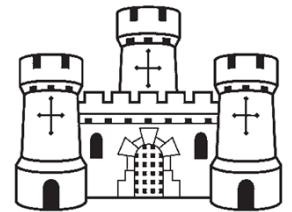


# Public Document Pack

**Date of meeting** Tuesday, 9th May, 2017  
**Time** 6.30 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 - 36)  
1976**

Driver – Mr KMK

- 7 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 37 - 50)  
1976**

Driver – Mr AA

- 8 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 51 - 58)  
1976**

Driver – Mr BBM

- 9 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 59 - 64)  
1976**

Driver – Mr SI

- 10 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 65 - 72)  
1976**

Driver – Mr RA

- 11 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 73 - 78)  
1976**

Driver – Mr WR

- 12 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 79 - 84)  
1976**

Driver – Mr SHI

- 13 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT - (Pages 85 - 96)  
1976**

Driver – Mr MH

- 14 Environmental Protection Act 1990 Part III (Pages 97 - 100)**

- 15 Environmental Protection Act 1990 Part III (Pages 101 - 104)**

## **PART 2 – OPEN AGENDA**

- 16 Food Safety Service Plan 2017/18 (Pages 105 - 124)**

- 17 Appeal outcome (Pages 125 - 126)**

- 18 Appeal outcome (Pages 127 - 128)**

## **19 URGENT BUSINESS**

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

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

**This page is intentionally left blank**

# 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).

**This page is intentionally left blank**

## GUIDANCE NOTES

### NATURAL JUSTICE AND FAIRNESS

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

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

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

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

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

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

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

### THE RULE AGAINST BIAS

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

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

There are two broad categories of bias:

- (a) Actual Bias: when the decision-maker has an economic interest in the outcome of the case (also known as a material or pecuniary interest) subject to the De Minimum doctrine;

- (b) Reasonable Apprehension: unbiased appearance is an essential part of procedural fairness. The test is whether, having regard to the circumstances, a well informed person (“reasonably informed bystander”) would consider that the interest might have an influence on the exercise of the decision-maker’s duties.



## **GUIDANCE NOTES**

### **HUMAN RIGHTS ACT 1998**

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

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

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

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

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

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

##### ARTICLE 10: FREEDOM OF EXPRESSION

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

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

#### ARTICLE 14: PROHIBITION OF DISCRIMINATION

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

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

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

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

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

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



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

### **GENERAL POLICY**

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

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

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

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

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

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

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

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

**(b) Violence**

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

In particular:-

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

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

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

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

**(c) Drugs**

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

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

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

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

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

**(d) Sexual and Indecency Offences**

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

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

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

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

**(e) Motoring Convictions**

**(i) Disqualification**

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

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

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

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

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

(ii) Serious Traffic Offences

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

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

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

(iii) Other Traffic Offences

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

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

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

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

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

**(g) Drunkenness**

(i) In a Motor Vehicle

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

(ii) Not in a Motor Vehicle

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

**(h) Spent Convictions**

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

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

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



## SERIOUS TRAFFIC OFFENCES

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

**PLEASE NOTE:**

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

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

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

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

**PLEASE NOTE:**

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

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

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

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

## OTHER TRAFFIC OFFENCES

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

**PLEASE NOTE:**

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

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

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

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

**This page is intentionally left blank**

**PUBLIC PROTECTION COMMITTEE**

Monday, 27th March, 2017

Time of Commencement: 7.00 pm

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

Councillors Burch, Dymond, T Hambleton, Matthews, Olszewski, Robinson, J Tagg, Walklate and White

Officers Nesta Barker - Head of Environmental Health Services, Matthew Burton, Geoff Durham, Steve Gee and Paul Washington - Principal Solicitor

Apologies Councillor(s) Allport, L Hailstones and P Hailstones

**1. APOLOGIES**

Apologies were received from Councillors' Allport, L Hailstones and P Hailstones.

**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 14 March, 2017 be agreed as a correct record.

**4. MINOR AMENDMENT TO THE GUIDELINES RELATING TO THE RELEVANCE OF CONVICTIONS FOR APPLICANTS**

The Committee considered a report informing them of a minor error contained in the Guidelines relating to the Relevance of Convictions for applicants for the Grant and Renewal of Licences to drive Hackney Carriages and Private Hire Vehicles.

**Resolved:** That the proposed amendment be approved.

**5. 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

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

The Committee considered a report regarding the renewal of a Hackney Carriage Vehicle Licence by Mr NA.

Mr NA had been invited to the meeting but was not in attendance.

**Resolved:** That the decision taken by the Chief Executive to refuse the Hackney Carriage licence renewal application be endorsed.

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

The Committee considered a report regarding the renewal of a Private Hire Vehicle Licence by Mr SIA.

Mr SIA was given the opportunity to address the Committee.

**Resolved:** (i) That the decision taken by the Head of Environmental Health and the Head of Recycling Services to refuse the Private Hire Vehicle licence renewal application be endorsed.

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

The Committee considered a report regarding a new driver application for a Dual Hackney Carriage and Private Hire Vehicle Driver's Licence by Mr MAK.

Mr MAK was given the opportunity to address the Committee.

**Resolved:** (i) That a written warning be sent to Mr MAK in relation to his future conduct.  
(ii) That the application submitted by Mr MAK be approved for a period of twelve months.

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

The Committee considered a report regarding an application for a new driver application for a Dual Hackney Carriage and Private Hire Vehicle Drivers Licence by Mr ZA.

Mr ZA was given the opportunity to address the Committee.

**Resolved:** (i) That in view of the nature and seriousness of the offences committed, the Committee saw no reason to depart from its policy and having concluded that Mr ZA was not a fit and proper person to hold a Dual Driver's Licence, refused the application.

