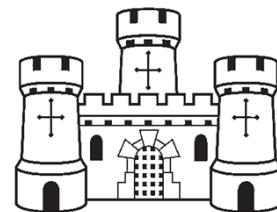


Public Document Pack

Date of meeting Thursday, 15th December, 2016
Time 6.30 pm
Venue Council Chamber, 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 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 - 1976 (Pages 23 - 44)

Driver – Mr EMY

6 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - 1976 (Pages 45 - 70)

Driver – Mr CGH

- 7 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 71 - 88)
1976**

Driver – Mr MA

- 8 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 89 - 118)
1976**

Driver – Mr MJ

- 9 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 119 - 130)
1976**

Driver – Mr US

- 10 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 131 - 138)
1976**

Driver – Mr MBC

- 11 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 139 - 150)
1976**

Driver – Mr TM

PART 2 – OPEN AGENDA

- 12 APPEAL OUTCOME (Pages 151 - 152)**

Driver – Mr ADC

- 13 APPEAL OUTCOME (Pages 153 - 154)**

Driver – Mr CRJ

- 14 Model Bye-laws (Pages 155 - 176)**

- 15 Air Quality Annual Status Report 2016 (Pages 177 - 180)**

- 16 URGENT BUSINESS**

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

- 17 Date of Next meeting**

Members: Councillors Allport, Bloor, Burch, L Hailstones, P Hailstones, S Hambleton (Chair), T Hambleton, Matthews, Olszewski, Robinson, J Tagg and Walklate

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

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APPEAL OUTCOME MR ADC

Submitted by: Head of Environmental Health Services

Portfolio: Finance, IT & Customer

Ward(s) affected: All

Purpose of the Report

To advise committee of the outcome of Mr Allah Dita Changez appeal to the Magistrates Court of Public Protection Committees decision to refuse the application for a dual drivers badge and revoke his Private Hire Drivers licence.

Recommendations

That Public Protection Committee receives the report.

1. **Background**

- 1.1 On 2nd August 2016, Public Protection committee considered Mr Allah Dita Changez application for a dual drivers licence, while having relevant convictions on his disclosure and barring service certificate. Mr Changes also held a private Hire drivers licence.
- 1.2 The certificate reveals a conviction in April 2006 for driving while uninsured and further conviction for the same on his driving licence in May 2014.
- 1.3 Committee resolved that due to the nature and severity of the offence the Committee saw no reason to depart from its policy and agreed that Mr ADC's application for a dual driving badge be refused and that his existing Private Hire drivers badge be revoked.

2. **Issues**

- 2.1 All drivers have the right to appeal to the Magistrates court the decision, Mr Changes lodged an appeal against the decision and the matter was heard at Newcastle-under-Lyme Magistrates court on 1st November 2016.
- 2.2 Due to personal circumstances Mr Changez was unable to attend the hearing and an adjournment was requested. The court refused the request for an adjournment and accordingly Mr Changez solicitor had to request that his appeal be withdrawn.
- 2.3 A formal request has been made for Mr Changez to return his Private Hire Drivers badge.

3. **Proposal**

- 3.1 That members receive the report.

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

4.1 In line with the Council's objectives –

- Promoting a cleaner, safer and sustainable Borough
- Promoting a Borough of Opportunity

5. **Financial and Resource Implications**

5.1 No costs were awarded in respect of this case.

6. **Earlier Committee Resolutions**

6.1 Public Protection committee considered the application at meeting on 2nd August 2016.

APPEAL OUTCOME MR CRJ

Submitted by: Head of Environmental Health Services

Portfolio: Finance, IT & Customer

Ward(s) affected: All

Purpose of the Report

To advise committee of the outcome of Mr Christopher Robert James appeal to the Magistrates Court of Public Protection Committees decision to revoke his dual drivers badge.

Recommendations

That Public Protection Committee receives the report.

1. **Background**

- 1.1 On 28th June 2016, Public Protection committee considered a report regarding the Chief Executives decision to revoke Mr Christopher Robert James dual drivers licence, due to having relevant convictions on his disclosure and barring service certificate.
- 1.2 The certificate reveals conviction on 13th May 2016 for assault by beating. This also showed that Mr James has previously been convicted and cautioned in relation to various offences including burglary, driving with excess alcohol and assault.
- 1.3 Committee resolved that the Chief Executive's decision to revoke Mr CRJ's licence with immediate effect be endorsed.

2. **Issues**

- 2.1 All drivers have the right to appeal to the Magistrates court the decision, Mr James lodged an appeal against the decision and the matter was heard at Newcastle-under-Lyme Magistrates court on 11th October 2016.
- 2.2 Mr James outlined his conviction for assault in great detail. Mr James told the Magistrates that the injured party was his son in law, and outlined an extremely acrimonious divorce case involving the gent and his daughter. On the day of the assault, Mr James had seen his son-in-law in order to discuss the alleged failure to offer any financial support and admitted that he reacted badly to an obscene insult about his daughter.
- 2.3 Mr James fully accepted his responsibility for the assault but stressed that he would not deal in such manner with any member of the public and his case was, in effect, that he was not a danger to the travelling public.
- 2.4 In their judgement, the Magistrates took the view that had Mr James explained himself in similar detail to the Public Protection Committee then he would have retained his licence.
- 2.5 His appeal was granted and he was awarded costs equivalent to the Court fees of £772.00.

