

# Public Document Pack

<b>Date of meeting</b>	<b>Wednesday, 7th October, 2015</b>
<b>Time</b>	<b>7.00 pm</b>
<b>Venue</b>	<b>Committee Room 1, Civic Offices, Merial Street, Newcastle-under-Lyme, Staffordshire, ST5 2AG</b>
<b>Contact</b>	<b>Justine Tait ext 2250</b>

## **Cleaner Greener and Safer Communities Scrutiny Committee**

### **REVISED AGENDA**

#### **PART 1 – OPEN AGENDA**

- 1 Apologies**
- 2 DECLARATIONS OF INTEREST**  
To receive declarations of interest from Members on items included in the agenda.
- 3 MINUTES OF THE PREVIOUS MEETING** (Pages 3 - 6)  
To receive the minutes of the previous meeting held on the 29<sup>th</sup> June 2015.
- 4 REVISED LOCAL BUS NETWORK IN NEWCASTLE**  
Nigel Eggleton, Managing Director for First Midlands will be in attendance.
- 5 Abandoned Buildings within the Borough** (Pages 7 - 10)
- 6 Fly Posting Policy** (Pages 11 - 46)
- 7 PORTFOLIO HOLDER QUESTION TIME**  
Portfolio Holder for Environment and Recycling will be in attendance.
- 8 WORK PLAN** (Pages 47 - 50)  
To discuss and update the work plans to reflect current scrutiny topics
- 9 PUBLIC QUESTION TIME**  
Any member of the public wishing to submit a question must serve two clear days' notice, in writing, of any such question to the Borough Council.
- 10 URGENT BUSINESS**  
To consider any business which is urgent within the meaning of Section 100B(4) of the Local Government Act 1972.

**Members:** Councillors Allport (Chair), Braithwaite, Dymond, Hailstones, Mancey, Reddish, Robinson, Tagg, Welsh (Vice-Chair), Winfield and Wing

**PLEASE NOTE: The Council Chamber and Committee Room 1 are fitted with a loop system. In addition, there is a volume button on the base of the microphones. A portable loop system is available for all other rooms. Should you require this service, please contact Member Services during the afternoon prior to the meeting.**

**Members of the Council: If you identify any personal training/development requirements from any of the items included in this agenda or through issues raised during the meeting, please bring them to the attention of the Democratic Services Officer at the close of the meeting.**

**Meeting Quorums :- 16+= 5 Members; 10-15=4 Members; 5-9=3 Members; 5 or less = 2 Members.**

**FIELD\_TITLE**

Officers will be in attendance prior to the meeting for informal discussions on agenda items.

## CLEANER GREENER AND SAFER COMMUNITIES SCRUTINY COMMITTEE

Monday, 29th June, 2015

**Present:-** Councillor David Allport – in the Chair

Councillors Braithwaite, Dymond, Hailstones, Mancey, Reddish, Robinson, Welsh and Winfield

Apologies None received

### 1. DECLARATIONS OF INTEREST

There were no declarations of interest stated.

### 2. MINUTES OF THE PREVIOUS MEETING

**Resolved:** That the minutes of the meeting held on 4 March, 2015 be agreed as a correct record.

### 3. THE COUNCIL'S ROLE IN EMERGENCY PLANNING

Members received a presentation from the Council's Engineering Manager regarding the Council's role in Emergency Planning.

A copy of the Incident Management Guidance was attached to the agenda and Members were informed that the document would be attached to the iPads when they are rolled out. Members also received a pocket sized card with useful information/numbers etc.

The aim of the document was to ensure that the Council was prepared for any major incident such as flooding, road and rail disasters and so on and Members were also given information as to the role of Members in the event of a major incident.

Local Community buildings would be used as rest centres and Council staff would be in charge of them. Transport plans were also in place for those who required it.

Members asked if the Council consulted with other authorities to look at good practice and were advised that this was the case.

**Resolved:** That the report be received and the comments noted.

### 4. LOCAL GOVERNMENT ASSOCIATION PEER REVIEW OF DECISION MAKING ARRANGEMENTS

Members considered a report in regard to a Peer Review on decision making arrangements by the Local Government Association.

The report had made several recommendations which were reported to Finance, Resources and Partnerships Scrutiny Committee on 15 June, 2015. They had

subsequently agreed to ask all of the Committees for their views on the recommendations prior to any final decisions being made.

The proposals were considered by this Committee and the following observations were made:

(i) Timing of Meetings

It was felt that, as a lot of Members were employed, the 7.00pm start for meetings should remain. There was understanding in that Licensing Hearings should remain being held in the mornings as licensees needed to be at their Public House in an afternoon/evening.

(ii) Merging of the Licensing and Public Protection Committees

This proposal had mixed views. The two Committees dealt with separate issues but, Licensing Committees only lasted approximately thirty minutes so, on balance, it was considered that it shouldn't be a problem to merge the two.

Staffing

This is an important committee and therefore should remain.

CAWP

One Member felt that this was important to retain the heritage of the Borough and therefore should be kept.

Attendance at meetings

Members felt that it was not a strain on their time to attend the meetings and committees which they are nominated to. They are on committees that they have an 'interest' in the subject so it helps to keep them knowledgeable and gives a greater interest in those areas.

Extensive Committee Structures and use of Delegation

One Member stated that sometimes delegations were required and it also makes the process more democratic.

O & S Standing Committees and Task and Finish

Members felt that this depended on what is to be scrutinised, but also felt that Task and Finish Groups are important as they give an actual end date to a project. No actual clear answer was given as to whether Standing Committees were required as well as task and finish groups but there was a lot of importance placed upon T&F.

Health and Wellbeing and Active and Cohesive

These two committees should be merged as the subject matter was of a similar nature.

Members Bulletin

Members agreed that this would be a useful aid.

#### Frequency of Elections

It was agreed that moving to all out elections would be an effective way to save the Council money and would also save officer and Member time.

Members questioned whether the possibility of electing by halves rather than by thirds had been investigated?

#### Reducing Councillors

Members agreed that this would be a cost saving to the authority but the boundaries would need to be closely looked at.

#### Member Development

No overall view on this but one Member stressed the importance of the 'Member-led' approach for Councils.