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

The Committee considered a report regarding the renewal of a Dual Hackney Carriage and Private Hire Vehicle Drivers Licence by Mr NA.

Mr NA was given the opportunity to address the Committee. A legal representative spoke on Mr NA's behalf.



**Resolved:** That the application submitted by Mr NA be approved but that a written warning be issued in respect of his future conduct.

11. **URGENT BUSINESS**

There was no Urgent Business.

**COUNCILLOR SANDRA HAMBLETON**  
**Chair**

Meeting concluded at 8.32 pm

**This page is intentionally left blank**

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

Document is Restricted

**This page is intentionally left blank**

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

**Document is Restricted**

**This page is intentionally left blank**

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

**Document is Restricted**

**This page is intentionally left blank**



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

**Document is Restricted**

**This page is intentionally left blank**

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

Document is Restricted

**This page is intentionally left blank**

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

**Document is Restricted**

**This page is intentionally left blank**

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

**Document is Restricted**

**This page is intentionally left blank**



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

**Document is Restricted**

**This page is intentionally left blank**

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

Document is Restricted

**This page is intentionally left blank**

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

**Document is Restricted**

**This page is intentionally left blank**

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

**Document is Restricted**

**This page is intentionally left blank**



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

Document is Restricted

**This page is intentionally left blank**

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

**Document is Restricted**

**This page is intentionally left blank**

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

Document is Restricted

**This page is intentionally left blank**

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

**Document is Restricted**

**This page is intentionally left blank**



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

Document is Restricted

**This page is intentionally left blank**

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

**Document is Restricted**

**This page is intentionally left blank**

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

Document is Restricted

**This page is intentionally left blank**

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

**Document is Restricted**

**This page is intentionally left blank**



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

Document is Restricted

**This page is intentionally left blank**

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

Document is Restricted

**This page is intentionally left blank**

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

**Document is Restricted**

**This page is intentionally left blank**

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

Document is Restricted

**This page is intentionally left blank**



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

Document is Restricted

**This page is intentionally left blank**

**REPORT TITLE**      **Food Safety Service Plan 2017/18**

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

**Portfolio:**            **Finance, IT & Customer**

**Ward(s) affected:**    **All**

## **Purpose of the Report**

An information report to make the committee aware of the work planned by the Food and Safety Team in 2017/18 along with a review of last year's performance.

## **Recommendations**

**That the committee receive and endorse the Food Safety Service Plan for 2017/18.**

## **Reasons**

To make the Public Protection committee aware of the work carried out by the Food and Safety Team, in accordance with the Food Standards Agency framework agreement and statutory Code of Practice on official food controls by local authorities.

## **1.      Background**

- 1.1      The Borough Council has a statutory duty to provide a Food Safety service that:
- Maintains a register of all food businesses operating within the Borough;
  - Implements a risk based programme of inspections and interventions;
  - Provides advice to local businesses about how they can comply with legal requirements;
  - Investigates complaints about contaminated food, unhygienic premises and food poisoning outbreaks; and
  - In the most serious cases takes enforcement action to protect public health.

## **2.      Issues**

- 2.1      The Food Standards Agency requires local authorities to produce a specific service plan for their Food Safety service using a specified format that can be reported to its' elected members.
- 2.2      Attached to this report in Appendix A is a Food Safety Service Plan for 2017/18 which outlines the work planned for the coming year as well as a review of last year's performance.

## **3.      Options Considered**

- 3.1      No other options are considered, the provision of this plan is a requirement of the Food Standards Agency under their framework agreement with local authorities.

**4. Proposal**

4.1 It is proposed that the committee note and endorse the content of the Service Plan.

**5. Reasons for Preferred Solution**

5.1 The Service Plan is for the information of the Public Protection Committee.

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

6.1 Creating a cleaner, safer and sustainable Borough.

- The community is not put at risk from poor hygiene standards in food premises.

**7. Legal and Statutory Implications**

7.1 The Council have a statutory duty to provide a Food Safety service and comply with the requirements of the Food Standards Agency.

**8. Financial and Resource Implications**

8.1 None, the Service Plan will be implemented within existing budgets.



## **FOOD SAFETY**

### **SERVICE PLAN 2017/18**

**This document has been developed in accordance with guidance issued by the Food Standards Agency.**

## **Introduction**

The Council has a statutory duty to carry out Official Food Controls and enforce food hygiene regulations within the Borough. This ensures that all food sold within the Borough is safe and fit for human consumption.

This plan details the way in which Newcastle's Food and Health and Safety Team performed in 2016/17, and how the service was delivered.

Whilst highlighting achievements the plan also sets the standard for how the service will be delivered over the next financial year. The service will strive to continue providing a quality, customer focussed service in line with the Corporate priorities.

**Nesta Barker**  
**Head of Environmental Health Services**

**April 2017**

## **Section 1 - Service Aims and Objectives**

### **1.1 Service Aim**

The Council recognises that its food safety regulatory function plays an important role in maintaining and improving public health within the district. It is committed to ensuring that all food sold within the borough is safe and without risk to health. The service also plays an important role by supporting compliant food businesses and taking action against those businesses that are gaining an economic advantage by not complying with the food hygiene regulations.

### **Service Objectives**

#### **Food Safety Enforcement**

The Food & Safety Team has enforcement responsibilities in a wide number of areas affecting the public and businesses within the Borough. These include:

- Ensuring that food and drink intended for sale for human consumption is produced, manufactured, stored, distributed, and handled safely and in hygienic conditions.
- Ensuring that residents are provided with a supply of wholesome and potable water
- Investigating complaints about food and food premises.
- Responding to notifications of food alerts.
- Control and prevention of spread of infectious disease and food poisoning.