3. **Proposal**

3.1 That members receive the report.

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

4.1 In line with the Council's objectives –

- Promoting a cleaner, safer and sustainable Borough
- Promoting a Borough of Opportunity

5. **Financial and Resource Implications**

5.1 Costs of £772 were awarded in respect of this case.

6. **Earlier Committee Resolutions**

6.1 Public Protection committee considered this matter at the meeting on 28th June 2016.

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982, section 15, as amended by LOCAL GOVERNMENT ACT 2003, Section 120 and Schedule 6, Regulation of Cosmetic Skin Piercing and Skin Colouring Businesses – Model Byelaws

Submitted by: Head of Environmental Health Services

Portfolio: Operational

Ward(s) affected: All

Purpose of the Report

To seek Committees approval for the adoption of Model Byelaws in respect of the regulation of cosmetic piercing and skin-colouring businesses.

Recommendations

That the Model Byelaws in respect of the regulation of cosmetic piercing and skin-colouring businesses be adopted.

That the provisions of sections 15, 16 and 17 of the Local Government (Miscellaneous Provisions) Act 1982 are extended to apply to the area of the Council in respect of semi-permanent skin-colouring and cosmetic piercing.

Authorise the affixing of the common seal to the byelaws.

Authorise the Chief Executive to carry out the necessary procedure and apply to the Secretary of State for confirmation.

Request that Legal Services initiate the procedure under section 236 of the Local Government Act 1972, ensuring that the seal is affixed and duly attested and an application is made to the Secretary of State for confirmation of the byelaws.

Reasons

To ensure that public health is protected.

To provide a deterrent to poor performing businesses.

To improve and maintain hygiene standards in the future.

1. Background

1.1 The Local Government (Miscellaneous Provisions) Act 1982 already provides for the making of byelaws for the regulation of persons carrying on the businesses of acupuncture, tattooing, ear piercing and electrolysis. It allows for the registration of those businesses and the recovery of the fees for the registration.

1.2 The council has made byelaws for the regulations of these types of skin piercing businesses and these became operative on 1st December 1984. Registration of skin piercing businesses has continued since this date.

1.3 Section 120 of the 2003 Act amends Section 15 of the Local Government (Miscellaneous Provisions) Act 1982 so that local authorities outside London may require those carrying on skin piercing businesses and micro-pigmentation, semi-permanent makeup and temporary tattooing activities to register themselves and their premises.

1.4 These provisions also include the power for a local authority to adopt model byelaws on hygiene and cleanliness, bringing these businesses under the same regulatory framework that already exists for acupuncture, tattooing, ear piercing and electrolysis.

2. **Issues**

2.1 Guidance has been received from the Department of Health for the regulation of cosmetic piercing and skin colouring businesses. The guidance includes draft Model Byelaws that can be adopted by local authorities.

2.2 Section 15(7) of the Local Government (Miscellaneous Provisions) Act 1982 is extended for local authorities to make byelaws for cosmetic piercing and semi-permanent skin colouring for the purpose of securing:

- The cleanliness of premises and fittings;
- The cleanliness of the operators; and
- The cleansing and sterilisation of instruments, materials and equipment.

Copies of the draft Model Byelaws are attached as a background paper.

2.3 Guidance is also given on the procedure for seeking the Secretary of State's confirmation of such byelaws under section 236 of the Local Government Act 1972.

The first steps are for the council to pass a resolution to:

- Authorise the affixing of the common seal to the byelaws;
- Authorise the Chief Executive to carry out the necessary procedure and apply to the Secretary of State for confirmation; and
- Legal Services be requested to initiate the procedure under section 236 of the Local Government Act 1972, ensuring that the seal is affixed and duly attested and an application is made to the Secretary of State for confirmation of the byelaws.

3. **Proposal**

3.1 That the Model Byelaws in respect of the regulation of cosmetic piercing and skin-colouring businesses be adopted.

3.2 That the provisions of sections 15, 16 and 17 of the Local Government (Miscellaneous Provisions) Act 1982 are extended to apply to the area of the Council in respect of semi-permanent skin-colouring and cosmetic piercing.

3.3 Authorise the affixing of the common seal to the byelaws.

3.4 Authorise the Chief Executive to carry out the necessary procedure and apply to the Secretary of State for confirmation.

3.5 Request that Legal Services initiate the procedure under section 236 of the Local Government Act 1972, ensuring that the seal is affixed and duly attested and an application is made to the Secretary of State for confirmation of the byelaws.

