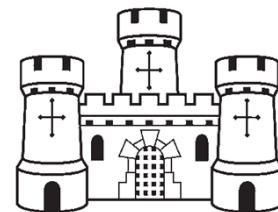


Public Document Pack

Date of meeting Monday, 19th June, 2017
Time 7.15 pm
Venue Civic Offices, Merrial Street, Newcastle Under Lyme, Staffordshire
ST5 2AG
Contact Geoff Durham



**NEWCASTLE
UNDER LYME**
BOROUGH COUNCIL

Civic Offices
Merrial Street
Newcastle-under-Lyme
Staffordshire
ST5 2AG

Public Protection Committee

AGENDA

PART 1 – CLOSED AGENDA

- 1 GUIDANCE NOTES (FOR INFORMATION) (Pages 5 - 22)**
 - Procedure to be followed by Public Protection Committee.
 - Natural Justice and Fairness.
 - Human Rights Act.
 - Guidelines Relating to the Relevance of Convictions.
- 2 DECLARATIONS OF INTEREST**

To receive declarations of interest from Members on items included in this agenda.
- 3 Apologies**
- 4 MINUTES OF PREVIOUS MEETING (Pages 23 - 26)**

To consider the minutes of the previous meeting(s).
- 5 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.
- 6 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 27 - 38)
1976**

Private Hire Vehicle

- 7 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 39 - 48)
1976**

Private Hire Vehicle

- 8 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 49 - 56)
1976**

Driver – Mr TD

- 9 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 57 - 62)
1976**

Driver – Mr WR

- 10 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 63 - 72)
1976**

Driver – Mr AC

- 11 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 73 - 82)
1976**

Driver – Mr MD

- 12 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 83 - 90)
1976**

Driver – Mr MA

- 13 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 91 - 98)
1976**

Driver – Mr HH

- 14 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT -
1976**

PART 2 – OPEN AGENDA

- 15 **ENVIRONMENTAL HEALTH ANNUAL REPORT 2017 (Pages 99 - 106)**

- 16 **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, Dymond, L Hailstones, P Hailstones, S Hambleton (Chair), T Hambleton, Matthews, Olszewski, J Tagg, Walklate and White (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.

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Agenda Item 1

PROCEDURE TO BE FOLLOWED BY PUBLIC PROTECTION COMMITTEE IN DETERMINING HACKNEY CARRIAGE AND PRIVATE HIRE LICENCES

- The Chairman will open the proceedings by stating the nature of the matter which is to be considered (first application/renewal/suspension/revocation), whether the proceedings concern a vehicle, drivers' or operators' licence (in the case of Private Hire Cars) or a driver's or vehicle licence (in the case of Hackney Carriages) and the name of the applicant or licence holder.
- The Chairman will introduce him/herself and the members of the committee, the Clerk to the committee and any other officer present.
- The Chairman will ask the officers to confirm whether or not the formal requirements in respect of the matter to be considered have been complied with. In the case of a proposed suspension or revocation of a licence, refusal to renew or a new licence application, the Chairman will ask the Licensing Officer to confirm whether or not the requisite 14 days' prior notice has been served on the licence holder.
- If satisfied as to the formal requirements, the matter under consideration will then be outlined by the Licensing Officer.
- The committee will consider the merits of the application or proposed suspension/revocation and the report of the officers. The committee may ask the officers for clarification of any points in issue.
- The Chairman will then invite the applicant or licence holder to make any representations. The applicant or licence holder may make his/her representations personally or through a representative, who shall first identify him/herself.
- The Chairman and other members of the committee may ask the applicant or license holder questions and points of clarification.
- The applicant or licence holder, his/her representative (if any) and any officer present (with the exception of the Lawyer and the Clerk to the committee) shall withdraw.
- The members of the committee consider their decision. If any further clarification or information is required from the applicant or licence holder or any officer, all parties will be recalled.
- All parties will be recalled for the announcement by the Chairman of the committee's decision.
- The committee's decision will be confirmed in writing by the Proper Officer.
- At any point in this procedure, the committee may pass a resolution excluding the press and public from the meeting on the basis that, if they were to remain, there may be disclosure of exempt information (information relating to the private or business affairs of a particular person).