### **1.2 Links to corporate objectives and plans**

The Borough's Council Plan 2015-2020 sets out the overall vision and priorities for the Council. These are then incorporated into specific service and financial plans.

Within this plan the Councils' four priorities are:-

- ◆ **A clean, safe and sustainable borough**
- ◆ **A borough of opportunity**
- ◆ **A healthy and active community**
- ◆ **A co-operative council which delivers high quality, community-driven services**

The work of the Food and Safety team can be linked to all of these priorities; however, it is perhaps more closely associated with

- ◆ **A clean, safe and sustainable borough**
- ◆ **A healthy and active community**

The team report on the following key performance indicator each quarter to the Council's Cabinet:

#### **Outcome 1.1 Ensure high standards of safety and public health**

**1.1 Percentage of food premises that have a zero or one national food hygiene rating.**

**1.2 The percentage of food establishments which are broadly compliant with food hygiene law**

Other priorities for inspection of food premises and workplaces are prescribed in guidance issued by the Food Standards Agency.

## **2 - Background**

### **2.1 Profile of Newcastle – under – Lyme Borough Council**

Newcastle-under-Lyme borough council is a local government district with borough status in Staffordshire, England. It is named after its main settlement, Newcastle-under-Lyme, where the council is based, but includes the town of Kidsgrove, the villages of Silverdale and Keele, and the rural area surrounding Audley. The Borough of Newcastle-under-Lyme forms part of the conurbation of North Staffordshire and covers some 81 square miles with a population of around 122,000.

The traditional industrial base of mining and pottery manufacture has changed significantly over the last century. The closure of local mines, and factories has seen the growth of hi tech and research industries within the area. The Borough has areas of considerable affluence, but also includes two wards that fall into the 10% most deprived in the country

Newcastle is an ancient market town and still maintains a vibrant market culture. Stallholders set up on a part of the town locally known as The ‘Stones’ and this area is used on an almost daily basis for events ranging from the regular market to specialist events such as Farmers and European markets and antique fairs. Due to the Boroughs central geographical location and the proximity to the M6 motorway, recent years have seen a significant increase in the numbers of distribution depots in the area. A large bakery supplying retailers nationally is based here, as is a large meat products manufacturer. The Borough also has the prestigious Keele University, medical school and conference facilities located within its’ boundaries.

### **2.2 Organisational Structure**

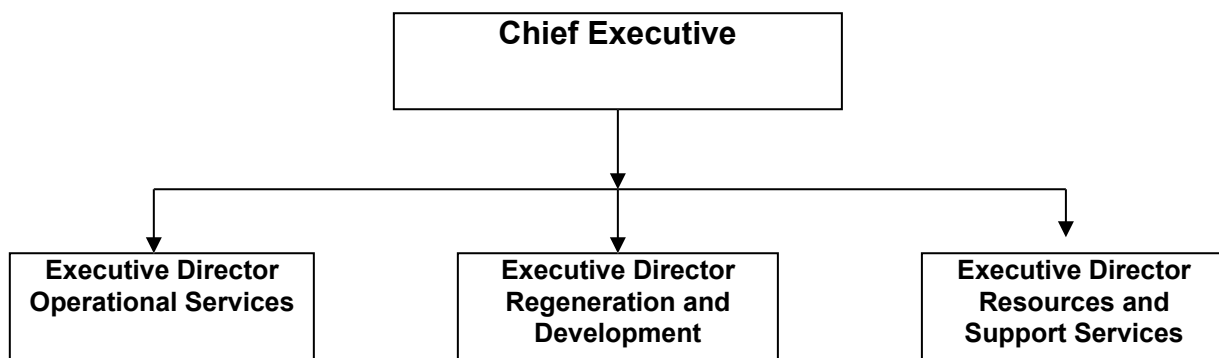
The Council is made up of 60 locally elected representatives, otherwise known as councillors or elected members.

The Council has a Leader who is elected by the members of the Council and is nominated by the largest group on the Council. The Council also has a Mayor, who presides over the Council meeting. The Mayor is a councillor who is appointed by all councillors to serve for one year as Chairman of the Council. The Council operates a Cabinet System consisting of a Leader and a small Cabinet. Members of the Cabinet oversee the following ‘portfolios’ or groups of services.

There are a number of other Council committees who have important roles to play in a variety of areas including Planning, Licensing, Scrutiny, Standards and Public Protection. Please refer to the Council’s website for further details at: <https://www.newcastle-staffs.gov.uk/>

### **Executive Management**

The Council’s senior officer management structure comprises of the Executive Management Team:





Classification: NULBC **UNCLASSIFIED**

The Food and Safety Team are in the Environmental Health Service area, within the Regeneration and Development Directorate.

**Food and Safety Team**

The Food and Safety team operate within the Environmental Health Service together with the Environmental Protection, Licensing Enforcement, Dog Warden/Pest Control and Licensing Administration teams.

The Food and Safety Service structure consists of:

The Head of Environmental Health Services (Reporting to the Executive Director Regeneration and Development)

Environmental Health Team Manager – Food and Safety

2 Environmental Health Officers

1 Food Safety Officer

1 Technical Assistant

1 Regulatory Business Support Officer

1 Food and Safety Assistant

The use of outside contractors will only be considered in the future if the following criteria are met:

- A backlog of inspections which cannot be completed by Officers;
- Agency contractors meeting the requirements of the Food Safety Act Code of Practice Qualifications and Experience of Authorised Officers; and
- The cost of the work being met within existing budgets.