4. **Reasons for Preferred Solution**

- 4.1 Extensions of this legislation to cover the full range of cosmetic piercing and semi-permanent skin colouring that has been subject of much discussion and is welcomed. The new powers give the local authority greater control over the body piercing industry and the ability to enforce against those who carry out their business in an improper manner or unhygienic way.

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

- 5.1 Creating a cleaner, safer and sustainable Borough.
- 5.2 The community is not put at risk from poor hygiene standards in premises undertaking cosmetic piercing and skin-colouring.

6. **Legal and Statutory Implications**

- 6.1 The adoption of the byelaws would allow the council to further improve standards within these premises and have an option to take legal action where those standards are not met. All activities are in accordance with the advice and guidance of the relevant Government bodies.

7. **Equality Impact Assessment**

- 7.1 No issues have been identified.

8. **Financial and Resource Implications**

- 8.1 Costs to the council of implementing these new provisions are estimated to be very small and will be offset by several factors. The council will be able to charge reasonable registration fees. The council will already be inspecting many of these businesses, as the premises may be registered for other skin piercing activities such as ear piercing, tattooing or electrolysis. In addition, the council inspects these businesses under health and safety at work legislation. Additional resources will not be made available by central government.

9. **Earlier Cabinet/Committee Resolutions**

- 9.1 Members are referred to the report to your meeting in January 2004 of the introduction by the Local Government Act 2003 of the new powers to control body piercing that came into force on 1st April 2004.

10. **Background Papers**

- 10.1 The Local Government (Miscellaneous Provisions) Act 1982
The Local Government Act 2003
Newcastle-under-Lyme Ear Piercing and Electrolysis Byelaws
Commencement of Order SI 2003/2038
Department of Health – ‘Regulation of cosmetic piercing and skin colouring businesses’
(February 2004)



BYELAWS

ACUPUNCTURE, EAR PIERCING AND TATTOOING

November 2016

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To set up a business in the Borough of Newcastle under Lyme, that involves:

- Acupuncture
- Ear-piercing and Electrolysis
- Tattooing

you must first register with us.

This is required by the Local Government (Miscellaneous Provisions) Act 1982.

The following local byelaw is made under this Act. It explains the standards of cleanliness and good practice that you must operate, in order to register.

The registration process involves:-

- the payment of a fee (for details please check the website) and
- an inspection visit, to check standards at your premises.

We will issue a certificate of registration if all conditions are satisfactory. You must display this at the premises.

Contact us for more advice or an application form. Our contact details are Newcastle under Lyme Borough Council, Civic Offices, Merrial Street, Newcastle under Lyme, Staffordshire, ST5 2AG or telephone 01782 717717.

ACUPUNCTURE BYELAWS

Byelaws made by The Borough Council of Newcastle under Lyme in exercise of its powers under Section 14 of the Local Government (Miscellaneous Provisions) Act 1982, for the regulation of acupuncture in its area.

1. Interpretation:

- (a) In these byelaws, unless the context otherwise requires:-
 - “The Act” means the Local Government (Miscellaneous Provisions) Act 1982;
 - “Client” means any person undergoing treatment;
 - “Operator” means any person giving treatment;
 - “Premises” means any premises registered under Part VIII of the Act;
 - “Proprietor” means any person registered under Part VIII of the Act;
 - “Treatment” means any operation in the practice of acupuncture;
 - “The treatment area” means any part of the premises where treatment is given to clients.
- (b) The Interpretation Act 1978 shall apply for the interpretation of these byelaws as it applies for the interpretation of an Act of Parliament.

2. For the purpose of securing the cleanliness of premises, and fittings therein, a proprietor shall ensure that –

- (a) All the internal walls, doors, windows, partitions, floors and floor coverings and ceilings are kept clean and in such good repair as to enable them to be cleaned effectively;
- (b) The treatment area is used solely for giving treatment;
- (c) All waste material, and other litter, arising from the treatment, is placed in suitable covered receptacles, which are washable and leakproof, or use a leakproof liner bag. The receptacles shall be emptied, or the bags changed, at least once every working day, or more frequently as necessary, and the material disposed of

safely. Where liners are not used, the receptacles shall then be cleaned;

- (d) All needles used in treatment are placed after use in separate covered and leakproof re-useable boxes, or disposable needle boxes designed for the purpose. Where re-useable boxes are used they shall be emptied at least once every working day or more frequently as necessary, and the contents disposed of safely or sterilised for re-use, as appropriate. The box shall then be sterilised. Where needle boxes are used they shall be disposed of safely at suitable intervals;
- (e) All furniture and fittings in the premises are kept clean and in such good repair as to enable them to be cleaned effectively;
- (f) All tables, couches and seats used by clients in the treatment area, and any surface on which the items specified in 3(b) below are placed immediately prior to treatment, have a smooth impervious surface which is wiped down at least daily with a suitable disinfectant;
- (g) Where tables or couches are used, they shall be covered by a disposable paper sheet which shall be changed for each client;
- (h) A notice or notices reading "No Smoking" are prominently displayed within the treatment area.