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

CATEGORY 'B'	
Offence Code	Offence
Accident Offences	
AC10	Failing to stop after an accident
AC20	Failing to give particulars or report an accident within 24 hours
BA10	Driving whilst disqualified by order of the court
BA30	Attempting to drive whilst disqualified by order of the court
Careless Driving	
CD10	Driving without due care and attention
CD20	Driving without reasonable consideration for other road users
CD30	Driving without due care and attention or without reasonable consideration for other road users
Construction and Use Offences	
CU10	Using a vehicle with defective brakes
CU20	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
CU30	Using a vehicle with defective tyre(s)
CU40	Using a vehicle with defective steering
CU50	Causing or likely to cause danger by reason of load or passengers
Drink or Drugs	
DR10	Driving or attempting to drive with alcohol level above limit
DR20	Driving or attempting to drive while unfit through drink
DR30	Driving or attempting to drive then failing to supply a specimen for analysis
DR40	In charge of a vehicle while alcohol above limit
DR50	In charge of a vehicle while unfit through drink
DR60	Failure to provide specimen for analysis in circumstances other than driving or attempting to drive when unfit through drugs
DR70	Failing to provide a specimen for breath test
DR80	Driving or attempting to drive when unfit through drugs
DR90	In charge of a vehicle while unfit through drugs
Insurance Offences	
IN10	Using a vehicle uninsured against third party risks
Licence Offences	
LC30	Driving after making a false declaration about fitness when applying for a licence
LC40	Driving a vehicle after having failed to notify a disability
Miscellaneous Offences	
MS70	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
LC20	Driving otherwise than in accordance with a licence
LC50	Driving after a licence has been revoked or refused on medical grounds
MS10	Leaving a vehicle in a dangerous position
MS20	Unlawful pillion riding
MS30	Play street offences
MS60	Offences not covered by other codes
MS80	Refusing to submit to an eyesight test
MS90	Failure to give information as to identity of driver etc
MW10	Contravention of Special Road Regulations (excluding speed limits)
PC10	Undefined contravention of Pedestrian Crossing Regulations
PC20	Contravention of Pedestrian Crossing Regulations with a moving vehicle
PC30	Contravention of Pedestrian Crossing Regulations with a stationery vehicle
SP10	Exceeding goods vehicle speed limits
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
SP30	Exceeding statutory speed limit on a public road
SP40	Exceeding passenger vehicle speed limit
SP50	Exceeding speed limit on a motorway
SP60	Undefined speed limit offence
TS10	Failing to comply with traffic light signals
TS20	Failing to comply with double white lines
TS30	Failing to comply with 'stop' sign
TS40	Failing to comply with direction of a constable/warden
TS50	Failing to comply with traffic sign (excluding stop signs, traffic lights or double white lines)
TS60	Failing to comply with a school crossing patrol sign
TS70	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

Tuesday, 9th May, 2017

Time of Commencement: 6.30 pm

- Present:-** Councillor Sandra Hambleton – in the Chair
- Councillors Allport, Bloor, Burch, Matthews, Olszewski, Robinson, Spence, J Tagg and White
- Officers Nesta Barker - Head of Environmental Health Services, Matthew Burton and Geoff Durham
- Apologies Councillor(s) L Hailstones, P Hailstones, T Hambleton and Walklate

1. **APOLOGIES**

2. **DECLARATIONS OF INTEREST**

There were no declarations of interest stated.

3. **MINUTES OF PREVIOUS MEETING**

Resolved: That the minutes of the meeting held on 27 March, 2017 be agreed as a correct record.

4. **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.

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

The Committee considered a report regarding an application for the renewal of a Private Hire Vehicle licence by Mr KMK.

Mr KMK was given the opportunity to address the Committee.

