

# Public Document Pack

**Date of meeting** Tuesday, 2nd August, 2016  
**Time** 7.00 pm  
**Venue** Civic Offices, Merrial Street, Newcastle Under  
Lyme, Staffordshire ST5 2AG  
**Contact** Geoff Durham

## Public Protection Committee

### AGENDA

#### PART 1 – OPEN AGENDA

- 1 Guidance Notes (for information) (Pages 3 - 18)**
- 2 DECLARATIONS OF INTEREST**  
To receive declarations of interest from Members on items included in this agenda.
- 3 MINUTES OF PREVIOUS MEETING (Pages 19 - 22)**  
To consider the minutes of the previous meeting(s).
- 4 DISCLOSURE OF EXEMPT INFORMATION**  
To resolve that the public be excluded from the meeting during consideration of the attached report, 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.
- 5 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 23 - 30)  
1976**  
Driver – Mr SM
- 6 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 31 - 36)  
1976**  
Driver – Mr Mr MAK
- 7 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 37 - 44)  
1976**  
Driver – Mr SK
- 8 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 45 - 52)  
1976**  
Driver – Mr ADC

**9 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 53 - 60)  
1976**

Driver – Mr AA

**10 Open Reports from officers**

**11 Environmental Health Annual Report 2016 (Pages 61 - 68)**

**12 Transfer of a Drivers Licence to Dual Badge (Pages 69 - 72)**

**13 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, Bloor, Burch, L Hailstones, P Hailstones, S Hambleton (Chair), T Hambleton, Matthews, Olszewski, Robinson, J Tagg, Walklate and Welsh (Vice-Chair)

**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

**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**.

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



**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**.

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**

Thursday, 14th July, 2016

**Present:-** Councillor Sandra Hambleton – in the Chair

Councillors Allport, Burch, Hailstones, Hailstones, Hambleton, Matthews, Robinson, J Tagg, Walklate and Welsh

Apologies Apologies were received from Councillor(s) Bloor and Olszewski

**1. MINUTES OF PREVIOUS MEETING**

**Resolved:** That the minutes of the meeting held on 28 June, 2016 be agreed as a correct record.

**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.

*Councillor Kyle Robinson in the Chair*

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

The Committee considered a report regarding a new driver application for Mr SIM.

Mr SIM was given the opportunity to address the Committee.

**Resolved:** That, due to the nature of the offence, Mr SIM's application for a licence be refused.

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

A request had been made, prior to commencement of the meeting, for this application to be deferred to the next meeting of this Committee.

**Resolved:** That the application be deferred.

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

A report was submitted to advise the Committee of action taken in respect of Private Hire Driver, Mr ST.

Mr ST was not in attendance at the meeting. However the Committee agreed to consider the item in his absence.

**Resolved:** That legal proceedings be instituted in relation to the offences committed by Mr ST.

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

The Committee considered a report regarding an application for a dual licence for Mr TAK.

Mr TAK was given the opportunity to address the Committee.

**Resolved:** That, due to the nature of the offence, Mr TAK's application for a dual licence be refused.

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

The Committee considered a report regarding applications for new driver's licenses for Mr MAJ and Mr MOJ.

Mr MAJ and Mr MOJ were given the opportunity to address the Committee.

**Resolved:**

- (i) That, due to the nature of the offence, Mr MAJ's Hackney Carriage and Private Hire Driver's Licences be suspended for the period of one month.
- (ii) That a Private Hire Driver's Licence be issued to Mr MOJ.
- (iii) That a Vehicle Licence be issued for the vehicle registered to the drivers.
- (iv) That no action be taken in respect of the matter outlined under 'Reasons' within the report but it was stressed to the drivers that it is their responsibility to check that any required information is correct.

*Councillor Sandra Hambleton in the Chair*

**8. URGENT REQUEST**

Consideration was given to a report in respect of an urgent request which had been made.

**Resolved:** That the recommendation as written in the report be agreed.

**9. NEWCASTLE FOOD SAFETY SERVICE PLAN 2016-17**

Consideration was given to a report advising Members of the work planned by the Food and Safety Team for 2016/17 and a review of the previous year's performance.

A copy of the Food Safety Service Plan was appended to the report.

