





## GUIDANCE NOTES

### NATURAL JUSTICE AND FAIRNESS

These are the principles used in the determination of just or fair processes and stem from the common law legal system.

According to Roman law, certain basic legal principles were so obvious that they should be applied universally without the need to be enacted into the law.

The rules of natural justice are now regularly applied by courts in both common law and civil law jurisdictions.

Natural justice operates on the principles that man is basically good, that a person of good intent should not be harmed and one should treat others as they would like to be treated.

Natural justice includes the notion of procedural fairness and may incorporate the following guidelines:-

- A person accused of a crime, or at risk of some form of loss, should be given adequate notice about the proceedings (including any charges);
- A person making a decision should declare any personal interest they may have in the proceedings;
- A person who makes a decision should be unbiased and act in good faith. He therefore cannot be one of the parties in the case, or have an interest in the outcome. This is expressed in the Latin maxim, *nemo iudex in causa sua*: “no man is permitted to be judge in his own cause”;
- Proceedings should be conducted so they are fair to all the parties – expressed in the Latin maxim, *audi alteram* : “let the other side be heard”;
- Each party to a proceeding is entitled to ask questions and contradict the evidence of the opposing party;
- A decision-maker should take into account relevant considerations and extenuating circumstances, and ignore irrelevant considerations;
- Justice should be seen to be done. If the community is satisfied that justice has been done they will continue to place their faith in the courts.

Where a person’s legal rights are concerned, the principles of natural justice are bolstered by Article 6 of the European Convention on Human Rights which is now incorporated into domestic law.

### THE RULE AGAINST BIAS

It is elementary to the rules of natural justice that the deciding body is to be free from bias.

The rule is that the body must be and be seen to be impartial, independent and disinterested.

There are two broad categories of bias:

- (a) Actual Bias: when the decision-maker has an economic interest in the outcome of the case (also known as a material or pecuniary interest) subject to the De Minimum doctrine;
- (b) Reasonable Apprehension: unbiased appearance is an essential part of procedural fairness. The test is whether, having regard to the circumstances, a well informed person ("reasonably informed bystander") would consider that the interest might have an influence on the exercise of the decision-maker's duties.

## **GUIDANCE NOTES**

### **HUMAN RIGHTS ACT 1998**

In addition to the Rules of Natural Justice, you must also have regard to the provisions of the Human Rights Act 1998.

#### **Rights and Freedoms to be considered when determining matters**

##### ARTICLE 6: RIGHT TO A FAIR TRIAL

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgement shall be pronounced publicly, but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.
2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.
3. Everyone charged with a criminal offence has the following minimum rights:
  - (a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
  - (b) to have adequate time and facilities for the preparation of his defence;
  - (c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means, to pay for legal assistance, to be given it free when the interests of justice so require;
  - (d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
  - (e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

##### ARTICLE 8: RIGHT TO RESPECT FOR PRIVATE AND FAMILY LIFE

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

##### ARTICLE 10: FREEDOM OF EXPRESSION

1. Everyone has the right to freedom of expression. This rights shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

#### ARTICLE 14: PROHIBITION OF DISCRIMINATION

The enjoyment of the rights and freedoms set fourth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

NB This is not a substantive right, but comes into play if other rights are likely to have been infringed. The prohibition is wide, but not exhaustive

#### ARTICLE 1: OF THE FIRST PROTOCOL PROTECTION OF PROPERTY

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

NOTE Possessions, in this context, includes the right to apply for a licence, the right to hold and retain a licence, the goodwill of a business and liquor licences.



## **GUIDELINES RELATING TO THE RELEVANCE OF CONVICTIONS FOR APPLICANTS FOR THE GRANT AND RENEWAL OF LICENCES TO DRIVE HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES**

### **GENERAL POLICY**

1. Each case will be decided on its own merits
2. The Council will, as far as is possible, ensure that all persons holding a licence to drive Hackney Carriages or private hire vehicles are fit and proper persons. In doing so, the Council will take into account previous convictions including, where relevant, 'spent' convictions.
3. The Council will always put the protection of the public first when considering the relevance of convictions recorded against an applicant for a licence.
4. A person with a conviction for serious crime need not be permanently barred from obtaining a licence but will be expected to remain free of conviction for an appropriate period, before an application is considered. However, remaining free of conviction for a specified period may not be sufficient to show that a person is fit and proper and additional evidence may be required.
5. There may be occasions where it is appropriate to depart from the guidelines when making a decision on an application. For example, where the offence is a one-off and there are mitigating circumstances or alternately, where there are many or continuous offences which may show a pattern of offending and unfitness.
6. The following examples give a general guide as to the action that might be taken where convictions are recorded against an applicant.

#### **(a) Dishonesty**

Members of the public using Hackney Carriages and private hire vehicles expect the driver to be honest and trustworthy. It would be easy for a dishonest driver to take advantage of the public.

For these reasons, a serious view will be taken of any conviction involving dishonesty. In general, if an application is made within the first 3 to 5 years from the date of a conviction or from the date of release from jail where a custodial sentence has been imposed, it is likely that it will be refused.

Where an application is made within the first three years since the conviction or the date of release from jail, where a custodial sentence has been

imposed, for any of the following offences, the application will normally be refused:-

- Theft
- Burglary
- Fraud
- Benefit fraud (including offences under ss11A and 112 of the Social Security Administration Act 1992)
- Blackmail
- Handling or receiving stolen goods
- Forgery
- Conspiracy to defraud
- Obtaining money or property by deception
- Other deception
- Or similar offences to those above which may replace any of the above offences

When a period of three years from conviction or the date of release from jail, where a custodial sentence has been imposed has passed, consideration will be given to the circumstances of the offence and any evidence to show that an applicant is a fit and proper person to hold a licence.

**(b) Violence**

As Hackney Carriage and private hire vehicle drivers maintain close contact with the public, a firm line will be taken with applicants who have convictions for violence. Where the commission of an offence involves loss of life, a licence will normally be refused. In other cases, a period of three to ten years free of conviction from the date of conviction or the date of release from jail, where a custodial sentence has been imposed will generally be required before an application is likely to be considered favourably. The nature and seriousness of the offence(s) will be taken into consideration.

In particular:-

- (i) An application will normally be refused where the applicant has a conviction for an offence of:-
  - Murder
  - Manslaughter
  - Manslaughter or culpable homicide while driving
  - Or similar offence or offences which replace the above offences
  
- (ii) An application will normally be refused for a period of five years from the date of the conviction or the date of release from jail, where a custodial sentence has been imposed if the applicant has a conviction for:-
  - Arson
  - Malicious wounding or grievous bodily harm which is racially aggravated
  - Assault occasioning actual bodily harm which is racially aggravated



- Assault with intent to cause grievous bodily harm
- Assaulting a police officer in the execution of his duties
- Malicious wounding
- Robbery
- Racially aggravated criminal damage
- Racially aggravated fear or provocation of violence
- Racially aggravated intentional harassment, alarm or distress
- Racially aggravated harassment
- Racially aggravated putting people in fear of violence
- Riot
- Possession of an offensive weapon
- Possession of a firearm
- Violent disorder
- Or any arrestable offence involving violence (an arrestable offence is defined as an offence committed by a person of age 21 years or over and on conviction for the first offence may be sentenced to a term of imprisonment of five years or where the penalty is fixed by law)

(iii) An application will normally be refused for a period of three years from the date of conviction or the date of release from jail, where a custodial sentence has been imposed, where the applicant has a conviction for:-

- Common assault
- Racially aggravated common assault
- Assault occasioning actual bodily harm
- Affray
- Racially aggravated harassment, alarm or distress
- Resisting arrest
- Obstructing a police officer in the execution of his duty
- Criminal damage
- Any similar offence or offences which replace the above offences

**(c) Drugs**

An application will normally be refused if an applicant has a conviction for an offence that relates to the supply or importation of drugs and the date of the conviction or the date of release from jail, where a custodial sentence has been imposed, is less than five to ten years before the date of the application. However, after five years from the date of such a conviction or the date of release from jail, where a custodial sentence has been imposed, the circumstances of the offence and any evidence which shows that a person is now a fit and proper person to hold a licence will be taken into consideration.