3. For the purpose of securing the cleansing and, so far as is appropriate, the sterilisation of instruments, materials and equipment used in connection with the treatment-

- (a) An operator shall ensure that, before use in connection with any treatment, any gown, wrap or other protective clothing, paper or other covering, towel, cloth or other such articles used in the treatment-
 - (i) is clean and in good repair, and, so far as is appropriate, is sterile;
 - (ii) has not previously been used in connection with any other client unless it consists of a material which can

be and has been adequately cleaned and, so far as is appropriate, sterilised;

- (b) An operator shall ensure that any needle, metal instrument, or other item of equipment, used in treatment or for handling instruments and needles used in treatment, is in a sterile condition and kept sterile until it is used;
- (c) A proprietor shall provide-
 - (i) adequate facilities and equipment for the purpose of sterilisation (unless pre-sterilised items are used) and of cleansing, as required in pursuance of these byelaws;
 - (ii) sufficient and safe gas points and/or electrical socket outlets to enable compliance with these byelaws;
 - (iii) an adequate constant supply of clean hot and cold water readily available at all times on the premises;
 - (iv) adequate storage for all items mentioned in byelaw 3(a) and (b) above, so that those items shall be properly stored in a clean and suitable place so as to avoid, as far as possible, the risk of contamination.

4. For the purpose of securing the cleanliness of operators –

- (a) An operator whilst giving treatment shall ensure that –
 - (i) his hands and nails are clean and nails kept short;
 - (ii) he is wearing clean and washable clothing, or alternatively a disposable covering that has not previously been used in connection with any other client;
 - (iii) he keeps any open boil, sore, cut or open wound on an exposed part of his body effectively covered by an impermeable dressing;
 - (iv) he does not smoke or consume food or drink.
- (b) A proprietor shall provide –

- (i) suitable and sufficient washing facilities for the sole use of operators, such facilities to have hot and cold water, sanitising soap or detergent, and a nail brush;
- (ii) suitable and sufficient sanitary accommodation for operators.

EAR PIERCING AND ELECTROLYSIS BYELAWS

Byelaws made by The Borough Council of Newcastle under Lyme in exercise of its powers under Section 15 of the Local Government (Miscellaneous Provisions) Act 1982, for the regulation of persons carrying on the business of ear piecing or electrolysis in its area.

5. Interpretation:

- (a) In these byelaws, unless the context otherwise requires:-
 - “The Act” means the Local Government (Miscellaneous Provisions) Act 1982;
 - “Client” means any person undergoing treatment;
 - “Operator” means any person giving treatment;
 - “Premises” means any premises registered under Part VIII of the Act;
 - “Proprietor” means any person registered under Part VIII of the Act;
 - “Treatment” means any operation in effecting ear piercing or electrolysis;
 - “The treatment area” means any part of the premises where treatment is given to clients.
- (b) The Interpretation Act 1978 shall apply for the interpretation of these byelaws as it applies for the interpretation of an Act of Parliament.

6. For the purpose of securing the cleanliness of premises, and fittings therein, a proprietor shall ensure that –

- (a) All the internal walls, doors, windows, partitions, floors and floor coverings and ceilings in any part of the premises used by clients and operators are kept clean and in such good repair as to enable them to be cleaned effectively;
- (b) All waste material, and other litter, arising from the treatment, is placed in suitable covered receptacles, which are washable and leakproof, or use a leakproof liner bag. The receptacles shall be

emptied, or the bags changed, at least once every working day, or more frequently as necessary, and the material disposed of safely. Where liners are not used, the receptacles shall then be cleaned;

- (c) All needles used in treatment are placed after use in separate covered and leakproof re-useable boxes, or disposable needle boxes designed for the purpose. Where re-useable boxes are used they shall be emptied at least once every working day or more frequently as necessary, and the contents disposed of safely or sterilised for re-use, as appropriate. The box shall then be sterilised. Where needle boxes are used they shall be disposed of safely at suitable intervals;
- (d) All furniture and fittings in the premises are kept clean and in such good repair as to enable them to be cleaned effectively;
- (e) All tables, couches and seats used by clients in the treatment area, and any surface on which the items specified in 3(b) below are placed immediately prior to treatment, have a smooth impervious surface which is wiped down regularly with a suitable disinfectant;
- (f) Where tables or couches are used, they shall be covered by a disposable paper sheet which shall be changed for each client;
- (g) A notice or notices reading "No Smoking" are prominently displayed within the treatment area.