#### Reports

No views

#### Current Structure

No views

Good recommendations in principal. Could the changes ie to committees be trialled for one municipal year to assess the effectiveness?

**Resolved:** That the comments be forwarded to the Chief Executive.

### 5. **WORK PLAN**

Consideration was given to the Work Plan of the Committee. The Work Plan was agreed with the addition of the following:

Flyposting  
Abandoned buildings in the Borough.

**Resolved:** That, with the inclusion of flyposting and abandoned buildings, the Work Plan be agreed.

### 6. **PUBLIC QUESTION TIME**

There were no public questions.

### 7. **UGENT BUSINESS**

There was no Urgent Business.

**COUNCILLOR DAVID ALLPORT**  
**Chair**

## Report to the Cleaner, Greener and Safer Communities Overview and Scrutiny Committee

7<sup>th</sup> October 2015

### Abandoned Buildings



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#### Introduction

A report has been requested by Members that sets out the Council's policies in dealing with abandoned buildings, how many abandoned buildings there are in the Borough and a step by step process of what the Council will do if a member of the public reports abandoned buildings.

#### Background

The condition of abandoned buildings can adversely affect the amenity of the area, be a danger to the public, and become a target for anti-social and criminal activity and appropriate action should be taken to minimise the harm arising. In addition an empty home is a wasted resource.

#### Questions to be Addressed

How many abandoned buildings are there in the Borough?

What policies, if any, are there that address abandoned buildings?

How can abandoned buildings be reported to the Council?

What are the powers available to the Council?

When is it appropriate to use such powers?

#### Outcomes

A better understanding of how to report abandoned buildings and what powers are available to the Council that may be used to address any

#### Supporting Information

Whilst the council has an understanding, broadly, as to how many empty homes there are in the Borough there are no records as to how many abandoned buildings there might be. An Empty Homes Strategy 2012-2017 has been devised which aims

to bring long-term empty dwellings in the Borough back into uses. This is accessible on the Council's website. There are no specific policies which are in place for abandoned buildings generally.

An online form is available on the Council's website that can be used to report an empty home. If the abandoned building is not a home this should be reported, in writing, to the Planning Enforcement team at the Borough Council either by letter or using one of the following e-mail addresses.

[planningenforcement@newcastle-staffs.gov.uk](mailto:planningenforcement@newcastle-staffs.gov.uk)  
[planningapplications@newcastle-staffs.gov.uk](mailto:planningapplications@newcastle-staffs.gov.uk)

When contacting the Council to report such a building it is important to provide a valid address for the property, so that it can be identified, and additionally when contacting the Planning Enforcement team an indication as to the problems that are being experienced as a result of the abandoned building would be useful.

There are a number of powers that are available to the Council to address abandoned buildings as follows

- Section 215 (s215) of the Town & Country Planning Act 1990 (the Act) provides a local planning authority (LPA) with the power, in certain circumstances, to take steps requiring land and buildings to be 'cleaned up'
- Sections 79-82 (ss79-82) of the Environmental Protection Act for abatement or prohibition of a nuisance, operated by the Environmental Health and Housing Divisions;
- Sections 76-79 (ss76-79) of the Building Act addresses defective premises, dangerous buildings, ruinous and dilapidated buildings and neglected sites, this power is operated by Building Control on behalf of the LPA;
- Section 29 of the Local Government (Miscellaneous Provisions) Act 1982 for works on unoccupied buildings, operated by the Environmental Health and Housing Divisions;
- Completion Notices served by the LPA; and
- Compulsory Purchase Orders served by the LPA.

**S215 notices** apply where it appears that the visual amenity of part of the area is being adversely affected by the condition of neighbouring land and buildings. The notice is served on the owner requiring that the situation be remedied. These notices set out the steps that need to be taken, and the time within which they must be carried out. LPAs also have powers under s219 to undertake the clean up works themselves and to recover the costs from the landowner.

**Ss79-80** of the Environmental Protection Act can be served if the Council is satisfied that a statutory nuisance exists, or is likely to occur or recur (an abatement notice).

Under **s76** of the Building Act, the Council may issue an abatement notice when it believes that any premises are in such a state as to be prejudicial to health or a nuisance and unreasonable delay in remedying the defective state would occur by following procedure prescribed by s80 of the Environmental Protection Act. The



Council can carry out the works in default nine days after service of the notice and may recover expenses incurred.

Where a building or other structure is in such a condition that it places people in immediate danger, the Council has legal powers, but not an obligation, under **ss77-78** of the Building Act to investigate and to take whatever action is necessary to remove the danger. Depending on the severity of the state of the building or structure, Building Control can either attempt to obtain a verbal commitment from the owner to remove the danger immediately, or employ a contractor to do the minimum amount of work necessary to remove the danger and recover the costs.

Under **s79** of the Building Act the Council may serve notice where a building or structure is in a ruinous or dilapidated condition, or where rubbish or other material resulting from, or exposed by, the collapse of a building or structure is lying on the site or on any adjoining land if it is seriously detrimental to the amenities of the neighbourhood. The notice can require the owner to execute works of repair or restoration and take such steps as may be necessary in the interests of amenity. The Council may recover expenses incurred in carrying out the works in default.

Under **s29** of the Local Government (Miscellaneous Provisions) Act the Council may where a building is unoccupied or the occupier is temporarily absent take action to secure the premise to prevent unlawful access or prevent it becoming a danger to public health. This is normally only carried out where the owner and/or occupier has failed to comply with a notice issued but; where the Local Authority considers immediate action is required it can action the works without notice and will recover full reasonable costs incurred

A **Completion Notice** can be served where development has begun in accordance with planning permission but has not been completed, is adversely affecting amenity and the Council consider that the development will not be completed within a reasonable period. The notice states that the planning permission will cease to have effect at the expiration of a period, which is not less than 12 months after the notice takes effect.

**Compulsory purchase** powers are provided to enable Council's to compulsorily purchase land to carry out a function which Parliament has decided is in the public interest.

The powers can only be used in certain circumstances, and cannot require work to be undertaken that would require the benefit of planning permission or listed building consent. In some cases the consequences of utilising a particular power may exacerbate the issues arising and as such there may be justification for not utilising the powers that are available. It is important, however, that where it has been decided that it is not appropriate to take action the reasons for that decision are recorded. Similarly there should be a record of the reasons why particular steps are required (or not required) within a notice if served. The recording and sharing of such information will benefit all.