An application will normally be refused where the application is made within three to five years from the date of a conviction or the date of release from jail, where a custodial sentence has been imposed for an offence relating to the possession of drugs. However, after a period of three years from the date of such a conviction or the date of release from jail, where a custodial sentence has been imposed, consideration will be given to the circumstances

of the offence and any evidence to show that an applicant is a fit and proper person to hold a licence.

An application will normally be refused where an applicant has more than one conviction for offences related to the possession of drugs and the last conviction or the date of release from jail, where a custodial sentence has been imposed, is less than five years before the date of the application.

Where evidence is available that an applicant who has convictions for drug related offences has been addicted to drugs, they will have to produce evidence that shows that they have been free of drug taking for at least five years after successfully completing a drug treatment programme.

**(d) Sexual and Indecency Offences**

As the driver of Hackney Carriages and private hire vehicles often carry passengers who are alone, or may be vulnerable, applicants who have convictions for rape, indecent assault, any sexual offence involving children and any conviction for an offence under the Sexual Offences Act 2003 will normally be refused a licence.

Where an applicant has a conviction for a sexual offence such as indecent exposure, they will normally be refused a licence until they can show a substantial period usually between five and ten years free of any such convictions from the date of conviction or the date of release from jail where a custodial sentence has been imposed before an application is made.

After a period of five years from the date of a conviction or the date of release from jail, where a custodial sentence has been imposed, consideration will be given to the circumstances of the offence and any evidence to show that an applicant is a fit and proper person to hold a licence.

When considering applications, the Council may take into account any information of a sexual nature which does not amount to a criminal offence that is brought to its attention where that information may indicate that an applicant may not be a fit and proper person to hold a licence.

**(e) Motoring Convictions**

**(i) Disqualification**

Where an applicant had been disqualified from driving by the Courts for a serious traffic offence under Category 'A' of Annex (i), an application will generally be refused unless a period of five years free of conviction has passed since the return of the DVLA licence.

Where an applicant has been disqualified from driving by the Courts for a serious traffic offence under Category 'B' of Annex (i), an application will generally be refused unless a period of five years free of conviction has passed since the return of the DVLA licence unless the offence was an isolated one, in which case, a period of not less than 2 years shall have passed.

Where a disqualification is imposed by a court in a 'totting-up' case, i.e. where an applicant has been disqualified because of several

driving offences, an application will generally be refused unless a period of one year free of conviction has elapsed since the return of the DVLA driver licence.

In 'totting-up' cases where a court does not impose a disqualification because of exceptional circumstances, then because the Council apply different criteria to the courts, an application will generally be refused unless an applicant can show a period of 1 year free of conviction from the date of the last court appearance.

(ii) Serious Traffic Offences

Where an applicant has a conviction for a serious traffic offence in Category 'A' Annex (i) and a period of disqualification has not been imposed by the courts, an application will normally be refused where an application is made in the last five years following the date of the last conviction.

Where an applicant has a conviction for a serious traffic offence in Category 'B' Annex (i) and a period of disqualification has not been imposed by the courts, an application will normally be refused where an application is made in the last five years following the date of the last conviction unless the offence was an isolated one.

Where an applicant has had more than one conviction for a serious traffic offence in either Category 'A' or 'B' of Annex (i) and the courts have not imposed a period of disqualification, an application will normally be refused where an application is made in five years following the date of the last conviction.

(iii) Other Traffic Offences

Normally, isolated convictions for other traffic offences should not prevent someone obtaining a licence. However, the number, type and the frequency of these types of offence will be taken into account. If there are several convictions for these types of offence, an applicant will normally be expected not to have been convicted of an offence in the six months before an application is made.

A list of relevant offences is shown at Annex (ii). However, this is not an exhaustive list and there may be other offences which may be relevant.

(f) **Offences Under the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976 and any Hackney Carriage Byelaws (The Acts)**

One of the main purposes of the licensing regime set out in 'The Acts' is to ensure the protection of the public. For this reason, a serious view will be taken of convictions for offences under the legislation, particularly offences of illegal plying for hire, when deciding if a person is a fit and proper person to hold a licence.

In particular, an application will normally be refused where an applicant has more than one conviction for an offence under 'The Acts' in the two years preceding the date of the application.

**(g) Drunkenness**

(i) In a Motor Vehicle

The manner in which drunkenness in a motor vehicle will be dealt with is outlined in Motoring Offences at paragraph 'e' of these guidelines.

(ii) Not in a Motor Vehicle

Where an applicant has an isolated conviction for drunkenness, this need not stop an applicant from getting a licence. In some cases, a warning may be appropriate. However, where an applicant has a number of convictions for drunkenness, it could indicate a medical problem, which would require further investigation including a medical examination and the possible refusal of a licence.

**(h) Spent Convictions**

The Council will only take 'Spent Convictions' into consideration if it is considered they are relevant to the application.

**(i) Formal Cautions and Fixed Penalty Notices**

For the purposes of these guidelines, the Council will treat Formal Cautions issued in accordance with Home Office guidance and fixed penalty notices as though they were a conviction before the courts.

## SERIOUS TRAFFIC OFFENCES

CATEGORY 'A'	
Offence Code	Offence
<b>Careless Driving</b>	
<b>CD40</b>	Causing death through careless driving when unfit through drink
<b>CD50</b>	Causing death through careless driving when unfit through drugs
<b>CD60</b>	Causing death through careless driving with alcohol level above the limit
<b>CD70</b>	Causing death through careless driving then failing to supply a specimen for analysis
<b>Reckless/Dangerous Driving</b>	
<b>DD40</b>	Dangerous driving
<b>DD60</b>	Manslaughter or culpable homicide while driving a vehicle
<b>DD80</b>	Causing death by dangerous driving
<b>Miscellaneous Offences</b>	
<b>MS50</b>	Motor racing on a highway
<b>Theft and Unauthorised Taking</b>	
<b>UT50</b>	Aggravated taking of a vehicle

**PLEASE NOTE:**

Any offence of aiding, abetting or procuring the above offences, the offence code will have the **0** replaced by a **2**.

Any offence of causing or permitting the above the offences, the offence code will have the **0** replaced by a **4**.

Inciting any of the above offences, the offence code will have the **0** replaced by a **6**.

