



## 12 URGENT BUSINESS

To consider any business which is urgent within the meaning of Section 100(B)4 of the Local Government Act.

**Members:** Councillors Allport, Braithwaite, Dymond, Hailstones, Hailstones, Harper, Kearon, Matthews, Robinson (Chair), J Tagg, Wemyss (Vice-Chair), Williams and Winfield

**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.

## 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

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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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**PUBLIC PROTECTION COMMITTEE**

Tuesday, 4th August, 2015

**Present:-** Councillor Kyle Robinson – in the Chair

Councillors Allport, Braithwaite, Dymond, Hailstones, Hailstones, Harper, Kearon, Matthews, J Tagg Walklate and Williams

Apologies Apologies were received from Councillor(s) Wemyss and Winfield

**1. DECLARATIONS OF INTEREST**

Councillor David Harper declared an interest as a taxi driver. In addition, Cllr Harper knew one of the drivers in attendance personally and left the room during consideration of the item.

**2. DISCLOSURE OF EXEMPT INFORMATION**

**Resolved:-** That the public be excluded from the meeting during consideration if the following matter because it is likely that there will be disclosure of exempt information as defined in paragraphs 1,2, and 7 in Part 1 of Schedule 12A of the Local Government Act, 1972.

**3. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - 1976 ROAD SAFETY ACT, 2006**

Consideration was given to a report informing Members of action taken by officers regarding Mr AB.

Following a complaint, officers had revoked the licence immediately and the driver had surrendered his badge.

**Resolved:** That the actions taken by officers regarding the revocation of Mr AB's Private Hire Driver's Licence be noted and approved.

**4. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - 1976**

The committee considered an application from Mr DP to licence his Private Hire Driver Vehicle outside of the Council's policy.

Mr DP was given the opportunity to address the Committee.

**Resolved:**

- (i) That a licence be granted to Mr DP.
- (ii) That, a report be brought to the next committee in respect of the administrative process involved in identifying vehicles that fall within the Council's vehicle age policy.

**5. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - 1976**

The committee considered a report regarding Mr EA's motoring convictions.

Mr EA was given the opportunity to address the Committee.

**Resolved:** That, Mr EA's licence be suspended for a period of six months.

**6. URGENT BUSINESS**

There was no Urgent Business.

**COUNCILLOR KYLE ROBINSON**  
**Chair**

By virtue of paragraph(s) 1, 2, 7 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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## NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

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

Date 22<sup>nd</sup> September 2015

1. **HEADING** Review of Licensing Standards for Catteries
- Submitted by:** David Beardmore, Environmental Health Team Manager  
Dog & Pest Control
- Portfolio:** Environment & Recycling
- Ward(s) affected:** All

#### **Purpose of the Report**

To seek Committees support to adopt updated licensing standards for catteries.

#### **Recommendations**

- That Committee supports the adoption of the CIEH 2013 Standard in full for all new businesses, require existing business to comply with practice and procedural elements, but accept compliance with the 1999 standard for existing structures where refurbishment is not viable. Refurbishment of accommodation in line with the CIEH 2013 standard would be required if the ownership of the business changes.

#### **Reasons**

To ensure that premises licenced by the council operate to appropriate animal welfare standards.

#### 1. **Background**

- 1.1 The Animal Boarding Establishments Act 1963 requires anyone who wishes to keep a boarding establishment to be licensed by the local authority and abide by the conditions of the licence.
- 1.2 The council currently licence 8 catteries in the borough which are a mixture of old and new premises, large and small. Details of all catteries in the borough are listed on the website
- 1.3 The council adopted its current cattery licensing standards in 1999. Since then there have been developments in the understanding of animal welfare and also the introduction of the Animal Welfare Act 2006. Therefore groups including the Chartered Institute of Environmental Health (CIEH), Cats Protection League, RSPCA and British Small Animal Veterinary Association felt it was time to revise the current standards. The "*Model Licence Conditions and Guidance for Cat Boarding Establishments*" was published in November 2013 ( the 'CIEH 2013 Standard') (see background papers)
- 1.4 Licensing standards set the criteria which officers check when determining if premises should receive a licence from the council. All of the council's businesses meet or exceed the required standards for the current (1999) conditions.