**Resolved:** That the Food Safety Service Plan for 2016/17 be received and endorsed.

**10. ENVIRONMENTAL HEALTH ANNUAL REPORT**

Members were advised that this Report would be brought to the 2 August, 2016 meeting.

**Resolved:** That the information be received.

11. **URGENT BUSINESS**

Public Protection Committee

The Chair advised Members that consideration was being given to streamlining the Committee – possibly by operating in a similar way to the Licensing Committee and Licensing Sub-Committees. The Chair requested that a report be brought to the next meeting.

**Resolved:** That the Head of Environmental Health Services submit a report for consideration at the next meeting of this Committee.

Councillor Kyle Robinson

Members thanked Councillor Kyle Robinson for the time that he had served as Chair on this Committee and wished him well in his new role as a Cabinet Member.

**Resolved:** That the comment be noted.

**COUNCILLOR SANDRA HAMBLETON**  
Chair

**COUNCILLOR KYLE ROBINSON**  
Chair

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1. **HEADING** Environmental Health annual performance and enforcement report
- Submitted by:** Head of Environmental Health Services
- Ward(s) affected:** All

**Purpose of the Report**

To inform Members of the key issues and activities undertaken by the Environmental Health Service in 2015/2016.

**Recommendations**

That Committee receives the report and supports the priorities for 2016/2017 work plan.

**Reasons**

To enable Committee to be informed of the nature and extent of routine and enforcement work undertaken by environmental health services and endorse the priorities for 2016-2017.

1. **Background**

- 1.1 The Environmental Health Service makes a fundamental contribution to the maintenance and improvement of public health, quality of life and wellbeing. Our national priorities are to:
- Protect the public, businesses and the environment from harm
  - Support the local economy to grow and prosper
- We determine our activities each year by assessing the needs of local people and our local business community, and considering the risks that require addressing, in light of local needs and of national priorities.
- 1.2 The Environmental Health Service is divided into four teams: Food & Safety; Environmental Protection; Licensing & Enforcement; and Dog & Pest Control. The service also delivers the Corporate Health & Safety function however; this is not included within this report, as this is reported separately to Audit & Risk Committee.
- 1.3 Each Team undertake statutory enforcement activities and provides a range of regulatory and advisory services to the council, local businesses, members of the public, residents and visitors to the Borough.
- 1.4 The work of the teams comprises both programmed planned activities and reactive work in response to service requests or complaints. The activities are diverse and wide ranging and therefore some activities are undertaken only a reactive or infrequent basis. This report details the principal activities and associated enforcement activities undertaken by the teams over the past year.
- 1.5 Data for the previous year has been provided as a comparison. All activities or service requests that are reactive are marked with a \*.

2. **Report**

2.1 **Food and Safety:**

The team undertakes the following activities: Inspection of food premises, Sampling of foodstuffs, Investigation of complaints regarding foodstuffs and food premises, Registration/licensing of food premises, organising and participating in Food Safety campaigns and giving advice. Improvement of private water supplies, monitoring of private water supplies. Investigation of infectious disease cases and outbreaks. Inspection and registration of tattooing, acupuncture, ear piercing and electrolysis premises. Sampling of swimming baths, spa, and Water. Inspection of health and safety premises, investigation of serious accidents and complaints, health and safety advice and campaigns. Sunday trading, public health advice and advising on, and enforcement of smoke free legislation.

The team fulfils the Councils statutory role as a 'Food Authority' for the enforcement of food law. This work is carried out in partnership with the Governments Food Standard Agency (FSA) The team comprises 7.25fte.

The objectives of the service are:

- Ensure food produced and sold in Borough is fit for human consumption
- Reduce the incidence of food borne infectious disease
- Help consumers make informed choices about where they eat & shop

The team also fulfils the Council's role as a Health & Safety Enforcement Authority. This work is carried out in partnership with the Health & Safety Executive (HSE). While the Health & Safety team is the enforcing authority for retail, wholesale, warehousing, caterers, entertainment and leisure premises within the Borough, The HSE is the enforcing authority in higher risk workplaces such as construction, manufacturing and chemical industries. The objective of the service is to ensure business owners fulfil their duties to protect the health, safety & welfare of their employees and members of the public who may be affected by their activities.