7. For the purpose of securing the cleansing and, so far as is appropriate, the sterilisation of instruments, materials and equipment used in connection with the treatment-

- (a) An operator shall ensure that, before use in connection with any treatment, any gown, wrap or other protective clothing, paper or other covering, towel, cloth or other such articles used in the treatment-
 - (i) is clean and in good repair, and, so far as is appropriate, is sterile;

- (ii) has not previously been used in connection with any other client unless it consists of a material which can be and has been adequately cleaned and, so far as is appropriate, sterilised;
 - (b) An operator shall ensure that any needle, metal instrument, or other item of equipment, used in treatment or for handling instruments and needles used in treatment, is in a sterile condition and kept sterile until it is used;
 - (c) A proprietor shall provide-
 - (i) Adequate facilities and equipment for the purpose of sterilisation (unless pre-sterilised items are used) and of cleaning, as required in pursuance of these byelaws;
 - (ii) Sufficient and safe gas points and/or electrical socket outlets to enable compliance with these byelaws;
 - (iii) An adequate constant supply of clean hot and cold water readily available at all times on the premises;
 - (iv) Adequate storage for all items mentioned in byelaw 3(a) and (b) above, so that those items shall be properly stored in a clean and suitable place so as to avoid, as far as possible, for the risk of contamination.
8. For the purpose of securing the cleanliness of operators –
- (a) An operator whilst giving treatment shall ensure that –
 - (i) his hands and nails are clean;
 - (ii) he is wearing clean clothing;
 - (iii) he keeps any open boil, sore, cut or open wound on an exposed part of his body effectively covered by an impermeable dressing;
 - (iv) he does not smoke or consume food or drink.
 - (b) A proprietor shall provide –

- (i) suitable and sufficient washing facilities for the sole use of operators, such facilities to have hot and cold water, sanitising soap or detergent, and a nail brush;
- (ii) suitable and sufficient sanitary accommodation for operators.

TATTOOING BYELAWS

Byelaws made by The Borough Council of Newcastle under Lyme in exercise of its powers under Section 15 of the Local Government (Miscellaneous Provisions) Act 1982, for the regulation of persons carrying on the business of tattooing in its area.

9. Interpretation:

- (a) In these byelaws, unless the context otherwise requires:-
- “The Act” means the Local Government (Miscellaneous Provisions) Act 1982;
 - “Client” means any person undergoing treatment;
 - “Operator” means any person giving treatment;
 - “Premises” means any premises registered under Part VIII of the Act;
 - “Proprietor” means any person registered under Part VIII of the Act;
 - “Treatment” means any operation in the practice of tattooing;
 - “The treatment area” means any part of the premises where treatment is given to clients.
- (b) The Interpretation Act 1978 shall apply for the interpretation of these byelaws as it applies for the interpretation of an Act of Parliament.

10. For the purpose of securing the cleanliness of premises, and fittings therein, a proprietor shall ensure that –

- (a) All the internal walls, doors, windows, partitions, floors and floor coverings and ceilings are kept clean and in such good repair as to enable them to be cleaned effectively;
- (b) The treatment area is used solely for giving treatment;
- (c) The floor of the treatment area is provided with a smooth impervious surface;
- (d) All waste material, and other litter, arising from the treatment, which are washable and leak proof, or use a leak proof liner

bag. The receptacles shall be emptied, or the bags changed, at least once every working day, or more frequently as necessary, and the material disposed of safely. Where liners are not used, the receptacles shall then be cleaned;

- (e) All needles used in treatment are placed after use in separate covered and leak proof re-usable boxes, or disposable needle boxes designed for the purpose. Where re-usable boxes are used they shall be emptied at least once every working day or more frequently as necessary, and the contents disposed of safely or sterilised for re-use, as appropriate. The box shall then be sterilised. Where needle boxes are used they shall be disposed of safely at suitable intervals;
- (f) All furniture and fittings in the premises are kept clean and in such good repair as to enable them to be cleaned effectively;
- (g) All tables, couches and seats used by clients in the treatment area, and any surface on which the items specified in 3(b) below are placed immediately prior to treatment, have a smooth impervious surface which is wiped down with a suitable disinfect between the treatment of different clients, and thoroughly cleaned at the end of each working day;
- (h) Where tables or couches are used, they shall be covered by a disposable paper sheet which shall be changed for each client;
- (i) A notice or notices reading "No Smoking" are prominently displayed within the treatment area.

11. For the purpose of securing the cleansing and, so far as is appropriate, the sterilisation of instruments, materials and equipment used in connection with the treatment-

- (a) An operator shall ensure that, before use in connection with any treatment, any gown, wrap or other protective clothing, paper or other covering, cloth or other such articles used in the treatment-

- (i) is clean and in good repair, and, so far as is appropriate, is sterile;

