, and officers of the Council will signpost to guidance on aspects of the law where requested to do so. Best efforts will be used to resolve any issues where the law may have been broken without taking formal action, or referring the matter to the courts when the circumstances indicate that a minor offence may have been committed and the Council is confident that appropriate corrective action will be taken. However, there may be occasions when the breach is considered to be serious and/or where informal action is not appropriate. In such cases immediate enforcement action may be taken without prior notice and as noted above some services have specific Legislative Guidance and Regulations which set out the enforcement requirements in these services.

1.8 The report also addresses the following areas as requested by Members:

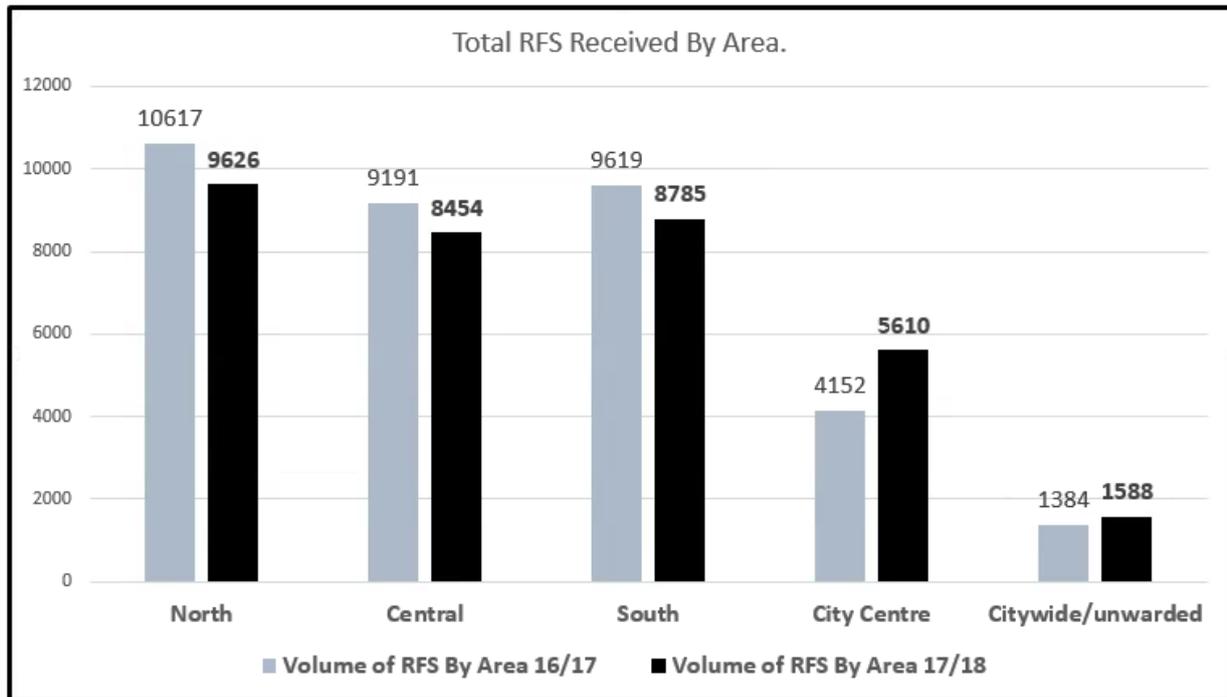
- enforcement in relation to double yellow lines;
- obstruction of the highway;
- hot food vendors
- waste contracts and how these are policed;
- activity undertaken by the Licensing and Out of Hours Compliance Team outside of the city centre area;
- tackling counterfeit goods, with particular reference to the Strangeways area;
- planning enforcement and legislation relating to the operation of Airbnb.

Case studies are included to illustrate the diverse nature of the issues that the service helps to resolve.

## **2.0 Overall Demand**

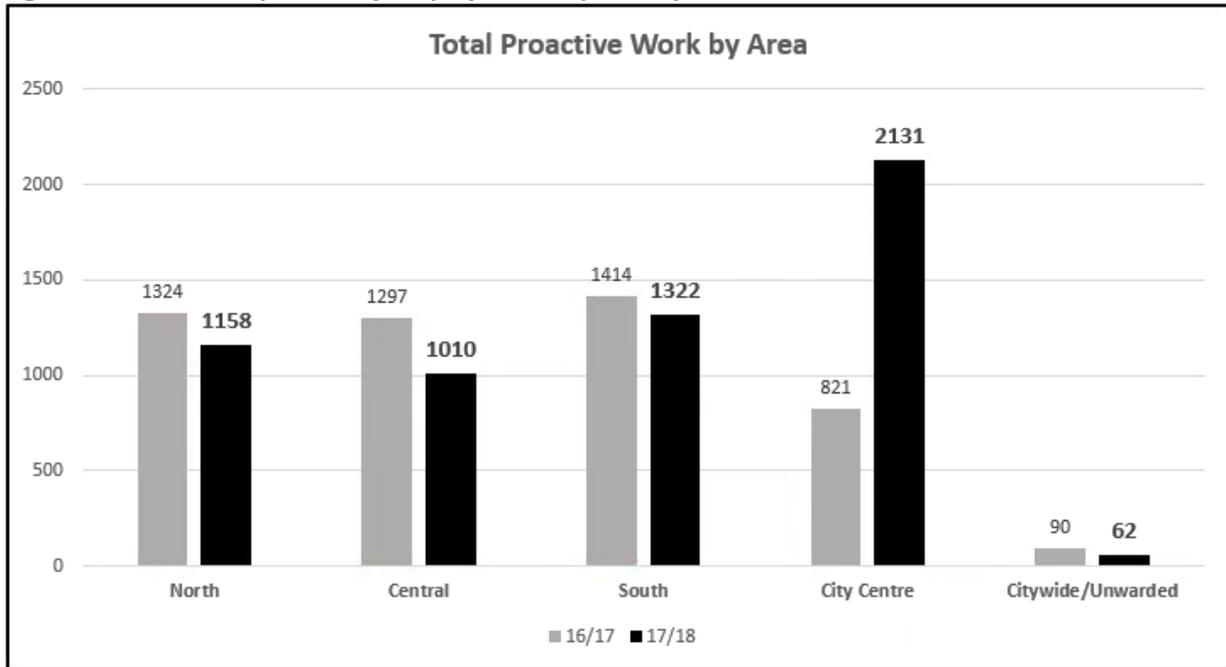
2.1 In 2017/18 the service received 34,063 requests for service (RFS) and completed 5,683 proactive activities. This compares to 34,963 requests for service and 4,946 proactive activities in 2016/17. This is a slight decrease of 2.6% in RFS and a 15% increase in proactive activity. Figures 1 and 2 compare the number of RFS and proactive activities received in both years by area.

**Fig 1. Number of RFS received in 16/17 compared to 17/18 by area**



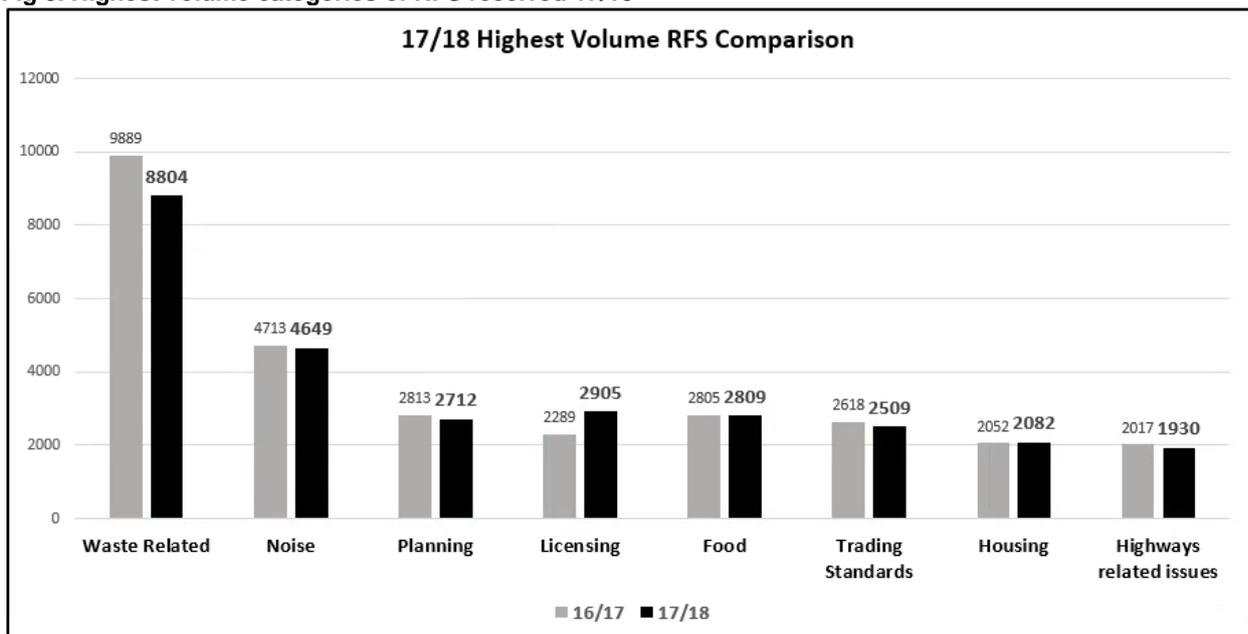
2.2 The overall number of requests for service is not significantly different, however, we have seen shifts in the type of demands being placed on the service and some geographical shifts in demand. There has been a slight decrease in the North, South and Central areas of the City and a pronounced increase in the City Centre area (Deansgate and Piccadilly wards) although figures are not directly comparable due to the ward boundary changes. The success of Manchester as a thriving regional centre, in terms of both commercial and residential growth- particularly the increase in city centre living is reflected in the work of the compliance and enforcement services. The key areas of increased demand in the City centre wards are licensing, noise, planning, food safety and waste.