Expert assistance is provided by the following outside organisations: -

- Public Analyst, Staffordshire Scientific Services
- Food Examiner and Microbiology Department, Public Health England, Birmingham/London
- Consultant in Communicable Disease Control, Public Health England, Stafford

Classification: NULBC **UNCLASSIFIED**

### **2.3 Scope of the Food and Safety Service**

The food and safety team are responsible for enforcing food hygiene law within the borough. Issues relating to food standards and feed are dealt with by our colleagues in Staffordshire County Council's Trading Standards Department.

The Food and Safety team is responsible for the delivery of a number of regulatory services including:

- Food Safety and Hygiene
- Occupational health and safety (in premises where enforcement responsibility is allocated to the Local Authority)
- Prevention and control of infectious diseases
- Public health licensing – tattooing, piercing etc.
- Health promotion

The service is provided in order to ensure that the Council meets its' legal obligations specified in primary legislation. The service uses a range of interventions to deliver the service which can be divided into three main areas:

- **Inspection/Audit:** Inspection of food businesses at a minimum frequency laid out in the Food Law Code of Practice.
- **Demand:** Investigation of complaints regarding food and food premises, accidents and notifications of food poisoning.
- **Business support:** Provision of advice and guidance to local businesses and consumers.

The following functions are provided by the service:

- Maintenance of a food premises registration database for all food businesses located within the borough;
- Provision of advice to local businesses to assist them in complying with their legal responsibilities and to promote good practice.
- Inspections and audits of food businesses to ensure they comply with food safety legislation.
- Approval of food manufacturers handling products of animal origin.
- Sampling and analysis of food and water to check their compliance with safety requirements.
- Investigation of complaints about illegal/unfit food and unlawful food businesses;
- Investigation of food poisoning outbreaks;
- Investigation of national Food Alerts (issued by the Food Standards Agency).
- Health and safety inspections where we are the enforcing authority.
- Investigation of complaints about occupational health and safety.
- Investigation of accidents, dangerous occurrences, and occupational diseases.
- Inspection of establishments carrying out tattooing, ear piercing and electrolysis and other beauty services.
- In the most serious cases, formal enforcement action is taken to protect public health including the seizure of food, service of notices, closure of premises and prosecution of offenders.
- Consultation with external agencies and internal services i.e. licensing, trading standards, planning;
- Enforcement of Smoke-Free legislation

**Service Delivery Points**

The team are based with their Environmental Health colleagues at the Central Depot, Knutton Lane, Newcastle-under-Lyme and the service operates between **9.00 a.m. - 5.00 p.m. Monday – Friday.**

Newcastle Borough has two dedicated Customer Service Centres, these are located in The Guildhall, Newcastle and The Town Hall, Kidsgrove both are open Monday - Friday 9am to 5pm.

The out of hours Emergency Call Centre service has been outsourced and is operated by Cannock District Council. The Environmental Health Service operates an emergency stand-by rota so there is always a manager available to respond to the contact centre in the event of any emergencies or incidents.

**2.4 Demands on the Food Service**

In April 2016 there were 1081 registered food businesses in the Borough. These businesses were given a risk rating band between category A and E as shown in the table below (alongside figures for the previous 4 years). NB Please note the Food Standards Agency code of practice was revised in 2014 which resulted in changes to the category C & D bandings.

Food Premises Risk Band	2017/18	2016/17	2015/16	2014/15	2013/14
<b>A</b>	0	1	0	2	3
<b>B</b>	41	53	47	47	57
<b>C</b>	222	214	229	403	375
<b>D</b>	336	347	343	168	206
<b>E</b>	445	445	431	425	406
<b>UNRATED</b>	33	19	39	29	33
<b>OUTSIDE</b>	2	2	3	1	1
<b>TOTAL REGISTERED</b>	1079	1081	1092	1075	1081

The risk rating awarded is generated by the inspecting officer who scores the business based on the types and quantities of food produced and their compliance with food hygiene requirements. Businesses awaiting inspection are classified as Unrated and those registered with other council's and trading in our area are deemed Outside the inspection programme.

The risk band awarded also determines how often the food business will be inspected as detailed in the table below:

Risk band	Minimum intervention frequency
<b>A</b>	At least every 6 months
<b>B</b>	At least every 12 months
<b>C</b>	At least every 18 months
<b>D</b>	At least every 24 months
<b>E</b>	A programme of alternative enforcement strategies or interventions every three years

Businesses can be rated as a category A or B if they carry out a high risk activity such as food manufacturing, or if they are found to have poor compliance such as a premises awarded a zero or 1 Food Hygiene Rating.

Classification: NULBC **UNCLASSIFIED**

A number of specialist and complex food manufacturers are located within the district including

- A specialist cheese-maker
- 2 Meat Product manufacturers

Officers responsible for inspecting/auditing these premises have received specialist training in the relevant fields.

## **2.5 Enforcement Policy**

The Council has approved an Enforcement Policy and carries out its' regulatory functions in accordance with the Regulators Compliance Code. The importance of achieving a fair and consistent approach to enforcement is recognised by the council. The Enforcement Policy is followed for all enforcement action undertaken by the food service and is available on the council's website:

[www.newcastle-staffs.gov.uk/](http://www.newcastle-staffs.gov.uk/)

Classification: NULBC **UNCLASSIFIED**

### **3. Service Delivery**

#### **3.1 Interventions at Food Establishments**

An annual risk-prioritised programme of inspections will be undertaken in accordance with the Food Safety Act 1990 Code of Practice. The Service will use the full range of interventions and enforcement options available to ensure that the highest standards of food hygiene and safety are achieved and maintained.