<b>CATEGORY 'B'</b>	
<b>Offence Code</b>	<b>Offence</b>
<b>Accident Offences</b>	
<b>AC10</b>	Failing to stop after an accident
<b>AC20</b>	Failing to give particulars or report an accident within 24 hours
<b>BA10</b>	Driving whilst disqualified by order of the court
<b>BA30</b>	Attempting to drive whilst disqualified by order of the court
<b>Careless Driving</b>	
<b>CD10</b>	Driving without due care and attention
<b>CD20</b>	Driving without reasonable consideration for other road users
<b>CD30</b>	Driving without due care and attention or without reasonable consideration for other road users
<b>Construction and Use Offences</b>	
<b>CU10</b>	Using a vehicle with defective brakes
<b>CU20</b>	Causing or likely to cause danger by use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition
<b>CU30</b>	Using a vehicle with defective tyre(s)
<b>CU40</b>	Using a vehicle with defective steering
<b>CU50</b>	Causing or likely to cause danger by reason of load or passengers
<b>Drink or Drugs</b>	
<b>DR10</b>	Driving or attempting to drive with alcohol level above limit
<b>DR20</b>	Driving or attempting to drive while unfit through drink
<b>DR30</b>	Driving or attempting to drive then failing to supply a specimen for analysis
<b>DR40</b>	In charge of a vehicle while alcohol above limit
<b>DR50</b>	In charge of a vehicle while unfit through drink
<b>DR60</b>	Failure to provide specimen for analysis in circumstances other than driving or attempting to drive when unfit through drugs
<b>DR70</b>	Failing to provide a specimen for breath test
<b>DR80</b>	Driving or attempting to drive when unfit through drugs
<b>DR90</b>	In charge of a vehicle while unfit through drugs
<b>Insurance Offences</b>	
<b>IN10</b>	Using a vehicle uninsured against third party risks
<b>Licence Offences</b>	
<b>LC30</b>	Driving after making a false declaration about fitness when applying for a licence
<b>LC40</b>	Driving a vehicle after having failed to notify a disability
<b>Miscellaneous Offences</b>	
<b>MS70</b>	Driving with uncorrected defective eyesight

**PLEASE NOTE:**

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Any offence of causing or permitting the above the offences, the offence code will have the **0** replaced by a **4**.

Inciting any of the above offences, the offence code will have the **0** replaced by a **6**.

If any of the offences in **Category 'B'** involve a licensed Hackney Carriage or private hire vehicle, they will be treated as though they are a **Category 'A'** offence.

## OTHER TRAFFIC OFFENCES

Offence Code	Offence
<b>LC20</b>	Driving otherwise than in accordance with a licence
<b>LC50</b>	Driving after a licence has been revoked or refused on medical grounds
<b>MS10</b>	Leaving a vehicle in a dangerous position
<b>MS20</b>	Unlawful pillion riding
<b>MS30</b>	Play street offences
<b>MS60</b>	Offences not covered by other codes
<b>MS80</b>	Refusing to submit to an eyesight test
<b>MS90</b>	Failure to give information as to identity of driver etc
<b>MW10</b>	Contravention of Special Road Regulations (excluding speed limits)
<b>PC10</b>	Undefined contravention of Pedestrian Crossing Regulations
<b>PC20</b>	Contravention of Pedestrian Crossing Regulations with a moving vehicle
<b>PC30</b>	Contravention of Pedestrian Crossing Regulations with a stationery vehicle
<b>SP10</b>	Exceeding goods vehicle speed limits
<b>SP20</b>	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
<b>SP30</b>	Exceeding statutory speed limit on a public road
<b>SP40</b>	Exceeding passenger vehicle speed limit
<b>SP50</b>	Exceeding speed limit on a motorway
<b>SP60</b>	Undefined speed limit offence
<b>TS10</b>	Failing to comply with traffic light signals
<b>TS20</b>	Failing to comply with double white lines
<b>TS30</b>	Failing to comply with 'stop' sign
<b>TS40</b>	Failing to comply with direction of a constable/warden
<b>TS50</b>	Failing to comply with traffic sign (excluding stop signs, traffic lights or double white lines)
<b>TS60</b>	Failing to comply with a school crossing patrol sign
<b>TS70</b>	Undefined failure to comply with a traffic direction sign



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Any offence of causing or permitting the above the offences, the offence code will have the **0** replaced by a **4**.

Inciting any of the above offences, the offence code will have the **0** replaced by a **6**.

If any of the offences in **Category 'B'** involve a licensed Hackney Carriage or private hire vehicle, they will be treated as though they are a **Category 'B'** offence under Annex (ii).

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1. **Environmental Protection Act 1990, Section 33 , 34 and 34(2A)**

**Submitted by**            **Head of Environmental Health Services**

**Portfolio**                **Environment and Recycling**

**Ward(s) affected**    **All**

**Purpose of the Report**

To advise the Committee of the action taken in respect of a Fly Tipping offence within the Borough.

**Recommendations**

That the report be received

**Reasons**

Consistent enforcement is needed to challenge people who choose to ignore the law and commit environmental crime throughout the Borough.

1. **Background**

On the 18 March 2015, a complaint was received of a fly-tipping incident at Lymes Road, Newcastle under Lyme. A visit to the area was carried out on the 19 March 2015, and an officer witnessed an accumulation of assorted household items and a carpet. The investigation revealed evidence leading the officer to an address at Silverdale Road , Newcastle under Lyme. On the 23 March 2015 the officer sent a letter to the occupant of the property inviting them to attend an interview on 7 April 2015. During the interview it was ascertained that a Mr Dominic Cartwright was responsible for the removal and subsequent disposal of the waste items found at Lymes Road. Mr Cartwright admitted that he had taken the waste from the property.

On the 23 September 2015 this matter was heard at Stafford Magistrates' Court. Mr Carwright attended the court to plead guilty and in mitigation he stated that he was genuinely sorry and it would never happen again. The magistrates took a serious view of the matter and having given him credit for his early guilty plea fined him:-

£400 fine  
£275 costs  
£40 victim surcharge  
£180 court charges

2. **Issues**

There are large environmental, social and financial impacts associated with fly-tipping and the illegal dumping of waste. Local authorities, the Environment Agency and landowners spend more than £100 million every year tackling the consequences of fly-tipping. This is a constant drain on Borough Council taxpayers who ultimately pay the bill.

3. **Policy Considerations**

There are none arising from this report.

4. **Outcomes Linked to Corporate Priorities**

4.1 Creating a cleaner, safer and sustainable Borough.

- Streets and open spaces are clean and the community have pride in the Borough and take responsibility for seeing that it is clean and pleasant by reducing waste.
- The community is not put at risk from pollution or environmental hazards.

5. **Legal and Statutory Implications**

5.1 The Environmental Protection Act 1990 and Clean Neighbourhood and Environment Act 2005 place duties on the Council and provide powers.

6. **Equality Impact Assessment**

6.1 There are no differential equality impacts identified within this report.

7. **Financial and Resource Implications**

The Council were awarded costs during the court proceedings.

8. **Major Risks**

8.1 **Non payment**

There are none arising from this report.



## NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

### EXECUTIVE MANAGEMENT TEAM'S REPORT TO THE PUBLIC PROTECTION COMMITTEE

Date 3<sup>rd</sup> November 2015

**REPORT TITLE**

Environment Act 1995 – Part IV  
Local Air Quality Management – Update and Screening  
Assessment 2014

**Submitted by:**

(Environmental Protection Team Manager – Darren Walters)

**Portfolio:**

Environmental Health

**Ward(s) affected:**

ALL

**Purpose of the Report**

To advise Committee of the findings of the statutory Update and Screening Assessment 2015 in respect of air quality.

**Recommendations**

1. That the report be received

## **1. Background**

Local authorities in the UK have statutory duties for managing local air quality under [Part IV of the Environment Act 1995](#). District Council's have been required to review and assess air quality within their areas since 1997 for compliance against a range of pollutant objectives.