- (ii) has not previously been used in connection with any other client unless it consists of a material which can be and has been adequately cleaned and, so far as is appropriate, sterilised;
 - (b) An operator shall ensure that-
 - (i) any needle, metal instrument, or other item of equipment, used in treatment or for handling instruments and needles used in treatment, is in a sterile condition and kept sterile until it is used;
 - (ii) all dyes used for tattooing are bacteriologically clean and inert;
 - (iii) the containers used to hold the dyes for each customer are either disposed of at the end of each session of treatments, or are sterilised before re-use;
 - (c) A proprietor shall provide-
 - (i) adequate facilities and equipment for the purpose of sterilisation (unless pre-sterilised items are used) and of cleansing, as required in pursuance of these byelaws;
 - (ii) sufficient and safe gas points and/or electrical socket outlets to enable compliance with these byelaws;
 - (iii) an adequate constant supply of clean hot and cold water readily available at all times on the premises;
 - (iv) adequate storage for all items mentioned in byelaw 3(a) and (b) above, so that those items shall be properly stored in a clean and suitable place so as to avoid, as far as possible, the risk of contamination.
12. For the purpose of securing the cleanliness of operators –
- (a) An operator whilst giving treatment shall ensure that –
 - (i) his hands and nails are clean and nails kept short;
 - (ii) he is wearing clean and washable clothing, or alternatively a disposable covering that has not

previously been used in connection with any other client;

(iii) he keeps any open boil, sore, cut or open wound on an exposed part of his body effectively covered by an impermeable dressing;

(iv) he does not smoke or consume food or drink.

(b) A proprietor shall provide –

(i) suitable and sufficient washing facilities for the sole use of operators, such facilities to have hot and cold water, sanitising soap or detergent, and a nail brush;

(ii) suitable and sufficient sanitary accommodation for operators.

NOTE – THE FOLLOWING DOES NOT FORM PART OF THE BYELAWS

- A. Proprietors shall take all reasonable steps to ensure compliance with these byelaws by persons working on the premises. Section 16(9) of the Act lays down that a registered person shall cause to be prominently displayed on the premises a copy of these byelaws and a copy of any certificate of registration issued to him under Part VIII of the Act.
- B. Section 16(1) and (2) of the Local Government (Miscellaneous Provisions) Act 1982 provides that any person who offends against any of these byelaws shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400. If the convicted person is registered under part VIII of the Act, the Court may, instead of or in addition to imposing a fine, order the suspension or cancellation of his registration, and of the registration of the premises in which the offence was committed if such premises are occupied by the person so convicted. Section 16(11) of the Act provides that it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- C. Nothing in these byelaws shall extend to the carrying on of the business of acupuncture, ear piercing and electrolysis, tattooing by or under the supervision of a person who is registered as a medical practitioner or to premises on which any such business is carried on by or under the supervision of such a person.
- D. If any operator contracts a notifiable communicable disease (eg hepatitis) then in addition to any statutory obligations under the Public Health Act 1936 as amended and the Public Health (Infectious Diseases) Regulations 1968, 1974 and 1976, they or their representative should telephone the Head of Environmental Health Services, Newcastle under Lyme Borough Council, Civic Offices, Merrial Street, Newcastle under Lyme, telephone 01782 717717.

Guidance for operators

Other useful sources of information

A Guide to Hygienic Skin Piercing; tattoos, acupuncture, ear piercing, electrolysis. (Copy right 1983). Professor Norman Noah, MB, MRCP, MFCM. Published by PHLS, Colindale Avenue, London. ISBN 0 901144 10 X. (Now available with other supplements electronically only from norman.noah@lshtm.ac.uk)

Bench-top steam sterilizers – guidance on purchase, operation and maintenance: Medical Devices Agency, Device Bulletin 2002 (06) October 2022. At:
<http://www.mhra.gov.uk/home/groups/dtsbi/documents/publication.con007327.pdf>

Body art, cosmetic therapies and other special treatments: Barbour Index: CIEH: ISBN 1-902423-80-1 (Price, £20 at the time of this publication)

Eames, M. (2001). Body Piercing: ‘Does it Hurt?’ A complete illustrated guide to body piercing. NliteN Publications, UK. ISBN 0 9541138 0 2

HSE Local Authority Circular (LAC); detailed guidance on Cosmetic piercing tattooing and scarification (LAC 76-2). Available free at <http://www.hse.gov.uk/lau/lac/76-2htm>

HSE Local Authority Circular (LAC); detailed guidance on micropigmentation (LAC 14-1). Available free at <http://www.hse.gov.uk/lau/lacs/14-1.htm>

HSE online guidance on alternatives to latex gloves due to the high incidence of allergy reported by wearers.
<http://www.hse.gov.uk/latex/about.htm>

Ink – The not just skin deep guide to getting a tattoo. (2005). Written by Terisa Green, PhD. Published by New American Library, a division of Penguin Group USA, 375 Hudson Street, New York. ISBN 0 451 21514 1.

Local Government Act 2003: Regulation of cosmetic piercing and skin-colouring businesses – guidance on Section 120 and Schedule 6 (Department of Health)-
http://www.dh.gov.uk/PublicationsAndStatistics/Publications/PublicationsLegislationArticle/fs/en?CONTENT_ID=4076283&chk=nEixNU

Single-use Medical Devices: Implications and consequence of Re-use. MHRA-MDA document DB2006(04).
http://www.mhra.gov.uk/hone/idcig?IdcService=SS_GET_PAGE&useSecondary=true&ssDocName=CON2024995&ssTargetNodId=572

The Tattooing and Piercing industry Union (TPI), in association with the GMB. At: <http://www.tpi.org.uk/>

NB. Trade journals, industry seminars, trade conventions and internet web sites can all be a valuable source of information for your business, but standards of publication and presentation may vary. If you read or hear anything from such sources that you are uncertain of, please consult your local Environmental Health Officer for advice.