In 2017/18 there are 587 food premises due for a Food Hygiene Inspection, and these are broken down by Risk Band in the table below:

<b>Food premises risk band</b>	<b>Total due in 2017-18</b>	<b>Total in 2016-17</b>
<b>A – Highest ‘risk’</b>	<b>0</b>	<b>1</b>
<b>B</b>	<b>40</b>	<b>53</b>
<b>C</b>	<b>153</b>	<b>138</b>
<b>D</b>	<b>182</b>	<b>174</b>
<b>E – Lowest ‘risk’</b>	<b>176</b>	<b>173</b>
<b>OUTSIDE</b>	<b>2</b>	<b>3</b>
<b>UNRATED</b>	<b>34</b>	<b>26</b>
<b>Grand Total</b>	<b>587</b>	<b>565</b>

In 2017/18 the Service aims to achieve:

100% of High Risk food premises (categories A – B) using full inspections/audits.

100% of category C premises using full inspections/audits.

100% of category D premises using full inspections/audits.

100% of category E premises will be subject to an inspection or alternative enforcement strategy such as a self-inspection form, to help assess compliance and identify if there has been any change in operations that warrants an inspection.

100% of Unrated premises using full inspections/audits.

NB we received 110 new food premise registration forms in 2016/17 notifying us of new food businesses or changes in ownership. This area of work places a significant demand on our Service as these inspections should be carried out within 28 days. We have no control over this reactive type of work and will aim to achieve 100% of these inspections. However if demand becomes excessive, then resources will be diverted away from lower risk category E and D inspections.

#### **National Food Hygiene Rating Scheme**

Newcastle-under-Lyme Borough Council was the first Council in Staffordshire to launch the national Food Hygiene Rating Scheme in June 2011. This has allowed residents and visitors the opportunity to make an informed choice about where they eat based on the premises last Food Hygiene inspection.

After each inspection all food premises are given a score based on their compliance with food hygiene law and confidence in management. These scores are then converted into a Food Hygiene Rating based on the FSA’s ‘Brand Standard’. Businesses can receive a Rating between zero and five.

On 25<sup>th</sup> April 2017 the following profile of Food Hygiene Ratings were published:

<b>FHRS</b>	<b>Total Premises April 2017</b>	<b>Total Premises May 2016</b>
<b>5 – Very Good</b>	<b>599</b>	<b>587</b>
<b>4 – Good</b>	<b>157</b>	<b>169</b>
<b>3 – Generally Satisfactory</b>	<b>78</b>	<b>72</b>
<b>2 – Improvement Necessary</b>	<b>11</b>	<b>6</b>
<b>1 – Major improvement necessary</b>	<b>9</b>	<b>13</b>
<b>0 – Urgent Improvement Necessary</b>	<b>1</b>	<b>2</b>
<b>Grand Total</b>	<b>855</b>	<b>849</b>

The Food and Safety Team plan to target any premises rated 3 or below to try and improve hygiene standards and protect public health. These premises will be subject to an enhanced number of revisits and support visits with the aim of improving standards. However where very serious hygiene offences are identified these premises may also be subject to enforcement action.

Please note, certain categories of food businesses are exempt from the scheme if they do not sell direct to the public or are handling low risk food only e.g. newsagents.

### **Revisits**

Revisits are only made where serious or ongoing contraventions are found during the initial inspection. Last year 48 Food Hygiene revisits were carried out and it is anticipated that a similar number will be required in future years.

### **Alternative Inspection/ Intervention Strategies**

The Service uses an alternative enforcement strategy to deal with lower risk category E food premises. This approach is advocated by the Food Standards Agency as a means to target limited resources towards areas of greatest risk.

The strategy involves sending a food safety questionnaire to those low-risk businesses rated as an E. Proprietors must then self-assess the food safety risk posed by the business and return the questionnaire. Responses are assessed to determine whether any further action is required and non-respondents are targeted with follow up actions and visits if necessary.

### **Inland control of Imported food**

Officers routinely check the traceability of all food during their interventions and this includes food that has been imported from outside the EU ('Third' countries). Officers within the team have received specialist training in Imported Food Control from the Food Standards Agency and support materials are available on the FSA website. Officers also monitor the microbiological quality of imported food as part of national and cross-regional sampling programmes.

### **3.2 Food Complaints**

Food complaints received and investigated by the service fall into one of the following categories of Service Request:

- Food contamination
- Complaints about Hygiene of food businesses (hygiene, pests etc.)

Year	Food Complaints	Hygiene of Food Premises
2016/17	80	232
2015/16	33	141
2014/15	42	135
2013/14	71	273
2012/13	62	432
2011/12	22	313

We have no control over this reactive area of workload and will aim to respond to all service requests within the necessary timescales. Where the service receives excessive numbers of service requests then the Team Manager and Head of Service will make a decision on how these should be prioritised and whether resources need to be re-allocated.

Service requests are investigated in accordance with established procedures and policies. The initial response to complaints will be within five working days depending on the severity of the complaint, with more serious complaints receiving a more urgent response.

### **3.3 Home Authority Principle and Primary Authority Scheme**

The Home Authority Principle is an arrangement where multi-national food businesses can enter into a formal arrangement with a single local authority (known as their Home Authority), to agree on common standards and interpretation of the Regulations in their many premises with the aim of ensuring consistency of enforcement. Local Authorities dealing with the businesses other premises are then expected to have regard to any arrangement agreed by the Home Authority before taking enforcement action.

#### **Primary Authority Scheme**

Regulatory Delivery's Primary Authority Scheme is the gateway to simpler, more successful local regulation. It gives businesses the right to form a statutory partnership with a single local authority, which then provides robust and reliable advice for other councils to take into account when carrying out inspections or dealing with non-compliance.

Newcastle BC is not currently acting as a Primary or Home Authority for any businesses within the borough. All of our officers are aware of the schemes and prior to any inspection of a food business that has a Primary Authority, our officers will check the Primary Authority website to review documentation and inspection plans.