**Fig 2. Total number of proactive jobs/projects completed by area**



2.3 Figure 2 shows the level of proactive and project work that is taking place across the city. The increased staff resources allocated to the city centre as part of the city centre review has contributed to the significant increase in proactive work. This work is extremely varied and includes proactive work challenging on street activity such as peddling and busking, inspection of licensed premises and multi agency projects tackling a range of non compliance. A total of 5683 proactive activities/projects were completed in 2017/18. Unsurprisingly given the amount of demand for waste related services almost half of these (2751) were related to waste. Case studies in section 6 of the report outline the type of activity undertaken proactively to address waste related issues.

**Fig 3. Highest volume categories of RFS received 17/18**



- 2.4 The areas of highest demand for the service are set out in figure 3. By far the greatest demand comes from waste related RFS which account for almost 26% of the total requests for service. This includes dealing with business and domestic waste related issues, flytipping, untidy private land and other littering offences. A total of 8804 waste related RFS were investigated with the breakdown being: North 3547 (40%), Central 3286 (37%), South 1556 (18%), City Centre area 412 (5%). The Neighbourhood Project Team (NPT) works closely with Biffa to investigate incidents of flytipping and pursue legal action where appropriate. The overall volume of waste related work has decreased when compared to 2016/17 and there has been a significant shift in the way this work is received with far fewer direct complaints from the public and much more of the work being proactively addressed by the joint Biffa/Council team. Of the total 8804 waste related RFS 3991 (45%) were cases proactively identified by Biffa and investigated by the NPT. Waste complaints from the public have reduced by 13% from 5548 (16/17) to 4813 (17/18).
- 2.5 Further analysis of the main complaint types, flytipping, domestic and commercial waste, littered gardens and untidy private land show that in 17/18 for these categories alone we received 15% fewer complaints (5347 compared to 4631). The extensive proactive work in identifying and addressing waste issues and the success of the Biffa partnership work has contributed to this significant shift.
- 2.6 Noise related requests for service include issues such as construction related noise, noise from licensed premises, noisy parties, barking dogs and general domestic noise. A total of 4649 RFS were received with the breakdown being North 1214 (26%), Central 1117 (24%), South 1506 (32%), City Centre 809 (17%), the remaining 3 (0.06%) are un-warded jobs. Un-warded jobs include where the complainant lives within Manchester but the source of the noise is outside the city boundary or where the source of the noise is not static such as noise from canal boats and ice cream vans.
- 2.7 Domestic noise accounts for 47% (2187) of all noise complaints across the city and within this there has been a significant rise in complaints about barking dogs which has increased by 86% (from 188 to 350), Construction related noise has increased by 31% across the city (from 295 to 387), Licensed premises noise shows a slight reduction across the board (from 490 to 421).

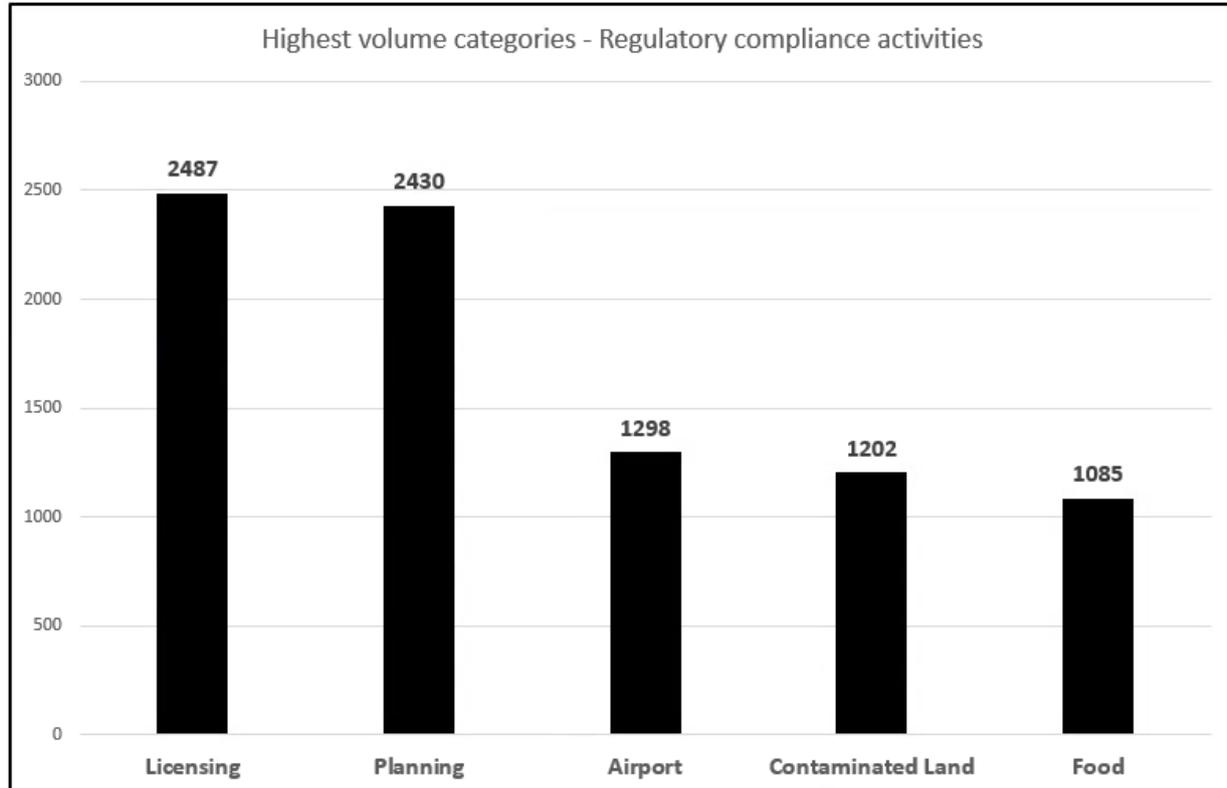
Ward level analysis shows the wards with the highest volumes of noise RFS are:

- Piccadilly (439) with construction noise accounting for 26% of the noise requests.
- Withington (369) with student noise making up 42% of the noise requests.
- Deansgate (370) with domestic noise making up 30% of the noise requests.
- and Hulme (259) with domestic noise making up 53% of the noise requests.