It is not always necessary to serve a notice as pre-notice discussions or 'first warning' letters can result in the issues arising being remedied as the mere threat of a notice may elicit the same response as actually serving the notice. However it

should be acknowledged that serving a notice/s and the work that is then undertaken can result in a 'ripple' effect by encouraging improved standards and conditions over a wide area.

Direct action by undertaking works in default is sometimes appropriate, where prior warning has been given, although caution should be exercised. Before direct action is taken consideration must be given to whether there is an appropriate budget for such work, and who has the authority to make such a decision.

### **Invited Partners/Stakeholders/Residents**

None.

### **Constraints**

In all cases the powers available to the Council are discretionary and only apply in particular circumstances. The issues arising from an abandoned building may go beyond the remit of a particular notice and careful consideration is required as to what, if any, powers can be relied upon in order to effect a remedy. In some cases there may be no powers available to the Council, and appropriate powers to address the issues may rest with others.

In some cases costs cannot be immediately recovered where direct action has been undertaken. In such cases the Council has the option of registering a charge on the property, which would ensure that the land or property cannot be sold without the charge being shown. It can be some time before costs can be recovered therefore.

### **Conclusions**

The Council has a number of powers that can be used in particular circumstances. Such powers should be used proactively and working across the Council is encouraged. A greater understanding of the powers and scope of such powers would be beneficial.

### **Relevant Portfolio Holder(s)**

Cllr Bert Proctor – Planning and Housing

Cllr John Williams – Town Centres', Business and Assets

Cllr Ann Beech – Environment and Recycling

### **Local Ward Member (if applicable)**

n/a

### **Background Materials**

Town and Country Planning Act 1990 Section 215 – Best Practice Guidance

Legislation listed above

Empty Homes Strategy 2012-2017

## **Report to the *Cleaner, Greener safer communities* Overview and Scrutiny Committee**

*7<sup>th</sup> October 2015*

### ***Scrutiny Report Title***

#### ***Fly Posting***



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### **Introduction**

To provide information regarding the processes involved with the management of fly posting within the Borough.

### **Background**

There is no formal definition of fly-posting. However, it is generally taken to be the display of business advertising material on buildings and street furniture without the consent of the owner.

### **The Council's position**

Fly posting is illegal and the Council can take enforcement action where necessary and appropriate.

It is believed that fly-posting can be unsightly and make our towns and villages less attractive for residents and visitors alike. It can make an area feel unsafe and uncared for and have a negative impact on people's perception of the area.

There are many legitimate ways for businesses and other organisations to promote their services, activities etc. without the need to resort to illegal fly-posting.

### **Charities and Community groups**

The Council recognises the difficulties that this policy presents to charity and community groups, whilst we are working towards being a co-operative council there are requirements that charities and community groups must adhere to; these are detailed in the policy document (Appendix A)

## **The Powers used by the Enforcement Team**

### **The Town and Country Planning Act**

- The principal mechanisms are in section 224 and section 225 of the Town and Country Planning Act 1990 (as amended). Local planning authorities have specific powers to deal with:
- illegal hoardings;
- fly-posting;

### **Powers**

Before taking any action, the local planning authority must serve a 'removal notice' on the person responsible for the erection and maintenance of the structure, provided they can be identified. If not, the local planning authority must fix the removal notice to the structure or display it in the vicinity and serve a copy on the occupier of the land, if one is known, or if one can be identified.

- If the removal notice is not complied with, within the time allowed (at least 22 days beginning with the date of the notice), the authority may remove the structure and recover expenses reasonably incurred in doing so from anyone served with the removal notice.
- **Fixed Penalty Notices**
- The Anti-Social Behaviour Act 2003 (sections 43-47) introduced the option of using
- Fixed Penalty Notices as an alternative to prosecution for flyposting.
- However, these can only be used against the person actually affixing the poster, not the company, business, club or other agency advertised on the poster.
- **Highways**
- Section 132 of the Highways Act 1980 enables the highway authority to remove unlawful advertisements such as pictures or signs attached to any trees, highway signs, structures or works in the highway.
- **Clean Neighbourhoods and Environmental Act 2005**

This act allows the Council to use fly-posting removal notices. If the fly posting is not removed under the terms of the notice, the council can remove it and recover the cost of doing so. An authorised officer must be satisfied that the defacement is detrimental to the amenity of the area, or is offensive in nature.

### **Questions to be addressed**

Do members have any questions about the Policy or approach?

### **Outcomes**

Our aim with the policy is to achieve a cleaner Borough were the negative impact of fly-posting is managed and reduced..

### **Supporting Information**

#### **Enforcement Team (Environmental Health)**

The enforcement team do not remove unauthorised illegal fly-posting but they use powers to ensure that the poster beneficiary removes the notice; and if not they remove the posters / banners and try to recover the cost of this work.

#### **Enforcement Team (Community Management sections)**

Following a report of a fly posting incident, Inspections are carried out by the enforcement section and information recorded relating to poster contents. With (banner or large poster) a letter (fly-posting removal notice) (Appendix B) is sent to the company asking them to remove the offending posters within a given time scale (10 working days). Failure to remove the poster within the given time scale will entail staff from the section removing and destroying the banner / poster.

All small / medium A4 / A3 flyer are removed when inspected; this is carried out on an adhoc basis between two and three times per month dependent upon staff availability, these are disposed of, .

Constant offenders are written to warning them that future posting may lead to enforcement action being taken, and their details are passed to the Enforcement team Environmental Health.

A flow chart has been prepared which shows the processes involved with the current policy. (Appendix C)

### **Constraints**

## **Exclusions from Fly posting prosecution**

The flyposting policy shows the following organisations are exempt from prosecution:

- Planning notices
- Circuses / fairs  
Are allowed to advertise on the site of the circus / fair for a limited period.
- Public Bodies  
Such as government departments and utilities providers, signs to give directions / information to service users
- Borough Council  
Land owner and used to promote council events or events associated with The Council.