<u>REPORT TITLE</u>	Environment Act 1995 – Part IV Local Air Quality Management – Annual Status Report 2016
<u>Submitted by:</u>	Environmental Protection Team Manager – Darren Walters
<u>Portfolio:</u>	Operational
<u>Ward(s) affected:</u>	ALL

Purpose of the Report

To advise Committee of the findings of the statutory Annual Status Report for 2016 which covers the 2015 calendar year in respect of air quality within the Borough

Recommendations

That the report be received

1. Background

- 1.1. Local authorities in the UK have statutory duties for managing local air quality under [Part IV of the Environment Act 1995](#). District Councils have been required to review and assess air quality within their areas since 1997 for compliance against a range of pollutant objectives.
- 1.2. The Council has been carrying out reviews of air quality since December 1997; these involve measuring air pollution and trying to predict how it will change over the next few years. The review process aims to make sure that the national air quality objectives prescribed in the Air Quality Regulations http://uk-air.defra.gov.uk/assets/documents/National_air_quality_objectives.pdf will be achieved throughout the UK by the relevant deadlines. These objectives have been put in place to protect people's health and the environment.
- 1.3. Nationally, air pollution is estimated to reduce the life expectancy of every person in the UK by an average of 7-8 months with estimated equivalent health costs of up to £20 billion each year." (Source *The Air Quality Strategy for England, Scotland, Wales and Northern Ireland (Volume 1)*, HMSO, 2007).
- 1.4. The World Health Organisation, estimates that poor air quality within the UK costs the economy circa £54 billion which is equivalent to 3.7% of British GDP(based on 2010 data). It also accounts for 29,000 premature deaths annually. (Source: WHO Regional Office for Europe, OECD (2015). Economic cost of the health impact of air pollution in Europe: Clean air, health and wealth. Copenhagen: WHO Regional Office for Europe. <http://www.euro.who.int/en/media-centre/events/events/2015/04/ehp-mid-term-review/publications/economic-cost-of-the-health-impact-of-air-pollution-in-europe>)
- 1.5. Local authorities therefore have an important role in bringing about improvements in air quality and ensuring compliance with statutory requirements to reduce the impact on health and associated costs to the National Health Service and the wider economy
- 1.6. The findings of the previous reviews and assessments undertaken by your Officers were last reported to committee in December 2015.

2. Issues

Annual Status Report 2016

- 2.1 In accordance with its statutory duties, the Borough Council has recently completed its Annual Status Report for 2016 which is concerned with air quality within the Borough during the 2015 calendar year. A copy of the report can be found on line at <https://www.newcastle-staffs.gov.uk/all-services/environment/environmental-protection/air-quality-newcastle-under-lyme>
- 2.2 Previous assessments have identified nitrogen dioxide as the pollutant of concern, with a number of locations within the Borough exceeding the nitrogen dioxide annual mean objective.
- 2.3 This Annual Status Report considers all new monitoring data and assesses the data against the Air Quality Strategy (AQS) objectives. It also considers any changes that may have an impact on air quality.
- 2.4 The review of new diffusion tube monitoring data has not identified any locations outside of the four existing AQMA's, declared in December 2014 within the Borough where the AQS annual NO₂ objective was exceeded in 2016.
- 2.5 Monitoring of NO₂ concentration in the AQMAs and at a variety of locations across the Borough during 2015 shows, that there has been a general decrease in NO₂, with the majority of areas now being under the annual mean objective.

Town Centre AQMA

- 2.6 NO₂ concentrations have generally decreased each year from 2012 onwards within the Town Centre. Site 11 (34 London Road) shows a large spike in NO₂ concentration between 2012 and 2014 (increase of 25.7%), followed by a dramatic decrease in 2015 (decrease of 30.2%). Both Site 11 and Site K1 are continuing to have an annual mean concentration of around 40ug/m³. This AQMA will remain in place until such time as all sites measure an annual mean NO₂ concentration that is consistently below the annual mean legal limit.

Porthill-Wolstanton-Maybank AQMA

- 2.7 There has been a steady decrease in NO₂ concentration at the established diffusion tube monitoring sites within this AQMA over the past 5 years, with the average NO₂ concentration within the Porthill-Wolstanton-Maybank AQMA for 2015 being 31.45ug/m³.
- 2.8 In October 2015, diffusion tube monitoring site 103 (Grange Lane), was added to the monitoring network for this AQMA. Over the three months that it was in place (October to December 2015), it showed that there may be an exceedance of the 1-hour mean objective at this location. It is important to note that the diffusion tube had only been exposed for a three month period over the winter when NO₂ concentrations are naturally higher, and that the data collected had to be 'annualised', to gain an estimate of the annual mean concentration at this site.
- 2.9 This AQMA, and diffusion tube Site 103, will remain in place as there are a number of works planned which may impact upon this area, this includes the Etruria Valley Development scheme and the planned improvement works to the A500.