- 2.8 Licensing includes reviews of temporary event applications and requests related to premises licence conditions. The breakdown is North 410 (14%), Central 423 (15%), South 672 (23%), City Centre 1400 (48%) licensing activity overall has increased by 27%.
- 2.9 Planning includes, planning applications and consultations on potential sites and review of conditions. Planning work has slightly increased. The breakdown is North 691 (25%), Central 672 (25%), South 490 (18%), City Centre 845 (31%), Citywide general enquiries/consultations 14 (0.5%).
- 2.10 Food, H&S & Airport service requests cover food hygiene, food standards, health & safety in the workplace and airport related issues. Food hygiene complaints include complaints of poor cleanliness, pest infestations, food poisoning issues, structural defects and failure to comply with documented food safety requirements. Food standards complaints include labelling irregularities and failure to comply with allergen information and control systems. H&S includes accident investigations, gas safety inspections in food premises and risk assessments. Airport work includes consignments of non animal and animal products and pests on planes. A total of 4422 RFS were received: North 613 (14%), Central 637 (14%), South 2055 (includes Airport work 46%), City Centre 880 (20%), Citywide/Out of Manchester enquiries 237 (5%). The highest volume categories of work are consignments checked at the airport 932 (21%), food safety issues 726 (16%), food premises issues 627 (14%) and new food business registrations 508 (11%)
- 2.11 Trading standards complaints include issues with product safety, consumer scams, doorstep crime, under age sales, illicit tobacco, weights and measures, animal welfare and counterfeiting. A total of 2509 RFS were received in 17/18: North 498 (20%), Central 283 (11%), South 301(12%), City Centre 359 (14%). This is virtually the same as the previous year. There are also citywide enquiries and complaints in relation to businesses/organisations not located in but who operate in Manchester 1068 (43%). Almost 74% of all complaints received are in relation to complaints about questionable/ illegal commercial practices.
- 2.12 Housing complaints cover damp, drainage, fire precautions, heating and hot water, gas and electric, unlawful eviction and tenant and landlord disputes. A total of 2082 RFS were received: North 814 (39%), Central 687 (33%), South 455 (22%) and City Centre area 126 (6%). The number of RFS received in total has stayed virtually the same as the previous year. The biggest category is damp and leaks accounting for almost 34% of all RFS received.
- 2.13 Highways related issues cover areas such as skips, obstructions, muddied sites and cars for sale on the highway. A total of 1930 RFS were received by the service. 87% of these relate to obstruction to either the footway, verge or grassed areas.
- 2.14 The highest areas of demand in respect of regulatory compliance activity are shown in figure 4 which shows a 13% increase overall. As the city grows greater demand is placed on regulatory compliance services as the number of

planning and premises licence applications increase, the number of food businesses increase, more businesses are importing foods that need to be cleared at the airport Border Inspection Post and there is greater demand for new build both commercial and residential.

**Fig 4. Highest volume categories of regulatory work received 17/18**



- 2.15 As noted at para 2.8 and 2.9 planning and licensing work have both increased. Airport work includes assessments of consignments and imported food. Contaminated land includes consultations and advice on contaminated sites. Food regulatory activity includes applications from new businesses and food hygiene rescore requests.
- 2.16 As the airport continues to expand its activity and attract even more business, the number of imported food consignments requiring checks at the airport has increased significantly over the past 2 years. Manchester Airport has EU approval to operate as a Border Inspection Post (BIP). BIP status allows the airport to import food and food products of animal origin, i.e. meat, poultry, fish and products derived from them, from outside the EU. These products are subject to specific import controls before they can be released and given free movement to any EU country. Manchester Airport is the only airport in the UK outside the London area to have this status.
- 2.17 The operation of the BIP is tightly controlled by both DEFRA and the EU. The BIP is subject to quarterly audits by DEFRA and the import procedure is strictly controlled by DEFRA. As well as BIP status the airport also has Designated Point of Entry (DPE), and Designated Point of Import (DPI) status which allows products subject to specific EU regulations to enter the EU subject to clearance. These other products include fruit, vegetables, spices, and nuts as

well as food contact materials. Many of these products require sampling at rates specified in the regulations before they are allowed to enter the EU.

- 2.18 In 2016/17 annual returns to the FSA show there was a 157% increase in the number of consignments checked compared to the previous year (229 consignments increasing to 588) and in 2017/18 there was a 59% increase in the number checked (588 consignments increasing to 932). Products imported via airports tend to be perishable and of high value and need to be processed efficiently by officers to ensure fresh products can be transported to markets and premises around the UK. This makes work at the airport extremely pressurised as importers demand quick turnaround times for their clients.
- 2.19 The increase in current workload will need to be closely monitored to ensure an effective and efficient service is maintained post BREXIT to support economic growth and continue to ensure the safety of products entering the UK food chain.
- 2.20 As noted in paragraph 2.2 regulatory compliance activity has increased significantly in the City Centre. Licensing activities such as reviewing licence conditions and table and chair licence applications have increased from 900 in 16/17 to 1393 in 17/18 representing a 55% increase. The biggest areas of work are assessments of Temporary Event applications. These are applications to carry out licensable activities for a set period of time such as selling alcohol for an event, providing regulated entertainment or serving hot food or drink between 11pm and 5am. Businesses can apply to temporarily extend their working hours or to carry out specific licensable activities not included in their original licence and unlicensed venues such as community centres, school etc use them to enable them to carry out licensable activities at community and charity events, school fairs etc. As these applications have a statutory response time of 96 hours this places a time pressure on the team. Temporary Event applications made up 47% of all licensing regulatory compliance work received in the City Centre area for 17/18.
- 2.21 In addition to requests for service and proactive work there are 2 key areas of programmed work:
- (i) inspection of food premises to assess their compliance with food hygiene and safety standards and
  - (ii) inspections of Houses of Multiple Occupation (HMO) that require a licence under the Mandatory HMO Licensing scheme.
- 2.22 In 2017/18 2876 food premises were due an intervention over the course of the year. An intervention can be in the form of a full inspection, partial inspection, audit, sampling or verification visit.
- 2.23 On completion of an inspection a premises is allocated a risk category and this determines the frequency of inspection. The risk category is determined by how a premises performs against criteria such as the structure of the premises, food safety practices and confidence in management. Risk also increases where the

number of consumers is substantial (e.g. manufacturers). Figure.5 shows the risk profile of the required interventions in 2017/18.

**Fig.5 Risk profile of interventions required 2017/18**

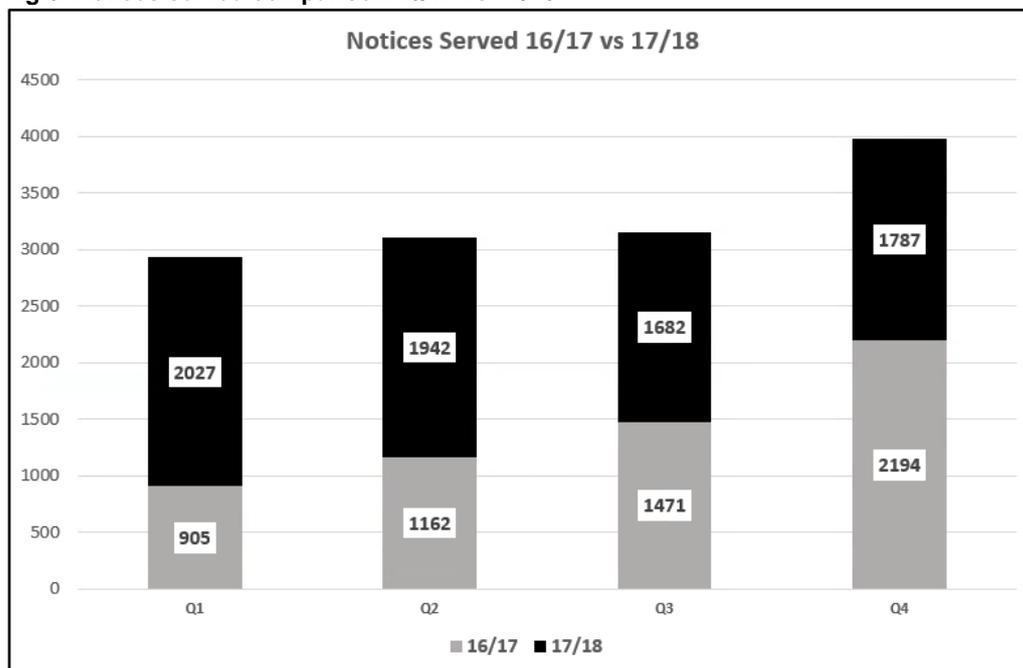
Category	Intervention Frequency	Number
A	Every 6 months	50
B	Every 12 months	360
C	Every 18 months	726
D	Every 2 years	865
E	Every 3 years	225
Unrated (new premises)	Not yet allocated	650

- 2.24 A premises is also awarded a score ranging from 0 (*urgent improvement necessary*) to 5 (*very good*) under the national Food Hygiene Rating Scheme (FHRS) commonly known as scores on the doors. These scores can be displayed by the premises and are available to the public on the Food Standards Agency website.
- 2.25 The FHRS score is derived from 3 elements of the inspection – food safety practices, structure of the premises and confidence in management. The majority of premises are in the acceptable range of 3 and above, but there is a broad spread of scores in premises across the city which helps us to understand which businesses need more support.
- 2.26 All programmed inspections for 17/18 were completed on time. In 18/19 2984 food businesses are due inspection, this includes an estimated average of approximately 600 new food businesses that register with MCC each year.
- 2.27 The team also deal with food standards which focuses on such things as allergens and food labelling. This is a growing and increasingly important area of public health work as it is clear that many businesses lack an awareness on their legal obligations in respect of providing accurate information in allergens in food they serve and the consequences of getting it wrong can be fatal.
- 2.28 The food team has responsibility for inspecting the standard of allergen information provided by businesses and checking procedures businesses have in place to protect customers. The team has introduced a robust inspection procedure and issues voluntary stop agreements where the businesses procedures are deemed to be inadequate which means the food business agrees not to serve customers with allergies until they have improved their procedures and are compliant with legislation.