## **Conclusions**

This is our current approach to fly-posting and that we intend to continue to implement our policy within the resource restraints that are in place.

## **Relevant Portfolio Holder(s)**

Ann Beech Environment and Recycling

## **Local Ward Member (if applicable)**

Not applicable –all wards

## **Background Materials**

*Council Policy for Fly-posting*

## **Appendices**

Copy of letter sent out to fly posting offenders

Copy of fly posting policy



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## Newcastle-under-Lyme Borough Council

### Policy on Fly posting within the Borough

1. This policy has been produced to show the council's commitment to ensure that the Borough remains a cleaner, greener and safer place to live and work. The purpose of this policy is to set out the council's approach in responding to fly posting within the Borough. In particular it is intended to ensure that the council follows a standard approach to fly posting and that any enforcement action taken is consistent, balanced, fair, transparent and proportional.

The council recognises that each case of fly posting is unique but the policy will set out the general principles that will be applied by the Council's officers.

This policy should be read in conjunction with the council's Enforcement Strategy.

#### *2. What is fly posting?*

The Town and Country Planning (Control of Advertisements)(England) Regulations 2007 state that fly-posting takes place when advertisements are displayed without the consent of the owner or occupier of the land or premises.

The Regulations state that such advertisements are entirely unauthorised; and their display entails liability not only on the person actively responsible for putting up the advertisement but also on the owner of the land and the person benefiting from the display.

Section 336(1) of the Town and Country Planning Act 1990 Act, as amended by section 24 of the Planning and Compensation Act 1991, defines "advertisement" as:

*"any word, letter, model, sign, placard, board, notice, awning, blind, device or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purposes of, advertisement, announcement or direction, and (without prejudice to the previous provisions of this definition) includes any hoarding or similar structure used, or designed or adapted for use, and anything else principally used, or designed or adapted principally for use, for the display of advertisements"*.

#### *3 Legislation*

The main legislative powers in relation to unauthorised fly-posting are as follows:

**3.1 Town and Country Planning Act 1990** Under Section 224 of the TCPA it is an offence for any person to display an advertisement in contravention of regulations. The relevant legislation is contained within the Town and Country Planning (Control of Advertisements) Regulations 2007.

Any person contravening the legislation is liable on summary conviction to a fine not exceeding £2500 and in the case of a continuing offence £250 for each day on which the offence continues after conviction.

Under Section 225, the local planning authority may remove or obliterate any placard or poster which is displayed in their area and which in their opinion is so displayed in contravention of regulations made under section 220. However, if the placard or poster identifies 'the person who displayed it or caused it to be displayed', the local planning authority has to give that person at least two days' notice that they plan to remove or obliterate the poster. In the first instance, the costs of removal are recoverable from the person identified in the poster or placard as having displayed it, or having caused it to be displayed. In the event that this person cannot be identified, section 225 permits the local authority to recover costs from an identifiable beneficiary of the illegal advertising (the person whose goods, services or concerns are publicised in the poster or placard).

### *3.2 Highways Act 1980*

Under Section 132 of the Highways Act 1980 it is an offence for any person to paint, or in any way inscribe or affix any picture, letter, or sign on the surface of a highway, any tree, or structure without the consent of the Highway Authority. If guilty of an offence the person can be liable to a fine of up to £1000

### *3.4 Anti-Social Behaviour Act 2003*

Under Section 43 of the Anti-Social Behaviour Act, an authorised officer of a local authority may give a fixed penalty notice to any person who is guilty of defacement of land and property by fly-posting. The fixed penalty is set at £75 (with a lesser amount of £50 if payment is made within 10 days of receipt of the notice) in accordance with the Environmental Offences (Fixed Penalties) (Miscellaneous Provisions) Regulations 2006.

### *3.5 Clean Neighbourhoods and Environment Act 2005*

The Clean Neighbourhoods and Environment Act 2005 introduced powers for local authorities to use fly-posting removal notices. If the fly-posting is not removed under the terms of the Notice, the council can remove it and recover the costs of doing so. An authorised officer of a local authority must be satisfied that the defacement is detrimental to the amenity of the area, or is offensive in nature before issuing a Notice.

## *4. The council's position*

Fly-posting is illegal and the Council has a zero tolerance approach which means that enforcement action will be pursued where necessary and appropriate. The Council believes that fly-posting can be unsightly and make our towns, villages and other areas less attractive for residents and visitors alike. It can make an area feel unsafe and uncared for and impact negatively on people's perceptions of the area. It can also distract drivers or obscure road signs and be hazardous to members of the public. It can be costly to remove.

The Council believes that there are many legitimate ways for businesses and other organisations to promote their services, activities, etc without the need to resort to illegal fly-posting. The Council also believes that fly-posting can be bad for business and can discourage business investment. It can create a

less attractive environment for shoppers and disadvantage those businesses that choose to advertise their business in an appropriate and lawful manner.

#### 4.1 *Charities and Community Groups*

The District Council recognises the difficulties that its policy towards fly-posting will present to charity and community groups. Whilst we are working towards being a co-operative council, there are requirements that charities and community groups must adhere to.

In such circumstances all such groups, if seeking to display any advert or placard, should before displaying contact the Council to check whether planning consent is required and in any event:

- comply with the relevant restrictions on size, placement, illumination, timescales, etc as described in the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, which include, but are not limited to, the following:
- advertisements for community and charity events should not exceed 0.6 of a square metre, should not be displayed more than 28 days before the event begins and must be removed within 7 days after it ends.
- have the permission of the owner of the site before placing any signage on it (this includes the Highway Authority if the sign is to be placed on highway land, including street furniture such as roadside railings, lampposts, etc). The Borough council must then be provided with written confirmation should permission be granted by the owner.
- consider alternative ways of advertising that does not involve fly-posting;
- avoid placing any signage at road junctions, on roundabouts, pelican crossings or traffic lights, where they may cause a hazard by distracting the road user;
- avoid obscuring, or hindering the interpretation of, official road, rail, waterway or aircraft signs, or otherwise make hazardous the use of these types of transport;
- avoid putting signs up in sensitive locations or where they could possibly cause offence;
- avoid putting up signs with wording or imagery that could be reasonably considered to be offensive to members of the general public;
- avoid putting up an excessive number of signs;
- make sure that the signage is not a hazard to pedestrians, cyclists, etc (eg it should be firmly attached and should not be at a height where a pedestrian could walk into it);
- keep signs clean, tidy and in a safe condition; and
- remove them carefully when required to do so.