The Council has been carrying out reviews of air quality since December 1997; these involve measuring air pollution and trying to predict how it will change over the next few years. The review process aims to make sure that the national air quality objectives prescribed in the Air Quality Regulations [http://uk-air.defra.gov.uk/assets/documents/National\\_air\\_quality\\_objectives.pdf](http://uk-air.defra.gov.uk/assets/documents/National_air_quality_objectives.pdf) will be achieved throughout the UK by the relevant deadlines. These objectives have been put in place to protect people's health and the environment.

Nationally, air pollution is estimated to reduce the life expectancy of every person in the UK by an average of 7-8 months with estimated equivalent health costs of up to £20 billion each year." (Source *The Air Quality Strategy for England, Scotland, Wales and Northern Ireland (Volume 1)*, HMSO, 2007).

The World Health Organisation, estimates that poor air quality within the UK costs the economy circa £54 billion which is equivalent to 3.7% of British GDP (based on 2010 data). It also accounts for 29,000 premature deaths annually. (Source: WHO Regional Office for Europe, OECD (2015). Economic cost of the health impact of air pollution in Europe: Clean air, health and wealth. Copenhagen: WHO Regional Office for Europe. <http://www.euro.who.int/en/media-centre/events/events/2015/04/ehp-mid-term-review/publications/economic-cost-of-the-health-impact-of-air-pollution-in-europe>)

Local authorities therefore have an important role in bringing about improvements in air quality

and ensuring compliance with statutory requirements to reduce the impact on health and associated costs to the National Health Service and the wider economy

The findings of the previous reviews and assessments undertaken by your Officers was reported to committee in December 2014 and this also saw the council declare four air quality management area's (AQMA's) due to exceedance of the nitrogen dioxide annual mean objective. The AQMA's still remain in force and work is underway on developing the required Air Quality Action Plans in conjunction with key partners and stakeholders which are intended to bring about reductions in nitrogen dioxide exposure.

## 2. **Issues**

### **Update and Screening Assessment 2015**

In accordance with its statutory duties, the Borough Council has recently undertaken an Update and Screening Assessment (USA2015) of Air Quality in the Borough for the 2014 calendar year. A copy of the full report can be found on the internet at <https://www.newcastle-staffs.gov.uk/all-services/environment/environmental-protection/air-quality-newcastle-under-lyme>

Previous assessments have identified nitrogen dioxide as the pollutant of concern, with a number of locations within the Borough exceeding the nitrogen dioxide annual mean objective.

This Updating and Screening Assessment considers all new monitoring data and assesses the data against the Air Quality Strategy (AQS) objectives. It also considers any changes that may have an impact on air quality.

The review of new diffusion tube monitoring data has not identified any locations outside of the four existing AQMA's, declared in December 2015 within the Borough where the AQS annual NO<sub>2</sub> objective was exceeded in 2014.

There are five locations in two geographic areas of the Borough which are representative of relevant exposure and where results yielded are at or above the annual mean objective of 40 µg/m<sup>3</sup> and these are highlighted in red. These locations are:-

- Kidsgrove (A50 Liverpool Road) (Located within the Kidsgrove AQMA)  
Site 6 – 106 Liverpool Road
- Newcastle Town Centre (Located within the Newcastle Town Centre AQMA)  
Site K1 – A34 Holy Trinity  
Site 11 – 11 to 34 London Road  
Site 85 – 106 King Street  
Site 96 – 52/54 London Road Newcastle

All of the above mentioned locations are within the AQMA boundaries declared by the Council in January 2015. Air Quality action planning is currently being undertaken to look at ways in which the NO<sub>2</sub> levels in these areas can be addressed. Details regarding action planning for the AQMAs will be discussed in future reports.

There are a further six sites in three geographic locations, which have yielded bias adjusted results that are below the annual mean objective, but are showing results that are within 10% of the annual mean objective (at or above 36µgm<sup>3</sup>). These sites are;

Locations within the Maybank, Porthill, Wolstanton AQMA  
Site 9 – 32 Port Hill Bank

#### Locations within the Newcastle Town Centre AQMA

- Site 42 – Jubilee Baths, Brunswick Street
- Site 84 – 102 King Street
- Site 87 – Blue Chilli, 1 King Street
- Site 98 – Newcastle Taxis

#### Locations within the Kldsgrove AQMA

- Site 64 - Kidsgrove Carpets, 57-59 Liverpool Road

The sites above are included in the AQMAs which have been declared by Newcastle Borough in December 2014, as they are risk of exceeding the annual mean in future years.

All sites which have shown annual mean nitrogen dioxide levels that are in excess or within 10% of the annual emission limit are within areas which have been declared as AQMAs. No further sites have been found to be in exceedance of the annual emission limit value.

The Little Madeley AQMA has remained below the objective for the third year running, however as this continues to be within 10% of the annual mean objective, there are no immediate plans to explore revocation of this AQMA.

With regards to the assessment of industrial sources, the Council is proceeding to a detailed assessment for emissions associated with the Loucetios STOR site at Holditch. The findings of this assessment will be reported to a further meeting of the committee.

Proposed actions arising from the 2015 Updating and Screening Assessment are as follows:

- Continue the current network of NO<sub>2</sub> diffusion tube monitoring in the District to identify future changes in pollutant concentrations;
- Undertake a detailed assessment for emissions associated with the Locuetios STOR site at Holditch and report the findings as soon as this is available.;
- Finalise the Air Quality Action Plan for the Newcastle under Lyme Town Centre AQMA;
- Finalise the Air Quality Action Plan for the Maybank, Wolstanton and Porthill AQMA;
- Finalise the Air Quality Action Plan for the Kidsgrove AQMA;
- Finalise the Air Quality Action Plan for the Little Madeley AQMA;
- Proceed to a Progress Report in 2016.

### 3. **Reasons for Preferred Solution**

The Council is required to take the action outlined in this report in order to fulfil its statutory duties.

### 4. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

The action taken achieves the following priorities detailed within the Council Plan

- Priority 1 – A clean, safe and sustainable borough
- Priority 3 –A healthy and active community
- Council Plan Outcome 1.3 The negative impact that the Council, residents and local businesses have on the environment will have reduced

### 5. **Legal and Statutory Implications**

Where air quality is unlikely to meet or does not meet the statutory objectives, Section 83 of the Environment Act 1995 requires the Council by Order designate an Air Quality Management Area. The draft Orders are attached in appendices A to D.

## 6. **Financial and Resource Implications**

Existing budgets will be utilised to fund the work identified in this report.

## 7. **Background Papers**

- Environment Act 1995 – Part IV
- Local Air Quality Management Technical Guidance (LAQM.TG.09) (available at <http://www.defra.gov.uk/publications/files/pb13081-tech-guidance-laqm-tg-09-090218.pdf>)
- Air Quality Reports completed since 1997 available from <https://www.newcastle-staffs.gov.uk/all-services/environment/environmental-protection/air-quality-newcastle-under-lyme>



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1. **REPORT TITLE**                      **Taxi and Private Hire Vehicle Fees 2016/2017**
- Submitted by:**                      **(Democratic Services Manager)**
- Portfolio:**                              **(Finance and Resources)**
- Ward(s) affected:**                      **(not specific)**

**Purpose of the Report**

To request the Public Protection Committee to consider the proposed taxi and private hire fees prior to their consideration by the Cabinet.

**Recommendations**

- a) **That the Public Protection Committee considers the proposed fees.**
- b) **That any comments and recommendations from the Committee be fed back to Cabinet.**
- c) **That the proposed fees be sent out for consultation.**

**Reasons**

The setting of Private Hire and Hackney carriage fees is a function of the Cabinet.