2.29 In 2017/18 444 HMO licences required an inspection to ensure compliance with housing standards, all inspections were completed on time. HMOs that meet standards are granted a licence for a maximum of 5 years. As Committee will be aware from the reports to this Committee on 20 June 2018 and September 2018 on 1 October 2018 legislation changed to extend the mandatory licensable HMO criteria. This change will significantly increase the number of properties meeting the new licensing criteria and as a result we anticipate an additional 5000 HMOs will need to be inspected in addition to the 439 HMO licenses that are due to expire in 18/19.

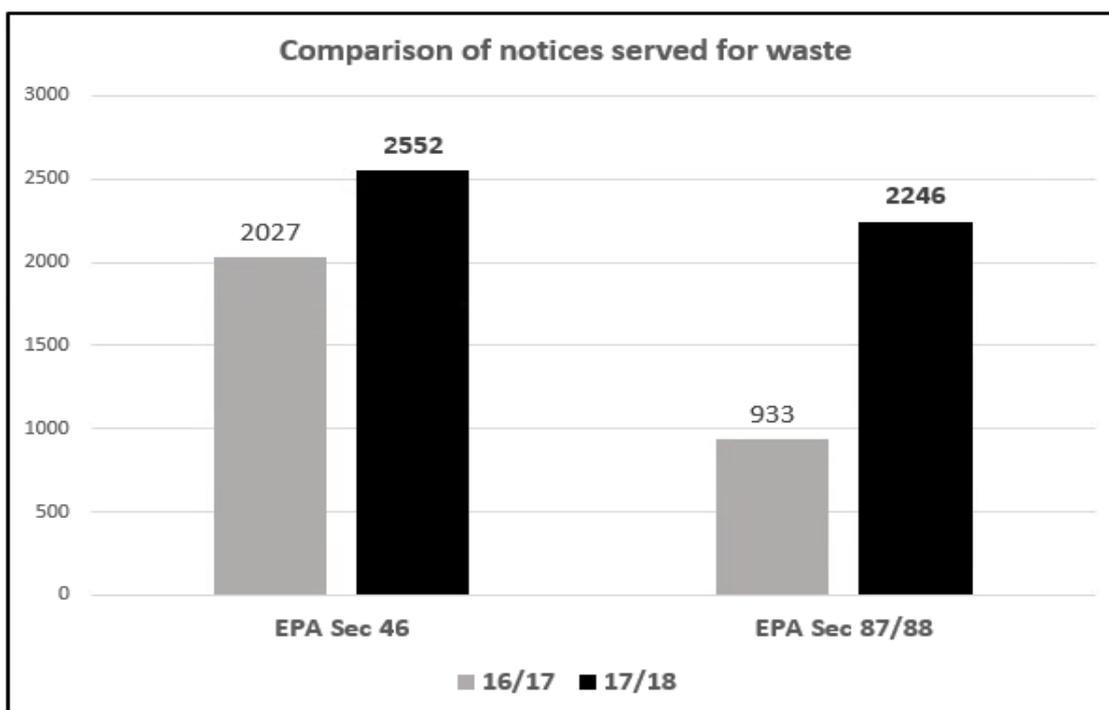
2.30 In line with the Corporate Enforcement policy and the Our Manchester approach in the vast majority of cases compliance is achieved through working with people and using informal means. However as noted in paragraph 2.33 where formal action is required to achieve compliance this will be taken. Figure 6 shows that there were almost 30% more notices served in 2017/8 than the previous year.

**Fig 6. Notices served comparison 16/17 vs 17/18**



2.31 As expected, the largest increases are notices served for waste offences. Environmental Protection Act (EPA) Sec. 46 notices are served to outline proper use of waste receptacles, these have increased by 26%. EPA Sec. 87/88 Fixed Penalty Notices (FPN) are fines issued for flytipping, these have increased by 141% in the main due to the Biffa partnership work.

Fig 7. Notices served in relation to waste - comparison 16/17 vs 17/18



2.32 Where legal notice is served, as long as the person or business complies with the requirements of the notice no further enforcement action will be taken. There is a high degree of compliance with legal notices making them a successful tool.

2.33 Where notices are contravened or where cases are of a more serious nature more formal enforcement action including prosecutions will be pursued. Figure 8 shows the number of successful prosecutions across all Compliance & Enforcement Teams. In 16/17 the service carried out 143 successful prosecutions. In 17/18 this figure has more than doubled to 379. This is a 165% increase in successful prosecutions overall.

**Fig 8. Total prosecutions 17/18**

Prosecutions 2017/2018	No. of Prosecutions	Total fines /charges /outcomes
Fly-posting	3	£2,458.00
Fly-tipping	280	£160,646.79 (1x 20 week suspended prison sentence, 1 x 1 day imprisonment, 1 x absolute discharge)
Commercial Duty of Care	16	£25,918.88 (2 x formal cautions)
Domestic Duty of Care - passing waste to an unauthorised person	8	£2,365.00 (1 x conditional discharge/1 x formal caution)
Transferring waste to an unauthorised person	1	£250.00
Non-compliance with waste removal notice	5	£7,009.30
Failure to comply with waste receptacles notice	2	£2,243.52
Breach of Licensing Act - After hours sales	1	£1,182.26
Breach of Public Spaces Protection Order (Dog Control)	1	£250.00
Food Safety & Hygiene - Pest infestation	4	£66,283.01
Food Safety & Hygiene - On sale food past use by date	1	£9,673.00
Illegal Pedlar	25	£11,344 (1 x 70 hrs unpaid work, 2 x Forfeiture of goods)
Illegal Street Trading	1	£1,900.00
Illegal Street Collection	1	£550.00
Smoking in a smoke free place	1	£2,806.00
Breach of Licensing Act - Operating without licence	2	£5,340.00
Breach of abatement notice - Noise	1	£2,055.00
Trade Marks Act 1994	6	£13,655.00 (3 x Forfeiture of goods)
Trade Marks Act 1994 + Toys (Safety) Regs 2011	2	£5,647.00
Toys (Safety) Regs 2011	1	£18,649.01
Cosmetic Products Enforcement Regs 2013	1	£2,440.00
Supply of Machinery (Safety) 2008	1	£6,979.36
Consumer Protection from Unfair Trading Regs 2008	1	£1,678.00
Cosmetic Products Enforcement Regs 2013	14	Forfeiture of goods
<b>Grand Total</b>	<b>379</b>	<b>£351,323.13</b>

2.34 In addition to formal enforcement action other methods are used to achieve compliance which include:

- Targeted monitoring in hotspot areas.
- Action days alongside partners, residents and businesses to encourage ownership of issues within communities and neighbourhoods.
- Advice education and information across a wide range of topics including responsible dog ownership, waste management, fire safety, food hygiene consumer awareness etc.
- Dissemination of information via Social Media

2.35 The following sections provide information on the issues requested by the Committee.

### **3.0 Enforcement in relation to double yellow lines**

3.1 The Council's Parking Service has been enforcing parking restrictions throughout Manchester since 1999, when the Police and the Government devolved these powers to the Council. It should be noted that Parking Services are bound by legislation in the vast majority of cases when undertaking enforcement, which requires a Traffic Regulation Order to be in place before enforcement can be undertaken.