If advertisements for community or charity events (or those relating to an election or referendum - see below) are placed in inappropriate locations, or are of an inappropriate nature, then the Borough Council will normally contact the organisers, where known, and ask for the posters, banners, etc to be removed. If the organisers cannot be identified, or immediate removal of the

signage is required (eg for health and safety reasons or because they are deemed offensive (or potentially offensive)), then the signage will be removed and retained at the Borough Council's Offices for 28 days for collection by the organisers. After this time period, the Borough Council will assume that the advertising material is no longer needed and will dispose of the material. If community or charity event organisers repeatedly place advertisements in inappropriate locations, or repeatedly ignore requests to remove inappropriate advertisements, then the Borough Council may choose to take enforcement action to resolve the problem.

#### *4.2 Circuses and Fairs*

With the agreement of the landowner concerned a travelling circus or fair will be allowed to advertise on the site of the circus or fair for a limited period. If however notices or signs are placed on other private land enforcement action will be taken if the poster is not classed as having deemed consent under the provisions of the Advertisement Regulations.

Temporary notices or signs announcing the visit of a travelling circus or fairs should not exceed 0.6 of a square metre must not be displayed more than 14 days before the opening of the circus or fair and must be removed within seven days afterwards. The local planning authority must be told 14 days beforehand of the sites of the notice.

#### **Note:**

**It should not be presumed that the Borough Council will automatically permit or disregard the illegal advertising of community events, charity events, travelling fairs or travelling circuses, and it reserves the right at all times to exercise its powers to prevent fly-posting where it deems it appropriate to do so. In all cases, advertisements should not be displayed without the permission of the owner of the site.**

#### *4.3 Political Parties*

The Borough Council recognises that most candidates and parties would want to display campaign material relating to a pending Parliamentary, European Parliamentary, or local government election (or a referendum). Any parties and candidates wishing to do so should take account of the most current guidance from the Electoral Commission. Guidance from the Commission states that no advertisements should be displayed without the permission of the owner of the site or anyone else with an interest in the site (ie no fly-posting), should not interfere with or impede traffic or other road users, and should be removed within 14 calendar days after the election. It is important that the Borough Council remains impartial during elections and referenda. For this reason, the Borough Council will not give candidates and parties permission to display their campaign material on land or buildings owned by the Council. If material is placed in such locations, the Borough Council will normally contact the relevant candidate or party to ask them to remove the material or, if they cannot be contacted, a Borough Council officer will remove the material and retain it for collection for a period of up to 28 days (after which it will be disposed of).

#### *4.4 Council Owned Land*

The Borough Council recognises that as a landowner it has the ability and duty to take steps to prevent the illegal advertising of events held at Council venues and on council owned land. In order to prevent advertising the Council will:

- Make sure that fly-posting is only used to promote council events or events associated with the Council (this includes public notices, planning notices and other 'functional advertisements' for events managed by the Borough council or advertising on formally managed and approved notice boards and hoardings).
- Make sure that anyone hiring council venues does not fly-post. This will be achieved through education and the use of 'no fly posting' clauses in hiring contracts.

#### *4.5 Public Bodies etc*

Advertisements which are needed by public bodies (such as government departments and local authorities, the public utilities and public transport operators) to give information or directions about the services they provide are considered to have deemed consent provided that the display conforms entirely to all the relevant provisions of Class 1 under the Town and Country Planning (Control of Advertisements) Regulations 2007.

#### *5. The Council's approach to Enforcement of fly posting*

The Borough Council has adopted a twin-track approach to control fly-posting:

- Seeking to provide legitimate sites where charities and community groups can advertise their events; and
- Taking action to remove notices and prosecute offenders where fly-posting occurs.

Where fly-posting occurs on street furniture, the fly-posting will normally be removed by the Borough Council's authorised officers and retained for collection by the person who put up the sign or the beneficiary of the illegal advertisement. A fixed penalty (or penalties if there is more than one offence) will normally be issued and the Borough Council may also consider recovering the costs of removal of the notice(s).

If signage is erected illegally in other places, and the poster identifies the person who displayed it or caused it to be displayed, the Borough Council will normally write to the named person and give them two days' notice of its intention to remove or obliterate the sign. If no such person can be identified, then the Borough Council will proceed with the removal/obliteration of the sign. As above, a fixed penalty will normally be issued and the Borough Council may also consider recovering the costs of removal of the notice(s).

In all cases, the authorised officer will photograph the fly-posting in situ prior to removal and record details about the sign in their notebook (eg location, time of removal, how and where it was attached, etc).

Where someone is caught in the act of erecting signage then the authorised officer will normally issue a fixed penalty notice in person. If further checks are

required before issuing a fixed penalty notice then the officer will record the details and issue a fixed penalty notice at a later date by recorded post.

Any signage that is removed will be retained at the Borough Council's Offices for 28 days for collection by the owner. After this time period, if it has not been reclaimed then the Borough Council will assume that the advertising material is no longer needed and will dispose of the material.

There are a number of situations when the Borough Council would consider that the issuing of a fixed penalty notice may not be appropriate and the Borough Council would seek to prosecute under the Town and Country Planning Act or other relevant legislation. This includes:

- Large scale commercial fly posting, which is commercially motivated and expensive to remove and repair;
- When the offence is too large/serious in its effect on the community;

When the offence is committed by someone that has previously received a fixed penalty notice for the same offence; and

- Where the fly-posting is motivated by hostility towards a racial or religious group (or towards a person based upon their membership (or presumed) membership of such a group).

The Borough Council will also not normally take action when the offence that has been committed is so small or trivial in its effect that action might not be in the public interest (eg notifications of missing cats, birthday greetings, etc).

An information booklet, "*Outdoor Advertisements and Signs: a guide for advertisers*", has been prepared by the department for Communities and Local Government and is available at:

[www.communities.gov.uk/documents/planningandbuilding/pdf/326679.pdf](http://www.communities.gov.uk/documents/planningandbuilding/pdf/326679.pdf).