1. **Background**

The Local Government (Miscellaneous Provisions) Act 1976 states the following in relation to Operator and Vehicle licence fees:

- (1) Subject to the provisions of subsection (2), a district council may charge such fees for the grant of vehicle and operators' licences as may be resolved by them from time to time and as may be sufficient in the aggregate to cover in whole or in part:
  - (a) the reasonable cost of the carrying out by or on behalf of the district council of inspections of hackney carriages and private hire vehicles for the purpose of determining whether any such licence should be granted or renewed;
  - (b) the reasonable cost of providing hackney carriage stands; and
  - (c) any reasonable administrative or other costs in connection with the foregoing and with the control and supervision of hackney carriages and private hire vehicles.
- (2) The fees chargeable under this section shall not exceed—
  - (a) for the grant of a vehicle licence in respect of a hackney carriage, twenty-five pounds;
  - (b) for the grant of a vehicle licence in respect of a private hire vehicle, twenty-five pounds; and
  - (c) for the grant of an operator's licence, twenty-five pounds per annum;

or, in any such case, such other sums as a district council may, subject to the following provisions of this section, from time to time determine.

- (3) (a) If a district council determine that the maximum fees specified in subsection (2) of this section should be varied they shall publish in at least one local newspaper circulating in the district a notice setting out the variation proposed, drawing attention to the provisions of paragraph (b) of this subsection and specifying the period, which shall not be less than twenty-eight days from the date of the first publication of the notice, within which and the manner in which objections to the variation can be made.
- (b) A copy of the notice referred to in paragraph (a) of this subsection shall for the period of twenty-eight days from the date of the first publication thereof be deposited at the offices of the council which published the notice and shall at all reasonable hours be open to public inspection without payment.
- (4) If no objection to a variation is duly made within the period specified in the notice referred to in subsection (3) of this section, or if all objections so made are withdrawn, the variation shall come into operation on the date of the expiration of the period specified in the notice or the date of withdrawal of the objection or, if more than one, of the last objection, whichever date is the later.
- (5) If objection is duly made as aforesaid and is not withdrawn, the district council shall set a further date, not later than two months after the first specified date, on which the variation shall come into force with or without modification as decided by the district council after consideration of the objections.
- (6) A district council may remit the whole or part of any fee chargeable in pursuance of this section for the grant of a licence under section 48 or 55 of this Act in any case in which they think it appropriate to do so.

2. **Options Considered**

Private	Hire/Hackney	Current £	Proposed £
Carriage			
Private hire operators (plus £85 per additional vehicle up to a maximum 50 vehicles)		85 per vehicle up to a maximum of 50 vehicles.	1 Vehicle - £100 2 - 5 Vehicles - £200 6 - 15 Vehicles- £600 16 -25 Vehicles - £1600 26 - 35 Vehicles - £2600 36 - 50 Vehicles - £3600 Plus £20 per additional vehicle after 50 vehicles.
Drivers badge - Dual Licence (3 years)		214	223 - includes new additional badge to be displayed in the vehicle
Drivers badge - Dual Licence (1 year)			108
Transfer of single driver licence to dual			30 - NEW
Replacement badge		13	14
DBS (CRB)		44 – Set Fee	44
Hackney carriage - vehicles		280	285
Private hire - vehicles		275	280
Private hire - vehicles 8+ seats		280	285
Transfer of vehicle		37	38



Failure to attend for vehicle test	100	102
Retest	35	36
Replacement plate and carrier - front	5	5
Replacement plate and carrier - rear	5	5

3. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

- creating a cleaner, safer and sustainable Borough
- creating a Borough of opportunity

4. **Legal and Statutory Implications**

The legislative background in relation to this report can be found in the Local Government (Miscellaneous Provisions) Act 1976, section 70.

5. **Financial and Resource Implications**

There will be financial implications for the Council if full cost recovery is not achieved.

6. **Major Risks**

The Council will be open to challenge in the High Court should the calculation of the fees and areas charged for prove to be contrary to the Act.

Judicial Review of a decision may be made on the following grounds:

- Ultra vires – no power to levy a particular fee, or fees used to raise revenue unlawfully, or
- Wednesbury rules – decision was unreasonable or irrational

7. **List of Appendices**

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## **AMENDMENT TO LICENCING CONDITIONS DOG BOARDING ESTABLISHMENTS**

**Submitted by** Head of Environmental Services

**Portfolio** Environment & Recycling

**Ward(s) affected** All

### **Purpose of the Report**

To seek Committee approval to make a minor amendment to licencing conditions for Dog Boarding Establishments, as a result of new microchipping regulations

### **Recommendations**

That the requested amendment to licencing conditions is approved

### **Reasons**

To ensure that proprietors of licenced dog boarding establishments promote the requirement for dogs to be microchipped

## **1. Background**

Anyone who provides accommodation for other people's dogs is required to hold a licence from the borough council (Animal Boarding Establishment Act 1963)

The authority is required to inspect licenced sites annually to: ensure that dogs are being kept in suitable accommodations; provided with adequate food; drink and bedding; exercised regularly; safeguarded in emergencies; and protected from infectious diseases.

The authority adopted its present licencing conditions in 1999. These remain fit for purpose, however, it is now proposed to add further clauses, reflecting new regulations

## **2. Issues**

The Microchipping of Dogs (England) Regulations 2015, comes into force on 6<sup>th</sup> April 2016 and requires all owners of dogs to have their pet implanted with a chip, and up-to-date details maintained on a register. Owners face prosecution if they do not comply.

Best practice guidance suggests that any business which deals with dogs (e.g. boarding kennels, vets etc.) should check that it has been chipped, and that registered details remain valid.

It is therefore proposed to add the following text to the licencing conditions:

### **Microchipping of Dogs**

- a) Proprietors should establish whether a boarded dog has a microchip. Where no chip is present they should remind owners of their obligations.

- b) Where practical, proprietors should assist owners to have an unchipped dog microchipped and registered whilst it is boarded with them.
- c) Where a dog is returned unchipped to an owner, the proprietor should inform the borough council, providing details of the owner's name, address and description of their dog.

**3. Legal and Statutory Implications**

Authorised officers from the borough council and the police have powers to seize unchipped dogs and have a chip implanted, or to prosecute owners. Adding the proposed clauses places a duty on proprietors to share appropriate information.

**4. Equality Impact Assessment**

There are no differential equality impacts identified within this report

**5. Financial and Resource Implications**

None

**6. Financial and Resource Implications**

None

**PUBLIC PROTECTION COMMITTEE**  
**3<sup>RD</sup> NOVEMBER 2015**  
**Hackney Carriage Tariffs**

**Submitted by:**            **Head of Business Improvement & Democratic Services**

**Purpose**

To inform the Committee of the request from the Chairman of the Hackney Carriage Association to change the commencement time of tariff 2.

**Recommendation**

**That the Committee consider the request and to make any decision deemed appropriate.**

**1.     Background**

1.1     The tariffs (or fares) that are charged by Hackney Carriages can only be increased or altered with the approval of the Council. The Chairman of the Hackney Carriage Association requests that the time at which tariff 2 commences (which is currently midnight) be changed to commence at 10.00 p.m. (22.00 hrs). Tariff 2 is 50% more than Tariff 1.

**2.     Issues**

2.1     Should the Council agree to the request, people who normally hire Hackney Carriages between 10.00 p.m. and midnight will be paying 50% more than they currently pay.

**3.     Options**

The Committee can:

- a) Agree to the time change.
- b) Refuse the time change.