- 3.2 The overriding objective of the Service is the enforcement of dangerous, irresponsible and selfish parking, to ensure the free flow of traffic and to improve road safety for all road users, including cyclists and pedestrians. Yellow line parking restrictions apply from the centre of the carriageway up to the building line. Therefore, any vehicle parked illegally on the carriageway, footway or verge is liable to receive a £70.00 Penalty Charge Notice, with the ultimate sanction of having the vehicle removed if it meets specific criteria.
- 3.3 The Parking Service in conjunction with its enforcement contractors ensure that key 'pinch points' throughout Manchester receive enforcement, which includes arterial routes where dedicated Civil Enforcement Officers (CEO) are deployed to enforce Double and Single Yellow Lines where there is greatest need and the biggest impact, i.e. Arterial routes into and out of the City including Wilmslow Road, Rusholme, Stockport Road, Longsight and Cheetham Hill Road, Cheetham. This is reflected in the CEO hours deployed to these areas in the Ward data attached at appendix 1.
- 3.4 Other key priorities include the enforcement of yellow 'Zig Zag' No Stopping restrictions outside schools. These are enforced utilising vehicles equipped with Automatic Number Plate Recognition CCTV cameras, which record vehicles stopping on the restrictions, and which also provide a deterrent as well as enforcement capability, with the specific aim of improving road safety outside schools. It's unfortunate that Government legislation restricts the usage of the vehicles, which have the potential to significantly improve road safety at other locations, but which are restricted by legislation.
- 3.5 It will be noted that there are variations in the deployment/number of hours CEO are deployed in the Wards. This is a direct result of supply and demand, with some Wards having very few parking restrictions, and minimal parking contraventions, given that many parking offences occur in District Centres and in the City Centre, where there are considerably more parking restrictions/yellow lines. Where there are Resident Parking Zones i.e. Ancoats and Clayton, Ardwick etc this also affects the deployment of CEOs, as these schemes are considered a priority to ensure that the residents' schemes work effectively.
- 3.6 Deployment of CEOs is constantly reviewed, taking feedback from the CEOs deployed to the Wards, feedback from colleagues in other services namely Neighbourhood Services, and concerns and complaints raised by residents, businesses and Local Councillors. The vast majority of CEOs deployed outside of the City Centre are deployed either on mopeds or cycles and can easily be redirected to areas of greatest need when required.

#### **4.0 Enforcement in relation to obstruction of the Highways**

- 4.1 A number of issues fall into the category of obstruction of the highway which includes overhanging vegetation, A-boards, structures erected on the highway, overflowing or abandoned skips, obstructions caused by utility companies etc. Many of these cause significant inconvenience to residents and can also be unsightly. Parked vehicles, which are causing an obstruction can be dealt with

by Parking Services only where a Traffic Regulation Order is in place. If a vehicle is causing a danger on the highway Greater Manchester Police have the powers to remove the vehicle.

- 4.2 The highways service deals with obstructions caused by utilities companies overstaying on the highway without the permission of the Council. Under section 74 of the New Roads and Streetworks Act 1991, overstay fines can be issued. Between 1 April 2017-31 March 2018, 156 overstay fines were issued which equates to £205,220 in fines.
- 4.3 Fixed penalty notices can be issued for breaches of agreed permit conditions through GMRAPS - This is the Greater Manchester Road Activity Permit Scheme. Any Utility, Contractor or Highway Authority who wishes to work on the highway needs to apply for a permit through the scheme detailing the duration, type of works, traffic management and what permit conditions they are working to. Any breach of the permit conditions can result in a fine of either £80 or £120. Breaches include not adhering to the traffic management they have detailed on their permit application, absence of a permit notice board, incorrectly referenced permit on the notice board and incorrect overall administration of the permit on the GMRAPS system. During 2017/18, 606 fines were issued which equates to £79,000 in FPNs.
- 4.4 Where utility companies have reinstated the highway to a substandard level the company can be charged and required to reinstate to the correct standard. Charges totalling £102,000 were levied in 17/18.
- 4.5 A recent example of this is where United Utilities applied for a permit to work on Briscoe Lane to clean and repair the sewer near Riverpark Road. The works were scheduled to take place from the 13th to the 15th of November however the contractors were still onsite on Friday the 16th with no prior request made to the Highways team for an extension to the permit. This has resulted in a fine being issued to United Utilities for remaining on the highway for an additional day without permission. The level of fine issued is dependent on a number of factors including impact on network users and type of carriageway and whether it is traffic sensitive. In this case, Briscoe Lane is a type 1 category which equates to a fine of £5000 per day.
- 4.6 The Highways Act 1980 provides the legal powers to address the type of obstructions dealt with by the Neighbourhood Compliance Teams.
- 4.7 During 2017/18 The Neighbourhood Compliance Teams dealt with 1792 obstructions which were a combination of issues reported by members of the public and jobs picked up proactively while patrolling the city. The most common complaints about obstruction of the highway relate to A-boards, overhanging vegetation, skips and building rubble.
- 4.8 As noted above the initial approach is to try to achieve compliance via informal means. This will generally be a phone call, visit or letter to the individual explaining what is wrong and how to put it right. Last year 92% of obstructions were resolved informally with 8% requiring formal enforcement action.

4.9 The following case studies illustrate the type of issues encountered and how they are resolved.

#### **Case Study 1 - Haydn Avenue (Ardwick)**

A complaint was received by the Central NCT about an overflowing skip which was preventing residents from parking and was an eyesore. The officer visited the site, contacted the skip company to request the removal of the skip which was done within 24 hours, removing the blight and enabling residents to park on their street again.

#### **Case Study 2 - Pleasant Street (Harpurhey)**

Complaints were received by the North NCT about a business storing tyres on the pavement. This was both unsightly and blocking the pavement. A Section 149 Highways Act 1980 warning letter was sent to the business owner requesting the removal of the tyres. The company complied with the warning letter and removed all the tyres enabling pedestrians to walk freely on the pavement without the need for further enforcement action.

#### **Case Study 3 - Market Street (City Centre)**

Officers from the City Centre Licensing and Out of Hours Team took action to address crowds causing an obstruction on Market Street in the city centre. The crowds were forming to watch street entertainers who had erected structures on Market Street. One of the structures had knives embedded in it and the other involved a 'Hang to Win' game. The owner of the knife structure was served a Section 149 notice requiring immediate removal of the structure. The structure being used by the Hang to Win operator was seized under the Manchester City Council Act 2010 as this was considered to be a street trading offence. A prosecution for illegal street trading is being taken forward in this case.

#### **Case Study 4 – St Georges estate (Hulme)**

A number of issues were being caused due to inconsiderate parking on the estate. These included bin collection vehicles unable to access all parts of the estate, residents unable to access their properties and difficulty finding safe points to cross the road and a high number of contractor vehicles parking up and working in Britannia Basin

To resolve this a multi- team coordinated action took place involving the Central Neighbourhood Team, Biffa engagement team, One Manchester, civil enforcement (NSL) and GMP. This included:

- Joint action days using a combination of civil enforcement and GMP powers to deal with any non-compliant vehicle parking
- Awareness raising through leafletting on vehicles the day before bin collection

days to request that drivers found another place to park so that residents' bins could be collected. This had a small but significant effect.

- Engagement with residents –who also helped to do the leafletting
- Biffa coned and taped off entrance roads to the estate early morning on collection days to deter commuters, Roads were amended following resident feedback.
- Ongoing monthly meetings with contractors working in the Britannia Basin area to explain how their operatives were impacting on the neighbouring estate which had limited impact, but important to keep repeating the message.
- One Manchester increased signage explaining areas dedicated for residents only to park in.
- Junctions which needed attention e.g. where pedestrians were struggling to cross the road or where Biffa vehicles needed more space were identified. This information has been used to propose a new Temporary TRO which is in the process of being implemented.
- Negotiations took place with One Manchester, Onward and Mosscafe St Vincent to contribute to the permanent resident parking scheme and help bridge the funding gap.

### **Case study 5 - Abandoned Vehicles (Cheetham Hill)**

The Highways Service and North Neighbourhood Compliance Team along with partner agencies took action to remove a number of apparently abandoned vehicles including a Volvo articulated cab, three food vending trailers and two 40 foot articulated trailers from a street in Cheetham Hill. Ordinarily abandoned vehicles will be held for 7 days before they are scrapped but due to the size of these vehicles they wouldn't fit within the storage depot so the Highways Service liaised with the scrap merchant who agreed that they would if necessary store the trailers which would have saved thousands to the public purse. GMP managed to get the owners to remove a tractor unit and two trailers just before they were taken away, but the other vehicles were removed by the highways parking team and destroyed.

As this is a recurring problem in the area advice on possible changes to the road, including bollards, was given.

In another case, also in Cheetham Hill, Highways colleagues assisted the North Neighbourhood Compliance Team to remove a static caravan dumped on Collyhurst Road which was blocking the highway. Its windows had been broken, and someone had tried to set it alight, so removal was urgent to avoid a more serious arson attack. The static caravan was too big for any of the council's vehicles to tow so Parking Services hired a larger vehicle to take it away.