Resolved: That, in accordance with the Council's policy and guidelines, the decision taken by the Head of Environmental Health and Head of Recycling Services to refuse the Private Hire Vehicle Licence renewal application be endorsed.

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

The Committee considered a report regarding a conviction received by Hackney Carriage Driver Mr AA.

Mr AA was given the opportunity to address the Committee.

Resolved: That, in accordance with the Council's policy and guidelines, The Hackney Carriage Driving Licence, held by Mr AA be revoked.

7. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - 1976

The Committee considered a report regarding a conviction received by Dual Driver's Licence holder Mr BBM.

Mr BBM was given the opportunity to address the Committee.

Resolved: That, in accordance with the Council's policy and guidelines, Mr BBM retain his Dual Driver's Licence and be issued with a written warning as to his future conduct.

8. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - 1976

The Committee considered a report regarding an application for the renewal of a Dual Driver's Licence by Mr SI.

Mr SI was given the opportunity to address the Committee.

Resolved: That, in accordance with the Council's policy and guidelines, the application for a Dual Driver's Licence by Mr SI be granted.

9. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - 1976

The Committee considered a report regarding an application for the renewal of a Dual Driver's Licence by Mr RA.

Mr RA was given the opportunity to address the Committee.

Resolved: That, in accordance with the Council's policy and guidelines, Mr RA be granted a Dual Driver's Licence and be issued with a written warning as to his future conduct.

10. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - 1976

Mr WAR had contacted the office to give his apologies. He was unable to attend the meeting due to a family emergency.

Resolved: That the application be deferred to the next meeting.

11. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - 1976

The Committee considered a report regarding a new driver application for a Dual Driver's Licence by Mr SHI.

Mr SHI was given the opportunity to address the Committee.

Resolved: That the application submitted by Mr SHI be approved for a limited period of six months after which time, and subject to no further offences, Mr SHI could apply for a full licence.

12. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - 1976

The Committee considered a report regarding a new driver application for a Dual Driver's Licence by Mr MH.

Mr MH was given the opportunity to address the Committee.

Resolved: That the application submitted by Mr MH be approved for a limited period of twelve months after which time, and subject to no further offences, Mr MH could apply for a full licence.

13. ENVIRONMENTAL PROTECTION ACT 1990 PART III

The committee considered a report seeking Members' support to instigate prosecution proceedings for breaches of a noise abatement notice.

Resolved:

- (i) That, subject to review from legal services, that prosecution proceedings be authorised for breaches of a noise abatement notice issued under Part III of the Environmental protection Act 1990.
- (ii) To receive a further report detailing the outcome of legal proceedings
- (iii) To publicise the outcome if successful.

14. ENVIRONMENTAL PROTECTION ACT 1990 PART III

The committee considered a report informing Members that Chair's approval has been sought to instigate legal proceedings under the Environmental Protection Act, 1990 for failing to comply with a noise abatement notice..

Resolved:

- (i) That the report and verbal update be received.
- (ii) That, in the event of a successful outcome for the Council, the circumstances of the case be publicised.

15. FOOD SAFETY SERVICE PLAN 2017/18

The committee considered a report informing Members of the work planned by the Food and Safety Team for 2017/18. Members also received a review of last year's performance.

Resolved: That the report be received and the Food Safety Service Plan for 2017/18 be endorsed.

16. APPEAL OUTCOME

Public Protection Committee - 09/05/17

The committee considered a report advising Members of the outcome of an appeal to the Magistrates Court against the Public Protection Committee's decision to refuse an application for a new Dual Driver's badge for Mr Ahmed Ali.

Resolved: That the report be received.

17. APPEAL OUTCOME

The committee considered a report advising Members of the outcome of an appeal to the Magistrates Court against the Public Protection Committee's decision to revoke a Dual Driver's badge held by Mr Munazar Mohammed Hussain.

Resolved: That the report be received.

18. URGENT BUSINESS

There was no Urgent Business.

COUNCILLOR SANDRA HAMBLETON
Chair

Meeting concluded at 8.30 pm

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of the Local Government Act 1972.