#### 2. **Issues**

2.1 Officers have undertaken detailed consultation with licence holders to establish the impact of changing licencing conditions. It has been identified that some existing businesses may not be able to comply with all the conditions of the CIEH 2013 Standard without replacing their cattery accommodation. Whilst some are already planning to refurbish their pens and enclosures, and can use the CIEH 2013 Standard as their blueprint, others will not be able to make changes without considerable expenditure potentially forcing them to cease trading.

3. **Options Considered**

3.1 Three options are now available:

3.1.1 OPTION ONE Retain existing licensing standards ('Do Nothing' option)

<p><u>Advantages:</u></p> <ul style="list-style-type: none"> <li>• No changes required by businesses</li> </ul>	<p><u>Disadvantages:</u></p> <ul style="list-style-type: none"> <li>• The authority would potentially licence premises which do not meet current animal welfare standards</li> <li>• Premises licensed by the Council could be subject to Animal Welfare Act enforcement action</li> <li>• Pet owners would lose confidence in the standards of the council's licensed premises and use facilities in other districts where they believe standards are higher</li> </ul>
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3.1.2 OPTION TWO Adopt and implement in full the CIEH 2013 Standard

<p><u>Advantages:</u></p> <ul style="list-style-type: none"> <li>• Ensures premises to achieve current best practice</li> <li>• Ensures council standards align with robust national guidance, ensuring decisions are consistent and the reasoning behind them transparent</li> <li>• Businesses operating at a high standard are likely to attract more clients</li> </ul>	<p><u>Disadvantages</u></p> <ul style="list-style-type: none"> <li>• Cost of improvement may be considered unviable by some businesses causing some catteries to cease trading.</li> </ul>
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3.1.3 OPTION THREE Adopt the CIEH 2013 Standard in full for all new businesses, require existing business to comply with practice and procedural elements, but accept compliance with the 1999 standard for existing structures where refurbishment is not viable. Refurbishment of accommodation in line with the CIEH 2013 standard would be required if the ownership of the business changes.

<p><u>Advantages:</u></p> <ul style="list-style-type: none"> <li>• Ensures that all existing businesses can continue to operate</li> <li>• Provides detailed guidance for new businesses.</li> <li>• When businesses are sold, full compliance with CIEH 2013 standard would be required</li> </ul>	<p><u>Disadvantages</u></p> <ul style="list-style-type: none"> <li>• Over time will create a dual standard with some businesses claiming 'grandfather rights' and not fully meeting modern standards..</li> </ul>
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4. **Proposal**

4.1 Officers request Committee confirms its support for option three described above

5. **Reasons for Preferred Solution**

5.1 This is a pragmatic compromise, ensuring businesses with a proven track record of high standards of animal welfare can continue to operate, whilst ensuring that all new businesses meet current national best practice standards.

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

6.1 Considering the impact changes will have on businesses when making decisions aligns with the councils stated aim to be a co-operative council.

6.2 Businesses operating at a higher standard are likely to attract more clients which aligns with our priority of creating a borough of opportunity

7. **Legal and Statutory Implications**

7.1 Any business which operates as a boarding establishment must hold a licence. The authority can set appropriate licensing conditions

8. **Equality Impact Assessment**

8.1 No issues have been identified

9. **Financial and Resource Implications**

9.1 No issues have been identified.

10. **Major Risks**

10.1 Requiring inappropriate changes which have a detrimental impact on businesses would damage the councils reputation

11. **Sustainability and Climate Change Implications**

11.1 No implications have been identified.

12. **Key Decision Information**

12.1 Adopting revised model conditions is not a key decision.

13. **Earlier Cabinet/Committee Resolutions**

- 13.1 The council's current standard was adopted in October 1999, Minute Number 466/00 refers
- 13.2 Committee agreed in March 2014 that an impact assessment should be undertaken before deciding whether or not to adopt updated model conditions.