## **5.0 Hot Food Vendors**

- 5.1 A number of different types of premises fall within the category of hot food vendors. An assumption has been made that most restaurants, takeaways and bars will sell hot food but it is not possible to distinguish those that sell hot food from those that don't other than for those who are licensed to provide late night

refreshment (after 11:00pm) There are 1531 such premises which fall into the categories below:

Cinema/Theatre – 10

Hotel – 69

Off Licence – 219

Open space venues (e.g. Great Northern, MIF, Castlefield Roman Fort etc) – 9

Other (e.g. churches, casinos, sport centres, museums etc.) – 105

Pub/Bar/Club - 506

Restaurant - 395

Takeaway - 218

- 5.2 The same enforcement protocols are followed for all food businesses in that they are subject to the inspection regime outlined in paragraphs 2.22 & 2.23. They are also required to have adequate arrangements in place for storing and managing their waste.
- 5.3 Those who sell hot food after 11pm are also required to have a premises licence which will set out any conditions specific to that premises. The sort of conditions that may be attached to late night hot food takeaways include prevention of litter and waste issues, including keeping the area around the takeaway free from litter when open or providing extra bins.

### **Case Study 1 - Village, City Centre (Piccadilly)**

A complaint was received by the City Centre Licensing and Out of Hours Team from a club in the village that a nearby takeaway was leaving their waste in open containers. This was having an impact on the nightclub as rats had been seen in their beer garden and they felt this was the direct result of the open waste containers.

Compliance Officers visited and found that the takeaway was storing their waste in bags until it was collected. Other waste containers that belonged to neighbouring businesses were open and were over-spilling due to the level of waste that was being deposited within them. Notices were served on the takeaway instructing them to store their waste in appropriate containers and also on the neighbouring businesses stating that all containers needed to be locked and clearly identifiable to each business. The notices were complied with and no further issues were reported or identified in follow up visits.

A short time later the same takeaway applied for a licence variation for an extension to their late night refreshment provision. As the Licensing and Out of Hours Team were aware of the recent waste issues at the takeaway and had concerns about increased litter from later opening hours they were able to add a number of conditions to the licence that were specifically around the prevention of litter and waste issues, including keeping the area around the takeaway free from litter when it was open and the takeaway providing extra bins so the extra litter could be disposed of.

The takeaway agreed to the conditions and if it fails to follow these conditions then

action can be taken against the licence. The takeaway has been actively monitored since the licence variation was granted and it is complying with the conditions.

- 5.4 Mobile food traders form a growing section of the local and regional economy with an increased consumer demand for street food. All mobile food traders who are located in Manchester i.e. where they store equipment and food, must legally register their food business 28 days prior to trading. They will then receive an initial inspection and following this will be inspected regularly in accordance with the assessed risk.
- 5.5 Many mobile traders operate at organised event sites across the city and the event organiser will specify requirements before they are accepted to trade. There has been growth in the number of food events operating across the city in recent years. Environmental Health Officers will annually attend a number of event sites across the city to ensure food safety and health & safety standards are met. For example, the Manchester Food & Drink festival, Caribbean carnival Christmas Markets, Manchester Eats. There is also a large number of events not related to food but have food traders operating on site. Many of these traders will be registered with local authorities outside of Manchester and therefore spot checks are important. If significant concerns are found these will be reported back to the relevant local authority and the event organisers.
- 5.6 There are also 61 mobile food traders licensed by the council who are licensed to trade at a set location in the city. There may also be traders operating as pedlars rather than in a fixed location. These traders must also register their food activities and will be inspected on a regular basis in accordance with the assessed risk.
- 5.7 Food traders that are reported to be operating without a licence will be referred to the Licensing Service but Environmental Health Officers will deal with unacceptable standards in the interim.
- 5.8 Inspections of mobile food traders will focus on the same hygiene and standards issues as a fixed premises. However, issues that may be more likely to arise with mobile operators include a lack of or inadequate handwashing facilities, water quality provision, gas and electrical power sources (petrol generators are not allowed), damaged gas pipes, poor electrical connections, temperature control of stored food items, allergen management and food handling practices.
- 5.9 Officers will check if all food premises have a waste contract in place and assess the suitability of any bins or storage spaces provided. Complaints about Mobile food businesses are dealt with by the L&OOH team.

## **Case Study 2 - Operator outside an entertainment venue (Longsight)**

A renewal application was received for an operator set up outside an entertainment venue. The L&OOH team had previously had complaints from members of the public about the noise from the generator used and the fact that the operator often moves from the allocated area, closer to a local school. Work was done with the operator to enclose the generator and reduce the noise.

Proactive checks were also carried out to ensure that the operator remained in the correct location. This work meant the noise was no longer an issue and the operator was fully aware of the consequences of not staying in the agreed location. The fact that the team works outside of standard working hours enables them to check on this business when it's operating and as the business owner knows this they are more likely to comply.

### **6.0 Waste Contracts**

- 6.1 One of the roles of Neighbourhood Compliance Officers is managing waste related issues including domestic and commercial waste enforcement and dealing with fly tipping.
- 6.2 The Environmental Protection Act (EPA) 1990, imposes a 'duty of care' on businesses which produce or handle waste. This duty requires businesses to ensure their waste is properly stored, transported and disposed of. There are a number of commercial waste operators that provide this service to commercial premises across the City. The Environment Agency are responsible for ensuring these services are compliant with all relevant environmental legislation.
- 6.3 The majority of commercial premises are compliant. Unfortunately, however, there are parts of the City where commercial waste is not managed responsibly and this has a negative impact on the local environment and contributes to litter issues. In residential areas some commercial premises use domestic communal facilities – this leads to reduced capacity for households. In the City Centre and District Centres, issues arise where commercial containers are stored on the highway or are accessible to the public. Sack collections used by small producers of commercial waste or those with limited storage space also impact negatively on the quality of the local environment. The London Authorities have powers to require businesses to comply with strict time banded collections, which only allow the collection of commercial waste at defined times – these powers are not available outside of London.
- 6.4 Commercial premises are visited to check that they have adequate waste management provisions in place. Where this cannot be shown Environmental Protection Act Notices are served either to obtain documentary evidence of the contract the business claims to have in place or where no, or an inadequate, waste contract is in place a Notice is served specifying the measures they need to take to be compliant with the law. As set out in paragraph 2.32 there is a high degree of compliance with notices which means that further enforcement action

is often not required. Where businesses fail to comply with the notice they are issued with a fixed penalty notice.

- 6.5 A number of targeted enforcement initiatives have taken place around district centres across the city. These are planned based on a combination of intelligence from Members and resident complaints, feedback from colleagues in the Neighbourhood Teams our waste contractor Biffa and officer observations. In some areas, following investigation, it has become clear that there is also an issue with flats above shops having inadequate waste disposal arrangements. In such cases the residents have been depositing their refuse next to the commercial bins which has led to the perception that the businesses are not managing their waste. In these cases, Notices have been issued to the residents of the domestic properties.
- 6.6 Reports of fly-tipping related to commercial properties will come from a number of sources including members of the public, elected Members, Biffa operatives or from compliance officers patrolling areas of the City. As per our proactive approach a Notice will be served where a business claims to have a waste contract in place but is unable to provide documentary evidence upon initial request. If the business fails to comply with the Notice then they will be invited to attend an interview under caution and either a Fixed Penalty Notice (FPN) will be issued or where more appropriate a prosecution will be pursued. Where an FPN is not paid this would also result in a prosecution being pursued. Intelligence obtained from dealing with reactive requests will also help to determine where proactive work is undertaken in an area.

### **Case Study 1 – Commercial waste (Longsight)**

This project was started in January 2018 following an officer proactively inspecting the area and noting that there were a large number of problems with commercial waste storage and disposal. Over 30 business premises were identified within this block, as well as a number of domestic properties set amongst them.

Checks were carried out to verify the occupancy of each business followed by visits to gather and record information about how each premises dealt with its commercial waste. This information was verified with the relevant commercial waste contractors and officers determined whether the arrangements in place were sufficient. It was also identified that domestic waste mismanagement was an issue. Council Tax checks confirmed that there were 6 flats above shops, and none of these appeared to have a means of disposing of their waste.

The Central NCT coordinated tackling the issue with assistance from:

- Biffa Fly tipping Investigation Team: who regularly checked the alleyway and search dumped waste for evidence Biffa also ensured the flats above the shops were provided with bins, and also that the alleyway was being properly cleaned.
- The Environmental Health Food Safety team: several premises were

identified where there were concerns about food hygiene / cleanliness and the premises not being properly registered for food preparation.

- **Business Rates:** a number of businesses were referred to this team to enable them to make further enquiries regarding the occupancy of the premises.

This project continued over a 6 month period and during this time 43 legal notices were served on both business and domestic properties in relation to waste management. This includes 22 notices requiring businesses to put adequate waste arrangements in place. There has been a high level of compliance with the notices with only one breach of a notice for which a fine of £110 was issued. 16 notices were issued to the occupiers of domestic premises in the block to ensure they are managing their waste properly.