#### **Reporting Fly-Posting**

[www.newcastle-staffs.gov.uk](http://www.newcastle-staffs.gov.uk)

Telephone: 01782 717717

#### **Useful web sites**

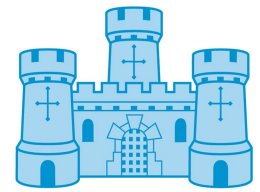
[www.communities.gov.uk/publications/planningandbuilding/outdooradvertisements](http://www.communities.gov.uk/publications/planningandbuilding/outdooradvertisements)

[www.communities.gov.uk/documents/planningandbuilding/pdf/156909.pdf](http://www.communities.gov.uk/documents/planningandbuilding/pdf/156909.pdf)

<http://www.keepbritaintidy.org/>

Our ref: AW/Flyposting  
Your ref: Fly-posting

Date: 26<sup>th</sup> August 2015



**NEWCASTLE  
UNDER LYME**  
BOROUGH COUNCIL

Merrial Street  
Newcastle-under-Lyme  
Staffordshire  
ST5 2AG

**Fly Posting Removal Notice**  
**Town and Country Planning Act 1990; Town and Country Planning Regulations 1992**  
**Clean Neighbourhoods and Environment Act 2005**  
**Re: Fly-posting**

Dear Business Owner,

I am writing to you in relation to illegal advertising currently being carried out by yourselves under the above. I would also like to make you fully aware of the offence in more detail.

Fly-posting is defined as '*the display of advertising material on buildings and street furniture without the consent of the owner, contrary to the provisions of the Regulations*'. It is unsightly and illegal, and unfair to those companies who choose to advertise legitimately. It is an offence to paint or in anyway inscribe or affix any picture, letter, or sign on the surface of a Highway, any tree, or structure without consent of the Highway Authority who you can contact on 0800 232323 or [nmu@staffordshire.gov.uk](mailto:nmu@staffordshire.gov.uk).

If you have planning permission approved under the above for the sign to be advertising your business in this location in Newcastle-under-Lyme then please inform me of this with the evidence to prove so.

If guilty of an offence you can be liable to a fine of up to £1000, in the case of a second offence up to £2500. I would appreciate if you would remove the sign within 10 working days.

I would like to make you aware that I will be surveying the area on a regular basis for any repeat offences under the above, and would strongly recommend that you use a legitimate form of advertising in the future.

Newcastle-under-Lyme Borough Council do have sponsorship opportunities that are available should you wish to discuss this further then please contact Donna Loasby on 01782 717717.

Please do not hesitate to contact me if you wish to discuss this matter any further.

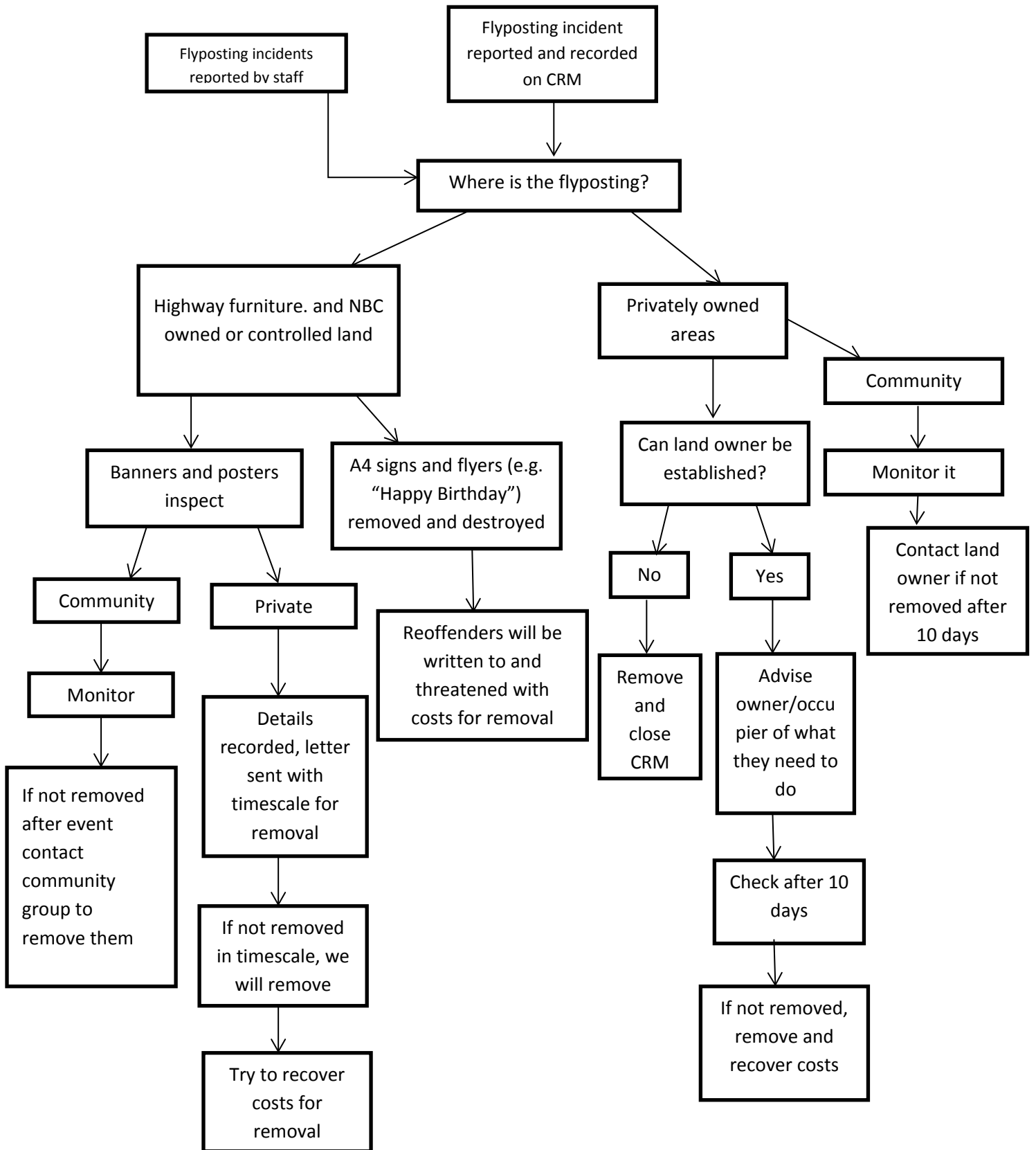
Yours Faithfully

Alison Wainwright  
Environmental Officer

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Flowchart – Dealing with incidents of flyposting