If the committee agree to the change then the following steps must be taken –

**4.     Recommendation**

- 1)     A notice must be published in a local newspaper, stating proposed fares or variation to the fares.
- 2)     This must specify a date, not less than 14 days from the date on which the notice is first published. That date has two functions:
  - (a)    it is the date by which any objections must be lodged; and
  - (b)    it is the date on which the revised fares will come into effect if either -
    - (i)     no objections are received; or

- (ii) any objections received have been withdrawn before that specified date.
- 3) It must also state where objections should be addressed and how they can be made. Obviously, it is desirable for such objections to be lodged in writing, as opposed to any other method (although an objection by fax or email should be acceptable).
- 4) A copy of the notice must be available to the council offices for inspection, free of charge , 'at all reasonable hours' (LG(MP)A 1976, S65(1)(b)).
- 5) Once the objection period (usually 14 days) has expired, if there have been no objections received or those received have subsequently been withdrawn, then the new fares take effect, either at the end of the objection period or when the last objection is withdrawn (LG(MP)A 1976 s65(3)).
- 6) However, if objections are made and are not withdrawn, then the council must consider the objections.
- 7) In the light of those objections (although it must consider them, it does not have to vary the proposed fare as a result of them) the council then sets a second date, which cannot be more than two months after the first date specified, when the new fares come into force.

5. **Reasons for Preferred Option**

6. **Crime and Disorder**

7. **Human Rights**

Article 6(1) guarantees an applicant a fair hearing.  
Article 14 guarantees no discrimination.

8. **Equality Impact Assessment**

No issues have been identified.

9. **Major Risks**

There is no right of appeal against the fares once set there is the possibility of judicial review.

10. **Key Decision Information**

This is not a key decision.

11. **Earlier Cabinet/Committee Resolutions**

1. **REPORT TITLE**                      **Results of Consultation - CSE and Safeguarding Awareness Sessions**  
**Submitted by:**                      **(Democratic Services Manager)**  
**Portfolio:**                              **(Safer Communities)**  
**Ward(s) affected:**                      **(All)**

**Purpose of the Report**

To inform the Committee of the feedback received regarding consultation on compulsory safeguarding and child sexual exploitation awareness sessions for all private hire and hackney carriage drivers

**Recommendations**

**That the results and feedback from the consultation be noted.**

1. **Background**

At the meeting held on 22<sup>nd</sup> September 2015 it was resolved that:

- a) That a consultation letter be sent to all drivers regarding the introduction of compulsory awareness training for safeguarding and CSE.
- b) That there be a 4 week consultation period.
- c) That a report be brought back to this Committee on 3<sup>rd</sup> November regarding the outcome of the consultation.

The consultation period has now ended and a copy of the letter sent out is attached to this report.

2. **Issues**

Although no written responses have been received to the consultation we have received a large number of phone calls from drivers.

All except one phone call have been very positive in regard to the awareness sessions with the majority of drivers stating that they would appreciate the training and would have no concerns in attending.

At the moment the content of the training is still being finalised and we hope to be able to bring a report back to the next meeting of this Committee with confirmed dates for the sessions.

The report to the next meeting will also confirm timescales for completion of the training and recommend the following for inclusion in the Private Hire and Hackney Carriage Licensing Policy:

- 1. That all new applicants for a private hire or hackney carriage drivers' licence be required to complete a safeguarding/child sexual exploitation course prior to their licence being granted.

2. That all existing drivers be required to have completed the training by the end of December 2016 or upon renewal of their licence whichever is sooner.
3. That should an applicant fail to attend a training session, without providing 24 hours' notice then a fee of £35 will be incurred.
4. That any driver not attending a training session prior to 31st December 2016, without a good reason, may have their licence revoked.
5. That a refresher training session be attended prior to any subsequent licence renewal.

3. **Proposal**

That the results of the consultation be noted and that Member agree with the proposals for the next meeting.

4. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

- *creating a cleaner, safer and sustainable Borough*

5. **Legal and Statutory Implications**

As this will ultimately be a matter of Policy implementation it must be considered and agreed by the Public Protection Committee prior to implementation.

6. **Financial and Resource Implications**

The funding for the training will be met by using existing resources from the Business Improvement, Central Services and Partnerships budgets

7. **Major Risks**

The risks associated with not having a robust safeguarding/cse policy have been highlighted In the findings of the Rotherham report which found evidence of sexual exploitation of at least 1,400 children between 1997 and 2014 and that there had been a collective failure by the council and the police to disrupt abuse, assist victims and prevent further incidents.

8. **Background Papers**

Independent Inquiry into Child Sexual Exploitation in Rotherham (1997 to 2014)



When calling or telephoning please ask for: Julia Cleary

Email: [julia.cleary@newcastle-staffs.gov.uk](mailto:julia.cleary@newcastle-staffs.gov.uk)

Direct Line or ext: 01782 742227

My ref:

23 October 2015

«appname»  
«appaddress2»  
«appaddress3»  
«appaddress4»  
«appaddressC»  
«appaddress5»

Dear «appnameshort»,

At the meeting of the Public Protection Committee held on Tuesday 22<sup>nd</sup> September 2015 it was agreed to consult with all private hire and hackney carriage drivers in relation to the introduction of compulsory training on safeguarding and child sexual exploitation.

The recommendations are as follows:

- That all new applicants for a private hire or hackney carriage drivers licence be required to complete a safeguarding/child sexual exploitation course prior to their licence being granted;
- That all existing drivers be required to have completed the training by the end of December 2016 or upon renewal of their licence whichever is sooner.
- That should an applicant fail to attend a training session without providing 24 hours' notice then a fee of £35 will be incurred.
- That any driver not attending a training session prior to 31<sup>st</sup> December 2016, without a good reason, may have their licence revoked.
- That a refresher training session be attended prior to any subsequent licence renewal.

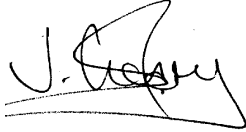
**All training sessions will be run by the Borough Council and will be held at the Civic Offices and will last for approximately 1 hour. There will be no charge for the training.**

I would appreciate any comments or feedback you may have regarding these recommendations. **The deadline for any responses is 5pm on Monday 2<sup>nd</sup> November 2015.** The recommendations and the outcome of the consultation

will be considered by the Public Protection Committee at its meeting on Tuesday 3<sup>rd</sup> November 2015.

Please send all responses to [licensing@newcastle-staffs.gov.uk](mailto:licensing@newcastle-staffs.gov.uk) or write to the Licensing Department, Newcastle under Lyme Borough Council, Civic Offices, Merrial Street, Newcastle under Lyme, Staffs, ST5 2AG.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J. Cleary', with a horizontal line underneath.

Julia Cleary  
Democratic Services Manager

1. **REPORT TITLE**                      **Scheme of Delegation**
- Submitted by:**                      **(Democratic Services Manager)**
- Portfolio:**                              **(Policy, People and Partnerships)**
- Ward(s) affected:**                      **(Not Specific)**

**Purpose of the Report**

To request that the Committee delegate authority in relation to the refusal and revocation of private hire vehicle licences.