### **3.4 Advice to Business**

Wherever possible, our officers will try and work with new and existing food businesses to help them comply with the legislation. Officers will offer advice when requested, and will encourage food business operators through an educative approach to adopt good practice. This is achieved through a number of measures:

- On request, advisory visits to new and existing businesses who require guidance;
- Advice is routinely given during inspections and other visits to premises;
- Provision of information leaflets and signposting;
- Responding to service requests and enquiries;
- The Council's website;

- We also have a Regulatory Business Support Officer who is able to specialise in offering expert advice to new and non-compliant businesses.

### **3.5 Food Inspection and Sampling Programme**

Our food sampling activities play an important role in monitoring the microbiological quality of food sold locally and helps us verify that the food business operators have effective food hygiene controls in place. Food is sampled according to a programme co-ordinated through the Staffordshire and Shropshire Food Liaison Group, together with colleagues at the regional Public Health England laboratory at in London. Members of the group implement national, cross-regional and local sampling initiatives based on national intelligence and incidents.

Additional food sampling is carried out as necessary to support food hygiene inspections, the investigation of food complaints and outbreaks of food borne disease.

Samples are currently sent for microbiological examination to the Public Health England UKAS accredited laboratory in London. The laboratory send a courier to collect samples from the Council offices on Tuesdays and Thursdays.

Samples requiring analysis for chemical or physical parameters are sent to the Public Analyst at Staffordshire Scientific services, Martin Street, Stafford.

The following table outlines the number of food samples taken from food premises for microbiological examination in the last 5 years:

Year	Microbiological Food Samples
2016/17	112
2015/16	117
2014/15	146
2013/14	142
2012/13	63

### **3.6 Control and Investigation of Outbreaks and Food Related Infectious Disease**

The Food and Safety team investigates all reported cases and outbreaks of food poisoning occurring within the borough in liaison with our colleagues at Public Health England.

The objectives of this service are to:

- Fulfil the Council's statutory responsibilities relating to the control of infectious disease;
- Identify the source and cause of reported infection;
- Implement measures to prevent further spread;
- Protect public health by providing cases and members of the public with advice on personal hygiene, safe food handling and control of infection;
- Exclude food handlers and people working with high-risk groups in consultation with the Consultant in Communicable Disease Control (CCDC);

Large outbreaks are resource intensive and place significant demands on the Service. In the event of a significant outbreak, the Team Manager and Head of Service will monitor the situation and re-allocate resources and staff from other areas as necessary.

During 2016/17 the Council received 157 reported cases of infectious disease (compared to 131 in 2015/16). Control of food related infectious disease is a priority area due to the possible health consequences for the



individual and the risk of infection spreading within the community. This area of the service will therefore receive whatever resources are required to fulfil these duties.

### **3.7 Food Safety Incidents**

#### **Food Alerts, product withdrawals and recalls**

The FSA issues information about product withdrawals and recalls to let consumers and local authorities know about problems associated with food. A Product Withdrawal Information Notice or a Product Recall Information Notice is issued where a solution to the problem has been put in place – the product has been, or is being, withdrawn from sale or recalled from consumers, for example. A Food Alert for Action is issued where intervention by enforcement authorities is required. These notices and alerts are often issued in conjunction with a product withdrawal or recall by a manufacturer, retailer or distributor.

When a Food Alert for Action is issued, the Council must carry out the specified actions within the alert which may include visiting food premises and removing contaminated food from sale.

The FSA also sometimes issues Allergy Alerts which are normally dealt with by our colleagues in Staffordshire County Council's Trading Standards department.

Food Alerts are sent to the Council via a designated e-mail address which are auto-forwarded to members of the Food and Safety team for their prompt attention. Outside normal working hours the Environmental Health Team Manager subscribes to the FSA's Food Alert text messaging service to alert them to any significant Food Alerts: For Action. The Environmental Health Service also operates an emergency out of hours standby rota so there is always a Manager available to respond in an emergency.

Given the reactive nature of Food Alerts it is not possible to predict the likely resources required.

A 'Food Alert: For Action' can have large resource implications as they sometimes involve the need for us visit a large number of food businesses. However due to the risk to Public Health, it is essential that adequate resources are provided to action these Alerts and this area of the service will receive whatever resources are required to fulfil these duties. In serious cases the Team Manager and Head of Service will reallocate, or obtain additional resources to deal with the incident and maintain other high risk workload.

In 2016/17 we received:

Food alert for action	120
Food alert for information	41
Food allergy alert	46
Food recall information notice	59

### **3.8 Liaison with Other Organisations**

The Council is committed to ensuring that the enforcement approach it adopts is consistent with other enforcing authorities.

This is achieved through regular meetings of the Central Food Group North (Staffordshire & Shropshire) Food Liaison Group, which is attended by the Environmental Health Team Manager - Food and Safety. This group comprises of representatives from each of the 9 district and borough councils in the county, alongside Shropshire and Telford and Wrekin Council's, the County Council Trading Standards Department and the Public Health England laboratory and Health Protection teams.

This forum provides an opportunity for the authority's to discuss consistency issues both in their approach to enforcement and in the operation of the Food Hygiene Rating Scheme. The group holds regular training

Classification: NULBC **UNCLASSIFIED**

and consistency events and also implements an inter-authority auditing programme. The group also considers centrally issued guidance and consultations from the Food Standards Agency.

The Council also sends a representative to regular meetings with the Health protection team at Public Health England in Stafford, where communicable disease issues are discussed. These meetings are also attended by the Consultant in Communicable Disease Control (CCDC), local Water companies, DEFRA, AHVLA, Public Health nurses and the Microbiology department.