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# Community Management Enforcement Team

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## FLY POSTING REVIEW 2015



# Fly Posting

- DEFINITION
- COUNCILS POSITION
  - Illegal
  - Committed to tackling the problem
  - Enforcement action
  - Unsightly, less attractive
  - Negative impact on area
  - Many legitimate ways to advertise

**Typical example of fly-posting showing the negative image of this type of activity**



# Fly Posting

- **CHARITIES AND COMMUNITY GROUPS**
  - Difficulty for charities & community groups
  - Co-operative Council
  - Detailed within Policy document (appendix A)
- **FLY-POSTING POWERS**
  - The Town and Country Planning Act 1990 (section 224 & 225)
  - Fixed Penalty Notices Anti-Social Behaviour Act 2003 (sections 43-47)
  - Highways Act 1980 (section 132)
  - Clean Neighbourhoods and Environmental Act 2005
  - (The powers used by the Community management team.)



## A typical community event poster





## A typical example of a poster for a charity organisation event





# Fly Posting

## OPERATIONAL METHODS

### Community management section

- Reported incident / notification from staff
- Large posters & banners
  - Companies recorded
  - Fly-posting removal notice
  - 10 working days
  - Removal
  - Constant offenders enforcement action

## Fly-posting typical large poster type



# Fly-Posting

- **A4 / A5 flyers**
  - Removed
  - Continual offenders written to
  - Long term offenders threatened with enforcement action.
  - Clean up operations carried out twice per month
  - 480 leaflets / posters removed last year

# Fly-Posting

- **EXCLUSIONS FROM FLY- POSTING PROCECUTION**
  - Planning Notices
  - Circuses / Fairs
    - On the site of the circus
  - Public Bodies
    - Utilities, government department
  - Borough Council
    - land owner

## Fly-posting circus advert illegally posted





## A good example of a legal way to promote a business within the Borough – on the Highways



# Licensing Enforcement Team

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## FLY POSTING REVIEW 2015



# Fly Posting

There is no formal definition of fly-posting. However, it is generally taken to be the display of business advertising material on buildings and street furniture without the consent of the owner.

The enforcement team do not remove unauthorised illegal fly-posting but we use powers to ensure that the poster beneficiary removes the notice



# Fly-Posting Powers

- The Powers used by the Enforcement Team cover two aspects of legislation for Fly Posting,
- The principal mechanisms are in section 224 and section 225 of the Town and Country Planning Act 1990 (as amended). Local planning authorities have specific powers to deal with:
  - illegal hoardings;
  - fly-posting;

# Powers

- Before taking any action, the local planning authority must serve a 'removal notice' on the person responsible for the erection and maintenance of the structure, provided they can be identified. If not, the local planning authority must fix the removal notice to the structure or display it in the vicinity and serve a copy on the occupier of the land, if one is known, or if one can be identified.
- If the removal notice is not complied with, within the time allowed (at least 22 days beginning with the date of the notice), the authority may remove the structure and recover expenses reasonably incurred in doing so from anyone served with the removal notice.

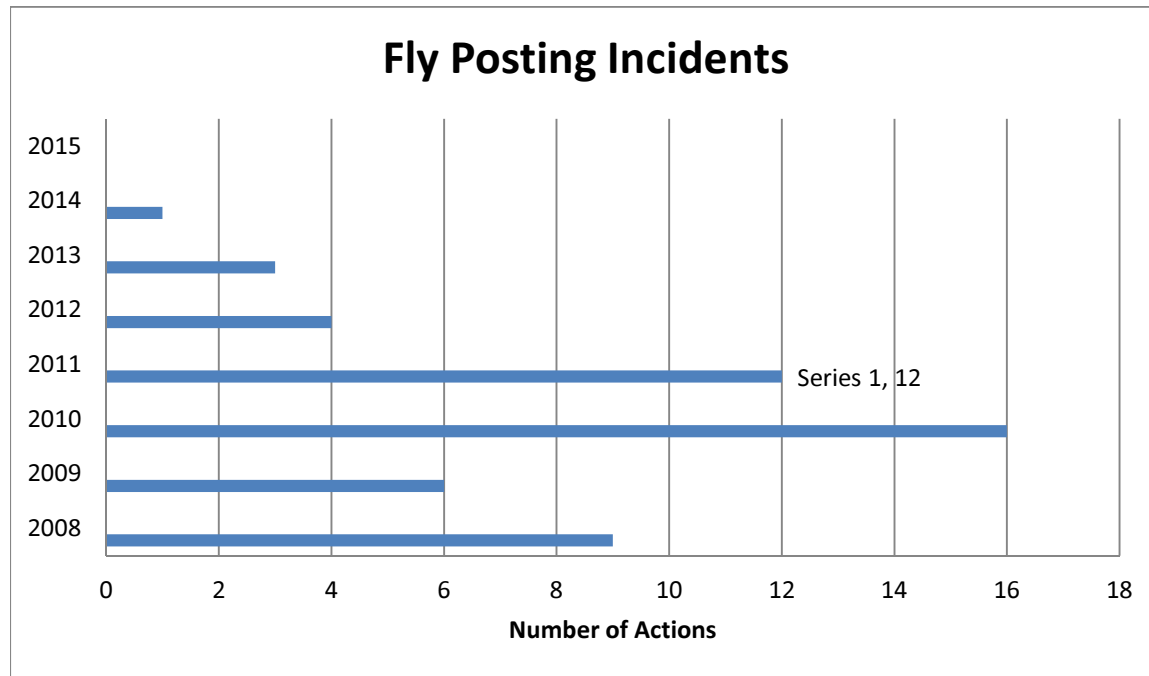
# Powers

- Fixed Penalty Notices
- The Anti-Social Behaviour Act 2003 (sections 43-47) introduced the option of using
- Fixed Penalty Notices as an alternative to prosecution for flyposting.
- However, these can only be used against the person actually affixing the poster, not the company, business, club or other agency advertised on the poster.