Where advice and guidance has not been effective other enforcement options include statutory notices, seizure of food, closure of premises, prohibition of activities and/or prosecution.

<b>Activity</b>	<b>2013-2014</b>	<b>2014-2015</b>	<b>2015-2016</b>
<b>Food Safety</b>			
Inspections Food premises	524	514	495
% high risk food premises inspected	100%	100%	100%
% broadly compliant with law	95%	98%	96%
Supplementary Visits	235	248	258
Complaints about food / premises*	344	336	339
Total number of Service Requests/advice*	925	991	836
Samples taken			
• Food	146	141	117
• Private water	2	5	18
• Swimming pool	128	117	117
Written warnings	518	538	503
Improvement notices	3	3	4
Prohibition / closure	3	0	0
Voluntary closure	-	-	1
Prosecution	0	0	0
Infectious disease notifications	185	175	131
<b>Health &amp; Safety</b>			

RIDDOR accident notifications*	88	73	77
Complaints investigated*	102	78	71
Improvement notices	1	0	1
Prohibition notices	1	0	0

Some of the main projects or investigations undertaken in the previous year include:

- Participation and promotion of the National Food Hygiene Rating Scheme;
- Event safety inspections with a number of event organisers;
- Complex investigation into a fatal accident in a premise regulated by the LA;
- Participation in several local Health and Safety projects e.g. firework safety awareness and sunbed safety; and
- One food business has been subject to a Voluntary Closure – the premise has since re-opened and standards have improved.

## 2.2 Environmental Protection:

The team undertakes the following activities; Monitoring smoke control areas, issuing, monitoring and regulating environmental permitted processes. Assessment and monitoring of local air quality, investigating atmospheric pollution complaints. Monitoring, investigating noise complaints, investigating other statutory nuisance complaints including premises, accumulations, smoke, fumes and gases, odour, noise, light, dust, fumes, animals or insects. Dealing with asbestos removal notifications and answering queries, or dealing with complaints of damaged asbestos in both commercial and residential premises. Consultee to borough council and county council planning departments for applications and enforcement including environmental impact assessments. Investigation and remediation of contaminated land.

The team fulfils pollution control activities for maintaining and improving air quality and contaminated land. This work is carried out in partnership with DEFRA and Environment Agency (EA). The team comprises 6.75fte.

The objectives of the service are:

- Protection of the air and land within the Borough
- Maintain the health and wellbeing of residents within the Borough
- Monitor, Maintain and where needed reduce pollution and any adverse health affects
- Proactively prevent detriment to the amenity of the area of proposed new developments

Activity	2013-2014	2014-15	2015-16
Risk based inspections of permitted processes	42	15	27
Notices to permitted processes	25	3	8
Complaints about noise*	789	650	721
Noise APP subscribers active during period (Application introduced Autumn 2015)	-	-	43
Number of noise incidents reported by Noise APP			364
Number of occasions sound monitoring equipment deployed	50	70	70
Complaints about dust*	18	5	7
Complaints about smoke*	72	114	106
Complaints about artificial light*	12	15	10

Number of abatement notices served for noise	10	14	9
Number of deferred action notices for noise	1	0	1
Number of abatement and other notices served	14	14	17
Seizure of noise making equipment	0	0	1
Number of Community Protection Warning Notices served	-	-	9
Number of Community Protection Notices served	-	-	6
Number of fixed penalty notices served and paid for breach of community protection notice	-	-	5
Injunctions obtained under Anti-Social Behaviour Crime and Policing Act 2014	-	-	1
Prosecutions	1 (with a CRASBO on conviction)	0	0
Planning consultations*	375	575	613
Environmental Information Requests (fee paying)	30	26	20
Air Quality monitoring samples	480	480	480
Contaminated land - the amount of land that has been remediated and is now in use	n/a	4.34 Ha	5.9 Ha
Contaminated Land – Phase 2 Investigations concluded and sites determined as <u>NOT</u> meeting statutory definition of Contaminated Land			3
Contaminated Land -sites determined as meeting statutory definition of Contaminated Land following investigation	0	0	0

Some of the main projects or investigations undertaken in the previous year include:

- Worked on developing Air Quality Action Plans for the Air Quality Management Area's declared in 2014
- Continued to work with partner agencies to discuss and manage cases relating to noise nuisance and anti-social behaviour.
- Used the provisions of the Anti-Social Behaviour, Crime and Policing Act 2014 in conjunction with colleagues from the ASB team.
- Undertook a number of contaminated land desk studies for land owned by the Council.
- Active involvement in HS2 Phase 2A meetings concerned with noise and environmental issues
- Active involvement with Highways England on A500 corridor improvements
- Involved in discussing and assessing noise impacts from Batley Junction 16 Concerts
- Introduced the Noise APP online noise recording and complaints submission application for smart phones.

### 2.3 Licensing & Enforcement:

The team undertakes the following activities; Enforcement of the Licensing Act 2003, enforcement activities in relation to hackney carriage and private hire. Monitoring and regulation of Private Hire Marshalling Scheme. Use of covert surveillance systems and investigation of fly tipping, fly posting, littering, public nuisance and noise from licensed premises. Planning (Town and Country Planning Act) and building control enforcement including high hedges and untidy land complaints. Issuing fixed penalty notices and enforcement of clean neighbourhood legislation. Operation of the litter enforcement scheme.

The team fulfils licensing enforcement and acts as the responsible body to the licensing authority. A corporate enforcement role is undertaken providing investigations, advice and support to other Council teams along side their own environmental enforcement activities. The team comprises 5.5fte.

The objectives of the service are:

- Prevention of public nuisance through licensable activities
- Protection of the public using taxis
- Ensure that anti-social activities and littering is deterred.

Activity	2013-2014	2014-2015	2015-2016
Inspection licensed premises	115	121	134
Licensed premises complaints*	125	97	88
Temporary event notice consultations*	237	250	242
Taxi Inspections	165	165	163
Taxi/Driver Complaints*	75	96	106
Complaints about fly tipping*	170	153	298
Complaints about condition of land or property*	89	211	245
Complaints of illegal eviction*	7	6	4
Other complaints*	134	76	96
Prosecutions	171	110	177
Fixed Penalty notices	625	504	500

Some of the main projects or investigations undertaken in the previous year include:

- Child Protection joint working with Staffordshire Police
- Betley Concert planning and Participation in Safety Advisory Group
- Taxi Rank Permit Project
- Scrap Metal Joint working project
- Investigation of taxi drivers to ensure protection of public
- Colourville Music Festival
- Stoke station cross Border enforcement

### 2.4 Dog & Pest Control:

The team undertakes the following activities: Delivers the Borough Council's Dog Warden and Pest Control Services; the collection of stray dogs; enforcing dog fouling controls and other dog control orders; and promoting responsible dog ownership. Officers also attempt to resolve dog related nuisance complaints such a barking, and licence animal related businesses including Riding Establishments, Pet Shops, Animal Boarding and Dog Breeding Establishments.

Pest Control Officers deliver a variety of insect and rodent treatments to homes and businesses across the Borough. They also monitor and treat sewers to manage rodent populations. The team offers both advice and treatment services.

The objectives of the service are:

- Protection of the public from public health pests
- Delivery of a high quality commercial and domestic pest control service
- Control of dogs throughout the Borough

Seasonal working arrangements increase the available staffing resource during times of anticipated peak demand. For 2015/16 The activities were delivered by 5.0 fte winter, 6.6 fte summer.

Activity	2013-2014	2014-2015	2015-2016
Pest Control clients served *			
• Rats & Mice (treatments)	1,189	776	744
• Insects treatments inc Wasps, ants, cockroaches, bedbugs, fleas	541	784	589
• Advice requests/complaints	218	361	330
• Other including 'commercial services'	144	98	137
Total Pest Control Requests	2,092	2,019	1,800
Pest Control commercial client retention	92.9%	92%	94%
Dog warden complaints*	1,412	1,191	1,205
Stray dogs seized*	202	159	134
Dog Control orders enforcement			
• Fixed penalty notices issued	6	12	17 <sup>1</sup>
Pet Shop licensing	5	4	3
Riding establishment licensing	4	4	4
Dog breeding licences	2	3	3
Kennels & Cattery licences	17	20	20
Dangerous wild animal licence	0	0	0