The Biffa Fly tipping Team removed a large amount of rubbish from the alleyway and found evidence leading to 5 further legal actions including two £80 fines. The Biffa Fly tipping Team continue to visit the area regularly. The area has greatly improved thanks to the collaborative work undertaken and regular monitoring is continuing so that any breaches are dealt with quickly to prevent the area deteriorating back to its former condition.

### **Case Study 2 – Flytipping (Old Moat / Withington)**

This area was identified as a priority by the Neighbourhood Compliance Team, in consultation with the Neighbourhood Team and Ward Councillors. The car park to the rear of Wilmslow Road and Gledhill Street had significant problems with fly tipping and it was clear that neither the businesses along Wilmslow Road, nor the flats above, were managing their waste properly, with many of the occupants to the flats not having access to a bin. A coordinated plan was agreed to improve the general environment throughout the District Centre & particularly to the Gledhill Street carpark.

Fifty-one businesses were visited and asked to supply a copy of their waste contract which were reviewed to ensure they had adequate provision in place. Nine businesses failed to provide a waste contract and were served with a legal notice under the Environmental Protection Act (s34 EPA). Seven of these were subsequently interviewed under caution and served with £300 fines for failure to comply with the regulations.

Despite having waste provision in place and supplying their contract a further seven businesses were found to be mismanaging their waste and were served with legal notices (s47 EPA), instructing them on how they should manage their waste. These businesses were monitored and in the 6 months after the notice was served 1 business breached the notice on 2 occasions and was served with £110 fines each time. Any further breaches will result in prosecution.

The majority of the flats did not have anywhere to store a wheelie bin which was leading to bins being left on the carpark, not being presented correctly for collection,

going missing, being used by passers-by and contributing to the general untidiness of the car park. It was agreed that a bag system would work better for the flats which is working well.

Since a large amount of the fly-tipping that had been taking place had been from the businesses and domestic premises, the work carried out has significantly reduced the level of fly tipping in this area.

Finally, Biffa did a thorough clean of the area where the businesses left their commercial bins to give them a fresh start. This area is continually monitored by the NCT to ensure it doesn't deteriorate again.

### **Case study 3 – vehicle seizure for fly-tipping (Withington)**

In September 2017, the Environmental Crimes Team arranged for the destruction of a Ford Transit vehicle which had been linked to 8 separate fly-tipping incidents between December 2016 and July 2017, predominantly around the Whitby Road/Whitby Avenue area of Withington. Local residents had reported the incidents and had provided witness statements to support the City Council's investigations.

The vehicle was found to be registered with the DVLA but, the person named as the registered keeper could not be located at the address supplied. All attempts to contact the named registered keeper were unsuccessful but the vehicle was tracked down to a location in Manchester and arrangements were made to seize the vehicle to assist in the Council's investigations. The vehicle was removed on 8 August 2017, supported by colleagues from Parking Services, NSL and Greater Manchester Police.

Under the Environmental Protection Act 1990, the registered keeper has 15 working days to prove their identity and claim the vehicle, at which point they would face questioning regarding the fly-tipping allegations. If the vehicle remains unclaimed after this time, the Council can destroy the vehicle. In this case as no valid claim was received the vehicle was crushed on 15 September 2017, receiving widespread coverage in the local media. This sent a clear message to the community that fly-tipping will not be tolerated in Manchester and that reports from local residents will be acted upon wherever possible.

## **7.0 Activity undertaken by the Licensing and Out of Hours Compliance Team outside of the city centre area.**

7.1 The Licensing and Out of Hours Service was established as part of the Neighbourhood Services Redesign which came into effect in January 2016. A key aim of the service is to provide a staffing resource that is available to address those issues that arise outside of standard Monday to Friday 9-5 working hours and to do so in such a way that enables continuity where issues that arise during the day also impact at night or weekends e.g. domestic and commercial noise; construction noise; street issues such as pedlars and street entertainers and the operation of licensed premises such as bars, restaurants and late night takeaways.

- 7.2 The team work flexibly across 7 days on a shift pattern that provides a good spread of daytime (8am - 4.30pm), evening (11.30 am - 8.00pm) and night (8.45pm - 4.30am) cover for the whole city.
- 7.3 Although the service was established as a city wide resource the demands of the city centre were such that, as part of the City Centre Review, a dedicated city centre team was established which has enabled the citywide team to focus on areas outside of the city centre.
- 7.4 Typical daytime demand across the city includes:
- Assessing street trading applications;
  - Assessing premises licence applications; undertaking inspections and attending licensing committee;
  - Dealing with initial contact from residents about domestic and commercial noise complaints;
  - Conducting interviews under caution with alleged perpetrators of offences; and
  - Completion of prosecution files.
- 7.5 Typical night time demand across the city includes:
- Effective management of licensed premises often undertaking joint visits/ enforcement action with GMP;
  - Domestic and commercial noise call outs where a visit is needed to assess potential nuisance from ongoing noise complaints;
  - Response to complaints about student parties;
  - Monitoring of the management of events e.g. pop concerts at the Etihad Stadium; Parklife or Caribbean carnival;
  - Dealing with breaches of the Health Act 2006 (smoking in smoke free places) which typically involves enforcement visits to Shisha cafes; and
  - Dealing with pedlars, particularly in Rusholme and at events.
- 7.6 In addition to the above the team also regularly undertakes activity on behalf of other teams that operate on traditional weekday, daytime hours. Examples of this include gathering evidence for other enforcement teams such as the ASB and Neighbourhood Compliance Teams and monitoring premises for activity on behalf of Planning Enforcement.
- 7.7 The City Wide team also undertakes project work at both a ward and City Wide level. Examples of this include hot food takeaways where all premises across the city who sell hot food after 11pm are being visited to ensure they have a late

night refreshment licence and are compliant with those conditions; weekly visits to student properties where there has been a complaint of noise (in addition to the out of hours calls the team receives); visits to Shisha cafes across the city to ensure they are compliant with smoke free legislation in conjunction with partners.

- 7.8 The following case studies demonstrate the wide ranging nature of the work being done by the team and the outcomes they are able to secure as a result of being available outside of standard working hours.

#### **Case Study 1 - Domestic noise (Clayton and Openshaw)**

The team received a call from a resident on Saturday 14 July 2018 complaining that a house party was excessively loud. Officers attended at 11.40pm and could hear extremely loud music as they approached the address. The partygoers were aggressive and uncooperative saying as it was a 40th birthday party the neighbours should just put up with it. Officers assessed that it was a statutory nuisance and contacted the complainants to advise them that they had visited and would be serving legal notices. A Noise Abatement Notice was served.

A few days later the owner of the property contacted the team apologising for the behaviour of some of the guests at the party. He was advised of the consequences of breaching the notice and there have been no subsequent incidents.

#### **Case Study 2 - Unlicensed Premises (Chorlton)**

The team investigated a complaint that an industrial unit was being used to sell alcohol on a delivery basis. A premises licence for an alcohol delivery service had been refused in 2016. There was also an allegation that Nitrous Oxide canisters (laughing gas) were being sold.

As the address was on an industrial estate and was operating in an enclosed unit the team had to gather evidence to demonstrate that licensable activity was taking place. An application for Regulation of Investigatory Powers Act (RIPA) authority was made in order to carry out covert surveillance to establish this. This involved making observation of the activity of staff and vehicles going in and out of the unit.

As the premises was not licensed it needed to be established that licensable activity was taking place before entry could be gained. The business only operated at the weekend between 10pm and 7am. After two weekend nights of observations the team were able to establish that there was a business distributing and selling alcohol without the correct permission. There was also evidence of nitrous oxide being distributed for sale. The goods were seized for evidential purposes. A prosecution is being pursued against the business owner.

#### **Case Study 4 - Licensed Premises (Gorton)**

A restaurant in Gorton was investigated for operating outside of their licensed hours. The complaint was that customers were being seen leaving the premises as late as 6am. The licensed hours for the restaurant were to close at 10pm and to stop serving alcohol at 9pm. LOOH officers monitored the premises and identified that customers were leaving beyond licensed hours so the premises was warned. Further complaints were received including complaints about loud noise from the premises in the early hours of the morning. This was witnessed by the L&OOH team who served a Noise Abatement Notice.

A full inspection of the premises was also carried out which identified further licence condition breaches which led to a review of the premises licence being submitted to the Licensing Committee who revoked the licence. Only by being available outside of standard hours were the officers able to gather the evidence needed to close this premises.