# Powers

- Highways
- Section 132 of the Highways Act 1980 enables the highway authority to remove unlawful advertisements such as pictures or signs attached to any trees, highway signs, structures or works in the highway.

## Enforcement action 2008 / 2015 (Source APP Data)



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Members: Mrs Dymond, Mrs Winfield,  
Robinson, S Tagg, Hailstones, Miss  
Wing, Mrs Braithwaite and Miss Mancey

# **CLEANER, GREENER AND SAFER COMMUNITIES SCRUTINY COMMITTEE**

**Chair: Councillor Allport  
Vice Chair: Councillor Welsh**

**Portfolio Holder(s) covering the Committee's remit:  
Councillor Amelia Rout (Leisure, Culture and Localism)  
Councillor Ann Beech (Environment and Recycling)  
Councillor Tony Kearon (Safer Communities)**

**Work Plan correct as at: Friday 25<sup>th</sup> September 2015**

**Remit:**

**Cleaner, Greener and Safer Communities Scrutiny Committee is responsible for:**

- Anti-Social Behaviour Orders
- Civil contingencies
- CCTV
- Community Cohesion and Safety
- Community Safety and Section 17
- Decriminalised Parking Enforcement and On-Street Parking
- Emergency Planning
- Older People
- Streetscene – Litter, Grounds Maintenance, Parks and Gardens
- Street and Community Wardens
- Buses and Concessionary Travel and Taxis
- Car Park Management
- Climate Change, Sustainability and Energy Efficiency
- Environmental Health
- Flooding and Drainage
- Highways and transport (Operational)
- Recycling and Waste Management

Date of Meeting	Item	Reason for Undertaking
<b>29<sup>th</sup> June 2015</b> (agenda dispatch 19 <sup>th</sup> June 2015)	The Council's Role in Emergency Planning	Newcastle-under-Lyme Borough Council is part of Staffordshire Resilience Forum (SRF), bringing together all the emergency responders in Staffordshire. All Members are to be made aware of their roles and responsibilities in the event of a major incident or disruption to Council services
	Local Government Association Peer Review of Decision Making Arrangements	To advise Members on the recommendations of the LGA Peer Review and to request feedback on the recommendations
	Work Plan and Scrutiny Topics for 2015/2016	To discuss the work plan and potential topics that Committee members would like to scrutinise over the forthcoming year
<b>7<sup>th</sup> October 2015</b> (agenda dispatch 25 <sup>th</sup> September 2015)	Portfolio Holder(s) Question Time (Portfolio Holder for Environment and Recycling and Safer Communities)	An opportunity for the Committee to question the Portfolio Holder on her priorities and work objectives for the next six months and an opportunity to address any issues or concerns that she may currently be facing. It is an opportunity for the Portfolio Holder to flag up areas within her remit that may benefit from scrutiny in the future
	Abandoned Buildings within the Borough	Abandoned buildings represent waste, financial expense and missed opportunity. They can blight communities, attract fly tipping, vandals and squatters and tie up the resources of the Council and the emergency services. Committee would like to receive a report on what powers the Council has, to take action against the owners of abandoned buildings, the number of abandoned buildings the Council is aware of and what action has been taken, to date, to deal with them.
	Revised Local Bus Network	Members have raised concern over the revised local bus network in Newcastle which came into effect on the 6th September 2015. The Managing Director of First Midlands will be in attendance.
	Fly Posting Policy	To receive an update from the Streetscene Manager (Development and Enforcement) on how the Fly Posting Policy is managed through Operational Services
	Work Plan and Scrutiny Topics for 2015/2016	To discuss the work plan and potential topics that Committee members would like to scrutinise over the forthcoming year
<b>2<sup>nd</sup> March 2016</b> (agenda dispatch 19 <sup>th</sup> February 2016)	Decriminalised Car Parking	Dave Greatbatch from Staffordshire County Council to be invited to present the principles of decriminalised parking enforcement (DPE) carried out by civil enforcement officers, operating on behalf of either a local authority or a private firm
	Annual Review of Scrutiny Committee's	To evaluate and review the work undertaken during 2015/2016



Date of Meeting	Item	Reason for Undertaking
2 <sup>nd</sup> March 2016 (agenda dispatch 19 <sup>th</sup> February 2016) Cont'd ...	Work	
	Work Plan and Scrutiny Topics for 2015/2016	To discuss the work plan and potential topics that Committee members would like to scrutinise over the forthcoming year
30 <sup>th</sup> June 2016 (agenda dispatch 17 <sup>th</sup> June 2016)		
	Work Plan and Scrutiny Topics for 2015/2016	To discuss the work plan and potential topics that Committee members would like to scrutinise over the forthcoming year

<b>Task and Finish Groups:</b>	
<b>Future Task and Finish Groups:</b>	
<b>Suggestions for Potential Future Items:</b>	<ul style="list-style-type: none"> <li>• Warm Zone Delivery of Green Deal (potentially email to committee)</li> <li>• Decriminalised Car Parking</li> <li>• The Council's Role in Emergency Planning</li> </ul>

<b>DATES AND TIMES OF CABINET MEETINGS:</b>	Wednesday 10 <sup>th</sup> June 2015, 7.00pm, Committee Room 1
	Wednesday 22 <sup>nd</sup> July 2015, 7.00pm, Committee Room 1
	Wednesday 16 <sup>th</sup> September 2015, 7.00pm, Committee Room 1
	Wednesday 14 <sup>th</sup> October 2015, 7.00pm, Committee Room 1
	Wednesday 11 <sup>th</sup> November 2015, 7.00pm, Committee Room 1
	Wednesday 9 <sup>th</sup> December 2015, 7.00pm, Committee Room 1
	Wednesday 20 <sup>th</sup> January 2016, 7.00pm, Committee Room 1
	Wednesday 10 <sup>th</sup> February 2016, 7.00pm, Committee Room 1
	Wednesday 23 <sup>rd</sup> March 2016, 7.00pm, Committee Room 1
	Wednesday 8 <sup>th</sup> June 2016, 7.00pm, Committee Room 1

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