Some of the main projects or investigations undertaken in the previous year include:

- Embedding and increasing enforcement of Dog Control Orders throughout the borough for dog fouling; dogs on leads; dog control on direction and dog prohibitions.
- Agreeing kennelling arrangement for stray dogs through to March 2019
- Using Antisocial Behaviour powers to resolve dog related nuisance, through the issue of Community Protection Notices and fixed penalties on breach
- Promoting new microchipping requirements for dogs
- Taking enforcement actions where residents are not taking appropriate action to control infestations
- Revising working practices to follow the Campaign for Responsible Rodenticide Use (CRRU) code of practice to safeguard wildlife

## 2.5 Customer Satisfaction & Corporate Complaints

The Council operates a Corporate Complaints, Comments and Compliments policy. In 2015/16 a total of 15 stage 1 (investigated by Service) complaints were received, none of which progressed to stage 2 (investigated by Customer relations officer).

The service also received 4 compliments and one suggestion.

The service plan performance indicator for customer satisfaction is the Percentage of businesses/customers satisfied with the service, of the returned surveys 100% satisfaction was achieved.

<sup>1</sup> See <https://www.newcastle-staffs.gov.uk/all-services/environment/dog-wardens/dog-control-order-penalties> for details of Dog Control Order Fixed Penalties issued

**3. Priorities for 2016-2017**

3.1 The service plan has been created for the new financial year, the planned pre-programmed activities and reactive duties as detailed within this report are to continue. However in addition to the activities, the service is directed by a number of government department as to priorities and work to be undertaken. In addition, some of the work, projects or enforcement action commenced in 2015-16 will continue in 2016-17.

3.2 The additional projects or priorities are listed below:

- Progress mobile and agile working, adopt corporate record retention policies and review business continuity arrangements
- Participate in the regulatory services review with the Staffordshire & Stoke on Trent Local Enterprise Partnership,
- Participate in public health agenda and undertake specific projects
- Targeted inspections for health and safety in respect of warehousing and workplace transport.
- Taxi enforcement operations with partner agencies
- Pro-active work with Councillors on dog controls including fouling
- Development of Air Quality action plans and engagement with public health to achieve improvement in Newcastle's Air Quality.

**4. Proposal**

4.1 That Committee receives the report and supports the priorities for 2016/2017 work plan.

**5. Reasons for Preferred Solution**

5.1 The service plan and priorities for 2016-18 supports both statutory requirements and also the national and local priorities for Environmental Health Services.

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

6.1 The proposals relate to the delivery of environmental health services which would contribute to the following:

A clean, safe and sustainable borough

- The negative impacts that the Council, residents and local businesses have on the environment will have reduced.

A borough of opportunity

- Fair, proportionate and consistent regulation and enforcement creates an equal opportunity for business to thrive.

A healthy and active community

- Fair, proportionate and consistent enforcement creates an environment for prevention, maintenance or improvement in health and well being.

A co-operative Council delivering high quality, community driven, services.

- High performing services will be delivered for all residents, businesses and customers.

**7. Legal and Statutory Implications**

7.1 All activities are in line with the statutory duty of the Council and in accordance with the advice and guidance of the relevant Government bodies.

8. **Equality Impact Assessment**

8.1 No issues have been identified

9. **Financial and Resource Implications**

9.1 There is an income derived from Pest Control activities, environmental information requests and some licensing and sampling activities. There are also statutory fees set in relation to fixed penalty notices and permits for prescribed processes.

9.2 All the services fees and charges are published annual in the Councils fees and charges register.

10. **Major Risks**

10.1 Environmental Health services undertake statutory duties, failure to deliver these duties adequately, competently or thoroughly would be a risk to the Authority.

11. **Background Papers**

Environmental Health Service Plan 2014-2015  
Environmental Health Service Plan 2015-2016  
Environmental Health Service Plan 2016-18



## TRANSFER OF A DRIVERS LICENCE TO A DUAL BADGE

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

**Ward(s) affected:** All

### **Purpose of the Report**

To remind committee of the administrative process introduced in April 2016 which, on the formal application of a licenced driver, transfers an existing driver's licence to a dual badge and request committee approval to temporarily suspend this activity.