14. **Background Papers**

List of licensed catteries within Newcastle Borough

[http://www.newcastle-staffs.gov.uk/environment\\_content.asp?id=SXD103-A780EC20](http://www.newcastle-staffs.gov.uk/environment_content.asp?id=SXD103-A780EC20)

Current Standard: Newcastle Borough Council Manual For Licensed Establishments, Adopted October 1999 (Min No 466/00)

[http://www.newcastle-staffs.gov.uk/Documents/Environment/animals/Policy%20Manual%20\(colour%20print\).pdf](http://www.newcastle-staffs.gov.uk/Documents/Environment/animals/Policy%20Manual%20(colour%20print).pdf)

CIEH Model Licence Conditions and Guidance for Cat Boarding Establishments 2013

<http://www.newcastle-staffs.gov.uk/Documents/Environment/animals/Model%20licence%20conditions%20and%20guidance%20for%20cat%20boarding%202013%20pdf.pdf>

1. **CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005  
FIXED PENALTY NOTICES**

**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 Littering offences within the borough.

**Recommendations**

That the report be received.

**Reasons**

Consistent enforcement is needed to challenge people who choose to ignore the law and the Department for Environment, Food and Rural Affairs (DEFRA) guidance states clearly that pursuing non-payment of fixed penalty notices is key to a successful penalty system. Authorities need to strive for a high payment rate to reflect this success.

1. **Background**

During recent patrols conducted through the town centre and borough of Newcastle-under-Lyme a number of individuals were witnessed Littering. The offenders were approached and advised with regard to the appropriate legislation and their details were then recorded by an enforcement officer.

It is an offence under the Environmental Protection Act 1990 to discard litter, however to avoid a conviction in the courts offenders are given the opportunity to discharge their liability by payment of a fixed penalty. The following offenders have been issued with fixed penalties but failed to pay them, and at Staffordshire Magistrates Court they received the following fines and costs with a victim surcharge (vs):

D023392	Mr Warwick Keen	£200 Fine £130 costs £20 Victim surcharge
D023395	Miss Carla Chatterley	£130 Fine £130 costs £20 Victim surcharge
D023404	Miss Jordanna Lowe	£200 Fine £130 costs £20 Victim surcharge
D023412	Miss Leanne Hulme	£200 Fine £130 costs £20 Victim surcharge
D023415	Miss Natasha Stewart	£200 Fine £130 costs £20 Victim surcharge
D023417	Mr Christopher Hyatt	£200 Fine £130 costs £20 Victim surcharge
D023423	Miss Natasha Heath	£35 Fine £130 costs £20 Victim surcharge
D023424	Mr Simon Livingstone	£200 Fine £130 costs £20 Victim surcharge

D023429	Mr Daniel Mansell	£200 Fine £130 costs £20 Victim surcharge
D023447	Mr Michael Muncey	£200 Fine £130 costs £20 Victim surcharge
D024456	Mr Paul A-Turunen	£200 Fine £130 costs £20 Victim surcharge
D024460	Mr Trevor Fitzherbert Stewart	£200 Fine £130 costs £20 Victim surcharge
D024466	Miss Natasha Baddeley	£200 Fine £130 costs £20 Victim surcharge
D024467	Miss Nadia Miag	£200 Fine £130 costs £20 Victim surcharge
D024468	Mr Gavin Jackson	£200 Fine £130 costs £20 Victim surcharge
D024475	Miss Stephanie Sutton	£200 Fine £130 costs £20 Victim surcharge
D024490	Mr Reece Hunter	£200 Fine £130 costs £20 Victim surcharge
D024498	Miss Stacey Nash	£35 Fine £130 costs £20 Victim surcharge
D024499	Mr Matthew Ashley	£200 Fine £125 costs £20 Victim surcharge

## 2. **Issues**

Consistent enforcement is needed to challenge people who choose to ignore the law and the DEFRA guidance states clearly that pursuing non-payment of fixed penalty notices is key to a successful penalty system. Authorities need to strive for a high payment rate to reflect this success.

## 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 Neighbourhoods and Environment Act 2005 place duties on the Council and provide powers of enforcement.

## 6. **Equality Impact Assessment**

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

## 7. **Financial and Resource Implications**

The Council would seek to recover costs during any court proceedings.

## 8. **Major Risks**

### 8.1 **Non payment**

The non-payment of fines would need to be considered seriously. If a non-payment culture were allowed to develop the Authority would be in disrepute with the residents and members, undermining confidence in a service which aims to improve the quality of the environment.

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