### **3.9 Food Safety Promotion**

Officers routinely promote food safety issues during their day to day contact with Food Business Operators. We will also be participating in campaigns to promote awareness of the Food Hygiene Rating scheme as part of national Food Safety week.

## **4. Resources**

### **Financial Allocation**

The Food Safety and Environmental Health budget is published separately on the Council's website at [www.newcastle-staffs.gov.uk/](http://www.newcastle-staffs.gov.uk/)

Classification: NULBC **UNCLASSIFIED**

## **4.2 Staffing Allocation**

The Food Safety service within the Council employees the following officers:

Environmental Health Team Manager – Food and Safety  
2 FTE Environmental Health Officers  
1 Food and Safety Officer  
1 Technical Assistant  
1 Regulatory Business Support Officer  
1 Food and Safety Assistant  
1 Support Assistant (Support staff)

NB These officers do not spend all of their time on Food Law enforcement as they are also responsible for a number of other professional functions such as Health and Safety enforcement, Infectious disease control, Corporate Health and Safety, Licensing etc.

## **4.3 Staff Development Plan**

The council is committed to providing each officer responsible for Food Law enforcement with a minimum of 20 hours Continuing Professional Development (CPD) training each year.

All officers undertaking food safety work meet the qualifications and experience requirements detailed in the Food Safety Act Code of Practice.

Officers responsible for inspecting complex manufacturing and formally approved processes have previously received specialist training.

Professional and technical competence is also supported by:

- The council's annual Performance Appraisal system which helps identify training and development needs;
- Membership of the Staffordshire and Shropshire Food Safety Liaison Group;
- In-house training sessions/team briefings;

## **5. Quality Assessment**

The Environmental Health service has systems in place to help ensure that food hygiene interventions are carried out consistently and in accordance with the Food Law Code of Practice. To assist this process a number of procedure notes and templates have been created that are available electronically to all Officers.

A procedure relating specifically to quality monitoring of inspections has been developed and this is further reinforced by:-

- The Food and Safety Manager carrying out a regular review of the paperwork, notices, and reports produced by officers following inspections;
- Consistency exercises
- Internal and inter-authority audits;
- Monthly team meetings;
- Monthly management meetings;
- Annual Performance Appraisal;

During 2015 the team also took part in an Inter-authority audit which specifically looked at the way we undertake formal enforcement actions.

### **Conflicts of Interest**

Article 4(2b) of [Regulation 882/2004](#) requires that staff carrying out official controls are free from any conflict of interest.

All officers are aware of potential conflicts of interest that may arise in an enforcement situation through promotion of the Food Authority's services. Officers do not provide their own services, e.g. training, in their own time within the borough. We also ensure that potential or actual conflicts of interest do not arise as a result of Home or Originating Authority responsibilities and contracting in services for enforcement purposes.

Our officers do not promote the Borough Council's services exclusively if other providers of those services exist in the area. Pest control and food hygiene training are examples of Council services that may be provided in competition with those supplied by other organisations. In such circumstances customers will be made aware of the availability of alternative service providers.

### **Enforcement within local authority-run establishments**

The Service has arrangements in place for ensuring compliance with food law in establishments where the Authority is itself the food business operator, and that steps are taken to ensure enforcement decisions are free from any conflict of interest.

If serious breaches of food law are detected in borough Council establishments, this will be brought to the attention of the Chief Executive, without delay.

Contract caterers that operate within local authority establishments will be registered and inspected in the normal way. In some Council buildings, café's, bars and vending machines are provided by outside contractors who register their businesses independently.

In some Council buildings small amounts of confectionary and ice cream are occasionally sold. In such circumstances the relevant Service Manager is responsible for registering the operation with the Food and Safety team and the operation will receive an inspection in the usual way.

## **6 Review**

### **6.1 Review against the Service Plan**

Each quarter performance data on key performance indicators is reported to Cabinet, as detailed below:

<b>Indicator</b>	<b>2016/17 Result</b>
<b>Percentage of food premises that have a zero or one national food hygiene rating.</b>	<b>1.16% (10 '0/1' premises out of 855 published).</b>

This indicator measures the percentage of food premises that have a zero or one national food hygiene rating, where following each Food Hygiene Inspection, a food business is awarded a rating of between zero (Urgent improvement necessary) and Five (Very good). These ratings are published on the website at <https://www.food.gov.uk/> and <http://ratings.food.gov.uk/>. Those premises that are rated zero (urgent improvement necessary) or one (major improvement necessary) have been found to be not complying with Food Hygiene Regulations and will be subjected to enhanced business support visits/revisits (and in the most serious cases enforcement action) to help them raise their compliance and protect public health.

### **Local Authority Enforcement Monitoring System (LAEMS)**

Each year we submit performance data to the Food Standards Agency via an online LAEMS return which is reviewed and then published on their website. Below is an extract of the performance data submitted for 2016/17:

**Food Hygiene Interventions carried out in 2016/17**

	Total interventions
Total Premises at 31 Mar 2017	1080
Inspections and audits	443
Verification and surveillance	88
Sampling visits	57
Advice and education	12
Information/intelligence gathering	179
Total premises subject to official control	419

**Interventions due and achieved in 2016/17 by risk rating**

	Interventions Achieved	Due Interventions Outstanding
Premise Rating - A	9	0
Premise Rating - B	117	0
Premise Rating - C	191	1
Premise Rating - D	181	8
Premise Rating - E	170	4
Premise Rating - Unrated	111	26
Premise Rating - Outside	0	0
Totals	779	39

Premises risk rating profile on 1 April 2017

Tot

Premise Rating - A	0
Premise Rating - B	41
Premise Rating - C	222
Premise Rating - D	336
Premise Rating - E	445
Premise Rating - Unrated	33
Outside programme	2
Totals	1079

**6.2 Identification of any variation from the Service Plan**

Key performance indicators listed in the above tables are reviewed on a regular basis. Results are reported to the Head of Service along with reasons for any significant variation, and where necessary an action plan is agreed to prioritise workload.