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<u>HEADING</u>	Environmental Health annual performance and enforcement report
<u>Submitted by:</u>	Head of Environmental Health Services
<u>Portfolio:</u>	Operational
<u>Ward(s) affected:</u>	All

Purpose of the Report

To inform Members of the key issues and activities undertaken by the Environmental Health Service in 2016-2017.

Recommendations

That Committee receives the report and supports the priorities for 2017-2018 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 2017-2018.

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 prosperWe 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 five teams: Food & Safety; Environmental Protection; Licensing & Enforcement; Dog & Pest Control and Licensing Administration. The Licensing Administration function was transferred to Environmental Health Services within 2016. The service also delivers the Corporate Health & Safety function. Some licensing Admin and enforcement and Corporate Health & Safety are not included within this report, as this is reported separately to Licensing Committee and Audit & Standards Committee respectively
- 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.

Activity	2014-2015	2015-2016	2016-2017
Food Safety			
Inspections Food premises	514	495	443
% high risk food premises inspected	100%	100%	100%
Supplementary Visits	248	258	157
Complaints about food / premises*	336	339	312
Total number of Service Requests/advice*	991	836	718
Samples taken			
• Food	141	117	112
• Private water	5	18	7
• Swimming pool	117	117	113
Written warnings	538	503	434
Improvement notices	3	4	4
Prohibition / closure	0	0	0
Voluntary closure	-	1	2
Prosecution	0	0	0
Infectious disease notifications	175	131	157

Health & Safety			
RIDDOR accident notifications*	73	77	69
Complaints investigated*	78	71	98
Improvement notices	0	1	2
Prohibition notices	0	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;
- Participation in local Health and Safety projects e.g. National Workplace Transport project

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 5.5fte.

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	2014-15	2015-16	2016-17
Risk based inspections of permitted processes	15	27	18
Notices to permitted processes	3	8	2
Complaints about noise*	650	721	783
Noise APP subscribers active during period (Application introduced Autumn 2015)	-	43	68
Number of noise incidents reported by Noise APP		364	1146
Number of occasions sound monitoring equipment deployed	70	70	47
Complaints about dust*	5	7	2
Complaints about smoke*	114	106	28
Complaints about artificial light*	15	10	14
Number of abatement notices served	14	9	9

Activity	2014-15	2015-16	2016-17
for noise			
Number of deferred action notices for noise	0	1	1
Number of abatement and other notices served	14	17	18
Seizure of noise making equipment	0	1	2
Number of Community Protection Warning Notices served	-	9	3
Number of Community Protection Notices served	-	6	3
Number of fixed penalty notices served and paid for breach of community protection notice	-	5	0
Injunctions obtained under Anti-Social Behaviour Crime and Policing Act 2014	-	1	1
Prosecutions	0	0	1
Planning consultations*	575	613	525
Environmental Information Requests (fee paying)	26	20	22
Air Quality monitoring samples	480	480	480
Contaminated land - the amount of land that has been remediated and is now in use	4.34 Ha	5.9 Ha	8.6 Ha
Contaminated Land – Phase 2 Investigations concluded and sites determined as <u>NOT</u> meeting statutory definition of Contaminated Land		3	2
Contaminated Land -sites determined as <u>meeting</u> 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.
- 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
- Active involvement with Stoke on Trent City Council on Etruria Valley proposals
- Seized noise making equipment under warrant from two residential properties within the Borough.
- Continued to work with a number of partner organisations (Staffordshire Local Authorities, Aspire Housing, Staffordshire Housing, Staffordshire Police, Staffordshire Fire & Rescue, Mental Health, Social Services, Environment Agency, Health and Safety Executive, Victim Support, ADSIS)

2.3 Licensing Administration Team:

The team undertakes the following activities: The administration of all applications made for Private Hire and Hackney Carriage legislation and policy development.