**Recommendations**

- (a) That the Committee delegate authority to revoke or refuse a private hire vehicle licence to the Head of Recycling, Waste and Fleet Services and the Head of Environmental Health.
- (b) That the Committee delegate authority to the Chief Executive and Head of Business Improvement, Central Services and Partnerships to refuse or revoke a private hire drivers' licence
- (c) That where a decision has been made to suspend, revoke or refuse to renew any licence under (a), officers shall give to the proprietor of the vehicle notice of the grounds on which the licence has been suspended or revoked or on which they have refused to renew the licence within fourteen days of such suspension, revocation or refusal.
- (d) That where a decision is made under (b), officers give to the driver notice of the grounds on which the licence has been suspended or revoked or on which they have refused to renew such licence within fourteen days of such suspension, revocation or refusal and the driver shall on demand return to the district council the driver's badge issued to him
- (e) That where an decision has been made to suspend, revoke or refuse to renew any licence a report is brought to the next possible meeting of the Public Protection Committee.

**Reasons**

To allow Council Staff who are testing vehicles at the depot to revoke or refuse a licence where the vehicle presented is in such a poor state that staff consider it is unfit for use as a private hire vehicle.

1. **Background**

At the moment the authority to revoke or refuse a licence for a private hire vehicle or driver is delegated only to the Public Protection Committee.

There have been some recent cases where staff at the Knutton Lane Depot have tested a vehicle and considered it unfit to be a private hire or a hackney carriage vehicle.

The recent cases have involved hackney carriage vehicles and as such the Chief Executive has the authority in the Council Scheme of Delegation to revoke or refuse these licences. This has however raised concerns as to what would happen should a private hire vehicle be presented in such an unfit condition.

**Section 60** of the Local Government (Miscellaneous Provisions) Act 1976 states that:

(1) a district council may suspend or revoke, or (on application therefor under section 40 of the Act of 1847 or section 48 of this Act, as the case may be) refuse to renew a vehicle licence on any of the following grounds:

(a) that the hackney carriage or private hire vehicle is unfit for use as a hackney carriage or private hire vehicle.

The Act also states that where a district council suspend, revoke or refuse to renew any licence under this section they shall give to the proprietor of the vehicle notice of the grounds on which the licence has been suspended or revoked or on which they have refused to renew the licence within fourteen days of such suspension, revocation or refusal.

**Section 61** of the Act states

A district council may suspend or revoke or refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of the following grounds:

(a) that he has since the grant of the licence:

(i) been convicted of an offence involving dishonesty, indecency or violence; or  
(ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act; or

(b) Any other reasonable cause.

## 2. **Issues**

At the moment only the Public Protection Committee can refuse or revoke a licence for a private hire vehicle licence or driver licence. Officers consider that it would be in the public interest for staff who are testing the vehicles at the Knutton Lane Depot to be given delegated authority to remove or revoke a private hire vehicle licence if upon testing the vehicle they deem it to be unfit to be licenced. Officers also consider that it would be in the public interest for them to be able to revoke a private hire driver licence if information is received that suggest the driver is no longer fit to be licenced and there is no suitably timed meeting of the Public Protection Committee to bring a report to. In all instances a report would be brought to the next available meeting of the Committee detailing the actions taken by officers.

## 3. **Options Considered**

(a) That the Committee delegate authority to revoke or refuse a private hire vehicle licence to the Head of Recycling, Waste and Fleet Services and the Head of Environmental Health.

(b) That the Committee delegate authority to revoke or refuse private hire drivers licences to the Chief Executive or the Head of Business Improvement, Central Services and Partnerships.

That the scheme of delegation be as follows:

(3)	Power to approve applications for private hire vehicles, drivers' licences and operators' licences	Chief Executive; Public Protection Committee or Head of Business Improvement, Central Services and Partnerships.
	Power to refuse or revoke a private hire drivers' licence	Chief Executive; Public Protection Committee or Head of Business Improvement, Central Services and Partnerships
	Power to refuse or revoke private hire vehicle licences	Public Protection Committee; Head of Recycling, Waste and Fleet Services or Head of Environmental Health.
	Power to suspend licences	Chief Executive or Head of Business Improvement, Central Services and Partnerships,

4. **Reasons for Preferred Solution**

Public Safety - there are concerns regarding any time delay that could arise regarding refusing or revoking a private hire vehicle or driver licence where the vehicle or person is deemed unfit to be licenced.

5. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

- *creating a cleaner, safer and sustainable Borough*
- *transforming our Council to achieve excellence*

6. **Legal and Statutory Implications**

Section 60 of The Local Government (Miscellaneous Provisions) Act 1976 states

**Suspension and revocation of vehicle licences**

(2) Notwithstanding anything in the Act of 1847 or in this Part of this Act, a district council may suspend or revoke, or (on application therefor under section 40 of the Act of 1847 or section 48 of this Act, as the case may be) refuse to renew a vehicle licence on any of the following grounds:

- (a) that the hackney carriage or private hire vehicle is unfit for use as a hackney carriage or private hire vehicle ;
- (b) any offence under, or non-compliance with, the provisions of the Act of 1847 or of this Part of this Act by the operator or driver ; or
- (c) any other reasonable cause.

(3) Where a district council suspend, revoke or refuse to renew any licence under this section they shall give to the proprietor of the vehicle notice of the grounds on which the licence has been suspended or revoked or on which they have refused to renew the licence within fourteen days of such suspension, revocation or refusal.

(3)Any proprietor aggrieved by a decision of a district council under this section may appeal to a magistrates' court.

**Section 61 of The Local Government (Miscellaneous Provisions) Act 1976 states:**

Suspension and revocation of drivers' licences.

(1) Notwithstanding anything in the Act of 1847 or in this Part of this Act, a district council may suspend or revoke or (on application therefor under section 46 of the Act of 1847 or section 51 of this Act, as the case may be) refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of the following grounds:—

(a) that he has since the grant of the licence—

(i) been convicted of an offence involving dishonesty, indecency or violence; or

(ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act; or

(c) Any other reasonable cause.

(2) (a) Where a district council suspend, revoke or refuse to renew any licence under this section they shall give to the driver notice of the grounds on which the licence has been suspended or revoked or on which they have refused to renew such licence within fourteen days of such suspension, revocation or refusal and the driver shall on demand return to the district council the driver's badge issued to him in accordance with section 54 of this Act.

**Section 52 of the Road Traffic Act 2006 states:**

(2B) If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver under subsection (2)(a) of this section includes a statement that that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.”

7. **Financial and Resource Implications**

None identified.

8. **Major Risks**

If a vehicle is tested and deemed unfit to be licenced as a private hire vehicle the licence should be refused or revoked with immediate effect.

9. **Key Decision Information**

This is not a key decision.

10. **List of Appendices**

Delegations

**SPECIFIC FUNCTIONS****LICENSING FUNCTIONS**

	<b>FUNCTION</b>	<b>EXERCISED BY</b>
(1)	Hackney carriage fares and numbers	Public Protection Cttee
(2)	Power to grant, renew and transfer hackney carriage licences, drivers' licences and interior advertising on cabs  Power to suspend licences  Power to refuse or revoke licences	Chief Executive or Public Protection Cttee  Chief Executive or Head of Business Improvement, Central Services and Partnerships Regeneration and Development Chief Executive  Chief Executive
(3)	Power to approve applications for private hire vehicles, drivers' licences and operators' licences  Power to suspend licences  Power to refuse or revoke licences	Chief Executive or Public Protection Committee  Chief Executive or Head of Business Improvement, Central Services and Partnerships  Public Protection Cttee; <b>Head of Business Improvement, Central Services and Partnerships,</b> <b>Head of Recycling, Waste and Fleet Services or Head of Environmental Health.</b>
(4)	Power to authorise prosecution under the Town Police Clauses Act 1847, S.45 – illegal plying for hire and to take any action under the Local Government (Misc.Provisions) Act 1976	Chief Executive or Executive Director (Regeneration and Development)
(5)	To exercise the functions of the licensing authority under the Licensing Act 2003 other than the adoption of the Statement of Licensing Policy	Licensing Committee
(6)	Power to authorise officers to exercise the rights of an 'authorised person' under the Licensing Act	Chief Executive or Executive Director