**6.3 Areas of Improvement**

In September 2015 the food and safety team recruited a Regulatory and Business Support Officer to help new and existing food businesses comply with their legal obligations. It is hoped that this post will help target poorer performing businesses to try and improve their compliance.

All team members have also carried out a 'Competency Framework' assessment in line with the revised Food Law Code of Practice.

## APPEAL OUTCOME MR AHMAD ALI

**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 Ahmed Ali's appeal to the Magistrates Court of Public Protection Committees decision to refuse the application for a new dual drivers badge.

### **Recommendations**

That the report be received.

## 1. **Background**

- 1.1 On 13<sup>th</sup> December 2016, Public Protection committee considered Mr Ali's application (reference 013746) for a dual drivers licence, while having relevant convictions on his disclosure and barring service certificate and his DVLA driving licence.
- 1.2 The certificate reveals a conviction in January 2015 for Producing a controlled drug – class B cannabis and dishonestly using electricity. There was also a further conviction in February 2016 for failing to Comply with the Requirements of a Community Order on 16 January 2016. Mr Ali's driving licence has 2 endorsements, a speeding SP30 offence and a CD10 "Driving without due care and attention" offence 5 penalty points. Mr Ali also applied for a licence earlier in 2016 which was considered by Public Protection committee on 15 March 2016 who resolved "That the application for a Private Hire driver's licence be refused".
- 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 Ali's application for a dual driving badge be refused.

## 2. **Issues**

- 2.1 All drivers have the right to appeal the decision, to the Magistrates court, Mr Ali lodged an appeal against the decision and the matter was heard at Newcastle-under-Lyme Magistrates court on 6<sup>th</sup> March 2017. Mr. Ali attended and was unrepresented.
- 2.2 After hearing evidence from Mr. Ali and submissions from the Council, the Magistrates decided to dismiss Mr. Ali's appeal. They said that due to the serious nature of Mr. Ali's convictions they saw no reason to overturn the Council's decision to refuse Mr. Ali's application. They noted that he had breached the Community Order made when he was convicted of the drugs and abstracting electricity offences and that he'd made efforts to change (Mr. Ali had produced a toxicology report which showed that he'd been free from cannabis use for 14 months).
- 2.3 The magistrates also ordered that Mr. Ali should pay the Council's costs of £200.

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 against that Council in respect of this case.

6. **Earlier Committee Resolutions**

6.1 Public Protection committee considered the application at meeting on 13<sup>th</sup> December 2016.



## APPEAL OUTCOME MR MUNAZAR MOHAMMED HUSSAIN

**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 Munazar Mohammed Hussain's appeal to the Magistrates Court of the Chief Executives and Public Protection Committees decision to revoke his dual drivers badge.

### **Recommendations**

That the report be received.

## 1. **Background**

1.1 On 1<sup>st</sup> November 2016, Public Protection committee considered a report concerning action taken by the Chief Executive to revoke Mr Hussain's Driving Licence (Number 13429).

1.2 The reasons for the council revoking Mr Hussain's licence were follows:

The Council had received information about a serious sexual allegation involving Mr Munazar Mohammed Hussain and a young person in care, whom he was responsible for transporting. It has been alleged that during these journeys the young person carried out 'sexual acts' with Mr Hussain in a lay-by and whilst driving. It has also been alleged that during these journeys Mr Hussain has been involved in other conduct with the young person that would be deemed inappropriate such as buying them takeaway food, bottles of water and the exchange of phone numbers.

Additional information has also been received about an allegation in 2013, regarding a complaint about Mr Hussain's alleged inappropriate conduct towards a 16 year old female passenger. It is alleged that Mr Hussain groped the female passenger's breast, engaged in inappropriate conversation and told her that if she didn't have enough money to pay him there were other ways to pay her fare. It is also alleged that Mr Hussain telephoned the female customer at her home one hour later to ask if she would meet him after he finished work.

1.3 On 4<sup>th</sup> October 2016 Mr Hussain's dual drivers licence was revoked with immediate effect by the Chief Executive and Public Protection Committee endorsed this decision.

## 2. **Issues**

2.1 All drivers have the right to appeal the decision, to the Magistrates court, Mr Hussain lodged an appeal against the decision and the matter was heard at Newcastle-under-Lyme Magistrates court on 7<sup>th</sup> April 2017. Mr. Hussain attended and was represented by Duncan Craig of Citadel Chambers, the Council was represented by Mr James Button.

2.2 A number of witnesses for both Mr Hussain and the Council appeared to provide evidence in respect of the case.

- 2.3 In concluding the Judge stated that he did believe the driver stopped at McDonalds, bought food/drink and exchanged phone numbers with the young person, on the balance of probabilities.
- 2.4 However he felt that the Council put too much weight on the fact there were two serious allegations, that were both unproven in criminal law, they were not investigated by the police any further and did not result in a formal police interview etc. He also stated that the child's friend's evidence was not captured in the form of primary witness statements or by direct interview with the police officer and used hearsay evidence.
- 2.5 Unfortunately the Judge decided to uphold the appeal against our revocation of Munazar Hussain's driver's licence.
- 2.6 Mr Craig then made an application for £3000 costs. Which was refused as the Judge concluded that the local authority acted in good faith and he did not believe that there was any basis to costs being awarded. He stated that the appellant has not helped himself.

### 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 matter at meeting on 1<sup>st</sup> November 2016.