The objectives of the service are:

- Protection of the public in relation to taxi licensing
- To ensure all applications are dealt with efficiently and within legislative timescales where necessary

Activity	2016-2017
Number of dual driver licenses issued.	355
Number of dual driver licenses referred to Committee	25
Number of hackney carriage vehicle licenses issued	198
Number of private hire vehicle licenses issued	465

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

- To make Safeguarding Training compulsory for all existing and new taxi and private hire drivers
- To scan historic files in line with the Council's drive to be 'paperless'.

2.4 Licensing & Enforcement:

The team undertakes the following activities; 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	2014-2015	2015-2016	2016-2017
Taxi Inspections	165	163	161
Taxi/Driver Complaints*	96	106	134
Complaints about fly tipping*	153	298	326
Complaints about condition of land or property*	211	245	239
Complaints of illegal eviction*	6	4	0
Other complaints*	76	96	87
Prosecutions	110	177	73
Fixed Penalty notices	504	500	355

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

- Taxi Rank Permit Project
- Investigation of taxi drivers to ensure protection of public

- Partnership working - an effective cross border link with the Stoke railway station drivers association, who responded positively towards the approach.
- Advice Role for the Town Centre ASB Action Group' on Direct Debit, Face to Face Fund Raisers and Street Charity Fund Raisers.

2.5 Dog & Pest Control:

The team delivers the councils Dog Warden and Pest Control functions

Dog Wardens are responsible for:

- Seizing stray dogs
- Enforcing dog fouling controls and other dog control orders
- Promoting responsible dog ownership – including microchipping
- Resolving dog related nuisance complaints such a barking
- Investigating dangerous dog related complaints
- Inspecting and licencing 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

The team currently comprises 2 dog wardens, 2 pest control officers and a team leader, totalling 4.8fte

Activity	2014-2015	2015-2016	2016-2017
Pest Control clients served *			
• Rats & Mice (treatments)	776	744	467
• Insects treatments inc Wasps, ants, cockroaches, bedbugs, fleas	784	589	509
• Advice requests/complaints	361	330	357
• Other including 'commercial services'	98	137	112
Total Pest Control Requests	2,019	1,800	1,441
Pest Control commercial client retention	92%	94%	87%
Dog warden complaints*	1,191	1,205	1,049
Stray dogs seized*	159	134	105
Dog & Pest related enforcement notices			
• Fixed penalty notices issued	12	17	3
• Microchipping	0	0	41
• Other	8	13	5
Total Enforcement Notices	20	30	49
Pet Shop licensing	4	3	3
Riding establishment licensing	4	4	5
Dog breeding licences	3	3	3
Kennels & Cattery licences	20	20	26
Zoo / Dangerous wild animal licence	0	0	0

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

- Adjusting fees and charges to manage demand on service and maximise income
- Ceasing acceptance of cash payments and moving to electronic payment prior to service delivery
- Using Antisocial Behaviour powers to resolve dog related nuisance, through the issue of Community Protection Notices and fixed penalties on breach
- Enforcing microchipping requirements for dogs
- Consulting with businesses to revise licencing conditions for animal boarding establishments
- 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 and implement new Stewardship obligations

2.6 **Customer Satisfaction & Corporate Complaints**

The Council operates a Corporate Complaints, Comments and Compliments policy. In 2016/17 a total of 21 stage 1 (investigated by Service) complaints were received. The service also received 13 compliments.

The service also had 2 complaints investigated by the Ombudsman, one complaint was dismissed and the other is still ongoing.

3. **Priorities for 2017-2018**

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 2016-17 will continue in 2017-18.

3.2 The additional projects or priorities are listed below:

- Progress mobile and agile working, adopt corporate record retention policies
- Review business continuity arrangements
- Review Corporate Enforcement Policy
- Review Taxi Licensing Policy
- Review Sexual Entertainment Venue Policy
- Participate in public health agenda and undertake specific projects
- 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 2017-18 work plan.

5. **Reasons for Preferred Solution**

5.1 The service plan and priorities for 2017-18 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, 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 annually 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 2016-2018
Environmental Health Service Plan 2017-2019