### **Recommendations**

- a. That the Council temporarily suspends the activity of transferring existing driver's private hire, hackney carriage or both drivers badges into a dual licence with immediate effect until 1<sup>st</sup> April 2017
- b. That the Council only processes full applications for dual drivers badges.
- c. That valid applications received by the date of a decision will continue to be processed.
- d. That further updated reports be presented to committee as necessary.

### **Reasons**

In April 2016, the Council stopped issuing separate private hire and hackney carriage drivers licences and all applications considered are now for a dual (both private hire and hackney carriage) badge.

As part of this change a driver could apply for the transfer of their existing driver's badge to a dual badge. The demand for the transfer of badges is high and the administrative work involved is akin to a full application.

## **1. Background**

- 1.1 In April 2016, the Council stopped issuing separate private hire and hackney carriage drivers licences and all new and renewal applications considered are for a dual badge (both private hire and hackney carriage).
- 1.2 As part of this change, a driver can apply for the transfer of their existing driver's badge to a dual badge. A minimal application form was developed for this process and the charge set for the transfer of the badge was £30.
- 1.3 The administrative work involved is akin to a full application.

## **2. Issues**

- 2.1 It has been identified that to correctly administer the transfer of a single badge to a dual badge is not simply the reproduction of a new badge for the driver. The administrative process involved is akin to a full new application, as the officer has to ensure that the driver has all the specific requirements in place to ensure that they are fit and proper persons to be issued with the new licence.
- 2.2 The transfer process relies upon information provided in connection with the previous individual application made, some of which at the time of the transfer can be up to 3 years

old and could have significantly changed since the time of application, such as driving licence endorsements or criminal convictions. The driver has a duty to notify the Council of any of these convictions, however this does not always happen and therefore the Council runs the risk that it may issue a licence on out of date information. The only way to safeguard against this risk is to require a full application for all licence applications.

- 2.3 Since the introduction of the dual badge system the demand for new dual badges remains high but also the demand for the transfer of driver licenses to the dual badge is higher than anticipated and this is placing an unexpected administrative burden on the service.
- 2.4 The transfer of a private hire or hackney carriage licence to a dual licence is a discretionary function, whereas the Council has a duty to process full valid applications.
- 2.5 It is considered that the transfer of an existing driver's licence to a dual badge under the current scheme should be temporarily suspended until 1<sup>st</sup> April 2017 pending a further review, but should a driver wish to hold a full dual badge then a full application can continue be made for a full 3 year licence (which for an existing driver will mean the surrender of his current licence in favour of the granting of a dual one).

### 3. **Options Considered**

- 3.1 There are a number of options that could be considered, these include:
  - a) Do nothing – continue to accept and process transfer to dual badge applications
  - b) Cease the transfer to dual driver badges
  - c) Cease the transfer to dual driver badges for a limited period of time
  - d) Temporarily suspend the transfer of dual badges for a limited period of time

### 4. **Recommendation**

- 4.1 Officers have considered the options available and recommend that:
  - a) That the Council temporarily suspend the activity of transferring existing drivers private hire, hackney carriage or both drivers badge into a dual licence with immediate effect until 1<sup>st</sup> April 2017
  - b) That the Council will only process full applications for dual drivers badges.
  - c) That valid applications received by the date of a decision to continue to be processed.
  - d) That further updated reports be present to committee as necessary.
- 4.2 Should members wish to consider alternative options these are detailed in section 3.1.

### 5. **Decision Required**

That the committee consider the information presented in the report, and institute appropriate action to protect the public.

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

Licence fees are set on the basis of full cost recovery.

### 7. **Links to Corporate Priorities**

In line with the Council's objectives –

- (a) Promoting a cleaner, safer and sustainable Borough
- (b) Promoting a Borough of Opportunity

8. **Reasons for the Preferred Option**

To ensure that the council continue to provide safe transport for those wishing to use private hire and Hackney Carriage vehicles.

9. **Human Rights**

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

10. **Earlier Cabinet/Committee Resolutions**

- 10.1 The Public Protection Committee has previously agreed the 2016/17 fees and charges which detail this service.

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