	2003 as amended	(Regeneration and Development) or Head of Environmental Health Services
(7)	To determine applications for a premises licence, club premises certificate, personal licence, provisional statements, variations, transfers, removal of designated premises supervisor and all other applications made under the Licensing Act 2003 where no representations have been received	Chief Executive
(8)	To authorise prosecutions for offences under the Licensing Act 2003	Licensing Committee or Chief Executive in consultation with the Chair of Licensing Committee
(9)	To determine applications under the Licensing Act 2003 where representations are received	Licensing Committee/ Licensing Sub-committee
(10)	To make Closure Orders under the Licensing Act 2003 in respect of licensed premises	Chief Executive and Environmental Health Officers authorised in writing
(11)	Licensing of sex establishments	Licensing Committee
(12)	Objections to grant or renewal of club registration certificates and Justices' licences	Chief Executive or Head of Business Improvement, Central Services and Partnerships
(13)	Charitable collection permits	Chief Executive or Head of Business Improvement, Central Services and Partnerships
(14)	Registration of societies – small lotteries	Chief Executive or Head of Business Improvement, Central Services and Partnerships
(15)	Permits for amusements with prizes	Chief Executive or Head of Business Improvement, Central Services and Partnerships
(16)	Track betting licences	Public Protection Cttee
(17)	Power to authorise the institution of proceedings in respect of contravention of the legislation within the above terms of reference	Public Protection Cttee
(18)	Approval of advertisements on hackney carriage vehicles (Resolution 984/97)	Head of Business Improvement, Central Services and Partnerships
	<u>Gambling Act 2005</u>	



(19)	To exercise the functions of the licensing authority under the Gambling Act 2005 other than the adoption of the Statement of Gambling Policy	Licensing Committee
(20)	To issue a Statement of Gambling Policy	Full Council
(21)	Determination of application for premises licence where representations made	Licensing Committee or Licensing Sub-committee
(22)	Determination of application for a variation of premises licence where representations made and not withdrawn	Licensing Committee or Licensing Sub-committee
(23)	Determination of application to transfer premises licence where Gambling Commission makes a representation	Licensing Committee or Licensing Sub-committee
(24)	Determination of provisional statement where representations made and not withdrawn	Licensing Committee or Licensing Sub-committee
(25)	Review of a premises licence	Licensing Committee or Licensing Sub-committee
(26)	Power to issue a 'no casino' resolution	Full Council
(27)	Power to delegate fee setting levels	Full Council
(27)	Power to set fees where delegation enacted	Licensing Committee
(29)	Determination of application for premises licence, variation, transfer or provisional statement where no representations received	Head of Business Improvement, Central Services and Partnerships
(30)	Determination of application for temporary use notice where objection notice served	Licensing Sub-committee
(31)	Issuing an objection notice under S.221	Head of Business Improvement, Central Services and Partnerships
(32)	Issue of counternotice under S.244	Head of Business Improvement, Central Services and Partnerships
(33)	Power to issue family entertainment centre gaming machine permit (Schedule 10)	Head of Business Improvement, Central Services and Partnerships
(34)	Power to issue single machine supply and maintenance permit S.250	Head of Business Improvement, Central Services and Partnerships
(35)	Power to issue a club gaming permit S.271	Head of Business Improvement, Central Services and Partnerships
(36)	Power to issue a club gaming machine permit S.273	Head of Business Improvement, Central Services and Partnerships
(37)	Power to issue licensed premises gaming machine permit S.283	Head of Business Improvement, Central

		Services and Partnerships
(38)	Power to issue prize gaming permit S.289	Head of Business Improvement, Central Services and Partnerships
(39)	Refusal and/or revocation of a registered lottery (Schedule 11)	Licensing Sub-committee
(40)	Power to refuse a family entertainment centre gaming machine permit, single machine supply and maintenance permit, club gaming permit, club gaming machine permit, licensed premises gaming machine permit and prize gaming permit	Licensing Sub-committee
(41)	Appointment of authorised officers S.304(2)(b)	All Executive Directors
(42)	Power of inspection for compliance S.305	Executive Director (Regeneration and Development) or Head of Housing and Environmental Health Officers, Technical Assistants and Enforcement Officers authorised in writing
(43)	Power of inspection for gambling S.307	Executive Director (Regeneration and Development) or Head of Environmental Health Services and Environmental Health Officers, Technical Assistants and Enforcement Officers authorised in writing
(44)	Power of inspection of family entertainment centres S.309	Executive Director (Regeneration and Development) or Head of Environmental Health Services and Environmental Health Officers, Technical Assistants and Enforcement Officers authorised in writing
(45)	Power of inspection of alcohol licensed premises providing gaming S.310	Executive Director (Regeneration and Development) or Head of Environmental Health Services and Environmental Health Officers, Technical Assistants and Enforcement Officers authorised in writing
(46)	Power of inspection of premises with a prize	Executive Director

	gaming permit	(Regeneration and Development) or Head of Environmental Health Services and Environmental Health Officers, Technical Assistants and Enforcement Officers authorised in writing
(47)	Power of inspection of a licensed premises for the purposes of applications and reviews S.313	Executive Director (Regeneration and Development) or Head of Environmental Health Services and Environmental Health Officers, Technical Assistants and Enforcement Officers authorised in writing
(48)	Powers of inspection of lotteries: registered societies S.314	Executive Director (Regeneration and Development) or Head of Environmental Services and Environmental Health Officers, Technical Assistants and Enforcement Officers authorised in writing
(49)	Where there are no questions relating to the suitability of the applicant, authority to grant applications received under the Scrap Metal Dealers Act 2013  Scrap Metal Dealers Act 2013 Powers of inspection of premises and also to include sections 10 to 16	Executive Director (Regeneration and Development) or Head of Environmental Services and Environmental Health Officers, Technical Assistants and Enforcement Officers authorised in writing
(50)	Under the Scrap Metal Dealers Act 2013 where questions do arise regarding the suitability of the applicant	Democratic Services Manager or Head of Environmental Health Services or Principal Solicitor or Monitoring Officer

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## Section 61

### Suspension and revocation of drivers' licences.

- (1) Notwithstanding anything in the Act of 1847 or in this Part of this Act, a district council may suspend or revoke or (on application therefor under section 46 of the Act of 1847 or section 51 of this Act, as the case may be) refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of the following grounds:—
- (a) that he has since the grant of the licence—
    - (i) been convicted of an offence involving dishonesty, indecency or violence; or
    - (ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act; or
  - (b) Any other reasonable cause.

(2) (a) Where a district council suspend, revoke or refuse to renew any licence under this section they shall give to the driver notice of the grounds on which the licence has been suspended or revoked or on which they have refused to renew such licence within fourteen days of such suspension, revocation or refusal and the driver shall on demand return to the district council the driver's badge issued to him in accordance with section 54 of this Act.

(b) If any person without reasonable excuse contravenes the provisions of this section he shall be guilty of an offence and liable on summary conviction to a fine not exceeding [F106] level 1 on the standard scale].

Subject to subsection (2B) of this section, a suspension or revocation of the licence of a driver under this section takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver under subsection (2)(a) of this section.

Local Government (Miscellaneous Provisions) Act 1976 (c. 57)

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