Kidsgrove AQMA

- 2.10 NO₂ concentrations have decreased each year from 2012 onwards within this AQMA. Sites 6 (106 Liverpool Road) and Site 93 (118 Liverpool Road) show the most noticeable decrease in NO₂ concentration, with an 18.9% and 21.9% reduction respectively, between 2012 and 2015. This AQMA will remain in place until such time as all sites measure an annual mean NO₂ concentration that is consistently below the annual mean legal limit.

Madeley AQMA

- 2.11 The NO₂ concentration in Madeley was above the annual mean legal limit between 2010 and 2012, and has remained within 10% of the annual mean for the past 3 years. Although there has

been a slight decrease in the annual mean NO₂ concentration, it is not enough to enable us to say with certainty that there will be no further exceedances at this location. As there is no significant decrease in the concentrations at this site, and due to the works that Highways England plan to implement for the M6 in this section (hard-shoulder running), this location will continue to be monitored.

Across the Borough of Newcastle under Lyme

- 2.12 There has been a general decrease in the annual NO₂ concentrations across the Borough over the past three years. This indicates that the strategies currently in place are already helping to reduce the NO₂ concentration within these areas of the Borough. However, work needs to be done to ensure that any further developments, and changes to the road networks across the Borough do not lead to an increase in the annual NO₂ concentration above the annual mean objective of 40µg/m³.

Particulate Matter (PM₁₀ and PM_{2.5})

- 2.13 Particulate matter, or PM, is the term used to describe particles found in the air, including dust, dirt and liquid droplets. PM comes from both natural and man-made sources, including traffic emissions and Saharan-Sahel dust. These particles can be suspended in the air for long periods of time, and can travel across large distances.
- 2.14 PM less than 10 micrometers in diameter (PM₁₀) poses a health concern because they can be inhaled into and accumulate in the respiratory system. PM less than 2.5 micrometers in diameter (PM_{2.5}) are referred to as "fine" particles and are believed to pose the greatest health risks, as they can lodge deeply into the lungs.
- 2.15 Particulate matter (PM₁₀) is measured using an automatic monitor located at Queens Gardens (Site CM1) within the Town Centre AQMA. Particulate matter (PM₁₀) levels within Newcastle-under-Lyme, continues to be well below the annual mean objective level of 40µg/m³, with the annual mean concentration for 2015 being 22.93µg/m³.
- 2.16 During 2015 there were 5 days when the 24hour mean objective of 50µg/m³ was exceeded. Three of these days were due to national levels of air pollution being high because of Saharan Dust and increased pollution levels being carried over to the UK from the continent. The other two days were due to local factors including Christmas and New Year celebrations.
- 2.17 Due to the health risk posed by PM_{2.5}, a new requirement has been brought in to monitor PM_{2.5} concentrations. As Newcastle-under-Lyme does not currently monitor for this fraction of particulate matter, an estimation of the PM_{2.5} concentration for 2015 has been made using the national factor for PM_{2.5} and the method set out in TG16. The estimated concentration for PM_{2.5} for 2015 is 16µg/m³.
- 2.18 Manmade PM_{2.5} is estimated to cause some 60 deaths per annum for adults over 30 years of age within the Borough.
- 2.19 The Borough Council, along with the Staffordshire County Air Quality Group and Staffordshire Public Health, is now looking at ways in which PM_{2.5} concentrations can be reduced at both a local and regional level.
- 2.20 Proposed actions arising from the 2016 Annual Status Report are as follows:
- Continue the current network of NO₂ diffusion tube monitoring in the District to identify future changes in pollutant concentrations;
 - Finalise the Air Quality Action Plan for the Newcastle under Lyme Town Centre AQMA;
 - Finalise the Air Quality Action Plan for the Maybank, Wolstanton and Porthill AQMA;

- Finalise the Air Quality Action Plan for the Kidsgrove AQMA;
- Finalise the Air Quality Action Plan for the Little Madeley AQMA;
- Proceed to an Annual Status Report in 2017.

3. **Reasons for Preferred Solution**

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

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

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

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

5. **Legal and Statutory Implications**

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

6. **Financial and Resource Implications**

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

7. **Background Papers**

- Environment Act 1995 – Part IV
- Local Air Quality Management Technical Guidance (LAQM.TG.16) (available at <http://laqm.defra.gov.uk/documents/LAQM-TG16-April-16-v1.pdf>)
- Air Quality Reports completed since 1997 available from <https://www.newcastle-staffs.gov.uk/all-services/environment/environmental-protection/air-quality-newcastle-under-lyme>