#### **Case Study 5 - Loud Music HMO case study (Old Moat)**

Loud music reported to the team from the neighbour of an HMO occupied by students in the Old Moat Ward. Officer arrived at the property at 2.30am but were informed by the complainant that the music had been turned down and was no longer as loud as it had been. On checking the property history it was found that there had been a noise complaint earlier in the year. The property was added to the student multi agency visits list and a visit was carried out with LOOH Officer, GMP and the Off Campus Student Liaison Officer. A warning was given to the 4 students who lived at the property that if there was further noise nuisance a legal notice would be served. This was followed up with a letter to the landlord advising them that the tenants had been warned for noise nuisance.

The following week a call was received by the Licensing and Out of Hours Team that there was loud music from the same address. Officer arrived at 2.30am but the music was not assessed as causing a statutory nuisance. The resident was advised of this and told to call back if the noise got any worse. At 2.55am a further call was received and officers were able to attend by 3.00am as they were still in the area. The noise that was witnessed from the complainant's property was assessed as being a statutory nuisance the occupants were told they would be served with a Noise Abatement Notice and further disciplinary action would be taken by the Universities. They were also told to turn the music off immediately, which they did.

Their landlord has been sent a letter requesting evidence of what they have in place to prevent noise nuisance from their tenants and the resident has confirmed there has been no further noise issues.

This case demonstrates the benefits of having a team that can respond directly to calls out of hours and that swift action can be taken when required.

## **Case Study 6 - Shisha Approach (Rusholme)**

When the Licensing and Out of Hours Team was formed in January 2016, part of the remit was to address the issue of shisha cafes and the illegal activity of smoking inside a premises. A number of operations have been successfully carried out along with 17 prosecutions of these premises for allowing smoking in a smoke free place. The team worked alongside Planning Enforcement, Trading Standards, HMRC, Immigration, GMP and Greater Manchester Fire and Rescue Service to tackle the issues presented by the establishments.

Despite prosecutions, widespread unlawful activity was still evident. In summer 2018 a fresh approach to tackling the issues associated with smoking shisha indoors was tried. Rather than carrying out visits, warning the premises, issuing fixed penalty notices to customers and prosecuting the premises the team took a new approach which involves a written warning after witnessing smoking indoors that pipes would be seized with any pipes in use at time of the visit seized. This was followed with a written warning that further offences would result in seizure of all pipes and if on the follow up visit smoking indoors was taking place then all pipes are seized.

This is then followed up by a prosecution of the premises under the Health Act 2006, with an application to the court for forfeiture of the items seized. To date full seizures have taken place at two premises, where the team seized 95 pipes at one and 91 pipes at the other. Part seizures have also been carried at an additional 3 premises. Further detail on Shisha activity will be presented to the February meeting of the Committee.

### **8.0 Tackling counterfeit goods, with particular reference to the Strangeways area.**

- 8.1 For some time, the Strangeways area has been well known for the supply of counterfeit goods. The area received national attention in 2016 in a ministerial report outlining the extent of the problem and the negative impact on the UK as a whole - '*Counting the Cost – the Trade in Counterfeit Goods in Manchester*'.
- 8.2 The Neighbourhoods and Environment Scrutiny Committee received a report on tackling counterfeit activity and environmental issues in the Strangeways area of Cheetham Hill in September 2017. This report outlined the work of the multi-agency Strangeways Operational Group which brought together a range of agencies and partners including MCC, GMP, Home Office Immigration, HMRC, TM Eye (Private Investigators employed by Brands) Brand Investigators and the Anti-Counterfeiting Group, and in particular work carried out to remove counterfeit traders from properties where MCC owns the freehold. This work is now complete, with more than 40 individual units trading in counterfeit goods removed. Some of these traders have left the area and Manchester completely, others have relocated to privately owned premises within the area.
- 8.3 Successful private prosecutions have also been undertaken by TM Eye which have included prison terms.

- 8.4 Since the report to this Committee, last September, the focus of the group has turned to those properties being used for the sale or manufacture of counterfeit goods which are privately owned. Complex investigations are now underway which are likely to result in action under the Proceeds of Crime Act. One additional Senior Investigating Officer resource has very recently been secured through the Ministry for Housing, Communities and Local Government, Controlling Migration Fund, to assist in this work.
- 8.5 The Group has recently secured the first Closure Order in Manchester for the sale of counterfeit goods and associated anti-social behaviour. A block of 4 units on Harris Street has been closed from 8th October 2018 for a period of 3 months. This new approach is an important step in securing long term change in the area, sending a message that the trade in counterfeit goods will not be tolerated.
- 8.6 Further Closure Order applications are likely to be made in the near future.
- 8.7 There is also work being done nationally to try to stop counterfeit and unsafe goods entering the country. National Trading Standards (NTS) allocates approximately £1.2 million each year to fund the Safety at Ports and Borders Teams. Manchester Trading Standards received £20,000 in 2017/18 to carry out work at Manchester Airport. The Safety at Ports and Borders Teams prevent unsafe and non-compliant goods coming into the country. This helps protect consumers by preventing injuries, deaths and fires, and safeguards reputable business. NTS commissioned an independent review into the Safety at Ports and Borders programme to identify the cost benefits and the wider challenges and opportunities facing the programme.
- 8.8 This review found that from the start of 2015 to mid-2017 the NTS Safety at Ports and Borders Teams prevented almost 1.9 million unsafe goods and more than 4.7 million non-compliant items from entering the country. The benefit to cost ratio of the NTS Safety at Ports and Borders Teams is very high, totalling 34:1 in 2016. This means that for every pound spent, the teams generated £34 of benefit. Items prevented from entering the country included children's toys, cosmetics and a range of electrical products.

## **9.0 Planning enforcement and legislation relating to the operation of Airbnb**

- 9.1 Short term lets such as AirBnB is an area which is causing concern particularly in relation to issues associated with neighbourhood management but also impact on the housing market. There is though currently very little control through the planning regime as the legislation allows the use of a property for "temporary sleeping accommodation" to take place without, in the majority of cases, the need for a planning permission.
- 9.2 The restrictive nature of the legislation to control short term lets is not helpful and poses a significant challenge in how we can address these concerns. Even in Greater London, where there is some control, the rules were relaxed in 2015 to enable a 90-night limit on such accommodation before planning permission would be required.

9.3 The policy review document from the Department of Communities and Local Government was published at that time stated that (in its view) there are no planning issues in relation to temporary sleeping accommodation outside of London, the opening paragraph reads:

*"While in all other parts of the country residents are able to let out their homes for short periods as a matter of course, in London short-term use is strictly regulated under legislation dating back to the 1970s. Short-term use as temporary sleeping accommodation is only permitted once planning permission is obtained from the local authority, which is a bureaucratic and disproportionate process for all concerned."*

9.4 A recent Parliamentary briefing paper, whilst acknowledging concerns are being raised about the increasing numbers of short term lets, places great emphasis on the positive benefits of such accommodation; this includes benefits for consumers due to a choice of different types of accommodation in a range of locations; and for property owners the benefits from earning additional income from their house, flat or spare room when they are not using them or in periods when demand for accommodation is high. It further refers to the All Party Parliamentary Group (APPG) for Tourism, Leisure and the Hospitality Industry which has recognised that the sharing economy "provides enormous opportunities for tourism growth in the UK.

9.5 The Government has remained clear in that it has no plans to ban the use of residential properties for short-term letting. As already noted in relation to Greater London any change in planning legislation in this regard is likely to be viewed as overly bureaucratic and in its view could act as a barrier to households letting out their properties on a short-term basis.

9.6 It is understood the Government would prefer a non-regulatory approach by encouraging the Short Term Accommodation Association to improve standards and promote best practice in the industry. This view was further highlighted by the Parliamentary Under-Secretary (Housing, Communities and Local Government) in May of this year following a question to Government about what assessments had been made to follow action by Palma and Valencia to ban the use of apartments as short-term holiday lets.

9.7 In response to the issues around short term lets in Manchester and the challenging legislative framework, a small working group of Executive Members and ward members, which will be supported by officers, has been convened. The aims of the working group is to proactively respond to concerns and look at:

- In the short/medium term ways to get on top of neighbourhood management and enforcement matters, for example noise nuisance and disturbance etc.
- How the City can work more proactively with AirBnB and other hosts to raise the standards of short term lets' supporting more responsible management of such rental opportunities.

9.8 In the meantime complaints will continue to be investigated. Although there may be few occasions where we can intervene through the formal planning process working with colleagues and particularly through the Member working group opportunities to reduce impact will be sought.

## **10.0 Conclusion**

10.1 The range of issues in Manchester requiring regulatory intervention continues to grow. Different approaches are needed depending on the issue but as can be seen from the work across the range of compliance and enforcement services a strong Our Manchester approach is taken particularly in respect of owning it both through working with businesses and residents to take responsibility for issues and working closely with colleague departments and partners to resolve issues.